



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY  
BAY CITY DISTRICT OFFICE



PHILLIP D. ROOS  
DIRECTOR

March 18, 2024

VIA EMAIL ONLY

Nick Klein, Vice President of Operations  
Angel Pichla, Environmental Superintendent  
Jason Kain, Bay City Factory Manager  
Michigan Sugar Company – Bay City Factory  
2600 South Euclid Avenue  
Bay City, Michigan 48706

SRN: B1493, Bay County

Dear Nick Klein, Angel Pichla, and Jason Kain:

### **SECOND VIOLATION NOTICE**

On December 12, 2023, the Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) sent Michigan Sugar Company – Bay City Factory (MSC) a Violation Notice citing violations of Renewal Operating Permit No. ROP-MI-B1493-2021, General Condition 12 and Rule 901 discovered as a result of odor observations and an on-site investigation at the Bay City facility. In the Violation Notice, AQD requested information to document on-site conditions during the period of time associated with an odor observation and on-site investigation conducted by AQD staff. A copy of that letter is enclosed for reference.

On December 28, 2023, MSC submitted a response to the Violation Notice. In accordance with Consent Judgement 17-000727-CE, Paragraph 6.3, EGLE and MSC met on January 16, 2024, to discuss the Violation Notice.

In the December 28, 2023 response letter, and during the January 16, 2024 meeting, MSC did not provide the cause, steps taken to prevent a reoccurrence, nor the dates by which corrective actions will take place. MSC disputed that a violation occurred; however, MSC identified that there were low water levels in the Outer Pond and Flume Ponds. MSC also stated that Outer Pond and Flume water was sent to the “Old Main Pond” (old Main Aeration Pond) from October 1 to October 3, 2023. MSC did not provide a date(s) for emptying the old Main Aeration Pond.

Currently, the use of the old Main Aeration Pond is addressed in Consent Judgement 17-000727-CE, Appendix C.VIII. Main Aeration Pond as Temporary Storage Basin, A. Operating Requirements which states:

If Michigan Sugar routes water from the Outer Pond to the Main Aeration Pond or a portion of the Main Aeration Pond, then Michigan Sugar shall (1) use odor neutralizing equipment as described in Exhibit 1 of this Operations Plan while any water is in the Main Aeration Pond; (2) use its best efforts to re-route water back to the Outer Pond as soon as practicable; and (3) use its best efforts to remove any water from the Main Aeration Pond as soon as practicable.

Neither in the response to the Violation Notice nor during the meeting on January 16, 2024, did MSC submit documentation to support that MSC complied with these terms.

The information provided and actions taken by MSC to date are insufficient to demonstrate that MSC has addressed the violations alleged in the Violation Notice and will manage waste streams sent to the old Main Aeration Pond to reduce or prevent nuisance odors. Please provide an operations and management plan that describes when or under what conditions waste streams will be diverted to the old Main Aeration Pond, and the actions that MSC will implement to reduce or prevent odors once a waste stream is diverted to this pond.

The plan shall include methods used to quantify the volume and identify the character of the diverted waste stream, appropriate response measures taken to minimize the potential for nuisance odor generation while material is in the old Main Aeration Pond, controls to reduce generated nuisance odors from impacting properties outside the MSC property line, and associated recordkeeping for the plan actions performed. The plan shall also include protocols for reducing the duration of the use of the old Main Aeration Pond and methods for determining if an Anaerobic Digester malfunction has occurred and documenting the duration of the malfunction.

Please be advised that failure to respond in writing and identify actions MSC will take or has taken to resolve the cited violation may result in escalated enforcement action by the AQD. Please provide the information requested by April 8, 2024, which corresponds to 21 days from the date of this letter.

Please submit the written response to Nathanael Gentle at EGLE, AQD, Bay City District, at 401 Ketchum Street, Suite B, Bay City, Michigan, 48708, and submit a copy to Jenine Camilleri, Enforcement Unit Supervisor at EGLE, AQD, P.O. Box 30260, Lansing, Michigan 48909-7760.

Be further advised that issuance of this Violation Notice does not preclude or limit EGLE's ability to initiate any other enforcement action under state or federal law as appropriate.

Nick Klein / Angel Pichla / Jason Kain  
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If you have any questions regarding these cited violations or the actions necessary to bring MSC into compliance, please contact Nathanael Gentle at 989-778-0025 or GentleN@Michigan.gov or you may contact me at the number or email listed below.

Sincerely,

A handwritten signature in black ink that reads "Kathy Brewer". The signature is written in a cursive, flowing style.

Kathy Brewer  
Senior Environmental Quality Analyst  
Air Quality Division  
989-439-2100  
BrewerK@Michigan.gov

Enclosure

cc: Meaghan Martuch, MSC  
Eric Rupprecht, MSC  
Kurt Kissling, Warner Norcross & Judd  
Paul Beach, Warner Norcross & Judd  
Laura Doud, MDARD  
Annette Switzer, EGLE  
Christopher Ethridge, EGLE  
Brad Myott, EGLE  
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