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October 27, 2023

Ms. Katie Koster
Sr. Environmental Engineer
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**Subject: September 28, 2023 Violation Notice
 October 6, 2023 Violation Notice
 Edw. C. Levy Co., Plant 6
 SRN: B4243, Wayne County**

Dear Ms. Koster:

The Edw. C. Levy Co. (Levy) received Violation Notices (VNs) on September 28, 2023, and October 6, 2023. Each VN alleged a fallout-based violation of Rule 336.1901(b) by Levy’s Plant 6 operations. Specifically, the VNs both allege:

Detection of fallout beyond the facility's property line, attributable to the facility, of sufficient magnitude as to constitute an unreasonable interference with the comfortable enjoyment of life and property.

The September 28 VN alleged fallout during the night on August 27-28, while the October 6 VN alleged fallout during the night of August 30-31. Based on AQD’s granted extension for the September 28 VN, this letter timely responds to both VNs.

Based upon Levy’s internal investigation of these nights and the corresponding operations at Plant 6, it has reports of routine operation on each night in question. For example, basic oxygen furnace (BOF) slag pit operations, such as pouring slag pots, digging pits, and stockpiling hardened slag, occurred during the timeframe of the alleged fallout events. Employee interviews and a review of Levy operating records establish that the emission controls were operating as designed on the nights in question. Further, no abnormal operating condition was reported during the times of the alleged events. Thus, Levy was unable to identify a specific event or source at Plant 6 for the alleged fallout.

When considering AQD’s allegations, there is relatively little information to substantiate the claims of a Rule 901 violation based exclusively on Plant 6 operations. For example, on page 2 of each VN, AQD cites “analysis of the fallout samples, the proximity of Levy Plant 6 to the complainant’s location, prevailing wind direction during the timeframe of the incident, and history of similar violation notices for fallout ...”, as the bases for their allegation. Each of these statements, however, is problematic. Specifically:

- The “analysis of the fallout samples” statement, even when coupled with the earlier statement that the fallout was “consistent with materials associated with slag processing,” provides a conclusory statement with little supporting analysis. For example:

- The September 28 VN appears to base the allegation on the comparison of the alleged fallout sample against the results from a single sample collected sometime in the past from Levy Plant 6. AQD does not identify what other samples, if any, were compared against the alleged fallout sample, e.g., was more than one sample from Levy Plant 6 compared, were samples from the other neighbouring industrial sources compared?
- The alleged fallout sample results for the September 28 VN do not match up closely with those for the October 6 VN, e.g., AQD's lab results for the September 28 VN identify 1% calcite, 2% quartz, and 50% magnetic properties, while AQD's lab results for the October 6 VN list results as high as 5% calcite, 10% quartz, and 80% magnetic properties.
- Even among the three alleged fallout samples taken for the October 6 VN, the results varied considerably, including quartz values ranging from 2% to 10%, which raises questions whether the same single source of fallout material was the primary contributor of the dust sampled at all three locations.
- The “proximity” argument is also questionable given the various industrial stationary sources that surround the sample areas in all directions, as well as railroad tracks, highways, and the rouge river shipping channel.
- The “prevailing wind direction during the timeframe of the incident” presumably:
 - Refers to the overnight period generally, thereby covering a period of roughly 8-10 hours on each night in question.
 - For the October 6 VN, the “prevailing wind direction” would be WNW in relation to 13800 Mellon Street; by contrast, a NE wind direction would be required to link Plant 6 with the two Wall Street addresses.
 - Even if the prevailing wind travelled from Plant 6 to some or each of these sampled locations, the same prevailing wind would coincide with the neighboring steel mill and other industrial sources.

The “history of similar violation notices for fallout” appears to ignore or take a selective view of nearby industrial sources.

In sum, Levy continues to believe that we need a better methodology for connecting fallout emissions to the Plant 6 operations. At a minimum, AQD lacks a strong legal or technical basis to conclude that Levy's Plant 6—alone—caused the alleged fallout issues that resulted in a VN.

To assist with future investigations, Levy requests that AQD and Levy develop a more robust and standardized process for characterizing the potential sources of future fallout events. Levy remains open-minded about the particulars of that process, but some potential ideas for improvement include:

1. Creating a “library” of sample results from potential sources for comparison to future fallout samples.
2. Agreeing upon test methods, parameters and ranges for comparison between the library and future field samples, e.g., what range of materials would be indicative of Levy Plant 6 operations, as compared to other nearby sources.
3. Identifying additional physical characteristics for potential use, including color, grain size, etc.

By identifying and agreeing on these metrics, the parties could create a better set of criteria for analysis. Ideally, this process would employ quantitative data rather than general qualitative statements about “slag-like particles” without a corresponding definition. In short, Levy would appreciate a better and more reproducible analytical process used to “fingerprint” the fallout samples.

That said, Levy appreciates the improvements made by AQD to better assess the potential sources of fallout dust. Providing locations and analytical results, even if the lab reports are somewhat qualitative or conclusory, mark improvements to the level of investigation and associated documentation. Further, receiving prompt notification of a potential fallout issue allows Levy representatives to quickly investigate the potential sources at Plant 6, which is why Levy respectfully

requests that AQD notify the company as soon as possible when AQD receives a credible fallout complaint from one of the company's neighbors.

Despite Levy's concerns about AQD's investigation of potential Rule 901 fallout events and the desire to avoid an automatic association of fallout with Plant 6, Levy continues to evaluate opportunities to reduce or eliminate sources of fugitive dust and potential fallout. For example, Levy is currently working with the neighboring Dearborn Works to:

- Modify the steel manufacturer's BOF building and operations to allow for the management of hot caster slag within the existing BOF building, which is under the direct control of an industrial ventilation and emissions control system. This process change will eliminate the outside dumping of hot caster slag.
- Construct an additional pallet box watering station that will be utilized for the quenching of hot caster slag prior to any further material handling operations.

Once completed, these operational changes will remove the process with the greatest potential to create fallout from the operations occurring in the BOF slag pit area.

Along with improvements to Levy's Fugitive Dust Control Plan, the company continues to take steps to further reduce the potential for fallout emissions from Plant 6.

Please contact Dan Deaton, Environmental Engineer (313-407-2150 and ddeaton@levynet.com), or Tom Green, Director of EHS (313-690-0139 and tgreen@edwclevy.net) if you have any questions or need additional information.

Sincerely,



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CC: Jenine Camilleri, Supervisor, AQD Enforcement Unit
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