



REGION 9

SAN FRANCISCO, CA 94105

Delivered via email to: sbaxley@udaz.org

Return receipt requested

In Reply Refer to:

United Dairymen of Arizona

Steve Baxley
Senior Vice President of Operations
United Dairymen of Arizona
2008 South Hardy Drive
Tempe, AZ 85282

RE: Inspection Report and Request for Information Pursuant to Section 114 of the Federal Clean Air Act

Dear Senior Vice President of Operations Steve Baxley:

The U.S. Environmental Protection Agency ("EPA") Region 9 conducted an inspection at the United Dairymen of Arizona ("Operator") facility located at 2008 South Hardy Drive, Tempe, AZ 85282 ("Facility") on April 17, 2025, to determine the Facility's compliance with requirements under the Emergency Planning and Community Right-to-Know Act ("EPCRA") Sections 304-312, the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") Section 103, and the Risk Management Program of Section 112(r)(7) of the Clean Air Act ("CAA").

With this letter and its enclosure ("Information Request"), EPA seeks additional information and documents concerning the Facility compliance with CAA § 112(r), 42 U.S.C. § 7412(r). This Information Request is authorized pursuant to CAA § 114, 42 U.S.C. § 9614. The letter enclosures include the EPA inspection report for the Facility ("Inspection Report"), as well as Instructions, Definitions, and Information Request Questions.

Confidential Business Information ("CBI")

Please review the enclosed Inspection Report and your responses to the enclosed information request. If you believe that some or all of the information is entitled to treatment as CBI, please provide a cover sheet or other notice that certain information is being claimed as CBI and specify which portions of the information you consider confidential. Please be specific by page, paragraph, and sentence when identifying the information subject to your claim. Where your claim does not include all information on a page, please clearly describe the portions for which you consider to be CBI or attach a copy of each such page with brackets around the text that you so claim.

If a page, document, or group or class of documents claimed by you to be CBI contains information that the Regional Counsel determines is not CBI, your CBI claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the public without further notice to you.

You may not withhold any information from EPA on the grounds that it is CBI. EPA has promulgated regulations, under 40 C.F.R. Part 2, Subpart B, to protect CBI that it receives. You may assert a CBI claim as described herein and consistent with 40 C.F.R. § 2.203(b) for all or part of the information requested by EPA; however, information is entitled to confidential treatment only if it satisfies the criteria set forth in 40 C.F.R. § 2.208. EPA will disclose business information entitled to confidential treatment only as authorized by 40 C.F.R. Part 2, Subpart B. Accordingly, for each item or class of information that you identify as being subject to CBI, please answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as CBI be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as CBI? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why do you claim the information still be considered CBI?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information through legitimate means? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as CBI, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How would your competitors make use of this information to your detriment?

You are not required to respond to this question in light of the Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019). As

a result of that decision, EPA will not consider whether there is substantial competitive harm in evaluating your CBI claim.

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the Operator asserts that the information is voluntarily submitted, please explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. If you believe any information to be a trade secret or trade secrets, please so state and explain the reason for your belief. Please attach copies of those pages with brackets around the text that you claim to be a trade secret or trade secrets.
9. State any other information that you deem relevant, including, if pertinent, reasons why you believe that the information you claim to be CBI is not emissions data or effluent data.

Please note that you bear the burden of substantiating your CBI claim(s). Conclusory allegations and statements will be given little or no weight in the determination. Information designated as CBI will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to substantiate your claim that the information you provided to EPA is confidential, it may be made available to the public without further notice to you.

Notice is hereby given that, pursuant to 40 C.F.R. § 2.301(h), EPA may disclose CBI that you provide to EPA's authorized representatives, including its contractors, Eastern Research Group, for the following reasons: to assist with document handling, inventory and indexing; to assist with document review and analysis for verification of completeness; and to provide expert technical review of the contents of the response. Pursuant to 40 C.F.R. § 2.301(h), you may submit any comments or concerns regarding EPA's disclosure of CBI to the representative identified below.

Enclosed Information Request

In addition to the Inspection Report, the enclosed Information Request includes Instructions, Definitions, and Information Request Questions. Please review the enclosed Inspection Report, which identifies Areas of Concern ("AOC"), for your information and response. These AOCs describes potential areas of noncompliance with the regulations promulgated pursuant to CAA §112(r)(7). Any omissions in the report shall not be construed as a determination of compliance with these statutes or any other applicable regulations.

Submittal Instructions

The Operator's comments regarding CBI in the Inspection Report must be delivered electronically (either secure email or link to a file transfer site) to Bridget Johnson at johnson.bridget@epa.gov by the 30th calendar day after your receipt of this letter. You may seek an extension of time to submit your comments to this office, but the request must be made before the end of the 30-day period. Except in extraordinary circumstances, no extension will be approved. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information.

The Operator's responses to the Information Request in the enclosure must be delivered electronically to johnson.bridget@epa.gov by the 30th calendar day after your receipt of this letter. Please identify CBI, if any, in your response. Please let Bridget Johnson know if you would like to safely transmit the information via EPA's secure file transfer system; if so, we can provide you a link to safely upload the documents.

Your responses must be made by a letter, signed by a person or persons duly authorized to represent the Operator.

If you have any questions about the legal aspects of this Information Request, please contact Andrew Helmlinger, Assistant Regional Counsel, at (415) 972-3904 or helmlinger.andrew@epa.gov. The Region IX technical contact for this Information Request is Bridget Johnson, Compliance and Enforcement Officer, at (415) 972-3766 or johnson.bridget@epa.gov.

We thank you in advance for your cooperation.

Sincerely,

**RICHARD
SAKOW**

Rick Sakow, Manager
Hazardous Waste and Chemicals Section
Enforcement and Compliance Assurance Division

 Digitally signed by RICHARD
SAKOW
Date: 2025.06.24 14:27:16 -07'00'

Enclosures:

1. Request for Information Enclosure
2. Inspection Report

cc:

Arizona State Emergency Response Commission (AZSERC) Program, azserc@azdeq.gov