



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

FEB 16 2016

Certified Mail No. 7009 2820 0001 8697 4096

Mr. Harlan Kelly, Jr.
General Manager
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, California 94102

Re: Request for Information under Clean Water Act Section 308(a) - City and County of San Francisco Sewer System, EPA Docket No. CWA 308-9-16-001

Dear Mr. Kelly:

Following reports that raw sewage mixed with stormwater was overflowing from the City and County of San Francisco's ("City") combined wastewater collection system into streets, sidewalks, residences and businesses and raising public health concerns, the U.S. Environmental Protection Agency, Region 9 ("EPA") inspected the City's sewage system in early December 2015 and conducted a preliminary document review. According to City staff, the City does not track overflows that result from insufficient capacity in the system to convey combined wastewater during rainstorms.

In addition, the City's August 11, 2015 annual report to the San Francisco Bay Regional Water Quality Control Board on excursions from its Bayside combined sewer system for the period from July 1, 2014 to June 30, 2015 appears incomplete. This annual report is required by the City's Bayside National Pollutant Discharge Elimination System Permit, which describes "excursion" as the exit of raw sewage or raw sewage mixed with stormwater from the collection system. Our review indicates that the annual report did not include several widely reported excursions in December 2014 along Market Street and The Embarcadero, and in the Mission District and Mission Terrace neighborhoods.

Adequate documentation is critical to understanding the extent of the problem and developing measures to protect the public from exposure to harmful pollutants. Pursuant to the Agency's information-gathering authority under Section 308 of the Clean Water Act, 33 U.S.C. § 1318, EPA hereby requests that the City provide information on sewage excursions, spills, and private property backups caused by blockages or flow conditions in the City's sewer system, as specified in the enclosed Attachment 1, inclusive of all appendices to the Attachment.

Your response should be submitted electronically to:

Agency, Eric Magnan, ENF 3-1
U.S. Environmental Protection
Region IX
Enforcement Division
75 Hawthorne Street
San Francisco, CA 94105
magnan.eric@epa.gov

Jessica Watkins
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
jessica.watkins@waterboards.ca.gov

All submittals in response to this letter must be accompanied by the following certification signed by a responsible officer in accordance with 40 C.F.R. § 122.22:

“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 ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of those who manage the system or are directly responsible for gathering the information, I certify that 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 and imprisonment for knowing violations under the Clean Water Act and 18 U.S.C. § 1001.”

The City may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated, under 40 C.F.R. Part 2, Subpart B, regulations to protect confidential business information it receives. A legally supportable claim of business confidentiality may be asserted in the manner specified by 40 C.F.R. § 2.203(b) for all or part of the information requested by EPA. EPA will disclose business information covered by such claim only as authorized by 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.

Failure to comply with this Request for Information can result in enforcement action for appropriate remedy, including penalties, under Section 309 of the CWA, 33 U.S.C. § 1319. Compliance with this Request for Information does not relieve the City of its obligation to comply with the CWA or other applicable laws and permits.

This Request for Information is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is directed to fewer than ten persons and is therefore not a “collection of information” under 44 U.S.C. § 3502(3). It is also an exempt activity under 44 U.S.C. § 3518(c) and 5 C.F.R. § 1320.4.

Thank you for your cooperation and prompt attention to this matter. If you have questions regarding this Request for Information, please contact Eric Magnan of my staff at 415-947-4179 or magnan.eric@epa.gov. Legal questions regarding this Request for Information should be directed to Ellen Blake of the Office of Regional Counsel at 415-972-3496 or blake.ellen@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Johnson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kathleen H. Johnson, Director
Enforcement Division

Enclosure: Attachment 1 (inclusive of all Appendices, Appendix A by email only)

cc (via email): Lila Tang, San Francisco Bay Regional Water Quality Control Board
Laura Pagano, San Francisco Public Utilities Commission