

November 21, 2024

Michelle Luplow Michigan Department of Environment, Great Lakes, and Energy Lansing District Office Air Quality Division 525 W. Allegan Street (Constitution Hall 1<sup>st</sup> Floor South) Lansing, MI 48909-7742

## Subject: Response to Violation Notice Dated November 1, 2024 Energy Developments Lansing, LLC Renewable Operating Permit No.: MI-ROP-N5997-2020a (Section 3) Permit to Install No.: 178-19A

I am writing on behalf of Energy Developments Lansing, LLC (EDL) in response to the Violation Notice (VN) received from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) dated November 1, 2024. This response letter addresses the items within the VN which were noted as requiring response and is being submitted prior to the November 21, 2024 response deadline.

Following an inspection on July 31, 2024, EGLE alleged that EDL was in violation of certain conditions in Permit to Install (PTI) No. 178-19A, and Renewable Operating Permit (ROP) No. MI-ROP-N5997-2020a. There are three alleged violations specified in the VN. Each is presented below followed by EDL's response.

1. The PM/MAP was not amended within 45 days of event that meets characteristics of a malfunction and submitted to the AQD for review and approval, violating PTI 178-19A, Process/Operational Restrictions, SC III.1. The referenced malfunction event occurred on December 2-3, 2021.

The VN references PTI 178-19A as the applicable permit. However, PTI 178-19A, was not in effect when this event occurred, as this PTI was issued September 1, 2022. The correct PTI that should have been referenced is PTI 178-19, which was issued March 27, 2020. Therefore, the heat input capacity mentioned in the VN as 19.5 MMBtu/hr for EUTOX is incorrect. Under PTI 178-19, EUTOX, DESIGN/EQUIPMENT PARAMETER(S), SC IV.2 the maximum heat input capacity for EUTOX is 24.4 MMBtu/hr, not 19.5 MMBtu/hr.

Heat input capacity is not a reportable parameter subject to annual EUTOX reporting and should not have been included in the 2021 second semi-annual compliance report. The reportable parameters for EUTOX are flow and temperature, both of which were within the permitted limits during the period in question. Consequently, the inclusion of the heat

## HONIGMAN.

Michelle Luplow November 21, 2024 Page 2

input capacity exceedance in the second semi-annual compliance report was not a reportable deviation.

Moreover, the event that occurred December 2 and 3, 2021, which resulted in an increase in methane to EUTOX, took place during the commissioning process for the renewable natural gas facility, of which EUTOX is a part. Part of the commissioning process is to perform quality assurance for the facility systems, equipment and components to ensure they meet the design specification and regulatory requirements prior to operation and therefore malfunctions and other irregular occurrences are expected so they can be reviewed and addressed. This event has only occurred during commissioning and has not repeated in the nearly three (3) years since.

In accordance with Section R. 336.1911(1), upon request from the department, a person responsible for the operation of a source of an air contaminant must prepare a malfunction abatement plan (MAP) to prevent, detect, and correct malfunctions or equipment failures resulting in emissions exceeding applicable emission limitations. Because the December 2021 event did not result in an exceedance of any emission limit, an update to the MAP would not be required. Since the event occurred in December 2021, and was reported in March 2022, EDL has submitted two (2) revised MAPs to EGLE. The first MAP was submitted August 18, 2022, approved on September 23, 2022. The second update was submitted during October 2023. Despite submitting a revised MAP in October 2023, EDL has yet to receive any comments, approval or a denial from EGLE. When an inquiry on the status of the MAP, over one year after submittal in October 2024, was made, EDL received the following response from Michelle Luplow: "For my reviews, in particular, I will only contact the company if I have concerns with the MAP/PMP. I do plan to send EDL communications, hopefully by the end of the month, requesting revisions." EDL never received any communications requesting revisions from EGLE prior to receiving the VN.

Because the event in question occurred during the facility commissioning nearly three years ago, has not recurred since and the ultimate root cause is unknown at this time, there is no revision to the MAP in response to this event to be made at this time.

- 2. Emissions from safety/pressure relief vent in the treatment system are uncontrolled, violating MI-ROP-N5997-2020a, Process/Operational Restriction, SC III.1; 40 CFR Part 62.16714(c).
- 3. Emissions from safety/pressure relief vent in the treatment system are uncontrolled, violating MI-ROP-N5997-2020a, Process/Operational Restriction, SC III.2; 63.1959(b)(2)(iii).

## HONIGMAN .

Michelle Luplow November 21, 2024 Page 3

The VN references a safety/pressure relief valve (PSV) in the treatment system of EUCONDSYS. The cited regulations apply to "atmospheric vents" (a term that is not defined in either 40 CFR Part 62, Subpart OOO or 40 CFR Part 63 Subpart AAAA). The PSV in question is not a process atmospheric vent or stack, but rather a safety device designed to protect the system during upset conditions. PSVs are not used during routine operation and only activate under emergency or upset conditions to prevent equipment damage and to ensure safety of the site personnel and surrounding community. The PSV is a required safety measure, not an emission source.

The emission control equipment connected to EUCONDSYS is designed for normal process emission vents. The control equipment is not designed to accommodate a release from an emergency PSV that rarely, if ever, occurs. EDL does not have the ability to manually control the activation of an emergency PSV, as it is designed to automatically activate in the event of an emergency or upset condition. Prior to September 27, 2021, an emergency release would've been covered under the startup, shutdown and malfunction (SSM) requirements in 40 CFR §63.6(e) and the general duty to minimize emissions "to the greatest extent which is consistent with safety and good air pollution control practices" during such an event. After September 27, 2021, similar requirements were instead included in the Landfill NESHAP (40 CFR Part 63 Subpart AAAA) in §63.1955(c) to "maintain an affected source .... in a manner consistent with safety and good air pollution control practices for minimizing emissions." The revisions to 40 CFR §63.1930 indicate that the requirements in CFR Part 63 Subpart AAAA apply at all times including during periods of SSM. However, this did not trigger a complete redesign of pollution control equipment, but rather a requirement to record and report SSM events under CFR Part 63 Subpart AAAA. Specifically, §63.1983 identifies information that must be recorded in the event an affected unit fails to meet an applicable standard and includes recording "actions taken to minimize emissions in accordance with the general duty of §63.1955(c) and any corrective actions taken to return the affected unit to its normal or usual manner of operation". Therefore, any gases vented via a PSV during an emergency or process upset event is required to be recorded along with the duration and actions taken to minimize emissions and return the process to its normal operating state. The revisions to CFR Part 63 Subpart AAAA did not require EDL to redesign its pollution control system to connect to the PSV, rather, "control" in this case is the proper use and maintenance of the PSV and compliance with the specified reporting requirements.

Significantly, 40 CFR 63.1958(e)(1) states the control system shall be "operated as specified in § 60.753, except .... In the event the collection or control system is not operating: (i) The gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating...." Under this regulation it is acknowledged that a control system can have "valves" that are not "atmospheric vents,"

## HONIGMAN

Michelle Luplow November 21, 2024 Page 4

> that are capable of contributing to the venting of gas to the atmosphere and as long as those valves are closed within 1 hour of a release there is no violation.

> EDL respectfully disagrees with the issuance of a violation notice related to the existence of the PSV in the treatment system of EUCONDSYS. These valves are designed solely as emergency safety features to protect both the equipment and the personnel. Given the emergency function of the PSV, it is inappropriate to consider any release of gas from the PSV as a violation under 40 CFR Part 62.16714(c) and 63.1959(b)(2)(iii), which apply to emissions from actual emission units or combustion sources. Since facility startup there have been no activations of this PSV and therefore no release to the atmosphere. EDL is aware of the reporting obligations under § 63.1983, which requires the reporting of any uncontrolled gas releases. Given the PSV is an emergency safety feature and does not release gas under normal operating conditions, EDL intends to report any release as a deviation, as required by the regulations. Any activation of the PSVs due to upset conditions is fully documented and reported.

I trust that this letter satisfactorily responds to the VN. Please let me know if you have any questions or comments.

Sincerely,

HONIGMAN LLP

S. Lee Johnson

Meghan Stackhouse - Energy Developments, Inc. cc: Anthony Falbo, Summer Hitchens, Rachel Parent, Elizabeth Park – EDL Energy Geed Salam, Rob Harvey, Kate Henry – ICT Anette Switzer – EGLE Christopher Ethridge – EGLE Brad Myott - EGLE Jenine Camilleri – EGLE Robert Byrnes – EGLE