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

19 SEP 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article No.: 7014 1200 0000 6118 6511

The Honorable Chris Warwick
Mayor of Bolivar
345 South Main Avenue
Bolivar, Missouri 65613

Dear Mayor Warwick:

This letter requests information pursuant to Section 308 of the Clean Water Act regarding compliance by the city of Bolivar with requirements of its National Pollutant Discharge Elimination System permit (No. MO0022372) and an administrative order issued by the U.S. Environmental Protection Agency in 2007 (Docket No.CWA-07-2007-0068). A response is required within thirty (30) days of your receipt of this request.

Pursuant to a request by the City, the EPA and the City have had discussions about possibly terminating the Order. Based on the discussions, it is clear that significant work as been performed but questions remain regarding the City's compliance with the Order and the CWA. The EPA has determined that additional information is needed, particularly with respect to sanitary sewer overflows and bypasses at the wastewater treatment plant, to evaluate next steps regarding the Order. Therefore, the EPA requires the City to provide information regarding the continuing SSOs and bypasses and the work remaining to necessary to correct these issues.

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 agency hereby requires the City of Bolivar to provide the information requested in **ENCLOSURE 1** within the timeframe specified therein.

Guidance on How to Respond

Please read the instructions included in ENCLOSURE 1 carefully before preparing your responses to this Information Request. Answer each question as clearly and completely as possible.

Information submitted pursuant to this Section 308 information request, with a signed Statement of Certification (ENCLOSURE 2), shall be sent in a manner that allows you to track delivery and addressed as follows:

Printed on Recycled Paper

Cynthia Sans
U.S. Environmental Protection Agency Region 7
ECAD/WB
11201 Renner Blvd.
Lenexa, Kansas 66219

We appreciate your cooperation and prompt attention to his matter. If you have any questions regarding this information request, please contact Ms. Sans at (913) 551-7492, or sans.cynthia@epa.gov.

Sincerely,

DeAndré Singletary
Acting Director
Enforcement and Compliance Assurance Division

Enclosures

cc: Robert Brundage, Newman, Comley & Ruth P.C.
Kristi Savage-Clarke, Missouri Department of Natural Resources
Cindy Davies, MDNR, SWRO

ENCLOSURE 1

INFORMATION REQUEST

This information is requested by the U.S. Environmental Protection Agency pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a).

I. Instructions

Contact Information.

1. 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.

2. 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.

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

4. 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.

5. 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.

6. 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.

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

Certification.

8. 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 (CBI).

9. 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 business confidentiality 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, and in the manner described at 40 CFR § 2.203(b). Information that you claim confidential 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 business confidentiality 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 such a 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.
      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.* 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,* or *company confidential.* 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. To claim protection for information submitted to the EPA, you must request that the information be held CONFIDENTIAL and be prepared to substantiate your claim in writing by demonstrating that the information meets the requirements in 40 CFR Part 2, Subpart B, including but not limited to the following criteria (40 CFR § 2.208):
      i. Your business has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
      ii. No statute specifically requires disclosure of the information.
      iii. Disclosure of the information would cause substantial harm to your business's competitive position.

   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.

10. 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:

    Cynthia Sans
    U.S. Environmental Protection Agency
    ECAD/WB
    11201 Renner Blvd.
    Lenexa, Kansas 66219

II. Requested Information

Please submit your response to this Information Request to the address provided in Section I.

Note that except for a cover letter or memorandum and the Statement of Certification, 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data may be submitted on a compact disc or USB thumb drive in PDF, Word, Excel or other widely available digital format.

A. Information to be Included with Each Response

1. Identify the person to contact regarding your response, including title, address and phone number.

2. Your responses to this Information Request are to be provided by a qualified professional. Please provide the name and credentials of the person(s) providing information in response to this Information Request.

3. Included a signed and dated Statement of Certification (Enclosure 2) with each response to this Information Request.

B. Specific Questions – Response Due within thirty (30) days of receipt of this letter.

4. Please provide the following information for the period of time from January 1, 2016 to the present:

    a. A list of all Sanitary Sewer Overflows ("SSOs") and related information:
        i. Please list the date of each SSO and the volume released using a uniform convention for quantity, such as million gallons or actual gallons;
        ii. Specifically identify the location of each SSO, such as a manhole number or street address provide a list of each SSO;
        iii. Explain how the City monitors SSOs and calculates or estimates the volume released during an SSO event and provide a copy of any written procedures for monitoring SSO and calculating or estimating the volume released; and
        iv. Describe and provide any existing documentation for action taken by the City during SSO events, including any actions taken at the wastewater treatment plant ("WWTP") when J4-MH-120 overflows.

    b. A list of all bypasses at the WWTP:

i. Please list the date of each bypass and the volume released using a uniform convention for quantity, such as million gallons or actual gallons;
ii. Explain how the City monitors bypasses and calculates or estimates the volume released during a bypass event and provide a copy of any written procedures for monitoring bypasses and calculating or estimating the volume released; and
iii. Describe and provide any existing documentation related to actions taken by the City during bypass events.

5. Provide a map of the City's collection system that clearly identifies the location of each SSO identified in response to question 4, above, including manhole J4-MH-120, the headworks of the WWTP and each outfall from the WWTP.

6. For the period from January 1, 2016 to the present, please provide copies of all DMRs, SSO and bypass reports submitted to the MDNR, and all written communications with MDNR regarding SSOs at manhole J4-MH-120 and bypasses at the WWTP.

ENCLOSURE 2

STATEMENT OF CERTIFICATION
(To be submitted with every response to the Information Request)

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.