



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



LIESL EICHLER CLARK
DIRECTOR

April 18, 2019

UPS NEXT DAY DELIVERY

STIPULATED FINES AND ENFORCEMENT NOTICE

In the matter of:

Fortistar Methane Group
Arbor Hills Energy LLC
10611 West 5 Mile Road
Northville, Michigan 48167

SRN: N2688; Washtenaw County

ATTENTION: Mr. Anthony Falbo, Senior Vice President – Operations

On May 21, 2015, the Michigan Department of Environmental Quality (DEQ), Air Quality Division (AQD) and Arbor Hills Energy LLC (Company) entered into a Stipulation for Entry of Final Order by Consent (Consent Order) AQD No. 16-2015, to resolve violations of Renewable Operating Permit (ROP) MI-ROP-N2688-2011. In Violation Notices (VN) dated August 30, 2018 and February 1, 2019, the AQD cited the Company for violating terms and conditions of the Consent Order.

Paragraph 9.B.2 of Consent Order AQD No. 16-2015, put forth the following condition:

“In addition to emission testing required by the Company’s ROP, between June 1, 2015 and June 1, 2018, the Company shall complete emission testing for carbon monoxide, sulfur dioxide, nitrogen oxide, volatile organic compounds, and hydrogen chloride from FGTURBINES-S3 and FGDUCTBURNERS-S3 in accordance with methods and procedures approved by the AQD Technical Programs Unit Supervisor. The testing shall occur during two operating conditions when the duct burner is in operation and when the duct burner is not in operation.”

Furthermore, Paragraph 13 of the Consent Order AQD No. 16-2015 reads, in part:

“On and after the effective date of this Consent Order, if the Company fails to comply with paragraph 9.B.2 of this Consent Order, the Company is subject to a stipulated fine of up to \$5,000 per violation.”

After reviewing the VNs dated August 30, 2018 and February 1, 2019, the AQD has determined the amount of stipulated fines to be \$5,000.

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The Company is hereby requested to submit the stipulated fines of \$5,000.00 in accordance with the provisions of Paragraph 13 of Consent Order AQD No. 16-2015, by May 16, 2019. To ensure proper credit, all payments shall include the Agreement Identification No. AQD40088-S on the face of the check. Stipulated fines submitted under this Consent Order shall be made by check, payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157.

Additionally, this letter is to advise you of the commencement of escalated enforcement action against the Company. This letter follows the August 30, 2018, February 1, 2019, March 14, 2019 and April 11, 2019, Violation Notices issued by the DEQ, AQD which detailed violations of the Standards of Performance for Municipal Solid Waste Landfills, Title 40 of the Code Federal Regulations (CFR), Part 60, Subpart WWW; Standards of Performance for Stationary Gas Turbines, 40 CFR Part 60, Subpart GG; National Emission Standards for Hazardous Air Pollutants (NESHAP): Municipal Solid Waste Landfills, 40 CFR Part 63 Subpart AAAA; Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.5501 *et seq.*; the administrative rules promulgated thereunder, specifically, Mich Admin Code, R 336.2802 (Rule 1802), Mich Admin Code, R 336.1201 (Rule 201); and Renewable Operating Permit (ROP) Number MI-ROP-N2688-2011a.

The cited violations against the Company are federally enforceable and are considered a High Priority Violation (HPV) by the United States Environmental Protection Agency (U.S. EPA). The HPV designation means that the U.S. EPA places a priority on enforcing the regulations governing this violation and on formally resolving alleged violations of this type. The AQD is required to report all HPVs to the U.S. EPA, pursuant to the state's grant commitments with the U.S. EPA and the state's delegated enforcement authority of the federal Clean Air Act.

The AQD acknowledges that the Company is in settlement negotiations related to the Finding of Violations issued by the U.S. EPA on September 29, 2016 and June 4, 2018, regarding the sulfur dioxide (SO₂) emission limit exceedances at the facility. Given the additional violations referenced above and the ongoing SO₂ emission limit exceedances, the AQD is proceeding with this separate enforcement action.

The AQD is providing the Company with an opportunity to formally resolve these violations through the entry of a legally enforceable agreement that will include a compliance program and payment of an appropriate monetary penalty pursuant to Section 5528 of Part 55 of the NREPA, MCL 324.5528.

Be advised that failure to respond to this Enforcement Notice in a timely manner and adequately resolve or address the cited violations may result in further enforcement proceedings, including but not limited to, referral of the matter to the Michigan Department of Attorney General (MDAG) for commencement of civil litigation. This

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Enforcement Notice does not preclude or limit the DEQ's ability to initiate any other enforcement action under federal or state law as appropriate.

Please contact me at 517-284-6797, or by email at rathbunj1@michigan.gov, no later than May 1, 2019, to schedule a meeting to discuss the resolution of this matter.

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY

By: 
Jeff Rathbun
Air Quality Division Enforcement Unit

Date: 4-18-19

cc: Ms. Sarah Marshall, U.S. EPA, Region 5
Mr. Neil Gordon, MDAG
Mr. Scott Miller, MDEQ
Ms. Jenine Camilleri, MDEQ