



Certified Mail
Return Receipt Requested

November 26, 2014

Norman Doll, COO
Clear Horizons Dane, LLC
5070 North 35th Street
Milwaukee, WI 53209

Casetract ID# 2014-SCEE-039

Subject: **NOTICE OF VIOLATION**
REQUEST FOR ENFORCEMENT CONFERENCE

Dear Mr. Doll:

The Department of Natural Resources has reason to believe that Clear Horizons Dane, LLC, is in violation of Wisconsin's air pollution control laws and Air Pollution Control Construction Permit #10-SML-028 at property located at 6307 Cuba Valley Road, Town of Vienna, Dane County. These violations were documented on October 10, 2014. The Department alleges the following violations:

1. Section 285.65(3), Wis. Stats. states that the department may prescribe conditions for an air pollution control permit to ensure compliance with this chapter. Chapter NR 406.10, Wis. Adm. Code states that any owner or operator who fails to operate a stationary source in accordance with conditions imposed by the department under s. 285.65, Wis. Stats. shall be considered in violation of s. 285.60, Wis. Stats.

Failure by Clear Horizons to meet their air permit (#10-SML-028, Section I.B.3.a.(1)) limit. Hydrogen sulfide content of the biogas fuel may not exceed 300 parts per million by volume for generators P01 and P02. The permit limit of less than 300 ppm hydrogen sulfide concentration in the biogas is based on restrictions determined by the engine manufacturer as necessary to protect the engines. During 2013, Clear Horizons exceeded the limit 43 times. The preliminary 2013 Annual Air Monitoring Report dated October 8, 2014, is attached and outlines the dates of the exceedences.

2. Section NR 439.03(4), Wis. Adm. Code, and permit #10-SML-028, Section II.D.1.c. requires notification by next business day identifying the deviation, cause, duration and steps taken to prevent recurrence.

Failure by Clear Horizons to notify the Department of deviations from permit requirements necessary to determine compliance with hydrogen sulfide content on the 43 readings during 2013, which are outlined above.

3. Section I.B.4. of Air Pollution Control Construction Permit #10-SML-028 outlines New Source Performance Standard (40 CFR Part 60 Subpart JJJJ) for generators P01 and P02.

Section I.B.5.a.(1) of Air Pollution Control Construction Permit #10-SML-028 outlines

National Emission Standard for Hazardous Air Pollutants (40 CFR Part 63 Subpart ZZZZ) for generators P01 and P02.

Section I.B.5.b.(1) of Air Pollution Control Construction Permit #10-SML-028 requires the provisions in Section I.B.4.b. (Section 285.65 (13), Wis. Stats., and 40 CFR Part 60.4243(b) and 40 CFR Part 63.6590(c)) be followed.

Failure by Clear Horizons to conduct required compliance testing for generators P01 and P02 every 8760 hours of operation. The initial testing for generators P01 and P02 was conducted on October 17, 2012. The initial testing should have been completed by March 29, 2012. 8760 hours of operation occurred sometime prior to June 2014.

4. Section 285.65(2), Wis. Stats. and NR 439.075(1)(b), Wis. Adm. Code, state that the department may prescribe conditions for an air pollution control permit to ensure compliance with this chapter. Permit #10-SML-028 Section I.D.2.b.(1) requires the permittee to conduct emission tests every 8760 hours of operation or three years, whichever comes first.

Failure by Clear Horizons to conduct required formaldehyde compliance testing for generators P01 and P02. Initial testing for generators P01 and P02 was conducted on October 17, 2012. 8760 hours of operation occurred sometime prior to June 2014. Formaldehyde is limited to below major source thresholds (10 TPY) by the permit. The emission tests are necessary to establish a site specific emission factor for these engines to be used to demonstrate compliance with the synthetic minor status emission limitation.

5. Chapter NR 407.04, Wis. Adm. Code states that the owner or operator of an air contaminant source which is not exempt under s. 285.60(5), Wis. Stats., or s. NR 407.03 shall submit an operation permit application or renewal application, in accordance with s. NR 407.05, by the dates specified in this section.

Section NR 406.03 (1), Wis. Adm. Code states that except as provided in sub. (2), no person may commence construction, reconstruction, replacement, relocation or modification of a stationary source unless the person has a construction permit for the source or unless the source is exempt from the requirement to obtain a permit under s. 285.60 (5), Stats., or under this chapter.

Failure by Clear Horizons to submit construction and operation permit applications. During a June 27, 2012, compliance inspection, the Department informed Clear Horizons of the need to submit these permit applications for the rotary fiber dryer and ammonia condensing equipment.

6. Section NR 438.03(1)(a), Wis. Adm. Code states that any person owning or operating at the facility that emits an air contaminant in quantities above applicable reporting levels, except indirect sources of air pollution, shall annually submit to the department an emission inventory report of annual, actual emissions.... Also, Section NR 410.04(1) states that any person who owns or operates a facility for which an operation permit is required under s. 285.60, Stats., shall pay an annual emission fee to the department at the rate specified in s. 285.69 (2), Stats.

Failure by Clear Horizons to comply with annual emissions reporting and applicable fee for years 2011, 2012, and 2013.

We have scheduled the following Enforcement Conference to discuss this matter in more detail:

Conference Date:	Tuesday December 16, 2014
Conference Time:	10:30 am
Location:	South Central Regional Headquarters 3911 Fish Hatchery Road, Fitchburg

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 violation.

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).

If you have questions or need to reschedule the conference, please contact me at 608-275-3306.

Sincerely,



Pamela Buss
Environmental Enforcement Specialist

Enclosures – What is an enforcement conference information sheet
2013 Annual Air Monitoring Report dated October 8, 2014

cc: Maria Hill – Dodgeville
Tom Roushar – SCR
Martha Malkholm – AM/7
Kendra Fisher – LS/8
Jim Ditter, CEO – PPC Partners, 5070 North 35th Street, Milwaukee, WI 53209
Leo Maney – Clear Horizons Dane, LLC, 5070 North 35th Street, Milwaukee, WI 53209
Monte Lamer, Clear Horizons Dane, LLC, 6321 Cuba Valley Road, Dane, WI 53539
US EPA Region 5
David Crass – Michael Best & Friedrich LLP, PO Box 1806, Madison, WI 53701-1806

preliminary



CLEAR HORIZONS DANE, LLC. PEACE OF MIND THROUGH ORGANIC WASTE MANAGEMENT SOLUTIONS

WI-DNR: Annual Air Monitoring Report 2013

Date: 10/08/2014

To: WDNR South Central Region Air Program
3911 Fish Hatchery Rd, Fitchburg, WI 53711
From: Clear Horizons Dane, LLC
6329 Cuba Valley Rd, Dane, WI 53529
Certification by: Norm Doll

Summary of Monitoring Results as required by permit:

Flare Operation Hours by Month:

Flare Hours of Operation	
Jan	20.61
Feb	57.19
Mar	0.03
Apr	78.91
May	78.67
Jun	0.02
Jul	12.41
Aug	128.70
Sep	0.91
Oct	5.09
Nov	4.53
Dec	39.97
TOTAL	427.04
AVE	35.59

Gas Data- Every 4-6 hours

H2S concentrations, CH4 Content, CO2 Content, Oxygen Content data:

	CH4	CO2	O2	Balance	H2SCALSPAN
	%	%	%	%	ppm
3/8/2013 11:56	61	38.5	0.4	0.1	808
3/8/2013 12:01	60.2	38.5	0.6	0.7	458
3/8/2013 12:10	57.3	38.3	1.5	2.9	775
3/8/2013 12:14	61.6	37.7	0.5	0.2	1517
4/12/2013 6:56	59.5	39.2	0.6	0.7	673
4/13/2013 12:57	60.2	39.2	0.5	0.1	578
6/28/2013 10:23	57.3	41.1	0.7	0.9	763
6/28/2013 10:26	60	39.5	0.4	0.1	386
6/28/2013 10:34	0	0.1	20.9	79	32767
6/28/2013 10:35	0	0.1	20.9	79	32767
7/11/2013 2:46	56.9	42.5	0.4	0.2	576
7/31/2013 3:53	52	39	0.8	8.2	17
7/31/2013 3:57	57.5	40.7	1.2	0.6	973
7/31/2013 4:01	58.3	40.3	1.2	0.2	551
7/31/2013 4:06	56.6	39.8	1.3	2.3	478
8/2/2013 9:31	59.4	37.3	1.5	1.8	1030
8/7/2013 12:57	61.2	37.3	1.3	0.2	889
9/3/2013 4:08	57.1	42	0.7	0.2	686



CLEAR HORIZONS DANE, LLC. PEACE OF MIND THROUGH ORGANIC WASTE MANAGEMENT SOLUTIONS

	CH4	CO2	O2	Balance	H2SCALSPAN
	%	%	%	%	ppm
9/3/2013 12:13	57.7	40.9	1.2	0.2	501
9/3/2013 12:18	32.2	40.3	0.4	27.1	32766
9/3/2013 12:26	49.7	48.7	1.5	0.1	438
9/3/2013 12:28	50.7	48.1	1.1	0.1	474
9/4/2013 7:11	33.1	43.1	0.4	23.4	32766
9/4/2013 7:13	57.4	42.2	0.3	0.1	1427
9/13/2013 12:27	53.1	39.2	0.7	7	651
9/15/2013 6:41	57.3	39.8	0.4	2.5	246
9/15/2013 6:43	57.3	41.9	0.7	0.1	592
9/28/2013 12:06	53.8	37.7	2.1	6.4	6
9/30/2013 4:22	55.2	43.9	0.8	0.1	326
9/30/2013 6:22	45.8	38.3	2.7	13.2	190
9/30/2013 6:25	37.2	33.3	5.8	23.7	669
9/30/2013 6:28	38.2	33.9	5.6	22.3	50
9/30/2013 6:30	45.4	38.4	2.9	13.3	62
9/30/2013 6:32	55.8	42.8	1.3	0.1	346
10/16/2013 9:26	32.4	58.9	2.6	6.1	32766
10/16/2013 9:29	48.7	32.1	4.7	14.5	32766
10/16/2013 9:32	57.5	42	0.4	0.1	32766
10/16/2013 9:38	58	38.6	2.1	1.3	1704
10/17/2013 13:56	35.9	60.9	2.1	1.1	32766
10/17/2013 13:58	48.1	35.7	4.5	11.7	32766
10/17/2013 14:01	0	0.4	20.8	78.8	1030
10/18/2013 10:45	37.2	60.6	1.8	0.4	32766
10/18/2013 10:48	55.3	44.2	0.4	0.1	32766
10/20/2013 12:14	33.8	64.4	1.6	0.2	32766
10/25/2013 10:00	31.7	59.8	3	5.5	32766
11/13/2013 5:35	30.7	68.9	0.2	0.2	32766
11/13/2013 14:30	29.9	68.3	1.6	0.2	44
11/20/2013 11:09	N/A	N/A	N/A	N/A	32764
11/20/2013 11:09	N/A	N/A	N/A	N/A	32764
11/20/2013 11:09	N/A	N/A	N/A	N/A	32764

**Substrate Data- per WPDES Permit
Sulfur Content, and COD of Substrates**

Date of sample	Chemical Oxygen Demand mg/L	Sulfur lbs/1000 gal	Date of sample	Chemical Oxygen Demand mg/L	Sulfur lbs/1000 gal	Date of sample	Chemical Oxygen Demand mg/L	Sulfur lbs/1000 gal
1/25/2013	533,500		4/15/2013	586,800	0.84	7/4/2013	542,800	0.34
1/28/2013	482,700		4/17/2013	606,500	1.14		82,300	0.61
2/2/2013	499,150		4/17/2013	682,200	1.51	7/8/2013	653,600	0.30
2/3/2013	609,500		4/18/2013	626,300	1.34	7/10/2013	875,200	0.66
2/4/2013	385,550		4/19/2013	629,600	1.15	7/15/2013	1,220,400	3.88
2/5/2013	682,200		4/20/2013	632,900	0.25	7/17/2013	686,200	1.57



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.