



# 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*

Brian C. Rockensuess  
*Commissioner*

January 19, 2022

**VIA ELECTRONIC MAIL:**

Jean Louis Muller, Vice President  
and General Manager  
Cleveland-Cliffs Burns Harbor, LLC  
250 West US Highway 12  
Burns Harbor, IN 46304  
[JeanLouis.Muller@clevelandcliffs.com](mailto:JeanLouis.Muller@clevelandcliffs.com)

Re: Commissioner of the Department of  
Environmental Management

v.

Cleveland-Cliffs Burns Harbor, LLC  
Plant ID No. 127-00001  
Burns Harbor, Porter County  
Case Nos. 2019-26099-A,  
2019-26490-A and 2020-26917-A

**Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.**

Dear Mr. Muller:

Enclosed please find the proposed Agreed Order that provides for the actions required to correct the violations outlined in IDEM's Notice of Violation issued to you in the above referenced case dated December 20, 2021. The civil penalty noted in the proposed Agreed Order is for settlement purposes only. Entering into and timely compliance with the enclosed Agreed Order will constitute resolution of this case.

If you are willing to resolve this matter as provided for in the enclosed Agreed Order, sign and return it to me at the address specified in the Agreed Order within fifteen (15) days of your receipt of the Agreed Order. The individual signing the enclosed Agreed Order should be the President of the company or other authorized signatory. If you would like to schedule a meeting to discuss the Agreed Order in more detail, please contact me as soon as possible at (317)232-8408 or [mchaifet@idem.IN.gov](mailto:mchaifet@idem.IN.gov).

If this matter cannot be resolved through the enclosed Agreed Order or a mutually acceptable amended Agreed Order, a Commissioner's Order may be issued. It should be understood that the civil penalty for purposes of a Commissioner's Order



will be assessed pursuant to IDEM's Civil Penalty Policy adopted as a Nonrule Policy Document on April 5, 1999.

Thank you for your cooperation in this matter.

Sincerely,



Matthew Chaifetz  
Senior Case Manager  
Compliance and Enforcement Branch  
Enforcement Section  
Office of Air Quality

Enclosure

cc: Richard Zavoda, Cleveland-Cliffs, Rich.Zavoda@clevelandcliffs.com  
Thomas Maicher, Cleveland-Cliffs Burns Harbor, LLC,  
Thomas.Maicher@clevelandcliffs.com  
Michael Long, Cleveland-Cliffs Burns Harbor, LLC,  
Michael.Long@clevelandcliffs.com  
Matthew Chaifetz, Compliance and Enforcement, OAQ



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STATE OF INDIANA	)	SS: BEFORE THE INDIANA DEPARTMENT OF
	)	
COUNTY OF MARION	)	ENVIRONMENTAL MANAGEMENT
COMMISSIONER OF THE DEPARTMENT	)	
OF ENVIRONMENTAL MANAGEMENT,	)	
	)	
Complainant,	)	
	)	
v.	)	Case Nos. 2019-26099-A,
	)	2019-26490-A and 2020-26917-A
	)	
CLEVELAND-CLIFFS	)	
BURNS HARBOR, LLC,	)	
	)	
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 Burns Harbor, LLC, which owns and operates the stationary steel works plant for the production of coke, limited coal chemical, molten iron, molten steel, steel slab, hot rolled steel, steel coils, steel plates, cold rolled and/or coated steel sheet and plate with Plant ID No. 127-00001, located at 250 West US Highway 12, in Burns Harbor, Porter County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.



4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (“NOV”) via Electronic Mail to:

Cleveland-Cliffs Steel, LLC  
Attn: Clifford Smith, President  
200 Public Square  
Suite 3300  
Cleveland, OH 44114-2544  
Clifford.Smith@ClevelandCliffs.com

CT Corporation Systems,  
Registered Agent  
334 North Senate Avenue  
Indianapolis, IN 46204  
CTSOPReceipt@wolterskluwer.com

5. During an investigation including a record review conducted by a representative of IDEM, the following violations were found:

Based on the Enforcement Action Letter issued to Respondent on March 21, 2019, case number 2019-26099-A contains the following violations:

- a. Pursuant to 40 CFR 63 Subpart CCCCC, except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), Respondent must monitor continuously (or collect data at all required intervals) at all times the affected source is operating.

Respondent reported in its 3<sup>rd</sup> and 4<sup>th</sup> quarter 2018 and 2<sup>nd</sup> semi-annual report for the reporting period July 1 through December 31, 2018, numerous occurrences where monitoring data was not continuously collected, in violation of 40 CFR 63 CFR CCCCC.

- b. Pursuant to 40 CFR 63.1162(a)(5), each monitoring device shall be certified by the manufacturer to be accurate to within five (5) percent and shall be calibrated in accordance with the manufacturer’s instructions but not less frequently than once per year.

Respondent reported in its semi-annual report for the reporting period July 1 through December 31, 2018, it had failed to calibrate the two (2) Pickle Line Fume Scrubbers’ differential pressure and water flow meters within 1 year of their previous calibrations, in violation of 40 CFR 63.1162(a)(5).

- c. Pursuant to 40 CFR 63 Subpart FFFFF, Respondent shall meet emission limits and maintain operation and maintenance requirements.

Respondent reported in its 3<sup>rd</sup> and 4<sup>th</sup> quarter 2018 and 2<sup>nd</sup> semi-annual report for the reporting period July 1 through December 31, 2018, numerous deviations of continuous compliance emission limits and/or deviations from the continuous compliance operations and maintenance requirements, in violation of 40 CFR 63 Subpart FFFFF.

Based on the Enforcement Action Letter issued to Respondent on September 6, 2019, case number 2019-26490-A contains the following violations:

- d. Pursuant to 40 CFR 63 Subpart CCCCC, except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), Respondent must monitor continuously (or collect data at all required intervals) at all times the affected source is operating.

Respondent reported in its 1<sup>st</sup> and 2<sup>nd</sup> quarter 2019 and 1<sup>st</sup> semi-annual report for the reporting period January 1 through June 30, 2019, numerous occurrences where monitoring data was not continuously collected, in violation of 40 CFR 63 Subpart CCCCC.

- e. Pursuant to 40 CFR 63 Subpart FFFFF, Respondent shall be in compliance with the emission limitations and operation and maintenance requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction as defined in § 63.2.

Respondent reported in its 1<sup>st</sup> and 2<sup>nd</sup> quarter 2019 and 1<sup>st</sup> semi-annual report for the reporting period January 1 through June 30, 2019, numerous deviations of continuous compliance emission limits and/or deviations from the continuous compliance operations and maintenance requirements, in violation of 40 CFR 63 CFR FFFFF.

Based on the Enforcement Action Letter issued to Respondent on February 24, 2020, case number 2020-26917-A contains the following violations:

- f. Pursuant to 40 CFR 63 Subpart CCCCC, except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero and span adjustments), Respondent must monitor continuously (or collect data at all required intervals) at all times the affected source is operating.

Respondent reported in its 3<sup>rd</sup> and 4<sup>th</sup> quarter 2019 and 2<sup>nd</sup> semi-annual report for the reporting period July 1 through December 31, 2019, several occurrences where monitoring data was not continuously collected, in violation of 40 CFR 63 Subpart CCCCC.

- g. Pursuant to 40 CFR 63.7295(b)(1), each quench tower at a new or existing coke oven battery and each backup quench station at a new coke oven battery shall be equipped with baffles such that no more than 5 percent of the cross sectional area of the tower may be uncovered or open to the sky.

Respondent operated #2 quench station with less than 95% coverage on October 22 and 23, 2019, in violation of 40 CFR 63.7295(b)(1).

- h. Pursuant to 40 CFR 63 CFR FFFFF, Respondent shall be in compliance with the emission limitations and operation and maintenance requirements in this subpart at all times, except during periods of startup, shutdown, and malfunction as defined in § 63.2.

Respondent reported in its 3<sup>rd</sup> and 4<sup>th</sup> quarter 2019 and 2<sup>nd</sup> semi-annual report for the reporting period July 1 through December 31, 2019, numerous deviations of continuous compliance emission limits of the subpart and/or deviations from the continuous compliance operations and maintenance requirements of the subpart, in violation of 40 CFR 63 Subpart FFFFF.

- i. Pursuant to Part 70 Permit 127-40675-00001 condition B.10, Respondent is required to develop and implement a Preventative Maintenance Plan (“PMP”).

Respondent failed to conduct the semi-annual inspection on the Roll Blaster Baghouse as specified in the PMP, in violation of Part 70 Permit 127-40675-00001 condition B.10.

- 6. This Agreed Order covers all deviations submitted in the noted reports, except the 40 CFR 63 Subpart FFFFF deviations occurring on: July 21, 2018, November 18, 2018, November 23, 2018, November 25-26, 2018, March 29, 2019, June 30, 2019 – July 8, 2019, August 26, 2019, August 27, 2019, and August 30, 2019. The dates listed are being pursued by U.S. Environmental Protection Agency (“U.S. EPA”) as referenced in the Finding of Violation issued by U.S. EPA on January 21, 2021.
- 7. 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 approved by Complainant or Complainant’s delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
- 2. Respondent shall comply with the applicable federal rules and Part 70 Permit 127-44000-00001 unless superseded by a permit modification or renewal.
- 3. Respondent shall comply with all applicable federal rules.
- 4. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Matthew Chaifetz, Senior Enforcement Case Manager  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
mchaifet@idem.IN.gov

5. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of One Hundred Thousand Eight Hundred Dollars (\$100,800.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
6. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:  
  
Indiana Department of Environmental Management  
Accounts Receivable  
IGCN, Room 1340  
100 North Senate Avenue  
Indianapolis, IN 46204
7. 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 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. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 6, above.
8. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
9. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
10. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
11. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.

12. 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.
13. 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 the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
14. Complainant does not, by its 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.
15. 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 violations specified in the NOV.
16. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. 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 U.S. EPA or any other agency or entity.
17. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:  
Department of Environmental  
Management

By: David P. McIver

David P. McIver  
Section Chief  
Enforcement Section  
Office of Air Quality

Date: January 14, 2022

RESPONDENT:  
Cleveland-Cliffs Burns Harbor, LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COUNSEL FOR RESPONDENT:

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_\_\_.

For the Commissioner:

\_\_\_\_\_  
Matthew Stuckey  
Assistant Commissioner  
Office of Air Quality  
Indiana Department of Environmental  
Management

**From:** [Muller, Jean Louis](#)  
**To:** [ROBERTS, GOLDIE](#)  
**Subject:** Read: Cleveland-Cliffs Burns Harbor LLC (#26099-A, 26490-A, 26917-A) Revised Proposed Agreed Order  
**Date:** Wednesday, January 19, 2022 5:03:34 PM

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Your message

To: Muller, Jean Louis  
Subject: [EXTERNAL] Cleveland-Cliffs Burns Harbor LLC (#26099-A, 26490-A, 26917-A) Revised Proposed Agreed Order  
Sent: Wednesday, January 19, 2022 6:45:16 AM (UTC-06:00) Central Time (US & Canada)  
was read on Wednesday, January 19, 2022 4:02:30 PM (UTC-06:00) Central Time (US & Canada).

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