UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

March 26, 2020

GENERAL NOTICE LETTER
URGENT LEGAL MATTER
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Richard Wade, City Attorney
City of Council Bluffs
209 Pearl Street, Suite 304
Council Bluffs, Iowa 51503

Re: General Notice Letter for the Citizens Gas & Electric Company Superfund Site in Council Bluffs, Iowa (IAD984589093)

Dear Mr. Wade:

Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601- 9675, the U.S. Environmental Protection Agency is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment. The EPA has documented that such a release has occurred at the Citizens Gas & Electric Company Superfund Site (Site) in Council Bluffs, Iowa. Based on information currently available to the EPA, the EPA has determined that the city of Council Bluffs (City) may be responsible under CERCLA for responding to Site conditions.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in responding to site conditions. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at a site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on available information, the EPA believes that the City may be liable under Section 107(a) of CERCLA with respect to the Site, as a current or previous owner and/or operator of the Site.

As you may be aware, the Superfund Small Business Liability Relief and Brownfields Revitalization Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of this law at http://www.epa.gov/swerosps/bf/sblrbra.htm and review EPA guidance regarding these exemptions at http://www.epa.gov/compliance/resources/policies/cleanup/superfund.

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Administrative Settlement Agreement and Order on Consent for Engineering Evaluation/Cost Analysis

Enclosed is a draft Administrative Settlement Agreement and Order on Consent (ASAOC) for the performance of an Engineering Evaluation/Cost Analysis (EE/CA) for the Site. The City is invited to engage in negotiations with the EPA and other PRPs to reach a settlement to conduct or finance the EE/CA at the Site. To assist you in your efforts to communicate, enclosed is a list of names and addresses of PRPs to whom this letter is being sent.

The EPA is seeking to complete negotiation of the ASAOC within 60 days following your receipt of this letter. If a timely settlement cannot be reached, the EPA may fund the removal action and pursue a cost recovery claim under Section 107 of CERCLA or issue a Unilateral Administrative Order (UAO) to the City under Section 106(a) of CERCLA, requiring the City to conduct the Work required by the enclosed ASAOC. If the recipients of a UAO refuse to comply with the UAO, the EPA may pursue civil litigation against the recipients to require compliance.

You are encouraged to contact the EPA within 14 days of your receipt of this letter to indicate the City's willingness to participate in negotiations concerning this Site. If the EPA does not receive a timely response, the EPA will assume that the City does not wish to negotiate a resolution of its liabilities in connection with the Site, and that the City has declined any involvement in performing the response activities. While the EPA is interested in progressing its mission work, we recognize that municipalities, state agencies, and businesses may be facing hardships during the COVID-19 pandemic. We believe that negotiations can proceed through remote communications, but we are open to discussing flexibilities with regard to schedules.

EPA Contacts

If you have any questions pertaining to this matter, please contact Cathie Chiccine of EPA Region 7's Office of Regional Counsel at (913) 551-7917 or chiccine.catherine@epa.gov. Technical questions may be directed to Yvonne Smith, On-Scene Coordinator, at (913) 551-7795 or smith.yvonne@epa.gov. Thank you for your prompt attention to this matter.

Sincerely,

MARY PETERSON

Digitally signed by MARY PETERSON
Date: 2020.03.26 15:10:06 -05'00'

Mary P. Peterson
Director
Superfund and Emergency Management Division

Enclosures

cc: Amie Davidson, IDNR

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Sent To: RICHARD WADE / CITY OF COUNCIL BLUFFS

Street, Apt. No.; or PO Box No.: 209 PEARL ST, STE 304

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PS Form 3800, August 2006 — See Reverse for Instructions