



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary
Lloyd L. Eagan, Regional Director

South Central Region Headquarters
3911 Fish Hatchery Road
Fitchburg, Wisconsin 53711-5397
Telephone 608-275-3266
FAX 608-275-3338
TTY Access via relay - 711

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 17, 2009

Casetrack ID# 2009-SCEE-005

Dale Drachenburg, Vice President of Operation
Didion Ethanol
501 S. Williams Street
Cambria, WI 53923

Subject: Notice of Violation/Enforcement Conference

Dear Mr. Drachenburg:

The Department is alleging that Didion Ethanol is in violation of Ch. 283, Wis. Stats, and WPDES Number WI-0063771-01-0 issued on April 1, 2008.

During the fall of 2008 Village of Cambria residents and Village Board members as well as representatives from Midwest Environmental Advocates observed foam and chunky brown colored solid material as well as orange and milky colored water being discharged from Didion's non contact cooling water outfall effluent pipe. This pipe is located on a tributary to Duck Creek in the Town of Courtland, Columbia County.

On November 14, 2008 samples were collected at the pipe, upstream and downstream from the discharge pipe by Cambria citizens in coordination with Midwest Environmental Advocates staff. The samples were analyzed for parameters outlined in your permit. The results showed high levels of total suspended solids. A review of the facility's activities and operating procedures has not identified the problem or a solution to stopping the discharge of foam and chunky brown colored solid material, and/or orange and milky colored water. The Department does not believe that these discharges are authorized by Didion's WPDES permit.

In addition, the Department became aware that Didion was using additives at levels that were different from those identified in Didion's permit application. This was confirmed by US Water in their September 12, 2008 letter to Dan Ketter.

Based on this information, the Department is specifically alleging the following permit violations:

1. Permit Section 1.2 "Monitoring Requirements and Effluent Limitations

Discharge monitoring reports submitted to the Department in September 2008 show that there were excursions of the total suspended solids (TSS) daily maximum discharge limit of 10 mg/l on September 5, 2008 and September 23, 2008. In addition, the Department was recently notified of an excursion of the TSS discharge limit in January 2009.

2. Permit Section 1.2.1- Cooling Tower Blow Down Effluent Limitations

Based on information provided in your monthly and quarterly discharge monitoring forms and follow-up reports by Dan Ketter, Didion has had reoccurring excursions of both the total recoverable zinc weekly average discharge limit of 340 ug/l and the total recoverable zinc daily maximum limit of 690 ug/l. According to DMR reports there have been zinc excursions on July 15, 2008 (370), August 14, 2008 (400), September 9, 2008 (410), November 11, 2008, December 2, 2008 (1200ug/l) and December 30, 2008 (1400 ug/l). In addition, the Department was recently notified of a zinc excursion on January 6, 2009.

3. Section 1.2.1.8 Additives

The permittee shall report the dosage rate of all additives used on a monthly basis.

According to the September 12, 2008 letter from US Water, Didion failed to report to the Department the correct dosage of all the additives used in their non contact cooling water treatment system on a monthly basis from April thru September 2008, October 2008 and December 2008.

4. Permit Section 2.1.1 Monitoring Results

Monitoring results obtained during the previous month shall be summarized and reported on a Department Wastewater Discharge Monitoring Report.

Didion failed to submit monthly Discharge Monitoring Results on time for April – June 2008. All four reports were submitted to the Department on August 5, 2008. The first quarterly report was due July 15, 2008. The first three monthly Discharge Monitoring Reports were due May 15, June 15, and July 15, 2008.

5. Permit 2.3.3 -Visible Foam or Floating Solids

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The presence of unanticipated biological activity has been confirmed both visually and analytically in the noncontact cooling water/waste water discharges that caused the accidental discharge of foam and floating solids and or high suspended solids (brown material) to a tributary of Duck Creek several times in 2008.

6. Permit Section 2.3.6: Additives

In the event that the permittee wishes to commence the use of a water treatment additive or increase the usage of the additives greater than indicated in the permit application, the permittee must get written approval from the Department prior to initiating such changes.

Didion commenced the use of additive sodium Bisulfate instead of BWT-104 (SBS) and changed CWT-530 concentration from April 2008 to September 12, 2008 to a different concentration/usage than submitted in the December 3, 2007 application. Department approval was not granted for the different concentration/usage. Notification was given to the Department on September 10, 2008.

7. 2.3.8 Whole Effluent Toxicity (WET) Identification and Reduction

Didion conducted an acute and chronic WET test from June 22-26, 2008, but samples did not include the reverse osmosis (RO) reject water and filter backwash. These WET tests were repeated in August 2008, using final effluent samples which contained these wastewaters. The acute and fathead minnow chronic tests passed in August, but the chronic *Ceriodaphnia dubia* test failed.

Didion has not completed the 2 retests required within 90 days of a test failure. Didion does not have a Department approved plan for determining the source of toxicity that caused the test failure.

In order that we can discuss the circumstances surrounding the alleged violations, a plan for corrective actions, and WET testing procedures, I have scheduled an **enforcement conference for Tuesday March 3, 2009 at 10:00 am** at the Department's South Central Regional Headquarters located at 3911 Fish Hatchery Road, Fitchburg.

Section 283.91(2), Wis. Stats., allows the Department to request forfeitures of up to \$10,000 per violation per day for wastewater violations.

If you have questions regarding this letter please feel free to contact me at 608-275-3306. If you have questions pertaining to your WPDES permit, call Ken Denow at 920-387-7886.

Sincerely,



Pamela Kober
Environmental Enforcement Specialist

cc: Ken Denow – Horicon
Jim Congdon – Horicon
Robin Nyffeler – LS/8
Brenda Howald – SCR
Kari Fleming – WT/3
Dan Joyce – WT/3
Rick Reichardt – WT/3
Andy Morton - Dodgeville
Midwest Environmental Advocates – 551 W. Main Street, Suite 200, Madison, WI 53703
Village of Cambria, PO Box 295, Cambria, WI 53923-0295
Linda Bochert, Michael Best & Friedrich LLP, PO Box 1806, Madison, WI 53701-1806