

Mr. Nathanael Gentle  
EGLE-AQD, Bay City District  
401 Ketchum Street, Suite B  
Bay City, Michigan, 48708

April 8, 2024

Subject: Response to VN 20240318 Dated March 18, 2024  
MI-ROP-B1493-2021  
Michigan Sugar Company – Bay City Factory

Dear Mr. Nathanael Gentle:

Michigan Sugar Company (MSC) submits this response to the March 18, 2024 Second Violation Notice (VN) issued by the Michigan Department of Environment, Great Lakes and Energy (EGLE). In the VN, EGLE alleged a violation of Rule 901 (ROP-MI-B1493-2021 General Condition 12) based on "odor observations and an on-site investigation at the Bay City facility." This Response to the VN (RVN) is divided into three sections:

- Section 1 – Old Main Aeration Pond Use Documentation
- Section 2 – Consent Judgment Existing Operations Plan
- Section 3 – Odor Identification

Section 1 – Old Main Aeration Pond Use Documentation

The VN stated: *"Currently, the use of the old Main Aeration Pond is addressed in Consent Judgment 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."*

MSC provided all documentation requested from EGLE in the December 12, 2023 Violation Notice. The information was previously provided in the December 28, 2023 MSC Response Letter. There, MSC confirmed that it complies with the Consent Judgment requirements for proper operation and use of the old Main Aeration Pond.

On March 18, the VN requested additional information from MSC, but that information was already provided. Specifically, on March 8, 2024, MSC submitted the required recordkeeping pursuant to the Consent Judgement Appendix C.VIII. Main Aeration Pond as Temporary Storage Basin under B. Recordkeeping Requirements for the Semi-Annual July-December 2023 reporting period. While this report was already submitted to EGLE's Water Resources Division (WRD) as well as to Air Quality Division (AQD), this RVN also attaches the most recently submitted report pursuant to the Consent Judgment.

Between the December 28, 2023 RVN and the enclosed March 8, 2024 Consent Judgment Report, MSC believes that it has provided the responsive information that EGLE has requested.

#### Section 2 – Consent Judgment Existing Operations Plan

As noted in the VN, EGLE requested 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.”*

In response to the above statement, MSC is allowed to use the old Main Aeration Pond to verify that the wastewater system and the digester maintain appropriate operating conditions. The Consent Judgment allows MSC to use the old Main Aeration Pond when following the specific requirements in the Operations Plan, which includes mitigating potential odors. MSC diligently follows all operating, recordkeeping and reporting requirements in the Consent Judgment regarding the old Main Aeration Pond use. The existing Operations Plan, as required by the Consent Judgment, adequately addresses each of these items listed in the previous paragraph. Therefore, additional operation and management plans are unnecessary.

Going one step further, creating an Operations and Management Plan could raise serious questions about the potential role of the Consent Judgment and whether it would also require formal revision. MSC also questions whether a new Operations Plan would require the review and approval of additional people at MDARD and/or EGLE-WRD. Thus, while MSC believes it unnecessary to create a new or modified Operations Plan, MSC also notes that doing so could prove somewhat complicated in light of the existing Consent Judgment and overlapping involvement of other state offices.

#### Section 3 – Odor Identification

The VN further indicated that *“MSC did not provide the cause, steps taken to prevent a reoccurrence, nor the dates by which corrective actions will take place”* in the December

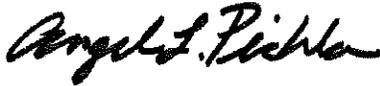
28, 2023 MSC Response Letter to the December 12, 2023 Violation Notice from EGLE and the subsequent January 16, 2024 meeting. For MSC to provide the cause of a nuisance odor, steps taken to prevent a reoccurrence, or corrective actions, MSC would need to first agree that a violation occurred.

Instead, MSC reiterates its stance that no nuisance odor occurred. MSC believes that EGLE failed to document the presence of an unacceptable nuisance odor based on the lack of identification for a specific location, time, and cause of the odor. Furthermore, MSC does not believe there has been any scientific evidence documented or provided to MSC that supports EGLE's alleged odor violation, and that such off-site alleged odors have been correlated with specific operations at the Bay City Factory. MSC respectfully disagrees with the conclusion that a nuisance odor existed as alleged.

In conclusion, MSC is committed to working with EGLE to further improve MSC operations and compliance at the Bay City Factory. If EGLE believes an in-person meeting is warranted to talk further about this, MSC is willing to participate.

Please feel free to contact me directly should you wish to discuss this matter further.

Sincerely,



Angel L. Pichla  
Environmental Superintendent

Attachment: March 8, 2024 Consent Judgment Report for Old Main Aeration Pond

cc: Randy Axtman, MSC – Interim Bay City Factory Manager  
Nick Klein, MSC - Vice President of Operations  
Meaghan Martuch, MSC – Air Compliance Manager  
Eric Rupprecht, MSC – Director of Environmental  
Kurt Kissling, Warner

**Form Detail**

Form	Status	Date	Shift	Item	Value
Env Weekly (4)	Finalized	2023-07-06	0	Is the Main pond in use in place of the Outer Pond? Reason	N Not Applicable
Env Weekly (4)	Finalized	2023-07-13	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-07-20	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-07-27	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-08-03	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-08-11	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-08-18	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-08-24	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-08-31	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-09-07	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-09-15	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (4)	Finalized	2023-09-22	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-09-29	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Pond Inventory
Env Weekly (4)	Finalized	2023-10-06	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Pond Inventory
Env Weekly (4)	Finalized	2023-10-12	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Pond Inventory
Env Weekly (5)	Finalized	2023-10-19	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Pond Inventory
Env Weekly (5)	Finalized	2023-10-27	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-11-03	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-11-09	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-11-16	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-11-24	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-12-01	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y N Not Applicable
Env Weekly (5)	Finalized	2023-12-07	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Process Upset
Env Weekly (5)	Finalized	2023-12-15	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Process Upset
Env Weekly (5)	Finalized	2023-12-22	0	Is Odor Control being used? Is the Main pond in use in place of the Outer Pond? Reason	Y Y Process Upset

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Form	Status	Date	Shift	Item	Value
Env Weekly (5)	Finalized	2023-12-29	0	Is the Main pond in use in place of the Outer Pond? Reason Is Odor Control being used?	Y Process Upset Y

Start/End of Main Pond Use (Event): 9-29-23 to 10-20-23

Start/End of Main Pond Use (Event): 12-5-23 to Present