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August 5, 2020

**VIA ELECTRONIC MAIL**

Neil D. Gordon, Esq.  
Assistant Attorney General  
Environment, Natural Resources and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909

Re: AK Steel Corporation – Dearborn Works  
Response to Violation Notice dated July 15, 2020

Dear Neil:

I am writing on behalf of AK Steel Corporation in response to EGLE's Violation Notice dated July 15, 2020, issued to the Dearborn Works. The NOV alleges noncompliance with the BOF ESP 6-minute average state opacity standard and alleges improper operation of the ESP. The NOV is premised entirely on COMS data reported pursuant to the 2015 Consent Decree.

This NOV is essentially identical to the alleged noncompliance included in the EGLE NOV dated March 16, 2020. In that regard, AK Steel incorporates in full its April 6, 2020, response to the March NOV.

In particular, AK Steel continues to question the basis for EGLE to issue an NOV with these allegations based on COMS data. Neither EGLE's opacity regulation (specifically the particulate matter SIP regulation at R. 336.1303 regarding "grading visible emissions") nor the Dearborn Works Renewable Operating Permit, specify COMS as the method to determine compliance. The applicable requirements are quite clear that compliance with the state 6-minute average opacity standard is based only on Method 9 unless another method is approved by EGLE. AK Steel has not sought approval from EGLE to use the COMS for purposes of compliance with the state 6-minute opacity standard. Therefore, Method 9 is the only approved methodology for determining compliance with the state 6-minute average opacity standard. To the extent that EGLE is relying on notions of credible evidence for the NOV, AK Steel has previously identified why that is not legally supportable in this circumstance.

In addition, AK Steel informed EGLE in 2014 about the Company's position that the BOF ESP COMS cannot be used to assess compliance with the state 6-minute average opacity standard. Since that time, pursuant to the Consent Decree, AK Steel has reported numerous instances every quarter in which the 6-minute block average reading of the COMS data has exceeded 20% opacity.

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EGLLE did not issue any NOV's for any of those previous instances over the past nearly five years, until the NOV issued in March 2020. It therefore seems probable that this recent position by EGLLE is related to the parties' ongoing negotiation of the Consent Decree modification involving the rebuild of the BOF ESP. In that regard, we look forward to sharing our concerns with arbitrarily determining compliance using the COMS, including one key reason being the COMS positive bias compared to Method 9. It appears that it will be most worthwhile for the parties to have a constructive dialog and share issues and concerns related to the use of COMS and ultimately resolve our differences on this issue in conjunction with further negotiations on the Consent Decree modification.

Regarding the request in the NOV to provide written responses to certain categories of information (e.g., the dates of violation, explanation of the causes, etc.), AK Steel believes the statements in the NOV do not constitute violations. However, information responsive to the requests for the opacity events referenced in the NOV is included in the detailed 1st quarter 2020 COMS report provided to EGLLE on April 30, 2020.

If you have any questions regarding this response, please contact me.

Sincerely,

FROST BROWN TODD LLC

  
Steven M. Wesloh

cc: David Cartella, Cleveland-Cliffs, Inc.  
Michael Long, Cleveland-Cliffs, Inc.  
James Earl, AK Steel Corporation

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