



REGION 7

LENEXA, KS 66219

May 2, 2024

SENT VIA ELECTRONIC MAIL
RECEIPT CONFIRMATION REQUESTED

Dr. Bennett Achigbu
BMakk Corporation
1440 Read Street
Omaha, Nebraska 68112
bachigbu@bmakk.com

Re: Request for Information Pursuant to Section 308 of the Clean Water Act

RESPONSE REQUIRED WITHIN 14 DAYS OF RECEIPT

Dear Dr. Achigbu:

On October 5, 2023, a representative of the United States Environmental Protection Agency (EPA) Region 7, performed an inspection of BMakk Corporation in Omaha, Nebraska. The inspection was conducted under the authority of Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318. The EPA previously sent you a copy of the inspection report under separate cover. The purpose of this letter is to obtain additional information so the EPA can determine BMakk Corporation's compliance with the CWA.

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 BMaKK Corporation to provide the information requested in ENCLOSURE 1 within the timeframe specified therein. **Please read the instructions included in ENCLOSURE 1 carefully before preparing and submitting your responses to this Request for Information.**

We appreciate your cooperation and prompt attention to his matter. If you have any questions regarding this Request for Information, please contact Ms. Erin Kleffner, the compliance officer assigned to the matter at (913) 551-7921 or Kleffner.erin@epa.gov.

Sincerely,

JODI
BRUNO

Digitally signed by JODI
BRUNO
Date: 2024.05.02
15:05:29 -05'00'

Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

cc: Brad Pracheil, Nebraska Department of Environment and Energy
Brad.Pracheil@nebraska.gov

ENCLOSURE 1

REQUEST FOR INFORMATION AND INSTRUCTIONS RESPONSE DUE WITHIN 14 DAYS OF RECEIPT

This information is requested by the U.S. Environmental Protection Agency (EPA) pursuant to Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a). Please be aware the issuance of this request and your response does not relieve you of any responsibility under the CWA, including, but not limited to seeking, maintaining, or complying with an applicable NPDES permit.

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 enforcement under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001.

Certification.

8. The Statement of Certification found in ENCLOSURE 2 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 2.

Confidential Business Information (CBI).

9. The information requested herein must be provided even though you may contend it includes confidential business information or trade secrets. You may assert a CBI claim covering part or all of the information requested, pursuant to Section 308 of the Clean Water Act (33 U.S.C. § 1318), 18 U.S.C. § 1905, and 40 C.F.R. § 2.203(b). **If a CBI claim does not accompany the information submitted to EPA, then the Agency may make the information available to the public without further notice.** See 40 C.F.R. § 2.203(c).

10. To make a confidentiality claim, please stamp, or type, “claimed as confidential business information,” “claimed as CBI,” or “trade secret” on all information claimed as CBI and any related CBI documents. CBI-claimed portions of otherwise non-confidential documents should be clearly identified. Indicate a date, if any, after which the information need no longer be treated as confidential. Submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope. All confidentiality claims are subject to EPA verification. If EPA reviews your CBI claim(s), then EPA may send a notice to your business and ask you to submit additional information to substantiate the CBI claim(s). See 40 C.F.R. § 2.204(e). In your substantiation, it is important you satisfactorily demonstrate you have taken reasonable measures to protect the confidentiality of the information, you intend to continue to do so, and the information has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by the EPA only to the extent, and only by the means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. 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 II, below. Electronic submission is preferred. Each response should be submitted in a manner that allows you to track delivery, and must be submitted to:

Erin Kleffner
U.S. Environmental Protection Agency
ECAD/WB
11201 Renner Blvd.
Lenexa, Kansas 66219
Kleffner.erin@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 and 122.26. Unless otherwise indicated, the following definitions shall apply strictly for the purposes of this Request for Information:

- A. The term “you” is defined as the addressee of the Information Request, the addressee’s officers, managers, employees, contractors, trustees, predecessors, successors, assigns, subsidiaries, and agents.
- B. The term “person” as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust, or governmental entity, unless the context indicates otherwise.
- C. “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, logbooks, notes, computer print outs and computer data bases.
- D. “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, through translation, if necessary, through detection devices into reasonably usable form. Documents should be produced as they are kept in the usual course of business.
- E. “Facility” or “Site” is defined as the BMaKK Corporation facility located at approximately 1440 Read Street, Omaha, Nebraska 68112 and all equipment and materials storage areas operated by BMaKK Corporation in the nearby vicinity.

III. Requested Information

Please submit your response to this Information Request to the address and in accordance with the instructions provided in Section I. **Response is due within fourteen days (14) of receipt of this request.**

- 1. Provide the person(s) to contact regarding your submission to this Information Request, including their name, title, mailing address, email address, and phone number.
- 2. Responses to this Information Request are to be provided by knowledgeable and qualified professionals. For each response required below, provide the name, title, and credentials of the person(s) providing the information.
- 3. Please submit a copy of documentation from September 2019 to present for each of the listed items. **If the Facility did not conduct an activity, the response must indicate that the activity was not performed.**

- a) Routine quarterly inspection reports including documentation of any corrective actions taken;
 - b) Quarterly visual assessments of stormwater;
 - c) Annual comprehensive site inspections;
 - d) Results of all quarterly benchmark monitoring conducted; and
 - e) Documentation from all employee training conducted.
4. For each best management practice (BMP) currently implemented at the Facility, provide the following:
 - a. Location of the BMP;
 - b. Date BMP was installed; and
 - c. Photo documentation of the BMP, including date of photographs.
 5. A copy of the Facility's most recent Stormwater Pollution Prevention Plan (SWPPP) including all maps and attachments.
 6. A copy of the Facility's Spill Prevention, Control, and Countermeasures (SPCC) Plan.
 7. A description of where the Facility's garage floor drains discharge (i.e. sanitary sewer, Omaha Municipal Separate Storm Sewer System (MS4), surface) including the oil pit.
 8. A description of the location and capacity of each oil pit at the Facility.
 9. A description of what fluids enter the Facility's floor drains, including the drain in the oil pit.
 10. Date the Facility removed stormwater controls for Outfalls 01, 02, 03, and 05, identified as Read Street curb inlets leading to the Omaha MS4.
 11. Provide photo documentation and description (including date corrective action was implemented) of any corrective actions taken since EPA's industrial stormwater inspection of the Facility on October 5, 2023.

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.