

**State of Wisconsin**  
DEPARTMENT OF NATURAL RESOURCES  
Madison Service Center  
101 S. Webster St.  
Madison, WI 53703

**Scott Walker, Governor**  
**Cathy Stepp, Secretary**  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



October 10 , 2014

**Personal Service Required**  
Casetrack #2014-SCEE-028  
Air Management – Dane County

Michael Mucha  
Chief Engineer & Director  
Madison Metropolitan Sewerage District  
1610 Moorland Road  
Madison, WI 53717

Subject: Notice of Violation/Notice of Claim and Enforcement Conference Request

Dear Mr. Mucha:

The Department of Natural Resources has reason to believe that Madison Metropolitan Sewerage District (the Facility), located at 1610 Moorland Road in Madison, Wisconsin, is in violation of Wisconsin's air pollution laws found in s. 285, Wisconsin Statutes (Wis. Stats.) and Air Pollution Control Construction Permit No. 10-JLH-224. On April 9, 2014 and May 27, 2014, Department Air Compliance Natural Resource Coordinator Colin Duffy completed an inspection of the Facility (the Inspection). Based on the findings in the Inspection, the Department is alleging thirty two (32) violations, which are documented in "Attachment A," attached. We have scheduled the following Enforcement Conference to discuss this matter in more detail:

Date: October 23, 2014  
Time: 10:00 a.m.  
Location: WDNR Fitchburg Service Center  
3911 Fish Hatchery Road  
Fitchburg, WI 53711

We request you attend the Enforcement Conference as it is an important opportunity to discuss the circumstances surrounding the alleged violations and to learn your perspective on this matter. Please note that in an effort to encourage a candid and productive conversation, attendance is limited to you, your legal counsel and others with the technical expertise necessary to understand, evaluate and correct the violations. The Department's enforcement decision will be based upon available information if you do not attend the Enforcement Conference.

Please be advised that violations of s. 285.87, Wis. Stats., may be referred to the Department of Justice to obtain court ordered compliance and penalties up to \$25,000 per day, per violation. Please be advised that the violation(s) alleged in this notice are also enforceable by the United States Environmental Protection Agency (USEPA).

#### **Notice of Claim**

This letter also serves as a Notice of Claim. The Department hereby gives notice of its intent and reserves its right to seek corrections, injunctive relief, and monetary penalties as allowed by ch. 287, Wis. Stats., for the above alleged violations. This Notice of Claim fulfills the requirements of s. 893.80(1d), Wis. Stats., which requires that a written notice of the circumstances of a claim be served on the governmental subdivision or agency within 120 days after the happening of the event which

gave rise to the claim. After the disallowance period has expired, the Department may consider additional enforcement action for the alleged violations, as described above.

If you have questions regarding this notice, please contact me at (608) 215-0667 or through e-mail at [jessica.kramer@wisconsin.gov](mailto:jessica.kramer@wisconsin.gov).

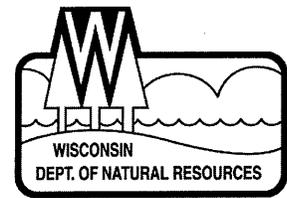
Sincerely,

A handwritten signature in cursive script that reads "Jessica L. Kramer". The signature is written in black ink and is positioned above the printed name and title.

Jessica L. Kramer  
Environmental Enforcement Specialist

Enclosure: Attachment A  
Enforcement Conference Explanation Document

cc. C. Duffy, Madison  
T. Roushar, Fitchburg  
K. Fisher, LS/8  
J. Zalesny, Rhinelander



Casetrack #2014-SCEE-028  
Air Management – Dane County

Subject: Attachment A

The Department alleges the following Violations of s. 285, Wisconsin Statutes (Wis. Stats.) and Air Pollution Control Construction Permit No. 10-JLH-224 (the Permit):

- A. Construction and operation of a major source without a permit:
1. s. 285.60(2), Wis. Stats.: No person may commence construction, reconstruction, replacement, or modification of a stationary source unless the person has a construction permit from the department. No person may operate a new source or a modified source unless the person has an operation permit under s. 285.62 from the department.
- B. Record keeping:
1. Permit Condition I.A.1.c.(2)(d): For P10: The permittee shall keep and maintain the following records: the average methane content of the biogas, in BTU as averaged over each 24 hour period
  2. Permit Condition I.B.5.c.(1)(b): For P08: The permittee shall maintain records of the following: the average monthly amount of biogas combusted as averaged over each 12 consecutive month period, in million per cubic feet per month
  3. Permit Condition I.B.5.c.(1)(c): For P08: The permittee shall maintain records of the following: the actual emission rate of carbon monoxide, in pounds per month and the annual average emission rate of carbon monoxide as averaged over each consecutive 12 month period
  4. Permit Condition I.C.1.c.(1): For B01 and B02: The permittee shall keep monthly records of the amount of each fuel fired in millions of cubic feet per boiler
  5. Permit Condition I.C.3.c.(1): For B01 and B02: The permittee shall keep monthly records of the type and amount of each fuel combusted, in cubic feet per hour
  6. Permit Condition I.C.3.c.(2): For B01 and B02: The permittee shall keep and maintain records of the emission rate of sulfur dioxide, in pounds per hour as an average over each 24 hour period
  7. Permit Condition I.D.4.c.(1): For B06: The permittee shall keep monthly records of the type and amount of each fuel combusted, in cubic feet per hour.
  8. Permit Condition I.D.4.c.(2): For B06: The permittee shall keep and maintain records of the emission rate of sulfur dioxide, in pounds per hour as an average over each 24 hour period.
  9. Permit Condition I.F.3.c.(2): For B04 and B05: The permittee shall keep and maintain records of the emission rate of sulfur dioxide, in pounds per hour as an average over each 24 hour period.
  10. Permit Condition I.H.1.c.(1)(a), (b), and (c): Boilers: for each month, the permittee shall record and maintain the amount of biogas fired, in million cubic feet per month; the amount of natural gas fired, in million cubic feet per month; the actual emission rate of carbon monoxide from each fuel, in pounds per month calculated according to the equations in this section;
- C. Reporting:

1. Permit Condition I.F.6.b.(7): For B04 and B05: The permittee will provide interim progress reports to the Department every three months. Interim progress reports will include the results of all monitoring data, recorded formaldehyde and carbon monoxide concentrations, a summary of maintenance activities on the engines and/or catalyts, and other relevant information.
2. Permit Condition I.ZZ.I.b.(1): The permittee shall submit the monitoring report which contains the results of the monitoring or a summary of monitoring results as required by this permit to the Department annually
3. Permit Condition I.ZZ.b.(2): The permittee shall submit the certification of compliance annually, with the requirements of this permit to the Department
4. Permit Condition II.D.1.: The Department shall be notified of the following events:  
Malfunction or other unscheduled event which causes or may cause any emission limitation to be exceeded; Deviation from any other condition specified in this permit.

D. Permit Emission Limit Exceedences:

1. Permit Condition I.A.2.a.(1): For P10: The concentration of hydrogen sulfide in the biogas combusted in the engines or boilers not exceed 40 ppm(v).
2. Permit Condition I.B.4.a.(1)(a): For P08: The hydrogen sulfide content of the biogas fuel combusted in the flare may not exceed: a one (1) hour average concentration of 600 parts
3. Permit Condition I.B.4.a.(1)(b): For P08: The hydrogen sulfide content of the biogas fuel combusted in the flare may not exceed a twenty-four (24) hour average concentration of 500 part per million, by volume.
4. Permit Condition I.C.3.a.(2): For B01 and B02: The hydrogen sulfide content of the biogas fuel combusted in these engines may not exceed 40 parts per million.
5. Permit Condition I.C.4.a.(2): For B01 and B02: The hydrogen sulfide content of the biogas fuel combusted in these boilers may not exceed 40 parts per million (ppmv).
6. Permit Condition I.F.3.a.(2): For B04 and B05: The hydrogen sulfide content of the biogas fuel combusted in these engines may not exceed 40 parts per million.
7. Permit Condition I.F.6.b.(1): For B04 and B05: The permittee shall achieve compliance with the control requirements and emission limitations of this section no later than eighteen months from the date of permit issuance.
8. Permit Condition I.F.6.a.(2): For B04 and B05: Emissions of formaldehyde from the stacks exhausting the engines may not exceed: stack S04: 0.28 pounds per hour; stack S05: 0.14 pounds per hour; and 0.11 grams per brake horsepower – hour.

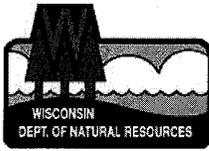
E. Failure to Conduct Timely Stack Testing:

1. Permit Condition I.D.1.b.(2)(a): For B06: The permittee shall perform stack emission tests for PM while firing biogas on at least one of the boilers to demonstrate compliance with the emission rate limitations for PM and PM10 as follows: within 90 days of initial operation
2. Permit Condition I.D.2.b.(2)(a): For B06: The permittee shall perform stack emission tests while firing biogas on at least one of the boilers to demonstrate compliance with the emissions of PM 2.5 as follows: within 90 days of initial operation
3. Permit Condition I.D.5.b.(1)(a): For B06: The permittee shall perform stack emission tests while firing biogas on at least one of the boilers to determine the mass emission rate of carbon monoxide, pounds per mmBTU heat input, while firing biogas. Emission tests shall be conducted as follows: within 90 days of initial operation of the boiler.
4. Permit Condition I.D.6.b.(1)(a): For B06: The permittee shall perform stack emission tests while firing biogas on at least one of the boilers to determine the mass emission rate of formaldehyde in pounds per hour, pounds per mmBTU heat input, and pounds per cubic foot of biogas while firing biogas. Emission test shall be conducted as follows: within 90 days of initial operation

5. Permit Condition I.F.1.b.(2)(a): For B04 and B05: The permittee shall perform stack emission tests while firing biogas to demonstrate compliance with the emissions of PM & PM10 as follows: within 60 days of issuance of permit 10-JLH-224.
6. Permit Condition I.F.4.b.(1)(a): For B04 and B05: The permittee shall perform stack emission tests while firing biogas for emissions of carbon monoxide as follows: within 60 days of issuance of permit 10-JLH-224.

F. Miscellaneous:

1. Permit Condition I.A.1.b.(3): For P10: The permittee shall determine the siloxane concentration of the biogas prior to the combustion at least once per month.
2. Permit Condition I.C.1.b.(2)(a): For B01 and B02: Emissions from each Boiler shall be exhausted through stacks meeting the following parameters: S01 – the height of the stacks shall be at a minimum 26 feet (7.92 meters) above ground level and the inside diameter at the outlet shall be no greater than 1.5 feet (0.46 meters).
3. Permit Condition I.F.6.b.(6): For B04 and B05: The permittee shall measure the carbon monoxide concentration, in ppm of the exhaust gas both upstream and downstream of the catalyst. Measurements shall be taken continuously and recorded daily.



## **Environmental Enforcement Conference**

An Enforcement Conference (EC) is a meeting between Department of Natural Resources (Department) staff and representatives of a person or business that the Department believes has violated an environmental law. The Department issues a Notice of Violation (NOV) when it has reason to believe that a violation of a permit condition, administrative rule or statutory requirement has occurred. The NOV either offers or schedules an EC.

### **Why Should I Attend?**

The EC is an important opportunity to discuss the Department's basis for the alleged violation(s) and learn more about what happened, why it may have happened, and any factors you believe the Department should consider, such as steps that have been or will be taken to stop the violation, correct any effects of the violation, and prevent violations from occurring in the future. It is also your opportunity to explain why you might disagree with the factual and legal conclusions underlying the NOV.

Historic data shows that most violations are resolved at the EC level, without the need for court ordered compliance and/or penalties. In situations where the significance of the violation warrants further enforcement action, your cooperative efforts to resolve the violation and prevent future violations will help minimize your legal and financial liability.

### **Who Should Attend the EC?**

Department staff involved in the EC typically consists of an Environmental Enforcement Specialist and regulatory staff that are familiar with the issues identified in the NOV.

While not required, you may seek representation by legal counsel or the assistance of an environmental consultant to prepare for and/or attend the EC. The EC is most productive when all involved are well-prepared to discuss the allegations and any corrective actions that may be necessary.

To ensure a productive candid discussion, participation in the EC is limited to the person or business involved and others with the legal or technical expertise necessary to understand, evaluate, mitigate and correct the violation. The EC is not an open meeting under state law and the Department will limit participation to those directly involved in the resolution of the matter.

### **What Happens if I don't Attend the EC?**

If a party is unable to attend the EC, they should immediately contact the Environmental Enforcement Specialist at the phone number in the NOV to reschedule. When a party refuses to attend the EC and provides no further information to the Department, the Department's enforcement decision will be based upon available information.

### **What Happens Following the EC?**

The EC is part of the Department's stepped enforcement process. At the EC, Department staff will explain the process and options available to address the alleged violation. Generally, the options range from closing the matter with no further action to referral to the Wisconsin Department of Justice (DOJ) or to U.S. EPA, for further enforcement action. In limited circumstances, the Department can issue citations, which are handled in local court similar to traffic offenses. If a case is referred to DOJ, the DOJ may initiate an action in court on behalf of the State. The State typically asks the Court to impose financial penalties and order completion of any necessary corrective actions. In most of the Department's cases, a cooperative return to compliance with any necessary restoration results in close out of the case. At close out, the Department will send a letter advising of no further enforcement action.