



# 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](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

Bruno L. Pigott  
Commissioner

**November 30, 2021**

Via Certified Mail No.:  
7019 0700 0001 4253 5750

Via Certified Mail No.:  
7019 0700 0001 4253 5750

Tom Barnett, Manager of  
Environmental  
Cleveland-Cliffs Steel LLC-Indiana  
Harbor West  
3210 Watling Street  
East Chicago, Indiana 46312

Business Commercial Registered Agent,  
Registered Agent  
Cleveland-Cliffs Steel LLC-Indiana  
Harbor West  
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  
West  
NPDES No. IN0000205  
Case No. 2020-27619-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

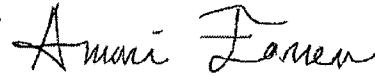


Recycled Paper

Adoption of Agreed Order Cover Letter  
Case No. 2020-27619-W  
Cleveland-Cliffs Steel LLC-Indiana Harbor West  
NPDES No. IN0000205  
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](mailto:gchaddoc@idem.in.gov).

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: Lake County Health Department  
Indiana State Department of Health  
<http://www.in.gov/idem>



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Eric J. Holcomb  
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 Commissioner

STATE OF INDIANA        )  
                                   )  
 COUNTY OF MARION     )       SS:   BEFORE THE INDIANA DEPARTMENT  
                                   )       OF ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT  
 OF ENVIRONMENTAL MANAGEMENT,        )

Complainant,        )

v.        )

Case No. 2020-27619-W

CLEVELAND-CLIFFS STEEL LLC-- INDIANA  
 HARBOR WEST,        )

Respondent.        )

**AGREED ORDER**

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code (IC) 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this 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 Cleveland-Cliffs Steel LLC-- Indiana Harbor West (Respondent), which owns/operates the steel production facility, located at 3001 Dickey Road, East Chicago, Lake County, Indiana (the Site).
3. Respondent is authorized by its National Pollutant Discharge Elimination System (NPDES) Permit No. IN0000205 (the Permit), to discharge wastewater treated in accordance with the terms and conditions of the NPDES Permit from its steel mill into Indiana Harbor Ship Canal and Lake Michigan, from multiple Outfalls.

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 of  
Environmental  
Cleveland-Cliffs Steel LLC-  
Indiana Harbor West  
3210 Watling Street  
East Chicago, Indiana 46312

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

6. During investigations on October 21-23, 2019 and December 21, 2020 conducted by a representative of IDEM, violations were found, as described below. Certain of the violations were covered under enforcement discretion letters previously issued by IDEM in 2015 and 2019.
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 Indiana Code (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 Reports of Operation (MROs) submitted by Respondent for the period of January 2019 through February 2019 revealed violations of effluent limitations contained in Part I.A.2 of the Permit as follows:

- A. Outfall 009 - The monthly average loading limitation for ammonia (as nitrogen) was exceeded during January and February 2019.

Respondent failed to comply with the effluent limitations from Outfall 009 contained in the Permit, in violation of Part I.A.2 of the Permit. The January and February 2019 ammonia effluent exceedances were covered by the February 15, 2019, enforcement discretion letter. The parties agree that letter is no longer applicable.

9. Pursuant to 327 IAC 5-2-8(3) and Part II.A.2 of the Permit, Respondent 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.

A review of records between September 1, 2018 and August 23, 2019 indicate that Respondent did not conduct accelerated sampling and analysis at Outfall 011 for the pollutants required at Outfall 509 following the bypasses of the zinc treatment facility and Outfall 509 to the terminal treatment lagoons, in violation of 327 IAC 5-2-8(3) and Part II.A.2 of the Permit.

10. Pursuant to 327 IAC 5-2-8(8) and Part II.B.1 of the Permit, Respondent shall at all times maintain in good working order and efficiently operate all facilities and systems for collection and treatment that are installed or used by the permittee and necessary for achieving compliance with the terms and conditions of the Permit. The permittee shall operate the permitted facility in a manner which will minimize upsets and discharges of excessive pollutants.

A review of records indicate Respondent reported to IDEM fourteen (14) bypasses over the period of October 2018 to October 2019, four (4) bypasses over the period of February to October 2020, and two (2) bypasses during May 2021. Twelve (12) of the bypasses were due to mechanical problems and eight (8) of the bypasses were due to power problems, in violation of 327 IAC 5-2-8(8) and Part II.B.1 of the Permit. The remaining bypasses were covered under the 2015 letter. The parties agree that letter is no longer applicable.

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 and 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. 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; and
  - e. Are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans.

A review of records indicate Respondent observed and reported a bypass on June 13, 2019, caused by high Lake Michigan water levels flowing over a metal sheet wall and allowing process water that had gone through settling lagoons, but had not gone through the MSD sand filters to mix with lake water, in violation of 327 IAC 2-1.5-8(b)(1).

12. On November 14, 2019 and December 30, 2020, IDEM sent Inspection Summary Letter(s) to Respondent outlining violations at the facility. The letter sent December 30, 2020 required a response detailing actions taken to correct the violations. IDEM received responses to the letter(s) explaining compliance actions

Respondent took or would take to address the violations. However, the violations noted above continued at the facility at the time of inspection.

13. 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 11 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, Respondent shall orally report all bypasses, within 24 hours from the time of discovery and provide a written submission within five (5) days in accordance with 327 IAC 5-2-8(11)(C). Alternatively, Respondent may submit a "Bypass/Overflow Report" (State Form 48373) or a "Noncompliance 24-Hour Notification Report" (State Form 54215), whichever is appropriate, to IDEM at [wwreports@idem.in.gov](mailto:wwreports@idem.in.gov). If a complete fax or e-mail submittal is sent within 24 hours of the time that Respondent became aware of the occurrence, then the fax or email report will satisfy both the oral and written reporting requirements. Respondent shall submit the required oral noncompliance reports to IDEM at [wwreports@idem.in.gov](mailto:wwreports@idem.in.gov), and Nick Ream, IDEM's Wastewater Inspection Section, Northwest Regional Office, at [nream@idem.in.gov](mailto:nream@idem.in.gov) and complete all requirements as instructed. This Paragraph does not supersede the reporting requirements of the Permit.
4. Within 90 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, specifically ammonia (as nitrogen);
  - B. Evaluate and implement means to eliminate bypasses;
  - C. Provide IDEM with the facility's preventative maintenance program for the wastewater collection and treatment system (as relevant to violations);
  - D. Comply with reporting requirements of the permit; and
  - E. Increase sampling following incidents of non-compliance, as appropriate.

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 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup> 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, 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 Respondent and which are necessary for achieving compliance with the terms and conditions of the Permit.

11. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Grant Chaddock, 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 Eighty-Seven Thousand Five Hundred Dollars (\$87,500). Said penalty amount shall be due and payable to the "Environmental Management Special Fund" within 30 days of the Effective Date, the 30<sup>th</sup> 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 orally report noncompliance and/or submit a written report within 5 days.	\$150 per week late, or part thereof.
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 the WWTP as efficiently as possible prior to Compliance Demonstration.	\$200 per violation.

14. Stipulated penalties shall be due and payable no later than the 30<sup>th</sup> day after Respondent receives written notice that IDEM has determined a stipulated penalty is due, the 30<sup>th</sup> 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 2020-27619-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: November 2, 2021

**RESPONDENT:**

Cleveland-Cliffs Steel LLC- Indiana Harbor West

By: [Signature]

Printed: ANTHONY FACILIA  
Title: INDIANA HARBOR  
GENERAL MANAGER

Date: 11-10-21

**COUNSEL FOR RESPONDENT:**

By: [Signature]

Date: 11.10.21

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS 22nd DAY OF November, 2021.

For the Commissioner:

[Signature]

Martha Clark Mettler  
Assistant Commissioner  
Office of Water Quality