



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

SEP 28 2011

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Joel H. Jansen, Vice President  
Winnebago Energy Center, LLC  
1716 Lawrence Drive  
De Pere, WI 54115

Re: Winnebago Energy Center, LLC.  
Administrative Consent Order EPA-5-11-113(a) IL-05

Dear Mr. Jansen:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-6812.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable".

Brent Marable  
Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure:

cc: Ray Pilapil, Manager  
Bureau of Air – Compliance and Enforcement Section  
Illinois Environmental Protection Agency

Linda E. Benfield, Esq.  
Foley & Lardner LLP

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	EPA-5-11-113(a) IL-05
	)	
Winnebago Energy Center, LLC	)	Proceeding Under Sections 113(a)(1)
Rockford, Illinois	)	of the Clean Air Act,
	)	42 U.S.C § 7413(a)(1)
_____	)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Winnebago Energy Center, LLC (WEC) under Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1), and WEC agrees to comply with this Order.

Statutory and Regulatory Background

2. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

3. On May 31, 1972, U.S. EPA approved Illinois PCB Rule 101 (35 IAC § 201.102), as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842. This rule deals with sources causing an odor nuisance.

4. Illinois Environmental Protection Agency (IEPA) issued a Construction Permit (No. 07030094) to WEC for the Facility on May 25, 2007.

5. Condition 4(b)(ii) of the Facility's Construction Permit requires WEC to undertake further actions as may be needed to eliminate air pollution, including nuisance due to odors, such as implementation of additional measures to assure that the operation of the Facility does not interfere with effective capture and control of landfill gas at the source.

6. Condition 6(b) of the Facility's Construction Permit prohibits the emission of sulfur dioxide in excess of 0.28 pounds per hour and 1.23 tons per year from each engine, and 4.94 tons per year in aggregate from all four engines.

7. The rule at 35 IAC § 201.141 provides that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois.

8. The rule at 35 IAC § 201.102 defines air pollution as "the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

9. Section 113(a) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit. The Administrator has delegated this authority to the Director of the Air and Radiation Division

#### Findings

10. WEC admits the jurisdictional findings of this order, and neither admits nor denies the factual findings and legal conclusions in this Order.

11. WEC owns and operates a landfill-gas-to-energy plant at the Pagel Landfill, 8403 Lindenwood Road in Rockford, Illinois (the Facility). This plant consists of four landfill gas powered reciprocating engines.

12. On July 7, 2009, WEC reported to Illinois Environmental Protection Agency (IEPA) that total reduced sulfur compound testing done on landfill gas used at the Facility demonstrated

higher levels of total reduced sulfur compounds than WEC expected, and that WEC may not be in compliance with the sulfur limitations found in Condition 6(b) of the facility's Construction Permit.

13. On July 28, 2009, WEC submitted a letter to IEPA noting that the elevated concentrations of sulfur compounds found in the landfill gas may have caused the engines to exceed the hourly and yearly emission limits for each engine, as well as the aggregate emission limit for all four engines since August of 2008.

14. By emitting sulfur dioxide in excess of 0.28 pounds per hour and 1.23 tons per year from each engine, and 4.94 tons per year in aggregate from all four engines at the Facility, WEC is in violation of Condition 6(b) of its Construction Permit.

15. By causing, threatening, or allowing the discharge or emission of any contaminant into the environment so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, WEC is in violation of 35 IAC § 201.141.

16. The Facility's violation of its Construction Permit and the SIP constitutes a violation of the CAA.

#### Compliance Program

17. WEC shall undertake the following maintenance and monitoring activities:

##### Maintenance

WEC will incorporate the following activities in the facility's maintenance plan, and will perform the following maintenance activities for each engine at these minimal frequencies, subject to any change in operational conditions:

- Weekly oil sampling and analysis for metal content (copper, iron, silicon), total base number (TBN), total acid number (TAN)
- Change engine spark plugs every 1,000 operating hours
- Check and adjust engine components every 2,000 operating hours
- Perform engine overhauls every 8,000 hours, or more frequently if needed

- Perform major engine overhauls every 24,000 operating hours, or more frequently if needed
- Perform preventative maintenance on the cooling systems every 8,000 operating hours
- Inspect and replace belts on the gas treatment systems every 2,000 operating hours
- Check and adjust gas treatment systems components every 8,000 operating hours
- Inspect and adjust electrical switchgear for plant every 8,000 operating hours

### Monitoring<sup>1</sup>

WEC agrees to add these provisions to the facility's operating permit application within one year:

#### LFG Sampling

For each gas sampling and analysis event, three samples of landfill gas will be taken prior to combustion. The samples are to be taken consecutively, and shipped to a laboratory expeditiously. If any problems occur with the sample collection, shipping, or analysis, three new testing runs should be performed as quickly as possible.

#### LFG Analysis

The samples will be analyzed using ASTM 5504 or ASTM 6968. The three samples shall be arithmetically averaged together to produce an average total reduced sulfur (TRS) concentration of the landfill gas being combusted. This value will determine the frequency of future monitoring events, as follows:

- Less than 750 ppmv TRS - Annual
- 750 – 2,000 ppmv - Quarterly
- 2,001 – 6,000 ppmv - Monthly
- Above 6,000 ppmv - Weekly

After five consecutive sampling periods with an average TRS concentration lower than the current sampling and analysis regime, sampling and analysis can be reduced to the next lowest frequency interval.

18. Within 30 days of submitting the permit application referenced in the above paragraph to IEPA, WEC must provide a copy of the application to U.S. EPA.

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<sup>1</sup> If another relevant appropriate analysis method becomes available during the duration of this Order, WEC may request that EPA approve an *Alternative Monitoring Request* that outlines the revised testing methodology that WEC wishes to employ to satisfy the sampling and analysis requirements of this paragraph and/or subsequent permit requirements. If the Landfill at which WEC operates becomes subject to different sampling and analysis protocol(s) during the duration of this Order, WEC may request

19. While awaiting formal approval of the operating permit for the facility's operations by IEPA, WEC shall follow the terms of the submitted permit application (as set forth above).

20. WEC shall submit reports summarizing all activities undertaken pursuant to this Order six months and twelve months after execution of this Order.

21. WEC must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

#### General Provisions

22. This Order does not affect WEC's responsibility to comply with other federal, state, and local laws.

23. This Order does not restrict U.S. EPA's authority to enforce the Illinois SIP, applicable permits, or any other section of the Act.

24. Nothing in this Order limits the U.S. EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for WEC's violation of the SIP and various permits.

25. Failure to comply with this Order may subject WEC to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

26. The terms of this Order are binding on WEC, its assignees and successors. WEC must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to U.S. EPA, at the above address, that it has given the notice.

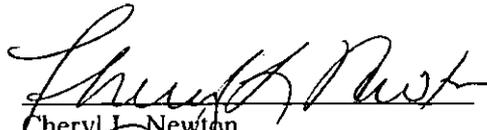
27. U.S. EPA may use any information submitted under this Order in an administrative, civil, judicial, or criminal action.

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that EPA approve such protocol(s) to satisfy the sampling and analysis requirements of this paragraph.

28. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate on the earlier date of a) issuance by IEPA of a permit complying with the terms of this Order, or b) one year from the effective date, provided that WEC has complied with all terms of the Order throughout its duration.

9/26/11  
Date

  
Cheryl L. Newton  
Director  
Air and Radiation Division

9/16/2011  
Date

  
Joel H. Jansen  
Vice President  
Winnebago Energy Center, LLC

STATE OF IOWA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

SEP 26 2011

11:40 AM  
11/11/11

**CERTIFICATE OF MAILING**

I, Betty Williams, certify that I sent the executed Administrative Consent Order,  
EPA Order No. EPA-5-11-113(a)-IL-05, by Certified Mail, Return Receipt Requested, to:

Joel H. Jansen, Vice President  
Winnebago Energy Center, LLC  
1716 Lawrence Drive  
De Pere, WI 54115

I also certify that I sent a copy of the executed Administrative Consent Order, EPA Order  
No. EPA-5-11-113(a)-IL-05, by First Class Mail to:

Ray Pilapil, Manager  
Bureau of Air-Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
Springfield, Illinois

on the 29<sup>th</sup> day of September 2011.



Betty Williams,  
Administrative Program Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 70091680 0000 7672 8140