



United States Department of the Interior  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

November 21, 2024

**VIA USPS**

Daniel Dix  
General Manager  
NEW Cooperative  
2626 1<sup>st</sup> Ave South  
Fort Dodge, IA 50501

**VIA EMAIL**

Hallie E. Still-Caris  
Shareholder  
Nyemaster Goode  
700 Walnut Street, Ste. 1300  
Des Moines, IA 50309  
hsc@nyemaster.com

Brittany A. Barrientos  
Partner  
Stinson LLP  
1201 Walnut Street, Ste. 2900  
Kansas City, MO 64106-2150  
Brittany.barrientos@stinson.com

**RE: Nishnabotna Fertilizer Spill: Notice of Intent to Conduct a Natural  
Resource Damage Assessment and Engage in a Cooperative Natural  
Resource Damage Assessment**

Dear Mr. Dix, Ms. Still-Caris and Ms. Barrientos:

This is formal notice that a Preassessment Screen for the Nishnabotna Fertilizer Spill has been completed by the U.S. Department of the Interior (DOI), Iowa Department of Natural Resources, Nebraska Department of Environment and Energy, and Missouri Department of Natural Resources (Trustees). The Nishnabotna Fertilizer Spill is the March 9-11, 2024 release of liquid nitrogen fertilizer (UAN-32) from the NEW Cooperative, Inc. facility in Red Oak, Iowa into the Nishnabotna River extending downstream to its confluence with the Missouri River, with a total impact of approximately 60 miles (Site). These agencies have responsibility for managing natural

resources and their associated services actually or potentially injured as a result of release(s) of a hazardous substance (ammonia) at and from NEW Cooperative, Inc. facility and property, and each is acting in its capacity as a natural resource Trustee at the Site, 40 CFR §§ 300.600-615. The release(s) of a hazardous substance at and from the Site may give rise to liability for Natural Resource Damages under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 USC §§ 9601 *et seq.*

Pursuant to the CERCLA Natural Resource Damage Assessment and Restoration (NRDAR) regulations, 43 CFR Part 11, the Trustees have prepared a Preassessment Screen, 43 CFR §§ 11.23-11.25, a copy of which is enclosed (Attachment A). Also enclosed is the Trustees’ Notice of Intent to Perform an Assessment pursuant to Section 11.32(a)(2)(iii) (Attachment B). Please let us know if there are other Potentially Responsible Parties (PRPs) that should also be notified of the initiation of the NRDAR. The Preassessment Screen identifies natural resources and their supporting ecosystems that have been or potentially have been injured by the release(s) of a hazardous substance from the facility as well as services potentially lost.

Based upon the Preassessment Screen, the Trustees have determined that further investigation and assessment is warranted as a result of this release of UAN-32 in March 2024. The Preassessment Screen will be used to direct the investigation and assessment (NRDA) but will not preclude consideration of other resources or services later found to be affected or other parties found to be responsible for release(s). The next step for the Trustees will be the development and completion of an assessment plan. (See Subpart D, Assessment Plan Phase, 43 CFR §§ 11.31 – 11.40).

The goal of the NRDAR process is to efficiently and effectively restore injured natural resources and their services to baseline conditions and compensate the public for interim losses to both ecological services and human use. Under 43 CFR § 11.32(a)(2)(iii)(A), the Trustees are required to invite the participation of known PRPs in the assessment process to best facilitate achieving this restoration goal. The cooperative assessment approach provides a number of benefits, such as increased efficiency, reduced transaction costs, and a focus on restoration, to all parties involved—the PRP, the Trustees, and the public.

*(cont’d on next page)*

The Trustees are inviting you to enter into a cooperative assessment and restoration planning agreement with them for this NRDA. Within thirty (30) calendar days of your receipt of this notice, please provide a written response to me indicating whether you would like to proceed with a cooperative NRDAR for the Nishnabotna Fertilizer Spill. In the meantime, if you have any questions or comments concerning this matter feel free to contact me at (202) 208-6356 or amy.hanley@sol.doi.gov.

Sincerely,

Amy Horner Hanley  
Senior Attorney-Advisor

Enclosures (noted here for ease of reference).

- A. Preliminary Assessment Screen and Determination for the Nishnabotna Fertilizer Spill (PAS)
- B. Notice of Intent to Perform an Assessment (NOI)

cc: via email

Aaron Brees, Iowa Department of Natural Resources  
Ric Groeneman, Missouri Office of the Attorney General  
Jacob Larson, Iowa Office of the Attorney General  
Steven Thomas, Nebraska Department of Energy and Environment  
Elliott Usher, Missouri Department of Natural Resources  
Carlton Wiggam, Nebraska Office of the Attorney General Office