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

15 AUG 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article No.: 7014 1200 0000 6118 6207

Mr. Chris Marks
Environmental Manager
Denali Solid Solutions
3031 Franklin Ave, Suite A
Riverside, California 92507

RESPONSE DUE WITHIN 30 DAYS OF RECEIPT OF THIS REQUEST

Dear Mr. Marks:

The U.S. Environmental Protection Agency is issuing this Request for Information to the Denali Solid Solutions, pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a). The request seeks information regarding the company's compliance with the requirements of Section 405 of the CWA, 33 U.S.C. § 1345, and 40 C.F.R. Part 503, *Standards for Use and Disposal of Sewage Sludge*.

Section 308(a) of the CWA authorizes the EPA to require the submission of information necessary to carry out the objectives of the CWA, 33 U.S.C. § 1251 et seq., including information to determine whether a person is in compliance with the CWA. Under the authority of Section 308(a) of the CWA, the EPA hereby requires Denali Solid Solutions, to provide the information requested in ENCLOSURE A within the timeframes noted. **Please read the instructions and definitions included in ENCLOSURE A carefully before preparing your responses to this Request for Information.**

This Request for Information is being sent by the EPA's Biosolids Center located in EPA Region 7, Lenexa, Kansas. As the enclosed instructions indicate, the response to this Request for Information is to be sent to the EPA Region 7.

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We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this Request for Information, please contact Jodi Bruno in the EPA's Biosolids Center at (913) 551-7810, or by e-mail to bruno.jodi@epa.gov.

Sincerely,

DeAndré Singletary
Acting Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Eric Magnan, EPA Region 9
Susanne Perkins, EPA Region 9
Lauren Fondahl, EPA Region 9
Mindi Cross, Arizona Department of Environmental Quality
Leigh Padgitt, Arizona Department of Environmental Quality

ENCLOSURE A

REQUEST FOR INFORMATION AND INSTRUCTIONS

RESPONSE DUE WITHIN 30 DAYS OF RECEIPT OF THIS REQUEST

The U.S. Environmental Protection Agency requests submission of information, as described below, pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

I. Instructions

1. Please be aware that the issuance of this letter and your response with the requested information does not relieve you of any responsibility under the CWA, including, but not limited to seeking, maintaining or complying with an applicable NPDES permit.

Contact Information.

2. In each submission required by this Request for Information, identify the person to contact regarding your submission, including title, address and email and/or phone number.

3. Your responses to this Request for Information are to be provided by a qualified professional. For each response required below, provide the name and credentials of the person(s) providing information in response to this Request for Information.

Responses Format.

4. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.

5. Except for a cover letter or memorandum and the Statement of Certification, only copies, and not original documents, should be submitted pursuant to this request. Documents and data may be submitted electronically by email or by mail (e.g., on a compact disc or flash drive) in PDF, Word, Excel or other widely available electronic format. *NOTE: as discussed below, any information claimed as confidential business information (CBI) should be submitted by mail and properly labeled.*

Complete Responses and New or Corrected Information.

6. If any response cannot be provided in full, provide the response to the extent possible along with an explanation of why the response cannot be provided in its entirety and, if applicable, when the remainder of the response will become available and be submitted.

7. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA within fourteen (14) calendar days of when the information or documents become known or available. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within fourteen (14) calendar days of when you find the information is inaccurate, false or misrepresents the truth.

Accurate and Truthful Information Required.

8. Please be advised that the failure to respond accurately, or the submission of false information, may subject you to administrative, civil, or criminal enforcement that could include penalties, fines, or imprisonment under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001.

Certification.

9. The Statement of Certification found in ENCLOSURE B must be submitted along with your responses every time a submission is made pursuant to this Request for Information. This statement must be made by a person authorized to sign reports pursuant to 40 CFR § 122.22(a) and (b). For your convenience, the text of these provisions is included on ENCLOSURE B.

Confidential Business Information.

10. Information requested by this letter must be submitted to the EPA regardless of a claim of confidentiality. If you believe any of the requested information is confidential, you may assert a confidential business information (CBI) claim under the provisions of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), 18 U.S.C. § 1905, and the regulations at 40 CFR Part 2. Information that you claim as CBI will be held as such pending a determination of applicability by the EPA.

    a. *Procedures to claim confidential treatment for information requested or demanded by the EPA.*
        i. You may assert a CBI claim covering part or all of the information requested or demanded by the EPA in the manner described by paragraph (b), below. Information covered by a CBI claim will be disclosed by the EPA only to the extent, and by means of the procedures, allowed by 40 CFR Part 2, Subpart B.
        ii. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to the business, pursuant to 40 CFR § 2.203(a).
        iii. The regulations applicable to a claim of CBI are at 40 CFR Part 2, Subpart B, 41 FR 36902, Sept. 1, 1976, as amended at 43 FR 40000, Sept. 8, 1978; 50 FR 51661, Dec. 18, 1985.

    b. *Method and time of asserting business confidentiality claim.* Pursuant to 40 CFR § 2.203(b), a business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend or other suitable form of notice employing language such as *trade secret, proprietary, confidential business information, CBI* or *proprietary business information.* Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

    c. If you assert a CBI claim on the submitted information and the Agency is determining whether that information is entitled to confidential treatment, you will be given notice to submit comments to support your CBI claim. Information that is publicly available or required to be disclosed to the public by law is not entitled to confidential treatment.

    d. Please refer to 40 CFR § 2.302, *special rules governing certain information obtained under the Clean Water Act*, regarding limitations on the confidential treatment of effluent data and standards or limitations.

Submission of Response to Request for Information.

11. All responses to this Request for Information must be submitted within the timeframes identified in Section III, below. Each response should be submitted in a manner that allows you to track delivery and must be submitted to:

Biosolids Center
ATTN: Jodi Bruno
U.S. Environmental Protection Agency
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, Kansas 66219
Bruno.jodi@epa.gov

II. Definitions

All terms used in this Request for Information that are not defined below shall be defined as they are defined at Section 502 of the CWA, 33 U.S.C. § 1362, and 40 CFR §§ 122,2, 503.9, 503.11, 503.21, 503.31 and 503.41. Unless otherwise indicated, the following definitions shall apply strictly for the purposes of this Request for Information:

1. "Record" is defined as any recording of information, including, but is not limited to, in print or electronic form, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer print outs and computer data bases.

2. "Document" is defined as any writings, drawings, graphs, charts, photographs, phone records, electronic mail, facsimile and other data compilations from which information can be obtained, translated if necessary, through detection devices into reasonably usable form. Documents should be produced as they are kept in the usual course of business.

3. "Biosolids" is defined as sewage sludge generated during the treatment of domestic sewage in a treatment works.

4. "Land application" is defined as the spraying or spreading of sewage sludge onto the land surface; the injection of sewage sludge below the land surface; or the incorporation of sewage sludge into the soil so that the sewage sludge can either condition the soil or fertilize crops or vegetation grown in the soil.

5. "Sewage sludge" is defined at 40 CFR § 503.9 and includes domestic sewage and a material derived from sewage sludge.

III. Requested Information

<u>Within thirty (30) days of receipt of this Request for Information</u>, provide the following information:

1. Please identify the person to contact regarding your submission, including title, address and email and/or phone number.

2. Your responses to this Request for Information are to be provided by a knowledgeable and qualified professional. For each response required below, provide the name, title and credentials of the person(s), including consultants, providing information in response to this Request for Information.

Please provide the following information for Biosolids land applied 2014 to present at sites in California and Arizona:

3. For all sewage sludge related materials land applied by Denali Solid Solutions in California and Arizona during calendar years 2014, 2015, 2016, 2017, 2018 and to date in 2019, provide all records pertaining to the following:

    a. All records identifying
        i. The location of each land application area specifying latitude and longitude;
        ii. The size of each land application area in acres;
        iii. The total amount of biosolids applied to each land application area by year;
        iv. The amount of biosolids applied to each land application area from each generating wastewater treatment facility by year and identifying the individual wastewater treatment facility by name; and
        v. The dates the application of biosolids were made to each field.

    b. All records and information utilized in the agronomic rate calculations broken out by application area in California and Arizona, including:

        i. Biosolids analyses including, but not limited to, Percent solids, Total Kjeldahl Nitrogen (TKN), NH4-N (ammonium nitrogen), NO3-N (nitrate), and Organic N (TKN minus NH4-N);

        ii. Soil data including, but not limited to, pH, nutrient levels, organic matter and heavy metals;

        iii. Crop data by field including, but not limited to, crop planted, expected yield, dates of seeding, dates of harvest, Total fertilizer Nitrogen recommendation, and Supplemental Fertilizer Nitrogen (i.e. irrigation water); and

        iv. Land application records including, but not limited to, dates of application, application rates, volume applied, and size (in acres) of the application area.

    c. For all sewage sludge related materials land applied by Denali Solid Solutions during calendar years 2014, 2015, 2016, 2017, 2018 and to date in 2019, provide all records related to whether the materials meet the management practice requirements found in 40 CFR Part 503.14. The records must include the following:

        i. All records identifying whether or not threatened or endangered species are believed to be present within two miles of the application area;

ii. A map visually defining each application area, waterways within the area, and distances and dimensions marked in feet;

iii. All records documenting agronomic rate calculations for all land application area in 2014, 2015, 2016, 2017, 2018 and to date in 2019.

d. If soil data requested in b.ii. above, is not available for Desert Ridge Farms fields where biosolids have been applied since 2014, then Denali shall sample each field for soil pH, phosphorus (P), potassium (K), nitrate (NO_3), organic matter, arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium and zinc at depths of 1 foot, 2 feet, 3 feet, 4 feet, and 5 feet, at 4 locations within a 120 acre pivot.

ENCLOSURE B

STATEMENT OF CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

_____ _____
Signature Date

_____
Printed Name

_____
Title

40 CFR § 122.22 Signatories to permit applications and reports.

(a) *Applications.* All permit applications shall be signed as follows:

(1) **For a corporation**. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officer identified in Sec. 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Sec. 122.22(a)(1)(ii) rather than to specific individuals.

(2) **For a partnership or sole proprietorship**. By a general partner or the proprietor, respectively; or

(3) **For a municipality, State, Federal, or other public agency**. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

(b) All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and,

(3) The written authorization is submitted to the Director.