

REPORTING AND MONITORING VIOLATIONS

110. Both the 2011 permit and the 2016 permit contain conditions that impose various reporting and monitoring obligations upon U.S. Steel.

ANSWER: U. S. Steel admits that the 2011 and 2016 Permits contain provisions that impose certain reporting and monitoring obligations upon U. S. Steel. U. S. Steel further states that the Permits speak for themselves and are the best evidence of their contents and context thereof.

111. Pursuant to Part III.A.8 of both the 2011 permit and the 2016 permit, U.S. Steel is required to list the calculated temperature difference between the daily maximum upstream and daily maximum downstream temperature.

ANSWER: U. S. Steel admits that Paragraph 111 describes provisions of the 2011 and 2016 Permits. U. S. Steel further states that the Permits speak for themselves and are the best evidence of their contents and context thereof.

112. Pursuant to Special Condition [5] to Parts I.A.4–5 of the 2016 permit, U.S. Steel is required to submit a certification statement in lieu of quarterly monitoring for Total Toxic Organics.

ANSWER: U. S. Steel admits that Paragraph 112 describes provisions of the 2016 Permit. U. S. Steel further states that the Permit speaks for itself and is the best evidence of its contents and context thereof.

113. Pursuant to Part I.A.7 of the 2011 permit, U.S. Steel is required to conduct quarterly monitoring of stormwater runoff from Outfalls 001, 102, and 103. Per Special

Condition [3], U.S. Steel is allowed to conduct the sampling during any month in the quarter, but “the result from this reporting timeframe shall be reported on the [quarterly final month] DMR, regardless of which of the months within the quarter the sample was taken.”

ANSWER: U. S. Steel admits that Paragraph 113 describes provisions of the 2011 Permit. U. S. Steel further states that the Permit speaks for itself and is the best evidence of its contents and context thereof.

114. Pursuant to Parts I.A.4–5 of the 2016 permit, U.S. Steel is required to monitor the pollutants Total Cyanide, Total Recoverable Zinc, Total Recoverable Chromium, Total Suspended Solids, and Oil & Grease five times per week for Outfalls 204 and 304.

ANSWER: U. S. Steel admits that Paragraph 114 describes provisions of the 2016 Permit. U. S. Steel further states that the Permit speaks for itself and is the best evidence of its contents and context thereof.

115. Each row in the following table represents an individual violation by U.S. Steel of a reporting or monitoring requirement in the 2011 permit or the 2016 permit, by setting forth the discharge type, date(s) of violation, outfall, description of the violation, and the type of violation.

Discharge Type	Date(s) of Violation	Outfall	Description of Violation	Type of Violation
	December 2012		No quarterly testing was conducted in this month	Not conducted as required
	June 2013		Required quarterly testing data missing	Not reported as required
Temperature	10/01/2014	500A	7.55°F temperature difference reported as a 2 °F difference	Incorrectly calculated temperature difference
Temperature	01/06/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/07/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference

Temperature	01/09/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/10/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/15/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/16/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/20/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/21/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	01/22/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	04/23/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	04/24/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	06/07/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Discharge Type	Date(s) of Violation	Outfall	Description of Violation	Type of Violation
Temperature	06/09/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	06/22/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	06/26/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	06/28/2016	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	08/19/16	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	08/20/16	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Temperature	08/21/16	500A	2°F difference reported as 1°F difference	Incorrectly calculated temperature difference
Total Toxic Organics	October 2016		Missing Total Toxic Organic Certification	
Total Suspended Solids, Oil & Grease, Cyanide, Zinc, and Chromium	December, 2016	204A, 304A	Inadequate monitoring frequency (should be 5/week) * Note: This constitutes ten independent monitoring violations as each pollutant must be monitored at each outfall.	5 days in a row without tests (6 days in a row without a test for cyanide)

ANSWER: U. S. Steel denies the allegations from June 2013 contained in the second row of the table in Paragraph 115. U. S. Steel further states that it did not violate the monthly reporting requirement because it had no discharges. U. S. Steel admits the remaining Permit violations for Temperature and Total Toxic Organics. U. S. Steel admits a Permit violation for inadequate monitoring frequency for the following five parameters in December 2016: Total Suspended Solids, Oil & Grease, Cyanide, Zinc, and Chromium. U. S. Steel denies the remaining allegations in Paragraph 115.

116. Every instance in which U.S. Steel violated its obligation to report accurately the temperature difference involved U.S. Steel under-reporting the temperature difference, including one time in which it reported a 7.55°F temperature difference as a 2°F difference.

ANSWER: U. S. Steel admits reporting incorrectly calculated temperature differences at Outfall 500A for the dates listed in the table in Paragraph 115. U. S. Steel further states that the DMRs speak for themselves and are the best evidence of U. S. Steel's reported temperature differences; therefore, U. S. Steel neither admits nor denies the remaining allegations in Paragraph 116.

STORMWATER ROUTING VIOLATIONS

117. Pursuant to the 2016 permit, certain stormwater management practices that the 2011 permit authorized are currently disallowed. Specifically, the 2016 permit no longer allows Outfall 004 to discharge stormwater runoff, whereas the 2011 permit allowed for stormwater discharges to be routed through Outfall 004.

ANSWER: U. S. Steel denies that the 2016 Permit disallows stormwater discharges through Outfall 004. Page 7 of the 2016 Permit Fact Sheet expressly allows stormwater

discharges through Outfall 004: “The discharge from outfall 004 is composed of Non-contact Cooling Water (NCCW), stormwater, and process wastewater from outfall 304.”

118. The fact sheet attached to the 2016 permit indicates that Outfall 004 continues to handle stormwater runoff from over twenty-five acres of industrial property. If the Midwest Plant is continuing to route stormwater through Outfall 004, then U.S. Steel has been committing ongoing permit violations every day—or at least every rainy day on which it has discharged stormwater—since the issuance of the 2016 permit.

ANSWER: U. S. Steel admits that the fact sheet attached to the 2016 Permit indicates that Outfall 004 continues to handle stormwater runoff from over twenty-five acres of industrial property. U. S. Steel further states that Outfall 004 is and, at all relevant times, was permitted to handle stormwater runoff from the property. U. S. Steel denies the remaining allegations in Paragraph 118.

119. In sum, the allegations in this Complaint are based on publicly available information. Additional information, including information in U.S. Steel’s possession, may reveal additional violations, and the City expressly reserves the right to amend this Complaint to reflect, or to otherwise introduce evidence of, any additional violations discovered hereafter through discovery in this litigation or otherwise.

ANSWER: U. S. Steel lacks sufficient knowledge regarding the information on which the Plaintiff based the Complaint’s allegations and, therefore, denies same. U. S. Steel further states that Paragraph 119 contains no allegation to which an answer is required.

FIRST CLAIM FOR RELIEF

Pollutant Discharges in Violation of the Permit and the CWA

120. Paragraphs 1 through 119 are realleged and incorporated herein by reference.

ANSWER: U. S. Steel restates incorporates its answers to Paragraphs 1 through 119 as if fully set forth herein.

121. At all times relevant to this Complaint, U.S. Steel has discharged and continues to “discharge” “pollutants” within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, into Burns Waterway.

ANSWER: U. S. Steel states that the allegations in Paragraph 121 are vague and, therefore, it denies same. U. S. Steel admits that it is permitted to discharge pollutants into the Burns Waterway pursuant to the CWA and its Permit.

122. U.S. Steel’s pollutant discharges are discharges from a “point source” into “navigable waters” of the United States within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362.

ANSWER: U. S. Steel states that the allegations in Paragraph 122 are vague and, therefore, it denies same. U. S. Steel admits that it is permitted to discharge from a point source into navigable waters of the United States pursuant to the CWA and its Permit.

123. Burns Waterway and Lake Michigan are “navigable waters” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

ANSWER: U. S. Steel admits the allegations contained in Paragraph 123.

124. Between November 13, 2012 and November 13, 2017, U. S. Steel self-reported ninety violations of the effluent limitations contained in its permit. These ninety violations included excessive discharges of Total Recoverable Chromium, Hexavalent Chromium, Oil & Grease, and Temperature and violations of Whole Effluent Toxicity standards.

ANSWER: U. S. Steel denies that ninety violations occurred. U. S. Steel admits that between November 13, 2012 and November 13, 2017, it self-reported DMRs identifying dates on which violations of the NPDES Permit's effluent limitations for Total Recoverable Chromium, Hexavalent Chromium, Oil & Grease, and Temperature and violations of Whole Effluent Toxicity conditions occurred. U. S. Steel denies the DMRs disclose ninety violations. U. S. Steel denies the remaining allegations contained in Paragraph 124.

125. Each of U.S. Steel's ninety permit violations constitutes a violation of Section 301 of the CWA, 33 U.S.C. § 1311, and is actionable under Section 505 of the CWA, 33 U.S.C. § 1365(a)(1).

ANSWER: U. S. Steel denies the allegations contained in Paragraph 125.

126. Based on U.S. Steel's ongoing violations of its permit, U.S. Steel will continue to discharge in violation of Section 301 of the CWA, 33 U.S.C. § 1311, unless enjoined by this Court.

ANSWER: U. S. Steel denies the allegations contained in Paragraph 126.

127. Pursuant to Sections 309 and 505 of the CWA, 33 U.S.C. §§ 1319 and 1365, and 40 C.F.R. §§ 19.1-19.4, U.S. Steel is liable for injunctive relief and civil penalties of up to

\$37,500 per day for each of the nineteen violations occurring from January 12, 2009 through November 2, 2015 and \$52,414 per day for each of the seventy-one violations occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4.

ANSWER: Paragraph 127 states legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations in this Paragraph are deemed to be factual matters, they are denied. To the extent that the Plaintiff alleges that U. S. Steel is liable for a specific civil penalty amount, the allegations are denied.

SECOND CLAIM FOR RELIEF

Violations of Narrative Water Quality Standards in the Permit and the CWA

128. Paragraphs 1 through 127 are realleged and incorporated herein by reference.

ANSWER: U. S. Steel restates and incorporates its answers to Paragraphs 1 through 127 as if fully set forth herein.

129. Part I.B in both the 2011 permit and the 2016 permit prohibit U.S. Steel from violating certain “Narrative Water Quality Standards.”

ANSWER: U. S. Steel admits that Paragraph 129 describes provisions of the 2011 and 2016 Permits. U. S. Steel further states that the Permits speak for themselves and are the best evidence of their contents and context thereof.

130. U.S. Steel has violated the Narrative Water Quality Standards in its permit on at least four occasions according to U.S. Steel’s DMRs for the months covering April 2017, December 2013, and April 2016 (describing two violations).

ANSWER: U. S. Steel admits to reporting certain violations of qualitative Permit limits for discoloration on December 12, 2013, April 1, 2016, April 5, 2016, April 10, 2017, and April 11, 2017. U. S. Steel further states that the DMRs speak for themselves and are the best evidence of their content and context thereof.

131. Each of U.S. Steel's four narrative water quality violations constitutes a violation of a condition or limitation of NPDES permit No. IN0000337 and Section 301 of the CWA, 33 U.S.C. § 1311, and is actionable under Section 505 of the CWA, 33 U.S.C. § 1365(a)(1).

ANSWER: U. S. Steel admits to reporting certain violations of qualitative Permit limits for discoloration on December 12, 2013, April 1, 2016, April 5, 2016, April 10, 2017, and April 11, 2017. The remaining allegations in Paragraph 131 state legal conclusions to which no response is required, and, therefore, U. S. Steel neither admits nor denies those allegations. To the extent that the remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

132. Pursuant to Sections 309 and 505 of the CWA, 33 U.S.C. §§ 1319 and 1365, and 40 C.F.R. §§ 19.1-19.4, U.S. Steel is liable for injunctive relief and civil penalties of up to \$37,500 per day for the violation that occurred between January 12, 2009 and November 2, 2015 and \$52,414 per day for each of the three violations occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4.

ANSWER: Paragraph 132 states legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations

in this Paragraph are deemed to be factual matters, they are denied. To the extent that the Plaintiff alleges that U. S. Steel is liable for a specific civil penalty amount, the allegations are denied.

THIRD CLAIM FOR RELIEF

Failures to Maintain Equipment or to Respond as Required to Permit Violations in Violation of the CWA

133. Paragraphs 1 through 132 are realleged and incorporated herein by reference.

ANSWER: U. S. Steel restates and incorporates its answers to Paragraphs 1 through 132 as is fully set forth herein.

134. Pursuant to the 2016 permit, U.S. Steel “shall at all times maintain in good working order and efficiently operate all facilities and systems . . . for the collection and treatment which are installed or used by the permittee and which are necessary for achieving compliance with the terms and conditions of this permit.”

ANSWER: U. S. Steel admits that Paragraph 134 describes provisions of the 2016 Permit. U. S. Steel further states that the Permit speaks for itself and is the best evidence of its contents and context thereof.

135. As described above, on at least six occasions, U.S. Steel failed to maintain properly the Midwest Plant to such a degree as to lead directly to violations of other permit limitations or conditions.

ANSWER: U. S. Steel states that the phrases “as described above” and “violations of other Permit limitations or conditions” are vague and, therefore, it denies same. The remaining allegations in Paragraph 135 state legal conclusions to which no answer is required and,

therefore, U. S. Steel neither admits nor denies the remaining allegations. To the extent that any remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

136. Pursuant to the 2016 permit, in the event of an unauthorized release or discharge, including any spill, leak or discharge of non-stormwater not authorized by the permit, U.S. Steel must “take all reasonable steps to minimize or correct any adverse impact to the environment resulting from noncompliance with the permit,” including by conducting accelerated or additional monitoring to determine the nature and impact of the noncompliance.

ANSWER: U. S. Steel denies the Plaintiff’s characterization of the Permit language as described in Paragraph 136. U. S. Steel admits that the Permit states in part, “In accordance with 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.” U. S. Steel further states that the Permit speaks for itself and is the best evidence of its contents and context thereof.

137. As described herein, U.S. Steel failed to minimize the adverse impact of its October 2017 illegal chromium discharge by failing to perform appropriate additional monitoring for hexavalent chromium.

ANSWER: U. S. Steel denies the allegations contained in Paragraph 137, and specifically the characterization of “illegal chromium discharge.”

138. Each of U.S. Steel’s six observed maintenance violations, as well as its additional failure to minimize the adverse impacts of its October 2017 total chromium violation, constitutes

a violation of a condition or limitation of NPDES permit No. IN0000337 and Section 301 of the CWA, 33 U.S.C. § 1311, and is actionable under Section 505 of the CWA, 33 U.S.C. § 1365(a)(1).

ANSWER: Paragraph 138 states legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations in this Paragraph are deemed to be factual matters, they are denied.

139. Because U.S. Steel must meet the maintenance obligations in NPDES permit No. IN0000337 at all times, U.S. Steel has been in violation of maintenance requirements continuously for the entire time period relevant to this Complaint, punctuated by the incidents alleged herein to have been caused by such ongoing maintenance failure.

ANSWER: U. S. Steel admits that it must meet the maintenance obligations in NPDES Permit No. IN0000337 at all times. U. S. Steel denies the remaining allegations contained in Paragraph 139.

140. Pursuant to Sections 309 and 505 of the CWA, 33 U.S.C. §§ 1319 and 1365, and 40 C.F.R. §§ 19.1-19.4, U.S. Steel is liable for injunctive relief and civil penalties of up to \$37,500 per day for each violation occurring from January 12, 2009 through November 2, 2015 and \$52,414 per day for each violation occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4.

ANSWER: Paragraph 140 states legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations in this Paragraph are deemed to be factual matters, they are denied. To the extent that the

Plaintiff alleges that U. S. Steel is liable for a specific civil penalty amount, the allegations are denied.

FOURTH CLAIM FOR RELIEF

Failure to Report or Monitor in Violation of the Permit and of the CWA

141. Paragraphs 1 through 140 are realleged and incorporated herein by reference.

ANSWER: U. S. Steel restates and incorporates its answers to Paragraphs 1 through 140 as if fully set forth herein.

142. According to U.S. Steel's DMRs, U.S. Steel incorrectly calculated the difference between daily maximum downstream and daily maximum upstream temperatures, which is required to be accurately reported under Part III.A.8 of both the 2011 permit and the 2016 permit, twenty times during the five-year statute of limitations period.

ANSWER: U. S. Steel admits that the DMRs show certain incorrect calculations of the difference between daily maximum downstream and daily maximum upstream temperatures. The remaining allegations contained in Paragraph 142 state legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies the remaining allegations. To the extent that any remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

143. According to U.S. Steel's DMRs, U.S. Steel failed to attach the certification statement for 2016 Q3 (July-September), which is required to be submitted under Special Condition [5] to Parts I.A.4-5 of the 2016 permit, which constitutes a permit violation during the five-year statute of limitations period.

ANSWER: U. S. Steel denies that it failed to attach the certification statement for 2016 Q3 for July to September.

144. According to U.S. Steel's DMRs, U.S. Steel failed to report the quarterly monitoring results in the final month of 2012 Q4 (December) and 2013 Q2 (June), as required by Part I.A.7 of the 2011 permit, which constitutes two permit violations during the five-year statute of limitations period.

ANSWER: U. S. Steel denies that it failed to report the quarterly monitoring results in the final month of 2012 Q4 for December and 2013 Q2 for June.

145. According to U.S. Steel's DMRs, U.S. Steel did not monitor for the pollutants Total Cyanide, Total Recoverable Zinc, Total Recoverable Chromium, Total Suspended Solids, and Oil & Grease for at least five consecutive days at Outfalls 204 and 304 in December 2016, making it impossible to comply with the five times per week monitoring requirement under Parts I.A.4-5 of the 2016 permit. This monitoring failure constitutes ten total permit violations—one for each pollutant at each Outfall.

ANSWER: U. S. Steel admits that it did not monitor for the pollutants Total Cyanide, Total Recoverable Zinc, Total Recoverable Chromium, Total Suspended Solids, and Oil & Grease for at least five consecutive days at Outfalls 204 and 304 in December 2016. The remaining allegations in Paragraph 145 state legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies these allegations. To the extent that any remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

146. Each of U.S. Steel's thirty-three monitoring or reporting violations constitutes a violation of a condition or limitation of NPDES permit No. IN0000337 and Section 301 of the CWA, 33 U.S.C. § 1311, and is actionable under Section 505 of the CWA, 33 U.S.C. § 1365(a)(1).

ANSWER: U. S. Steel admits certain monitoring or reporting violations as described in previous answers but denies the existence of thirty-three monitoring or reporting violations. The remaining allegations contained in Paragraph 146 constitute legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies the remaining allegations. To the extent that any remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

147. Pursuant to Sections 309 and 505 of the CWA, 33 U.S.C. §§ 1319 and 1365, and 40 C.F.R. §§ 19.1-19.4, U.S. Steel is liable for injunctive relief and civil penalties of up to \$37,500 per day for each of the three violations occurring from January 12, 2009 through November 2, 2015 and \$52,414 per day for each of the thirty violations occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4.

ANSWER: The allegations contained in Paragraph 147 state legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations in this Paragraph are deemed to be factual matters, they are denied. To the extent that the Plaintiff alleges that U. S. Steel is liable for a specific civil penalty amount, the allegations are denied.

FIFTH CLAIM FOR RELIEF

Stormwater Routing in Violation of the Permit and of the CWA

148. Paragraphs 1 through 147 are realleged and incorporated herein by reference.

ANSWER: U. S. Steel restates and incorporates its answers to Paragraphs 1 through 147 as if fully set forth herein.

149. Pursuant to the 2016 permit, certain stormwater management practices that the 2011 permit authorized are currently disallowed. Specifically, the 2016 permit no longer allows Outfall 004 to discharge stormwater runoff, whereas the 2011 permit allowed for stormwater discharges to be routed through Outfall 004.

ANSWER: U. S. Steel denies that the 2016 Permit disallows stormwater discharges through Outfall 004. The remaining allegations contained in Paragraph 149 constitute legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

150. The fact sheet attached to the 2016 permit indicates that Outfall 004 continues to handle stormwater runoff from over twenty-five acres of industrial property. If the Midwest Plant is continuing to route stormwater through Outfall 004, then U.S. Steel has been committing ongoing permit violations every day—or at least every rainy day on which it has discharged stormwater—since the issuance of the 2016 permit.

ANSWER: U. S. Steel admits that the fact sheet attached to the 2016 Permit indicates that Outfall 004 continues to handle stormwater runoff from over twenty-five acres of industrial property. U. S. Steel denies that the 2016 Permit disallows stormwater discharges through

Outfall 004 and further denies ongoing Permit violations for routing stormwater through Outfall 004 pursuant to the 2016 Permit. The remaining allegations in Paragraph 150 state legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies the remaining allegations. To the extent that any remaining allegations in this Paragraph are deemed to be factual matters, they are denied.

151. Each of U.S. Steel's potential stormwater violations constitutes a violation of NPDES permit No. IN0000337 and Section 301 of the CWA, 33 U.S.C. § 1311, and is actionable under Section 505 of the CWA, 33 U.S.C. § 1365(a)(1).

ANSWER: Paragraph 151 states legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations in this Paragraph are deemed to be factual matters, they are denied.

152. Pursuant to Sections 309 and 505 of the CWA, 33 U.S.C. §§ 1319 and 1365, and 40 C.F.R. §§ 19.1-19.4, U.S. Steel is liable for injunctive relief and civil penalties of up to \$52,414 per day for each violation occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4.

ANSWER: Paragraph 152 states legal conclusions to which no answer is required and, therefore, U. S. Steel neither admits nor denies this Paragraph. To the extent that any allegations in this Paragraph are deemed to be factual matters, they are denied. To the extent that the Plaintiff alleges that U. S. Steel is liable for a specific civil penalty amount, the allegations are denied.

SIXTH CLAIM FOR RELIEF

Negligence

153. Paragraphs 1 through 152 are realleged and incorporated herein by reference.

ANSWER: U. S. Steel restates and incorporates its answers to Paragraphs 1 through 152 as if fully set forth herein.

154. U.S. Steel has a duty of reasonable care not to discharge toxic pollutants, including hexavalent chromium, into Lake Michigan in violation of its NPDES permit.

ANSWER: U. S. Steel admits that its NPDES Permit establishes effluent limitations for discharges of pollutants, including hexavalent chromium, and that the CWA establishes penalties for violation of those limits. U. S. Steel denies the remaining allegations contained in Paragraph 154 and further states that the CWA preempts the Plaintiff's common law claim.

155. U.S. Steel breached its duty of reasonable care to not illegally discharge hexavalent chromium into Lake Michigan in violation of its NPDES permit.

ANSWER: U. S. Steel admits that it violated certain NPDES permit conditions as described above. U. S. Steel denies the remaining allegations contained in Paragraph 155 and further states that the CWA preempts the Plaintiff's common law claim.

156. U.S. Steel's discharge of hexavalent chromium into Lake Michigan was the direct and proximate cause of the City incurring costs in excess of \$75,000, the exact amount to be proven at trial, to sample, monitor, and assess the threat posed to the City's drinking water supply from U.S. Steel's illegal discharge of hexavalent chromium.

ANSWER: U. S. Steel lacks sufficient knowledge regarding the costs incurred by the City and, therefore, denies same. U. S. Steel further states that USEPA's own water testing showed no hexavalent chromium impacts to the Burns Waterway or Lake Michigan. All results from water samples taken after the day of the release showed hexavalent chromium below EPA's method detection limit of 1 part per billion. U. S. Steel denies the characterization of "illegal discharge of hexavalent chromium." U. S. Steel denies the remaining allegations contained in Paragraph 156 and further states that the CWA preempts the Plaintiff's common law claim.

AFFIRMATIVE DEFENSES

U. S. Steel asserts the following affirmative defenses to Plaintiff's claims:

FIRST AFFIRMATIVE DEFENSE

(Lack of Subject-Matter Jurisdiction)

The Court lacks subject-matter jurisdiction over Plaintiff's claims because the Plaintiff lacks constitutional standing to pursue those claims.

SECOND AFFIRMATIVE DEFENSE

(Lack of Standing)

The Plaintiff lacks Article III standing to assert the claims alleged in its Complaint because 1) Plaintiff's alleged injuries are not fairly traceable to actions of the defendant, and 2) the Plaintiff's alleged injuries are not redressable because there are no continuing violations from which injunctive relief could benefit the Plaintiff.

THIRD AFFIRMATIVE DEFENSE

(Mootness)

Plaintiff's Complaint should be dismissed because the claims are moot, as 1) EPA and IDEM are diligently prosecuting the Claims alleged in the Complaint, 2) U. S. Steel has remediated the alleged violations, and 3) U. S. Steel currently operates in compliance with the Clean Water Act and its NPDES Permit.

FOURTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

Plaintiff's claims are barred in whole or in part by the applicable statute of limitations. Specifically, Plaintiff's claims in Paragraphs 115 and 144 with respect to an alleged violation of quarterly testing requirements from December 2012 are barred by the applicable statute of

limitations. In addition, the portions of Plaintiff's requested penalties which are calculated outside of the applicable 5-year statute of limitations, are barred.

FIFTH AFFIRMATIVE DEFENSE

(Statutory Preemption of Common Law Claims)

The CWA, which is a comprehensive regulatory program supervised by an expert administrative agency, occupies the field of controlling and abating water pollution and, therefore, preempts the Plaintiff's common law claims related to the same.

SIXTH AFFIRMATIVE DEFENSE

(Diligent Prosecution)

To the extent that U. S. Steel has violated any relevant CWA provisions or NPDES Permit conditions, the IDEM and/or EPA is diligently prosecuting those violations through enforcement resulting in a judicially-enforceable Consent Decree.

SEVENTH AFFIRMATIVE DEFENSE

(Res Judicata)

Plaintiff's claims will be barred by the application of res judicata upon entry of the Consent Decree resulting from the IDEM and/or EPA's diligent prosecution of the Plaintiff's claims.

EIGHTH AFFIRMATIVE DEFENSE

(Attorneys' Fees/Costs Improper)

Plaintiff fails to set forth facts sufficient to support a claim for the recovery of its attorneys' fees or costs in this action.

U. S. Steel reserves the right to amend these defenses pursuant to Federal Rule of Civil Procedure 15.

Respectfully submitted,

/s/ Paul M. Drucker

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2018, I electronically filed the foregoing United States Steel Corporation's Answer and Affirmative Defenses to Plaintiff's Complaint with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record and all registered participants.

/s/ Paul M. Drucker

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July 20, 2018

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Re: SUPPLEMENTAL COMMENTS, Proposed Consent Decree, *United States et al. v. United States Steel Corporation*, D.J. Ref. No. 90-5-2-1-06476/2, submitted by National Parks Conservation Association, Submitted electronically and via Certified Mail

Dear Assistant Attorney General and Mr. Kuefler:

The National Parks Conservation Association ("NPCA"), on behalf of its members and supporters, submits these supplemental comments, regarding the proposed Consent Decree in *United States et al. v. United States Steel Corporation*, and materials required by the proposed Consent Decree. NPCA is an independent, nonpartisan, non-profit organization that, together with more than 1.3 million members and supporters, works to protect and preserve our nation's national parks for present and future generations. For purpose of these Supplemental Comments, NPCA is represented by legal counsel, the Earthrise Law Center of Lewis & Clark Law School, through Kevin Cassidy, Earthrise's Sr. Staff Attorney, and Kathryn Roberts, Earthrise's Legal Fellow. Mr. Cassidy's mailing address, email address and phone number are set forth above.

Please direct all correspondence and responses to these Supplemental Comments to NPCA's legal counsel, Mr. Cassidy.

NPCA submitted comprehensive comments to the proposed Consent Decree on June 4, 2018, consistent with 28 C.F.R. § 50.7(b), and the published notices in the Federal Register, 83 Fed. Reg. 14,891, 14,891 (Apr. 6, 2018) and 83 Fed. Reg. 17193, 17194 (Apr. 18, 2018). *See generally* NAT'L PARKS CONSERVATION ASS'N, COMMENTS, PROPOSED CONSENT DECREE, *UNITED STATES ET AL. v. UNITED STATES STEEL CORPORATION*, D.J. Ref. No. 90-5-2-1-06476/2 (June 4, 2018) [hereinafter "COMMENTS"]. The proposed Consent Decree required the defendant ("U.S. Steel") to draft several Plans regarding design, installation, operation, maintenance, and preventative action of wastewater treatment and processing at U.S. Steel's Portage, Indiana Facility ("Facility") to ensure compliance with, *inter alia*, the Clean Water Act ("CWA"), 33 U.S.C. § 1251 *et seq.* *See* Consent Decree, No. 18-cv-00127, Dkt. #2-1, ¶¶ 10-11 (Apr. 2, 2018) [hereinafter "Consent Decree"]. In response to NPCA's request, the plans were released during the public comment period. COMMENTS, at 4. NPCA submitted comments on those plans, including a Technical Analysis Report produced by Carpenter Environmental Associates, Inc. for NPCA. *Id.* at 3-8, Attachment 1. On June 1, 2018, the Environmental Protection Agency ("EPA"), and the Indiana Department of Environmental Management ("IDEM") disapproved the Operation and Maintenance Plan ("O&M Plan") submitted by U.S. Steel. *Id.* at 4, n.1. On June 26, 2018, U.S. Steel submitted a revised O&M Plan, and on June 29, 2018 submitted the Wastewater Process Monitor Design, required by paragraph 11 of the proposed Consent Decree. *See* UNITED STATES STEEL CORP., MIDWEST PLANT, PORTAGE, IN., WASTEWATER TREATMENT O&M

MANUAL AND PREVENTATIVE MAINTENANCE PROGRAM, Rev. 1 (Jun. 26, 2018)

[hereinafter “REVISED O&M PLAN”]; UNITED STATES STEEL CORP., MIDWEST PLANT, PORTAGE, IN., ENHANCED WASTEWATER PROCESS DESIGN (Jun. 29, 2018) [hereinafter “WASTEWATER DESIGN”]. NPCA submits these supplemental comments to address concerns and deficiencies with these documents.

I. The Revised O&M Plan does not address all issues raised and remains insufficient.

The revised O&M Plan submitted by U.S. Steel did not address the issues raised by EPA and IDEM in their disapproval, and did not address the issues raised by NPCA in their public comments. As a result, the revised O&M Plan is still deficient and should be rejected. NPCA submits the enclosed supplemental technical comments to the Revised O&M Plan and Wastewater Design prepared by Carpenter Environmental Associates, Inc. and incorporates them by reference into these comments. *See* Attachment 1 (Carpenter Environmental Associates, Inc., Supplemental Technical Analysis Report, hereinafter “Supplemental TAR”). The Supplemental TAR notes multiples deficiencies in the Revised O&M Plan, and concludes that even as revised, the O&M Plan is inconsistent with both the proposed Consent Decree requirements, and industry best practices. *Id.* at 2. Specifically, the Revised O&M Plan did not adequately respond to EPA and IDEM’s concerns about reference to and documentation of all standard operating procedures, and did not sufficiently address EPA and IDEM’s concerns about tracking maintenance activities. *Id.* at 3. NPCA respectfully requests that EPA and IDEM disapprove the Revised O&M Plan and require each of these components to be fully addressed and explained in U.S. Steel’s Plan.

The Revised O&M Plan also does not respond to or address any of the additional concerns raised by NPCA in public comments. *Id.* at 2; *see also* COMMENTS, Att. 1.

NPCA's initial Comments discussed a concern that the timing of the approval process for the plans that contain most of the substantive actions to correct flaws in the Facility's wastewater processing, operation and maintenance hampered meaningful public participation. *See* COMMENTS, 33–34. That U.S. Steel's revisions do not make any attempt to meaningfully address public comments despite all comments being submitted prior to the Revised O&M Plan being finalized further underscores these concerns.

NPCA respectfully requests that all compliance plans required by the proposed Consent Decree have a formal public comment period and that EPA and IDEM's approvals be tiered to occur after the close of comments to allow the Agencies to incorporate relevant comments into their own approval decisions.

II. The Wastewater Design is Incomplete and is Insufficient.

The proposed Consent Decree requires that the Wastewater Design be developed applying the conclusions derived in the earlier-required wastewater process monitoring evaluation. *See* Consent Decree, ¶ 11. NPCA requested that the evaluation be released publicly for full review. COMMENTS, at 34. Although, the Wastewater Design purports to “summarize the evaluation” the actual evaluation itself and its full conclusions still have not been made public. WASTEWATER DESIGN, at 1. In fact, the Wastewater Design does not include the relevant details of the evaluation, including the investigations performed, or assessments made. *See* Attachment 1, at 3. The lack of disclosure of the full evaluation precludes a meaningful review by either the public or the EPA and IDEM. *See id.* at 3–4.

Further, the Wastewater Design is incomplete. For multiple processes and corrective actions at the Facility's wastewater treatment, the Wastewater Design requires several more steps of investigation, trials, analysis, and/or determinations. *Id.* at 4. Because U.S. Steel has not undertaken all the necessary investigation and trials, it is not possible to approve a final wastewater management design that will adequately detect conditions that could cause spills at the Facility. *See* CONSENT DECREE, ¶ 11. Because EPA and IDEM cannot logically approve a wastewater process monitoring system that has not been fully designed, this will further delay actual implementation of an adequate monitoring system that will actually protect the unique natural resources of the National Lakeshore and Lake Michigan. *See* COMMENTS, at 24–25 (discussing the natural resources surrounding and adjacent to the Facility that are threatened by the Facility's noncompliance). By failing to submit a completed or sufficient Wastewater Design, U.S. Steel risks the continued harm to unique natural resources, and risks undermining the already generous timelines provided for in the proposed Consent Decree. Necessitating multiple rounds of submission of compliance plans also limits meaningful public comment. NPCA respectfully requests that EPA and IDEM disapprove the incomplete Wastewater Design and insist on public release of the full evaluation conducted by U.S. Steel, as well as a complete and adequate Wastewater Design. NPCA also respectfully requests an official public comment period on any further submissions required by U.S. Steel pursuant to the proposed Consent Decree, and requests that EPA and IDEM's approval period be tiered to allow incorporation of relevant public comments into the Agencies' decision-making.

III. Neither the O&M Plan nor the Wastewater Design discuss or plan for the substantial training program necessary to ensure long-term compliance at the Facility.

In its initial public comments on the proposed Consent Decree, NPCA discussed the potential gaps in employee training on the new substantive requirements that results from not including the compliance requirements into the Facility's NPDES permit. *See* COMMENTS, at 29. The Facility's NPDES permit requires all relevant employees to be trained on specifically itemized plans relevant to the Facility's wastewater and storm water processing. STATE OF INDIANA, DEPT. OF ENVTL. MGMT., AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM, Permit, No. IN0000337, 29–30 (Apr. 1, 2016). Because the permit was written prior to the proposed Consent Decree, none of the Plans, including the O&M Plan or the Wastewater Design are specifically mentioned as required for employee training. *Id.* Further, neither the Plans nor the proposed Consent Decree make any provision to address this potential gap in training. For example, the primary mention of training in the Revised O&M Plan is that various employees have an “acknowledgement of training” in the employee's file, but this does not specify what the employee is trained on. REVISED O&M PLAN, at 13–15. In fact, for the few employee positions where the content of training is listed, it expressly does not require training on the Revised O&M Plan. *See id.* at 14 (Instrument Repairman has responsibility to “diagnose, repair, calibrate and test instrumentation” but is only “trained to read and understand electrical drawings and ladder logic to facilitate any required maintenance”). Even if the Revised O&M Plan was substantively sufficient, it cannot adequately protect public health and the surrounding environment if it is not actually implemented and trained on by all employees at the

Facility. NPCA reiterates its prior recommendation that all substantive compliance requirements, including these Plans, be incorporated into the Facility's NPDES permit and thus into the NPDES permit's training requirements. Further, NPCA respectfully requests that EPA and IDEM disapprove the Plans as written and require an explicit requirement to adequately train on every aspect of the compliance requirements of the proposed Consent Decree, and provide a comprehensive description of that training program as part of the Facility's O&M Plan.

Conclusion

For the forgoing reasons, NPCA respectfully requests EPA and IDEM to disapprove the Revised O&M Plan and Wastewater Design to align with both the requirements of the proposed Consent Decree, and the purpose and goals of the Clean Water Act to protect public health and the waters of the United States. Further, NPCA reaffirms its earlier comments discussing the deficiencies and areas for improvement in the proposed Consent Decree. Finally, NPCA requests that, following any further disapproval or resubmission of any of the Plans required by the proposed Consent Decree, all relevant documents be made available to the public, and an official public comment period be opened to allow for meaningful public review

Respectfully,



Kathryn Roberts
Legal Fellow
Earthrise Law Center



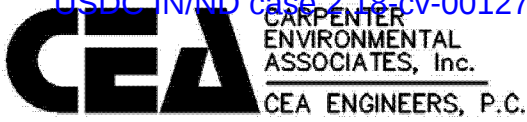
Kevin Cassidy
Sr. Staff Attorney
Earthrise Law Center

Counsel for National Parks Conservation Association

Attachments:

Attachment 1 Carpenter Environmental Associates, Inc., Supplemental Technical Analysis Report

Attachment 1



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Carpenter Environmental Associates, Inc.
Supplemental Technical Analysis Report
Wastewater Treatment O&M Manual and Preventative Maintenance Program Plan –
Revision 1 and Enhanced Wastewater Process Monitoring Design
United States Steel Corporation Midwest Plant, Portage, Indiana
CEA No. 21805
July 17, 2018

I. Introduction

In May 2018, CEA prepared the *Technical Analysis Report* (May TAR) for the National Parks Conservation Association (NPCA)¹ providing comments on the April 13, 2018, Draft *Wastewater Treatment O&M Manual and Preventive Maintenance Program Plan* (O&M Manual) for the United States Steel Corporation's (U.S. Steel) Midwest Plant, Portage, Indiana (Midwest Plant). The O&M Manual was prepared for compliance with the proposed Consent Decree (CD), lodged on April 2, 2018, in *United States et al. v. US Steel Corp.*, Case No. 18-CV-00127 (N.D. Ind.).

On May 30, 2018, the United States Environmental Protection Agency (USEPA) issued a disapproval in part of the O&M Manual (USEPA Partial Disapproval) prepared by US Steel.² As required by Paragraph 14 of the CD, U.S. Steel was required to revise and resubmit the O&M Manual (Revised O&M Manual).

At the request of NPCA, CEA evaluated the adequacy of the Revised O&M Manual and the June 29, 2018, *Enhanced Wastewater Process Monitoring Design* (WW Process Monitoring Design) for the Midwest Plant in meeting the requirements of the CD and industry best standards and practices. CEA also evaluated the Revised O&M Manual in regards to CEA's May TAR and USEPA's Partial Disapproval.

II. Opinions

CEA's May TAR included the following opinions:

1. U.S. Steel's O&M Manual, as currently drafted, does not contain the necessary detail or procedures to satisfy the CD's requirement (*see* ¶ 10(a)) for the development of a "comprehensive" operations and maintenance plan or to "ensure

¹ CEA's May TAR was included as Attachment 1 to, and incorporated into, NPCA's comprehensive comments on the proposed consent decree, submitted to the U.S. Dept. of Justice on June 4, 2018.

² Letter from Patrick F. Kuefler, USEPA, to David M. Shelton, United States Steel Corporation, Subject: *United States Steel Corporation Submittal Pursuant to Consent Decree (2:18-cv 00127) Partial Disapproval of Wastewater Treatment O&M Manual and Preventive Maintenance Program Plan*, May 30, 2018.

that U.S. Steel shall at all times properly operate and maintain all wastewater treatment process equipment” to achieve the purposes of the CD, which are to bring the Midwest Plant into compliance with its CWA permit and to prevent future spills of toxic pollutants.

2. U.S. Steel’s Preventative Maintenance Program Plan, which is incorporated into the O&M Manual, does not contain the necessary detail or procedures to satisfy the CD’s requirement (*see* ¶ 10(c)) to adequately “help prevent breakdowns, reduce wear, improve efficiency and extend the life of its wastewater infrastructure.”
3. The technical documentation and information provided to date by the parties to the CD is incomplete and insufficient to allow the public to adequately evaluate whether or not the CD will achieve its stated purposes, which are to bring the Midwest Plant into compliance with its CWA permit and to prevent future spills of toxic pollutants.

US Steel revised the draft O&M Manual, which included the Wastewater Operation and Maintenance Manual and Preventive Maintenance Program Plan required by Paragraph 10 of the CD, in response to criticisms in the USEPA Partial Disapproval.

After review of the Revised O&M Manual, CEA’s opinions from the May TAR have not changed. The Revised O&M Manual remains inadequate and does not meet the requirements of Paragraph 10 of the CD or industry best standards and practices.

Based on review of the Revised O&M Manual and WW Process Monitoring Design, CEA offers the following additional opinions:

4. The Revised O&M Manual is not fully responsive to the comments in the USEPA Partial Disapproval.
5. U.S. Steel’s WW Process Monitoring Design is incomplete and does not contain the necessary detail or procedures to satisfy the CD’s requirements (*see* ¶ 11(b)) for “a design for enhanced wastewater process monitoring for early detection of conditions that may lead to spills such as the April 11, 2017 Spill, and conditions that may lead to unauthorized discharges or discharges in exceedance of permit limits, at the wastewater treatment works.”

III. Revised Wastewater Treatment O&M Manual

Since the Revised O&M Manual did not address CEA comments on the O&M Manual, all of the comments included in Section III of the May TAR also apply to the Revised O&M Manual.

Additionally, US Steel failed to adequately respond to a number of the comments in USEPA’s Partial Disapproval, including:

- Not including procedures, Standard Operating Procedures (SOPs), or references to SOPs for helping to “...avoid or minimize the impacts of spills or upset conditions at the Chrome Treatment Plant and Final Treatment Plant”
- Not including a reference list of SOPs for laboratory and field instruments used by third-party laboratories and Midwest Plant personnel responsible for NPDES compliance monitoring.
- Aside from a mention of US Steel’s electronic maintenance management system (EMMS) for tracking maintenance activities, such as equipment calibration, repairs, replacements, alterations, maintenance tasks, and vulnerability assessments, the Revised O&M Manual does not provide details of how O&M and preventive maintenance activities are assigned and recorded.

IV. Enhanced Wastewater Process Monitoring Design

Paragraph 11 of the CD requires U.S. Steel to:

1. Complete an evaluation of the existing wastewater process monitoring at the Midwest Plant, including investigation of monitoring technologies and equipment for early detection of conditions that may lead to spills such as the April 11, 2017 spill and conditions that may lead to unauthorized discharges or discharges in exceedance of NPDES permit limits.
2. Design a wastewater process monitoring system for early detection of conditions that may lead to spills such as the April 11, 2017 spill and conditions that may lead to unauthorized discharges or discharges in exceedance of NPDES permit limits

In response to Paragraph 11 of the CD, U.S. Steel produced the WW Process Monitoring Design, which does not include details regarding the evaluation U.S. Steel performed of the existing wastewater process monitoring at the Midwest Plant or its investigation of monitoring technologies and equipment for early detection of conditions that may leads to spills, unauthorized discharges or discharges in exceedance of NPDES permit limits. It does not include U.S. Steel’s determination of the root cause of the April 11, 2017 spill, possible preventative actions to reduce the possibility of future similar spill incidents, assessment of the potential risks associated with unauthorized discharges, or assessment of the Midwest Plant’s wastewater treatment facilities for the potential of discharges exceeding NPDES permit limits. Without the details of the evaluation performed by US Steel required by Paragraph 11(a) of the CD, USEPA, IDEM and the public cannot adequately evaluate US Steels’ compliance with the CD, the conclusions U.S. Steel reached from its evaluation that resulted in the WW Process Monitoring Design or the ability of US Steel’s conclusions to achieve the purposes of the CD.

The WW Process Monitoring Design includes only the corrective actions that have been taken or that U.S. Steel is planning to take as a result of its evaluation, investigations, and assessments. The WW Process Monitoring Design needs to include the details describing how it performed its evaluations, investigations, and assessments to be able to determine

their adequacy in meeting the requirements of the CD and providing the information required to develop appropriate corrective actions at the Midwest Plant.

The WW Process Monitoring Design includes numerous corrective actions and monitoring processes that still require further investigations, trials, analysis, action level determinations, and design, including:

- Section II.B – Install Flow Meters on Chrome Wastewater Piping – requires further investigation and analysis
- Section II.D – Develop Procedure for Operator Testing of Chrome Trench Sump – requires further analysis and determination of action levels
- Section II.F – Manual Testing of Final Treatment Plant Discharge – requires determination of action levels
- Section II.G – Trial and Install Inline Hexavalent Chrome Monitoring – requires further trials.
- Section II.H – Install Inline Spare Conductivity Meter in Chrome Basement Sump – requires determination of action levels
- Section III.G – Install Inline Spare Conductivity Meter in Tin Line Basement Sump – requires determination of action levels
- Section IV.D – Daily Testing of Chrome Line Heat Exchangers for Leaks – requires determination of action levels
- Section IV.E – Investigate and Trial Online Hexavalent Chromium Monitoring for Chrome Heat Exchangers – requires further trials, investigations, and analysis
- Section IV.F – Investigate Electronic Alert and Alarm System Integration at Final Treatment – requires further investigation

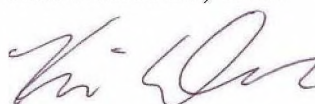
As a result of the need for further studies and design of the corrective actions and monitoring processes, the WW Process Monitoring Design submitted by U.S. Steel is incomplete. USEPA, IDEM and the public cannot determine its adequacy. USEPA and IDEM cannot approve the WW Process Monitoring Design in an incomplete state and if studies and design are ongoing. Failure to submit a final design in the WW Process Monitoring Design by U.S. Steel will result in delaying approval by USEPA and IDEM and a subsequent delay installing necessary corrective actions and monitoring technology and equipment, which is required by Paragraph 11(c) CD within 5 months of USEPA and IDEM approval. U.S. Steel needs to complete its studies and design of the corrective actions and monitoring processes in the WW Process Monitoring Design and provide a revised WW Process Monitoring Design as soon as possible to allow for proper evaluation of its adequacy and to reduce delays in USEPA and IDEM approval and subsequent installation of corrective actions and monitoring processes necessary to reduce the risk of spills, unauthorized discharges, and permit discharge violations. Section II.E discusses responses to high-level alarms in the chrome trench sump, but includes only that “the operator will then take appropriate action in response to an alarm, which may include the shutdown of any process lines contributing to the high level.” The WW Process Monitoring Design needs to include a SOP that an operator can follow in response to high-level alarms in the chrome trench sump that includes the potential

response actions to take and how to determine which response actions are appropriate to a high-level alarm in the chrome trench sump.

Section IV.F discusses operator “knowledge and awareness” to notice drifts in process parameters outside of normal process ranges at the Final Treatment Plant, but does not detail the knowledge required of an operator to identify drifts outside of normal process ranges. The WW Process Monitoring Design needs to detail the operator knowledge required and procedure used to identify drifts in treatment processes outside of normal ranges and include the SOPs for each process that operators should rely upon in making such determinations.

This report and the opinions contained herein are made based on the documentation and information publicly available, as described above, and in the May TAR, and on my education and experience as a registered Professional Engineer on wastewater treatment process design and maintenance procedures (*see* Curriculum Vitae, attached as Exhibit 1 to the May TAR).

Sincerely,
CARPENTER ENVIRONMENTAL
ASSOCIATES, INC.



Kevin Draganchuk, P.E.
Senior Engineer

Company Profile: Carpenter Environmental Associates, Inc. (CEA)

Carpenter Environmental Associates, Inc. was founded in 1980 on the principles of environmental protections and stewardship: our expertise was tapped early on by Riverkeeper, to protect the mighty Hudson River. Our reputation is built on science and engineering solutions, ingenuity and integrity in our work, and direct and honest client communications.

Nearly 40 years later, we're still creating solutions to some of our time's most challenging environmental issues. Whether it's permitting, conducting investigations and monitoring, providing litigation support, or designing mitigation and remediation projects, our whole-team approach means you get the attention you need and deserve, and with a swift turnaround, too. CEA values our relationships with nonprofit, municipal, and landowner clients, as well as our agency connections and wide network of experts.