

STATE OF MICHIGAN  
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July 31, 2018

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Via Email Letter only to:  
SLJohnson@honigman.com

Re: **Notice of Determination of Necessity for Additional Measures**  
*MDEQ v Michigan Waste Energy, Inc., et al.*  
Ingham County Cir. Ct. Case No. 14-1184-CE

Dear Mr. Johnson:

As you may recall, I represent the Michigan Department of Environmental Quality (MDEQ) and its Air Quality Division (AQD) regarding enforcement of the Consent Judgment (CJ) in this matter. It is my understanding you currently represent the defendants. Accordingly, I am serving upon you this Notice pursuant to paragraph 3.17 of the CJ.

The AQD has determined that measures in addition to those that are currently being followed by defendants (pursuant to the requirements described in Section III of the CJ) are necessary to control odors from the incinerator facility owned and operated by defendants and located at 5700 Russel Street, Detroit, Michigan. The AQD has determined that all measures taken by defendants, including those measures described in Section III of the CJ, have proven insufficient to control odors from the incinerator facility.

Enclosed are documents evidencing, for the period of June 5, 2016 to June 15, 2018<sup>1</sup>: (i) the number and type of odor complaints received by AQD and attributed to operation of the incinerator; (ii) the estimated time duration of each odor incident that AQD alleges constituted a violation of Rule 901<sup>2</sup>; (iii) field observations of each odor incident that AQD alleges constituted a violation of Rule 901; and (iv) the basis

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<sup>1</sup> Documentation of odor complaints and field investigations for subsequent time periods are currently being compiled.

<sup>2</sup> Michigan Administrative Code, R 336.1901.

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for AQD's determination that the odors are attributable to the incinerator facility. The following summarizes my accounting of this evidence:

**2016 (commencing June 5, 2016)**

For this period during 2016, approximately 200 odor complaints were received by AQD. Of these 200 odor complaints,<sup>3</sup> upon field investigation by AQD, approximately 88% were attributed to operation of the incinerator facility. Approximately 12% of the odor complaints, upon field investigation by AQD, resulted in a finding of "no odors detected" or otherwise could not be established as attributable to operation of the incinerator facility.

The enclosed year 2016 chronologized compilation of odor complaints and AQD odor field investigations identify the type of odor complaints, the estimated time duration and field observations of each odor incident that AQD alleges constituted a violation of Rule 901; and are the basis for AQD's determination that such odors are attributable to operation of the incinerator facility.

**2017**

For the full year 2017, again approximately 200 odor complaints were received by AQD. Of these 200 odor complaints, upon field investigation by AQD, approximately 90% were attributed to operation of the incinerator facility. Approximately 10% of the odor complaints, upon field investigation by AQD, resulted in a finding of "no odors detected" or otherwise could not be established as attributable to operation of the incinerator facility.

The enclosed year 2017 chronologized compilation of odor complaints and AQD odor field investigations identify the type of odor complaints, the estimated time duration and field observations of each odor incident that AQD alleges constituted a violation of Rule 901; and are the basis for AQD's determination that such odors are attributable to operation of the incinerator facility.

**2018 (through June 15, 2018)**

For this period during 2018, approximately 75 odor complaints were received by AQD. Of these 75 odor complaints, upon field investigation by AQD, approximately 86% were attributed to operation of the incinerator facility. Approximately 14% of the odor complaints, upon field investigation by AQD, resulted in a finding of "no odors detected" or otherwise could not be established as attributable to operation of the incinerator facility.

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<sup>3</sup> Odor complaints received by AQD are documented under the titles "Complaint Report," "Michigan DEQ PEAS Incident Report," or emails under topic "New PEAS Incident notification."

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The enclosed year 2018 chronologized compilation of odor complaints and AQD odor field investigations identify the type of odor complaints, the estimated time duration and field observations of each odor incident that AQD alleges constituted a violation of Rule 901; and are the basis for AQD's determination that such odors are attributable to operation of the incinerator facility.

Pursuant to paragraph 3.18 of the CJ, please inform me within 21 days whether defendants dispute the AQD's determination set out above.

Sincerely,



John Fordell Leone  
Assistant Attorney General  
Environment, Natural Resources,  
and Agriculture Division  
517-335-0694

JFL:jls

Enclosures (by 1<sup>st</sup> class mail)

cc: Jenine Camilleri, MDEQ/AQD  
Malcom Mead-Obrien, MDEQ/AQD  
Wilhemina McLemore, MDEQ /AQD  
Jeffrey Korniski, MDEQ/AQD  
Todd Zynda, MDEQ/AQD

LF: Detroit Renewable Power/#2014-0070943-B-L/Letter – Johnson 2018-7-31