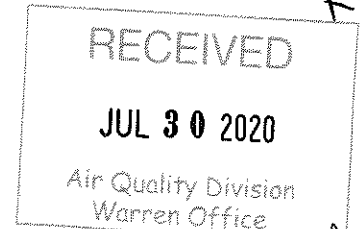


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VIA OVERNIGHT MAIL

July 28, 2020

Mr. Robert Joseph
Michigan Department of Environment, Great Lakes, and Energy (EGLE)
Air Quality Division (AQD)
27700 Donald Court
Warren, MI 48092-2793

RE: Pine Tree Acres, Inc. (SRN N5984)
Response to July 9, 2020 Violation Notice

Dear Mr. Joseph:

This correspondence is being submitted on behalf of Pine Tree Acres, Inc. (PTA) in response to the Violation Notice dated July 9, 2020. This response is timely submitted prior to the July 30, 2020 response date requested by EGLE. The Violation Notice alleges deviations from the terms and conditions in Renewable Operating Permit No. MI-ROP-N5984-2019 and 40 CFR 60.766(e). By submitting this response, PTA does not make any admissions of fact or law or waive any of its defenses to the alleged violations. PTA trusts that EGLE will find the responses adequate and respectfully requests that EGLE take no further enforcement action and otherwise administratively close the Violation Notice without further action.

Each of the alleged deviations is specifically addressed below.

I. PERMIT CONDITIONS III.3, III.4, VI.1, VI.3 of FG-ACTIVECOLLECTION-WWW

Permit conditions III.3 and III.4 reference New Source Performance Standard (NSPS) Subpart WWW, Sections 60.753 and 60.756 as the underlying applicable regulations. The actual language from these two permit conditions is:

3. The permittee shall operate the collection system with negative pressure at each wellhead except under the following conditions: **(40 CFR 60.753(b), 40 CFR 63.1955(a))**
 - a. A fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the semiannual reports as provided in 40 CFR 60.757(f)(1). **(40 CFR 60.753(b)(1), 40 CFR 63.1955(a))**

- b. Use of a geo-membrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan. **(40 CFR 60.753(b)(2), 40 CFR 63.1955(a))**
 - c. A decommissioned well. A well may experience a static positive pressure after shutdown to accommodate for declining flows. All design changes shall be approved by the AQD. **(40 CFR 60.753(b)(3), 40 CFR 63.1955(a))**
4. The permittee shall operate each interior wellhead in the collection system with a landfill gas temperature less than 55°C and with an oxygen level less than five percent. The owner or operator may establish a higher operating temperature or oxygen value at a particular well. A higher operating value demonstration shall be submitted to the appropriate AQD District Office for approval and it shall include supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens. **(40 CFR 60.753(c), 40 CFR 60.756(e), 40 CFR 63.1955(a))**

Similarly, permit conditions VI.1 and VI.3 reference NSPS Subpart WWW, Sections 60.753, 60.755, and 60.756 as the underlying applicable regulations. The actual language from these two permit conditions is:

1. For the purposes of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with 40 CFR 60.752(b)(2)(ii)(A)(3), the permittee shall measure gauge pressure in the gas collection header at each individual well, monthly. If a positive pressure exists, action shall be initiated to correct the exceedance within five calendar days, except for the three conditions allowed under 40 CFR 60.753(b) (above in SC III.3.a-c). If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial measurement of positive pressure. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the AQD for approval. **(40 CFR 60.755(a)(3), 40 CFR 60.756(a)(1), 40 CFR 63.1955(a))**
- a. If monitoring demonstrates that the negative pressure is not being met, then corrective action shall be taken as noted in 40 CFR 60.755(a)(3) (above in SC VI.1.). If corrective actions are taken as specified in 40 CFR 60.755, the monitored exceedance is not a violation of the operational requirements. **(40 CFR 60.753(g), 40 CFR 63.1955(a))**

* * *

3. For the purpose of identifying whether excess air infiltration into the landfill is occurring, the permittee shall monitor each well monthly for temperature and oxygen as provided in 40 CFR 60.753(c). If a well exceeds one of these operating parameters, action shall be initiated to correct the exceedance within five calendar days. If correction of the exceedance cannot be achieved within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial exceedance. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the AQD for approval. **(40 CFR 60.755(a)(5), 40 CFR 60.756(a)(2), 40 CFR 60.756(a)(3), 40 CFR 63.1955(a))**

From everyday collection to environmental protection, Think Green. Think Waste Management.

After citing these requirements, the Violation Notice specifically alleges that PTA was in violation because “[g]as well parameters of negative pressure, temperature, and oxygen concentration were operated out of compliance beyond 15 days without AQD approval.” However, the plain language of the permit conditions and the underlying applicable regulations do not require EGLE approval within 15 days of an initial monitored pressure, temperature, or oxygen deviation. Indeed, experiencing out of range gas well parameters for more than 15 days, with or without EGLE approval, is not a violation of the referenced permit terms or NSPS provisions. Rather, these events trigger a requirement for further action by PTA.

Indeed, if a gas well deviates from the applicable parameters and PTA cannot correct the deviation within 15 days, the permit gives PTA an either/or proposition. PTA may either request a higher operating value (HOV) **OR** expand the gas collection system within 120 days to correct the exceedance. PTA chose the latter and has diligently expanded its gas collection and control system (GCCS) in response to the 15 days of deviation. PTA previously provided detailed documentation to EGLE highlighting this construction as a corrective action for the deviations. Where GCCS expansion has not corrected the monitored deviations, timely correspondence requesting HOVs or well decommissioning has been provided to EGLE in accordance with the referenced regulations and PTA’s permit.

PTA has not sought a timeframe longer than 120 days to expand its GCCS, request HOVs, or request well decommissionings. EGLE’s alternative timeline and associated 15-day submittal deadline is not applicable here. Corrective action to initial pressure, temperature, or oxygen deviations has been documented through GCCS expansion or, where applicable, timely correspondence in accordance with the underlying applicable regulations in PTA’s permit. The underlying applicable regulation [40 CFR .60.753(g)] specifically states that “if corrective actions are taken as specified in 40 CFR 60.755, the monitored exceedance is not a violation of the operating requirements in this section.”

II. PERMIT CONDITIONS III.2, III.3, and VII.6(b) of FG-ACTIVECOLLECTION-XXX

Permit conditions III.2, III.3, and VII.6(b) reference NSPS Subpart XXX (specifically §§ 60.763, 60.766, and 60.767) as the underlying applicable regulation. The actual language from these three permit conditions is:

2. The permittee shall operate the collection system with negative pressure at each wellhead except under the following conditions:
 - a. A fire or increased well temperature. The owner or operator must record instances when positive pressure occurs in efforts to avoid a fire. These records must be submitted with the annual reports as provided in §60.767(g)(1). **(40 CFR 60.763(b)(1))**
 - b. Use of a geo-membrane or synthetic cover. **(40 CFR 60.763(b)(2))**
 - c. A decommissioned well. A well may experience a static positive pressure after shutdown to accommodate for declining flows. All design changes must be approved by the AQD as specified in 40 CFR 60.767(c). **(40 CFR 60.763(b)(3))**
3. The permittee shall operate each interior wellhead in the collection system with a landfill gas temperature less than 55°C (131°F). The permittee may establish a higher operating temperature value at a particular well. A higher operating value demonstration shall be submitted to the AQD for approval and it shall include supporting data demonstrating that the

elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens. (40 CFR 60.763(c), 40 CFR 60.766(e))

* * *

- b. For corrective action that is required according to 40 CFR 60.765(a)(3)(iii) or (a)(5)(iii) and is not completed within 60 days after the initial exceedance, submit a notification to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance. (40 CFR 60.767(j)(2))

EGLE has cited two wells as exceeding the above Subpart XXX reporting requirements: EW515 and HC549.

Monitoring data presented for EW515 did show an initial positive static pressure recorded on 12/10/2019, which was remedied on 2/5/2020. The total timeframe of the deviation was 57 days. The corrective action involved repair of the well's damaged casing. Since the duration of the deviation did not extend beyond 60 days, reporting of the root cause, corrective action, and implementation schedule is not required by regulation or the permit conditions. The exceedance and resulting timeline are properly and timely reported in PTA's semi-annual report as required.

Monitoring data presented for HC549 did show a temperature of 135°F recorded on 10/14/2019. As documented in PTA's semi-annual report, PTA expanded its GCCS in October 2019. Since the GCCS expansion did not lower the horizontal collector's temperature below 131°F, a temperature HOV was requested on 12/20/2019 as corrective action. PTA submitted the root cause, corrective action, and implementation schedule correspondence 67 days from the initial exceedance, in accordance with the requirement that the submittal be submitted "as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance."

EGLE responded to PTA's 12/20/2019 correspondence on 1/27/2020. EGLE granted only a roughly two-month term for the HOV, setting the expiration date at 3/31/2020, despite the fact that this was 3-4 months shorter than the proposed implementation schedule. Nonetheless, PTA subsequently submitted another HOV request for horizontal well HC549, documenting consistent gas quality parameters that do not "cause fires or significantly inhibit anaerobic decomposition by killing methanogens" in accordance with regulation.

III. 40 CFR 60.766 (e) - FG-ACTIVECOLLECTION-XXX

The actual language of the referenced regulation is:

Each owner or operator seeking to install a collection system that does not meet the specifications in §60.769 or seeking to monitor alternative parameters to those required by §§60.763 through 60.766 must provide information satisfactory to the Administrator as provided in §60.767(c)(2) and (3) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator may specify additional appropriate monitoring procedures.

PTA has installed a collection system meeting the specifications in 40 CFR 60.769. PTA is also not seeking to monitor alternative parameters to those required by 40 CFR 60.763 through 60.766.

Respectfully, the referenced rule is not applicable to PTA, and it is thus unclear how PTA has allegedly violated it.

In November of 2017, PTA submitted a Subpart XXX GCCS Design Plan to EGLE. While EGLE acknowledged receipt of the plan, EGLE has not reviewed or approved PTA's GCCS Design plan. Under 40 CFR 60.767(c)(6), "*Upon receipt of an initial or revised design plan, the Administrator must review the information submitted under paragraphs (c)(1) through (3) of this section and either approve it, disapprove it, or request that additional information be submitted.*" PTA looks forward to EGLE's approval of this design plan.

Please contact me at (586) 634-8085 with any questions you may have.

Sincerely,

Steve Walters

Steve Walters
District Engineer
Pine Tree Acres, Inc.

cc: Jenine Camilleri, EGLE