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IDAHO PUBLIC
UTILITIES COMMISSION

Stephen R. Thomas, ISB No. 2326
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Attorneys for Complainant

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

HIDDEN HOLLOW ENERGY 2 LLC,

Complainant,

vs.

IDAHO POWER COMPANY,

Respondent.

Case No. IPC-E-12-18

FORMAL COMPLAINT

I. INTRODUCTION

This is a Formal Complaint by Hidden Hollow Energy 2 LLC (“Hidden Hollow” or “Complainant”) with the Idaho Public Utilities Commission (the “Commission”) pursuant to Idaho Administrative Rules 31.01.01.054 and other applicable law. Complainant and Respondent Idaho Power Company entered into a Firm Energy Sales Agreement (“FESA”) dated December 8, 2010, which Respondent submitted to the Commission on December 10, 2010, with

ORIGINAL

its Application requesting approval thereof. The Commission entered its Order No. 32180 approving the FESA on February 11, 2011.

Section 19.1 of the FESA grants authority to the Commission to resolve disputes between the parties, including interpretation of terms and conditions of the FESA.

Notwithstanding Section 19.1 which Complainant timely invoked on June 11, 2012, and two incidents of *force majeure* of which Complainant gave Respondent Notice thereby excusing its nonperformance, Respondent issued a letter on June 14, 2012, alleging material breach of the FESA by Complainant and purporting to terminate the FESA unilaterally. Respondent did so even after having received Complainant's notice letter to the Commission, dated June 11, 2012, whereby Complainant invoked the Commission's authority under Section 19.1 to settle the dispute. By this Formal Complaint, Complainant requests declaratory and injunctive relief from the Commission interpreting the FESA, finding that Complainant is not in material breach because of the *force majeure* incidents, and confirming that the FESA remains intact as a viable agreement under the Public Utility Regulatory Policies Act of 1978 (PURPA) and Commission Order No. 32180.

II. PRELIMINARY MATTERS

1. Copies of all pleadings and other correspondence in this matter should be served upon counsel for Hidden Hollow as follows:

Stephen R. Thomas, MOFFATT, THOMAS, BARRETT, ROCK & FIELDS,
CHARTERED, 101 S. Capitol Boulevard, 10th Floor, Post Office Box 829, Boise, Idaho 83701-0829; Telephone: (208) 345-2000; Facsimile: (208) 385-5384.

In support of its Formal Complaint, Hidden Hollow alleges as follows:

III. IDENTITY OF THE PARTIES

2. Hidden Hollow Energy 2 LLC (“Complainant”) is a Delaware limited liability company, duly registered to conduct business in the state of Idaho. Its address is Hidden Hollow Energy 2 LLC, c/o Fortistar Methane Group, One North Lexington Avenue, White Plains, New York 10601. Complainant has a Landfill Gas Franchise Agreement with Ada County, State of Idaho, which agreement entitles it to a certain amount of methane gas from the Hidden Hollow landfill in Ada County, Idaho, and further entitles it to operate a 3.2 megawatt landfill gas generating facility at that location, which is a qualifying facility under PURPA.

3. Respondent Idaho Power Company (“Respondent” or “Idaho Power”) is an Idaho corporation with its principal place of business at 1221 West Idaho Street, Boise, Idaho 83702. Idaho Power is an electric company and a public utility subject to the jurisdiction and regulation of the Commission pursuant to Title 61, Idaho Code, including without limitation, Section 62-129, Idaho Code. Idaho Power is also subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”).

IV. JURISDICTION

4. This case involves a PURPA-approved project and underlying agreement. In Idaho, the Commission possesses jurisdiction over complaints regarding such agreements. IDAHO CODE §§ 61-129, -501, -502, -503, -612; *see also Afton Energy, Inc. v. Idaho Power Co.*, 111 Idaho 925, 929, 729 P.2d 400, 404 (1986). The Commission has jurisdiction to issue declaratory rulings regarding utility contracts pursuant to Idaho’s Declaratory Judgment Act, Idaho Code Section 10-1203. *See also Utah Power and Light vs. Idaho Public Utilities Comm’n*, 112 Idaho 10, 12, 730 P.2d 930, 932 (1986).

V. APPLICABLE LAWS AND REGULATIONS

5. The Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter, pursuant to the authority and power granted it under Title 61 of the Idaho Code and PURPA. The Commission also has authority under PURPA and the implementing regulations of FERC, to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs), and to implement FERC rules.

6. On February 11, 2011, the Commission approved Respondent's application requesting approval of Respondent's Firm Energy Sales Agreement (FESA) with Complainant. See Order No. 32180. Section 19.1 of the FESA provides that "all disputes related to or arising under this Agreement, including but not limited to the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution." Complainant invoked that authority by letter to the Commission dated June 11, 2012, with a copy to Respondent.

7. On July 13, 2000, the Idaho Supreme Court held that a civil authority's revoking or suspending of a required environment permit in the context of a PURPA project could constitute an event of *force majeure*, which would not excuse posting of security but would excuse other obligations for construction and operation. *Idaho Power Co. vs. Cogeneration, Inc.*, 134 Idaho 738, 9 P.3d 1204 (2000).

VI. FACTUAL BACKGROUND

8. On February 22, 2011, Complainant entered into an agreement with Ada County, State of Idaho, entitled Landfill Gas Franchise Agreement (Agreement No. 9261), for

the right to develop a qualifying facility under PURPA at the Ada County landfill, using methane gas generated by the landfill to create electricity.

9. On December 8, 2010, Complainant and Respondent entered into a Firm Energy Sales Agreement (FESA) based in part on the underlying Landfill Gas Franchise Agreement at Ada County's Hidden Hollow landfill. Respondent filed an Application with the Commission on December 10, 2010, seeking approval of that 20-year FESA. By Order No. 32180, which the Commission entered on February 11, 2011, Respondent's application was approved.

10. The FESA requires Complainant to post delay liquidated damages security in the amount of \$144,000, which Complainant has done (in the form of a cash deposit).

11. Under applicable law, both Ada County and Complainant are obliged to satisfy air quality emissions standards from the flaring of methane gas at the landfill by Ada County and, separately, from the stacks of Complainant's generators fired by the same methane gas. However, in or about June 2011, Ada County advised Idaho DEQ that certain contaminant levels from its landfill gas had increased to a level such that Ada County was no longer in compliance with its existing air quality permit. Since that advice to IDEQ, Ada County and Complainant have worked to find a solution, but without success. Accordingly, for want of a valid and outstanding air quality permit issued by IDEQ, Complainant was unable to meet its scheduled operation date of February 28, 2012, under Section 5.3 of the FESA. Therefore, by letter dated February 7, 2012, Complainant gave notice to Respondent under Section 14.1 of the FESA, that Complainant is "rendered unable to perform such obligation because of an event of Force Majeure that commenced on June 22, 2011, and continues today [and that the] Events described above regarding the quality of the landfill gas at the Landfill have occurred through no

fault of [Complainant], were impossible to have been expected by [Complainant] and, as of this date, are impossible for [Complainant] to overcome.” A true and correct copy of the February 7, 2012, letter is attached hereto as **Exhibit A**.

12. On February 7, 2012, Complainant gave Ada County notice of *force majeure* under its Landfill Gas Franchise Agreement for substantially similar reasons. A true and correct copy of that letter is attached hereto as **Exhibit B**.

13. Almost three months later, on May 3, 2012, Respondent responded to Complainant’s *force majeure* letter (Exhibit A) by (A) disagreeing that the air quality permit issue is an event of *force majeure*, (B) giving notice that it will deem Complainant to be in material breach of the FESA if Complainant fails to achieve the Operation Date by June 1, 2012, and (C) advising further that if the Operation Date of June 1, 2012, is not satisfied, then Delay Liquidated Damages in the amount of \$144,000 would be due and payable to Respondent under Article 5.3.2 of the FESA.

14. On May 16, 2012, Complainant gave written notice of a second *force majeure* event to the Respondent and to Ada County. True and correct copies of those letters are attached hereto as **Exhibits C and D**, respectively. That second *force majeure* event traces to a contract between Ada County and Dynamis Energy, LLC, entered in or about November 1, 2011, whereby Ada County promised to deliver to Dynamis some 408 tons of landfill waste per day, which waste was otherwise destined for the Hidden Hollow landfill in Ada County, State of Idaho, and would otherwise have generated the methane gas already promised to Complainant. After meetings between Complainant and Ada County in January 2012, through which Complainant obtained additional information sufficient to calculate future gas curves reasonably likely to come out of the Ada County landfill at Hidden Hollow, and as impacted by the Dynamis

contract with Ada County, it became apparent to Complainant that the Ada County contract with Dynamis was inconsistent with Ada County's prior underlying Landfill Gas Franchise Agreement(s) with Complainant.

15. On June 1, 2012, the project contemplated by the FESA was not up and running by the June 1, 2012 Operation Date, due to the events specified by Complainant in its aforesaid *force majeure* letters.

16. On June 7, 2012, Ada County responded to **Exhibit D**, disagreeing with the *force majeure* event cited by Complainant in its May 16, 2012, letter. A true and correct copy of Ada County's June 7, 2012, letter is attached hereto as **Exhibit E**.

17. On June 11, 2012, in response to these developments, Complainant issued a letter to the Commission dated June 11, 2012, citing the two *force majeure* events and the Dispute Resolution Clause, Section 19.1, in the FESA. A true and correct copy of the June 11, 2012, letter is attached hereto as **Exhibit F**.

18. On June 14, 2012, Respondent wrote Complainant, purporting to terminate the FESA and requesting payment of Delay Liquidated Damages of \$144,000. A true and correct copy of that letter is attached hereto as **Exhibit G**.

19. On June 14, 2012, Respondent also issued a letter to the Commission advising of its contention that it had, by virtue of Exhibit G, terminated the FESA with Complainant, notwithstanding (A) the Commission's Final Order No. 32180 approving said agreement, (B) the June 11, 2012, letter by Complainant invoking the Commission's jurisdiction, and (C) the Complainants' underlying timely written notices of *force majeure* events, which suspended performance by Complainant and thereby precluded a finding of material breach. A

true and correct copy of Respondent's June 14, 2012, letter to the Commission is attached hereto as **Exhibit H**.

20. On June 19, 2012, IDEQ issued to Complainant a new Air Quality Permit to Construct, setting substantially more rigorous air emission standards than under its prior permit. A true and correct copy of the June 19, 2012, Air Quality Permit to Construct is attached hereto as **Exhibit I**.

21. On June 22, 2012, Respondent drew down on Complainant's posted security in the amount of \$144,000. This drawdown on this security was wrongful under the aforesaid facts and legal authorities.

VII. LEGAL CLAIM

22. Complainant's foregoing paragraphs 1 – 21 are repeated and re-alleged as if set forth at length.

23. Respondent breached the FESA by unilaterally suspending its performance, by declaring Complainant to be in material breach, by drawing down on Complainant's security, and by unilaterally declaring the FESA to be terminated.

24. Respondent further breached the FESA by failing to adjudicate its disputes with Complainant before this Commission, despite having received prior notice to do so in a manner consistent with FESA and the plain language of the FESA.

25. Complaint has made reasonable and substantial efforts to perform under the FESA. Notwithstanding those best efforts, unforeseen air emission and related air quality permit problems caused by others made it impossible to perform fully by, e.g., putting its air permit in jeopardy, beginning in June 2011, which lead to a new and substantially more rigorous

air permit issued June 19, 2012. Moreover, and separately, based upon underlying agreements with Ada County, State of Idaho, tracing back to 2005 granting Complainant's affiliate with rights to exploit landfill methane gas to energy projects under PURPA, Complainant did not and could not have foreseen that Ada County would, in November 2011, enter into a second contract with Dynamis promising substantial and increased amounts of waste material to it, rather than allow same to go into the landfill at Hidden Hollow, as previously contemplated, so as to generate landfill methane gas for Complainant's projects.

26. Complainant has made its best efforts to give timely and proper notices of *force majeure* to both the Respondent and to Ada County. Nonetheless, both Respondent and Ada County have rejected those *force majeure* notices. Respondent has purported to deem Complainant's performance under the FESA to be in material breach, ignoring (A) the *force majeure* letters and reasons contained therein, and (B) Complainant's prior invocation of this Commission's jurisdiction on June 11, 2012. Complainant could not and did not foresee that Respondent would enter into an agreement with Dynamis for 408 tons of refuse to be delivered to Dynamis that would otherwise have been delivered to the Ada County landfill.

27. The Commission has authority to resolve disputes under Section 19.1 of the FESA, including "all disputes related to or arising under this agreement . . . [including] the interpretation of the terms and conditions of this agreement." According to the FESA, such disputes "will be submitted to the Commission for resolution."

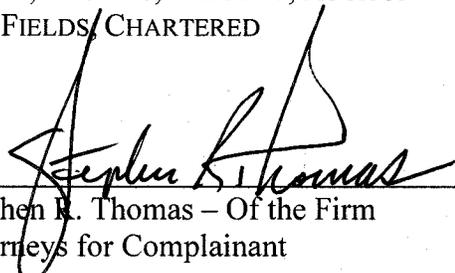
VIII. PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the Commission issue an order:

1. Requiring Respondent to rescind and retract its June 14, 2012, letter of termination and allegation of Complainant's material breach (Exhibit G);
2. Requiring Respondent to return the \$144,000 Delay Liquidated Damages to Complainant;
3. Declaring under Idaho Code Section 10-1203, Title 61, Idaho Code, and the Commission's inherent authority, that Complainant is not in material breach of the FESA and that the two incidents of *force majeure* cited in Exhibits A and C are indeed valid *force majeure* events under the FESA; and
4. Granting any other relief in favor of Complainant that the Commission deems necessary.

RESPECTFULLY SUBMITTED this 13th day of July, 2012.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Stephen R. Thomas – Of the Firm
Attorneys for Complainant

CERTIFICATE OF SERVICE

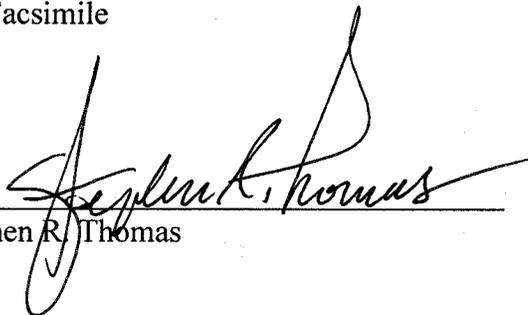
I HEREBY CERTIFY that on this 13th day of July, 2012, I caused a true and correct copy of the foregoing **FORMAL COMPLAINT** to be served by the method indicated below, and addressed to the following:

Jean Jewell
Commission Secretary
IDAHO PUBLIC UTILITIES COMMISSION
472 W. Washington St.
Boise, ID 83702
jean.jewell@puc.idaho.gov

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Office of General Counsel
IDAHO POWER COMPANY
1221 W. Idaho St.
Boise, ID 83702
Attn.: Jason B. Williams

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile



Stephen R. Thomas

EXHIBIT A

HIDDEN HOLLOW ENERGY 2 LLC

c/o Fortistar Methane Group
One North Lexington Avenue ♦ White Plains, New York 10601
Tel. (914) 421-4900 ♦ Fax. (914) 421-0052

February 7, 2012

Senior Vice President, Power Supply
Idaho Power Company
P.O. Box 70
Boise, Idaho
83707

Re: Firm Energy Sales Agreement

Dear Sir or Madame:

We refer to the Firm Energy Sales Agreement between Idaho Power Company ("IPC") and Hidden Hollow Energy 2 LLC ("Seller"), dated December 8, 2010 (as amended, supplemented or otherwise modified, the "PPA"). Capitalized terms used in this letter without definition have the meanings set forth in the PPA.

Seller is advising IPC that an event of Force Majeure commenced on June 22, 2011 and continues to date with respect to the sole fuel supply source of the Facility. As you are aware, and as further described below, this event has occurred through no fault of Seller, and despite its exercise of due diligence, Seller is unable to remedy the situation at this time.

On June 22, 2011, Ada County, Idaho (the "County") advised the Idaho Department of Environmental Quality ("IDEQ") that the levels of certain contaminants in the landfill gas being supplied by the County from the Ada County Landfill (the "Landfill") to Seller under an existing landfill gas supply agreement had increased to a level such that the County was no longer in compliance with its existing air quality permit. Specifically, the County confirmed that samples tested at the Landfill indicated that the landfill gas being collected by the County contained hydrogen sulfide ("H₂S") at concentration levels almost twenty times the concentration levels allowed by the County's existing permit.

Since the County's June 22 advice to IDEQ, Seller has actively and continually sought information and guidance from both the County and IDEQ regarding the County's proposed H₂S remediation plan and Seller has since that date continually modified its Facility construction schedule in light of this ongoing issue. Seller's representatives have met with the County at least six times (as recently as Wednesday, January 25, 2012), in order to address this matter. In an attempt to expedite a solution for all parties involved, Seller proposed to the County on December 8, 2011 a plan to finance, design, construct, own and operate an H₂S remediation system at the Landfill, which plan was rejected by the County in writing on January 12, 2012. Unfortunately, despite Seller's good faith efforts to move forward as expeditiously as possible,

the County has not yet finalized its remediation plan, has rejected Seller's offer to provide financing and installation assistance for a proven H₂S remediation system, and, as we understand it, is now in the process of designing itself an H₂S remediation system. We do not know at this time when such plan will be ready for our review.

In addition, Seller does not know at this time what additional remediation equipment may be needed, what changes to the Facility's footprint may be required, and what additional requirements or conditions may be contained in the County's or Seller's modified permits. These questions can only be answered after (i) IDEQ has completed whatever investigation of the Landfill's emissions it deems appropriate (after receipt of all data required of the County), (ii) modified air permits are issued by IDEQ to the County and Seller, and (iii) the County has finalized its remediation plan consistent with its revised air permit. Only then can Seller properly complete its design, engineering and construction of the Facility.

Due to the foregoing, (i) Seller will be unable to cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date of February 28, 2012, as required by Section 5.3 of the PPA, and (ii) pursuant to Section 14.1 of the PPA, hereby notifies you that Seller is rendered unable to perform such obligation because of an event of Force Majeure that commenced on June 22, 2011 and continues today. The events described above regarding the quality of the landfill gas at the Landfill have occurred through no fault of Seller, were impossible to have been expected by Seller and, as of this date, are impossible for Seller to overcome.

Despite the foregoing declaration and anticipated delay in permitting, construction and ultimate commercial operation, Seller remains confident that, given appropriate and timely assistance and cooperation from the County, the Facility will be built and will operate in accordance with the PPA. In fact, Seller continues to work diligently with IDEQ and the County to resolve the aforementioned issues and to commence construction and operation of the Facility as soon as is legally permitted, and Seller undertakes to provide IPC with regular updates on the status of the party's resolution of this matter. Seller remains committed to completing the Facility in a commercially reasonable manner as quickly as is practicable.

Very truly yours,

HIDDEN HOLLOW ENERGY 2 LLC

By: 

Name: Thomas J. Gesicki

Title: President

Cc: Idaho Power Company,
Cogeneration and Small Power Production

EXHIBIT B

HIDDEN HOLLOW ENERGY 2 LLC

c/o Fortistar Methane Group
One North Lexington Avenue ♦ White Plains, New York 10601
Tel. (914) 421-4900 ♦ Fax. (914) 421-0052

February 7, 2012

Board of Ada County Commissioners
200 W. Front Street, 3rd Floor
Boise, Idaho 83702

Re: Landfill Gas Franchise Agreement

Dear Commissioners:

We refer to the Landfill Gas Franchise Agreement (Agreement No. 9261) between Hidden Hollow Energy 2 LLC ("Franchisee") and Ada County, Idaho (the "County"), dated February 22, 2011 (as amended, supplemented or otherwise modified, the "Franchise Agreement"). Capitalized terms used in this letter without definition have the meanings set forth in the Franchise Agreement.

Franchisee is advising the County that an event of Force Majeure has occurred under the Franchise Agreement with respect to the sole fuel supply source of the Franchisee's Facilities, which event will prevent Commercial Operations from commencing within 12 months after the date of execution of the Franchise Agreement, as required by Sections 2.3(A) and (C) of the Franchise Agreement. As you know, and as further described below, this event has occurred through no fault of Franchisee, and despite its exercise of due diligence, Franchisee is unable to remedy the situation at this time.

As you are aware, the concentrations of certain contaminants in the Landfill gas being supplied by the County from the Landfill to Franchisee have increased to a level such that neither the County nor Franchisee is in compliance with its existing air quality permit. We understand that samples tested at the Landfill have indicated that the Landfill Gas being collected by the County contains hydrogen sulfide ("H₂S") at concentration levels almost twenty times the concentration levels allowed by the County's existing air permit.

Franchisee has actively and continually sought information and guidance from both the County and the Idaho Department of Environmental Quality regarding the County's proposed H₂S remediation plan, and Franchisee has continually modified its Facility construction schedule in light of this ongoing issue. In an attempt to expedite a solution acceptable to both parties, Franchisee proposed to the County on December 8, 2011 a plan to finance, design, construct, own and operate an H₂S remediation system at the Landfill, which plan was rejected by the County in a writing dated January 12, 2012. Unfortunately, despite Franchisee's good faith efforts to move forward as expeditiously as possible, the County's remediation plan has not been

finalized. Franchisee is prepared to review the County's plan, on which Franchisee must now rely, promptly upon receipt.

In addition, Franchisee does not know at this time what changes to the Franchisee's Facilities' equipment layout, design, and operating procedures may be required, and what additional requirements or conditions may be contained in Franchisee's modified air permit. Until these facts are known, Franchisee cannot complete the design, equipment procurement and construction of Franchisee's Facility.

Due to the foregoing, (i) Franchisee will be unable to cause Franchisee's Facilities to commence Commercial Operations on or before February 22, 2012 (the 12-month anniversary of the execution of the Franchise Agreement), and (ii) hereby notifies you that Franchisee is rendered unable to perform such obligation because of the occurrence of a continuing event of Force Majeure. The events described above regarding the quality of the Landfill Gas at the Landfill have occurred through no fault of Franchisee, were impossible to have been expected by Franchisee and, as of this date, are impossible for Franchisee to overcome.

Nothing contained in this letter shall be deemed to (i) be a waiver by Franchisee of any of its rights or remedies under the Franchise Agreement, or (ii) constitute a release or waiver by Franchisee of any present or future claims arising under or with respect to the Franchise Agreement.

Very truly yours,

HIDDEN HOLLOW ENERGY 2 LLC

By: 

Name: Thomas J. Gesicki

Title: President

Cc: Ada County Operations Director

EXHIBIT C

HIDDEN HOLLOW ENERGY 2 LLC

c/o Fortistar Methane Group LLC
One North Lexington Avenue ♦ White Plains, New York 10601
Tel. (914) 421-4900 ♦ Fax. (914) 421-0052

May 16, 2012

Senior Vice President, Power Supply
Idaho Power Company
P.O. Box 70
Boise, Idaho
83707

Re: Firm Energy Sales Agreement

Dear Sir or Madame:

We refer to the Firm Energy Sales Agreement between Idaho Power Company ("IPC") and Hidden Hollow Energy 2 LLC ("Seller"), dated December 8, 2010 (as amended, supplemented or otherwise modified, the "PPA"). Capitalized terms used in this letter without definition have the meanings set forth in the PPA.

Seller hereby advises IPC that an event of Force Majeure has occurred under the PPA with respect to the sole fuel supply source of the Seller's Facility. This event has occurred through no fault of Seller, and despite its exercise of due diligence, Seller is unable to remedy the situation at this time.

On February 7, 2012 Seller sent a letter to IPC advising of the occurrence of an event of Force Majeure involving the inability of Seller to comply with its existing air quality permit, due to increased concentration of hydrogen sulfide contained in the Landfill Gas from the Landfill supplied by Ada County, Idaho (the "County") to Seller. That event of Force Majeure continues today. However, the event of Force Majeure described herein is separate and distinct from the event of Force Majeure described in that February 7th letter.

Section 3.1 of the Landfill Gas Franchise Agreement (Agreement No. 9261) between Seller and the County, dated February 22, 2011 (as amended, supplemented or otherwise modified, the "Gas Agreement") states, in part:

"On and after the Commercial Operations Date, subject to the terms and conditions of this Agreement, County shall sell to [Seller] and deliver to the Delivery Point, and [Seller] shall purchase and take at the Delivery Point 100% of [Seller's] requirements of County's Landfill Gas as needed by [Seller] to operate [Seller's] Facilities, but in no event more than 1,250 scfm."

Section 2.6 of the Gas Agreement specifically contemplates that Seller's Facility will initially include an electric power plant including two Caterpillar low emission engine-generator sets (3520's). These Caterpillar engine-generator sets each require at least 600 scfm of landfill gas to operate. It is, therefore, impossible to run both of these engine-generator sets continuously at full output if the landfill gas from the Landfill to Seller's Facility falls below 1,200 scfm.

Seller has been made aware, through media reports, press releases issued by the County and subsequent discussions with the County, that while the County and Seller were actively negotiating the terms of the Gas Agreement in 2011, the County separately negotiated and entered into certain contractual arrangements with Dynamis Energy, LLC ("Dynamis"), whereby Dynamis was given the right to divert from the Landfill a minimum of 408 tons of municipal solid waste per day and up to 572 tons of municipal solid waste per day, and to use such waste as fuel for a separate waste to energy facility generating electricity to be sold to IPC (the "Dynamis Project"). Seller has learned that Dynamis has also executed a power purchase agreement with IPC, whereby IPC would purchase 100% of the electricity generated by the Dynamis Project.

In addition, Seller has been advised by the County that the municipal solid waste to be diverted to the Dynamis Project will consist primarily of high levels of organic materials, while the remaining waste being deposited into the Landfill (and ultimately decomposing into Landfill Gas available to Seller's Facility) will contain a lower concentration of organic materials, thus generating significantly less Landfill Gas upon its anaerobic decomposition.

After learning of the Dynamis Project and the contractual rights to this municipal solid waste granted to Dynamis by the County, Seller commenced an internal investigation to determine the potential effects of the Dynamis Project on the Seller's Facility. This internal investigation shows that the Dynamis Project (even at its minimum size of 408 tons of municipal solid waste per day) will have the effect of permanently reducing Landfill Gas from the Landfill to levels significantly below the 100% (or 1,250 scfm) requirements needed by the Seller's Facility and that are required by the Gas Agreement. This result would be unaffected despite additional gas collection wells contemplated by the County.

Because of the significant uncertainty created by County's and IPC's contractual arrangements with Dynamis and the potential permanent reduction in the quantity of Landfill Gas to be delivered to Seller's Facility due to the Dynamis Project, Seller (i) is unable at this time to commence construction of Seller's Facility, (ii) cannot obtain the debt or equity financing otherwise available to it to pay for the construction of Seller's Facility, and (iii) hereby notifies you that Seller is rendered unable to perform its obligation to construct Seller's Facility at this time because of the occurrence of a continuing event of Force Majeure.

In addition, Seller hereby notifies IPC that because of this continuing event of Force Majeure, Delay Liquidated Damages under the PPA shall not be due and owing with respect to Seller's failure to cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date.

The events described above regarding the impending insufficiency and inadequacy of Landfill Gas at the Landfill due to the Dynamis Project have occurred through no fault of Seller,

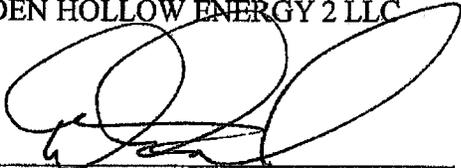
were created solely by the actions of others, including the County, were impossible to have been expected by Seller and, as of this date, are impossible for Seller to overcome.

We remind IPC that, during the negotiation of the PPA between Seller and IPC, IPC requested that Seller demonstrate an adequate supply and quality of Landfill Gas at the Facility so as to ensure a viable generation project for the life of the PPA. Seller complied with that requirement by negotiating a Gas Agreement that provided for the supply of 100% of Seller's fuel requirements (subject to a maximum amount). We note, however, that the adequate supply and quality requirement specifically requested by IPC will now be violated solely because of the existence of the Dynamis Project, which is now contractually obligated to sell all of its generated electricity to IPC.

Nothing contained in this letter shall be deemed to (i) be a waiver by Seller of any of its rights or remedies under the PPA, or (ii) constitute a release or waiver by Seller of any present or future claims against IPC, the County or any other third party.

Very truly yours,

HIDDEN HOLLOW ENERGY 2 LLC

By: 

Name: David Wentworth

Title: Senior Vice President

Cc: Idaho Power Company,
Cogeneration and Small Power Production

EXHIBIT D

HIDDEN HOLLOW ENERGY 2 LLC
c/o Fortistar Methane Group LLC
One North Lexington Avenue ♦ White Plains, New York 10601
Tel. (914) 421-4900 ♦ Fax. (914) 421-0052

May 16, 2012

Board of Ada County Commissioners
200 W. Front Street, 3rd Floor
Boise, Idaho 83702

Re: Landfill Gas Franchise Agreement

Dear Commissioners:

We refer to the Landfill Gas Franchise Agreement (Agreement No. 9261) between Hidden Hollow Energy 2 LLC ("Franchisee") and Ada County, Idaho (the "County"), dated February 22, 2011 (as amended, supplemented or otherwise modified, the "Franchise Agreement"). Capitalized terms used in this letter without definition have the meanings set forth in the Franchise Agreement.

Franchisee hereby advises the County that an event of Force Majeure has occurred under the Franchise Agreement with respect to the sole fuel supply source of the Franchisee's Facilities, which event has prevented Commercial Operations from commencing within 12 months after the date of execution of the Franchise Agreement, as required by Sections 2.3(A) and (C) of the Franchise Agreement.

On February 7, 2012 Franchisee sent a letter to the Board of Ada County Commissioners advising of the occurrence of an event of Force Majeure involving the inability of the Franchisee to comply with its existing air quality permit, due to increased concentration of hydrogen sulfide contained in the Landfill Gas from the Landfill supplied by County to Franchisee. That event of Force Majeure continues today. However, the event of Force Majeure described herein is separate and distinct from the event of Force Majeure described in that February 7th letter.

Section 3.1 of the Franchise Agreement states, in part:

"On and after the Commercial Operations Date, subject to the terms and conditions of this Agreement, County shall sell to Franchisee and deliver to the Delivery Point, and Franchisee shall purchase and take at the Delivery Point 100% of Franchisee's requirements of County's Landfill Gas as needed by Franchisee to operate Franchisee's Facilities, but in no event more than 1,250 scfm."

Section 2.6 of the Franchise Agreement specifically contemplates that Franchisee's Facilities will initially include an electric power plant including two Caterpillar low emission engine-generator sets (3520's). As the County is aware, these Caterpillar engine-generator sets each require at least 600 scfm of landfill gas to operate. It is, therefore, impossible to run both of these engine-generator sets continuously at full output if the landfill gas from the Landfill to Franchisee's Facilities falls below 1,200 scfm.

Franchisee has been made aware, through media reports, press releases issued by the County and subsequent discussions with the County, that while the County and Franchisee were actively negotiating the terms of the Franchise Agreement in 2011, the County separately negotiated and entered into certain contractual arrangements with Dynamis Energy, LLC ("Dynamis"), whereby Dynamis was given the right to divert from the Landfill a minimum of 408 tons of municipal solid waste per day and up to 572 tons of municipal solid waste per day, and to use such waste as fuel for a separate waste to energy facility generating electricity to be sold to Idaho Power Company (the "Dynamis Project").

In addition, Franchisee has been advised by the County that the municipal solid waste to be diverted to the Dynamis Project will consist primarily of high levels of organic materials, while the remaining waste being deposited into the Landfill (and ultimately decomposing into Landfill Gas available to Franchisee's Facilities) will contain a lower concentration of organic materials, thus generating significantly less Landfill Gas upon its anaerobic decomposition.

After learning of the Dynamis Project and the contractual rights to this municipal solid waste granted to Dynamis by the County, Franchisee immediately commenced an internal investigation to determine the potential effects of the Dynamis Project on the Franchisee's Facilities. This internal investigation shows that the Dynamis Project (even at its minimum size of 408 tons of municipal solid waste per day) will have the effect of permanently reducing Landfill Gas from the Landfill to levels well below the 100% (or 1,250 scfm) requirements needed by the Franchisee's Facilities and that are required by the Agreement. This result would be unaffected despite additional gas collection wells contemplated by the County.

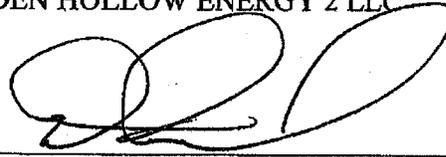
Because of the significant uncertainty created by County's contractual arrangements with Dynamis and the potential permanent reduction in the quantity of Landfill Gas to be delivered to Franchisee's Facilities due solely to the Dynamis Project, Franchisee (i) is unable at this time to commence construction of Franchisee's Facilities, (ii) cannot obtain the debt or equity financing otherwise available to it to pay for the construction of Franchisee's Facilities, and (iii) hereby notifies you that Franchisee is rendered unable to perform its obligation to construct Franchisee's Facilities at this time because of the occurrence of a continuing event of Force Majeure. The events described above regarding the impending insufficiency and inadequacy of Landfill Gas at the Landfill due to the Dynamis Project have occurred through no fault of Franchisee, were created solely by the actions of the County, were impossible to have been expected by Franchisee and, as of this date, are impossible for Franchisee to overcome.

Nothing contained in this letter shall be deemed to (i) be a waiver by Franchisee of any of its rights or remedies under the Franchise Agreement, or (ii) constitute a release or waiver by Franchisee of any present or future claims against the County arising under or with respect to the

Franchise Agreement. Without limiting the generality of the foregoing, Franchisee retains all rights and causes of action it may have in respect of claims for breach of the Franchise Agreement by the County due to the facts and circumstances described herein.

Very truly yours,

HIDDEN HOLLOW ENERGY 2 LLC



By: _____

Name: David Wentworth

Title: Senior Vice President

Cc: Ada County Operations Director

EXHIBIT E



ADA COUNTY

COMMISSIONERS'
OFFICE
200 W. Front Street, 3rd Floor
Boise, Idaho 83702
(208) 287-7000
Fax (208) 287-7009
bocc1@adaweb.net
www.adaweb.net

June 7, 2012

David Wentworth, Senior Vice President
Hidden Hollow Energy 2 LLC
C/O Fortistar Methane Group
One North Lexington Ave
White Plains, NY 10601

RE: Landfill Gas Franchise Agreement

Dear Mr. Wentworth:

We have received your letter dated May 16, 2012. We must respectfully disagree with Hidden Hollow Energy 2 LLC's (HHE2) claim made in HHE2's letter dated February 7, 2012 that the increase in the concentration of hydrogen sulfide gas in the County's Landfill Gas is an event of force majeure under the Landfill Gas Franchise Agreement (Ada County Agreement No. 9261) between HHE2 and Ada County which prohibits HHE2 from installing 2 Caterpillar low emission generators.

Second, we must also disagree with HHE2's new assertion in the May 16th letter that the proposed Dynamis Project constitutes a separate new event of force majeure under the Franchise Agreement based on HHE2's claim that the Project potentially reduces the availability of Landfill Gas below the amount needed to run the 2 Caterpillar low emission generators under the Franchise Agreement.

The County, however, recognizes that it has a mutually beneficial and ongoing relationship with Fortistar with the 2 Caterpillar generators currently operating under the Amended and Restated Landfill Gas Franchise Agreement Between Hidden Hollow Energy LLC and Ada County (Ada County Agreement No. 7311-2-11). In light of this ongoing relationship, Ada County proposes that HHE2 and the County mutually agree to cancel Landfill Gas Franchise Agreement (Ada County Agreement No. 9261).

We look forward to your response and any further discussions necessary to resolve the outstanding issues in our business relationship.

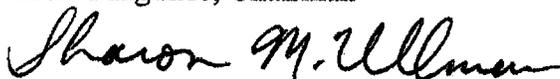
David Wentworth, Senior Vice President
June 7, 2012
Page 2

Be advised, however, that nothing contained in this letter shall be deemed a waiver of any rights or remedies that the County has under the Landfill Gas Franchise Agreement. Nothing contained in this letter shall be deemed to constitute a release or waiver by the County of any present or future claims the County has against HHE2 arising under or with respect to the Landfill Gas Franchise Agreement. The County expressly retains all of its rights and causes of action it may have with respect to claims for breach of the Landfill Gas Franchise Agreement by HHE2's actions.

Sincerely,



Rick Yzaguirre, Chairman



Sharon M. Ullman, Commissioner

David L. Case, Commissioner

cc: Thomas J. Gesicki, Fortistar
Robert F. Dunbar, Esq., Fortistar
Arthur Hull Hayes III, Esq., Fortistar

EXHIBIT F

HIDDEN HOLLOW ENERGY 2 LLC
c/o Fortistar Methane Group LLC
One North Lexington Avenue ♦ White Plains, New York 10601
Tel. (914) 421-4900 ♦ Fax. (914) 421-0052

June 11, 2012

Idaho Public Utilities Commission
472 W. Washington Street
Boise, Idaho 83702-5918
Attention: Commission Secretary

Re: Firm Energy Sales Agreement – Case No. IPC E-10-44

Dear Sirs and Madames:

We refer to the Firm Energy Sales Agreement between Idaho Power Company (“IPC”) and Hidden Hollow Energy 2 LLC (“Seller”), dated December 8, 2010 (as amended, supplemented or otherwise modified, the “PPA”). Capitalized terms used in this letter without definition have the meanings set forth in the PPA. The PPA was approved by the Idaho Public Utilities Commission (the “Commission”) on February 11, 2011 in Case No. IPC-E-10-44.

Several disputes between Seller and IPC have arisen under the PPA in connection with the occurrence of two separate events of Force Majeure, each of which has prevented Seller from performing under the PPA. These events involve (i) the inability to date of Seller to obtain an air permit from the Idaho Department of Environmental Quality due to actions taken solely by Ada County (the “County”), and (ii) the execution of certain contracts by the County, IPC and Dynamis Energy, LLC, which Seller believes make it impossible for Seller to receive the quantity and quality of fuel necessary to operate its electric generating facility at the Ada County Landfill, as required by the Landfill Gas Franchise Agreement between Seller and the County.

IPC (i) has notified Seller that IPC rejects Seller’s position that events of Force Majeure exist, and (ii) has threatened to terminate the PPA and assess significant monetary delay liquidated damages against Seller.

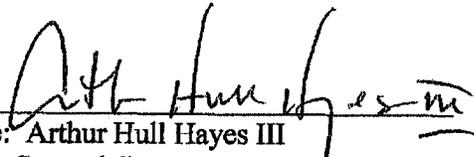
Section 19.1 of the PPA provides that “All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution”. Thus, pursuant to Section 19.1 of the PPA, Seller hereby submits the aforementioned disputes to the Commission, and respectfully requests the Commission’s resolution of the same.

Under separate cover, Seller will supply the Commission with relevant documentation relating to the disputes described above. Seller also requests from the Commission guidance as to the Commission’s evidentiary requirements, procedures and schedule for resolving the issues outlined above.

If you have any questions regarding the foregoing, please contact either Arthur Hayes, General Counsel of Seller (914-421-4910 and ahayes@fortistar.com), or Stephen Thomas of Moffatt Thomas Barrett Rock & Fields, Chtd. (208-345-2000 or srt@moffatt.com).

Very truly yours,

HIDDEN HOLLOW ENERGY 2 LLC

By: 

Name: Arthur Hull Hayes III

Title: General Counsel

Cc: Idaho Power Company
Stephen Thomas, Esq.

EXHIBIT G



RECEIVED

2012 JUN 14 PM 4:47

IDAHO PUBLIC UTILITIES COMMISSION

JASON B. WILLIAMS
Corporate Counsel
jwilliams@idahopower.com

June 14, 2012

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case No. IPC-E-10-44
Hidden Hollow Energy 2 LLC Firm Energy Sales Agreement – Termination
of Agreement

Dear Ms. Jewell:

Please be advised that Idaho Power Company ("Idaho Power") has terminated the Firm Energy Sales Agreement ("FESA") with Hidden Hollow Energy 2 LLC ("Hidden Hollow") that was approved by the Idaho Public Utilities Commission ("Commission") in Final Order No. 32180.

Enclosed please find the May 3, 2012, Notice of Failure to Meet the Scheduled Operation Date in the Firm Energy Sales Agreement sent by Idaho Power to Hidden Hollow. This Notice advised Hidden Hollow that it had failed to meet the required Scheduled Operation Date of February 28, 2012, contained in the FESA. The Notice further advised that if Hidden Hollow did not achieve an Operation Date by June 1, 2012, (within 90 days of the Scheduled Operation Date), that Delay Liquidated Damages in the amount of \$144,000 would be due and payable to Idaho Power, and that Idaho Power may terminate the FESA at that time.

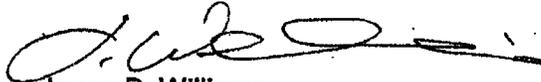
Also enclosed please find the June 14, 2012, Termination Notice from Idaho Power to Hidden Hollow advising that Hidden Hollow has failed to achieve its Operation Date within 90 days of the Scheduled Operation Date pursuant to its obligations contained in the FESA, that the FESA is now terminated, and Delay Liquidated Damages referenced above are now due and payable to Idaho Power. This Notice of Termination also notifies Hidden Hollow that if payment in full of the Delay Liquidated Damages is not received with 7 days, that Idaho Power will draw those funds from the Delay Security provided by Hidden Hollow under the FESA.

1221 W. Idaho St. (83702)
P.O. Box 70
Boise, ID 83707

Jean D. Jewell
June 14, 2012
Page 2 of 2

This letter and its attachments are being sent to the Commission for inclusion as part of the Commission's file and record, evidencing the Notice and Termination of this Commission-approved Firm Energy Sales Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Williams", written over a horizontal line.

Jason B. Williams

JBW:csb
Enclosures

cc: Kristine A. Sasser (w/encls.)
Rick Sterling (w/encls.)



May 3, 2012

Thomas J. Gesicki
Hidden Hollow Energy 2 LLC
One North Lexington Avenue
White Plains, NY 10601

Original: Via Certified Mail, Return Receipt Requested

E-mail Copy: Lew Staley - lstaley@fortistar.com

Re: Hidden Hollow, Firm Energy Sales Agreement
February 7, 2012 Claim of an Event of Force Majeure
Notice of failure to meet Scheduled Operation Date

Dear Mr. Gesicki:

Idaho Power has received your letter dated February 7, 2012, in which you have claimed an event of Force Majeure has occurred pursuant to the Firm Energy Sales Agreement (FESA) dated December 8, 2010.

Force Majeure is defined in the FESA as, "any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome." FESA, Article 14.1. Force Majeure contemplates such things that were unforeseeable and outside of either parties control such as "acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by exercise of due diligence, it shall be unable to overcome. Force Majeure does not include short-term disruptions or curtailment of the Facility's fuel supply." The event of Force Majeure must be an event which, "by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome."

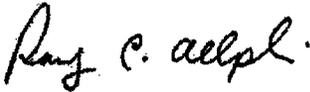
The events described are disruptions in your fuel supply which do not constitute an event of Force Majeure as defined in the FESA. Your letter states that landfill gas collected by the County contained hydrogen sulfide at concentration levels higher than allowed by its existing permit, which led to loss of a permit and is in the process of being rectified. The existence of the proper permitting and varying levels of hydrogen sulfide are known, foreseeable, and anticipated issues in the operation of a landfill gas supplied generation facility. An event of Force Majeure occurs when there is an event of effect that can neither be anticipated nor controlled. Because your fuel supplier's air quality permit concerns are a foreseeable, anticipated occurrence with this type of project and constitute a short-term disruption or curtailment of the fuel supply, Idaho Power does not agree that an event of Force Majeure has occurred.

Furthermore, please be advised that you have passed your Scheduled Operation Date of February 28, 2012, without bringing the project online and operational. Please let this letter service as notice that if you fail to achieve the Operation Date by June 1, 2012, pursuant to Article 5.4 of the FESA, such failure is a Material

Breach and Idaho Power may terminate the FESA at that time. Additionally, please be advised that if you fail to achieve the Operation Date by June 1, 2012, Delay Liquidated Damages in the amount of \$144,000 will be due and payable to Idaho Power pursuant to Article 5.3.2. If these Delay Damages are not paid within seven days of Idaho Power's presentation of a billing for such amount, then pursuant to Article 5.5, Idaho Power will draw funds from the Delay Security that you have provided

If you have any additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Randy C. Allphin".

Randy C. Allphin
Idaho Power Company



June 14, 2012

Hidden Hollow Energy 2 LLC
C/o Fortistar Methane Group LLC
Attn: David Wentworth
One North Lexington Avenue
White Plains, NY 10601

Original: Via Certified Mail, Return Receipt Requested

E-mail Copy: Lew Staley lstaley@fortistar.com
Thomas Gesicki tgesicki@fortistar.com

Re: Hidden Hollow Energy 2 LLC Firm Energy Sales Agreement

Notice of:
Termination of Firm Energy Sales Agreement
Collection of Delay Liquidated Damages

Dear Mr. Wentworth:

As Idaho Power advised in our letter dated May 3, 2012 to Mr. Gesicki, as of June 1, 2012 Hidden Hollow Energy 2, LLC is in Material Breach of the Firm Energy Sales Agreement between Idaho Power and Hidden Hollow Energy 2 LLC dated December 8th, 2010 ("FESA").

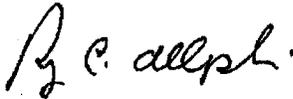
This Material Breach is a result of the project failing to achieve its Operation Date within 90 days of the Scheduled Operation Date of February 28th, 2012 and Article 5.4 of the FESA states that Idaho Power may terminate this FESA at any time as result of this Material Breach. Therefore as of the date of this letter this FESA has been terminated.

In addition as a result of the project failing to achieve its Operation Date Idaho Power is issuing this request for payment of Delay Liquidated Damages calculated pursuant to within Article 5.3 of the FESA to be \$144,000. As specified in Article 5.5 of the FESA the Seller must pay these Delay Liquidated Damages within 7 days of when Idaho Power presents this billing to the Seller. Thus this payment in the amount of \$144,000 is due and payable to Idaho Power no later than 5:00 PM, Mountain Standard Time, June 21st, 2012. Failure to make this payment by that time will result in Idaho Power exercising its rights to draw funds from the Delay Security provided by the project.

As you are aware, Hidden Hollow Energy 2 LLC has provided various documents to Idaho Power claiming that a Force Majeure had occurred that prevented the project from achieving its Operation Date. Idaho Power has denied all of these claims as these claims do not meet the criteria to be an event of Force Majeure and/or they are specifically excluded from being a Force Majeure (i.e. – Article 14.1 “...Force Majeure does not include short-term disruptions or curtailment of the Facility’s fuel supply”)

If you have any additional questions, please feel free to contact me.

Sincerely,



Randy C. Allphin
Idaho Power Company

Cc: Donovan Walker (IPCo)
Jason Williams (IPCo)

Hidden Hollow Energy 2 LLC
C/o Fortistar Methane Group LLC
Attn: Thomas J. Gesicki
One North Lexington Avenue
White Plains, NY 10601

EXHIBIT H



June 14, 2012

Hidden Hollow Energy 2 LLC
C/o Fortistar Methane Group LLC
Attn: David Wentworth
One North Lexington Avenue
White Plains, NY 10601

Original: Via Certified Mail, Return Receipt Requested

**E-mail Copy: Lew Staley lstaley@fortistar.com
Thomas Gesicki tgesicki@fortistar.com**

Re: Hidden Hollow Energy 2 LLC Firm Energy Sales Agreement

**Notice of:
Termination of Firm Energy Sales Agreement
Collection of Delay Liquidated Damages**

Dear Mr. Wentworth:

As Idaho Power advised in our letter dated May 3, 2012 to Mr. Gesicki, as of June 1, 2012 Hidden Hollow Energy 2, LLC is in Material Breach of the Firm Energy Sales Agreement between Idaho Power and Hidden Hollow Energy 2 LLC dated December 8th, 2010 ("FESA").

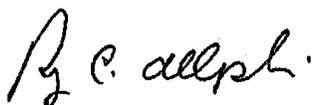
This Material Breach is a result of the project failing to achieve its Operation Date within 90 days of the Scheduled Operation Date of February 28th, 2012 and Article 5.4 of the FESA states that Idaho Power may terminate this FESA at any time as result of this Material Breach. Therefore as of the date of this letter this FESA has been terminated.

In addition as a result of the project failing to achieve its Operation Date Idaho Power is issuing this request for payment of Delay Liquidated Damages calculated pursuant to within Article 5.3 of the FESA to be \$144,000. As specified in Article 5.5 of the FESA the Seller must pay these Delay Liquidated Damages within 7 days of when Idaho Power presents this billing to the Seller. Thus this payment in the amount of \$144,000 is due and payable to Idaho Power no later than 5:00 PM, Mountain Standard Time, June 21st, 2012. Failure to make this payment by that time will result in Idaho Power exercising its rights to draw funds from the Delay Security provided by the project.

As you are aware, Hidden Hollow Energy 2 LLC has provided various documents to Idaho Power claiming that a Force Majeure had occurred that prevented the project from achieving its Operation Date. Idaho Power has denied all of these claims as these claims do not meet the criteria to be an event of Force Majeure and/or they are specifically excluded from being a Force Majeure (i.e. – Article 14.1 “...Force Majeure does not include short-term disruptions or curtailment of the Facility’s fuel supply”)

If you have any additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Randy C. Allphin".

Randy C. Allphin
Idaho Power Company

Cc: Donovan Walker (IPCo)
Jason Williams (IPCo)

Hidden Hollow Energy 2 LLC
C/o Fortistar Methane Group LLC
Attn: Thomas J. Gesicki
One North Lexington Avenue
White Plains, NY 10601

EXHIBIT I



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Curt Fransen, Director

June 19, 2012

Suparna, Chakladar, Senior Director, Environmental Services
Hidden Hollow Energy, LLC
5087 Junction Road
Lockport, New York 14075

RE: Facility ID No. 001-00214, Hidden Hollow Energy, LLC, Boise
Final Permit Letter

Dear Ms. Chakladar:

The Department of Environmental Quality (DEQ) is issuing Permit to Construct (PTC) No. P-2009.0098 Project 60803 to Hidden Hollow Energy for the combined operations of Hidden Hollow Energy 1 and 2 in Boise. This PTC is issued in accordance with IDAPA 58.01.01.200 through 228 (*Rules for the Control of Air Pollution in Idaho*) and is based on the certified information provided in your PTC application received on December 16, 2010.

This permit is effective immediately and replaces PTC No. P-2009.0098, issued on March 1, 2010. This permit does not release Hidden Hollow Energy from compliance with all other applicable federal, state, or local laws, regulations, permits, or ordinances.

In order to understand fully the compliance requirements of this permit, DEQ highly recommends that you schedule a meeting with JR Fuentes, Area Source Specialist, at (208) 373-0550 to review and discuss the terms and conditions of this permit. Should you choose to schedule this meeting, DEQ recommends that the following representatives attend the meeting: your facility's plant manager, responsible official, environmental contact, and any other staff responsible for day-to-day compliance with permit conditions.

Pursuant to IDAPA 58.01.23, you, as well as any other entity, may have the right to appeal this final agency action within 35 days of the date of this decision. However, prior to filing a petition for a contested case, I encourage you to contact Morrie Lewis at (208) 373-0502 or Morrie.Lewis@deq.idaho.gov to address any questions or concerns you may have with the enclosed permit.

Sincerely,

Mike Simon
Stationary Source Program Manager
Air Quality Division

MS/ML

Permit No. P-2009.0098 PROJ 60803

Enclosures

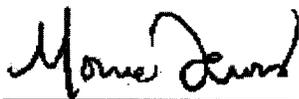
Air Quality
PERMIT TO CONSTRUCT

Permittee Hidden Hollow Energy, LLC
Permit Number P-2009.0098
Project ID 60803
Facility ID 001-00214
Facility Location 10300 Seamans Gulch, Boise, Idaho 83702

Permit Authority

This permit (a) is issued according to the *Rules for the Control of Air Pollution in Idaho (Rules)*, IDAPA 58.01.01.200-228; (b) pertains only to emissions of air contaminants regulated by the state of Idaho and to the sources specifically allowed to be constructed or modified by this permit; (c) has been granted on the basis of design information presented with its application; (d) does not affect the title of the premises upon which the equipment is to be located; (e) does not release the permittee from any liability for any loss due to damage to person or property caused by, resulting from, or arising out of the design, installation, maintenance, or operation of the proposed equipment; (f) does not release the permittee from compliance with other applicable federal, state, tribal, or local laws, regulations, or ordinances; (g) in no manner implies or suggests that the Department of Environmental Quality (DEQ) or its officers, agents, or employees, assume any liability, directly or indirectly, for any loss due to damage to person or property caused by, resulting from, or arising out of design, installation, maintenance, or operation of the proposed equipment. Changes in design, equipment or operations may be considered a modification subject to DEQ review in accordance with IDAPA 58.01.01.200-228.

Date Issued June 19, 2012



Morrie Lewis, Permit Writer



Mike Simon, Stationary Source Manager

PERMIT TO CONSTRUCT SCOPE 3
FACILITY-WIDE CONDITIONS 4
HIDDEN HOLLOW ENERGY I ENGINES 15
HIDDEN HOLLOW ENERGY 2 ENGINES 18
PERMIT TO CONSTRUCT GENERAL PROVISIONS 24

PERMIT TO CONSTRUCT SCOPE

Purpose

1. This is a revised permit to construct for a landfill gas-to-energy facility. The facility consists of the landfill gas H₂S Removal System, Hidden Hollow Energy 1 Engines, and Hidden Hollow Energy 2 Engines. Each of the engines utilizes treated landfill gas from the Ada County Landfill to drive a 1.6-megawatt (MW) generator.
2. This permit establishes emission limits, requirements to install and operate a hydrogen sulfide (H₂S) landfill gas treatment system, and requirements for testing, monitoring, recordkeeping, and reporting.
3. Those permit conditions that have been modified or revised by this permitting action are identified by the permit issuance date citation located directly under the permit condition and on the right hand margin.
4. This PTC replaces Permit to Construct No. P-2009.0098, issued on March 1, 2010.
5. The emission sources regulated by this permit are listed in the following table.

Table 1 REGULATED SOURCES

| Sources | Control Equipment |
|--|--|
| Engine No. 1 - Caterpillar 3520C, 2233 bhp or equivalent ^(a) | H ₂ S Removal System ^(b) |
| Engine No. 2 - Caterpillar 3520C, 2233 bhp or equivalent ^(a) | |
| Engine No. 3 - Caterpillar G3520C, 2233 bhp or equivalent ^(a) | |
| Engine No. 4 - Caterpillar G3520C, 2233 bhp or equivalent ^(a) | |

- a) "or equivalent" sources have an equivalent or less maximum brake horsepower (bhp) than the source listed in this table; "or equivalent" sources and control methods shall not result in an emission increase or in the emission of any regulated air pollutant not previously emitted (using the definitions provided in IDAPA 58.01.01.006) when compared to the sources and control methods listed in this table.
- b) Emissions will be controlled following installation and commencement of operations of the H₂S Removal System.

FACILITY-WIDE CONDITIONS

Process Description

Hidden Hollow Energy LLC operates a landfill gas-to-energy facility utilizing landfill gas from the Ada County Landfill as fuel for four engines to drive 1.6-megawatt (MW) generators. At 100% load, each of the associated engines operates at 2233 brake horsepower (bhp). Hidden Hollow Energy 1, LLC comprises Engine 1 and 2, while Hidden Hollow Energy 2, LLC comprises Engines 3 and 4. All fuel used by each of these engines is obtained from the Ada County Landfill.

The landfill gas collected by the Ada County Landfill undergoes treatment prior to combustion in the engines. The treatment process includes dewatering, compression, cooling, filtration, and hydrogen sulfide (H₂S) removal. Each of the four engines is a control device for the collected landfill gas (in addition the flares operated by Ada County Landfill), and is therefore subject to 40 CFR Part 60, Subpart W and Part 63, Subpart AAAAA.

| Emissions Units | Control Equipment |
|--|--|
| Engine No. 1 - Caterpillar 3520C, 2233 bhp or equivalent ^(a,b) | H ₂ S Removal System ^(c) |
| Engine No. 2 - Caterpillar 3520C, 2233 bhp or equivalent ^(a,b) | |
| Engine No. 3 - Caterpillar G3520C, 2233 bhp or equivalent ^(a,b) | |
| Engine No. 4 - Caterpillar G3520C, 2233 bhp or equivalent ^(a,b) | |

- a) Spark ignition (SI), reciprocating internal combustion engines (RICE).
- b) "or equivalent" sources have an equivalent or less maximum brake horsepower (bhp) than the source listed in this table; "or equivalent" sources and control methods shall not result in an emission increase or in the emission of any regulated air pollutant not previously emitted (using the definitions provided in IDAPA 58.01.01.006) when compared to the sources and control methods listed in this table.
- c) Emissions will be controlled following installation and commencement of operations of the H₂S Removal System.

Emission Limits

6. CO Emission Limit

Combined carbon monoxide (CO) emissions from the four engines shall not exceed 249 tons per any consecutive 12-month period.

[6/19/12]

7. H₂S Concentration Limit

After installation of the landfill gas H₂S Removal System, the H₂S concentration of landfill gas combusted in the engines shall not exceed 180 ppmv.

[6/19/12]

8. Submittal of Information for T1 Permit Application

Within 60 days of permit issuance, the permittee shall submit the requested Tier I operating permit application information identified by DEQ in correspondence dated February 21, 2012.

[6/19/12]

9. Opacity Limit

Emissions from the engine stacks, or any other stack, vent, or functionally equivalent opening associated with engines, shall not exceed 20% opacity for a period or periods aggregating more than three minutes in any 60-minute period as required by IDAPA 58.01.01.625. Opacity shall be determined by the procedures contained in IDAPA 58.01.01.625.

10. Odors

The permittee shall not allow, suffer, cause, or permit the emission of odorous gasses, liquids, or solids to the atmosphere in such quantities as to cause air pollution in accordance with IDAPA 58.01.01.776.01.

[6/19/12]

Operating Requirements

11. Engine Operation and Maintenance

The permittee shall operate and maintain the engines in a manner consistent with the manufacturer's recommendations.

[3/1/10]

12. Allowable Fuel

The engines shall burn landfill gas only.

[3/1/10]

13. H₂S Removal System

The landfill gas H₂S Removal System shall be installed and commence operation no later than 180 days after permit issuance. The H₂S Removal System shall meet the following requirements:

- The H₂S concentration of the landfill gas exiting the H₂S Removal System, prior to being combusted in the engines, shall not exceed the H₂S Concentration Limit (Permit Condition 7).
- The system shall be capable of treating a minimum of 3,350 scfm of landfill gas.
- The system shall be operated by the permittee at all times that landfill gas is combusted in the landfill gas control devices (i.e., flare and internal combustion engines), except for periods of startup, shutdown, scheduled maintenance, safety measures, upset, and breakdown afforded by and determined to comply with the requirements appearing under IDAPA 58.01.01.130-136.
- At least 60 days prior to commencing construction of the landfill gas H₂S Removal System, the permittee shall submit a Permit to Construct application for a permit revision to DEQ in order to incorporate permit conditions relevant to the landfill gas H₂S Removal System design and operational parameters, operating and maintenance procedures, and relevant monitoring, recordkeeping, and reporting requirements.

[6/19/12]

14. NSPS 40 CFR 60, Subpart WWW – Standards for Air Emissions from Municipal Solid Waste Landfills

The permittee shall route all the collected landfill gas to a control system that complies with the requirements in either 40 CFR 60.752(b)(2)(iii)(A), (B) or (C):

- A control system designed and operated to either reduce nonmethane organic compounds (NMOC) by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis (ppmvd) as hexane at 3 percent oxygen. The reduction efficiency or parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in 40 CFR 60.754(d).
 - The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in 40 CFR 60.756 (Permit Condition 16).

- Route the collected gas to a treatment system that processes the collected gas for subsequent sale or use. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements above.
- Operate the collection and control device installed to comply with this subpart in accordance with the provisions of 40 CFR 60.753, 60.755 and 60.756.

[6/19/12]

15. NSPS 40 CFR 60, Subpart WWW – Operational Standards for Collection and Control Systems

- In accordance with 40 CFR 60.753(e), the permittee shall operate the landfill gas collection and control system such that all collected gases are vented to a control system designed and operated in compliance with 40 CFR 60.752(b)(2)(iii) (Permit Condition 14). In the event the collection or control system is inoperable, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within 1 hour.
- In accordance with 40 CFR 60.753(f), the permittee shall operate the control or treatment system at all times when the collected gas is routed to the system.

[6/19/12]

16. NSPS 40 CFR 60, Subpart WWW – Monitoring of Operations

The permittee shall install, calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment in accordance with 40 CFR 60.756(b):

- A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or ± 0.5 degrees Celsius, whichever is greater.
- A device that records gas flow rate to the control device. The device shall record the flow to the control device at least every 15 minutes.

[6/19/12]

17. NESHAP 40 CFR 63, Subpart AAAA – Develop a Startup, Shutdown and Malfunction Plan (SSM)

In accordance with 40 CFR 63.1960, the permittee shall develop a written SSM plan for the landfill gas treatment system according to the provisions in 40 CFR 63.6(e)(3).

- The permittee shall develop a written startup, shutdown, and malfunction plan that describes, in detail, procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction; and a program of corrective action for malfunctioning process, air pollution control, and monitoring equipment used to comply with the relevant standard. The startup, shutdown, and malfunction plan does not need to address any scenario that would not cause the source to exceed an applicable emission limitation in the relevant standard. This plan must be developed by the owner or operator by the source's compliance date for that relevant standard. The purpose of the startup, shutdown, and malfunction plan is to—
 - Ensure that, at all times, the owner or operator operates and maintains each affected source, including associated air pollution control and monitoring equipment, in a manner which satisfies the general duty to minimize emissions established by 40 CFR 63.6(e)(1)(i);
 - Ensure that owners or operators are prepared to correct malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of hazardous air pollutants; and
 - Reduce the reporting burden associated with periods of startup, shutdown, and malfunction (including corrective action taken to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation).

- To satisfy the requirements to develop a startup, shutdown, and malfunction plan, the owner or operator may use the affected source's standard operating procedures (SOP) manual, or an Occupational Safety and Health Administration (OSHA) or other plan, provided the alternative plans meet all the requirements and are made available for inspection or submitted when requested by the DEQ.

[3/1/10]

18. NESHAP 40 CFR 63, Subpart AAAA – Operation and Maintenance Requirements

In accordance with 40 CFR 63.6 (e)(1), the permittee must meet the following operation and maintenance requirements for the landfill gas treatment system:

- At all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. During a period of startup, shutdown, or malfunction, this general duty to minimize emissions requires that the owner or operator reduce emissions from the affected source to the greatest extent which is consistent with safety and good air pollution control practices. The general duty to minimize emissions during a period of startup, shutdown, or malfunction does not require the owner or operator to achieve emission levels that would be required by the applicable standard at other times if this is not consistent with safety and good air pollution control practices, nor does it require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether such operation 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, review of operation and maintenance procedures (including the startup, shutdown, and malfunction plan required in 40 CFR 63.6(e)(3)), review of operation and maintenance records, and inspection of the source.
- Malfunctions must be corrected as soon as practicable after their occurrence. To the extent that an unexpected event arises during a startup, shutdown, or malfunction, an owner or operator must comply by minimizing emissions during such a startup, shutdown, and malfunction event consistent with safety and good air pollution control practices.
- Operation and maintenance requirements established pursuant to section 112 of the Act are enforceable independent of emissions limitations or other requirements in relevant standards.

[3/1/10]

Performance Testing Requirements

19. CO Performance Testing

- *Hidden Hollow Energy 1*

An initial performance test shall be conducted in accordance with the procedures specified in NSPS Subpart JJJJ (Permit Conditions 51 through 53). The results of this test shall be used to establish CO emission factors in pounds per million British Thermal Unit (lb/MMBtu) for engines 1 and 2. The most recent test results for each engine shall be used to calculate annual CO emissions to determine compliance with the CO Emission Limit (Permit Condition 6).

Subsequent testing to verify and re-establish the CO emission factors shall occur at least once every three years.

- *Hidden Hollow Energy 2*

An initial performance test shall be conducted in accordance with the procedures specified in NSPS Subpart JJJJ (Permit Conditions 51 through 53).

The results of this test shall be used to establish CO emission factors in pounds per million British Thermal Unit (lb/MMBtu) for engines 3 and 4. The most recent test results for each engine shall be used to calculate annual CO emissions to determine compliance with the CO Emission Limit (Permit Condition 6).

Subsequent testing to verify and re-establish the CO emission factors shall occur at least once every three years.

[6/19/12]

20. NSPS 40 CFR 60, Subpart WWW – Test Methods and Procedures

In accordance with 40 CFR 60.754(d), for the performance test required in 40 CFR 60.752(b)(2)(iii)(B) (Permit Condition 14), Method 25, 25C, or Method 18 of Appendix A of 40 CFR 60 must be used to determine compliance with the 98 weight-percent efficiency or the 20 ppmv outlet concentration level, unless another method to demonstrate compliance has been approved by the Administrator as provided by 40 CFR 60.752(b)(2)(i)(B). Method 3 or 3A shall be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane), Method 25A should be used in place of Method 25. If using Method 18 of appendix A of this part, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42). The following equation shall be used to calculate efficiency:

$$\text{Control Efficiency} = (\text{NMOC}_{\text{in}} - \text{NMOC}_{\text{out}}) / (\text{NMOC}_{\text{in}})$$

Where,

NMOC_{in} = mass of NMOC entering control device

NMOC_{out} = mass of NMOC exiting control device

[6/19/12]

Monitoring and Recordkeeping Requirements

21. Odor Complaints

The permittee shall maintain records of all odor complaints received. If the complaint has merit, the permittee shall take appropriate corrective action as expeditiously as practicable. The records shall include, at a minimum, the date each complaint was received and a description of the following: the complaint, the permittee's assessment of the validity of the complaint, any corrective action taken, and the date the corrective action was taken.

[6/19/12]

22. CO Emissions Monitoring

CO emission factors established during CO Performance Testing (Permit Condition 19) shall be used as part of the compliance demonstration calculation for the CO Emission Limit (Permit Condition 6).

The methane content of the landfill gas shall be monitored and recorded daily. These records shall be used as part of the monthly MMBtu calculation.

On a monthly basis, the permittee shall calculate and record CO emissions from each of the four engines according to the following equation:

$$\text{lb/MMBtu} * \text{MMBtu/month} \div 2000 \text{ lb/T} = \text{T/month}$$

On a monthly basis, CO emissions from the four engines shall be summed together for that month and for the previous 11 months. The total monthly CO emissions and cumulative 12 consecutive month CO emissions shall be calculated and recorded in tons per month (T/mo) and in tons per year (T/yr). Each calculated 12-month CO emissions shall be used to assess excess emissions (Permit Condition 67) for the CO Emission Limit (Permit Condition 6).

Records of the calculations shall be maintained in accordance with the Recordkeeping General Provision. [6/19/12]

23. H₂S Concentration Monitoring

The permittee shall determine the H₂S concentration, in ppmv, of the landfill gas stream prior to being combusted in the engines. Each H₂S concentration shall be calculated as the average of three consecutive H₂S sample measurements obtained within a fifteen-minute period.

Each calculated H₂S concentration shall be used to assess excess emissions (Permit Condition 67) for the H₂S Concentration Limit (Permit Condition 7). An excess emission occurs each unit operating hour included in the period beginning on the date and hour for which the H₂S concentration of the landfill gas being fired in any engine exceeds the H₂S Concentration Limit (Permit Condition 7) and ending on the date and hour that a subsequent sample is taken that demonstrates compliance with the H₂S Concentration Limit (Permit Condition 7).

[6/19/12]

24. H₂S Concentration Monitoring Schedule

Each H₂S concentration shall be determined as described in the H₂S Concentration Monitoring requirement (Permit Condition 23). H₂S concentration monitoring shall be conducted according to the following schedule:

- Beginning 45 days after permit issuance, and beginning on the day following commencement of operations of the landfill gas H₂S Removal System, the permittee shall monitor H₂S concentration on at least a daily basis.
- If calculated H₂S concentrations do not exceed the H₂S Concentration Limit (Permit Condition 7) for at least five consecutive business days, required H₂S monitoring shall be reduced to a frequency of once per week.
- If calculated H₂S concentrations do not exceed the H₂S Concentration Limit (Permit Condition 7) for at least four consecutive weeks, required H₂S monitoring shall be reduced to a frequency of once every two weeks.
- At any time a H₂S measurement exceeds the H₂S Concentration Limit (Permit Condition 7), H₂S monitoring shall revert to at least a daily basis and applicable excess emissions shall be assessed (Permit Conditions 23 and 67). After monitoring daily for at least five consecutive business days, subsequent H₂S measurements may be applied toward reducing the required monitoring frequency in the manner described above.

[6/19/12]

25. H₂S Concentration Recordkeeping

On a daily basis, the permittee shall record each calculated H₂S concentration and each H₂S sample measurement to ensure compliance with the H₂S Concentration Monitoring requirement (Permit Condition 23).

The monitor used to measure the H₂S concentration of the landfill gas stream shall have a certified accuracy of plus or minus 5%. The monitor shall be calibrated and maintained in accordance with manufacturer specifications.

Records of this information shall be maintained in accordance with the Recordkeeping General Provision (Permit Condition 66).

[6/19/12]

26. Gas Flow Rate Monitoring

Each time the H₂S concentration is monitored and recorded, the flow rate of the landfill gas used in the engines shall also be monitored and recorded in standard cubic feet per minute (scfm).

[6/19/12]

27. H₂S Reporting Requirements

H₂S concentrations and gas flow rates shall be submitted to Idaho DEQ each month beginning on the first of the month following permit issuance.

[6/19/12]

28. NSPS 40 CFR 60, Subpart WWW – Recordkeeping Requirements

- In accordance with 40 CFR 60.758(b), the permittee shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in paragraphs 40 CFR 60.758(b)(1) through (b)(4) as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 5 years. Records of the control device vendor specifications shall be maintained until removal.
 - The average combustion temperature measured at least every 15 minutes and averaged over the same time period of the performance test.
 - The percent reduction of NMOC determined as specified in §60.752(b)(2)(iii)(B) achieved by the control device.
- In accordance with 40 CFR 60.758(c), the permittee shall keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in 40 CFR 60.756 (Permit Condition 16) as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.
 - All 3-hour periods of operation during which the average combustion temperature was more than 28 °C below the average combustion temperature during the most recent performance test at which compliance with 40 CFR 60.752(b)(2)(iii) was determined constitute exceedances that shall be recorded and reported under 40 CFR 60.757(f).
 - The permittee shall keep up-to-date, readily accessible continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under 40 CFR 60.756.
- In accordance with 40 CFR 60.758(e), the permittee shall keep for at least 5 years up-to-date, readily accessible records of all collection and control system exceedances of the operational standards in 40 CFR 60.753, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

[6/19/12]

29. NESHAP 40 CFR 63, Subpart AAAA – Recordkeeping of SSM event

In accordance with 40 CFR 63.6 (e)(3), the permittee shall comply with the following recordkeeping requirements for the landfill gas treatment system:

- When actions taken by the owner or operator during a startup or shutdown (and the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction (including actions taken to correct a malfunction) are consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, the owner or operator must keep records for that event which demonstrate that the procedures specified in the plan were followed.
 - These records may take the form of a "checklist," or other effective form of recordkeeping that confirms conformance with the startup, shutdown, and malfunction plan and describes the actions taken for that event.
 - In addition, the permittee shall keep records of these events as specified in paragraph 63.10(b), including records of the occurrence and duration of each startup or shutdown (if the startup or shutdown causes the source to exceed any applicable emission limitation in the relevant emission standards), or malfunction of operation and each malfunction of the air pollution control and monitoring equipment.
 - Furthermore, the permittee shall confirm that actions taken during the relevant reporting period during periods of startup, shutdown, and malfunction were consistent with the affected source's startup, shutdown and malfunction plan in the semiannual (or more frequent) startup, shutdown, and malfunction report required in 40 CFR 63.10(d)(5).
- If an action taken by the permittee during a startup, shutdown, or malfunction (including an action taken to correct a malfunction) is not consistent with the procedures specified in the affected source's startup, shutdown, and malfunction plan, and the source exceeds any applicable emission limitation in the relevant emission standard, then the owner or operator must record the actions taken for that event and must report such actions within 2 working days after commencing actions inconsistent with the plan, followed by a letter within 7 working days after the end of the event, in accordance with 40 CFR 63.10(d)(5) (unless the owner or operator makes alternative reporting arrangements, in advance, with the Administrator).

[3/1/10]

30. NESHAP 40 CFR 63, Subpart AAAA – SSM Plan Maintenance

In accordance with 40 CFR 63.6 (e)(3)(v), the permittee shall comply with the following recordkeeping requirements for the landfill gas treatment system:

- The permittee shall maintain at the affected source a current startup, shutdown, and malfunction plan and must make the plan available upon request for inspection and copying by the Administrator.
- In addition, if the startup, shutdown, and malfunction plan is subsequently revised as provided in 40 CFR 63.6(e)(3)(viii), the owner or operator must maintain at the affected source each previous (i.e., superseded) version of the startup, shutdown, and malfunction plan, and must make each such previous version available for inspection and copying by the Administrator for a period of 5 years after revision of the plan.
- If at any time after adoption of a startup, shutdown, and malfunction plan the affected source ceases operation or is otherwise no longer subject to the provisions of this part, the owner or operator must retain a copy of the most recent plan for 5 years from the date the source ceases operation or is no longer subject to this part and must make the plan available upon request for inspection and copying by the Administrator.
- The Administrator may at any time request in writing that the owner or operator submit a copy of any startup, shutdown, and malfunction plan (or a portion thereof) which is maintained at the affected source or in the possession of the owner or operator.

- Upon receipt of such a request, the owner or operator must promptly submit a copy of the requested plan (or a portion thereof) to the Administrator.
- The owner or operator may elect to submit the required copy of any startup, shutdown, and malfunction plan to the Administrator in an electronic format. If the owner or operator claims that any portion of such a startup, shutdown, and malfunction plan is confidential business information entitled to protection from disclosure under section 114(c) of the Act or 40 CFR 2.301, the material that is claimed as confidential must be clearly designated in the submission.

[3/1/10]

31. NESHAP 40 CFR 63, Subpart AAAA – SSM Plan Revisions by Administrator

In accordance with 40 CFR 63.6 (e)(3)(vii), the permittee shall comply with the following recordkeeping requirements for the landfill gas treatment system:

- Based on the results of a determination made under 40 CFR 63.6(e)(1)(i), the Administrator may require that an owner or operator of an affected source make changes to the startup, shutdown, and malfunction plan for that source. The Administrator must require appropriate revisions to a startup, shutdown, and malfunction plan, if the Administrator finds that the plan:
 - Does not address a startup, shutdown, or malfunction event that has occurred;
 - Fails to provide for the operation of the source (including associated air pollution control and monitoring equipment) during a startup, shutdown, or malfunction event in a manner consistent with the general duty to minimize emissions established by paragraph 40 CFR 63.6(e)(1)(i);
 - Does not provide adequate procedures for correcting malfunctioning process and/or air pollution control and monitoring equipment as quickly as practicable; or
 - Includes an event that does not meet the definition of startup, shutdown, or malfunction listed in 40 CFR 63.2.

[3/1/10]

32. NESHAP 40 CFR 63, Subpart AAAA – SSM Plan Revisions by Permittee

In accordance with 40 CFR 63.6 (e)(3)(viii), the permittee shall comply with the following recordkeeping requirements for the landfill gas treatment system:

- The permittee may periodically revise the startup, shutdown, and malfunction plan for the affected source as necessary to satisfy the requirements of this part or to reflect changes in equipment or procedures at the affected source.
- Unless the permitting authority provides otherwise, the owner or operator may make such revisions to the startup, shutdown, and malfunction plan without prior approval by the Administrator or the permitting authority.
- However, each such revision to a startup, shutdown, and malfunction plan must be reported in the semiannual report required by 40 CFR 63.10(d)(5).
- If the startup, shutdown, and malfunction plan fails to address or inadequately addresses an event that meets the characteristics of a malfunction but was not included in the startup, shutdown, and malfunction plan at the time the owner or operator developed the plan, the owner or operator must revise the startup, shutdown, and malfunction plan within 45 days after the event to include detailed procedures for operating and maintaining the source during similar malfunction events and a program of corrective action for similar malfunctions of process or air pollution control and monitoring equipment.

- In the event that the permittee makes any revision to the startup, shutdown, and malfunction plan which alters the scope of the activities at the source which are deemed to be a startup, shutdown, or malfunction, or otherwise modifies the applicability of any emission limit, work practice requirement, or other requirement in a standard established under this part, the revised plan shall not take effect until after the owner or operator has provided a written notice describing the revision to the permitting authority.

[3/1/10]

33. NESHAP 40 CFR 63, Subpart AAAA – Records and Reports

In accordance with 40 CFR 63.1980, the permittee shall comply with the general provisions of 40 CFR 60 and 63 that are related to the SSM plan and plan reports for the landfill gas treatment system.

| Part 63 Citation | Description |
|---------------------|--|
| §63.2 | Definitions |
| §63.6(e) | Operation and maintenance requirements, startup, shutdown and malfunction plan provisions |
| §63.10(b)(2)(i)-(v) | General recordkeeping requirements |
| §63.10(d)(5) | If actions taken during a startup, shutdown and malfunction plan are consistent with the procedures in the startup, shutdown and malfunction plan, this information shall be included in a semi-annual startup, shutdown and malfunction plan report. Any time an action taken during a startup, shutdown and malfunction plan is not consistent with the startup, shutdown and malfunction plan, the source shall report actions taken within 2 working days after commencing such actions, followed by a letter 7 days after the event |

| General Provision Citation | Subject of Citation | Applies to Subpart |
|----------------------------|--|--------------------|
| §60.1 | General applicability of the General Provisions | Yes |
| §60.2 | Definitions | Yes |
| §60.3 | Units and abbreviations | Yes |
| §60.4 | Address | Yes |
| §60.7 | Notification and Recordkeeping | Yes |
| §60.11 | Compliance with standards and maintenance requirements | Yes |
| §60.19 | General notification and reporting requirements | Yes |

[3/1/10]

Reporting Requirements

34. NSPS 40 CFR 60, Subpart WWW – Reporting Requirements

The permittee shall submit an equipment removal report to the Administrator 30 days prior to removal or cessation of operation of the control equipment in accordance with 40 CFR 60.757(e).

[6/19/12]

35. Reporting Address

Any notifications or reporting required by 40 CFR 60 Subpart JJJJ or 40 CFR 63 Subpart ZZZZ shall be submitted to both of the following addresses:

EPA Region 10
 Director, Office of Air Quality
 1200 Sixth Avenue
 (OAQ-107)
 Seattle, WA 98101

and,

Air Quality Permit Compliance
Department of Environmental Quality
Boise Regional Office
1445 N. Orchard St.
Boise, ID 83706
Phone: (208) 373-0550
Fax: (208) 373-0287

[3/1/10]

Incorporation of Federal Requirements by Reference

36. Unless expressly provided otherwise, any reference in this permit to any document identified in IDAPA 58.01.01.107.03 shall constitute the full incorporation into this permit of that document for the purposes of the reference, including any notes and appendices therein. Documents include, but are not limited to:
- Applicable requirements of Standards of Performance for New Stationary Sources (NSPS), 40 CFR Part 60
 - Applicable requirements of National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 63

For permit conditions referencing or cited in accordance with any document incorporated by reference (including permit conditions identified as NSPS and NESHAP), should there be any conflict between the requirements of the permit condition and the requirements of the document, the requirements of the document shall govern, including any amendments to that document.

[6/19/12]

HIDDEN HOLLOW ENERGY I ENGINES

Emissions Units and Control Equipment

The Hidden Hollow Energy I Engines consist of two Caterpillar 3520C spark-ignition internal combustion engines (Engines 1 and 2). The two engines were manufactured prior to June 12, 2006. Therefore, each engine is subject to NESHAP 40 CFR 63, Subpart ZZZZ requirements. These engines are enclosed combustion control devices when combusting landfill gas, subject to the requirements of NSPS 40 CFR Part 60, Subpart WWW and Part 63, Subpart AAAA (refer to the Facility-Wide Conditions section for additional requirements).

| Emissions Units | Control Equipment |
|---|--|
| Engine No. 1 - Caterpillar 3520C, 2233 bhp or equivalent ^(a) | H ₂ S Removal System ^(b) |
| Engine No. 2 - Caterpillar 3520C, 2233 bhp or equivalent ^(a) | |

- a) "or equivalent" sources have an equivalent or less maximum brake horsepower (bhp) than the source listed in this table; "or equivalent" sources and control methods shall not result in an emission increase or in the emission of any regulated air pollutant not previously emitted (using the definitions provided in IDAPA 58.01.01.006) when compared to the sources and control methods listed in this table.
- b) Emissions will be controlled following installation and commencement of operations of the H₂S Removal System.

37. NESHAP 40 CFR 63, Subpart ZZZZ – Compliance Date

In accordance with 40 CFR 63.6595(a)(1), the affected source must comply with the applicable emission and operating limitations of the National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 40 CFR 63, Subpart ZZZZ, by October 19, 2013.

[6/19/12]

Operating Requirements

38. NESHAP 40 CFR 63, Subpart ZZZZ – Emissions and Operating Limitations

In accordance with 40 CFR 63.6603(a), on and after October 19, 2013, the following emission limits or operating restrictions are required for the engine. The permittee must meet the following requirements, except during periods of startup.

- Change oil and filter every 1,440 hours of operation or annually, whichever comes first.
- Inspect spark plugs every 1,440 hours of operation or annually, whichever comes first.
- Inspect all hoses and belts every 1,440 hours of operation or annually, whichever comes first, and replace as necessary.

[6/19/12]

39. NESHAP 40 CFR 63, Subpart ZZZZ – General Compliance

On and after October 19, 2013, the permittee shall operate and maintain the engines and associated pollution control equipment (where applicable) in a manner that minimizes emissions in accordance with 40 CFR 63.6605.

[6/19/12]

40. NESHAP 40 CFR 63, Subpart ZZZZ – General Maintenance

In accordance with 63.6625(e)(6) and Table 6 of the Subpart, on and after October 19, 2013, the permittee must operate and maintain the stationary RICE and after-treatment control device (if any) according to the manufacturer's emission-related written instructions or develop your own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

[6/19/12]

41. NESHAP 40 CFR 63, Subpart ZZZZ – Engine Startup

On and after October 19, 2013, the engine's time spent at idle during startup shall be minimized to a period needed for appropriate and safe loading of the engine, but not to exceed 30 minutes, after which time the emission standards associated with this permit apply in accordance with 40 CFR 63.6625(h).

[6/19/12]

42. NESHAP 40 CFR 63, Subpart ZZZZ – Alternative Maintenance Program

In accordance with 40 CFR 63.6625(j), on and after October 19, 2013, the permittee has the option of utilizing an oil analysis program in order to extend the specified oil change requirement in Emissions and Operating Limitations permit condition. The oil analysis must be performed at the same frequency specified for changing the oil. The analysis program must analyze at a minimum the following three parameters: Total Acid Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Acid Number increases by more than 3.0 milligrams of potassium hydroxide (KOH) per gram from Total Acid Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil. If any of the limits are exceeded, the engine owner or operator must change the oil within 2 days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil within 2 days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil changes for the engine. The analysis program must be part of the maintenance plan for the engine.

[6/19/12]

Monitoring and Recordkeeping Requirements

43. NESHAP 40 CFR 63, Subpart ZZZZ – Reporting of Non-Compliance

In accordance with 40 CFR 63.6640(e), on and after October 19, 2013, the permittee shall report any instance when applicable General Provisions of 40 CFR 63, Subpart A are not being met.

[6/19/12]

44. NESHAP 40 CFR 63, Subpart ZZZZ – Recordkeeping Requirements

In accordance with 40 CFR 63.6655, on and after October 19, 2013, the following records must be kept onsite:

- A copy of each notification and report that was submitted
- Occurrence and duration of each malfunction of operation, control equipment and monitoring equipment
- All required maintenance on the engine(s), control and monitoring equipment
- Corrective Action taken

All records shall be readily accessible in hard copy or electronic form for a minimum of five (5) years after the date of each occurrence, measurement, maintenance procedure, corrective action or report in accordance with 40 CFR 63.6660

[6/19/12]

45. NESHAP 40 CFR 63, Subpart ZZZZ – Record Retention

In accordance with 40 CFR 63.6655(e), the permittee must keep records of the maintenance conducted on the stationary RICE in order to demonstrate that you operated and maintained the stationary RICE and after-treatment control device (if any) according to your own maintenance plan if you own or operate any of the following RICE; an existing stationary RICE located at an area source of HAP emissions subject to management practices as shown in Table 2d to this subpart.

[6/19/12]

HIDDEN HOLLOW ENERGY 2 ENGINES

Emissions Units and Control Equipment

The Hidden Hollow Energy 2 Engines consist of two Caterpillar G3520C spark-ignition internal combustion engines (Engines 3 and 4). The two engines were manufactured on July 1, 2010. Therefore, each engine is subject to NESHAP 40 CFR 60, Subpart JJJJ requirements. These engines are enclosed combustion control devices when combusting landfill gas, subject to the requirements of NSPS 40 CFR Part 60, Subpart WWW and Part 63, Subpart AAAA (refer to the Facility-Wide Conditions section for additional requirements).

| Emissions Units | Control Equipment |
|--|--|
| Engine No. 3 - Caterpillar G3520C, 2233 bhp or equivalent ^(a) | H ₂ S Removal System ^(b) |
| Engine No. 4 - Caterpillar G3520C, 2233 bhp or equivalent ^(a) | |

- a) "or equivalent" sources have an equivalent or less maximum brake horsepower (bhp) than the source listed in this table; "or equivalent" sources and control methods shall not result in an emission increase or in the emission of any regulated air pollutant not previously emitted (using the definitions provided in IDAPA 58.01.01.006) when compared to the sources and control methods listed in this table.
- b) Emissions will be controlled following installation and commencement of operations of the H₂S Removal System.

Emission Limits

46. NSPS 40 CFR 60, Subpart JJJJ – Emissions Standards

In accordance with 40 CFR 60.4233, the permittee must comply with the emission standards in Table 1 to this subpart for their stationary SI ICE.

Table 1 to Subpart JJJJ of Part 60—NO_x, CO, and VOC Emission Standards for Stationary Non-Emergency SI Engines ≥100 hp

| Engine type and fuel | Maximum engine power | Manufacture date | Emission Standards ^(a) | | | | | |
|-----------------------|----------------------|------------------|-----------------------------------|-----|--------------------|-----------------------------|-----|--------------------|
| | | | g/hp-hr | | | ppmvd at 15% O ₂ | | |
| | | | NO _x | CO | VOC ^(b) | NO _x | CO | VOC ^(b) |
| Landfill/Digester Gas | hp ≥ 500 | 7/1/2010 | 2.0 | 5.0 | 1.0 | 150 | 610 | 80 |

- a) Owners and operators of stationary non-certified SI engines may choose to comply with the emission standards in units of either g/hp-hr or ppmvd at 15 percent O₂.
- b) For purposes of this subpart, when calculating emissions of volatile organic compounds, emissions of formaldehyde should not be included.

[3/1/10]

Operating Requirements

47. NSPS 40 CFR 60, Subpart JJJJ – Maintenance plan

In accordance with 40 CFR 60.4243(b)(2)(ii), the permittee shall keep a maintenance plan and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions.

[3/1/10]

48. NSPS 40 CFR 60, Subpart JJJJ – Lifetime Operation and Maintenance

In accordance with 40 CFR 60.4234, the permittee shall operate and maintain stationary SI ICE that achieve the emission standards as required in 40 CFR 60.4233(e) over the entire life of the engine.

[3/1/10]

49. NSPS 40 CFR 60, Subpart JJJJ – AFR Controller Maintenance and Operation

In accordance with 40 CFR 60.4243 (g), the permittee shall maintain and operate the AFR controller in order to ensure proper operation of the engine and control device to minimize emissions at all times.

[3/1/10]

Monitoring and Recordkeeping Requirements

50. NSPS 40 CFR 60, Subpart JJJJ – Records

In accordance with 40 CFR 60.4245 (a)(1) and (2), the permittee shall keep records of the following information:

- For each engine notifications submitted and all documentation supporting any notification.
- Maintenance conducted on each SI engine

The permittee shall maintain these records on-site and be made available to DEQ representatives upon request for a period of at least five years.

[6/19/12]

Performance Testing Requirements

51. NSPS 40 CFR 60, Subpart JJJJ – Performance Test Schedule

In accordance with 40 CFR 60.4243 (b)(2)(ii), the owner or operator shall conduct an initial performance test and conduct subsequent performance testing every 8,760 hours or 3 years, whichever comes first, thereafter to demonstrate compliance on each engine.

- The permittee shall conduct the initial performance test within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup.

[3/1/10]

52. NSPS 40 CFR 60, Subpart JJJJ – Performance Test Procedures

In accordance with 40 CFR 60.4244, the permittee shall follow the procedures:

- Each performance test must be conducted within 10 percent of 100 percent peak (or the highest achievable) load and according to the requirements in §60.8 and under the specific conditions that are specified by Table 2 to Subpart JJJJ.
- The permittee may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in §60.8(c). If your stationary SI internal combustion engine is non-operational, you do not need to startup the engine solely to conduct a performance test.
- The permittee must conduct three separate test runs for each performance test required in this section, as specified in §60.8(f). Each test run must be conducted within 10 percent of 100 percent peak (or the highest achievable) load and last at least 1 hour.
- To determine compliance with the NO_x mass per unit output emission limitation for each engine, the permittee shall convert the concentration of NO_x in the engine exhaust using the following equation:

$$ER = \frac{C_d * 1.912 * 10^{-3} * Q * T}{HP - hr}$$

Where:

ER = Emission rate of NO_x in g/hp-hr.

C_d = Measured NO_x concentration in parts per million by volume (ppmv).

1.912×10^{-3} = Conversion for ppm NO_x to grams per standard cubic meter @ 20 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meter per hour, dry basis.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, horsepower-hour.

- To determine compliance with the CO mass per unit output emission limitation, the permittee shall convert the concentration of CO in the engine exhaust using the following equation:

$$ER = \frac{C_d * 1.164 * 10^{-3} * Q * T}{HP - hr}$$

Where:

ER = Emission rate of CO in g/hp-hr.

C_d = Measured CO concentration in parts per million by volume (ppmv).

1.164×10^{-3} = Conversion for ppm CO to grams per standard cubic meter @ 20 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meter per hour, dry basis.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, horsepower-hour.

- When calculating emissions of VOC, emissions of formaldehyde should not be included. To determine compliance with the VOC mass per unit output emission limitation, the permittee shall convert the concentration of VOC in the engine exhaust using the following equation:

$$ER = \frac{C_d * 1.833 * 10^{-3} * Q * T}{HP - hr}$$

Where:

ER = Emission rate of VOC in g/hp-hr.

C_d = Measured VOC concentration as propane in parts per million by volume (ppmv).

1.833×10^{-3} = Conversion for ppm VOC measured as propane to grams per standard cubic meter @ 20 degrees Celsius.

Q = Stack gas volumetric flow rate, in standard cubic meter per hour, dry basis.

T = Time of test run, in hours.

HP-hr = Brake work of the engine, horsepower-hour.

[3/1/10]

53. As stated in 40 CFR 60.4244 (a), the permittee must comply with the following requirements for performance tests within 10 percent of 100 percent peak (or the highest achievable) load:

Table 2 to Subpart JJJJ of Part 60—Requirements for Performance Tests

| For each | Complying with the requirement to | You must | Using | According to the following requirements |
|---|--|---|---|---|
| 1. Stationary SI internal combustion engine demonstrating compliance according to §60.4244. | a. limit the concentration of NO _x in the stationary SI internal combustion engine exhaust. | i. Select the sampling port location and the number of traverse points; | (1) Method 1 or 1A of 40 CFR part 60, appendix A or ASTM Method D6522-00(2005) ^a . | (a) If using a control device, the sampling site must be located at the outlet of the control device. |
| | ii. Determine the O ₂ concentration of the stationary internal combustion engine exhaust at the sampling port location; | (2) Method 3, 3A, or 3B ^b of 40 CFR part 60, appendix A or ASTM Method D6522-00(2005) ^a . | (b) Measurements to determine O ₂ concentration must be made at the same time as the measurements for NO _x concentration. | |
| | iii. Determine the exhaust flow rate of the stationary internal combustion engine exhaust; | (3) Method 2 or 19 of 40 CFR part 60. | | |
| | iv. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and | (4) Method 4 of 40 CFR part 60, appendix A, Method 320 of 40 CFR part 63, appendix A, or ASTM D6348-03 (incorporated by reference, see §60.17). | (c) Measurements to determine moisture must be made at the same time as the measurement for NO _x concentration. | |
| | v. Measure NO _x at the exhaust of the stationary internal combustion engine. | (5) Method 7E of 40 CFR part 60, appendix A, Method D6522-00(2005) ^a , Method 320 of 40 CFR part 63, appendix A, or ASTM D6348-03 (incorporated by reference, see §60.17). | (d) Results of this test consist of the average of the three 1-hour or longer runs. | |
| | b. limit the concentration of CO in the stationary SI internal combustion engine exhaust. | i. Select the sampling port location and the number of traverse points; | (1) Method 1 or 1A of 40 CFR part 60, appendix A. | (a) If using a control device, the sampling site must be located at the outlet of the control device. |
| | ii. Determine the O ₂ concentration of the stationary internal combustion engine exhaust at the sampling port location; | (2) Method 3, 3A, or 3B ^b of 40 CFR part 60, appendix A or ASTM Method D6522-00(2005) ^a . | (b) Measurements to determine O ₂ concentration must be made at the same time as the measurements for CO concentration. | |
| | iv. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling | (4) Method 4 of 40 CFR part 60, appendix A, Method 320 of 40 CFR part 63, appendix A, or ASTM D6348-03 (incorporated by reference, see §60.17). | (c) Measurements to determine moisture must be made at the same time as the measurement for CO concentration. | |

| For each | Complying with the requirement to | You must | Using | According to the following requirements |
|----------|--|--|---|---|
| | port location; and | | | |
| | v. Measure CO at the exhaust of the stationary internal combustion engine. | (5) Method 10 of 40 CFR part 60, appendix A, ASTM Method D6522-00(2005) ^a , Method 320 of 40 CFR part 63, appendix A, or ASTM D 6348-03 (incorporated by reference, see §60.17). | (d) Results of this test consist of the average of the three 1-hour or longer runs. | |
| | c. limit the concentration of VOC in the stationary SI internal combustion engine exhaust. | i. Select the sampling port location and the number of traverse points; | (1) Method 1 or 1A of 40 CFR part 60, appendix A. | (a) If using a control device, the sampling site must be located at the outlet of the control device. |
| | ii. Determine the O ₂ concentration of the stationary internal combustion engine exhaust at the sampling port location; | (2) Method 3, 3A, or 3B ^b of 40 CFR part 60, appendix A or ASTM Method D6522-00(2005) ^a . | (b) Measurements to determine O ₂ concentration must be made at the same time as the measurements for VOC concentration. | |
| | iii. Determine the exhaust flow rate of the stationary internal combustion engine exhaust; | (3) Method 2 or 19 of 40 CFR part 60. | | |
| | iv. If necessary, measure moisture content of the stationary internal combustion engine exhaust at the sampling port location; and | (4) Method 4 of 40 CFR part 60, appendix A, Method 320 of 40 CFR part 63, appendix A, or ASTM D6348-03 (incorporated by reference, see §60.17). | (c) Measurements to determine moisture must be made at the same time as the measurement for VOC concentration. | |
| | v. Measure VOC at the exhaust of the stationary internal combustion engine. | (5) Methods 25A and 18 of 40 CFR part 60, appendix A, Method 25A with the use of a methane cutter as described in 40 CFR 1065.265, Method 18 or 40 CFR part 60, appendix A, ^{c,d} Method 320 of 40 CFR part 63, appendix A, or ASTM D6348-03 (incorporated by reference, see §60.17). | (d) Results of this test consist of the average of the three 1-hour or longer runs. | |

^a ASTM D6522-00 is incorporated by reference; see 40 CFR 60.17. Also, you may petition the Administrator for approval to use alternative methods for portable analyzer.

^b You may use ASME PTC 19.10-1981, Flue and Exhaust Gas Analyses, for measuring the O₂ content of the exhaust gas as an alternative to EPA Method 3B.

^c You may use EPA Method 18 of 40 CFR part 60, appendix A, provided that you conduct an adequate presurvey test prior to the emissions test, such as the one described in OTM 11 on EPA's Web site (<http://www.epa.gov/ttn/emc/prelim/otm11.pdf>).

^d You may use ASTM D6420-99 (2004), Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry as an alternative to EPA Method 18 for measuring total nonmethane organic.

[3/1/10]

Reporting Requirements

54. NSPS 40 CFR 60, Subpart JJJJ – Initial Notification

In accordance with 40 CFR 60.4245, the permittee SI ICE must meet the following notification, reporting and recordkeeping requirements:

If the SI engines have not been certified by an engine manufacturer to meet the emission standards of 40 CFR 60.4231, the permittee must submit an initial notification as required in §60.7(a)(1). The notification must include the following information:

- Name and address of the owner or operator;
- The address of the affected source;
- Engine information including make, model, engine family, serial number, model year, maximum engine power, and engine displacement;
- Emission control equipment; and
- Fuel used.

[3/1/10]

55. NSPS 40 CFR 60, Subpart JJJJ – Performance Test Submittal

In accordance with 60.4245 (d), the permittee must submit a copy of each performance test as conducted in 40 CFR 60.4244 within 60 days after the test has been completed.

[3/1/10]

56. NSPS 40 CFR 60, Subpart JJJJ – General Provisions of 40 CFR 60

In accordance with 40 CFR 60.4246, the permittee shall comply with the following applicable General Provisions of 40 CFR 60:

Table 3 to Subpart JJJJ of Part 60—Applicability of General Provisions to Subpart JJJJ

| General Provision Citation | Subject of citation | Applies to subpart | Explanation |
|----------------------------|--|--------------------|--|
| §60.1 | General applicability of the General Provisions | Yes | |
| §60.2 | Definitions | Yes | Additional terms defined in §60.4248. |
| §60.3 | Units and abbreviations | Yes | |
| §60.4 | Address | Yes | |
| §60.5 | Determination of construction or modification | Yes | |
| §60.6 | Review of plans | Yes | |
| §60.7 | Notification and Recordkeeping | Yes | Except that §60.7 only applies as specified in §60.4245. |
| §60.8 | Performance tests | Yes | Except that §60.8 only applies to owners and operators who are subject to performance testing in subpart JJJJ. |
| §60.9 | Availability of information | Yes | |
| §60.10 | State Authority | Yes | |
| §60.11 | Compliance with standards and maintenance requirements | Yes | Requirements are specified in subpart JJJJ. |
| §60.12 | Circumvention | Yes | |
| §60.13 | Monitoring requirements | No | |
| §60.14 | Modification | Yes | |
| §60.15 | Reconstruction | Yes | |
| §60.16 | Priority list | Yes | |
| §60.17 | Incorporations by reference | Yes | |
| §60.18 | General control device requirements | No | |
| §60.19 | General notification and reporting requirements | Yes | |

[3/1/10]

PERMIT TO CONSTRUCT GENERAL PROVISIONS

General Compliance

57. The permittee has a continuing duty to comply with all terms and conditions of this permit. All emissions authorized herein shall be consistent with the terms and conditions of this permit and the Rules for the Control of Air Pollution in Idaho. The emissions of any pollutant in excess of the limitations specified herein, or noncompliance with any other condition or limitation contained in this permit, shall constitute a violation of this permit and the Rules for the Control of Air Pollution in Idaho, and the Environmental Protection and Health Act, Idaho Code §39-101, et seq.
- [Idaho Code §39-101, et seq.]
58. The permittee shall at all times (except as provided in the Rules for the Control of Air Pollution in Idaho) maintain in good working order and operate as efficiently as practicable, all treatment or control facilities or systems installed or used to achieve compliance with the terms and conditions of this permit and other applicable Idaho laws for the control of air pollution.
- [IDAPA 58.01.01.211, 5/1/94]
59. Nothing in this permit is intended to relieve or exempt the permittee from the responsibility to comply with all applicable local, state, or federal statutes, rules and regulations.
- [IDAPA 58.01.01.212.01, 5/1/94]

Inspection and Entry

60. Upon presentation of credentials, the permittee shall allow DEQ or an authorized representative of DEQ to do the following:
- Enter upon the permittee's premises where an emissions source is located or emissions related activity is conducted, or where records are kept under conditions of this permit;
 - Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit;
 - Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and
 - As authorized by the Idaho Environmental Protection and Health Act, sample or monitor, at reasonable times, substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements.

[Idaho Code §39-108]

Construction and Operation

61. This permit shall expire if construction has not begun within two years of its issue date, or if construction is suspended for one year.
- [IDAPA 58.01.01.211.02, 5/1/94]
62. The permittee shall furnish DEQ written notifications as follows in accordance with IDAPA 58.01.01.211:
- A notification of the date of initiation of construction, within five working days after occurrence; except in the case where pre-permit construction approval has been granted then notification shall be made within five working days after occurrence or within five working days after permit issuance whichever is later;
 - A notification of the date of any suspension of construction, if such suspension lasts for one year or more;

- A notification of the anticipated date of initial start-up of the stationary source or facility not more than sixty days or less than thirty days prior to such date; and
- A notification of the actual date of initial start-up of the stationary source or facility within fifteen days after such date.

[IDAPA 58.01.01.211.03, 5/1/94]

Performance Testing

63. If performance testing (air emissions source test) is required by this permit, the permittee shall provide notice of intent to test to DEQ at least 15 days prior to the scheduled test date or shorter time period as approved by DEQ. DEQ, at its option, may have an observer present at any emissions tests conducted on a source. DEQ requests that such testing not be performed on weekends or state holidays.
64. All performance testing shall be conducted in accordance with the procedures in IDAPA 58.01.01.157. Without prior DEQ approval, any alternative testing is conducted solely at the permittee's risk. If the permittee fails to obtain prior written approval by DEQ for any testing deviations, DEQ may determine that the testing does not satisfy the testing requirements. Therefore, at least 30 days prior to conducting any performance test, the permittee is encouraged to submit a performance test protocol to DEQ for approval. The written protocol shall include a description of the test method(s) to be used, an explanation of any or unusual circumstances regarding the proposed test, and the proposed test schedule for conducting and reporting the test.
65. Within 30 days following the date in which a performance test required by this permit is concluded, the permittee shall submit to DEQ a performance test report. The written report shall include a description of the process, identification of the test method(s) used, equipment used, all process operating data collected during the test period, and test results, as well as raw test data and associated documentation, including any approved test protocol.

[IDAPA 58.01.01.157, 4/5/00]

Monitoring and Recordkeeping

66. The permittee shall maintain sufficient records to ensure compliance with all of the terms and conditions of this permit. Records of monitoring information shall include, but not be limited to the following: (a) the date, place, and times of sampling or measurements; (b) the date analyses were performed; (c) the company or entity that performed the analyses; (d) the analytical techniques or methods used; (e) the results of such analyses; and (f) the operating conditions existing at the time of sampling or measurement. All monitoring records and support information shall be retained for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes, but is not limited to, all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by this permit. All records required to be maintained by this permit shall be made available in either hard copy or electronic format to DEQ representatives upon request.

[IDAPA 58.01.01.211, 5/1/94]

Excess Emissions

67. The permittee shall comply with the procedures and requirements of IDAPA 58.01.01.130-136 for excess emissions due to startup, shutdown, scheduled maintenance, safety measures, upsets and breakdowns.

[IDAPA 58.01.01.130-136, 4/5/00]

Certification

68. All documents submitted to DEQ, including, but not limited to, records, monitoring data, supporting information, requests for confidential treatment, testing reports, or compliance certification shall contain a certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document(s) are true, accurate, and complete.

[IDAPA 58.01.01.123, 5/1/94]

False Statements

69. No person shall knowingly make any false statement, representation, or certification in any form, notice, or report required under this permit, or any applicable rule or order in force pursuant thereto.

[IDAPA 58.01.01.125, 3/23/98]

Tampering

70. No person shall knowingly render inaccurate any monitoring device or method required under this permit or any applicable rule or order in force pursuant thereto.

[IDAPA 58.01.01.126, 3/23/98]

Transferability

71. This permit is transferable in accordance with procedures listed in IDAPA 58.01.01.209.06.

[IDAPA 58.01.01.209.06, 4/11/06]

Severability

72. The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

[IDAPA 58.01.01.211, 5/1/94]