

**LOWER DUWAMISH WATERWAY SUPERFUND SITE  
DAWN FOOD PRODUCTS, INC.'s 104(e) RESPONSES**

**1. Respondent Information**

- a) *Provide the full legal name and mailing address of the Respondent.*

**Dawn Food Products, Inc.  
3333 Sargent Road  
Jackson, Michigan 49201**

- b) *For each person answering these questions on behalf of Respondent, provide:*

- i. full name;*
- ii. title;*
- iii. business address; and*
- iv. business telephone number and FAX machine number.*

**Max Waagner was the person responsible for, and under whose direction, the search for relevant documents and information was performed.**

**Max Waagner, Director for Global Safety  
3333 Sargent Road, Jackson, Michigan 49201  
Telephone: 517-789-4473 Facsimile: 517-789-4501**

- c) *If Respondent wishes to designate an individual for all future correspondence concerning this Site, please indicate here by providing that individual's name, address, telephone number, and fax number.*

**E. Sean Griggs, Esquire  
Barnes & Thornburg LLP  
11 South Meridian Street  
Indianapolis, Indiana 46204  
Telephone: (317) 231-7793  
Facsimile: (317) 231-7433**

- d) *State the dates during which Respondent held any property interests at or within one-half mile of the above mentioned address.*

**Dawn Food Products ("Dawn") has been the lessee-in-possession of the property at 6901 Fox Avenue South, Seattle, Washington since January 2004. Dawn has never owned this property nor any other land within one-half mile of this Site. Dawn acquired its leasehold interest in the property in conjunction with an asset purchase between Dawn and Bunge Foods Corporation.**

- e) *State the dates during which Respondent conducted any business activity at or within one-half mile of the above mentioned address.*

**January 2004 to present.**

- f) *Describe the nature of Respondent's business activities at the above mentioned address or within one-half mile of that address.*

**Dawn's business activities at the Fox Avenue plant involve the manufacture and distribution of dry mix food ingredients for commercial sale to bakeries and confectionaries. Dawn does not produce finished food products for retail sale to individual consumers at the Fox Avenue plant.**

- g) *In relation to you answer to the previous question, identify all materials used or created by your activities at the above mentioned address, including raw materials, commercial products, building debris, and other wastes.*

**Finished goods produced at the Fox Avenue plant are food grade products use in commercial baking applications.**

**Waste streams generated at Fox Avenue includes food waste, oily wastewater, used oil, spent parts washer fluid, used lamps, cardboard, and general office trash.**

<u>Waste type</u>	<u>Waste volume</u>
Food waste	1,200 pounds/day: 5 days/week
Oily wastewater from washing operations (inside and outside)	20 gallons/month
Used oil (maintenance oils)	< 10 gallons/year
Used oil (edible oils)	440 gallons/year
Spent parts washer fluid	1 gallon/year
Used lamps	20 bulbs/year
Cardboard	10,000 pounds/month
General office trash (dumpster)	14 tons/month

**Supporting documents:**

1) Raw materials used and stock-on-hand for goods produced at Fox Avenue are shown on the enclosed list entitled for Stock Status Report.

2) Sanitary Sewer Discharge to King County POTW. Approved for a discharge of up to 300 gallons per day. (April 18, 2008 approval letter.)

**3) Grease Trap Cleanout. (Invoices from Baker Commodities, Inc.)**

**4) Expired Dessicant. (Waste Characterization Decision 0411021.)**

*h) If Respondent, its parent corporation, subsidiaries or other related or associated companies have filed bankruptcy, provide:*

- i. the U.S. Bankruptcy Court in which the petition was filed;*
- ii. the docket numbers of such petition;*
- iii. the date the bankruptcy petition was filed;*
- iv. whether the petition is under Chapter 7 (liquidation), Chapter 11 (reorganization), or other provision; and*
- v. a brief description of the current status of the petition.*

**Not applicable.**

**2. Site Activities and Interests**

*a) Provide all documents in your possession regarding the ownership or environmental conditions of the property mentioned above, including, but not limited to, copies of deeds, sales contracts, leases, blueprints, "as builts" and photographs.*

**Dawn has only been a tenant at the Fox Avenue property since January 2004.**

**Dawn provides the following documents in response to this request:**

**1) Lease and subsequent amendments.**

**2) Asset Purchase and Sale Agreement (on a CD-ROM) [pricing information has been redacted]**

**3) Dawn had a Puget Sound Clean Air Agency (PSCAA) 2005 Annual Registration Certificate. The Registration number was 28406, which was effective from January 1, 2004 until December 31, 2005. Based on an email from Melissa McAfee (an Inspector for the PSCAA) dated July 30, 2008, equipment at the facility does not currently require registration.**

*b) Provide information on the condition of the property when purchased; describe the source, volume, and content of any fill material used during the construction of the buildings, including waterside structures such as seawalls, wharves, docks, or marine ways.*

**Dawn provides the following documents in response to this request:**

**1) October 2003 Phase I Environmental Site Assessment.**

- 2) **October 21, 2003 Limited Environmental Compliance Assessment.**
- 3) **June 19, 1996 Preliminary Environmental Assessment prepared by Hart Crowser.**
- 4) **November 12, 1996 Limited Subsurface Investigation prepared by Hart Crowser.**
- 5) **September 16, 1996 Building/Site Inspection by Falkin Associates, Inc.**
- 6) **May 16, 2001 Seismic Evaluation.**
- 7) **April 12, 2001 Structural Engineering Recommendations.**

c) *Provide information on past dredging or future planned dredging at this site.*

**Respondent is not aware of any past dredging or future planned dredging at the site.**

d) *Provide a brief summary of the activities conducted at the site while under Respondent's ownership or operation. Include process diagrams or flow charts of the industrial activities conducted at the site.*

**Dawn operates various tanks, hoppers, vats, pumps, mixers, and refrigeration equipment to produce food products for sale to commercial bakeries. All finished products produced at the Fox Avenue plant are food grade.**

**Dawn cleans equipment and surfaces with pressurized water as part of the food products manufacturing operations, including equipment and areas outside the building. Outside drains are closed using drain mats before cleaning the equipment and surfaces outside. Wastewater generated from cleaning outside is pumped into a 55-gallon drum for disposal offsite. Wastewater generated from cleaning inside passes through a grease trap before discharging to the sanitary sewer system.**

**Dawn receives and stores in bulk food-grade vegetable oil and salad oil for processing and stove oil for combustion in the facility boiler. The oil and stove oil are stored in a secondary containment area, which includes: a vertical aboveground storage tank (AST) containing salad oil, two vertical ASTs containing vegetable oil, and one horizontal AST containing stove oil. Dawn operates a boiler with the stove oil in order to periodically heat the vegetable oil during pumping operations.**

**Dawn provides the following documents in response to this request:**

- 1) **Warehouse Flow Chart and Production Flow Chart.**

- e) *Provide all documents pertaining to sale, transfer, delivery, disposal, of any hazardous substances, scrap materials, and/or recyclable materials to this property.*

**OBJECTION. This request is overbroad and unduly burdensome. Notwithstanding the foregoing objection, Dawn provides the following documents in response to this request:**

- 1) See supporting documents listed in response to 1.g. above.
- 2) See supporting document listed in response to 2.a.3. above.
- 3) See generally supporting documents listed in response to 2.i. below.

- f) *Provide all information on electric equipment used at the facility, including transformers or other electrical equipment that may have contained polychlorinated biphenyls (PCBs).*

**All electrical transformers on the premises are owned by Seattle City Light. Three of the four transformers are marked as containing non-PCB fluid. Dawn's environmental consultant, Advanced Environmental Management Group, has been in contact with Seattle City Light regarding the need for written confirmation that the fourth transformer also contains non-PCB fluid. To date, Dawn has received no reply to its request.**

- g) *Provide information on the type(s) of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products which are or may contain hazardous substances which are or where used at the facility for facility operations.*

**Attached is information on the type(s) of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products which are or may contain hazardous substances which are used (or have been used since 2004) at the Fox Avenue plant for facility operations. Dawn provides the following document in response to this request:**

- 1) List of Shop, Lab, & Plant Chemicals.

- h) *Provide any site drainage descriptions, plans or maps that include information about storm drainage which includes, but is not limited to, above or below surface piping, ditches, catch basins, manholes, and treatment/detention or related structures including outfalls. If available, also include information about connections to sanitary sewer.*

**Site sanitary flow**

**The water supply and sanitary sewerage services for the facility are provided by the City of Seattle. Wastewater from cleaning in the manufacturing area passes through a grease trap before being discharged to the sanitary sewer system. The**

grease trap is pumped out on a periodic basis. Wastewater from lab operations, utensil cleaning, and domestic use does not pass through the grease trap.

#### Site stormwater flow

Based on the best information available, it is believed that stormwater discharges to a stormwater main that discharges to the Duwamish Waterway from an outfall located one parcel north of the facility. Stormwater may also discharge to a sanitary sewer line. The facility is looking to perform a camera test in order to verify where the stormwater discharges from the site.

The site topography gently slopes from east to west towards the Duwamish Waterway. The embankment at the waterline of the Duwamish Waterway is severe. Based on facility personnel observations, stormwater sheet flow moves generally from east to west towards the Duwamish River. Stormwater that collects in catch basins generally flows from west to east toward Fox Avenue South.

#### Secondary containment

The secondary containment area for the food and stove oil bulk storage tanks is equipped with a manually operated sump pump. As needed, trained facility personnel visually check stormwater that has collected in the secondary containment area to confirm that oil is not present. If oil is not present in the secondary containment area, the sump pump is manually activated to discharge the stormwater into a trench drain in the railcar unloading area. This trench drain flows to a sump that pumps liquid to the storm drain located southwest of the secondary containment area. From there, the liquid flows to a storm drain located southwest of the facility. If oil were present, a commercial waste-hauling services provider would remove the stormwater for disposal offsite.

- i) *With respect to past site activities, please provide copies of any stormwater or drainage studies, including data from sampling, conducted at these properties. Also provide copies of any Stormwater Pollution Prevention or Maintenance Plans or Spill Plans that may have been developed for different operations during the Respondent's occupation of the property.*

**The following plans related to Dawn's operations are provided:**

- 1) Spill Prevention Control and Countermeasure Plan**
- 2) Environmental Management System binder**

3. **Information About Others**

a) *Describe any business relationship you may have had regarding this property or operations thereon with the following entities:*

- i. *Fox Avenue Warehouse Corporation,*
- ii. *William Guimont,*
- iii. *Indal Corporation,*
- iv. *Industrial Indemnity Company,*
- v. *Angela Kissler,*
- vi. *Lisa Kissler,*
- vii. *Marine Power and Equipment Co., Inc.*
- viii. *National Steel Corporation Co.,*
- ix. *Seattle Iron & Metals Corporation,*
- x. *Southpark Investment Company, and*
- xi. *Young Corporation.*

**William Guimont is the owner of the property and landlord to Dawn. To the best of Dawn's knowledge and information, Dawn has no business relationship with any of the other entities listed in this request.**

b) *Provide the names and last known address of any tenants or lessees, the dates of their tenancy and a brief description of the activities they conducted while operating on the above mentioned site including but not limited to the following entities:*

- i. *Bunge Foods Processing LLC,*
- ii. *Ener-G Foods, Inc.*
- iii. *Oroweat Foods Company, and*
- iv. *Sam Wylde Flour Co.*

**Bunge Foods was the lessee-in-possession and operator of the Plant immediately prior to Dawn. The last known address for Bunge Foods is: Bunge Foods Corporation, 11720 Borman Drive, St. Louis, Missouri 63146-1000. Dawn has no information regarding the other entities listed in this request.**

c) *If not already provided, identify and provide a last known address or phone number for all persons, including Respondent's current and former employees or agents, other than attorneys, who have knowledge or information about the generation, use, purchase, storage, disposal, placement, or other handling of hazardous materials at, or transportation of hazardous materials to or from, the site.*

**Dawn has no information responsive to this request which has not already been provided in response to other requests.**

4. **Financial Information**

- a) *Provide true and complete copies of all federal income tax documents, including all supporting schedules, for 2002, 2003, 2004, 2005, 2006 and 2007. Provide the federal Tax Identification Number and, if documentation is not available, explain why in detail.*

**OBJECTION: Based on a good faith belief that no factual or legal basis exists upon which Dawn could be adjudged a potentially responsible party for the conditions at the Lower Duwamish Waterway Superfund Site, this request is premature. Furthermore, this request exceeds the scope and authority of EPA set forth in 42 U.S.C. § 9604(e).**

**Without waiving the foregoing objection, Dawn states that its federal Tax Identification Number is 35-1438925.**

- b) *Provide the Respondent's financial interest in, control of, or that the Respondent is a beneficiary of any assets (in the U.S. or in another country) that have not been identified in your federal tax returns or other financial information to be presented to EPA. If there are such assets, please identify each asset by type of asset, estimated value, and location.*

**Not applicable.**

- c) *If Respondent is, or was at any time, a subsidiary of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity, then describe the full nature of each such corporate relationship, including but not limited to:*
- i. *a general statement of the nature of relationship, indicating whether or not the affiliated entity had, or exercised, any degree of control over the daily operations or decision-making of the Respondent's business operations at the Site;*
  - ii. *the dates such relationship existed;*
  - iii. *the percentage of ownership of Respondent that is held by such other entity(ies);*
  - iv. *for each such affiliated entity provide the names and complete addresses of its parent, subsidiary, and otherwise affiliated entities, as well as the names and addresses of each such affiliated entity's officers, directors, partners, trustees, beneficiaries, and/or shareholders owning more than five percent of that affiliated entity's stock;*
  - v. *provide any and all insurance policies for such affiliated entity(ies) which may possibly cover the liabilities of the Respondent at the Site; and*
  - vi. *provide any and all corporate financial information of such affiliated entities, including but not limited to total revenue or total sales, net income, depreciation, total assets and total current assets, total liabilities and total current liabilities, net working capital (or net current assets), and net worth.*



**Dawn Food Products, Inc. is the ultimate parent company and the lessee of the Fox Avenue property. Dawn has no information responsive to the remaining subparts of this request.**

**5. Insurance Coverage**

- a) *Provide copies of all property, casualty and/or liability insurance policies, and any other insurance contracts referencing the site or facility and/or Respondent's business operations (including, but not limited to, Comprehensive General Liability, Environmental Impairment Liability, Pollution Legal Liability, Cleanup Cost Cap or Stop Loss Policies). Include, without limitation, all primary, excess, and umbrella policies which could be applicable to costs of environmental investigation and/or cleanup, and include the years such policies were in effect.*

**Insurance policies that potentially provide coverage for the Fox Avenue plant between 2004-2008 are provided on the enclosed CD-ROM. See EXHIBIT \_\_\_\_**

- b) *If there are any such policies from question "5a" above which existed, but for which copies are not available, identify each such policy by providing as much of the following information as possible:*
- i. *the name and address of each insurer and of the insured;*
  - ii. *the type of policy and policy numbers;*
  - iii. *the per occurrence policy limits of each policy; and*
  - iv. *the effective dates for each policy.*

**Not applicable.**

- c) *Identify all insurance brokers or agents who placed insurance for the Respondent at any time during the period being investigated, as identified at the beginning of this request, and identify the time period during which such broker or agent acted in this regard.*

**Insurance brokers or agents who sold insurance products to Dawn covering the Fox Avenue plant are identified in the insurance paperwork produced in response to Request 5.a. above.**

- d) *Identify all communication and provide all documents that evidence, refer, or relate to claims made by or on behalf of the Respondent under any insurance policy in connection with the site. Include all responses from the insurer with respect to any claims.*

**Not applicable.**

**6. Compliance with This Request**

a) *Describe all sources reviewed or consulted in responding to this request, including, but not limited to:*

i. *the name and current job title of all individuals consulted;*

**In addition to legal counsel, the following persons were consulted during the search for information responsive to these requests:**

**Arnie Eilertsen, Safety and Environmental Manager, Seattle facility.**

**Mark L'Esperance, General Manager, Seattle facility.**

**Stuart Smith, Corporate Safety and Environmental Manager.**

**Max Waagner, Corporate Director of Global Safety.**

**Loren Polak, Environmental Manager, Bunge Foods.**

**William Guimont, landlord and Fox Avenue facility owner.**

**Stephen Gorham, P.E., Advanced Environmental Management Group, LLC, consultant for Dawn.**

**Amarjit "Sid" Sidhu, Director of Management Services, Advanced Environmental Management Group, LLC, consultant for Dawn.**

**Any current employees or consultants of Dawn should be contacted through Dawn's legal counsel.**

ii. *the location where all documents reviewed are currently kept.*

**Any documents referenced or reviewed in preparing this information response are maintained at the Fox Avenue plant (Seattle, Washington), Dawn's corporate headquarters (Jackson, Michigan), or at the offices of Dawn's legal counsel (Indianapolis, Indiana).**

AS TO OBJECTIONS:

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E. Sean Griggs, Esquire  
BARNES & THORNBURG LLP  
11 South Meridian Street  
Indianapolis, Indiana 46204  
Telephone: (317) 236-1313

**CERTIFICATION**

I hereby certify that the foregoing responses are true and correct to the best of my knowledge and belief based upon the information and records available to me.

\_\_\_\_\_  
Signature

Stuart Smith  
Printed Name

Assistant Secretary  
Title

STATE OF MICHIGAN     )  
                                  ) SS:  
COUNTY OF JACKSON    )

Before me, a Notary Public, in and for said County and State, personally appeared Stuart Smith, and acknowledged the execution of the foregoing instrument, this \_\_\_\_ day of September, 2008.

Witness my hand and Notarial Seal this \_\_\_\_ day of September, 2008.

\_\_\_\_\_  
Notary Public  
Residing in Jackson County, Michigan.

My Commission Expires:  
\_\_\_\_\_

**Item 1g**

Waste generated at the facility includes food waste, oily wastewater, used oil, spent parts washer fluid, used lamps, cardboard, and general office trash.

Waste type	Waste volume
Food waste	1,200 pounds/day: 5 days/week
Oily wastewater from washing operations (inside and outside)	20 gallons/month
Used oil (maintenance oils)	< 10 gallons/year
Used oil (edible oils)	440 gallons/year
Spent parts washer fluid	1 gallon/year
Used lamps	20 bulbs/year
Cardboard	10,000 pounds/month
General office trash (dumpster)	14 tons/month

**Item 2a**

Dawn had a Puget Sound Clean Air Agency (PSCAA) 2005 Annual Registration Certificate. The Registration number was 28406, which was effective from January 1, 2004 until December 31, 2005.

Based on an email from Melissa McAfee (an Inspector for the PSCAA) dated July 30, 2008, equipment at the facility does not currently require registration.

**Item 2d**

Dawn cleans equipment and surfaces with pressurized water as part of the food products manufacturing operations, including equipment and areas outside the building. Outside drains are closed using drain mats before cleaning the equipment and surfaces outside. Wastewater generated from cleaning outside is pumped into a 55-gallon drum for disposal offsite. Wastewater generated from cleaning inside passes through a grease trap before discharging to the sanitary sewer system.

Dawn receives and stores in bulk food-grade vegetable oil and salad oil for processing and stove oil for combustion in the facility boiler. The oil and stove oil are stored in a secondary containment area, which includes: a vertical aboveground storage tank (AST) containing salad oil, two vertical ASTs containing vegetable oil, and one horizontal AST containing stove oil.

Dawn operates a boiler with the stove oil in order to periodically heat the vegetable oil during pumping operations.

**Item 2e**

Attached are purchase records for hazardous substances, which are delivered to the Dawn facility.

**Item 2f**

Dawn's environmental consultant, Advanced Environmental Management Group, has been in contact with Seattle City Light regarding the PCB status of a fourth transformer. It is not known as of September 15, 2008 whether the fourth transformer contains PCB-laden oil.

**Item 2g**

Attached is information on the type(s) of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products which are or may contain hazardous substances which are or were used at the Dawn facility for facility operations.

**Item 2h**

**Site sanitary flow**

The water supply and sanitary sewerage services for the facility are provided by the City of Seattle. Wastewater from cleaning in the manufacturing area passes through a grease trap before being discharged to the sanitary sewer system. The grease trap is pumped out on a periodic basis. Wastewater from lab operations, utensil cleaning, and domestic use does not pass through the grease trap.

**Site stormwater flow**

It is not conclusive where stormwater generated at the facility discharges; however, based on the best information available, it is believed that stormwater discharges to a stormwater main that discharges to the Duwamish Waterway from an outfall located one parcel north of the facility. Stormwater may also discharge to a sanitary sewer line. The facility is looking to perform a camera test in order to verify where the stormwater discharges from the site.

The site topography gently slopes from east to west towards the Duwamish Waterway. The embankment at the waterline of the Duwamish Waterway is severe. Based on facility personnel, stormwater sheet flow generally flows from east to west towards the Duwamish River. Stormwater that collects in catch basins generally flows from west to east towards Fox Avenue South.

**Secondary containment**

The secondary containment area for the food and stove oil bulk storage tanks is equipped with a manually operated sump pump. As needed, trained facility personnel visually check stormwater that has collected in the secondary containment area to confirm that oil is not present. If oil is not present in the secondary containment area, the sump pump is manually activated to discharge the stormwater into a trench drain in the railcar unloading area. This trench drain flows to a sump that pumps liquid to the storm drain located southwest of the secondary containment area. From there, the liquid flows to a storm drain located southwest of the facility.

If oil were present, a commercial waste-hauling services provider would remove the stormwater.