

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Tina Ball, Senior Environmental Analyst
Xcel Energy
1414 West Hamilton Ave.
P.O. Box 8
Eau Claire, WI 54702-0008

Re: Notice of Intent to Sue Xcel Energy Services Inc.

Dear Ms. Ball:

Section 304(b) of the Clean Air Act, 42 U.S.C. § 7604(b), requires that 60 days prior to the filing of a citizen suit in federal district court under section 7604(a)(1) of the Act, the alleged violator, the U.S. Environmental Protection Agency, and the State in which the alleged violations occur must be given notice of the alleged violations. An action can be brought immediately after notice when the violation is of section 7412(i)(3)(A) or (f)(4). See 42 U.S.C. § 7604(b).

This notice is being sent on behalf of Wisconsin's Environmental Decade, Inc., (hereinafter WED) a 501(c)(4) non-profit environmental organization located at 122 State Street, Suite 200, Madison, Wisconsin, 53703. WED's phone number is 608-251-7020. WED is a statewide membership organization with over 300 members in the La Crosse, Wisconsin area who are adversely impacted by the Xcel Energy Services Inc./ Northern States Power (hereinafter Xcel) French Island incinerator. We hereby place you on notice that we believe that Xcel's French Island incinerator, located at 200 South Bainbridge St. in La Crosse, Wisconsin, has violated and continues to violate "an emission standard or limitation" under 42 U.S.C. § 7604(a) and (f), in the following respects:

1. Xcel owns and operates two wood waste and refuse derived fuel fired fluidized bed combustors (B20 and B21). Xcel has violated the Clean Air Act, 42 U.S.C. 7412(j); 42 U.S.C. 7461a; and 42 U.S.C. 7461b by operating since March 1, 1997, without an operating permit.
2. Xcel has violated requirements of the Clean Air Act, 42 U.S.C. §§ 7411 and 7429; its implementing regulations, 40 C.F.R. § 60, Subpart Cb; and the Federal Implementation Plan, 40 C.F.R. § 62, Subpart FFF, by operating a "large" municipal waste incinerator that fails to comply with emission limits for large incinerators that were

constructed before September 20, 1994. Xcel has violated the generic compliance schedules and increments of progress by failing to submit a final control plan by January 11, 1999; failing to award contracts by May 18, 1999; failing to begin on-site construction by November 16, 1999; failing to complete on-site construction by November 19, 2000; and failing to come into final compliance by December 19, 2000.

3. Xcel has violated requirements of the Clean Air Act, 42 U.S.C. §§ 7411 and 7429; its implementing regulations, 40 C.F.R. § 60, Subpart Cb; and the Federal Implementation Plan, 40 C.F.R. § 62, et seq., by failing to attain the following emission limitations every day since December 19, 2000:

| <u>Stack</u> | <u>Parameter</u> | <u>Federal Limitation</u> |
|--------------|-------------------|----------------------------------------------|
| B20 | PM | .012 gr/dscf |
| B21 | PM | .012 gr/dscf |
| B20 | Visible Emissions | 10% Opacity (6 min. ave.) |
| B21 | Visible Emissions | 10% Opacity (6 min. ave.) |
| B20 | Carbon Monoxide | 100ppmv (4 hr. ave.) |
| B21 | Carbon Monoxide | 100ppmv (4 hr. ave.) |
| B20 | Dioxin | 30 ng/dscm total mass |
| B21 | Dioxin | 30 ng/dscm total mass |
| B20 | Sulfur Dioxide | 29 ppmv or 75% reduction by weight or volume |
| B21 | Sulfur Dioxide | 29 ppmv or 75% reduction by weight or volume |
| B20 | Nitrogen Oxides | 180 ppmv |
| B21 | Nitrogen Oxides | 180 ppmv |
| B20 | Lead | .44 mg/dscm |
| B21 | Lead | .44 mg/dscm |
| B20 | Hydrogen Chloride | 29 ppmv or 95% reduction by weight or volume |
| B21 | Hydrogen Chloride | 29 ppmv or 95% reduction by weight or volume |
| B20 | Mercury | .08 mg/dscm or 85% reduction by weight |
| B21 | Mercury | .08 mg/dscm or 85% reduction by weight |
| B20 | Cadmium | .04 mg/dscm |
| B21 | Cadmium | .04 mg/dscm |

4. Xcel has violated the above emission limitations every day since December 19, 2000, by failing to install required emission control technology. Both units B20 and B21 use multiclone and electrostatic filter beds (gravel). The Clean Air Act, 42 U.S.C. §§ 7411 and 7429; its implementing regulations, 40 C.F.R. § 60, Subpart Cb; and the Federal Implementation Plan, 40 C.F.R. § 62 et seq., require Xcel to install control technology including but not limited to spray dryer, electrostatic precipitator, fabric filter, carbon injection, and selective noncatalytic reduction. Xcel's failure to do so has resulted in excess emissions in violation of emission limitations for large incinerators.

5. Xcel has violated the Clean Air Act, 42 U.S.C. §§ 7411 and 7429; its implementing regulations, 40 C.F.R. § 60, Subpart Cb; and the Federal Implementation Plan, 40 C.F.R. § 62.14105, every day since November 12, 1999, by failing to train and certify operators of the facility, failing to create a site-specific operating manual, and failing to establish a training program to review the manual.

We intend, at the close of the 60-day notice period or shortly thereafter, to file a citizen suit under 42 U.S.C. § 7604 against Xcel's French Island facility for the violations listed in this letter. WED's suit will request injunctive relief, imposition of civil penalties payable to the United States up to the statutory maximum of \$25,000 per violation per day for each violation stated above, in addition to those occurring subsequently and those known previously to the company, plus costs, attorney and expert witness fees, and such other relief as may be appropriate. We will seek that a up to \$100,000 of these penalties will be directed to beneficial mitigation projects in the local community to help offset the damage that Xcel has done to the community.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter, and any facts which you believe are relevant which are not reflected in this notice letter. However, if you wish to pursue such negotiations in the absence of litigation, we suggest that you initiate those discussions within the next 10 days so that they may be completed before the end of the 60-day notice period.

Sincerely,

Melissa K. Scanlan
Executive Director
Midwest Environmental Advocates, Inc.
122 State St., Suite 200
Madison, WI 53703
608 251-5047

Dennis Grzezinski
Law Office of Dennis M. Grzezinski
312 E. Wisconsin Ave., #210
Milwaukee, WI 53202
414 289-9200

cc: CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Ms. Christie Whitman, Administrator
U.S. Environmental Protection Agency, A-100
401 M Street, S.W.
Washington, D.C. 20460

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. David Ullrich, Acting Regional Administrator
EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Darrell L. Bazzell, Secretary
Department of Natural Resources
101 South Webster St.
Box 7921
Madison, WI 53707

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Governor Scott McCallum
P.O. Box 7863
Madison, WI 53707

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

CSC-LAWYERS INCORPORATING SERVICE COMPANY
25 W Main St.
Madison, WI 53703