

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA

_____	)	
UNITED STATES OF AMERICA, and	)	
the STATE OF INDIANA,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.
	)	
UNITED STATES STEEL	)	
CORPORATION,	)	
	)	
Defendant	)	
_____	)	

**COMPLAINT**

The United States of America, by the authority of the Attorney General of the United States and through its undersigned attorneys, acting at the request of the United States Environmental Protection Agency (“EPA”), the National Park Service (“NPS”) of the United States Department of the Interior (“DOI”) and the National Oceanic and Atmospheric Administration (“NOAA”) of the United States Department of Commerce; and the State of Indiana (“State”), on behalf of the Indiana Department of Environmental Management (“IDEM”) and the Indiana Department of Natural Resource (“IDNR”), (collectively, “Plaintiffs”), file this Complaint and allege as follows:

**NATURE OF ACTION**

1. This is a civil action for civil penalties, injunctive relief, recovery of response costs, and recovery of resource damages, including natural resource damages (“NRD”), brought against Defendant, United States Steel Corporation (“U. S. Steel” or “Defendant”), pursuant to the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq.*, as amended; Title 13 of the Indiana Code (“IND. CODE”) and Title

327 of the Indiana Administrative Code (“IAC”); terms and conditions of U. S. Steel’s National Pollutant Discharge Elimination System (“NPDES”) permits issued in 2011 and 2016; the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11001 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9601 *et seq.*; the System Unit Resources Protection Act (“SURPA”), 54 U.S.C. §§ 100721-100725; and IND. CODE § 13-25-4-8(a)(3) *et seq.*

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355; CWA Section 309(b), 33 U.S.C. § 1319(b); EPCRA Section 325(b)(3) and (c)(4), 42 U.S.C. § 11045(b)(3) and (c)(4); CERCLA Section 113(b), 42 U.S.C. § 9613(b); and SURPA Section 3(a), 54 U.S.C. § 100723(a). The State is a party to this action pursuant to 28 U.S.C. § 1367(a).

3. Venue lies in this District pursuant to 28 U.S.C. §§ 1331, 1345, 1391(b) and (c) and 1395(a); CWA Section 309(b), 33 U.S.C. §§ 1319(b); EPCRA Section 325(b)(3), 42 U.S.C. § 11045(b)(3); and CERCLA Sections 107 and 113(b), 42 U.S.C. §§ 9607 and 9613(b), because the violations alleged in the Complaint are alleged to have occurred in this judicial district and the release and damages alleged in the Complaint occurred within this district.

### **NOTICE**

4. The United States has provided notice of the commencement of this action to the State of Indiana as required by CWA Section 309(b), 33 U.S.C. § 1319(b).

### **THE PARTIES**

5. Plaintiffs are the United States, on behalf of EPA, the NPS and NOAA, and the State of Indiana, on behalf of IDEM and IDNR.

6. The United States Department of Justice has authority to bring this action on behalf of the Administrator of the EPA, the Director of the National Park Service and Administrator of NOAA, pursuant to 28 U.S.C. §§ 516 and 519 and 54 U.S.C. § 100723(a).

7. The Indiana Attorney General is authorized to appear and represent Indiana in this case pursuant to IND. CODE §§ 4-6-3-2(a), 13-30-4-1, and 13-14-2-6.

8. Defendant U. S. Steel is organized as a corporation under the laws of Delaware.

9. At all relevant times hereto, U. S. Steel owned and operated a steel manufacturing and finishing facility known as the Midwest Plant located at 6300 U.S. Route 12, in Portage, Porter County, Indiana (“Midwest Plant”). U. S. Steel is a “person” within the meaning of CWA Section 502(5), 33 U.S.C. § 1362(5), EPCRA Section 329(7), 42 U.S.C. § 11049(7); CERCLA Sections 101(21), 103(a) and 107, 42 U.S.C. §§ 9601(21), 9603(a) and 9607; and SURPA Section 2(a), 54 U.S.C. § 100722(a).

### **STATUTORY AND NPDES BACKGROUND**

#### **Provisions of the CWA and Indiana Law**

10. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with a NPDES permit issued by EPA or an authorized state pursuant to CWA Section 402, 33 U.S.C. § 1342. Additionally, pursuant to 327 IAC 5-2-2, Indiana prohibits the discharge of pollutants to “waters of the state” except as authorized by a duly issued NPDES permit.

11. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to mean, among other things, “any addition of any pollutant to navigable waters from any point source.” See also 327 IAC 5-1.5-11 (similarly defining “discharge of a pollutant”).

12. CWA Section 502(6), 33 U.S.C. § 1362(6), defines “pollutant” as “spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,

radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” See also 327 IAC 5-1.5-41.

13. CWA Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” as “waters of the United States, including territorial seas.” Additionally, Indiana law defines “waters of the state” to include “the accumulations of water, surface and underground, natural and artificial, public and private, or a part of the accumulations of water that are wholly or partially within, flow through, or border upon Indiana.” IND. CODE § 13-11-2-265.

14. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” See also 327 IAC 5-1.5-40.

15. CWA Section 402(a), 33 U.S.C. § 1342(a), provides that EPA may issue NPDES permits that authorize the discharge of any pollutant to navigable waters, upon the condition that such discharge will meet certain specific requirements of the CWA or such other conditions as EPA determines necessary to carry out the provisions of the CWA. In addition, EPA may prescribe conditions pertaining to test procedures, data and information collection, reporting, and such other requirements as deemed appropriate by EPA.

16. NPDES permits establish “effluent limitations,” which are defined as “any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from the point sources into navigable waters.” 33 U.S.C. § 1362(11).

17. CWA Section 402(b), 33 U.S.C. § 1342(b), provides that a state may establish and administer its own permit program, and, after EPA authorizes the state's program, it may also issue NPDES permits.

18. On January 1, 1975, pursuant to CWA Section 402(b), 33 U.S.C. § 1342(b), EPA delegated the administration of the federal NPDES permit program to the State of Indiana for discharges into the navigable waters within its jurisdiction. IDEM administers the NPDES permitting program in Indiana pursuant to IND. CODE § 13-13-5-1(1) and, with EPA, maintains concurrent enforcement authority over NPDES permits in Indiana.

19. Notwithstanding the delegation of NPDES permitting and enforcement authority to a state under CWA Section 402(b), 33 U.S.C. § 1342(b), EPA retains the authority to commence a civil action for appropriate relief, including a permanent or temporary injunction, when any person violates, among other things, CWA Section 301, 33 U.S.C. § 1311, or violates any of the terms or conditions of an NPDES permit. 33 U.S.C. § 1319(b). Additionally, Indiana may seek injunctive relief for a violation of Indiana's water pollution control laws pursuant to IND. CODE §§ 13-30-1-1; 13-30-4-1(b)(2).

20. CWA Section 309(d), 33 U.S.C. § 1319(d), provides that any person who violates Section 301 of the CWA, 33 U.S.C. § 1311, or who violates any condition or limitation of an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, shall be subject to civil penalties not to exceed \$25,000 per day for each violation.

21. The Civil Penalties Inflation Act of 1990, 28 U.S.C. § 2461 *et seq.*, as amended by the Debt Collection Improvements Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, require EPA to periodically adjust its civil penalties for inflation. On December 11, 2008, August 1, 2016, January 15, 2017, and January 15, 2018, EPA adopted and revised regulations entitled "Civil Monetary Penalty Inflation Adjustment Rule," 40 C.F.R.

Part 19, to upwardly adjust the maximum civil penalty under the CWA. For each violation that occurs between January 13, 2009, and through November 2, 2015, inclusive, penalties of up to \$37,500 per day may be assessed; and \$53,484 per day for each violation occurring on or after November 2, 2015, and assessed after January 15, 2018. 73 Fed. Reg. 75340 (December 11, 2008); 81 Fed. Reg. 43,091 (July 1, 2016); 82 Fed. Reg. 3633 (January 12, 2017); 83 F.R. 1190 (January 10, 2018).

22. The provisions of 327 IAC § 5-2-20 and IND. CODE §§ 13-30-4-1 and 13-14-2-6 authorize Indiana to commence a civil action “in any court with jurisdiction” for appropriate relief to address environmental violations, including violations of Title 327 of the IAC, Article 5. Such relief may include a civil penalty of up to \$25,000 per day for each violation.

**Provisions of the Emergency Planning and Community Right-to-Know Act**

23. EPCRA was enacted on October 17, 1986, as Title III of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 (1986) (codified at 42 U.S.C. §§ 11001-11050).

24. The purpose of EPCRA is to provide communities with information on potential chemical hazards within their boundaries and to foster state and local emergency planning efforts to control any accidental releases. Emergency Planning and Community Right to-Know Programs, Interim Final Rule, 51 Fed. Reg. 41,570 (1986).

25. To achieve this end, EPCRA mandates that state emergency response commissions (“SERC”) and local emergency planning committees (“LEPC”) be created. 42 U.S.C. § 11001(a) and (c). EPCRA establishes a framework of state, regional, and local agencies designed to inform the public about the presence of hazardous and toxic chemicals, and to provide for emergency response in the event of a health-threatening release. 42 U.S.C. § 11001.

26. EPCRA further mandates that industrial and commercial facilities, at which a hazardous chemical is produced, used, or stored, notify the relevant SERC and LEPC when they have releases of extremely hazardous substances and hazardous substances. 42 U.S.C. § 11004.

27. Section 304(a) and (b) of EPCRA, 42 U.S.C. § 11004(a) and (b), requires the owner and operator of a facility at which a hazardous chemical is produced, used, or stored, to immediately notify the SERC and LEPC of certain specified releases of a hazardous or extremely hazardous substance.

28. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires the owner and operator of a facility at which a hazardous chemical is produced, used, or stored, to provide follow-up written emergency notice to the SERC and LEPC of certain specified releases of a hazardous or extremely hazardous substance.

29. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 355.20 define “facility” to mean, in relevant part, all buildings, equipment, structures, and other stationary items which are located on a single site and that are owned or operated by the same person.

30. Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), provides that any person who violates the notice requirements of Section 304 of EPCRA, 42 U.S.C. § 11004, shall be liable to the United States for civil penalties.

31. Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), authorizes EPA to assess a civil penalty of up to \$25,000 per day of violation, and in the case of a second or subsequent violation \$75,000 per day of violation, of EPCRA Section 304, 42 U.S.C. § 11004. The Debt Collection Improvements Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, require EPA to periodically adjust its civil penalties for inflation. On December 11, 2008, August 1, 2016, January 15, 2017, and January 15, 2018, EPA adopted and revised regulations entitled “Civil Monetary Penalty Inflation Adjustment Rule,” 40 C.F.R. Part 19, to upwardly

adjust the maximum civil penalty under EPCRA. For each violation that occurs after November 2, 2015, penalties of up to \$55,907 per day may be assessed. Additionally, in the case of a second or subsequent violation, for each violation that occurs after November 2, 2015, penalties of up to \$167,722 per day may be assessed. 83 Fed. Reg. 1190 (January 10, 2018).

**Provisions of the Comprehensive Environmental Response, Compensation, and Liability Act**

32. Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), provides, among other things, that “[w]henever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant or contaminant at any time (including its removal from any contaminated natural resource) or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment.”

33. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent part: Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section—

(1) the owner and operator of a vessel or a facility, . . . from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for—

(A) all costs of removal . . . action incurred by the United States Government . . . not inconsistent with the national contingency plan . . . ;

(C) damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such injury, destruction, or loss resulting from such release; . . . The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraph [] (A) . . . . Such interest shall accrue from the later of (i) the date payment of a specified amount is demanded in writing, or (ii) the date of the expenditure concerned.



34. CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2), provides in pertinent part:

In any . . . action [for recovery of costs] . . . , the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages.

35. The President has delegated most of his/her authorities under CERCLA, including authorities under Sections 104(a) and 107(a), 42 U.S.C. §§ 9604(a) and 9607(a), to the Administrator of EPA, who in turn has re-delegated them to the Regional Administrators of EPA and other officials, including the Director of Superfund Division for EPA Region 5.

36. The Administrator of NOAA has been designated as a natural resource trustee for federal trust resources at and near the Midwest Plant pursuant to 42 U.S.C. § 9607(f)(2)(A), 40 C.F.R. § 300.600, and Exec. Ord. No. 12,580, 52 Fed. Reg. 2923 (Jan. 23, 1987). NOAA acts on behalf of the public as a trustee for natural resources, including threatened or endangered species, other fish and aquatic life, and their supporting ecosystems, belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States. *See, e.g.*, 40 C.F.R. § 300.600.

### **Provisions of the SURPA**

37. SURPA Section 2(a), 54 U.S.C. § 100722(a), provides in pertinent part that “any person that destroys, causes the loss of, or injures any System unit resource is liable to the United States for response costs and damages resulting from the destruction, loss, or injury.” The terms “response costs” and “damages” are defined in SURPA Section 1, 54 U.S.C. § 100721. SURPA Section 3, 54 U.S.C. § 100723, authorizes the Attorney General, on request from the Secretary of the Interior, to bring a civil action in the United States District Court to recover the response costs and damages that resulted from injury to National Park System resources. SURPA Section 4, 54 U.S.C. § 100724, provides for the use of response costs and damages recovered by the Secretary pursuant to SURPA.

**Provisions relating to State NRD**

38. For purposes of CERCLA, 42 U.S.C. § 9607; CWA, 33 U.S.C § 1321; and IND. CODE § 13-25-4-8(a)(3), the Governor of the State of Indiana designated trustees to undertake statutory responsibilities relating to natural resources injured, lost or destroyed as a result of a discharge of a hazardous substance or oil.

39. A person that is liable under CERCLA, 42 U.S.C. § 9607, for damages for, injury to, destruction of or loss of natural resources in Indiana is liable in the same manner and to the same extent to the State under IND. CODE § 13-25-4-8.

**U. S. Steel's NPDES Permits**

40. Under the authority of CWA Section 402(b), 33 U.S.C. § 1342(b) and IND. CODE § 13-13-5-1 (1), the State of Indiana issued U. S. Steel NPDES Permit number IN0000337.

41. A prior version of NPDES Permit No. IN0000337 was in effect from March 1, 2011 to March 31, 2016 (“2011 Permit”). IDEM renewed NPDES permit No. IN0000337 in 2016, which came into effect on April 1, 2016, and will remain in effect until March 31, 2021 (“2016 Permit”).

42. All discharges of water from the Midwest Plant are regulated by U. S. Steel's 2011 and 2016 Permits. Relevant to this Complaint are the Midwest Plant's four outfalls: 004, 204, 304, and 500.

43. Pursuant to Part I.C.2 of the 2011 and 2016 Permits, U. S. Steel is required to submit federal and state DMRs to IDEM containing results of physical outfall monitoring obtained during the previous month no later than the 28th day of the month following each completed monitoring period.

44. Pursuant to Part II.C.6.c of the 2011 and 2016 Permits, U. S. Steel is required to certify upon signing the monthly reports that the information is “to the best of [the signer's] knowledge and belief, true, accurate, and complete.”

45. The Midwest Plant's 2011 and 2016 Permits, Part I.A., set effluent limits for the Midwest Plant's outfalls. The Permits set maximum daily loading effluent limits for Outfall 304 for total chromium (30 lbs./day), and hexavalent chromium (0.51 lbs./day). Outfall 304 is an administrative compliance point and is the point where limits for the sum of the mass for internal outfalls 104 and 204 are applied under the Permits.

46. Both the 2011 and 2016 Permits impose a monthly average load of 0.17 pounds per day of hexavalent chromium discharged from Outfall 304. Both the 2011 and 2016 Permits impose a monthly average load of 10 pounds per day of total chromium discharged from Outfall 304.

47. Pursuant to Part I.B. in the 2011 and 2016 Permits, U. S. Steel is required to meet certain narrative water quality standards. These standards mandate that the Midwest Plant's "[d]ischarge ... shall not cause receiving waters, including the mixing zone, to contain substances, materials, floating debris, oil, scum or other pollutants ... that are in amounts sufficient to be unsightly or deleterious ... [or] that produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance." The discharge must also not be "in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, or other animals, plants, or humans." Outside the mixing zone, the discharge must not contain "substances in concentrations which ... are believed to be sufficient to injure, be chronically toxic to, or be carcinogenic, mutagenic, or teratogenic to humans, animals, aquatic life, or plants."

48. Both the 2011 and 2016 Permits require U. S. Steel to conduct quarterly bioassay tests on model organisms to monitor the toxicity of the discharge from Outfall 004. Pursuant to the 2011 Permit, if the effluent exceeded 1.5 chronic toxicity units (TUc) during the tests on *Ceriodaphnia dubia*, this was deemed to be a demonstration of chronic toxicity from Outfall 004. Under the 2016 Permit, chronic toxicity will be demonstrated if the effluent exceeds 1.9 TUc.

49. Both the 2011 and 2016 Permits mandate that during the months of December through March, the downstream temperature at the edge of the mixing zone may not exceed the maximum limit for the month by more than 3°F at any time. The relevant monthly maximums are: 57°F in December, 50°F in January, 50°F in February, and 60°F in March.

50. During the months of April through November, the downstream temperature may not exceed the maximum limit for the month by any amount and at any time (subject to the exceptions below). For April, May, September, October, and November, the limit for each month is 65°F; for June, July, and August, the limit for each month is 70°F.

51. On March 19, 2014, IDEM approved a modification to the 2011 Permit (effective May 1, 2014) to include an exception to the temperature limitations for April through November, as referenced in Paragraph 50, above, when upstream temperature is within 2°F of the maximum limitation for that month. This exception was also included in the 2016 Permit.

52. Both the 2011 and the 2016 Permits contain a daily maximum-quantity limit of 765 pounds per day of oil and grease discharged from Outfall 304.

53. Pursuant to Part II.B.1 of the 2011 and 2016 Permits, 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.”

54. The Midwest Plant’s NPDES Permit Part I.E. 2 includes specific requirements for Storm Water Pollution Prevention Plan (“SWPPP”) site maps, schedules and procedures.

### **GENERAL ALLEGATIONS**

55. At all times relevant to this Complaint, U. S. Steel has owned and operated the Midwest Plant, a steel manufacturing and finishing facility, in Portage, Porter County, Indiana. The Midwest Plant

discharges pollutants from a regulated point source into Burns Waterway subject to the terms and conditions included in NPDES permit No. IN0000337.

56. The Midwest Plant manufactures and finishes steel and related products and is classified under Standard Industrial Classification Codes 3316 (Cold Rolled Steel), 3443 (Tin Mill Products), and 2225 (Galvanized Steel). Midwest Plant operations include acid pickling, alkaline cleaning, cold rolling, sheet temper milling, continuous annealing, electro-galvanizing and tin electroplating. The Midwest Plant's principle products include hot rolled bands and sheet, cold rolled sheet, electrogalvanized sheet, hot dipped galvanized sheet, low carbon sheet, and tin mill products.

57. The Midwest Plant operates two plants to treat process wastewater. The Chrome Treatment Plant treats hexavalent chromium-bearing wastewaters from the tin free steel lines, electroplating tinning lines, and galvanizing lines via a reduction process (i.e., chromium removal) using sodium bisulfite, sulfuric acid, and sodium hydroxide. The average flow is 0.34 million gallons per day ("MGD"). The North Final Treatment Plant ("NFTP") treats process wastewater from the pickling lines, cold reduction, annealing, temper milling, electroplating, hot dip coating and prep lines. The average flow is 8.01 MGD. The wastewater plants discharge to Burns Waterway through Outfall 004 (via internal Outfalls 104, 204, and administrative Outfall 304). The Midwest Plant also discharges non-contact cooling water and storm water out of outfalls to Burns Waterway.

58. On the morning of April 11, 2017, U. S. Steel reported to IDEM a discoloration at the Midwest outfall on Burns Waterway. The discoloration was also reported to the National Response Center, IDEM and the U.S. Coast Guard starting at 9:30 am on April 11, 2017, according to a U. S. Steel letter to IDEM dated April 15, 2017. Based on the discoloration, U. S. Steel began to shut down operations at the Midwest Plant.

59. U. S. Steel also reported the incident to the National Response Center orally, as required by Section 103(a) of CERCLA, 42 USC § 9603(a), and orally to local and State emergency coordinators, as required by Section 304(a) of EPCRA, 42 USC § 11004(a) and 327 IAC 2-6.1.

60. U. S. Steel's report stated that the discoloration was due to the discharge of process wastewater containing hexavalent chromium and total chromium from Outfall 004 into Burns Waterway ("April 11, 2017 Spill"). U. S. Steel reported that the discharge involved the failure of an expansion joint on a process wastewater pipeline within the Midwest Plant. U. S. Steel plant personnel explained during an EPA inspection on April 12, 2017, that high pH chromium wastewater flowed from the break in the expansion joint into a containment trench and then into another pipe, and eventually into Burns Waterway. U. S. Steel Midwest Plant personnel further explained that: 1) the chromium wastewater consisted of rinse water from plating which normally flows to the chrome treatment plant; 2) once the rinse water escaped through the expansion joint, it ate through the bottom of the trench that lies directly over a pipe and ate a hole in the pipe; and 3) the compromised pipe, in turn, collected the released chromium wastewater and routed it to the NFTP. The NFTP is not designed for or capable of treating chromium wastewater, and the chromium wastewater passed through the plant untreated through Outfall 004 to the Burns Waterway. U. S. Steel provided EPA with a Safety Data Sheet ("SDS") for the product, chromium trioxide, which has a pH of 1. When mixed with water, chromium trioxide forms chromic acid. The oxidation state of chromium in chromium trioxide and chromic acid is hexavalent chromium. While there is no reportable quantity for hexavalent chromium, the released material was in the form of chromic acid with the reportable quantity of 10 pounds.

61. On April 12 and 20, 2017, EPA conducted inspections at the Midwest Plant. In its inspection report of May 4, 2017, EPA noted a number of areas of concerns at the Midwest Plant in addition to the April 11, 2017 Spill. Those areas of concern, going as far back as 2013, included permit

effluent limit exceedances, narrative water quality standards and monitoring and reporting violations, facility operations and maintenance (“O&M”) issues, Storm Water Pollution Prevention Plan (“SWPPP”) deficiencies, and failure to submit timely SWPPP annual reports.

62. IDEM conducted an inspection of the Midwest Plant on April 20, 2017. During that inspection and in its inspection report of June 2, 2017, IDEM noted, in addition to concerns regarding the April 11, 2017 Spill, NPDES permit violations including violations of discharge limitations, unsatisfactory O&M at the Midwest Plant and unsatisfactory spill notification.

63. Specific failures identified during EPA and IDEM’s investigations at the Midwest Plant relating to the April 11, 2017 Spill include:

- Rupture of an expansion joint in a 6-inch pipe resulting in the leak of highly corrosive chromium wastewater into a secondary containment trench;
- Lack of preventive maintenance and poor condition of the secondary containment trench referenced above. An undetected hole in the bottom of the trench created a pathway for leaked highly corrosive wastewater to flow into a 20-inch carbon steel wastewater pipeline lying beneath the trench. The 20-inch carbon steel wastewater pipeline conveyed the highly corrosive chromium wastewater to the NFTP, which is not designed to treat such wastewater;
- Lack of routine integrity monitoring of secondary containment trenches;
- Lack of a comprehensive written plan for cleaning and maintenance of the wastewater infrastructure;
- Maintenance and inspection activities not always recorded;
- Lack of a preventive maintenance plan;
- Buildup of debris in the NFTP final effluent troughs;

- Pitting and corrosion on the side of the flow weir channel at Outfall 003, which appeared to create some turbulence in the effluent flow; and
- Debris on the bottom of the flow weir channel at Outfall 002.

64. In the Monthly Monitoring Report (“MMR”) submitted by U. S. Steel to IDEM for April 2017, U. S. Steel reported a release of 902 lbs. of hexavalent chromium, during the period April 10-12, 2017. The MMR also revealed that U. S. Steel exceeded total hexavalent chromium effluent limits for Outfall 304 on April 11-12, 2017, and exceeded total chromium effluent limits for Outfall 304 on April 10-11, 2017. These exceedances are in violation of Part I.A. (5) of the Midwest Plant’s 2016 Permit.

65. Lake Michigan is approximately 500 yards downstream of the point where Outfall 004 discharges into Burns Waterway. A total of four local beaches and the Indiana American Water public drinking water intake were closed due to the April 11, 2017 Spill. The beaches and water supply intake remained closed until April 18, 2017.

66. On April 11, 2017, based on information gathered at the Midwest Plant, including Safety Data Sheets indicating constituents present in the spill material, EPA determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances, as a result of the April 11, 2017 Spill into Burns Waterway. As a result, pursuant to Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and 40 C.F.R. Part 300.400-300.440, EPA determined that emergency response action was appropriate. EPA on-scene coordinators (“OSCs”) and IDEM’s Northwest Regional Office responded to the April 11, 2017 Spill later that same day, and were present at the Midwest Plant for several days thereafter. The EPA OSCs took samples of the release area and coordinated with the National Park Service (involved due to the public beach impacts and closings), the local water utility (Indiana American Water), and U. S. Steel to reach agreement on a longer term spill area and beach monitoring program. Under the agreement, U. S.



Steel agreed to take weekly sampling for chromium in the area of the water intakes throughout the month of May, and in the area of the beaches throughout the entire summer.

67. In response to the release or threatened release of hazardous substances at or from the Midwest Plant on April 11, 2017, EPA incurred a total of \$350,653.20 in response costs. The United States continues to incur response costs, including but not limited to the costs of this enforcement action.

68. NPS, which manages the Indiana Dunes National Lakeshore, conducted response activities and incurred SURPA response costs at the Midwest Plant and affected areas in connection with the April 11, 2017 Spill, in the amount of \$12,564.00. NPS further incurred SURPA damages for the cost of assessing damages to System unit resources and for lost use/compensatory restoration for loss of recreational opportunities and/or use of the local beaches along the Indiana Dunes National Lakeshore that were closed as a result of the April 11, 2017 Spill, in the amount of \$240,504.00.

69. NOAA conducted assessment activities concerning the Midwest Plant and affected areas in connection with the April 11, 2017 Spill, to assess NRD under CERCLA, incurring \$27,512.36 in NRD assessment costs.

70. The United States has not received payment of its response costs, damages or NRD assessment costs from U. S. Steel or any other party.

### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM FOR RELIEF**

##### **(Effluent Violations)**

71. Plaintiffs reallege and incorporate by reference Paragraphs 1–70 as if fully set forth herein.

72. In February 2013, April 2017, and October 2017, U. S. Steel discharged effluent through Outfall 304 in violation of its daily maximum limit of 30 lbs./day for total chromium, on four occasions, in violation of Part I.A. of its 2011 and 2016 Permits.

73. In January 2017 and April 2017, U. S. Steel discharged effluent through Outfall 304 in violation of its daily maximum limit of 0.51 lbs./day for hexavalent chromium, on three occasions, in violation of Part I.A. of its 2016 Permit.

74. In April 2017, U. S. Steel discharged effluent through Outfall 304 in violation of its monthly average maximum limit of 10 lbs./day for total chromium, in violation of Part I.A. of its 2016 Permit.

75. In April 2017, U. S. Steel discharged effluent through Outfall 304 in violation of its monthly average maximum limit of 0.17 lbs./day for hexavalent chromium, in violation of Part I.A. of its 2016 Permit.

76. In March 2015, U. S. Steel discharged effluent through Outfall 304 in violation of its daily maximum limit of 765 lbs./day for oil and grease, on one occasion, in violation of Part I.A. of its 2011 Permit.

77. In May 2014, October 2014, September 2016, and November 2016, U. S. Steel discharged effluent through Outfall 500 in violation of maximum monthly temperature limits, including allowance for 2° Fahrenheit rise in temperature as determined from upstream temperature and downstream temperature at the edge of the mixing zone, as set forth in Part III.A., Temperature Table 2 (2011 and 2016 Permits), on four occasions, in violation of Part III.A. of its 2011 and 2016 Permits.

78. In February 2017, U. S. Steel discharged effluent through Outfall 500, exceeding the maximum monthly temperature limits set forth in Part III.A., Temperature Table 1 (2016 Permit), by more than 3° Fahrenheit, on three occasions, in violation of Part III.A. of its 2016 Permit.

79. In August 2013 and June 2014, U. S. Steel discharged effluent through Outfall 004 in violation of its quarterly maximum limit for whole effluent toxicity of 1.5 TUc, in violation of Part I.A. of its 2011 Permit.

80. Each one of U. S. Steel's CWA violations enumerated above, and identified in Appendix A, subjects U. S. Steel to appropriate relief, including a permanent or temporary injunction, under CWA Section 309(b), 33 U.S.C. § 1319(b) and IND. CODE §§ 13-30-1-1; 13-30-4-1(b)(2).

81. Each violation of the CWA is subject to penalties pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and the Civil Penalties Inflation Act of 1990, of up to \$37,500 per day for each violation on and after January 13, 2009 through November 2, 2015 and \$53,484 per day for each violation occurring after November 2, 2015. 33 U.S.C. §§ 1311; 40 C.F.R. §§ 19.1-19.4 and IND. CODE § 13-30-4-1.

## **SECOND CLAIM FOR RELIEF**

### **(Narrative Standard Violations)**

82. Plaintiffs reallege and incorporate by reference Paragraphs 1–70 as if fully set forth herein.

83. In December 2013, April, 2016, and April, 2017, U. S. Steel discharged effluent through Outfall 004 in amounts that produced color in such a degree as to create a nuisance, on five occasions, in violation of Part I.B. (1)c of its 2011 and 2016 Permits. Each one of these CWA violations, also identified in Appendix A, subjects U. S. Steel to appropriate relief, including a permanent or temporary injunction, under CWA Section 309(b), 33 U.S.C. § 1319(b) and IND. CODE §§ 13-30-1-1; 13-30-4-1(b)(2).

84. Each violation of the CWA is subject to penalties pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and the Civil Penalties Inflation Act of 1990, of up to \$37,500 per day for

each violation on and after January 13, 2009 through November 2, 2015 and \$53,484 per day for each violation occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4 and IND. CODE § 13-30-4-1.

**THIRD CLAIM FOR RELIEF**  
**(Monitoring and Reporting Violations)**

85. Plaintiffs reallege and incorporate by reference Paragraphs 1–70 as if fully set forth herein.

86. On February 3, 2013, U. S. Steel reported inconsistent values for daily maximum total recoverable chromium for Outfall 304, in violation of Part I.A. of its 2011 Permit.

87. In October 2014, January 2016, April 2016, June 2016, and August 2016, U. S. Steel incorrectly calculated temperature difference for Outfall 500, on 20 occasions, in violation of Part III.A. of its 2011 and 2016 Permits.

88. In February 2013, October 2014, January 2016, April 2016, June 2016, and August 2016, U. S. Steel failed to properly report temperature monitoring results pursuant to its 2011 and 2016 Permits.

89. In October 2016, U. S. Steel failed to submit a Total Toxic Organic Certification, in violation of Part I.A. of its 2016 Permit.

90. In December 2016, U. S. Steel failed to monitor weekly pH at Outfall 002 in violation of Part I.A. (1) of its 2016 Permit.

91. In December 2016, U. S. Steel failed to monitor weekly pH at Outfall 003 in violation of Part I.A. (2) of its 2016 Permit.

92. In December 2016, U. S. Steel failed to monitor for six parameters five times weekly at Outfall 204 in violation of Part I.A. (4) of its 2016 Permit.

93. In December 2016, U. S. Steel failed to monitor for five parameters five times weekly at Outfall 304 in violation of Part I.A. (5) of its 2016 Permit.

94. Each one of U. S. Steel's CWA violations enumerated above, and identified in Appendix A, subjects U. S. Steel to appropriate relief, including a permanent or temporary injunction, under CWA Section 309(b), 33 U.S.C. § 1319(b) and IND. CODE §§ 13-30-1-1; 13-30-4-1(b)(2).

95. Each violation of the CWA is subject to penalties pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and the Civil Penalties Inflation Act of 1990, of up to \$37,500 per day for each violation on and after January 13, 2009 through November 2, 2015 and \$53,484 per day for each violation occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4 and IND. CODE §13-30-4-1.

#### **FOURTH CLAIM FOR RELIEF**

##### **(Operation and Maintenance Violations)**

96. Plaintiffs reallege and incorporate by reference Paragraphs 1–70 as if fully set forth herein.

97. In February 2013, December 2013, March 2015, April 2016, January 2017, April 2017, and October 2017, U. S. Steel failed to at all times maintain in good working order and efficiently operate all equipment and systems for the collection and treatment of process wastewater as necessary to achieve compliance with terms and conditions of Part II.B. of its 2011 and 2016 Permits.

98. In February 2013, December 2013, March 2015, April 2016, January 2017, April 2017, and October 2017, on at least 10 occasions, U. S. Steel's failure to properly maintain and operate its wastewater equipment and systems resulted in violations of effluent limits in its 2011 and 2016 Permits.

99. Each one of U. S. Steel's CWA violations enumerated above, and identified in Appendix A, subjects U. S. Steel to appropriate relief, including a permanent or temporary injunction, under CWA Section 309(b), 33 U.S.C. § 1319(b) and IND. CODE §§ 13-30-1-1; 13-30-4-1(b)(2).

100. Each violation of the CWA is subject to penalties pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and the Civil Penalties Inflation Act of 1990, of up to \$37,500 per day for each violation on and after January 13, 2009 through November 2, 2015 and \$53,484 per day for each violation occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4 and IND. CODE § 13-30-4-1.

### **FIFTH CLAIM FOR RELIEF**

#### **(Storm Water Pollution Prevention Plan Violations)**

101. Plaintiffs reallege and incorporate by reference Paragraphs 1–70 as if fully set forth herein.

102. U. S. Steel's March 31, 2017 SWPPP failed to include required elements, including site maps, schedules and procedural requirements, in violation of Part I.E. 2 of its 2016 Permit.

103. On January 30, 2016, U.S. Steel failed to submit its 2015 SWPPP Annual Report in a timely fashion as required by Part I.D. (5) of its 2016 Permit. U. S. Steel submitted the 2015 SWPPP annual report to IDEM on May 26, 2016.

104. Each one of U. S. Steel's CWA violations enumerated above, and identified in Appendix A, subjects U. S. Steel to appropriate relief, including a permanent or temporary injunction, under CWA Section 309(b), 33 U.S.C. § 1319(b) and IND. CODE §§ 13-30-1-1; 13-30-4-1(b)(2).

105. Each violation of the CWA is subject to penalties pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and the Civil Penalties Inflation Act of 1990, of up to \$37,500 per day for each violation on and after January 13, 2009 through November 2, 2015 and \$53,484 per day for each

violation occurring after November 2, 2015. 33 U.S.C. §§ 1311, 1365; 40 C.F.R. §§ 19.1-19.4; and IND. CODE § 13-30-4-1.

### **SIXTH CLAIM FOR RELIEF**

#### **(Failure to file written report to the State Emergency Response Commission)**

106. Plaintiffs reallege and incorporate by reference Paragraphs 1- 70 as if fully set forth herein

107. On April 11, 2017, at the time of the April 11, 2017 Spill, there was a “release” within the meaning of Section 304(a) and (c) of EPCRA, 42 U.S.C. § 1104(a) and (c), at the Midwest Plant. At that time, the hazardous substance chromic acid was released in an amount greater than its Reportable Quantity of 10 set forth in the table at 40 CFR § 302.4, over a 24-hour period.

108. The release described in Paragraph 102 required notice under Section 103(a) of CERCLA, 42 U.S.C. § 9603(a). It was not a “federally permitted release” as that term is used in Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), and 40 C.F.R. § 302.6, and defined in Section 101(10) of CERCLA, 42 U.S.C. § 9601(10).

109. The areas subject to the jurisdiction of the SERC, the Indiana Emergency Response Commission, and the LEPC, the Porter County Emergency Planning Commission, were likely to be affected by the release.

110. U. S. Steel is the “owner and operator” of the Midwest Plant, within the meaning of Section 304(a) and (c) of EPCRA, 42 U.S.C. § 11004(a) and (b).

111. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires the owner and operator of a facility at which a hazardous chemical is produced, used, or stored, to provide follow-up written emergency notice to the LEPC of certain specified releases of a hazardous or extremely hazardous substance.

112. U.S. Steel had knowledge within the meaning of Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), of the release listed in Paragraph 102 at or about the time the release occurred.

113. U.S. Steel failed to provide written follow-up emergency notice to the SERC, the Indiana Emergency Response Commission, of the release identified in Paragraph 102, as well as the other information required to be provided for the hazardous substance released, pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

114. U. S. Steel's failure to provide the requisite information described in the preceding paragraph constitutes a violation of Section 304(a) and (c) of EPCRA, 42 U.S.C. § 11004(a) and (c). Pursuant to Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), and pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, the Debt Collection Improvements Act of 1996, 31 U.S.C. § 3701 *et seq.*, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and the Civil Monetary Penalty Inflation Adjustment Rule (83 Fed. Reg. 1190; published on January 10, 2018), the violation set forth above subjects U. S. Steel to civil penalties of up to \$55,907 per day.

#### **SEVENTH CLAIM FOR RELIEF**

##### **(Failure to file written report to the Local Emergency Planning Committee)**

115. Plaintiffs reallege and incorporate by reference Paragraphs 1 - 70 as if fully set forth herein.

116. U. S. Steel failed to provide written follow-up emergency notice to the LEPC, the Porter County Emergency Planning Committee, of the release listed in Paragraph 102, as well as the other information required to be provided for the hazardous substance released, pursuant to Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

117. U. S. Steel's failure to provide the requisite information described in the preceding paragraph constitutes a violation of Section 304(a) and (c) of EPCRA, 42 U.S.C. § 11004(a) and (c).



Pursuant to Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), and pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, the Debt Collection Improvements Act of 1996, 31 U.S.C. § 3701 et seq., the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and the Civil Monetary Penalty Inflation Adjustment Rule (83 Fed. Reg. 1190; published on January 10, 2018), the violation set forth above subjects U. S. Steel to civil penalties of up to \$55,907 per day.

### **EIGHTH CLAIM FOR RELIEF**

**(Liability for Response Costs and Resource Damages, including NRD, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Sections 2 and 3 of SURPA, 54 U.S.C. §§ 100722-100723, and IND. CODE 13-25-4-8(a)(3))**

118. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 1-70 as if fully set forth herein.

119. The Midwest Plant is a “facility” within the meaning of Sections 107(a) and 101(9) of CERCLA, 42 U.S.C. §§ 9607(a) and 9601(9).

120. The Defendant is the “owner” of the Midwest Plant within the meaning of CERCLA Sections 107(a)(1) and 101(20), 42 U.S.C. §§ 9607(a)(1) and 9601(20).

121. Chromium and chromic acid are “hazardous substances” within the meaning of Sections 107(a) and 101(14) of CERCLA, 42 U.S.C. §§ 9607(a) and 9601(14). *See* 40 C.F.R. § 302.4 (App. A).

122. A “release” or “threatened release” of “hazardous substances” into the environment has occurred at and/or from the Midwest Plant, as those terms are defined in Section 101(14) and 101(22) of CERCLA, 42 U.S.C. § 9601(14) and (22).

123. “Natural Resources” within the meaning of Section 101(16) of CERCLA, 42 U.S.C. § 9601(16), have been and/or are being injured, lost, or destroyed as a result of the releases of hazardous substances at the Midwest Plant.

124. In conducting “removal” actions in response to the April 11, 2017 Spill, the United States has incurred “response” costs and the reasonable costs of assessing the “injury to, destruction of, or loss of natural resources,” within the meaning of Sections 107(a), 101(6), 101(23) and 101(25) of CERCLA, 42 U.S.C. §§ 9607(a), 9601(6), 9601(23) and 9601(25).

125. The United States’ activities related to the April 11, 2017 Spill and the costs incurred incident to such action are not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, as promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a).

126. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), U. S. Steel is liable to the United States for all response costs and damages that the United States has incurred and will incur with respect to the April 11, 2017 Spill, including prejudgment interest.

127. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the United States is entitled to recover interest on the response costs and damages that it has incurred with respect to the April 11, 2017 Spill, at the rate that is specified for interest on investments of the Hazardous Substances Superfund established under subchapter A of chapter 98 of title 26 of the United States Code.

128. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States is entitled to a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages.

129. The April 11, 2017 Spill resulted in destruction of, loss of, or injury to System Unit resources at the Indiana Dunes National Lakeshore, a unit of the National Park System.

130. U. S. Steel is a person who destroyed, caused the loss of, or injured a System Unit resource within the meaning of SURPA Section 2(a), 54 U.S.C. § 100722(a).

131. As a result of the April 11, 2017 Spill, NPS incurred “response costs” and “damages” within the meaning of SURPA Section 2(a), 54 U.S.C. § 100722(a).

132. Pursuant to SURPA Section 3, 54 U.S.C. § 100723, the United States is entitled to recover the response costs and damages incurred by NPS as a result of the April 11, 2017 Spill.

### **PRAYER FOR RELIEF**

WHEREFORE, based upon all of the allegations set forth above, the United States of America and the State of Indiana respectfully requests that this Court:

1. Permanently enjoin U. S. Steel from further violations of the CWA and EPCRA and applicable requirements established thereunder, including the NPDES permits described above;
2. Require U. S. Steel to obtain and comply with all actions necessary to achieve and maintain compliance with the CWA and EPCRA and applicable requirements established thereunder, including the NPDES permits described above;
3. Assess civil penalties against U. S. Steel pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and the Civil Penalties Inflation Act of 1990, for the violations set forth in Claims 1 through 5 of this Complaint;
4. Assess civil penalties against U. S. Steel pursuant to Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), and the Civil Penalties Inflation Act of 1990, for the violations set forth in Claims 6 and 7 of this Complaint;
5. Enter judgment in favor of the United States, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), holding Defendant liable for all unreimbursed response costs incurred by the United States with respect to the April 11, 2017 Spill, including enforcement costs, and interest thereon;
6. Enter judgment in favor of the United States and the State of Indiana, holding Defendant liable under Section 107 of CERCLA, 42 U.S.C. § 9607; Sections 2 and 3 of SURPA, 54 U.S.C. §§ 100722-100723; and IND. CODE 13-25-4-8(a)(3), for recovery of response costs and damages – including damages for injury to, destruction of, or loss of natural resources, belonging to, managed by, held in trust by, controlled by, or appertaining to the United States and the State -- resulting from the April 11, 2017 Spill, including the reasonable costs of assessing such injury, destruction, or loss;

7. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), enter a declaratory judgment on liability against the Defendant for response costs and damages that will be binding on any subsequent action or actions to recover further response costs and damages;
8. Award the United States of America and the State of Indiana their costs and disbursements for this action; and
9. Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

/s/Jeffrey H. Wood  
JEFFREY H. WOOD  
Acting Assistant Attorney General  
Environment and Natural Resources Division

/s/Arnold S. Rosenthal  
ARNOLD S. ROSENTHAL  
Senior Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
(202) 514-3446  
[arnold.rosenthal@usdoj.gov](mailto:arnold.rosenthal@usdoj.gov)

THOMAS L. KIRSCH II  
UNITED STATES ATTORNEY

/s/ Wayne T. Ault  
WAYNE T. AULT  
Assistant United States Attorney  
Northern District of Indiana  
5400 Federal Plaza, Suite 1500  
Hammond, Indiana 46320  
Telephone: 219-937-5500  
Telecopy: 219-852-2770  
Internet Address: [Wayne.Ault@usdoj.gov](mailto:Wayne.Ault@usdoj.gov)

FOR THE STATE OF INDIANA

CURTIS T. HILL, JR.  
Attorney General of Indiana  
Attorney No. 13999-20

By:

/s/ Rebecca McLain  
REBECCA McCLAIN  
Deputy Attorney General  
Attorney No. 34111-49  
Office of the Indiana Attorney General  
302 W. Washington St., IGCS 5<sup>th</sup> Floor  
Indianapolis, IN 46204  
Phone: 317-232-6292  
Fax: 317-232-7979

**Appendix A - U. S. Steel Midwest Plant**  
**Summary of Alleged Clean Water Act Violations**

**A. Violations of Quantitative and Qualitative Limits**

<b>Violation</b>	<b>Date(s) of Violation</b>	<b>Violation Type</b>	<b>Outfall</b>
Chromium, Total Recoverable	02/03/2013	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Whole Effluent Toxicity, Chronic	Week of 08/04/2013	Quarterly Effluent Limit	004
Discoloration	12/12/2013	Narrative Standard; Operations & Maintenance	004
Temperature	05/31/2014	Effluent Limit	500A
Whole Effluent Toxicity, Chronic	Week of 06/08/2014	Quarterly Effluent Limit	004
Whole Effluent Toxicity, Chronic	Week of 06/22/2014	Quarterly Effluent Limit	004
Temperature	10/01/2014	Effluent Limit	500A
Oil & Grease	03/19/2015	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Discoloration	04/01/2016	Narrative Standard; Operations & Maintenance	004
Discoloration	04/05/2016	Narrative Standard; Operations & Maintenance	004
Temperature	09/07/2016	Effluent Limit	500A
Temperature	11/02/2016	Effluent Limit	500A
Chromium, Hexavalent	01/12/2017	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Temperature	02/26/2017	Effluent Limit	500A
Temperature	02/27/2017	Effluent Limit	500A
Temperature	02/28/2017	Effluent Limit	500A
Chromium, Total Recoverable	04/10/2017	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Discoloration	04/10/2017	Narrative Standard; Operations & Maintenance	004
Chromium, Total Recoverable	04/11/2017	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Discoloration	04/11/2017	Narrative Standard; Operations & Maintenance	004
Chromium, Total Recoverable	04/2017	Monthly Average Effluent Limit; Operations & Maintenance	304A
Chromium, Hexavalent	04/11/2017	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Chromium, Hexavalent	04/12/2017	Daily Maximum Effluent Limit; Operations & Maintenance	304A
Chromium, Hexavalent	04/2017	Monthly Average Effluent Limit; Operations & Maintenance	304A
Chromium, Total Recoverable	10/25/2017	Daily Maximum Effluent Limit; Operations & Maintenance	304A

**B. Reporting, Monitoring, and Storm Water Violations**

<b>Violation Type</b>	<b>Date(s) of Violation</b>	<b>Outfall</b>	<b>Violation Description</b>
Reporting	02/03/2013	304A	Inconsistent values for daily maximum total recoverable chromium
Reporting	10/01/2014	500A	Incorrectly calculated temperature difference
Reporting	01/06/2016	500A	Incorrectly calculated temperature difference
Reporting	01/07/2016	500A	Incorrectly calculated temperature difference
Reporting	01/09/2016	500A	Incorrectly calculated temperature difference
Reporting	01/10/2016	500A	Incorrectly calculated temperature difference
Reporting	01/15/2016	500A	Incorrectly calculated temperature difference
Reporting	01/16/2016	500A	Incorrectly calculated temperature difference
Reporting	01/20/2016	500A	Incorrectly calculated temperature difference
Reporting	01/21/2016	500A	Incorrectly calculated temperature difference
Reporting	01/22/2016	500A	Incorrectly calculated temperature difference
Storm water	1/2016	NA	Failure to submit 2015 SWPPP Annual Report
Reporting	04/23/2016	500A	Incorrectly calculated temperature difference
Reporting	04/24/2016	500A	Incorrectly calculated temperature difference
Reporting	06/07/2016	500A	Incorrectly calculated temperature difference
Reporting	06/09/2016	500A	Incorrectly calculated temperature difference
Reporting	06/22/2016	500A	Incorrectly calculated temperature difference
Reporting	06/26/2016	500A	Incorrectly calculated temperature difference
Reporting	06/28/2016	500A	Incorrectly calculated temperature difference
Reporting	08/19/16	500A	Incorrectly calculated temperature difference
Reporting	08/20/16	500A	Incorrectly calculated temperature difference
Reporting	08/21/16	500A	Incorrectly calculated temperature difference
Reporting	10/2016	NA	Missing Total Toxic Organic Certification
Monitoring	12/2016	002, 003	Failure to monitor to weekly pH
Monitoring	12/2016	204A, 304A	Failure to monitor multiple parameters
Storm water	04/20/2017	NA	Incomplete SWPPP

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 2<sup>nd</sup> day of April, 2018, a copy of the foregoing Complaint was filed electronically. Notice of this filing will be sent via electronic mail to counsel for U. S. Steel, as follows:

Timothy J. Cornetti, Esq.  
Associate General Counsel - Litigation  
United States Steel Corporation  
600 Grant Street, Suite 1500  
Pittsburgh, Pa. 15219  
412-433-2992  
[tjcornetti@uss.com](mailto:tjcornetti@uss.com)

s/Arnold S. Rosenthal  
Arnold S. Rosenthal  
Counsel for the United States