



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

September 14, 2021

Bruno L. Pigott
Commissioner

Via Certified Mail No.:
7019 0700 0001 4254 5759

Via Certified Mail No.:
7019 0700 0001 4254 5766

Tom Barnett, Manager of
Environmental Technology
Cleveland-Cliffs Steel LLC –
Indiana Harbor East
3001 Dickey Road
East Chicago, IN 46312

Business Commercial Registered Agent,
Registered Agent
Cleveland-Cliffs Steel LLC –
Indiana Harbor East
334 North Senate Avenue
Indianapolis, Indiana 46204

Dear Mr. Barnett:

Re: Adoption of Agreed Order
Commissioner, Indiana Department
of Environmental Management
v.
Cleveland-Cliffs Steel LLC –
Indiana Harbor East
NPDES Permit No. IN0000094
Case No. 2021-27623-W
East Chicago, Lake County

This is to inform you that the Agreed Order in the above-referenced case 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 Number on the front of the check.



A State that Works

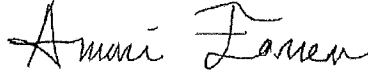


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Adoption of Agreed Order Cover Letter
Case No. 2021-27623-W
Cleveland Cliffs Steel LLC, IHE
NPDES No. IN0000094
East Chicago, Lake County
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If you have any questions, please contact Grant Chaddock, Environmental Manager,
Water Enforcement Section, at (317) 234-4354 or GChaddoc@idem.in.gov.

Sincerely,

A handwritten signature in cursive script that reads "Amari Farren".

Amari Farren, Chief
Water Enforcement Section
Office of Water Quality

Enclosures

cc: Lake County Health Department
Indiana State Department of Health [MHP only]
<http://www.in.gov/idem>

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
We Protect Hoosiers and Our Environment.



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 to:

Tom Barnett, Manager, Environmental
Cleveland-Cliffs Steel LLC – Indiana Harbor East
3001 Dickey Road
East Chicago, IN 46312

6. During an investigation, including inspections on September 14, 2020, and January 27, 2021, conducted by a representative of IDEM, violations were found, as described below.
7. 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 IC 13 and is grounds for enforcement action by IDEM.
8. Pursuant to Part I.A.2 of the Permit, the permittee is required to comply with the monitoring requirements contained in the Permit, including effluent limitations.

Discharge Monitoring Reports (DMRs) and Monthly Monitoring Reports (MMRs) submitted by Respondent for the period of March 2018 through March 2021 revealed violations of effluent limitations contained in Part I.A.2 of the Permit for Outfall 014 as follows:

- A. The daily maximum limitation for pH was exceeded during May 2020.
- B. The daily maximum concentration limitation for Oil and Grease was exceeded during April 2018, February 2019, and April 2021.
- C. For residual chlorine, the monthly average loading limitation, the monthly average concentration limitation, the daily maximum loading limitation, and the daily maximum concentration limitation was exceeded during March 2021.

Respondent failed to comply with the effluent limitations from Outfall 014 contained in the Permit, in violation of Part I.A.2 of the Permit.

9. Pursuant to Part I.A.3 of the Permit, the permittee is required to comply with the monitoring requirements contained in the Permit, including effluent limitations.

DMRs and MMRs submitted by Respondent for the period of March 2018 through March 2021 revealed violations of effluent limitations contained in Part I.A.3 of the Permit for Outfall 018 as follows:

- A. The daily maximum limitation for pH was exceeded during September and November 2018.

Respondent failed to comply with the effluent limitations from Outfall 018 contained in the Permit, in violation of Part I.A.3 of the Permit.

10. Pursuant to Part I.A.4 of the Permit, the permittee is required to comply with the monitoring requirements contained in the Permit, including effluent limitations.

DMRs and MMRs submitted by Respondent for the period of March 2018 through March 2021 revealed violations of effluent limitations contained in Part I.A.4 of the Permit for outfall 518 as follows:

- A. The daily maximum loading limitation for cyanide was exceeded during January 2021.

Respondent failed to comply with the effluent limitations from Outfall 518 contained in the Permit, in violation of Part I.A.4 of the Permit.

11. Pursuant to 327 IAC 2-1.5-8(b)(1), all surface waters within the Great Lakes system at all times and at all places, including waters within 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:
- Will settle to form putrescent or otherwise objectionable deposits;
 - Are in amounts sufficient to be unsightly or deleterious;
 - Produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;
 - 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; or
 - Are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans.

As documented by IDEM in the September 28, 2020, Inspection Summary Letter, a narrative water quality violation occurred on August 20, 2020, at Outfall 018. A reddish discoloration to water was discharging through internal Outfall 618 to Outfall 018, in violation of 327 IAC 2-1.5-8(b)(1).

12. Pursuant to 327 IAC 5-2-8(12)(D) and Part II.B 2 of the Permit, bypassing is prohibited, and the Commissioner may take enforcement action against a permittee for bypass unless certain conditions are met.

Respondent failed to prevent unpermitted bypassing on April 29, April 30, May 1, 2020, and May 20, 2021, in violation of 327 IAC 5-2-8(12)(D) and Part II.B.2 of the Permit.

13. Pursuant to Part II.B.1 of the Permit, all facilities and systems must be maintained in good working order and efficiently operated at all times. The following operational problems were self-reported by Respondent:

- A. As documented by IDEM in the September 28, 2020, Inspection Summary Letter, an overflow from the No. 6 pumphouse forebay into the main intake system caused water to bypass treatment systems at Outfall 014 on April 29, April 30, and May 1, 2020.
- B. Subsequent to the inspection by IDEM, Cleveland Cliffs self-reported an overflow of the No. 6 pumphouse forebay into the main intake system that caused water to bypass treatment systems at Outfall 014 on May 20, 2021.
- C. As documented by IDEM in the September 28, 2020, Inspection Summary Letter, a discharge of wastewater with a red discoloration was self-reported at Outfalls 618 and 018 due to a sludge blanket turning over in No. 4 SP eastern water clarifier on August 20, 2020.
- D. As documented by IDEM in the February 24, 2021, Inspection Summary Letter, blowdown water from the holding ponds discharged from the large pond pump resulting in a loading violation for cyanide on January 25, 2021.

The operational problems listed above are in violation of Part II.B.1 of the Permit.

- 14. Pursuant to 327 IAC 5-2-14 and Part I.C.5 of the Permit, for each measurement or sample taken pursuant to the requirements of this Permit, 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 in the September 28, 2020, Inspection Summary Letter, the Chain-of-Custody forms indicate that for the period August 21 to August 26, 2020, the name of the sampler and the time the sample was taken were not recorded. The name of the person taking the sample and the sample collection time the sample collection is required by the Permit, Part I.C.5.

Respondent failed to maintain the required monitoring information and monitoring activities from August 21, 2020, to August 26, 2020, in violation of 327 IAC 5-2-14 and Part I.C.5 of the Permit.

- 15. Pursuant to Part I.A.3 of the Permit, Respondent is required to sample Total Residual Chlorine (TRC) five times per week at Outfall 018 when mussel control is occurring at the intake. As documented by IDEM in the September

28, 2020, Inspection Summary Letter, Respondent failed to conduct TRC sampling for the period June 2 to August 3, 2020.

The failure to sample TRC is in violation of Part I.A.3 of the Permit.

16. On September 28, 2020, and February 24, 2021, IDEM sent Inspection Summary Letters to Respondent outlining violations at the facility. The letters required a response detailing actions taken to correct the violations. IDEM received responses to the letters explaining compliance actions Respondent took or would take to address the violations. However, violations continue at the facility.
17. 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 8 through 15 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. Immediately upon the Effective Date, Respondents shall retain complete and accurate DMR, MMR, and laboratory records, or a copy of its records, for the previous three (3) years at their facility in accordance with the Permit.
4. Within 30 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 its Permit, specifically including the actions Respondent will take to:
 - A. Achieve and maintain compliance with effluent limitations contained in the Permit for Outfalls 014, 018, and 518, specifically Oil and Grease, pH, Cyanide, and Total Residual Chlorine;
 - B. Develop and implement a preventative maintenance program for wastewater treatment equipment, (or reference such existing programs at the facility) and document all maintenance (preventative and repair) in a written record; and
 - C. Evaluate and implement means to eliminate overflows and bypasses.

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

Respondent shall notify IDEM in writing of variations to the approved CP.

5. Respondent shall, after completion of the work required pursuant to the approved CP from Paragraph 4 above, demonstrate 12 consecutive months of compliance (Compliance Demonstration) with the terms and conditions of the Permit.
6. 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.
7. The plans required by Order Paragraphs 4 and 6 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.
8. 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.

Following completion of the actions included in the AAP, the 12-month Compliance Demonstration, as specified in Paragraph 5 above, will re-start. Failure to achieve compliance at the conclusion of work under an AAP may subject Respondent to additional enforcement action.

9. Beginning with the first calendar quarter following the Effective Date, Respondent shall submit to IDEM a written progress report within 10 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.
10. Beginning on the Effective Date and continuing until the successful completion of the approved CP, Respondent shall maintain in good working order and efficiently operate all facilities and systems (and related appurtenances) for collection and treatment.
11. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Patrick Colcord, Enforcement Case Manager
Office of Water Quality – IGCN 1255
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

12. Respondent is assessed and agrees to pay a civil penalty of Seventy-Three Thousand Seven Hundred Fifty Dollars (\$73,750). Said penalty amount shall be due and payable to the "Environmental Management Special Fund" within 30 days of the Effective Date, the 30th day being a "Due Date."
13. 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 maintain complete records and information from the monitoring activities.	\$250 per violation.
4	Failure to submit the CP within the required time period.	\$250 per week late, or part thereof.
5	For violations of terms and conditions of the Permit during the Compliance Demonstration.	\$400 per violation
6	Failure to submit the AAP, if required, within the given time period.	\$500 per week late, or part thereof.
7	Failure to modify the CP and/or AAP, if required, within the given time period.	\$500 per week late, or part thereof.
8	Failure to meet and/or implement any milestone date set forth in the approved CP or AAP.	\$500 per week late, or part thereof.
9	Failure to submit to IDEM a written progress report within 10 days of each calendar quarter.	\$150 per week late, or part thereof.
10	Failure to operate wastewater treatment facilities as efficiently as possible prior to Compliance Demonstration.	\$200 per violation.

14. 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.

15. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number 2021-27623-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

16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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.
22. 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.
23. 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.
24. 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.

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TECHNICAL RECOMMENDATION:

Department of Environmental Management

By:

Amari Farren

Amari Farren, Chief
Water Enforcement Section
Office of Water Quality

Date: August 24, 2021

RESPONDENT:

Cleveland-Cliffs Steel LLC – Indiana Harbor East

By:

Wendell Carter

Printed: WENDELL CARTER

Title: SDP WEST

CLEVELAND CLIFFS

Date: Sept. 8, 2021

COUNSEL FOR RESPONDENT:

By:

Theresa Vandette

Date: September 1, 2021

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS 14th DAY OF September, 2021

For the Commissioner:

Martha Clark Mettler

Martha Clark Mettler
Assistant Commissioner
Office of Water Quality