



May 2, 2024

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Toby Mahar
Compliance Manager
Northwest Clean Air Agency
1600 S. 2d Street
Mount Vernon, WA. 98273

Re: City of Bellingham

Dear Toby:

I am writing on behalf of the City of Bellingham to provide an initial response to Notice of Violation (NOV) 4706, which alleges violations of several air regulatory requirements at the Post Point Wastewater Treatment Plant. On April 12 and 25 City representatives discussed the issues presented by the NOV with you and with Agency counsel Svend Brandt-Erichsen. We appreciate the guidance you and Svend provided during those discussions, and this response includes commitments and deadlines the parties discussed during the April 25 call.

Violation 1 alleges that the cumulative cost of changes made to each of the two Post Point sewage sludge incinerators (SSIs) has exceeded 50 percent of the original cost of building and installing the SSI unit, one of the tests of a “modification” under 40 CFR Part 60, Subpart LLLL. To make this applicability determination the City and the Agency need detailed information on the cost of construction of each of the incinerators, updated to current costs, and the cost of projects performed over the life of the SSI unit. Applicability must be determined separately for each SSI. The City requested, and you approved, an extension of the deadline to answer Violation 1 to July 1, 2024, to enable the City team to gather the records needed to perform this analysis. City staff are working diligently to meet that deadline.

Violation 2 alleges that burner replacements installed in 2021, 2022 and 2024 comprise replacement of emission control technology installed on an existing emission unit, for which the City should have filed notice of construction applications under NWCAA 300.25(A). The City respectfully disagrees that burners in a multi-hearth incinerator constitute “emission control technology.” Rather, they are process equipment that is essential for operation of the incinerator. The most useful precedent bearing on this issue is the Compliance Assurance Monitoring (CAM) rule, which regulates emission units that use a control device to comply with emission limits.¹ The CAM rule exempts from the definition of a control device “inherent process equipment,” defined as “equipment that is necessary for the proper or safe functioning of the process . . .”² The definition specifies that “control device” does not include “the use of combustion or other

¹ 40 CFR 64.2(a)(2).

² 40 CFR 64.1.

process design features or characteristics.”³ EPA’s [Response To Comments](#) on the proposed CAM rule confirms that low-NOx burners are not “control devices.”⁴

These maintenance projects caused no increase in emissions, and are not subject to review as replacement of emission control technology.

Violation 3 contends that actual CO emissions reported in 2020 through 2023 source test reports reflect a CO potential to emit exceeding Title V major source thresholds, in response to which the City should have filed a Title V major source permit application. The City questions the validity of drawing conclusions about annual potential to emit from a source test conducted during one three hour interval at sludge feed rates that Post Point lacks the feedstock to sustain. In our discussions, you suggested that the City resolve this alleged violation by taking a synthetic minor limit on CO and that the City equip the SSIs with CO continuous emission monitors (CEMS) to monitor compliance with the annual tonnage limit. The City appreciates the wisdom of these recommendations, and we are ready to work with the Agency to implement them.

The City has ordered CO CEMS for each of the Post Point SSIs. The Maintenance Group anticipates delivery of the CEMS in late May and hopes to have them certified in June. We also look forward to working with the Agency to set a facility-wide synthetic minor limit that covers the SSIs and the other small emission units that contribute to the facility-wide CO potential to emit. Per your suggestion we will consult with Agata McIntyre to develop practical methods to account for emissions from the small units.

Prior to the time that the City completes certification of the CEMS the City will minimize the CO emission rate from the SSIs by maintaining a minimum daily average afterburner temperature on SSI #1 of 1300 degrees F and 1400 degrees F from the SSI #2 afterburner. We are not proposing these temperature settings as regulatory limits, but rather as a practical technique to manage CO emissions until the CEMs are certified.

The City hopes the measures outlined in this letter fully address the concerns presented in the NOV, pending submittal of a Subpart LLLL applicability analysis. We will update the Agency when the CEMs arrive, and request some time with Agata to discuss practical methods to track CO emissions from small devices at the facility.

³ 40 CFR 64.1 (definition of “control device”).

⁴ [Compliance Assurance Monitoring Rulemaking, Responses to Public Comments Part III \(October 2, 1997\)](#), p. 11.

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Very truly yours,

A handwritten signature in black ink that reads "Matthew Cohen". The signature is written in a cursive, flowing style.

Matthew Cohen

Cc: Mayor Kim Lund
Eric Johnston, Public Works Director
Stephen Bradshaw, Superintendent of Plants
Matt Stamps, Senior Assistant City Attorney
Stephen Nelson, Coal Creek Environmental
Svend Brandt-Erichsen

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