



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
DEC 21 2018

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Liapes
Environmental Health & Safety Manager
Iroquois Bio-Energy Company, LLC
751 West State Road 114
Rensselaer, Indiana 47978

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Iroquois Bio-Energy Company, LLC, docket no. CAA-05-2019-0007. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on 12/21/2018.

Iroquois Bio-Energy Company, LLC must pay the civil penalty in three installments according to the schedule in paragraph 31 of the CAFO. Your check or electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Erik Olson, Associate Region Counsel, at (312) 886-6829.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Marshall".

Sarah Marshall, Chief
Air Enforcement and Compliance Assurance Branch (MI/WI)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/ C-14J
Regional Hearing Clerk/ E-19J
Erik Olson/ C-14J
Phil Perry/ Indiana Dept. of Environmental Mgmt.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



In the Matter of:) Docket No.
) CAA-05-2019-0007
Iroquois Bio-Energy Company, LLC) Proceeding to Assess a Civil Penalty
Rensselaer, Indiana) Under Section 113(d) of the Clean Air Act,
)
) 42 U.S.C. § 7413(d)
Respondent.)
_____)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Iroquois Bio-Energy Company, LLC (IBEC or “facility”), a corporation doing business in Indiana.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. The Administrator of EPA (“Administrator”) may assess a civil penalty of up to \$46,192 per day of violation up to a total of \$369,532 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

10. The U.S. Department of Justice and the Air Enforcement Division of the EPA’s Office of Enforcement and Compliance Assurance concur that pursuing claims for the violations alleged below through administrative action is appropriate, and granted waiver from the twelve-month limitation on administrative cases under Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

Indiana State Implementation Plan (Indiana SIP) and Permit Conditions

11. 326 Indiana Administrative Code (IAC) 2-8, the Federally Enforceable State Operating Permit Program, provides the State of Indiana the authority to issue Federally Enforceable State Operating Permits (FESOPs) to major sources that limit their emissions below the major source limits detailed in 326 IAC 2-7 and 40 C.F.R. Part 70. EPA approved 326 IAC 2-8 on August 18, 1995, *see* 60 Fed. Reg. 43008.

12. On February 5, 2009, the Indiana Department of Environmental Management (IDEM) issued FESOP Renewal No. F073-26405-00037 to IBEC (the 2009 Permit) pursuant to 326 IAC 2-8.

13. On April 1, 2015, IDEM issued a significant revision to FESOP No. F073-26405-00037 to IBEC pursuant to 326 IAC 2-8, identified as FESOP SPR No. 073-35225-00037 (the 2015 Permit).

14. Permit condition C.15 of the 2009 Permit and 2015 Permit (collectively “the Permits”) requires the facility to, among other things, take reasonable response steps upon detecting an exceedance of a limitation of the Permits to restore operations of the emissions unit as expeditiously as practicable. Pursuant to condition C.15(d), failure to take reasonable response steps is a deviation from the Permits, and pursuant to condition C.15(e), the facility must record the reasonable response steps taken.

15. Permit condition D.2.1(b) of the 2009 Permit and 2015 Permit prohibits emissions of volatile organic chemicals (VOCs) in excess of 1.8 pounds per 1000 gallons of ethanol produced from the fermentation process, identified as Permit Process P40 in the Permits.

16. Permit condition D.2.1(c) of the 2009 Permit and 2015 Permit prohibits emissions of total hazardous air pollutants (HAPs) in excess of 0.271 pounds per 1000 gallons of ethanol produced from the fermentation process.

17. Permit condition D.2.1(d) of the 2009 Permit and 2015 Permit prohibits emissions of acetaldehyde (a HAP) in excess of 0.245 pounds per 1000 gallons of ethanol produced from the fermentation process.

18. Permit condition D.2.2(a) of the 2009 Permit and 2015 Permit requires the VOC emissions from the fermentation process be controlled by the wet scrubber, identified as Permit Control Device C40 in the Permits.

19. Permit condition D.2.2(b) of the 2009 Permit and 2015 Permit requires the VOC capture and control efficiency of the wet scrubber on the fermentation process to be 98%.

20. Permit condition D.2.7 of the 2015 Permit requires IBEC to monitor at least once daily the pressure drop across the wet scrubber, and to take a reasonable response when any one pressure reading is not between 5.0 and 29.0 inches of water. IBEC's response shall meet the requirements of permit condition C.15, including C.15(e), which requires IBEC to record reasonable response steps taken.

Findings

21. EPA conducted an on-site inspection of IBEC on June 16, 2017. IBEC provided information to EPA during the inspection and subsequent to the inspection via electronic correspondence. This information included data from the operation of IBEC's scrubber and thermal oxidizer/heat recovery steam generator (TO/HRSG) since January 1, 2015, specifically: scrubber scrubbant (water) flow rates, pressure drop across the scrubber, 3-hour average temperatures of the TO/HRSG, and the monitoring results from the continuous emissions monitoring system for oxides of nitrogen (NO_x CEMS) on the TO/HRSG.

22. The inspection conducted by EPA using an optical gas imaging (OGI) camera as well as audio, visual and olfactory (AVO) observations revealed uncaptured emissions from the fermentation process from the top of the IBEC's fermenters and beer well.

Alleged Violations

23. From November 15, 2012, to October 26, 2017, IBEC emitted VOCs above 1.8 pounds per 1000 gallons of ethanol produced from the fermentation process (Permit Process P40) in violation of Permit conditions C.15 and D.2.1(b) of the 2009 Permit and 2015 Permit.

24. From January 1, 2015, to October 26, 2017, IBEC emitted total HAPs above 0.271 pounds per 1000 gallons of ethanol produced from the fermentation process in violation of Permit condition D.2.1(c) of the 2009 Permit and 2015 Permit.

25. From January 1, 2015, to October 26, 2017, IBEC emitted acetaldehyde (a HAP) above 0.245 pounds per 1000 gallons of ethanol produced from the fermentation process in violation of Permit condition D.2.1(d) of the 2009 Permit and 2015 Permit.

26. From January 1, 2015, to October 26, 2017, IBEC failed to control emissions from the fermentation process by the wet scrubber (Permit Control Device C40) in violation of Permit condition D.2.2(a) of the 2009 Permit and 2015 Permit.

27. From November 15, 2012, to October 26, 2017, IBEC operated the VOC capture and control efficiency of the fermentation process below 98% in violation of Permit conditions C.15 and D.2.2(b) of the 2009 Permit and 2015 Permit.

28. On September 21, 2017, EPA issued IBEC a Notice and Finding of Violation (NOV/FOV) for the violations alleged in Paragraphs 23 to 27 above.

29. On October 26, 2017, EPA met with IBEC to discuss the alleged violations in the NOV/FOV. EPA and IBEC further corresponded via telephone and electronic mail to resolve this matter.

30. IBEC has implemented corrective action to achieve compliance for the alleged violations in Paragraphs 23 to 27 above, including:

- a. Replacement of pressure relief valves (PRVs) atop fermenters and the beer well. These PRVs are more corrosion resistant and better suited to the ethanol fermentation process.
- b. Installed a vapor sealing barrier on the shaft of each agitator atop the fermenters and the beer well.
- c. Repaired all other leaking fittings, gaskets and pipe connectors atop the fermenters and the beer well.

Civil Penalty

31. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and IBEC's cooperation, efforts to promptly return to compliance, and pursuant to the Clean Air Act Stationary Civil Penalty Policy, Complainant has determined that an appropriate civil cash penalty to settle this action is \$119,900.

Within 30 days after the effective date of this CAFO, Respondent must pay the \$119,900 penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O.

Boxes) please use the following address instead:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

32. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Erik Olson (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

33. This civil penalty is not deductible for federal tax purposes.

34. If Respondent does not timely pay the civil penalty or any stipulated penalties due under Paragraph 36, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

35. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This

nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

36. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: olson.erik@epa.gov (for Complainant), and Terri.Czajka@icemiller.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

37. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

38. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

39. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state, and local laws. Except as provided in Paragraph 37 of this CAFO, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

40. Respondent certifies that it is complying fully with the CAA and Indiana SIP.

41. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

42. The terms of this CAFO bind Respondent, its successors, and its assigns.

43. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

44. Each party agrees to bear its own costs and attorney's fees in this action.
45. This CAFO constitutes the entire agreement between the parties.

Consent Agreement and Final Order

In the Matter of: Iroquois Bio-Energy Company, LLC, Rensselaer, Indiana

Iroquois Bio-Energy Company, LLC, Respondent

12/10/18
Date

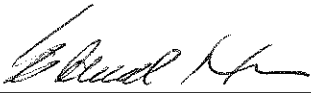
B. GUNNER GREENE
Gunner Greene, General Manager
Iroquois Bio-Energy Company, LLC

Consent Agreement and Final Order

In the Matter of: Iroquois Bio-Energy Company, LLC, Rensselaer, Indiana

United States Environmental Protection Agency, Complainant

12/18/18
Date



Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order

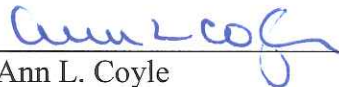
In the Matter of: Iroquois Bio-Energy Company, LLC Rensselaer, Indiana

Docket No. CAA-05-2019-0007

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

December 19, 2018
Date



Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Iroquois Bio-Energy Company, LLC of Rensselaer, Indiana
Docket Number: CAA-05-2019-0007

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [*CAA-05-2019-0007*], which was filed on [*12/21/2018*], in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Charles Liapes
Environmental Health & Safety Manager
Iroquois Bio-Energy Company, LLC
751 West State Road 114
Rensselaer, Indiana 47978

Copy by E-mail to
Attorney for Complainant:

Erik Olson
olson.erik@epa.gov

Copy by E-mail to
Attorney for Respondent:

Terri Czajka
terri.czajka@icemiller.com

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: *12/21/2018*



L Dawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 7466