



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

May 11, 2021

Via Certified Mail No.:
7019 0700 0001 4253 5965

Via Certified Mail No.:
7019 2280 0001 5571 1405

Corporate Service Company,
Registered Agent
U.S. Steel Corporation – Midwest Plant
135 N. Pennsylvania St, Suite 1610
Indianapolis, Indiana 46204

Alexis Piscitelli, Director of Environmental
Compliance
U.S. Steel Corporation – Midwest Plant
6300 US Highway 12
Portage, Indiana 46368

Dear Ms. Piscitelli:

Re: Adoption of Agreed Order
Commissioner, Indiana Department
of Environmental Management

v.

U.S. Steel Corporation – Midwest Plant
NPDES No. IN0000337
Case No. 2019-26434-W
Case No. 2019-26665-W
Portage, Porter County

This is to inform you that the Agreed Order in the above-referenced cases has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed.

Please note the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon your receipt of this correspondence (Effective Date). Please note that the civil penalty is due within 30 days after the effective date of the Agreed Order. Payment should be made payable to the "Environmental Management Special Fund" and sent to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204

Please include the Case Numbers on the front of the check.

If you have any questions, please contact David Koehler, Environmental Manager, Water Enforcement Section, at (317) 232-8433 or dkoehler@idem.in.gov.



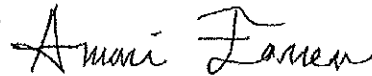
A State that Works



Recycled Paper

Adoption of Agreed Order Cover Letter
Case No. 2019-26434-W, 2019-26665-W
U.S. Steel Corporation – Midwest Plant
NPDES No. IN0000337
Portage, Porter County
Page 2

Sincerely,

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

Amari Farren, Chief
Water Enforcement Section
Office of Water Quality

Enclosures

cc: Porter County Health Department
David M. Shelton, Attorney
Tim Sullivan, Compliance Manager
<http://www.in.gov/idem>

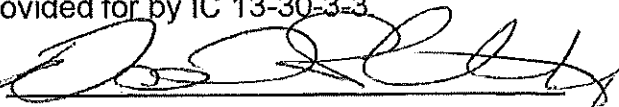
Waived Notice of Violation: Case No. 2019-26434-W, 2019-26665-W
U.S. Steel Corporation- Midwest Plant
NPDES Permit No. IN0000337
Portage, Porter County

RE: Case No. 2019-26434-W, 2019-26665-W

I, David M. Shelton (print name), on behalf of

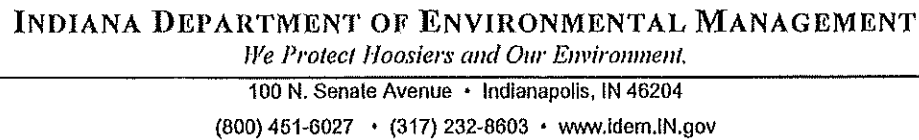
United States Steel Corporation (print company name) waive issuance of a Notice of Violation and the settlement period of 60 days for the violations in the Agreed Order Findings of Fact Paragraphs 18 through 21, as provided for by IC 13-30-3-3

Signed



Date

April 30, 2021

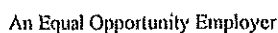


Bruno L. Pigott
Commissioner

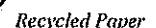
AGREED ORDER

I. FINDINGS OF FACT

1. Complainant is the Commissioner (Complainant) of the Indiana Department of Environmental Management (IDEM), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is U.S. Steel Corporation- Midwest Plant (Respondent or U.S. Steel), which owns and operates a steel manufacturing and finishing facility, located at 6300 US Highway 12, Portage, Porter County, Indiana (the Site).
3. Respondent is authorized by its National Pollutant Discharge Elimination System (NPDES) Permit No. IN0000337 (the Permit) to discharge wastewater treated in accordance with the terms and conditions of the NPDES Permit from the Final Treatment Plant and Chrome Treatment Plant (collectively, the Treatment Plants) into Portage-Burns Waterway, a tributary to Lake Michigan, via Outfall 004. The Permit also authorizes Respondent to discharge non-contact cooling water and storm water into Portage-Burns Waterway via Outfall 003.



A State that Works



4. IDEM has jurisdiction over the parties and the subject matter of this action pursuant to IC 13-30-3.
5. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (NOV) via Certified Mail/personal service on October 31 and December 13, 2019, and an Amended NOV to:

Corporation Service Company,
Registered Agent
U.S. Steel Corporation- Midwest Plant
135 N. Pennsylvania St, Suite 1610
Indianapolis, IN 46204

Alexis Piscitelli, Director of
Environmental Compliance
U.S. Steel Corporation- Midwest Plant
6300 US Highway 12
Portage, Indiana 46368

6. This Agreed Order addresses the Amended NOV for Case No. 2019-26434-W and Case No. 2019-26665-W.
7. During investigations conducted by representatives of IDEM, violations were found, as described below.
8. 327 Indiana Administrative Code (IAC) 5-2-8(1), states the permittee shall comply with all terms and conditions of the Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and Indiana Code (IC) 13 and is grounds for enforcement action by IDEM.
9. Pursuant to IC 13-18-4-5, a person may not: (1) throw, run, drain, or otherwise dispose; or (2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed; into any of the streams or waters of Indiana any organic or inorganic matter that causes or contributes to a polluted condition of any of the streams or waters of Indiana.

Pursuant to IC 13-30-2-1(1), it is unlawful for any person to discharge, emit, cause or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources in the environment in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

Pursuant to Part I.B.1 of the Permit and 327 IAC 2-1.5-8, all surface waters at all times and at all places, including the mixing zone, shall meet the minimum conditions of being free from substances, materials, floating debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices or other discharges that do any of the following:

- A. Will settle to form putrescent or otherwise objectionable deposits;
- B. Are in amounts sufficient to be unsightly or deleterious;

- C. Produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;
- D. Which are in amounts sufficient to be acutely toxic to, or otherwise severely injure or kill aquatic life, other animals, plants, or humans;
- E. Are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such degree as to create a nuisance, be unsightly, or otherwise impair the designated uses.

On November 28, 2018, Respondent caused or contributed to the contamination of waters of the state by discharging foam and scum out of Outfall 004, documented by IDEM in the December 12, 2018 Inspection Summary Letter.

On December 18, 2018, Respondent caused or contributed to the contamination of waters of the state by periodically discharging foam out of Outfall 004, documented by IDEM in the January 3, 2019 Inspection Summary Letter.

On May 9, 2019, Respondent caused or contributed to the contamination of waters of the state by discharging out of Outfall 004, a turbid, discolored effluent containing a visible sheen and solids, as documented by IDEM in the June 14, 2019 Inspection Summary Letter.

On May 30, 2019, Respondent caused or contributed to the contamination of waters of the state by discharging foam out of Outfall 003, documented by IDEM in the June 14, 2019 Inspection Summary Letter.

On August 8, 2019 and August 20, 2019, Respondent caused or contributed to the contamination of waters of the state by discharging an oil sheen out of Outfall 004, as documented by IDEM in the September 6, 2019 Inspection Summary Letter.

On September 6, 2019, Respondent caused or contributed to the contamination of waters of the state by discharging an oil sheen out of Outfall 004, as documented by IDEM during an emergency response on September 6, 2019, and in a Noncompliance Letter dated September 25, 2019.

On September 18, 2019, Respondent caused or contributed to the contamination of waters of the state by periodically discharging an oil sheen out of Outfall 004, documented by IDEM in the September 30, 2019 Inspection Summary Letter.

On October 31, 2019, Respondent caused or contributed to the contamination of waters of the state by discharging an oil sheen out of Outfall 004, as documented by IDEM in the December 3, 2019 Inspection Summary Letter.

On November 21, 2019, Respondent caused or contributed to the contamination of waters of the state by discharging an oil sheen and solids out of Outfall 004, as documented by IDEM in the December 10, 2019 Inspection Summary Letter.

Each of the above is in violation of IC 13-18-4-5, IC 13-30-2-1(1), 327 IAC 2-1.5-8, and Part I.B.1 of the Permit.

10. Pursuant to 327 IAC 2-6.1-7(5), any person who operates, controls, or maintains any facility from which a spill occurs shall, upon discovery of a reportable spill to the soil or surface waters of the state, exercise due diligence and document attempts to notify the following:
 - A. For spills to surface water that cause damage, the nearest affected downstream water user located within ten (10) miles of the spill and in the state of Indiana; and
 - B. For spills to soil outside the facility boundary, the affected property owner or owners, operator or operators, or occupant or occupants.

On May 9, 2019, IDEM directed Respondent to notify downstream users of the spill. A response received via email on May 10, 2019 stated that "downstream notification is unnecessary given that US Steel made a public statement at 4:32 EDT." This public statement was not timely, was not directed specifically to downstream users, and did not detail the potential problems at the site, including the potential release of what IDEM was initially informed was pickle liquor, but eventually determined to be sulfuric acid. Respondent failed to notify downstream users of the spill that occurred on May 9, 2019, in violation of 327 IAC 2-6.1-7(5).

As documented by IDEM during an emergency response on September 6, 2019, and in a Noncompliance Letter dated September 25, 2019, on September 6, 2019, IDEM directed Respondent to notify downstream users, including the Town of Ogden Dunes, of the spill. While Respondent made notifications to some downstream users, Respondent failed to notify the Town of Ogden Dunes, in violation of 327 IAC 2-6.1-7(5).

11. Pursuant to Part II.A.2 of the Permit and 327 IAC 5-2-8(3), the permittee shall take all reasonable steps to minimize or correct any adverse impact to the environment resulting from noncompliance with this permit. During periods of noncompliance, the permittee shall conduct such accelerated or additional monitoring for the affected parameters, as appropriate or as requested by IDEM, to determine the nature and impact of the noncompliance.

On May 9, 2019, Respondent failed to take all reasonable steps to minimize impacts to the environment. Respondent delayed sampling for any likely pollutants at the time the incident was first observed, until IDEM requested pollutant sampling from Respondent. Accelerated sampling did not begin until after the solids had subsided in the afternoon of May 9, 2019, in violation of Part II.A.2 of the Permit and 327 IAC 5-2-8(3).

On October 30, 2019, Respondent failed to take all reasonable steps to minimize impacts to the environment. Respondent intended to cease discharge from the Chrome Treatment Plant, Outfall 204, on October 30, 2019, after receipt of the analytical result for the Outfall 204 grab sample indicated an elevated hexavalent

chromium concentration. However, as documented by Respondent in its November 8, 2019 Noncompliance Notification Letter, Respondent left the Chrome Treatment Plant 'A' line in automatic mode, enabling the treatment line to operate and intermittently discharge approximately 33,000 gallons before operators shut it down, in violation of Part II.A.2 of the Permit and 327 IAC 5-2-8(3).

12. Pursuant to Part II.A.5 and 327 IAC 5-1-3(a)(5), the permittee shall provide any information reasonably requested by the Commissioner.

On May 9, 2019, IDEM asked U.S. Steel personnel what the cause of solids loss may have been. At the time, U.S. Steel personnel were under the impression that the loss of pickle liquor from Heat Exchanger #1 of Pickling Line #1 was likely the source of the loss of solids. Later on May 9, 2019, U.S. Steel personnel learned it was likely due to the loss of sulfuric acid from the Tin Line, but withheld the data until U.S. Steel issued the five day letter on May 14, 2019, despite numerous opportunities to inform IDEM of the new information. Respondent withheld pertinent information from IDEM, in violation of Part II.A.5 of the Permit and 327 IAC 5-1-3(a)(5).

13. Pursuant to Part II.B.1 of the Permit and 327 IAC 5-2-8(9), the permittee shall at all times maintain in good working order and efficiently operate all facilities and systems (and related appurtenances) for the collection and treatment which are:

- A. Installed or used by the permittee; and
- B. Which are necessary for achieving compliance with the terms and conditions of the permit.

As documented by IDEM in the June 14, 2019 Inspection Summary Letter, Respondent failed to maintain equipment in good working order by having the western train of the Final Treatment Plant off-line for cleaning and maintenance, thus likely causing or contributing to the loss of solids to the Portage-Burns Waterway on May 9, 2019, in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

As documented by Respondent in its August 26, 2019 Noncompliance Notification Letter, Respondent failed to efficiently operate its treatment facilities by allowing a rolling oil solution tank and a cleaning solution tank to be discharged into its treatment facilities in a manner that resulted in carry-over of oil in the Outfall 004 discharge on August 20, 2019. The failure to efficiently operate all treatment facilities is in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

As documented by IDEM in the September 6, 2019 Inspection Summary Letter, Respondent failed to maintain equipment in good working order by having the East API separator out of service due to mechanical failure. The loss of the East API also halted the skimmer arms on the West API separator. Oil was observed on both sides of the Final Treatment Settling Tanks, which may have been attributable to the API maintenance issues. The failure to properly maintain the

API separators and the presence of oil in the Final Treatment Settling Tanks is in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

As documented by IDEM in the September 6, 2019 Inspection Summary Letter, the Operations Manual for Final Treatment needs to be revised or rewritten. U.S. Steel representatives stated that they are working on an updated version of the manual. The failure to have a current Operations Manual for Final Treatment is in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

As documented by IDEM in the September 30, 2019 Inspection Summary Letter, Respondent failed to maintain equipment in good working order by failing to adequately remove coating oil, which, according to facility personnel was spilled within the Final Treatment Plant on September 6, 2019, from Final Treatment Plant components, including the clarifier flights, resulting in periodic releases of oil in the Final Treatment discharge. The failure to properly maintain the Final Treatment Clarifiers is in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

As documented by IDEM in the December 3, 2019, Inspection Summary Letter, a blockage in a line utilized to analyze pH in the Train B Chrome Reduction Tank of the Chrome Treatment Plant caused inadequate chemical feeding, resulting in inadequate treatment for hexavalent chromium. U.S. Steel operators were not manually testing the pH every two hours as required in the US Steel Midwest Standard Operating Procedure (SOP), delaying detection of the problem. Additionally, oil sheens were observed beyond the Final Treatment Plant skimming system, which is in disrepair and not functioning as designed. The above deficiencies are in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

As documented by IDEM in the December 10, 2019, Inspection Summary Letter, the east train of the Final Treatment Plant was off-line. The loss of available capacity likely caused or contributed to the loss of solids from Outfall 004. The Respondent also identified that the #1 tank at the pickle line had an uncapped strainer, which resulted in a process leak of pickle liquor to the Final Treatment Plant. The above deficiencies are in violation of Part II.B.1 of the Permit and 327 IAC 5-2-8(9).

14. Pursuant to Part III.A.8 of the Permit, temperature measurements shall be recorded continuously in one hour intervals and the highest single recorded hourly measurement shall be reported on the discharge monitoring report as the maximum daily temperature of that month.

As documented by IDEM on the September 6, 2019 Inspection Summary Letter, Respondent has been reporting the average hourly temperatures and not the maximum hourly temperature on the discharge monitoring reports, in violation of Part III.A.8 of the Permit.

15. Pursuant to Part I.A.3 of the Permit, the permittee is required to comply with the effluent limits applicable to Outfall 004. Part I.A.3 of the Permit includes a daily maximum effluent limit for Copper of 0.052 mg/l.

Respondent failed to comply with the daily maximum effluent limit for Copper on August 29, 2019 and October 13, 2019, in violation of Part I.A.3 of the Permit.

16. Pursuant to Part I.A.5 of the Permit, the permittee is required to comply with the effluent limits applicable to Outfall 304. Part I.A.5 of the Permit includes a daily maximum load limit for Hexavalent Chromium of 0.51 lbs/day.

Respondent failed to comply with the daily maximum load limit for Hexavalent Chromium from Outfall 304 on October 30, 2019, in violation of Part I.A.5 of the Permit.

17. Respondent waives the issuance of a NOV and to the settlement period of sixty (60) days as provided by IC 13-30-3-3 for Findings of Facts paragraphs 18 through 21.
18. Pursuant to Part I.F.1 of the Permit, the Whole Effluent Toxicity Testing (WETT) requirements of the permit set forth the monitoring, implementation, and reporting requirements to assess the character and toxicity of the final effluent from the wastewater treatment facility on aquatic life.

Pursuant to IC 13-18-4-5, a person may not: (1) throw, run, drain, or otherwise dispose; or (2) cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed; into any of the streams or waters of Indiana any organic or inorganic matter that causes or contributes to a polluted condition of any of the streams or waters of Indiana.

Pursuant to IC 13-30-2-1(1), it is unlawful for any person to discharge, emit, cause or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources in the environment in any form that causes or would cause pollution that violates or would violate rules, standards, or discharge or emission requirements adopted by the appropriate board under the environmental management laws.

Pursuant to Part I.B.1 of the Permit and 327 IAC 2-1.5-8, all surface waters at all times and at all places, including the mixing zone, shall meet the minimum conditions of being free from substances, materials, floating debris, oil or scum attributable to municipal, industrial, agricultural, and other land use practices or other discharges that do any of the following:

- A. Will settle to form putrescent or otherwise objectionable deposits;
- B. Are in amounts sufficient to be unsightly or deleterious;
- C. Produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;
- D. Which are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans;

- E. Are in concentrations or combinations that will cause or contribute to the growth of aquatic plants or algae to such degree as to create a nuisance, be unsightly, or otherwise impair the designated uses.

Respondent failed the WETT conducted for Outfall 004 in August 2020 and September 2020, confirming toxicity for Outfall 004 pursuant to Part I.F.1.f of the Permit and triggering the Toxic Reduction Evaluation (TRE) requirements of Part I.F.2 of the Permit; in violation of IC 13-18-4-5, IC 13-30-2-1(1), 327 IAC 2-1.5-8, and Part I.B.1 of the Permit.

- 19. Pursuant to Part I.C.1 of the Permit, samples and measurements taken as required by the Permit shall be representative of the volume and nature of the discharge.

Pursuant to Part I.C.4 of the Permit, analytical and sampling methods used shall conform to the current version of 40 CFT 136 unless otherwise specified.

Pursuant to Part I.C.5 of the Permit, for each measurement or sample taken, the permittee shall maintain records of all monitoring information and monitoring activities, including:

- A. The date, exact place and time of sampling or measurement;
- B. The person(s) who performed the sampling or measurements;
- C. The date(s) and time(s) analyses were performed;
- D. The person(s) who performed the analyses;
- E. The analytical techniques or methods used; and
- F. The results of such measurements and analyses.

As documented by IDEM on the October 26, 2020 Compliance Evaluation Inspection Report, Respondent's Chain-of-Custody reports for the month of August 2020 did not list, for each individual sample container, the method of preservation used or the specific parameter(s) to be analyzed, resulting in a lack of documentation that approved analytical methods were followed.

As documented by IDEM on the October 26, 2020 Compliance Evaluation Inspection Report, a review of the temperature log for September 2020 indicated at least 21 days of temperature recordings between six and seven degrees Fahrenheit for samples collected using the autosampler at Outfall 104. The temperature for TSS samples has to be between zero and six degrees Fahrenheit. During the inspection, IDEM learned that the auto-sampler compressor had a problem with freezing and is scheduled to be replaced.

Each of the above is in violation of Part I.C1, Part I.C.4, and Part I.C.5 of the Permit

- 20. Pursuant to Part I.A.3 of the Permit, the permittee is required to comply with the effluent limits applicable to Outfall 004. Part I.A.3 of the Permit includes a daily maximum effluent limit for Copper of 0.052 mg/l.

Respondent failed to comply with the daily maximum effluent limit for Copper on November 14 and November 28, 2020, in violation of Part I.A.3 of the Permit.

21. Pursuant to Part I.A.3 of the Permit, the permittee is required to comply with the effluent limits applicable to Outfall 004. Part I.A.3 of the Permit includes a daily maximum effluent limit for F. Cyanide of 0.013 mg/l.

Respondent failed to comply with the daily maximum effluent limit for F. Cyanide on December 20, 2020, in violation of Part I.A.3 of the Permit.

22. IDEM and Respondent held a settlement conference on December 5, 2019, to discuss the Order items below.
23. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (Effective Date) when it is adopted by Complainant or Complainant's delegate (as evidenced by signature), and the adopted Agreed Order has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date. In addition to addressing the violations cited in Paragraphs 9 through 21 of the Findings of Fact above, this Agreed Order also addresses any additional violations of these same rules that may have occurred subsequent to the issuance of the NOV and prior to the Effective Date.
2. Respondent shall comply with rules and statutes listed in the findings above at issue.
3. Respondent shall notify the IDEM Wastewater Compliance Branch via email to the Compliance Branch Chief, at least two (2) business days prior to the planned shutdown of either treatment train of the Final Treatment Plant. In the event of an unplanned shutdown, IDEM notification will be made within 24 hours. Notification should be sent to jahouse@idem.in.gov.
4. Respondent shall develop and implement a TRE Plan in accordance with Part I.F.2 of its Permit. Within ninety (90) days of the TRE study completion, the permittee shall submit to the Compliance Data Section, Office of Water Quality of IDEM, the final study results.
5. Respondent shall conduct enhanced outfall monitoring and report the results to the IDEM Wastewater Compliance Branch Chief and Wastewater Inspector, via email, as follows:

- A. Respondent shall, for Outfalls 104, 204, and 004, monitor daily for TSS, oil and grease, chromium, and hexavalent chromium, using the sample type called for in the Permit and approved analytical methods.
- B. Respondent shall, for Outfalls 104, 204, 004, monitor one day per week for zinc, silver, cadmium, copper, nickel, and lead, using the sample type called for in the Permit and approved analytical methods.
- C. Respondent shall report the results of the enhanced monitoring conducted pursuant to Order Paragraphs 5.A and 5.B for each calendar month on the 10th day of month following the monitoring period except as described below. Respondent shall report any result that exceeds a Permit effluent limit within 4 hours of receiving the result.
- D. Respondent shall, at a minimum of one time daily, conduct visual observation of Outfall 004, and record the date of observation, time of observation, name of person making the observation, and the presence/absence of a sheen or other narrative water quality issue at the outfall at the time of visual monitoring.
- E. Respondent shall report the results of the visual observations conducted pursuant to Order Paragraph 5.D for each calendar month on the 10th day of month following the monitoring period except as described below. Respondent shall report any observation that indicates the presence of a sheen or other narrative water quality issue immediately.
- F. Changes to enhanced outfall monitoring parameters are subject to IDEM approval.
- G. If Respondent fails to conduct any required monitoring, Respondent shall report this failure on the same day enhanced monitoring results are due.

The enhanced outfall monitoring results should be sent to jahouse@idem.in.gov and nream@idem.in.gov. Respondent shall conduct enhanced outfall monitoring until the actions required by Order Paragraph 6 below have been completed and Respondent receives notification from IDEM that enhanced monitoring may end. The conducting of enhanced outfall monitoring pursuant to this Paragraph does not supersede Respondent's obligation to accelerate monitoring, as warranted, under the terms of the Permit. Additionally, the reporting of results of the enhanced outfall monitoring under the terms of this Paragraph does not supersede the reporting requirements of the Permit.

- 6. Within 45 days of the Effective Date, Respondent shall develop and submit to IDEM for approval a Compliance Plan (CP) which identifies actions that Respondent will take to achieve and maintain compliance with the Permit, specifically including the actions Respondent will take to:
 - A. Identify the causes of the narrative and numeric effluent limit violations cited in the Findings of Fact, and develop a plan and schedule to achieve and maintain compliance with all numeric and narrative effluent limits set forth in the Permit;
 - B. Evaluate all contributions to the Treatment Plants including:
 - i. Identify all sources that contribute to the Treatment Plants, and for each source, determine the nature, volume, and frequency of

- discharge, and describe any pretreatment provided prior to entry to the Chrome or Final Treatment Plant;
- ii. Determine any source elimination, control, or treatment needs;
- iii. Develop a plan and schedule for addressing any source elimination or control needs;
- iv. Submit the information required by Order Paragraph 6.B.i through 6.B.iii above, certified by a Licensed Professional Engineer;
- C. Evaluate the adequacy of existing pretreatment components and operation and address needs, to include:
 - i. Identify existing pretreatment components, including those designed and/or utilized for oil and grease removal ahead of the Final Treatment Plant, and for each component, determine its capacity, age, current condition, and treatment capability, including removal efficiency, and characterize the wastewater (source, nature, and volume that it receives);
 - ii. Describe the current pretreatment operations, including with the description detailed diagrams that depict flows to, through, and from the pretreatment components to the Treatment Plants;
 - iii. Evaluate adequacy of pretreatment equipment and operations and determine needs. The determination of equipment needs shall encompass equipment repair, replacement, and addition;
 - iv. Develop a plan and schedule for addressing pretreatment needs. This shall include implementation of adequate pretreatment (including pH adjustment) for discharges from the powerhouse, and correction of any deficiencies with the oil and grease removal components or operations;
 - v. Submit the information required by Order Paragraph 6.C.i through 6.C.iv above, certified by a Licensed Professional Engineer;
- D. Evaluate the adequacy of existing Chrome and Final Treatment Plant components and operations and address needs, to include:
 - vi. Identify existing treatment components, and for each component, determine its capacity, age, current condition, and treatment capability, including removal efficiency, and characterize the wastewater (source, nature, and volume) that it receives;
 - vii. Describe the current treatment operations, including with the description detailed diagrams that depict flows to and through the Chrome and Final Treatment Plant;
 - viii. Evaluate adequacy of treatment equipment and operations and determine needs. The determination of equipment needs shall encompass equipment repair, replacement, and addition;
 - ix. Develop a plan and schedule for addressing treatment needs;
 - x. Submit the information required by Order Paragraph 6.D.i through 6.D.iv above, certified by a Licensed Professional Engineer;
- E. Develop and implement a preventative maintenance program for all wastewater pretreatment and treatment components utilized by the facility, and document all maintenance (preventative and repair) in a permanent record;

- F. Develop and implement a Standard Operating Procedure (SOP) for communication between operations personnel and treatment plant personnel. The SOP must take into account the timing of upstream releases to the Final Treatment Plant to mitigate issues with low pH, complexing agents, and chelants, which interfere with proper settling; and
- G. Comply with reporting requirements of the Permit, including temperature reporting requirements, incident reporting requirements, and anticipated bypass reporting requirements.

The CP shall include an implementation and completion schedule, including specific milestone dates.

- 7. Respondent shall, after completion of the work required pursuant to the approved CP from Paragraph 6 above, demonstrate 12-consecutive months of compliance (Compliance Demonstration) with the terms and conditions of the Permit.
- 8. In the event that violation(s) occur during the Compliance Demonstration, within 30 days of the violation, Respondent shall develop and submit to IDEM, for approval, an Additional Action Plan (AAP), which identifies the additional actions that Respondent will take to achieve and maintain compliance with the terms and conditions of the Permit. The AAP, if required, shall include an implementation and completion schedule, including specific milestone dates.
- 9. The plans required by Order Paragraphs 6 and 8 are subject to IDEM approval. In the event IDEM determines that any plan or any modified plan submitted by Respondent is deficient or otherwise unacceptable, Respondent shall revise and resubmit the plan to IDEM in accordance with IDEM's notice. After three submissions of such plan by Respondent, IDEM may seek civil enforcement of this Order.
- 10. Respondent, upon receipt of written notification from IDEM, shall immediately implement the approved plan(s) and adhere to the milestone dates therein. The approved CP and AAP shall be incorporated into the Agreed Order and shall be deemed an enforceable part thereof. Respondent must seek approval from IDEM before making changes to any approved CP or AAP.
- 11. Following completion of the actions included in the AAP, the 12 month Compliance Demonstration, as specified in Paragraph 7 above, will re-start. Failure to achieve compliance at the conclusion of work under an AAP may subject Respondent to additional enforcement action.
- 12. Beginning with the first calendar quarter following the Effective Date, Respondent shall submit to IDEM a written progress report within 15 days of the end of each calendar quarter, which identifies the compliance actions implemented during each quarter ending on March 31st, June 30th, September 30th, and December 31st until completion of the CP or AAP.

13. Beginning on the Effective Date and continuing until the successful completion of implementation of the approved CP as required by Paragraph 6 above, Respondent shall, at all times, maintain in good working order and efficiently operate all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee and which are necessary for achieving compliance with the terms and conditions of its permit in accordance with 327 IAC 5-2-8(8).
14. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:
- David Koehler, Enforcement Case Manager
Office of Water Quality – IGCN 1255
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251
15. Respondent is assessed and agrees to pay a civil penalty of Nine Hundred and Fifty Thousand Dollars (\$950,000). Within thirty (30) days of the Effective Date of the Agreed Order, Respondent shall pay a portion of this penalty in the amount of Six Hundred and Fifty Thousand Dollars (\$650,000). Said penalty amount shall be due and payable to the "Environmental Management Special Fund" within thirty (30) days of the Effective Date, the 30th day being a "Due Date."
16. In lieu of payment to IDEM of the remaining civil penalty, Respondent shall, as a Supplemental Environmental Project (SEP), make a payment of Six Hundred Thousand Dollars (\$600,000) to the "Dunes Learning Center." Said payment shall be payable to the "Dunes Learning Center" within sixty (60) days of the Effective Date, the 60th day being a "Due Date." Respondent shall provide notification to IDEM within two (2) business days of payment to the "Dunes Learning Center."
17. In the event that Respondent does not make its SEP payment to the "Dunes Learning Center" by the Due Date, the full amount of the civil penalty as stated in Order paragraph 15, plus interest established by IC 24-4.6-1-101 on the remaining amount, less the portion of the civil penalty Respondent has already paid, will be due to IDEM within fifteen (15) days from Respondent's receipt of IDEM's notice to pay. Interest, at the rate established by IC 24-4.6-1-101, shall be calculated on the amount due from the Due Date within sixty (60) days of the Effective Date until the full civil penalty is paid.
18. In the event the terms and conditions of the following paragraphs are violated, IDEM may assess and Respondent shall pay the corresponding stipulated penalty:

Paragraph	Violation	Stipulated Penalty
3	Failure to provide notice at least two (2) business days in advance of all future anticipated shutdowns of one of the treatment trains and/or within 24	\$10,000 per violation

	hours of an unplanned shutdown.	
4	Failure to conduct and/or submit results for the TRE study.	\$10,000 per violation
5	Failure to conduct enhanced outfall monitoring.	\$10,000 per violation
5	Failure to report enhanced outfall monitoring results or failed monitoring within the given timeframe.	\$5,000 per week late, or part thereof.
6	Failure to submit the CP within the required time period.	\$10,000 per week late, or part thereof.
7	Failure to comply with terms and conditions of the Permit during the Compliance Demonstration.	\$10,000 per violation
8	Failure to submit the AAP, if required, within the given time period.	\$10,000 per week late, or part thereof.
9	Failure to modify the CP and/or AAP, if required, within the given time period.	\$10,000 per week late, or part thereof.
10	Failure to meet and/or implement any milestone date set forth in the approved CP or AAP.	\$10,000 per week late, or part thereof.
12	Failure to submit to IDEM a written progress report within 15 days of each calendar quarter.	\$5,000 per week late, or part thereof.

19. Stipulated penalties shall be due and payable no later than the 30th day after Respondent receives written notice that IDEM has determined a stipulated penalty is due, the 30th day being a "Due Date." IDEM may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive IDEM's right to collect such stipulated penalty or preclude IDEM from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude IDEM from seeking additional relief against Respondent for a violation of this Agreed Order. Such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
20. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number 2019-26434-W of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, Indiana 46204

21. This Agreed Order shall apply to and be binding upon Respondent, its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
22. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance and any accrued interest at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. The interest shall continue to accrue on the first of each month until the civil penalty and any interest accrued are paid in full. Such interest shall be payable to the "Environmental Management Special Fund," and shall be payable to IDEM in the manner specified above.
23. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
24. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
25. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permits or any applicable Federal or State law or regulation.
26. Complainant does not, by his approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
27. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the Notice of Violation.
28. Nothing in this Agreed Order shall prevent IDEM (or anyone acting on its behalf) from communicating with the United States Environmental Protection Agency (US EPA) or any other agency or entity about any matters relating to this enforcement

action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the US EPA or any other agency or entity.

29. This Agreed Order shall remain in effect until Respondent has complied with the terms and conditions of this Agreed Order and IDEM issues a Resolution of Case (close out) letter to Respondent.
30. *Force majeure*, for purposes of this Agreed Order, is defined as any event arising from causes totally beyond the control and without fault of Respondent that delays or prevents the performance of any obligation under this Agreed Order despite Respondent's best efforts to fulfill the obligation. The requirement that Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event: (1) as it is occurring; and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. Force majeure does not include: (1) changed business or economic conditions; (2) financial inability to complete the work required by this Agreed Order; or (3) increases in costs to perform the work.

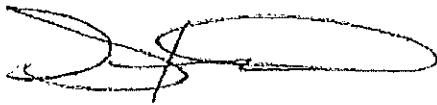
Respondent shall notify IDEM by calling the case manager within three (3) calendar days and by writing no later than seven (7) calendar days after it has knowledge of any event which Respondent contends is a force majeure. Such notification shall describe: (1) the anticipated length of the delay; (2) the cause or causes of the delay; (3) the measures taken or to be taken by Respondent to minimize the delay; and (4) the timetable by which these measures will be implemented. Respondent shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure for that event. Respondent shall have the burden of demonstrating that the event is a force majeure. The decision of whether an event is a force majeure shall be made by IDEM.

If a delay is attributable to a force majeure, IDEM shall extend, in writing, the time period for performance under this Agreed Order, by the amount of time that is directly attributable to the event constituting the force majeure. If IDEM does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, IDEM will notify Respondent in writing of its decision.

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TECHNICAL RECOMMENDATION:
Department of Environmental Management

By:



Samantha K. Groce, Chief
Water Enforcement Section
Office of Water Quality

Date: April 13, 2021

RESPONDENT:
U.S. Steel Corporation- Midwest Plant

By:



Printed: Scott D. Buckiso
Title: Senior Vice President & Chief
Operating Officer - North
American Flat-Rolled

Date: April 30, 2021

COUNSEL FOR RESPONDENT: By:

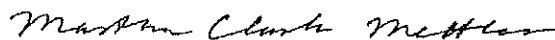
Date:



April 30, 2021

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS 10th DAY OF May, 2021.

For the Commissioner:



Martha Clark Mettler
Assistant Commissioner
Office of Water Quality