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September 4, 2020

Mr. Daniel A. McGeen
Environmental Quality Analyst
EGLE, AQD, Lansing District
Constitution Hall
525 West Allegan Street, First Floor South
P.O. Box 30242
Lansing, MI 48909

RE: PRELIMINARY RESPONSE OF RJ INDUSTRIAL RECYCLING TO JULY 21, 2020 ALLEGED VIOLATION NOTICE LETTER; SRN: N7885, GENESEE COUNTY

Dear Mr. McGeen:

We are writing on behalf of and as legal counsel for RJ Industrial Recycling (“RJI”) and are furnishing the following information and progress report to you on behalf of our clients in response to your July 21, 2020 letter addressed to RJI.

Your letter alleges that on May 4, 2020 the date of your inspection, your staff observed violations of Rule 301 of the Administrative Rules promulgated under NREPA 1994 PA 451 and Administrative Consent Order ACO-EPA 5-15-113(a)-MI-02, at RJ Torching Inc., located at G-5167 North Dort Highway, Flint Michigan.

While our client does not concede the emission readings described in your letter, it took immediate action in response to your letter, and as a result of its investigation terminated the supervisor who was responsible for overseeing the activities of the one-man cutting crew, which was supposed to conduct all cutting operations within the specially constructed wheeled, air-filtered enclosure built for that purpose that you inspected in January. RJI is committed to cooperating with EGLE in resolving the issues raised by it. and will continue to cooperate with EGLE, and appreciates your continuing assistance as it addresses the matters raised in your letter.

You asked in your letter that RJI initiate actions necessary to correct the cited alleged violations and submit a written response to the alleged Violation Notice explaining the cause or causes of the alleged violation, providing the following information: the dates that the alleged violations occurred; an explanation of the causes and duration of the alleged violations; whether the alleged violations are ongoing; summarize the actions taken and which are proposed to be taken to correct the alleged violations; the dates by which these actions will take place; and to identify the steps being taken to

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prevent recurrence of the alleged violations. You have extended until September 4, 2020 the time for our client to respond to the Violation Notice.

RJI submits this Preliminary Response to the July 21, 2020 Alleged Violation Notice in its continuing full cooperation with EGLE, subject to RJI's reservation of its rights to supplement this Preliminary Response.

RJI requests a written response by EGLE to its Preliminary Response.

RJI also requests EGLE's input in addressing and resolving the continuing use of subjective opacity readings in the issuance of Violation Notices, and identifying any other torch-cutting yards that cut outside and have been issued Violation Notices based upon opacity.

SUMMARY RESPONSE

The outbreak of the COVID-19 pandemic and its spread into Michigan in early February, and its continuation to this date, has resulted in the closing of production plants which furnish the raw material processed by RJI, and the mills to which RJI sells its processed metal, forcing RJI to cease most of its cutting operations for the current time. Since your site visit in January 2020, the pandemic has resulted in RJI discontinuing most of its torch-cutting operations, only employing for most this year a single torch-cutter.

Upon receipt of the Violation Notice of July 21, 2020, RJI took immediate steps in response to your letter, and as a result of its investigation, terminated the supervisor who was responsible for overseeing the activities of the one-man cutting crew which was supposed to conduct all torch-cutting operations within the specially constructed wheeled, air-filtered enclosure built for that purpose that you inspected in January, 2020.

This was an isolated incident, and RJI initiated a response which has corrected the problem. It also implemented steps to avoid further instances, including the firing of the individual responsible for supervising torch-cutting activities at the facility on the date in question, and training staff so as to avoid a repeat occurrence. This matter has been resolved.

While not conceding the emission levels described in EGLE's July 21, 2020 Violation Notice letter, based upon the immediate action taken by RJI in response to your letter, RJI requests that EGLE reconsider the July 21, 2020 Violation Notice, or otherwise determine that RJI has complied with the requirements of NREPA and Rule 301, and Administrative Consent Order ACO-EPA 5-15-113(a)-MI-02.

The following is RJI's Preliminary Response to each of the Sections for which EGLE issued its Violation Notice letter of July 21, 2020.

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A. Cited Alleged Violation of Rule 301

- (1) **Torch cutting of scrap metal near south end of site. Visible emissions from torch cutting operations exceeded both the 6-minute average of 20% and the one 6-minute average exception per hour of not more than 27% opacity.**

Response:

While our client does not concede the emission readings described in EGLE's July 21, 2020 letter, it took immediate action upon receipt of the letter, and as a result of its investigation terminated the supervisor who was responsible for overseeing the activities of the one-man cutting crew, which was supposed to conduct all cutting operations within the specially constructed wheeled, air-filtered enclosure built for that purpose.

This was an isolated incident, and RJI initiated a response which has corrected the problem. It has also implemented steps to avoid further instances implemented steps to ensure that it does not happen again, including the firing of the individual responsible for supervising torch-cutting activities at the facility on the date in question, and training staff so as to avoid a repeat occurrence. This matter has been resolved

B. Cited Alleged Violation of ACO-EPA 5-15-113(a) – MI-02 Paragraph 21

- (2) **Torch cutting of scrap metal near south end of site. Visible emissions exceeded the opacity allowed by the Michigan State implementation plan.**

Response:

While our client does not concede the emission readings described in EGLE's July 21, 2020 letter, it took immediate action upon receipt of the letter, and as a result of its investigation terminated the supervisor who was responsible for overseeing the activities of the one-man cutting crew, which was supposed to conduct all cutting operations within the specially constructed wheeled, air-filtered enclosure built for that purpose.

This was an isolated incident, and RJI initiated a response which has corrected the problem. It has also implemented steps to ensure that it does not happen again, including the firing of the individual responsible for supervising torch-cutting activities at the facility on the date in question, and training staff so as to avoid a repeat occurrence. This matter has been resolved

C. Cited Alleged Violation of ACO-EPA 5-15-113(a) – MI-02 Paragraph 22

- (3) **Torch cutting of scrap metal near south end of site. Excessive visible emissions did not reflect best management practices.**

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Response:

While our client does not concede the emission readings described in EGLE's July 21, 2020 letter, it took immediate action upon receipt of the letter, and as a result of its investigation terminated the supervisor who was responsible for overseeing the activities of the one-man cutting crew, which was supposed to conduct all cutting operations within the specially constructed wheeled, air-filtered enclosure built for that purpose.

This was an isolated incident, and RJI initiated a response which has corrected the problem. It has also implemented steps to ensure that it does not happen again, including the firing of the individual responsible for supervising torch-cutting activities at the facility on the date in question, and training staff so as to avoid a repeat occurrence. This matter has been resolved

CONCLUSION

While not conceding the emission levels described in EGLE's July 21, 2020 Violation Notice letter, based upon the immediate action taken by RJI in response to EGLE's letter, and for the reasons set forth above, RJI requests that EGLE reconsider the July 21, 2020 Violation Notice, or otherwise determine that RJI has complied with the requirements of NREPA and Rule 301, and Administrative Consent Order ACO-EPA 5-15-113(a)-MI-02, and RJI requests a written response by EGLE to this request.

RJI also requests EGLE's input in addressing and resolving the continuing use of subjective opacity readings in the issuance of Violation Notices, and that EGLE identify any other torch-cutting yards which cut outside and have been issued Violation Notices based upon opacity.

RJI reserves the right to supplement its Preliminary Response.

Very truly,

KOTZ SANGSTER WYSOCKI P.C.



GEORGE F. CURRAN, III

GFC/med

**Via US First Class Mail
and Email to mcgeend@michigan.gov**

cc: RJ Torching, Inc., Mr. Jason Roughton (Via Email)

Ms. Jenine Camilleri (Via U.S. First Class Mail)
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