



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

ELECTRONIC CORRESPONDENCE
aorlando@covantaenergy.com

OCD-AP-08-010

Anthony Orlando, President & CEO
Covanta Lake II, Inc.
40 Lane Road
Fairfield, New Jersey 07004

SUBJECT: Lake County - AP
Proposed Settlement by Short Form Consent Order
Covanta Lake II, Inc. OGC Case No. 08-1756

Dear Mr. Orlando:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter OWL-AP-08-726, dated April 25, 2008, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$10,600.00 along with \$500.00 to reimburse the Department costs, for a total of \$11,100.00.

The civil penalties are apportioned as follows:

\$10,600.00 for violations of Sections 403.161(1)(b), Florida Statutes, Permit 0690046-006-AV, Specific Condition A.30, and 40 Code of Federal Regulations 60.33b(c)(1)(ii).

The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund (EMRTF)". Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803 within thirty (30) days of your signing this letter.

Your signing this letter constitutes your acceptance of the Department's offer to resolve this matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department that shall be enforceable pursuant to Section 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the district address by July 11, 2008, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. Your rights or substantial interests are not determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Vivian F. Garfein
Director, Central District

Date: July 1, 2008

FOR THE RESPONDENT:

I, ANTHONY ORLANDO, on behalf of Covanta Lake II, Inc. HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: A Orlando Date July 14, 2008
nc

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this 21st day of July, 2008, in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Vivian F. Garfein
Director, Central District

Filed, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

CLERK A Salonde DATE 7/21/2008

VFG/JB/cs/j

Copies furnished to: Aliko Moncrief, OGC
Chad Stevens, OGC
Sheila Schneider, DARM
Cindy Phillips, DARM
Viet Ta, Covanta (Viet_Ta@CovantaEnergy.com)

NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes; (c) A statement of how and when each petitioner received notice of the Consent Order; (d) A statement of how each petitioner's substantial interests are affected by the Consent Order; (e) A statement of the material facts disputed by petitioner. If there are none, the petition must so indicate; (f) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (g) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; and (h) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



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ELECTRONIC CORRESPONDENCE
lbrasowski@covantaenergy.com

WARNING LETTER
OWL-AP-08-726

Leon Brasowski, Vice President
Environmental Permitting
Covanta Lake, Inc.
40 Lane Road
Fairfield, New Jersey 07004

Lake County – AP
Dioxin/Furan Exceedance

Dear Mr. Brasowski:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A Department field visit conducted on April 8, 2008 and results of stack tests conducted on January 30 through February 21, 2008 at your Facility located at 3830 Rogers Industrial Road, Okahumpka, Lake County, Florida indicate that violations of Florida Statutes and Rules may exist at the above described facility. The following was determined:

A dioxin/furan test was conducted on Unit 2 on February 1, 2008. The results of three test runs averaged 34 nanograms/dry standard cubic meter at seven percent oxygen ("ng/dscm @7% O₂"). The permit limit is 30 ng/dscm @7% O₂.

Company representatives replaced two filter bags in the baghouse control equipment between Run #1, and delayed Run # 2 after the tester observed heavier particulates in the test sample. After Run #3, Unit 2 operated for an additional 20 days before passing its February 21, 2008 re-test.

The test report states bag failures were probably the result of a tube rupture which occurred on January 28, 2008, and particulates may have elevated the dioxin/furans levels. It described the bag failures as a malfunction. The replacement of bags from an event that occurred five days earlier is a maintenance item and not a malfunction of the baghouse equipment.

Section 403.161(1)(b), Florida Statutes, provides that it shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

Florida Administrative Code Rule 62-4.030, General Prohibition, provides: Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permits issued by the Department, unless the source is exempted by Department rule. The Department may issue a permit only after it receives reasonable assurance that the installation will not cause pollution in violation of any of the provisions of Chapter 403, F.S., or the rules promulgated thereunder. A permitted installation may only be operated, maintained, constructed, expanded or modified in a manner that is consistent with the terms of the permit.

40 Code of Federal Regulation, Part 60.2 provides: Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Florida Administrative Code Rule 62-210.200, (196) provides: "Malfunction" – Any unavoidable mechanical and/or electrical failure of air pollution control equipment or process equipment or of a process resulting in operation in an abnormal or unusual manner.

Permit 0690046-006-AV, Specific Condition A.35 provides: At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. [40 CFR 60.11(d)]

Permit 0690046-006-AV, Specific Condition A.50 (5)(iii) provides: If any annual performance test indicates either a dioxin/furan emission level greater than 15 nanograms per dry standard cubic meter (total mass), performance tests shall thereafter be conducted annually on all affected facilities at the plant until and unless all annual performance tests for all affected facilities at the plant over a 2-year period indicate a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter (total mass).

Within 10 days receipt of this letter, please submit Unit #2 opacity data for February 5, 2008 with a written narrative describing the cause of 10:00 am - 12:00 pm (B) flag and the

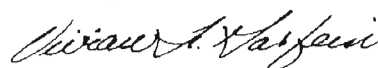
Leon Brasowski, Vice President
Environmental Permitting
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actions taken to bring the opacity readings down. The readings were above the permitted 10% opacity limit.

The activities described in this letter, and any other activities at your facility that may be contributing to violations of the above described statutes or rules should be ceased. You are requested to contact Caroline Shine at 407-893-3333 or at the above address within ten (10) days receipt of this Warning Letter to arrange a meeting to discuss the matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve the matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein
Director, Central District

Date: April 25, 2008

VFG/JB/cs/j
cc: Sheila Schneider, DARM
Cindy Phillips, DARM