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STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

SOUTH DEARBORN ENVIRONMENTAL
IMPROVEMENT ASSOCIATION, INC., a Michigan
non-profit corporation; DETROITERS WORKING
FOR ENVIRONMENTAL JUSTICE, a Michigan non-
profit corporation; ORIGINAL UNITED CITIZENS
OF SOUTHWEST DETROIT, a Michigan non-profit
corporation; and SIERRA CLUB, a California
corporation,

Appellants,

v

MICHIGAN DEPARTMENT OF ENVIRONMENTAL
QUALITY, a Department of the Executive Branch
of the State of Michigan; and DAN WYANT,
Director of the Michigan Department of
Environmental Quality.

Appellees.

Case No. 14-_____ -AA

Hon. _____

14-008887-AA

CLAIM OF APPEAL OF THE
MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY
ISSUANCE OF AIR PERMIT TO
INSTALL NO. 182-05C
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CLAIM OF APPEAL

On behalf of their members, South Dearborn Environmental Improvement Association, Inc. (SDEIA); Detroiters Working for Environmental Justice (DWEJ); Original United Citizens of Southwest Detroit (OUCSD); and Sierra Club (collectively, “Appellants”), claim an appeal of the decision of the Michigan Department of Environmental Quality (MDEQ) on May 12, 2014, to issue Air Permit to Install (PTI) No. 182-05C to Severstal Dearborn, LLC. Concurrently with this Claim of Appeal, Appellants are filing a written request for the record, as required by MCR 7.104(d)(3), and a motion for additional evidence, as permitted by MCR 7.119(G).

In support of this Claim of Appeal, Appellants further state as follows:

INTRODUCTION

1. This Claim of Appeal arises out of MDEQ’s issuance of Air Permit to Install No. 182-05C (“the Permit”) on May 12, 2014. The Permit is attached as **Exhibit 1** to this Claim of Appeal.
2. The Permit increases the authorized emissions levels for multiple emissions sources at the Severstal Dearborn, LLC (“Severstal”) facility, located in Wayne County, Michigan.
3. Severstal sought the Permit after alleging it could not operate at maximum production levels within the emission limits in PTI No. 182-05B.
4. Appellants seek review of the Permit because:
 - a. MDEQ lacks authority to issue the Permit;
 - b. The decision to issue the Permit was contrary to law;

- c. The decision to issue the Permit was not based upon a correct evaluation of the applicable regulations, control technologies, and standards;
- d. The decision to issue the Permit, and the emissions limits set in the Permit, are arbitrary and capricious, and not supported by substantial evidence;
- e. MDEQ failed to consider the impact of the increased emissions limit in the Permit on local communities, and failed to discharge its obligations with respect to Environmental Justice in issuing the Permit; and
- f. The decision to issue the Permit was made in a process that was unfair, unjust, improper, and characterized by the undue influence of Severstal and the Michigan Economic Development Corporation.

5. Appellants request the Court to declare the Permit void and of no force and effect and/or remand the Permit to MDEQ for proper analysis.

JURISDICTION AND VENUE

6. This Court has jurisdiction to grant the relief requested in this Claim of Appeal, and venue is appropriate in this Court, pursuant to MCL § 324.5505(8) and the Revised Judicature Act (“RJA”), MCL § 600.631.

7. MCL § 324.5505(8) provides:

Any person may appeal the issuance or denial by the department of a permit to install, a general permit, or a permit to operate authorized in rules promulgated under subsection (6), for a new source in accordance with section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. Petitions for review shall be the exclusive means to obtain judicial review of such a permit and shall be filed within 90 days after the final permit action, except that a petition may be filed after that deadline only if the petition is based solely on grounds arising after the deadline for judicial review. Such a petition shall be filed no later than 90 days after the new grounds for review arise.

8. MCL § 600.631 provides:

An appeal shall lie from any order, decision, or opinion of any state board, commission, or agency, authorized under the laws of this state to promulgate rules from which an appeal or other judicial review has not otherwise been provided for by law, to the circuit court of the county of which the appellant is a resident or to the circuit court of Ingham county, which court shall have and exercise jurisdiction with respect thereto as in nonjury cases. Such appeals shall be made in accordance with the rules of the Supreme Court.

9. MDEQ issued the Permit on May 12, 2014. Under MCL § 324.5505(8), this Claim of Appeal is timely.

PARTIES

10. Appellant South Dearborn Environmental Improvement Association, Inc., is a Michigan non-profit corporation. SDEIA's mission is to undertake activities to further the improvement of environmental conditions in South Dearborn. Most of SDEIA's members live in the South End neighborhood of Dearborn, in Wayne County, which is immediately adjacent to, and downwind from, the Severstal facility. The health, property, recreational, and aesthetic interests of SDEIA's members are adversely impacted by the air pollution emissions allowed by the Permit.

11. Appellant Detroiters Working for Environmental Justice (DWEJ) is a Michigan non-profit corporation. DWEJ champions local and national collaboration to advance environmental justice and sustainable redevelopment. DWEJ also fosters clean, healthy and safe communities through innovative policy, education and workforce initiatives.

12. Appellant Original United Citizens of Southwest Detroit (OUCSD) is a Michigan non-profit corporation. Many of OUCSW's members are residents of Southwest Detroit

communities that are adversely affected by emissions from the Severstal facility. These adverse effects include, but are not limited to, damage to personal health, property, recreational, and aesthetic interests.

13. Appellant Sierra Club is a California non-profit corporation with a regional headquarters located in Traverse City, Michigan, as well as state chapter office in Lansing, Michigan, and a local office in Detroit, Michigan. The Sierra Club is the nation's largest and most influential grassroots environmental organization, with more than two million members and supporters. Sierra Club's members and supporters include residents of Southwest Detroit communities that are adversely affected by emissions from the Severstal facility. These adverse effects include, but are not limited to, damage to personal health, property, recreational, and aesthetic interests.

14. Respondent Michigan Department of Environmental Quality (MDEQ) is a department within the Executive Branch of the State of Michigan, with primary responsibility for administration and enforcement of Michigan's environmental laws and rules.

15. Respondent Dan Wyant is the Director of the MDEQ and its principal executive officer. His principal office is in the City of Lansing, Ingham County, Michigan.

LEGAL BACKGROUND

16. Congress enacted the federal Clean Air Act (CAA) "to protect and enhance the quality of the Nation's air resources to as to promote the public health and welfare and the productive capacity of the population." 42 USC § 7401(b)(1). A "primary goal" of the CAA is to encourage federal, state, and local actions designed to prevent air pollution. 42 USC § 7401(c).

17. With these goals in mind, the United States Environmental Protection Agency (EPA) is required to establish National Ambient Air Quality Standards (NAAQS) for certain “criteria pollutants,” including carbon monoxide (CO), sulfur dioxide (SO₂), lead (Pb), and particulate matter (PM), which must be attained and maintained in order to protect public health with an adequate margin of safety. 42 USC § 7409. EPA is required to review and update these standards at least every five years, based on improved scientific understanding of the health effects of air pollution. 42 USC § 7409(d). To illustrate, EPA adopted a new 1-hour SO₂ standard in June 2010, and tightened the annual primary standard for particulates less than 2.5 micrometers in diameter (PM_{2.5}) in January 2013. 75 Fed Reg 35520 (June 22, 2010) (SO₂ standard); 78 Fed Reg 3086 (Jan 15, 2013) (revised PM_{2.5} standard).

18. A particular area may be designated by EPA as “attainment” or “non-attainment” for each criteria pollutant; an area in attainment for a particular pollutant may be re-designated “non-attainment” as air quality degrades or standards tighten; and a non-attainment area for a particular pollutant may be re-designated as “attainment” when air quality improves. *See generally* 42 USC § 7407(d). To illustrate, Wayne County was designated “non-attainment” for PM_{2.5} in January 2005, re-designated “attainment” for PM_{2.5} in August 2013, and designated “non-attainment” for SO₂ in August 2013. 70 Fed Reg 944 (Jan. 5, 2005) (designated attainment for PM_{2.5}); 78 Fed Reg 53272 (Aug. 29, 2013) (re-designated attainment for PM_{2.5}); 78 Fed Reg 47191 (Aug. 5, 2013) (designated non-attainment for SO₂).

The CAA Permitting Regime

19. Permitting requirements for major stationary sources of air pollution, like Severstal, are a primary means of ensuring compliance with CAA standards and advancing the Act's goals.

20. Title I of the CAA requires any major emitting facility to obtain a permit before making any modifications (which means physical changes to, or change in method of operations) at a source or facility if the modification will increase existing pollution or result in the emission of any new pollutant. 42 USC §§ 7411, 7475, 7479.

21. Under the corresponding Michigan law, a facility must obtain a permit before it may “install, construct, reconstruct, relocate, alter, or modify any process or process equipment.” MCL § 324.5505. Process equipment means “means all equipment, devices, and auxiliary components, including air pollution control equipment, stacks, and other emission points, used in a process.” MCL § 324.5501(q).

22. The permitting regime requires a two-fold analysis: whether the facility will employ current technology standards, and whether the modification will result in adverse ambient air quality impacts. 42 USC §§ 7475, 7503.

23. Areas that have attained the NAAQS are subject to the CAA's Prevention of Significant Deterioration (PSD) provisions, which regulate permits issued for construction of new or modified sources of pollution. *See* 42 USC § 7470 *et seq.*

24. A permit issued under the PSD program must establish pollution emission limits reflecting the use of Best Available Control Technology (BACT) for each pollutant that is subject to regulation under the CAA and that is emitted in significant amounts by the source.

Additionally, a PSD program permit must not cause or contribute to air pollution in excess of certain standards. 42 USC § 7475.

25. A modification may avoid applicability of the PSD provisions by “netting out,” *i.e.*, crediting certain emissions reductions achieved contemporaneously (within the preceding five years) at one emission source against emissions increases at another source, provided the reduction has not been previously relied upon and other conditions are met. 42 CFR § 52.21(b)(23); Mich Admin R 336.2801(ee).

26. Areas that are not in attainment with the NAAQS are subject to the CAA’s Nonattainment New Source Review (NNSR) provisions, which regulate permits issued for construction of new or modified sources of pollution. *See* 42 USC § 7501 *et seq.*

27. A permit issued under the NNSR program must establish pollution emission limits reflecting the use of Lowest Achievable Emission Rate (LAER) for each non-attainment pollutant subject to regulation under the CAA that the source would emit in significant amounts, must offset increased emissions with emissions reductions that meet the regulations, and must meet other compliance and review standards. 42 USC § 7503; Mich Admin R 336.2908.

28. When permits are issued for major new sources of hazardous air pollutants (HAPs), including manganese (Mn) and mercury (Hg), the CAA also requires the establishment of emissions limits for HAPs that represent the use of Maximum Achievable Control Technology (MACT). 42 USC § 7412(g).

29. Under the corresponding Michigan law, permits issued for toxic air contaminants (TACs) must meet “the maximum allowable emission rate based on the application of best available control technology for toxics (T-BACT). . . .” Mich Admin R 336.1224.

The Michigan State Implementation Plan Provisions

30. The CAA allows states to develop their own regulatory approaches for implementing its provisions, called State Implementation Plans (SIPs). *See generally* 42 USC § 7401. A SIP “may not adopt or enforce any emission standard or limitation which is less stringent” than the CAA’s requirements. 42 USC § 7416.

31. Michigan has adopted a SIP that encompasses the CAA Title I permitting provisions, and which has been approved by the EPA. Mich Admin Code R 336.202-2908; 42 CFR § 52.1170(c) (listing EPA-approved Michigan regulations, statutes, and executive orders).

32. The Michigan SIP provisions regarding permits under Title I of the CAA are codified at Mich Admin Code R 336.1201-1209 (Title I “Permit to Install” provisions), 336.2801-2823 (PSD provisions), and 336.2901-2908 (NNSR provisions). The EPA approved these Michigan SIP provisions in 1980, 2010, and 2013, respectively. 40 CFR § 52.1170(c).

33. Federal interpretations of the CAA and its regulations are highly persuasive authority when interpreting Michigan’s SIP provisions.

Other Relevant Air Quality Provisions

34. Michigan law provides that MDEQ may revoke or deny a permit if, among other circumstances: operation of the source will violate the CAA or Michigan SIP, unless the source is in compliance with a legally enforceable schedule of compliance contained in a permit or order; the person applying for the permit makes a false representation or provides false information during the permit review process; the source has not been installed, constructed, or operated consistent with the application for a permit or as specified in a permit. MCL § 324.5510.

35. The Michigan SIP provides that, “[i]f evidence indicates that the process or process equipment is not performing in accordance with the terms and conditions of the permit to install, the department, after notice and opportunity for a hearing, may revoke the permit to install” Mich Admin R § 336.1201(8).

36. The Michigan SIP provides that, “[t]he department may only issue a permit approving the construction of a new major stationary source or major modification in a nonattainment area if the department has determined that the owner or operator of the major stationary source or major modification will comply with all of the provisions of this rule.” Mich Admin R 336.1208(1).

37. The Michigan SIP provides that, before they may obtain a new permit under NNSR, “[t]he owner or operator of the proposed major stationary source or major modification shall provide an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed major stationary source or major modification which demonstrates that the benefits of the proposed major stationary source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.” Mich Admin R 336.2908(2)

38. The Michigan SIP provides that, before they may obtain a new permit under NNSR, all major stationary sources located in the state, and owned or controlled by the entity proposing a major modification, “shall be in compliance with all applicable local, state, and federal air quality regulations or shall be in compliance with a legally enforceable permit condition or order of the department specifying a plan and timetable for compliance.” Mich Admin R 336.2908(4).

39. Under the CAA and Michigan SIP, if a major source or major modification becomes a major source or major modification solely by virtue of a relaxation in certain kinds of enforceable limitations on the capacity of the major source or major modification otherwise to emit a pollutant, the revision is subject to all PSD and NSR requirements, including BACT, LAER, MACT, T-BACT, and other requirements. *See* 42 CFR § 52.21(r)(4); Mich Admin R 336.2818(2), 336.2902(5)(b).

40. The Michigan SIP provides that, “[u]pon the physical removal of the process or process equipment, or upon a determination by the department that the process or process equipment has been permanently shut down, the permit to install shall become void and the emissions allowed by the permit to install shall no longer be included in the potential to emit of the stationary source.” Mich Admin R 336.1201(5).

41. The Michigan SIP and CAA prohibit a shuttered facility from re-opening without first undergoing a new PSD and NNSR review, and EPA has well-established guidelines defining when re-opening a shuttered plant triggers such PSD and NNSR review. *See, e.g.*, U.S. EPA Memorandum from Edward Reich, Director, Division of Stationary Source Enforcement to Stephen A. Dvorkin, Chief, General Enforcement Branch, Region II, Sep. 6, 1978, Re: PSD Requirements.

42. The Michigan SIP prohibits a facility from offsetting emissions increases in non-attainments areas against reductions achieved from shutting down an existing source, unless specific timing and other conditions have been satisfied. Mich Admin R 336.2908(5)(c).

43. The Michigan SIP provides that a preconstruction permit becomes void “[i]f the installation, reconstruction, or relocation of the equipment, for which a permit has been issued,

has not commenced within, or has been interrupted for, 18 months.” Mich Admin R 336.1201(4).

44. The Michigan SIP provides that, “[i]f the emission limit does not reflect the maximum emissions of the process or process equipment operating at full design capacity without air pollution control equipment,” then the permit shall contain provisions to ensure the practical enforceability of the emission limit, such as “[a] production limit which restricts the amount of final product that may be produced over the same time period used in the emission limit.” Mich Admin R 336.1205(1)(a).

45. The Michigan SIP identifies the information that must be provided by an application in support of a permit. Mich Admin R 336.1203.

46. Until October 28, 2013, the Michigan SIP, Rule 336.1206 (“Rule 206”) required MDEQ to take action on a permit within 120 days of receipt of all information needed to evaluate the permit; the rule contained no provision for an extension. Effective October 28, 2013, MDEQ amended Rule 206, which now requires MDEQ to take action on a permit application within 240 days of receipt of the application, with the possibility to extend the deadline an additional one year, upon the applicant’s agreement. Mich Admin R 336.1206; ORR 2012-107 EQ (published May 14, 2013; effective October 28, 2013) (“Rule 206”).

47. The Michigan SIP provides that MDEQ “shall deny an application for a permit to install if, in the judgment of the department, any of the following conditions exist: (a) The equipment for which the permit is sought will not operate in compliance with the rules of the department or state law. (b) Operation of the equipment for which the permit is sought will interfere with the attainment or maintenance of the air quality standard for any air contaminant. (c) The equipment for which the permit is sought will violate [various] applicable requirements

of the clean air act, as amended, 42 U.S.C. §7401 et seq. [list omitted]. (d) Sufficient information has not been submitted by the applicant to enable the department to make reasonable judgments as required by subdivisions (a) to (c) of this subrule.” Mich Admin R 336.1207(1) (“Rule 207”).

48. Both the federal CAA and Michigan air quality statutes require notice to the affected community, and an opportunity for the community to comment on proposed new permits. 42 USC § 7475; MCL § 324.5511.

49. Before a permit may be issued, the regulator must examine alternatives to the project, and whether the project will disproportionately affect the health, safety, or welfare of, or the environment in, any community or population, including minority and low-income populations and communities. Exec Order 12898, 59 Fed Reg 7629 (Feb 16, 1994); 42 USC §§ 7470(1); MCL § 324.5510; Mich Admin R 336.1203(1)(h), 336.2908(2), 336.1228. This obligation applies to MDEQ directly, and because it is implementing the federal CAA under authority delegated by the EPA and receives federal funding for its air quality program.

FACTUAL BACKGROUND

50. Severstal’s Dearborn steel plant is an approximately 350-acre complex containing numerous buildings, processes, and components. These components include, most significantly to this Appeal, the Basic Oxygen Furnace and the C-Blast Furnace.

51. Severstal’s Dearborn steel production facility is a “major emitting facility,” and it is therefore subject to the permitting requirements of Title I of the CAA and the Michigan PTI program. 42 USC § 7479; Mich Admin R 336.1201.

MDEQ Issues Severstal a Permit in 2006

52. In 2005, Severstal applied for a permit to modify the C-Blast Furnace, to increase steel production at the facility. As part of the permitting process, Severstal was required to install an emissions control baghouse at the C-Blast Furnace, and a secondary emissions control baghouse at the Basic Oxygen Furnace.

53. MDEQ issued a permit for the work, PTI No. 182-05, in January 2006. MDEQ issued revisions to PTI No. 182-05 in July 2006 (PTI No. 182-05A) and April 2007 (PTI No. 182-05B). Each revised permit replaced the previous version; Severstal has been subject to the requirements of PTI No. 182-05B since April 2007.

54. PTI No. 182-05B contains emissions limits for each criteria and hazardous pollutant emitted from each emission source at the Severstal facility affected by the modifications. For example, under PTI No 182-05B, the C-Blast Furnace may emit 23.03 pounds per hour of SO₂; the Basic Oxygen Furnace may emit 7.45 pounds per hour of PM; and the desulfurization baghouse may emit 0.00064 pounds per hour of manganese.

55. Severstal completed the work to the C-Blast Furnace, and installation of the secondary baghouse at the Basic Oxygen Furnace, in October 2007.

56. On January 5, 2008, Severstal's B-Blast Furnace was destroyed in a catastrophic incident, and it has since never been repaired or otherwise become operational.

Severstal Does Not Operate in Compliance with PTI No. 182-05B

57. As required by PTI No. 182-05B, starting in September 2008, Severstal performed stack tests at emissions units affected by the increased production work.

58. PTI No. 182-05B required Severstal’s stack tests to be conducted at maximum routine operating conditions.

59. The results of Severstal’s stack testing showed its operations caused substantial exceedances of several pollutants from multiple emissions sources, as illustrated below:

Source	Pollutant	Emissions Limit PTI 182-05B (lb/hr)	Stack Test Results (lb/hr)
C-Blast Furnace baghouse	PM ₁₀	5.70	8.13
	Mn	0.00256	0.01897
	Pb	0.00015	0.001
	SO ₂	23.03	120.26
C-Blast Furnace stove	Hg	0.000414	0.00929
Basic Oxygen Furnace baghouse	PM ₁₀	3.35	6.56
Basic Oxygen Furnace ESP	CO	3,057	3,237
Desulfurization baghouse	Mn	0.00064	0.00359
	Pb	0.000278	0.000539

60. At the same time, the results of Severstal’s stack testing also showed its operations were within the emissions limits for other sources or pollutants, as illustrated below:

Source	Pollutant	Emissions Limit PTI 182-05B (lb/hr)	Stack Test Results (lb/hr)
C-Blast Furnace baghouse	VOC	6.77	4.22
C-Blast Furnace stove	PM ₁₀	14.16	9.78
Basic Oxygen Furnace baghouse	PM	7.45	3.96
Basic Oxygen Furnace ESP	PM	50.94	13.5
	PM ₁₀	37.70	18.19
Desulfurization baghouse	PM ₁₀	1.55	1.48

61. Some of Severstal’s emissions limit exceedances identified through stack testing are the result of condensed particles escaping from the new baghouses installed under PTI No.

182-05B. Appellants identified this concern during the permitting process for PTI No. 182-05B, and MDEQ required Severstal to control and account for condensed particles at these baghouses.

62. Some of Severstal's emissions limit exceedances identified through stack testing are the result of Severstal's errors and assumptions, and are unrelated to the work performed under PTI No. 185-02B. For example, until 2009, Severstal apparently failed to recognize that most CO generated at the Basic Oxygen Furnace Electrostatic Precipitator (ESP) results from the oxygen blow portion of the heat, and that the desulfurization baghouse failed to adequately capture condensable particulates.

63. After the initial stack testing, Severstal identified additional sources of emissions limits exceedances and violations, which also were unrelated to the work performed under the PTI No. 182-05B permit. For example, Severstal had failed to properly maintain the Basic Oxygen Furnace ESP, resulting in manganese and lead emissions at levels higher than permitted, and Severstal had installed six emergency generators without obtaining a PSD permit to install them.

64. Since 2007, when Severstal completed the work contemplated by PTI No. 182-05B, MDEQ and EPA have notified Severstal that it has been in violation of its permits (both PTI No. 182-05B and its operating permit) on over 10,000 occasions.

65. MDEQ sent violation notices to Severstal on: Feb. 24, 2009; July 17, 2009; Aug. 12, 2009; Oct. 28, 2009; May 18, 2010; Aug. 18, 2010; Sept. 27, 2010; Nov. 22, 2010; Dec. 10, 2010; Jan. 5, 2011; Mar. 15, 2011; April 28, 2011; Aug. 16, 2011; Sept. 20, 2011; Oct. 24, 2011; Dec. 8, 2011; Mar. 29, 2012; May 1, 2012; May 10, 2012; May 15, 2012; May 16, 2012; June 29, 2012; July 19, 2012; July 31, 2012; Aug. 8, 2012; Aug. 14, 2012; Sept. 13, 2012; Sept. 27,

2012; Nov. 14, 2012; Jan. 30, 2013; Mar. 8, 2013; May 13, 2013; and April 15, 2014. EPA sent violation notices on: Feb. 9, 2009; June 15, 2012; and Mar. 5, 2013.

66. MDEQ staff described the Severstal facility as “by far the most egregious facility in the state.” Aug. 16, 2012, email from L. Fiedler (DEQ) to V. Hellwig (DEQ), M. Mitchell (DEQ), T. Seidel (DEQ), and R. Telesz (DEQ).

67. Upon information and belief, neither MDEQ nor EPA have issued an administrative order, sought judicial relief, nor imposed a compliance plan with a timetable for compliance, to address the violation notices issued to Severstal since 2007.

Severstal Negotiates with MDEQ for a New Permit

68. As required by PTI No. 182-05B, in early 2009, Severstal notified MDEQ of its initial stack testing results.

69. In February 2009, Severstal and MDEQ entered negotiations to address the stack test violations.

70. After negotiations were underway, in December 2010, Severstal submitted a new permit application, seeking to “correct” PTI No. 182-05B.

71. Severstal stated, during the permit process, that it did not propose any physical change, or changes in the method of operations, at the facility, and that the permit should not be considered an installation, construction, reconstruction, relocation, or modification.

72. In April of 2010, MDEQ’s Air Quality Permit Section Supervisor wrote to Severstal stating:

As I indicated in our meeting last year, I do not agree that the change being requested is a “correction.” There is no provision in the air rules for a correction. Although we do occasionally process a supplemental revision to a permit, this is primarily due to a typo or error on our part that needs

fixing. Changing emission rates is not an error or correction. It is a modification.

73. Starting in 2012, the Michigan Economic Development Corporation (MEDC) became involved in the permit negotiations with MDEQ and Severstal.

74. MEDC organized meetings, set task lists, developed schedules, reviewed draft agreements, and otherwise had a seat at the table in the MDEQ process leading to the issuance of PTI No. 182-05C. MEDC's involvement in the process is detailed in Appellants' Motion to Present Proofs of Irregularity in Procedure Before the Agency, which is filed concurrently with this Claim of Appeal under MCR 7.119(G).

75. On April 6, 2012, MDEQ determined that it had received all information required under Mich Admin R 336.1203, for Severstal's permit application.

76. On August 16, 2012, Lynn Fiedler, Assistant Division Chief of MDEQ Air Quality Division, stated in an email that Severstal's permit application was deemed complete on April 6, 2012, that MDEQ had 120 days to act upon the application, that "Severstal's equipment has not and currently cannot operate in compliance with either the rules of the department or the Clean Air Act. In fact, 8 Violation Notices have been sent related to equipment being repermited since the application itself was deemed technically complete."; and "[t]herefore, the DEQ is mandated by Rule 207 to deny the application." Division Chief Hellwig reiterated in a reply email a few minutes later: "We have but one action available and that is to deny this permit if it is not withdrawn."

77. On February 1, 2013, MDEQ and Severstal signed an "Extension Agreement" allowing Severstal additional time to complete the permit application process for PTI No. 182-05C.

78. In May of 2013, MDEQ Director Dan Wyant sent a referral to the Michigan Attorney General, requesting the Attorney General to join the U.S. Department of Justice in an enforcement action against Severstal in federal court.

79. Severstal submitted a revised permit application on September 20, 2013, and additional application permit-related information over the following several months.

80. MDEQ issued public notice of a proposed revised permit on February 12, 2014, announcing a 30 day comment period. On March 13, 2014, MDEQ granted an extension and provided the public until March 31, 2014, to comment on the draft permit.

81. Appellants and many others submitted written and oral comments on the draft permit.

82. MDEQ issued Permit PTI No. 182-05C on May 12, 2014.

MDEQ Applies a Mixed Assortment of Air Quality Provisions to the Application

83. MDEQ processed Severstal's new permit application as if it had been received by MDEQ in 2005, the date of the initial permit application for PTI No. 182-05, and, as a result:

- a. MDEQ did not apply the NNSR permitting standards and requirements for SO₂, though Wayne County was designated non-attainment for SO₂ in 2013;
- b. MDEQ did not apply permit regulations that treat SO₂ emissions as precursors for PM_{2.5} emissions, which became effective in July 2008;
- c. MDEQ did not apply regulations requiring it to impose emissions limits for greenhouse gases, which became effective in January 2011;

d. MDEQ allowed Severstal to re-credit emission reductions achieved in 2007, against historic emissions in 2001 and 2002, to “net out” of applicability of PSD, NNSR, and toxics regulations and provisions;

e. MDEQ allowed Severstal to treat a non-operational source (the B-Blast Furnace) as a substantial historic emissions source, then credit a baghouse that was never installed on the B-Blast Furnace, to “net out” of applicability of PSD, NSNSR, and toxics regulations and provisions;

f. MDEQ required Severstal to “update” its BACT analysis for CO emissions from the C-Blast Furnace, though PTI No. 182-05C does not increase CO emissions from the C-Blast Furnace, but did not require Severstal to undertake any BACT analysis for CO emissions from the Basic Oxygen Furnace ESP, from which CO emissions under PTI No. 182-05C will more than double, compared to PTI No. 182-05B limits; and

g. MDEQ did not apply current technology standards (BACT, LAER, MACT, and T-BACT) to restrict the emissions at various emissions sources.

84. MDEQ, however, was not consistent in processing the application as if it were received in 2005, to the extent that 2005 standards or facts were unfavorable to Severstal:

a. MDEQ did not apply all NNSR permitting standards and requirements for PM_{2.5}, though Wayne County was designated PM_{2.5} non-attainment from April 2005 until August 2013;

b. MDEQ applied some of the new regulations to impose emissions limits for PM_{2.5}, rather than using PM₁₀ as a surrogate for PM_{2.5}, which new regulations became effective May 2011;

c. MDEQ allowed Severstal to offset (“reallocate”) SO₂ emissions increases at the C-Blast Furnace against emissions reductions achieved in 2008, when the B-Blast Furnace shut down; and

d. MDEQ allowed Severstal to offset (“reallocate”) mercury emissions increases resulting from the 2007 PTI No. 182-05B modifications against emissions reductions achieved in 2012 at the Basic Oxygen Furnace ESP.

MDEQ Issues a New Permit That Increases Severstal’s Allowable Emissions

85. The new Permit raises the emission limit for every source at the Severstal facility where stack testing demonstrated the source was not operating in compliance with the emission limit in PTI No. 182-05B.

86. For each such non-compliant emission source, the revised emission limit is substantially higher than the actual emissions documented by the stack test results at the time they were performed, as illustrated below:

Source	Pollutant	Emissions Limit PTI 182-05B (lb/hr)	Stack Test Results (lb/hr)	Emissions Limit PTI 182-05C (lb/hr)
C-Blast Furnace baghouse	PM ₁₀	5.70	8.13	18.24
	Mn	0.00256	0.01897	0.042
	Pb	0.00015	0.001	0.0077
	SO ₂	23.03	120.26	179.7
C-Blast Furnace stove	Hg	0.000414	0.000929	0.003
Basic Oxygen Furnace baghouse	PM ₁₀	3.35	6.56	17.71
Basic Oxygen Furnace ESP	CO	3,057.0	3,237	7,048
Desulfurization baghouse	Mn	.00064	.003599	0.013
	Pb	0.000278	.000539	0.0016

87. The new Permit also raises the emissions limits for many sources where stack testing demonstrated the source was operating in compliance with the emission limit in PTI No. 182-05B, as illustrated below:

Source	Pollutant	Emissions Limit PTI 182-05B (lb/hr)	Stack Test Results (lb/hr)	Emissions Limit PTI 182-05C (lb/hr)
C-Blast Furnace baghouse	VOC	6.77	4.22	9.92
C-Blast Furnace stove	PM ₁₀	14.16	9.78	19.72
Basic Oxygen Furnace baghouse	PM	7.45	3.96	15.6
Basic Oxygen Furnace ESP	PM	50.94	13.5	62.6
	PM ₁₀	37.70	18.19	47.5
Desulfurization baghouse	PM ₁₀	1.55	1.48	3.6

88. The new Permit authorizes Severstal to emit an additional 201 tons per year of PM; 410 tons per year of PM₁₀; 17,478 tons per year of CO; 472 tons per year of SO₂; and 0.14645 pounds per year of Mn; over the emissions authorized in PTI No. 182-05B.

89. The new Permit also raises the CO emissions limit at the Basic Oxygen Furnace ESP and the desulfurization operation, to resolve deficiencies that were not caused by or otherwise related to the plant modifications authorized by PTI No. 182-05B.

90. The new Permit also allows Severstal to “reallocate” SO₂ emissions reductions from the inoperable B-Blast Furnace and credit them against the increased SO₂ emissions at the operating C-Blast Furnace, effectively increasing actual SO₂ emissions from the facility.

91. The new Permit also imposes a total “combined” SO₂ emissions limit from the C-Blast Furnace (Stove and Baghouse) of 271.4 lb/hr, which is less than the sum of SO₂ emissions

from each the C-Blast Furnace Stove (193.6 lb/hr) and the C-Blast Furnace Baghouse (179.7 lb/hr) (Stove + Furnace = 373.25 lb/hr)., though there is no production or operational limits to ensure the practical enforceability of the total “combined” SO₂ emissions limit.

92. The new Permit also assumes the Basic Oxygen Furnace baghouse will capture 98% of emissions, whereas PTI No. 182-05B assumed it would capture only 95% of emissions, and Severstal has not undertaken changes to improve the capture efficiency of this baghouse since it was installed in 2007, or otherwise sufficiently demonstrated the baghouse is capable of consistently meeting this standard.

93. The new Permit also retroactively authorizes Severstal to install six unpermitted emergency engines that were already installed, which are unrelated to the plant modifications authorized by PTI No. 082-05B.

94. The new Permit does not require Severstal to install any new emissions control equipment (*e.g.*, wet scrubbers, PTFE membrane fabrics) or process changes (*e.g.*, fuel changes) to limit emissions increases.

95. The new Permit does not require Severstal to reduce its production levels to either achieve compliance with the emissions limits in PTI No. 182-05B, or at least maintain emissions at the levels observed during stack testing.

Severstal’s Emissions Directly and Disproportionately Impact Appellants’ Neighborhoods

96. Emissions from Severstal directly impact the residential neighborhood immediately adjacent and downwind of the facility, known as South Dearborn or the “South End.”

97. The South End neighborhood is 80% Arab-American, with 43% of the population having income below the poverty level, and is designated an Environmental Justice area by the EPA.

98. There is an ambient air quality monitor (referred to by MDEQ as the “Dearborn” monitor) located in the parking lot of the Salina School, the South End’s elementary and middle school.

99. The Dearborn monitor consistently records some of the highest ambient levels in Michigan of PM_{2.5} and manganese.

100. Emissions from Severstal also directly impact other residential neighborhoods of Southwest Detroit, specifically including, but not limited to, communities located in the 48217 zip code.

101. University of Michigan researchers have determined the 48217 neighborhood of Southwest Detroit to be the most polluted zip code in Michigan. *See 48127: Life in Michigan’s most polluted ZIP code*, Detroit Free Press (June 20, 2010).

102. The 48217 neighborhood of Southwest Detroit is also an Environmental Justice area.

103. Residents of the South End and the 48217 neighborhood of Southwest Detroit suffer in disproportionately high numbers from a number of diseases and ailments associated with environmental pollution, including but not limited to asthma and other respiratory diseases.

104. After five years of negotiations between MDEQ and Severstal, with substantial involvement from MEDC and potentially others, MDEQ finally notified Severstal’s neighbors about the proposed revised permit on February 12, 2014. Despite MDEQ’s prior expressed position, the public notice documents characterized the Draft Permit as a permit “correction”

entitled to regulatory grandfathering. *See* MDEQ Public Participation Document for Permit Application Number 182-05C (Fe. 12, 2014).

105. MDEQ initially announced a 30 day comment period on the permit MDEQ and Severstal negotiated for over five years, involving multiple drafts and thousands of pages of technical data. Upon request from Appellants, MDEQ extended the public comment period until March 31, 2014.

106. Prior to the MDEQ public hearing, Air Quality Division Chief Vinson Hellwig was quoted in the Detroit Free Press as saying about PTI No. 182-05C, “Citizens may object to it, but that’s not something we consider on whether to issue or deny the permit,” that there would have to be a “major reason” to deny the permit change, and that “there’s no imminent hazard there.” *Dearborn steel plant may be allowed to release higher levels of toxins*, Detroit Free Press (Mar 11, 2014).

COUNT I

(Lack of Authority to “Correct” PTI No. 182-05B)

107. Appellants restate and incorporate the preceding allegations.

108. When evidence shows process equipment is not performing according the terms of a permit, MDEQ is authorized to issue a legally enforceable compliance schedule or revoke the permit.

109. MDEQ did not issue a legally enforceable compliance schedule nor revoke Severstal’s permit.

110. Instead, MDEQ processed PTI No. 182-05C as a permit to “update,” “amend,” “correct,” “fix-up,” or “revise” PTI No. 182-05B.

111. MDEQ has no statutory or regulatory authority to amend, correct, fix-up, or revise a permit in a way that increases the emission levels allowed by the Permit.

112. Michigan violated the CAA and Michigan air quality statutes and regulations when it issued PTI No. 182-05C after processing it as an update, amendment, correction, fix, or revision to PTI No. 182-05B.

113. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when processed PTI No. 182-05C as an update, amendment, or correction to PTI No. 182-05B.

COUNT II

(Error to Issue Permit to Severstal While Non-Compliant and Subject to Enforcement)

114. Appellants restate and incorporate the preceding allegations.

115. Since at least early 2009, MDEQ and EPA have issued violation notices to Severstal for thousands of instances of permit and regulation violations, including the stack test exceedances that PTI No. 182-05C is supposed to “correct.”

116. EPA referred the Severstal enforcement action to the U.S. Dept. of Justice (DoJ), and MDEQ referred the Severstal enforcement action to the Michigan Attorney General’s Office (MI AG).

117. As of the date of this filing, DoJ, on behalf of the EPA, and MI AG, on behalf of MDEQ, are considering injunctive and penalty provisions to resolve Severstal’s violations, potentially to include the stack test exceedances that PTI No. 182-05C is supposed to “correct.”

118. Injunctive relief achieved through the enforcement action may conflict with the limits and standards in PTI No. 182-05C; alternatively, the issuance of PTI No. 182-05C may

limit the discretion of the DoJ, EPA, MI AG, and DEQ to achieve meaningful compliance through the enforcement action.

119. At all times since January 5, 2005, Wayne County has been designated as a non-attainment area: for PM_{2.5} from January 5, 2005, until August 29, 2013; and for SO₂ since August 5, 2013.

120. The CAA and Michigan SIP prohibit MDEQ from issuing a permit to a facility within a non-attainment area, where the facility is not in compliance with all applicable regulations, or under a legally enforceable compliance plan and timetable for compliance.

121. Severstal is not in compliance with PTI No. 182-05B, its operating permit, and other applicable regulations, and is not under a legally enforceable compliance plan and timetable for compliance.

122. MDEQ lacks authority to issue PTI No. 182-05C to Severstal because the Severstal facility is subject to an ongoing enforcement action, and is not in compliance with all applicable regulations nor under an enforceable compliance plan.

123. Michigan violated the CAA and Michigan air quality statutes, when it issued PTI No. 182-05C to Severstal while Severstal is subject to an ongoing enforcement action, and while the Severstal facility is not in compliance with all applicable regulations nor under an enforceable compliance plan.

124. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C to Severstal while Severstal is subject to an ongoing enforcement action, and while the Severstal facility is not in compliance with all applicable regulations nor under an enforceable compliance plan.

COUNT III

(Failure to Process Severstal's Application as a New Permit Application)

125. Appellants restate and incorporate the preceding allegations.

126. Severstal's application sought a permit to modify its operations or processes, or modify or install equipment, including air pollution control equipment.

127. The CAA and Michigan SIP require MDEQ to process an application seeking to modify operations or processes, or modify or install equipment, as an application for a new permit.

128. MDEQ did not process PTI No. 182-05C as a new permit under the CAA and Michigan SIP.

129. MDEQ lacks authority to issue a permit, except by processing it as a new permit application, subject to all current regulations and standards in the CAA and Michigan SIP.

130. Michigan violated the CAA and Michigan air quality statutes, when it issued PTI No. 182-05C without processing it as new permit application under the CAA and Michigan SIP.

131. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C without processing it as a new permit application under the CAA and Michigan SIP.

COUNT IV

(Erroneously Processing PTI No. 182-05C as a Permit to Relax Emissions Standards)

132. Appellants restate and incorporate the preceding allegations.

133. Severstal's application sought to relax emissions limits in PTI No. 182-05B.

134. Severstal is responsible for all errors and mistaken assumptions upon which the emissions limits in PTI No. 182-05B were based.

135. The CAA and Michigan SIP provide limited opportunity to relax emissions limits in an existing permit.

136. Severstal does not meet the requirements to authorize MDEQ to relax the emissions limits in PTI No. 182-05B.

137. Even if Severstal's application met the prerequisites for seeking a permit to relax emissions limits, MDEQ failed to apply all current PSD and NSR provisions and technology standards to Severstal's proposed relaxed emissions limits:

- a. MDEQ failed to apply current CAA attainment designations, provisions, and regulations;
- b. MDEQ failed to determine the net emissions increases resulting from the relaxed emissions limits; and
- c. MDEQ failed to apply current BACT, LAER, MACT, and T-BACT technology and standards to the sources of emissions increases.

138. MDEQ lacks authority to relax the emissions limits in an existing permit, except by applying all current PSD and NNSR designations, provisions, and technology standards to the proposed changes.

139. MDEQ violated the CAA and Michigan air quality statutes when it issued PTI No. 182-05C and relaxed the emissions limits in PTI No. 182-05B, without applying all current PSD and NNSR designations, provisions, and technology standards to the proposed changes.

140. MDEQ's decision to issue the permit was arbitrary and capricious and not supported by substantial evidence, because it relaxed the emissions limits in PTI No. 182-05B,

without applying all current PSD and NNSR designations, provisions, and technology standards to the proposed changes.

COUNT V

(Erroneous Application of CAA Attainment Designations)

141. Appellants restate and incorporate the preceding allegations.

142. MDEQ processed Severstal's application as if it were 2005, and Wayne County were still designated in "attainment" for SO₂.

143. As a result of processing Severstal's application as if it were 2005 and Wayne County were in attainment for SO₂, MDEQ did not, among other requirements, impose LAER standards, require Severstal to obtain SO₂ offsets that meet the regulatory standards, require Severstal to provide compliance certification, and consider alternatives to raising the emission limits.

144. At the same time, MDEQ failed to process Severstal's application in accordance with Wayne County's designated non-attainment for PM_{2.5} status, from January 2005 until August 2013, and did not, among other requirements, impose LAER standards for PM_{2.5} and SO₂ (a PM_{2.5} precursor), require proper PM_{2.5} and SO₂ offsets, require Severstal to provide compliance certification, and consider alternatives to raising the emissions limits.

145. The CAA and Michigan SIP require MDEQ to apply all current CAA attainment designations, and all attendant NNSR provisions, to all permit applications.

146. MDEQ has no authority to issue PTI No. 182-05C without applying all current CAA attainment designations and all attendant NNSR provisions.

147. MDEQ violated the CAA and Michigan SIP when it issued PTI No. 182-05C without applying all current CAA attainment designations and attendant NNSR provisions.

148. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C without applying all current CAA attainment designations and attendant NNSR provisions.

COUNT VI

(Failure to Apply Post-2005 CAA Regulations and Standards)

149. Appellants restate and incorporate the preceding allegations.

150. MDEQ processed Severstal's application as if it were 2005, and ignored CAA and Michigan SIP provisions adopted since 2005.

151. Since 2005, there are new federal CAA regulations applicable to CAA permit that: require MDEQ to regulate PM_{2.5} emissions directly (rather than using PM₁₀ as a surrogate); require MDEQ to treat SO₂ as a precursor for PM_{2.5}; update the ambient air NO₂ and SO₂ standards; require MDEQ to regulate greenhouse gas emissions; and impose other requirements and standards on CAA permits.

152. Since 2005, there are new or updated federal and state BACT, LAER, MACT, and T-BACT technologies, standards, costs, and factors applicable to the control of particulates (including condensable particulates), SO₂, CO, Mn and Pb from integrated iron and steel facilities' emissions sources.

153. MDEQ failed to apply to Severstal's application CAA regulations and technology standards adopted or updated since 2005.

154. The CAA and Michigan SIP require MDEQ to apply current CAA regulations and standards to all permit applications.

155. MDEQ has no authority to review and issue a permit application according to the CAA regulations and standards only as they existed in 2005.

156. MDEQ violated the CAA and Michigan SIP when it issued PTI No. 182-05C without applying all current CAA regulations and standards.

157. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C without applying all current CAA regulations and standards.

COUNT VII

(Error to Use 2001-2002 Baseline Emissions)

158. Appellants restate and incorporate the preceding allegations.

159. MDEQ processed Severstal's application as if it were 2005, and determined the net change in emissions resulting against baseline historic emissions from 2001 and 2002.

160. By using 2001 and 2002 at the baseline emissions period, MDEQ allowed Severstal to re-credit emissions reductions achieved in 2007, when the C-Blast Furnace and Basic Oxygen Furnace baghouses were installed.

161. By using 2001 and 2002 at the baseline emissions period, MDEQ allowed Severstal to capitalize on the historic emissions from the B-Blast Furnace; re-credit a baghouse authorized in 2006 for the B-Blast Furnace, which was never actually installed, and speculate about future emissions at the B-Blast Furnace.

162. By using 2001 and 2002 as the baseline emissions period, MDEQ allowed Severstal to “net out” of PSD, NNSR and toxics regulations and applicability for multiple pollutants.

163. By using 2001 and 2002 as the baseline emissions period, MDEQ failed to apply relevant and applicable control standards (BACT, LAER, MACT, and T-BACT) and other requirements to emissions increases permitted by PTI No. 182-05C.

164. The CAA and Michigan SIP do not authorize MDEQ to use 2001 and 2002 as the baseline emissions period to determine the net emissions increases for PTI 182-05C.

165. MDEQ acted outside of its authority when it issued PTI No. 182-05C using the 2001 and 2002 baseline emissions period to determine the net emissions increases.

166. MDEQ violated the CAA and Michigan SIP when it issued PTI No. 182-05C using the 2001 and 2002 baseline emissions period to determine the net emissions increases.

167. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C using the 2001 and 2002 baseline emissions period to determine the net emissions increases.

COUNT VIII

(Error to Permit Changes Outside the Scope of PTI No. 182-05B)

168. Appellants restate and incorporate the preceding allegations.

169. Although PTI No. 182-05C is termed an “amendment” to PTI No. 182-05B, it includes emissions increases resulting from changes and errors entirely unrelated to the modifications authorized by the 2007-issued PTI No. 182-05B.

170. PTI No. 182-05C authorizes CO emissions increases at the Basic Oxygen Furnace ESP, which are not the result of process changes at the C-Blast Furnace or installation of the secondary baghouse at the Basic Oxygen Furnace in 2007. Instead, the increased CO emissions from the Basic Oxygen Furnace ESP result from Severstal's failure, until 2009, to recognize that CO emissions were generated during the oxygen blow portion of steelmaking heats.

171. PTI No. 182-05C authorizes Mn (manganese) and Pb (lead) emissions increases at the desulfurization baghouse, which was not modified by the process changes at the C-Blast Furnace or installation of the secondary baghouse at the Basic Oxygen Furnace in 2007. Instead, the increased Mn and Pb emissions from the desulfurization baghouse result from Severstal's refusal, until 2009, to recognize that condensable particulates, with attached metals, were not captured by the system.

172. PTI No. 182-05C retroactively authorizes the installation, in 2007, of six emergency engines, which were independent of the process changes at the C-Blast Furnace or installation of the secondary baghouse at the Basic Oxygen Furnace.

173. By permitting these and other changes through an "amendment" to PTI No. 182-05B, MDEQ failed to apply current CAA and Michigan SIP provisions and standards to these changes:

- a. MDEQ failed to apply current CAA attainment designations, provisions, and regulations to these changes;
- b. MDEQ failed to determine the net emissions increases resulting from these changes; and
- c. MDEQ failed to apply current BACT, LAER, MACT, and T-BACT technologies and standards to these sources of emissions increases.

174. MDEQ violated the CAA and Michigan SIP when it included in PTI No. 182-05C changes not related to or caused by, and outside the scope of modifications authorized by, PTI No. 182-05B.

175. MDEQ acted outside of its authority when it included in PTI No. 182-05C modifications not related to or caused by, and outside the scope of modifications authorized by, PTI No. 182-05B.

176. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it included in PTI No. 182-05C modifications not related to or caused by, and outside the scope of modifications authorized by, PTI No. 182-05B.

COUNT IX

(Error to Raise Emissions Limits above Stack Test Emissions Results)

177. Appellants restate and incorporate the preceding allegations.

178. Severstal's stack testing demonstrates that, when operating at recent historical operating conditions, it meets many of the emissions limits contained in PTI No. 182-05B.

179. Severstal's stack testing demonstrates that, for some emissions sources, when operating at maximum routine operating conditions, it exceeds some of the emissions limits contained in PTI No. 182-05B, by a wide range of margins, from minor to substantial exceedances.

180. MDEQ issued a permit to Severstal that substantially raises the emissions limits for multiple emissions sources, including both emissions sources that operate within the emissions limits in PTI No. 182-05B, and emissions sources that exceed emissions limits in PTI No. 182-05B.

181. MDEQ issued a permit to Severstal that far exceeds its emissions levels during recent historical operating conditions.

182. PTI No. 182-05C would allow Severstal to emit greater amounts of air pollutants than the company has been emitting, based upon its own stack tests.

183. MDEQ violated the CAA and Michigan SIP when it raised Severstal's allowable emissions limits in PTI No. 182-05C to levels in excess of emissions levels achieved during stack testing.

184. MDEQ acted outside of its authority when it raised Severstal's allowable emissions limits in PTI No. 182-05C to levels in excess of emissions levels achieved during stack testing.

185. MDEQ's decision to issue PTI No. 182-05C was arbitrary and capricious and not supported by substantial evidence, when it raised Severstal's allowable emissions limits to levels in excess of those achieved during stack testing.

COUNT X

(Error to include Emissions from the B-Blast Furnace in Netting Analysis)

186. Appellants restate and incorporate the preceding allegations.

187. The B-Blast Furnace has not been operational since January 2008, and has no baghouse to control emissions.

188. MDEQ processed Severstal's application as though the B-Blast Furnace had been, and remained, an operational emissions unit and has a baghouse to control emissions.

189. Because Severstal failed to install the baghouse within 18 months of the issuance of PTI No. 182-05B, Severstal lacks authority to install a baghouse on the B-Blast Furnace.

190. The Michigan SIP prohibits MDEQ from including in a permit the emissions from a process or process equipment that has been physically removed.

191. MDEQ treated the B-Blast Furnace as a substantial source of baseline emissions, though it has not operated in over seven years.

192. MDEQ treated future B-Blast Furnace emissions as though they are controlled by a baghouse, though there is no baghouse, nor lawful authority to install a baghouse, on the B-Blast Furnace.

193. MDEQ allowed Severstal to avoid PSD and NNSR applicability in part by netting or reallocating Severstal's future increased emissions sought in the new application against control efficiencies achieved by a B-Blast Furnace baghouse, which does not exist.

194. MDEQ violated the CAA and Michigan SIP when it included baseline and future emissions from the B-Blast Furnace in the netting analysis for PTI No. 182-05C.

195. MDEQ acted outside of its authority when it included baseline and future emissions from the B-Blast Furnace in the netting analysis for PTI No. 182-05C.

196. MDEQ was arbitrary and capricious when it included baseline and future emissions from the B-Blast Furnace in the netting analysis for PTI No. 182-05C.

COUNT XI

(Error to Include Provisions Related to the Future Operation of the B-Blast Furnace)

197. Appellants restate and incorporate the preceding allegations.

198. PTI No. 182-05B, issued in 2006, authorized Severstal to operate the B-Blast Furnace, and required Severstal to install a baghouse on the B-Blast Furnace.

199. The B-Blast Furnace was physically destroyed and removed from operation following its catastrophic destruction on January 5, 2008, and Severstal never installed a baghouse on the B-Blast Furnace.

200. The Michigan SIP provides that a permit shall become void upon the physical removal of a process or process equipment.

201. The Michigan SIP provides that a permit becomes void if the installation of the equipment has not commenced within 18 months.

202. The CAA requires a facility to obtain a new permit before making any modifications at a source or facility, if the modification will increase existing pollution or result in the emission of any new pollutant.

203. The Michigan SIP requires a facility to obtain a permit before it may “install, construct, reconstruct, relocate, alter, or modify any process or process equipment.”

204. Operating the B-Blast Furnace in the future will require non-routine physical changes that will result in significant emissions increases.

205. Operating the B-Blast Furnace in the future will constitute either operation (start-up) of a new source, or the operation after a major modification, both of which require a new permit issued under then-current PSD and NNSR designations, provisions, and standards.

206. In PTI No. 182-05C, MDEQ did not void the provisions in PTI No. 182-05B applicable to the operation of the B-Blast Furnace, but instead included emissions limits and operating parameters for the B-Blast Furnace.

207. MDEQ did not apply current PSD and NNSR designations, provisions, and standards to the future start-up or major modification of the B-Blast Furnace.

208. MDEQ violated the CAA and Michigan SIP when, rather than void the provisions in PTI No. 182-05B applicable to the B-Blast Furnace, it included operating provisions for the B-Blast Furnace in PTI No. 182-05C.

209. MDEQ acted outside of its authority when it failed to void the provisions in PTI No. 182-05B applicable to the B-Blast Furnace, and included operating provisions for the B-Blast Furnace in PTI No. 182-05C.

210. MDEQ was arbitrary and capricious, and its decision was contrary to substantial evidence, when it failed to void the provisions in PTI No. 182-05B applicable to the B-Blast Furnace, and included operating provisions for the B-Blast Furnace in PTI No. 182-05C.

COUNT XII

(Error to “Re-Allocate” Emissions Between Emissions Sources)

211. Appellants restate and incorporate the preceding allegations.

212. In processing PTI No. 182-05C, MDEQ allowed Severstal to “re-allocate” SO₂ emissions increases from the C-Blast Furnace baghouse against SO₂ emissions reductions from the C-Blast Furnace Stove and the B-Blast Furnace.

213. Severstal has not achieved actual, contemporaneous, or otherwise creditable SO₂ emissions reductions from the C-Blast Furnace Stove or the B-Blast Furnace.

214. As a result of “reallocating” SO₂ emissions increases at the C-Blast Furnace baghouse against SO₂ emissions “reductions” from the C-Blast Furnace Stove and B-Blast Furnace, MDEQ allowed Severstal to avoid application of LAER and other NNSR regulations resulting from SO₂ emissions increases at the C-Blast Furnace baghouse.

215. In processing PTI No. 182-05C, MDEQ allowed Severstal to “re-allocate” mercury emissions increases from the C-Blast Furnace Stove against mercury emissions reductions from the Basic Oxygen Furnace baghouse and ESP.

216. Severstal has not achieved actual, contemporaneous, or otherwise creditable mercury emissions reductions from the Basic Oxygen Furnace baghouse and ESP.

217. As a result of “reallocating” mercury emissions increases at the C-Blast Furnace Stove against mercury emissions from Basic Oxygen Furnace baghouse and ESP, MDEQ allowed Severstal to avoid application of MACT and T-BACT and other toxics regulations resulting from mercury emissions increases at the C-Blast Furnace Stove.

218. MDEQ violated the CAA and Michigan SIP when it “re-allocated” SO₂ and mercury emissions to avoid application of NNSR and MACT/T-BACT in the processing of PTI No. 182-05C.

219. MDEQ acted outside of its authority when it “re-allocated” SO₂ and mercury emissions to avoid application of NNSR and MACT/T-BACT in the processing of in PTI No. 182-05C.

220. MDEQ was arbitrary and capricious, and its decision was contrary to substantial evidence, when it “re-allocated” SO₂ and mercury emissions to avoid application of NNSR and MACT/T-BACT in the processing of PTI No. 182-05C.

COUNT XIII

(Failure to include Enforceable SO₂ Emissions Limit)

221. Appellants restate and incorporate the preceding allegations.

222. In addition to “re-allocating” SO₂ emissions increases from the C-Blast Furnace baghouse against reductions from the C-Blast Furnace Stove and the B-Blast Furnace, MDEQ also imposed a new total combined SO₂ emissions limit for the C-Blast Furnace Stove and baghouse.

223. The total combined SO₂ emissions limit for the C-Blast Furnace Stove and Baghouse (271.4 lb/hr) is less than the sum of SO₂ emissions limits for each the C-Blast Furnace Stove and baghouse combined (373.25 lb/hr).

224. Under the Michigan SIP, when an emission limit does not reflect the maximum emissions of the process equipment operating at full design capacity, then it is not enforceable as a practical matter unless it includes production or operations limit provisions that meet the Michigan SIP regulations.

225. The total combined SO₂ emissions limit in PTI No. 182-05C for the C-Blast Furnace Stove and baghouse does not reflect the maximum emissions of the equipment operating at full design capacity.

226. In PTI No. 182-05C, MDEQ did not include production or operations limits that ensure the total combined SO₂ emissions limit for the C-Blast Furnace Stove and baghouse is enforceable as a practical matter.

227. As a result of capping total combined SO₂ emissions from the C-Blast Furnace Stove and baghouse, MDEQ allowed Severstal to avoid application of NNSR resulting from SO₂ emissions increases (for SO₂ emissions, and SO₂ as a PM_{2.5} precursor) at the C-Blast Furnace baghouse.

228. MDEQ violated the CAA and Michigan SIP when it included in PTI 182-05C a total combined SO₂ emissions limit for the C-Blast Furnace Stove and baghouse that is not enforceable as a practical matter.

229. MDEQ acted outside of its authority when it included in PTI 182-05C a total combined SO₂ emissions limit for the C-Blast Furnace Stove and baghouse that is not enforceable as a practical matter.

230. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it included in PTI 182-05C a total combined SO₂ emissions limit for the C-Blast Furnace Stove and baghouse that is not enforceable as a practical matter.

COUNT XIV

(Error to Make Multiple Other Concessions to Severstal)

231. Appellants restate and incorporate the preceding allegations.

232. In processing PTI No. 182-05C, MDEQ erroneously applied the CAA and Michigan SIP with unwarranted deference towards Severstal, as described throughout this Claim of Appeal, and further including, without limit, as follows:

a. MDEQ changed the permitted operating efficiency of the Basic Oxygen Furnace Baghouse from 95% in PTI No. 182-05B, to 98% in PTI No. 182-05C, without sufficient and proper evidence that the baghouse currently operates, and can continue to operate, at 98% efficiency;

b. MDEQ assumed, without supporting evidence, that air emissions control equipment, including the C-Blast Furnace baghouse, Basic Oxygen Furnace baghouse, and Basic Oxygen Furnace ESP, will operate at least as efficiently at

higher rates of production as Severstal demonstrated during stack testing performed at lower rates of production;

c. MDEQ treated Severstal's Basic Oxygen Furnace as "a grandfathered piece of equipment," with the result that MDEQ did not subject CO emissions increases at the Basic Oxygen Furnace to BACT review and controls;

d. MDEQ concluded, contrary to substantial evidence, that Severstal will operate and maintain emissions control equipment in compliance with all applicable standards and regulations, though Severstal has demonstrated continued failure to operate and maintain equipment in compliance with applicable standards and regulations;

e. MDEQ failed to regulate, or impose emission limitations on, other known pollutants from Severstal, including but not limited to hazardous metals such as nickel and chromium;

f. MDEQ raised emissions limits at the Basic Oxygen Furnace ESP and desulfurization baghouses to reflect continuous operations, rather than the current 20 and 40 minute batch operations, without imposing operational restrictions to require batch processing, which may result in increased (continuous) operations;

g. MDEQ "combined and capped" total annual emissions from the C Blast Furnace with emissions from the shuttered B Blast furnace, allowing Severstal to unlawfully credit emissions reductions from shuttered B Blast Furnace against emissions increases at the C Blast Furnace and "net out" of PSD and NNSR applicability for multiple pollutants; and

h. MDEQ delayed action on Severstal's permit in order to avoid imminent permit denial, delay public notice of Severstal's violations, and give Severstal additional time to refine its proposed "corrected" permit.

233. MDEQ made these and many other concessions to Severstal, despite noticing Severstal for tens of thousands of instances of violations related to the maintenance and operation of its emission control equipment over the preceding five years, and despite requesting the Attorney General join the U.S. Department of Justice in a federal enforcement proceeding against Severstal related to these violations.

234. MDEQ violated the CAA and Michigan SIP when it issued PTI No. 182-05C to Severstal based on multiple erroneous and unsupported assumptions and conclusions.

235. MDEQ acted outside of its authority when it issued PTI No. 182-05C to Severstal based on multiple erroneous and unsupported assumptions and conclusions.

236. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C to Severstal based on multiple erroneous and unsupported assumptions and conclusions.

COUNT XV

(Error to Execute "Extension Agreement")

237. Appellants restate and incorporate the preceding allegations.

238. Prior to October 28, 2013, when Rule 206 was amended, MDEQ was required to act on a permit application within 120 days of receipt of application.

239. Prior to October 28, 2013, when Rule 206 was amended, MDEQ lacked authority to execute any "agreements" extending the period in which to act upon a permit application.

240. Under the Michigan SIP, MDEQ was required to act on Severstal's permit application by August 6, 2012, which was 120 days after the date (April 6, 2012) MDEQ had received all information required under the Michigan rule (Mich Admin R 336.1203) for a new permit.

241. Prior to entering the "Extension Agreement," MDEQ concluded Severstal could not operate in compliance with Michigan air regulations and other provision in Rule 207, and therefore MDEQ was required to deny Severstal's permit application under Rule 207.

242. Denial of Severstal's permit under Rule 207 would have triggered public notice and a public hearing related Severstal's application.

243. On February 1, 2013, the date MDEQ and Severstal executed an "Extension Agreement," MDEQ lacked authority to extend the 120 day deadline to act upon a complete application.

244. The February 1, 2013, "Extension Agreement" purported to extend, by mutual agreement between Severstal and MDEQ, the timeframe from MDEQ to act upon Severstal's application.

245. The result of the "Extension Agreement" was further delay (until February 2014) of notice to the affected public about Severstal's violations and excess emissions, and further time than lawfully permitted for Severstal to convince MDEQ of its entitlement to a new permit.

246. MDEQ violated Michigan rules when it failed to deny, under Rule 207, Severstal's permit application 120 days after it declared the application technically complete.

247. MDEQ acted without authority when it entered an "Extension Agreement" with Severstal, extending the timeframe to act upon a permit application that MDEQ already deemed complete.

248. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when, rather than deny Severstal's permit application, it instead entered an "Extension Agreement" with Severstal.

COUNT XVI

(Failure to Fully Consider the Adverse Social Impacts of PTI No. 182-05C)

249. Appellants restate and incorporate the preceding allegations.

250. MDEQ is required to examine, consider, and address the human health and environmental effects of the issuance of a CAA permit on all communities, including, in particular, minority and low-income "environmental justice" communities who are often disproportionately and adversely affected by air pollution.

251. Even absent increased air emissions resulting from the issuance of PTI No. 182-05C, residents of the South End neighborhood of Dearborn and other neighborhoods of Southwest Detroit (including the infamously polluted 48217 zip code) already suffer with some of the worst air quality in our nation and have been proven to have disproportionately higher rates of asthma and other health concerns, caused in substantial part by poor air quality in these neighborhoods.

252. The emissions increases authorized by PTI No. 182-05C will have a disproportionate adverse impact on the South End neighborhood of Dearborn and other neighborhoods of Southwest Detroit, including, but not limited to, the 48217 zip code.

253. In processing the application for PTI No. 182-05C, MDEQ exercised all opportunities for discretion to favor, accommodate, and credit Severstal, at the expense of increased air emissions and further deteriorating air quality in the South End neighborhood of

Dearborn and other disproportionately affected neighborhoods of Southwest Detroit, including, but not limited to, the 48217 zip code.

254. MDEQ failed to adequately consider the adverse public health, social welfare, and environmental costs and impacts of the emissions increases resulting from PTI No. 182-05C on the South End neighborhood of Dearborn and other disproportionately affected neighborhoods of Southwest Detroit, including, but not limited to, the 48217 zip code.

255. MDEQ failed to adequately consider alternatives that would have resulted in lesser emissions increases than the emissions increases authorized under PTI No. 182-05C, including, without limit, pollution control equipment, reduced operations, and other alternatives.

256. MDEQ violated federal and state law when it issued PTI No. 182-05C and authorized Severstal to increase emissions that will disproportionately impact the South End neighborhood of Dearborn and other neighborhoods of Southwest Detroit, including, but not limited to, the 48217 zip code.

257. MDEQ was arbitrary and capricious, and its decision was not supported by substantial evidence, when it issued PTI No. 182-05C and authorized Severstal to increase emissions that will disproportionately impact the South End neighborhood of Dearborn and other neighborhoods of Southwest Detroit, including, but not limited to, the 48217 zip code.

COUNT XVII

(Due Process: Issuance Inappropriately Impacted by MEDC's involvement)

258. Appellants restate and incorporate the preceding allegations.

259. The members of Appellants' organizations, whose health, property, and well-being are adversely impacted by emissions from Severstal, had a right to a fair permit review process and an impartial decision maker.

260. MDEQ Air Quality Division Chief was the decision-maker on PTI No. 182-05C.

261. The permit review process in this case was subject to inappropriate and undue influence by the MEDC.

262. MEDC's inappropriate and undue influence resulted in MDEQ changing its prior positions on key issues, to the benefit of Severstal and the detriment of the health, property, and well-being of the members of Appellants' organizations.

263. The MDEQ permit decision-maker's comments in the newspaper prior to the public hearing strongly suggested that he had already decided to issue the permit prior to the public hearing and the close of the public comment period.

264. MEDC's inappropriate and undue influence, and the resulting partiality and unfairness of the permit review process and decision, deprived Appellants and their members of their due process rights under the United States and Michigan Constitutions, as well as and their right to fair and just treatment in executive hearings under the Michigan Constitution, and resulted in a decision that was based upon improper procedure and contrary to law.

REQUEST FOR RELIEF

For the reasons stated above, Appellants respectfully request that the Court:

- a. Declare that MDEQ lacks authority to issue the Permit;
- b. Declare that MDEQ's decision to issue the Permit was contrary to law;

- c. Declare that MDEQ's decision to issue the Permit was not based upon a correct evaluation of the applicable control technologies and standards;
- d. Declare that MDEQ's decision to issue the Permit, and the emissions limits set in the Permit, are arbitrary and capricious, and not supported by substantial evidence
- e. Declare the "Extension Agreement" executed between MDEQ and Severstal is unauthorized, void and unlawful;
- f. Declare that MDEQ failed to discharge its obligations with respect to consideration of social costs, public health, and Environmental Justice in issuing the Permit;
- g. Declare that the MDEQ decision to issue the Permit was made in a process that was unfair, unjust, improper, and characterized by the undue influence of Severstal and the Michigan Economic Development Corporation;
- h. Vacate the Permit;
- i. Remand this matter to MDEQ;
- j. Grant Appellants their costs and attorney fees as authorized by law; and
- k. Grant Appellants such other relief as may be required under the circumstances, including all relief that is reasonable, equitable, and just.

Respectfully Submitted:

OLSON, BZDOK & HOWARD, P.C.
Attorneys for Appellant SDEIA

Date: July 10, 2014

/s/ Christopher M. Bzdok

By: _____
Christopher M. Bzdok (P35094)
Emerson Hilton (P76363)

LAW OFFICE OF TRACY JANE ANDREWS, PLLC
Co-Counsel for Appellant SDEIA

Date: July 10, 2014

/s/ Tracy Jane Andrews

By: _____
Tracy Jane Andrews (P67467)

Attorneys for Appellants DWEJ, OUCSD, and
Sierra Club

Date: July 10, 2014

/s/ Nicholas Schroeck

By: _____
Nicholas Schroeck (P70888)
Stephanie Karisny (P76529)

**EXHIBIT LIST TO APPELLANTS' MOTION TO PRESENT
PROOFS OF IRREGULARITY IN PROCEDURE BEFORE THE AGENCY**

EXHIBIT #	DESCRIPTION	14-008887-AA
Ex 1.	Emails dated 06-21-12 and 06-22-12 from MEDC w email dated 6-21-12 from Amy Banninga to Susan Holben	FILED IN MY OFFICE WAYNE COUNTY CLERK 7/10/2014 1:55:58 PM CATHY M. GARRETT
Ex 2.	Emails dated 06-22-12 through 06-25-12 from Amy Banninga to MEDC	
Ex 3.	Email dated 06-25-12 through 06-28-12 from Steven H. Hilfinger to MEDC	
Ex 4.	Severstal talking points	
Ex 5.	Letter dated 07-03-12 from G. Vinson Hellwig, DEQ, Air Quality Division, to James E. Earl, Severstal Dearborn, Inc.	
Ex 6.	Email dated 07-02-12 to Michael Finney, MEDC from Severstal	
Ex 7.	Banninga meeting notes dated 07-05-12	
Ex 8.	Palamara meeting or phone notes dated 07-05-12	
Ex 9.	Email dated 07-06-12 from Scott Dismukes to Amy Banninga	
Ex 10.	Banninga meeting notes dated 07-12-12	
Ex 11.	Letter dated 07-13-12 from James E. Earl, Severstal to Jim J. Sygo and G. Vinson Hellwig, DEQ, Air Quality Division	
Ex 12.	Banninga phone notes dated 07-18-12 with Scott Dismukes and David Rockman	
Ex 13.	Banninga phone notes dated 07-18-12 with Jim Sygo	
Ex 14.	Banninga phone notes dated 08-14-12 with Scott Dismukes and David Rockman	
Ex 15.	Banninga meeting notes dated 08-21-12 with Severstal	

- Ex 16. Email dated 08-20-12 from Amy Banninga to Scott Dismukes and David Rockman
- Ex 17. Banninga meeting notes, agenda, task list dated 08-22-12
- Ex 18. Emails dated 09-10-14 and 09-11-12 to/from Amy Banninga and Scott Dismukes
- Ex 19. Letter dated 09-12-12 from M. Szymanski (Severstal) and J. Earl (Severstal) to J. Sygo (MDEQ) and V. Hellwig (MDEQ).
- Ex 20. DEQ table dated 09-12-12
- Ex 21. 09-14-12 MEDC meeting notes, agenda, permit history
- Ex 22. Email dated 01-23-13 through 01-25-13 from Amy Banninga to DEQ
- Ex 23. Email dated 05-17-14 from Michael Finney to Governor Snyder
- Ex 24. Email dated 02-19-14 from Amy Banninga to MEDC
- Ex 25. Detroit Free Press Article dated 03-11-14

Koster, Katherine (DEQ)

From: Fiedler, Lynn (DEQ)
Sent: Friday, June 22, 2012 3:22 PM
To: Seidel, Teresa (DEQ); Mitchell, Mark (DEQ); Lamb, Jonathan (DEQ); McLemore, Wilhemina (DEQ); Koster, Katherine (DEQ)
Subject: FW: Severstal Dearborn
Attachments: image001.jpg; image002.png

Here's the email from MEDC that I responded to. I'll send that one to you also.

From: Susan Holben [holbens@michigan.org]
Sent: Friday, June 22, 2012 2:18 PM
To: Dolehanty, Mary Ann (DEQ)
Subject: FW: Severstal Dearborn

Can I get a summary on an application from Severstal Steel? Thanks a bunch!

From: Amy Banninga
Sent: Thursday, June 21, 2012 4:50 PM
To: Susan Holben
Subject: Severstal Dearborn

Susan—

Mike Finney and Governor Snyder attended a grand opening event at Severstal today, While he was there, Mike spoke with Sergei (I think local plant manager) who expressed some concerns on the air permitting process. We may not have all this exactly right, but this is what I took down:

- Severstal thinks DEQ may get EPA involved, and doesn't think that should be. They think they should be grandfathered (sounds similar to Guardian).
- This involvement will add cost and time
- Can DEQ do anything to help them make this more efficient?

Can you kick the tires over at DEQ to see where this stands? We need to know what the issue is, and have a reasonable response for the company. If there is something the DEQ can do to help the company comply, etc. we can help connect the players. We can get contact details from Mike if it gets to that point. At this point, we just need a better understanding of where things stand so we can communicate with the company.

Let me know if you have any qs and thanks for your help!

Amy Banninga
State Business Ombudsman
Michigan Economic Development Corporation
300 N. Washington Square | Lansing, MI 48913
Office: 517.241.2092 | Mobile: 989.292.0197 Mail to: banningaa1@michigan.org<<mailto:banningaa1@michigan.org>>
<http://www.michigan.org>
<http://www.michiganadvantage.org>



[cid:image001.jpg@01CD4FCD.B6923EA0]

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[cid:image002.png@01CD4FCD.B6923EA0]<http://www.facebook.com/PureMichigan.org>http://www.facebook.com/PureMichigan.org

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Jerome Katz

From: Amy Banninga
Sent: Monday, June 25, 2012 10:57 AM
To: Jerome Katz
Cc: Larry Gomezano; Valerie Hoag; Susan Holben
Subject: FW: Severstal Environmental & Federal Loans
Attachments: RE: Severstal Follow-up; Severstal article; Severstal NOV_FOV6_15_12.pdf

Jerome—

I understand that you will be meeting with Severstal to check in and see how we can assist with their next expansion. Val asked me to share some background to help you prepare. Couple of things:

Environmental

- At Mike and Governor Snyder's visit to Severstal, Mike was asked if we could do anything to help with their environmental issues. They seemed to think that DEQ is unnecessarily involving EPA. The information below and attached paints a different picture.
- The ombudsman office cannot get involved once they are at this stage. From the tone of the emails, it sounds like DEQ has worked to help them be in compliance. I would encourage Severstal to continue to engage with DEQ staff and ask for their help in developing creative approaches that meet legal requirements.

Federal ATVM Loan

- News accounts report that Severstal has reapplied for a federal loan. They are asking for a \$320-million loan to produce lighter and stronger steel for automakers and suppliers, after their \$730-million loan request was rejected by DOE after the House Oversight Committee raised questions. VP Thomas Marchak said the company was encouraged to reapply by Michigan legislators.
- DOE is encouraging investment in lightweight steel for the auto industry, but warned that the government is not interested in subsidizing projects that companies can do on their own.
- There are still more problems with this program. Fisker received one of the early ATVM loan awards. Fisker laid off 66 employees as it was running out of the \$193 million of the loan that DOE had already disbursed. The remainder of the loan was frozen in May 2011 because "Fisker has experienced some delays in its sales and production schedule." They are reportedly planning to cancel the manufacture of vehicles in the United States.
- Because of this scrutiny and potential for scandals, I don't think there will be any real decision making prior to the presidential election, but if they want assistance with this process, I think they should continue to engage delegation members. After the election, we can revisit this.

Hope this helps. Let me know if you want to discuss.

Amy

From: Susan Holben
Sent: Friday, June 22, 2012 3:29 PM
To: Amy Banninga
Subject: FW: Severstal

Severstal is clearly deep into the enforcement process and DEQ and with USEPA. We should not get involved. The attached documents provide some detail on the ongoing air quality violations.

From: Fiedler, Lynn (DEQ) [mailto:FIEDLERL@michigan.gov]
Sent: Friday, June 22, 2012 3:15 PM
To: Susan Holben



Cc: Hess, Tom (DEQ); Seidel, Teresa (DEQ); Dolehanty, Mary Ann (DEQ); Hellwig, Vince (DEQ)
Subject: Severstal

Hi Susan,

Our District staff has been working with this for several years to resolve ongoing violations and it has been in escalated enforcement for 2 years. We have been working on a revised permit for the facility and had gotten to the point of final draft conditions when the facility provided stack test data showing their manganese emissions at 3 times their current permit limit. Manganese levels in the area are elevated and are of concern.

There are three attachments to this email. The first two are recent emails from our district staff person, Jon Lamb, which include information regarding the most recent violations as well as pictures of the facility. I am unable to send you the video he references as it is too large for the email system. It is our understanding that the furnace was not operating the day of the Governor's visit.

The third item is the Notice of Violation that EPA has recently sent to the facility. There has been an EPA focus on steel mills.

I hope this information is helpful to you. Please contact me if you have any questions.

Lynn Fiedler
Assistant Division Chief
Air Quality Division
Department of Environmental Quality
517.373.7087

Amy Banninga

From: Valerie Hoag
Sent: Thursday, June 28, 2012 7:58 AM
To: Penny Launstein; Larry Gormezano
Cc: Amy Banninga
Subject: FW: contact details
Attachments: DISCUSSION POINTS FOR MDEQ COOPERATION (J1661133)ms1 (3).docx

Let's talk about how to handle this.

From: Amy Banninga
Sent: Tuesday, June 26, 2012 1:07 PM
To: Valerie Hoag
Subject: FW: contact details

More on Severstal. Are you or Larry going to follow up with Jerome? I didn't know how to respond to him.

From: Jennifer Nelson
Sent: Tuesday, June 26, 2012 9:41 AM
To: Amy Banninga
Subject: FW: contact details

fyi

From: Hilfinger, Steven (LARA) [<mailto:HilfingerS@michigan.gov>]
Sent: Tuesday, June 26, 2012 9:39 AM
To: Roberts, John (GOV); Jennifer Nelson
Subject: FW: contact details

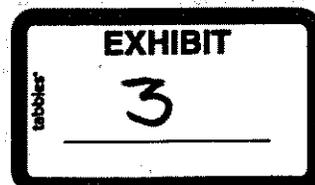
Just FYI. I know Sergei through our sons who go to school together. I am sure you already have this and MEDC/MDEQ are following up, but just in case.

Steven H. Hilfinger
Chief Regulatory Officer
Director, Michigan Department of Licensing and Regulatory Affairs
Phone: (517) 373-6334
Fax: (517) 373-2129
hilfingers@michigan.gov
www.michigan.gov/lara



From: Kuznetsov, Sergei [<mailto:Sergei.Kuznetsov@severstalna.com>]
Sent: Monday, June 25, 2012 6:20 PM
To: Hilfinger, Steven (LARA)
Subject: contact details

Hello Steve – I hope you are doing well.



Sorry it took me some time to write you a note. We have had a busy couple of week that consumed a lot of my attention. Below are my details. My cell phone is 313-655-8401

On Thursday we briefly talked about our C blast furnace air permit issue with the Governor and Mike Finney. I can send you a one page on it – we would welcome any help to get the issue back to the state so we can finalize the permit. Please kindly let me know.

Best regards,

Sergei



Sergei A. Kuznetsov
Chief Executive Officer

Severstal North America
14661 Rotunda Drive
PO Box 1699
Dearborn, MI 48120-1699

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F: (313) 583-0273
Sergei.Kuznetsov@severstalna.com
www.severstalna.com

Achieve more together.

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From the Company

Severstal North America / Talking Points

Environmental Permitting, Enforcement and Economic Development

- Environmental Permitting to authorize a \$1 billion investment to rebuild a large manufacturing facility is a very complex process.
- Initially, Severstal and the State of Michigan Department of Environmental Quality ("MDEQ") appeared to work very cooperatively on these environmental permits and any associated enforcement actions.
- Severstal understood that this was a component of a coordinated economic development program.
- Recent events suggest that the MDEQ has turned over associated state lead enforcement issues to the federal government.
- We understand that permit approvals and any associated compliance issues are, in the first instance, MDEQ lead items.
- ~~We have been informed by the MDEQ that earlier this year they referred the associated compliance issues to the federal government (U.S. EPA).~~
- This referral has significant impact on the timing of any approvals. Based on recent MDEQ comments, it is likely MDEQ will deny Severstal's corrected permit while EPA addresses enforcement. This could lead to imposition of additional regulatory requirements due to the passage of time. Those additional regulatory requirements are likely to result in reduced operating levels from those planned and originally permitted by MDEQ, which would lead to significantly increased operating costs; reduction in a number of jobs; and adverse effects on local revenue.
- Severstal has been and continues to be committed to work cooperatively with the State of Michigan on economic development and understands its obligation to do so in compliance with environmental law.
- CONCERN: Does the State of Michigan have a full commitment to coordinated economic development for the Dearborn area?
- REQUEST:
 - 1) The State of Michigan fully coordinate its economic development activities for the expansion of this facility (including the issuance of a corrected Furnace permit as soon as possible), and
 - 2) The State of Michigan vigorously work to pull back, to State jurisdiction, all State lead items.



DEQ - operates under federal enforcement guidelines - which requires federal



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

July 3, 2012

CERTIFIED MAIL

Mr. James E. Earl, Manager of Environmental Engineering
Severstal Dearborn, Inc.
14861 Rotunda Drive
Dearborn, Michigan 48120

Dear Mr. Earl:

This letter is in reference to your application for a Permit to Install (PTI), No. 182-05C, for the modification of the current allowed emission rates from the B and C Blast Furnace Operations and other associated equipment; an increase in the stack height for the C Blast Furnace baghouse; and the addition of low NOx control for the B stoves. The facility is located at 4001 Miller Road, Dearborn, Michigan. The application was submitted on December 15, 2010, to resolve on-going alleged violations of PTI No. 182-05B with regard to particulate, carbon monoxide, volatile organic compounds, sulfur dioxide, lead, manganese, and mercury emissions.

As you are aware, review of this application has been on-going. In May 2012, it appeared all outstanding issues were resolved and that agreement would soon be reached on the final draft permit conditions. This would have allowed the Air Quality Division (AQD) to begin the public participation process for the application in late June or early July 2012.

However, that tentative schedule was thwarted on May 29, 2012, when Severstal informed the AQD of measured exceedances of your current manganese emission limit from the basic oxygen furnace (BOF) electrostatic precipitator (ESP) stack. Manganese is defined as a toxic air contaminant (TAC) under Michigan Air Pollution Control Rule R 336.1120(f). Ambient air monitoring data from the nearby communities has shown elevated levels of manganese. As manganese is a pollutant of concern, simply increasing your allowed emission rates is not an acceptable solution to your recent exceedance.

In addition to your measured manganese exceedance, the AQD has recently observed several opacity violations from the BOF ESP stack. The AQD has sent Severstal four separate letters of violation dated March 28, 2012, May 1, 2012, May 10, 2012, and May 16, 2012, concerning these opacity violations.

In response to both the manganese and opacity exceedances, the AQD met with Severstal on June 5, 2012, to discuss possible resolutions. During that meeting, the AQD requested that Severstal provide an acceptable compliance plan by June 19, 2012. The AQD did receive a submittal on June 19, 2012, as well as a subsequent manganese dispersion modeling submittal on June 22, 2012 and a testing plan on June 29, 2012.

The AQD's review of your submittals reveals the following:

1. Severstal's proposed compliance plan is unacceptable because it only proposes evaluation of the situation with no actual corrective action measures. It also provides little detail as to how data collected in the evaluations will be used going forward.

2. Severstal failed to provide the actual manganese stack test results and testing details. This information is needed because without review of this information, the validity of the results is questionable.
3. Severstal did not provide any information demonstrating the ability of the existing ESP to provide adequate control of the BOF and meet the opacity requirements. In addition, information regarding potential improvements to the existing ESP was not provided. Further, Severstal did not propose any other methods for resolving the opacity exceedances.
4. Severstal failed to provide an adequate evaluation of all available control strategies as a means to meet the current manganese emission limits. Additional types of control are available as a way of reducing both the manganese and visible emissions.
5. Severstal's modeling submittal contains numerous discrepancies between the emission rates modeled, the requested permit limits and the actual stack test results. The following examples were identified by AQD after a cursory review:
 - The B blast furnace stoves were modeled at 0.00492 pound per hour (pph) while Severstal has requested a permit limit of 0.0050 pph.
 - The BOF ESP stack was modeled in June 2012 at 0.0084 pph which is inconsistent with the February 2012 modeled value of 0.0030 pph, the November 2008 stack test value of 0.0064 pph, and the April 2012 stack test value of 0.0064 pph.
 - The BOF Secondary Emissions Baghouse stack was modeled in June 2012 at 0.00827 pph which is inconsistent with the November 2008 stack test value of 0.0020 pph, the April 2012 stack test value of 0.028 pph, and the requested permit limit of 0.070 pph.
 - The Hot Metal Desulfurization Baghouse has discrepancies in the stack parameters. Previous modeling lists the stack height for this source at 11.28 meters with an exit velocity of 0.05 meter per second (m/s). The recent modeling submittal lists the same source with a stack height of 12.34 meters and an exit velocity of 20.1195 m/s.

The modeled values must reflect the emissions being requested in the application and must be based on the best available data, which is typically a stack test. These discrepancies have not been explained in the recent modeling submittal.

6. The exceedance of the both the manganese and opacity limits places the proposed particulate matter (PM, PM10, and PM2.5) emission limits from the BOF ESP stack in question. This in turn places the validity of the particulate matter emissions net-out demonstration completed as part of the permit application in doubt. If the facility is unable to provide a valid net-out demonstration, Severstal's proposal is subject to the Prevention of Significant Deterioration (PSD) regulations for PM and PM10 and Nonattainment New Source Review (including LAER and offsets) for PM2.5. This matter must be addressed.
7. Severstal's proposed testing timelines are outside of the norm. The AQD procedures specify 30 days to do a complete and comprehensive review of a test protocol. For your first set of testing, Severstal is requesting that the AQD complete the protocol review in only 10 days. For your second set of testing, Severstal is requesting that the AQD complete the protocol review in as little as 7 days once that protocol is submitted by July 9,

July 3, 2012

2012. The AQD will work with Severstal to meet your requested timeliness, however, given the complexity of the proposed testing may prevent the AQD from meeting your requests.

Michigan Air Pollution Control Rule R 331.1207 (Rule 207) states that "the Department shall deny an application" if the equipment for which the equipment is sought will "not operate in compliance with the rules of the Department"; will "interfere with the attainment of air quality standards" and/or will violate the "requirements of prevention of significant deterioration of air quality". Given Rule 207 and the issues outlined above, the AQD cannot approve application No. 182-05C as it stands and, therefore, cannot begin the public participation process on a draft permit approval.

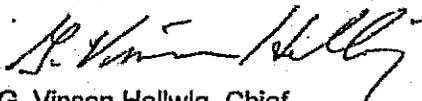
As resolution to the issues outlined above will require considerable time, the AQD requests that Severstal withdraw application No. 182-05C and submit a new application when all of the required items are properly and completely addressed. If AQD does not receive a request to withdraw the application by July 13, 2012, we will begin the process to deny the application which includes a public comment period and a public hearing, if requested.

Please note that Rule 207(2) of Act 451 states that: "When an application is denied, the applicant shall be notified in writing of the reasons therefore. A denial shall be without prejudice to the applicant's right to a hearing pursuant to Section 5508(8) of the Act or for filing a further application after revisions are made to meet objections specified as reasons for the denial."

You should be aware that Permit to Install No. 182-05B issued on April 19, 2007, remains in effect. Severstal continues to be subject to all conditions of PTI No. 182-05B as well as all applicable state requirements per Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and rules promulgated thereunder, and the federal Clean Air Act.

Please contact Ms. Mary Ann Dolehanty, at 517-373-2098, if you have any questions concerning this matter.

Sincerely,



G. Vinson Hellwig, Chief
Air Quality Division
517-373-7069

cc: Ms. Lori Myott, NTH Consultants
Mr. Scott Dismukes, Esq.
Mr. Jim Sygo, Deputy Director, DEQ
Ms. Mary Ann Dolehanty, DEQ
Ms. Teresa Siedel, DEQ
Ms. Wilhemina McLemore, DEQ
Mr. Thomas Hess, DEQ

Melissa Dansereau

From: Joe Palamara <jpalamara@karoubassociates.com>
Sent: Monday, July 2, 2012 11:29 AM
To: Michael Finney
Subject: Re: SEVERSTAL---MDDQ Permitting Issue

Follow Up Flag: Flag for follow up
Flag Status: Completed

Hi Michael -

Severstal NA Executive Vice President Marty Szymanski will be joining us for this Thursday's (July 5) 3:30 - 5:00 p.m. meeting as well. Thank you and see you Thursday afternoon.

Joe Palamara

From: "Michael Finney" <michael@michigan.org>
To: "jpalamara@karoubassociates.com" <jpalamara@karoubassociates.com>, "Amy Banninga" <banningaa1@michigan.org>, "Jerome Katz" <katzj@michigan.org>
Sent: Friday, June 29, 2012 12:27:40 PM
Subject: SEVERSTAL---MDDQ Permitting Issue

MEDC Lansing
300 N. Washington Square
Lansing, MI 48933

Parking is available at meters in front of the building or in the lot across the street.

This is a follow up to Mike Finney and the Governor's meeting with Severstal last week, they are looking forward to meeting with you again to discuss the MDDQ Permitting Issue

Severstal North America Attendees:

- Joe Palamara
- Jim Earl
- David Rockman
- Scott Dismukes



Severstal

7/5/12

Joe Pala

DEQ

- Operates under federal enforcement guidelines which require notification of enforcement & other actions such as permitting
- 270 days to resolve, then EPA

Martin

Jim

Scott

Dave

EPA

- Focus on steel mills
- Complaints from env justice areas

Enforcement Action on Easting

- Compliance plan

Process/Project Plan
 - Commitments/ Milestones/ Mutual Assurances/ Points
 - Time line Mutual Commitment to getting this done
 - Address successful results
 - Manage of a Plan to get on compliance
 - ESP
 - Severstal needs to provide evidence of progress to get DEQ to
 - delay denial BUT - still have EPA issue

New Permits

- Need corrected permit for C Furnace

Call w/ Jim Sygo today



5/12
response
new
seems to
have led
DEQ's
course

2005 permitting began I thought they
2008 need for mods ided based on oper
until 6/3/12 collaborative

State seems to have referred to EPA
at this point after inferring they would
hold

DEQ → EPA in Feb - ~~EPA~~ Severstal
learned this in June

Have
not yet
talked w/
Dan

Instead of continuing collab on permit
correction - denial & enforcement

DEQ has
no comment to
hold permit

Federal

State

Jim had
committed to
this

Capacity Enforcement

Permit Revisions &
Enforcement of
for Rebuild of C even

Extension
possibly
enough -
enough
add'l
questions
add time

7/13 letter DEQ → Severstal - withdraw or
DEQ will deny by 7/13

Mtg next Thurs - Jim & Vince

GET EMAIL FROM JOE PALOMBA

7/5/12

PER MANSON - COST MATHS W/ DEG - ENVIRONMENTAL C/C # TRACK KNEE ON TRACK TO RESOLVE ISSUE

BELOW 2005 - 2007 COST PERMITTING PROCESS

2008 - 2009 COST 70% GREATER DATA THAN ANTICIPATED BEFORE PERMIT WAS BUILT

CURRENT - DEG SAID THEY WOULD ASSUME ENVIRONMENT & PERMIT ISSUE. THESEY DEG DEFERRED ENVIRONMENT TO EPA.

ISSUES WERE REPORTED TO EPA BY DEG - MARCH, 2012
SERIOUS PROBLEM AT 6/1/12

DEG SENT SERIOUS PROBLEM DENIAL 7/3/12
NEED PERMIT ^{REVISION} ~~REVISION~~ & APPROVED

THEY WANT STATE PERMIT TERM HERE DEFERRED TO EPA

OPERATION = FEDERAL

PERMITTING = STATE DECISION

THEY NEED NEW PERMIT

} DENIAL OF PERMIT (7/3/12) NOT THE SAME AS STATE DEG - 14 DECISION PERMIT

THEY WANT TO HAVE SIGN

7/11/12 DEG
JIM SHAW @ DEG RE 7/3/12

NEED RE ~~PERMIT~~ PERMIT REVISION BASED ON NEW DATA & AGREEMENT W/ DEG

PERMIT WORK - ON US DECISION

THEY WANT STATE TO HAVE PERMIT SO SERIOUS CAN WORK THROUGH WITH DEG TO ULTIMATE COST PERMIT.

OTHER STAFF CAS. HAVE SIMILAR ISSUES & THEY CAN REPAIR

ENFORCEMENT OF PERMITS - SAME AREA OF PLANT.

~~ELECTRICIAN~~
~~MECHANIC~~

MIKE & AMY - SUBJECT TO DEGR. IFA - SEV. WILL HAVE
COMMITTEE TO DO CERTAIN TASKS, REPAIR WORK NEEDED TO
ACCOMPLISH MILESTONES.

AMY WILL CONTACT - JIM SICO

MIKE WILL ^{CONTACT} A BOB WRIGHT

Amy Banninga

From: SDismukes@eckertseamans.com
Sent: Friday, July 6, 2012 10:16 AM
To: Amy Banninga
Cc: Michael Finney; Jerome Katz; jpalamara@karoubassociates.com; jearl@severstalna.com; mszymans@severstalna.com; DRockman@eckertseamans.com
Subject: Severstal: Thank you and follow up information
Attachments: 182-05CSeverstal.pdf; severstalplan02_10_12.pdf; severstalactionplan.PDF; DOC.PDF

Amy et al: We thank you for your time yesterday, for your attention and your offer to act as an impartial facilitator in working to keep Severstal's permitting effort moving forward with the MDEQ. As discussed, attached below for some background information are Severstal's February 10th letter, Severstal's June 19th action plan, Hellwig's July 3d permit application withdrawal/denial letter and U.S. EPA's recent NOV covering opacity and fallout issues. As to the Federal NOV we note that they could proceed to include permitting issues in any federal enforcement action without the need to include them in the NOV. We also note that the absence of the permit issues in the NOV, does provide the MDEQ with a basis to retain any associated permit enforcement issues if they wanted to. Please keep us apprised of your efforts and if you need any additional information or conversation please call. Regards

Feb 10 letter to MDEQ
6/19 Severstal Action Plan

7/3 letter from Hellwing suggesting permit withdrawal/permit denial

U.S. EPA NOV

Scott R. Dismukes
Eckert Seamans Cherin & Mellott, LLC
U. S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219-2788
Telephone: 412.566.1998
Fax: 412.566.6099
Cell: 412.417.1279
e-mail: sdismukes@eckertseamans.com

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Severstal

7/12/12

Scott D
Tim E
Marty S
David

Opacity TRK Report 10 ideas
Manganese

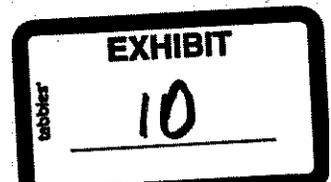
- Opacity - Maint a Modernizing
- Add 7 measures beyond TRK Maint
 - Gas conditioning
 - Optimize load & flow balance
 - mid-Sept
 - More electronic controls
 - purchasing time mid-Oct
 - 16 heat compliance tests

Jim Sygo
Vince Howard

Amy

- Manganese - must be in compliance by permit
- Voluntary release of data - ^{NICE} data
 - DEQ viewed as noncompliance
 - Co. 15 eval data - ^{concern - not} sure if represent
 - Adding monitors - Retesting
 - Final report
 - Retesting using permit approved method - test results in question - a different method
 - Severstal is prepared to address when data is avail

Avail Technology
lime injection on ESP
Baghouse



Enforcement Issues

- Disagree w/ netting & PSD
- Emissions not captured

98% in permit

EPA can take over on enforcement

after 210 days (primacy)

Modeling

- IER modeling - not formal - meant to demonstrate no fence problems

ESP - Issues

- 8 chambers 6/28 discovered stuck control - has replaced

Wagners - maint proced not followed

last 2 ready for compliance
6 8hr tests

- They do have an O&M plan, it was not being followed

Permit Withdrawal

- extension to

Can DEQ take permit offline?

Will try to finalize by end of Oct - if EPA allows it.

EPA - federal NOV need June / opacity & fallout
- will not let DEQ handle

Next Steps

Co

Schedule on Capacity

Manganese testing - early Aug? ^{wk of} 8/1

Get back in compliance

Review possible controls -
evaluate & contingency plan

DEQ

Will not deny permit

Vince consult staff
on permit offline (early next week)

Info on possible controls

Meet again in August ^{to eval} _{wk of 8/20} ^{Sched}

Rush to get back in compliance
so in compliance b4 EPA takes
action

Withdrawn - resets clock
and makes them subject to
subsequently added
regulations (they know there
will be issues)



July 13, 2012

Via Email

Jim J. Sygo, Deputy Director
G. Vinson Hellwig, Chief, Air Quality Division
Constitution Hall
525 West Allegan Street
PO Box 30473
Lansing, MI 48909

Subject: Severstal Dearborn, LLC

Dear Mr. Sygo and Mr. Hellwig:

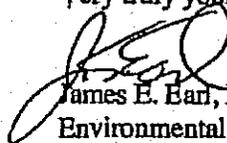
Thank you again for making the time to meet with us yesterday concerning the permitting and compliance issues at Severstal Dearborn, LLC. We appreciate the opportunity to speak with you directly on these very important issues.

As promised, we will be providing a firm schedule for the maintenance, repairs and optimization work discussed yesterday for our Basic Oxygen Furnace Electrostatic Precipitator. We are collecting commitments from vendors and suppliers and will provide that schedule by the end of next week, along with restating our commitment to an opacity demonstration test and anticipated dates for receipt of the stack test reports from the manganese stack testing being conducted this week and next.

We appreciate DEQ's commitment not to further seek withdrawal of the permit application at this time or to yet begin any process to deny the application, pending your discussions with DEQ's air permitting staff. We look forward to hearing the results of those discussions, and continue to hope that those discussions will concur with holding the permit application (i.e. taking it "off-line" as you described) pending Severstal's ongoing work to address DEQ's compliance concerns.

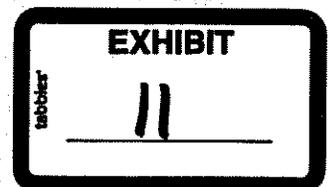
In accordance with Ms. Banninga's suggestion, we look forward to the opportunity for a follow-up meeting on these issues the week of August 20. Please let us know when you would like to schedule that meeting. Of course, please contact me with any questions or concerns over the interim, and we appreciate your willingness to allow us to similarly contact you.

Very truly yours,


James E. Earl, Manager
Environmental Engineering

Severstal Dearborn, LLC
14661 Rotunda Drive
P.O. Box 1699
Dearborn, MI 48120-1699

T: (313) 845-3217
F: (313) 337-9375
E: jim.earl@severstalna.com
www.severstalna.com



Severstal

11/12/12

Scott Drumhues, David

8:20 AM

Friday letter to Vince ~~on~~ on sched

- Most work done by beg of Oct
- Electronic Controls + 2 who none Procurement
- Demonstration project 1st wk of Nov
- Will ask for extension if add'l problems found
- Public & Notice & Comment 2013
- * 7/31 Meetg w/ EPA

Vince doesn't think he can take it offline - doesn't apply unless new app - tried to convince them their concerns were not warranted (no new regs)

EPA/DEQ - 270 days per MOU - policy, not legal requirement - why not leave it open? Scott says they were told

Since Dec 2010 - 14-15 data requests from state



Is it uncomfortable / want / need
or an obligation for 270 days
resolution

Consent Decree - state in combo w/
permit - ~~to~~ they will agree but

Why can't they hold permit off line
- What is states oblg
- Will we deny

Opacity concerns - when they referred
to ~~the~~ EPA in Feb - why did they
refer to EPA - timing is suspect

Was this used to slow down permit
process?

~~Clarify w/ DEP~~

Deny? Or let this continue
- Why not @ off line / 270 days ^{statute /} _{policy}
- How long will they continue

- Where are they needed for the State?
Clear Air Act gives

location
Info progress
no backtracking

EPA auth to take
over after 270

Jim Sygo

- Vince staff upset - Jim met w/ them - to reassure District staff

- Jim's Commitment to Staff

- Timely manner and response

- Straight communication

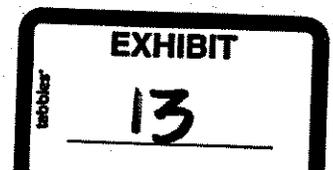
Specific actions & due dates by end of October

- Does not agree w/ Scott that withdraw the permit subjects then to add'l regs

	<u>Severstal</u>	<u>DEQ</u>
Sulfur Dioxide	Says they would be subject to reapply	

Sulfur Particulate

DEQ thinks they are grandfathered permanently
- if their netting assumptions can be achieved
- PSD



Time will call to discuss conditions
for moving forward

Timeliness - verbal commitments to
Hold to timeliness \rightarrow writing

Scott
David

Severstal

8/14/12

Stacks

Maintenance Projects

- Added 2nd Shift to help keep w/ sched
- Confident this will fix opacity

Boop / Opacity Issue

- Hatch to evaluate BOF operations and raw material inputs (Manganese Content)

Ince
Line
Model

Ambient Air - ^{MG Air Monitors} - is this of the same priority?
 ✓ Stack

Ambient

Stack Tests

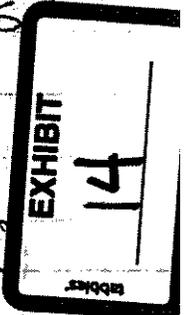
- Prelim - data in - need analysis
- Electrostatic Precipitator Stack
- Ladle Refining Furnace
- Hope that repairs will put them in compliance - but won't know until done & next test November

Communication

- ! - What will DEQ do w/ latest MG results?
- Weekly updates / conversations

Manganese - DEQ Lime solution Injection

- ? DEQ needs to demonstrate / build case
- ? Educate on why permit denial / withdrawal not a problem



Journal

8/21/12

Marty S
Jim Earl

2009 Original Permit

- Once issued
- Stack testing - unable to comply
- Mutual mistakes in development in limits of ESP will use DEQS mistakes in public hearing if denied
- Correcting the permit - that is their goal they cannot operate & comply

Scott D
David R

Joe P

Separate

- Opacity - problems began in 4/2012

EPA

Baghouse - is there an industry manganese related pot?
 - was this a credible suggestion?
 - Mercury & HCL - not Manganese

- ? - Why 120 days enforcement? Why? Discretion
- ? - What is lost in withdrawing permit? Correction

Inconsistency of Results - ^{Pb} particularly most recent
 Errors in original permit

EPA - Adverse public notice

DEQs role in delaying permit process

Communication (Review Several letter outlining

- Timing of Reports
 - Content of Report $\left\{ \begin{array}{l} \text{In} \\ \text{Not} \end{array} \right.$
 - Follow up conversations
 - Beef up letter
 - Clarity, continuity
 - Commitment to response - deadlines
- ② Establish terms of our agreement + goals
- reassessment point
- justify for continuity decision

Agenda ① ? Stack test results - letter 8/20
(update on Several progress & Discovery)

- Permit Corrections Process (Assessment of current process)

D&Q Denial

Several Counter

③ Communications

Demonstrate they are on a path to success - or ~~why~~ how ~~can~~ they justify ^{use of} discretion

④ Goals (Opacity Yes
Manganese)
Lead) will comply - or will be part of corrective process for permit

will have data & consistent process

1500+ employees

Amy Banninga

From: SDismukes@eckertseamans.com
Sent: Tuesday, August 21, 2012 11:40 AM
To: Amy Banninga
Subject: Re: Severstal Meeting and Follow Up from Our Discussion

Amy. We are hoping you have availability for a telephone conversation this afternoon to further our discussion and prepare for tomorrow's meeting. Please let me know if, and when you are available for a call

From: Amy Banninga [banninga1@michigan.org]
Sent: 08/20/2012 01:48 PM AST
To: Scott Dismukes; David Rockman
Subject: Severstal Meeting and Follow Up from Our Discussion

Scott and David—

I have had several conversations with DEQ as follow up to our discussion, and I think it's time for a change in direction. We all recognize that there are significant issues, but the statistics tell the story. Since July 23, 2010, there have been:

- 117 citizen complaints alleging fallout and opacity from various processes at the facility
- 76 on-site visits in addition to the routine surveillance conducted in the area, and
- Over 20 Violation Notices sent to the company.

The most recent notice of violation was issued August 14, in response to a complaint from residents concerning opacity of emissions. The majority of the complaints have come from Detroit's 48127 zip code, which is considered by EPA as an Environmental Justice area.

Before we talk about the major issues, I want to make sure that we all realize that Severstal has the authority to continue operations under their current permit, and the permits related to the expansion of facilities have recently been issued. Continuing operations are not impacted at this point.

As you know, DEQ asked EPA to keep enforcement authority with the state, but their request was denied. Based on DEQ's experience and conversations with EPA, they believe that EPA will take enforcement action in the near future. DEQ cannot issue a new permit until Severstal is able to work out a compliance plan with EPA. The action plan that Severstal has developed to address deferred maintenance and system upgrades should demonstrate progress and commitment and potentially achieve current permit limits. I recommend that Severstal concentrate on these technical items, as they may make it possible for them to avoid more expensive measures that could be prescribed through the EPA enforcement action. EPA is signaling a willingness to work cooperatively with Severstal, and Severstal's focus on improvement should contribute to a more cooperative (and shorter) enforcement process.

DEQ has worked cooperatively with the company through the re-permitting process, and remains committed to helping Severstal be a successful and environmentally sound operation. But DEQ must also uphold their responsibilities under the law. They cannot continue the permitting process until EPA is satisfied with Severstal's ability to meet their environmental commitments. DEQ's authority is established in Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451. The air permitting process is established in Part 55, Air Pollution Control, including Rule 206 which requires the Department to act upon a permit application within 120 days of a complete application. To be complete, an applicant must provide all the information necessary to determine if the proposal will comply with federal and state air laws. Severstal's application was deemed technically complete on April 6, 2012, so DEQ is obligated to act upon this permit. Furthermore, Rule 207 states: "The department shall deny an application for a permit to install if, in the judgment of the department,(a) The equipment for which the permit is sought will not operate in compliance with the rules of the department or state law.(c) The equipment for which the permit is sought will violate the applicable

requirements of the clean air act as amended, 42 U.S.C. 7401 et seq...." Severstal's equipment has not operated in compliance with either the rules/laws of the State or the federal Clean Air Act. Eight Violation Notices related to the equipment to be re-permitted have been sent since the application itself was deemed technically complete. At this point, DEQ is mandated by Rule 207 to deny the application.

At our meeting on August 22, DEQ will once again request that Severstal withdraw their permit renewal application by August 29th. I hope that you will discuss this approach with your client. If they refuse to withdraw the application the DEQ will take steps to deny. They will do this for several reasons:

- The new test data submitted on Friday is still preliminary and subject to further review, but indicates manganese levels that are still well above permitted levels.
- This most recent test shows violations for additional pollutants. The reported exceedance of the lead emission limits may make Severstal subject to additional federal requirements as the National Ambient Air Quality Standard for lead was recently tightened.
- Denial of the permit requires a public hearing. The inconsistent results and violations information will become a matter of public record and reporting. Since Severstal is demonstrating their willingness to take corrective action, DEQ would like to help the company avoid this adverse attention.

Withdrawal of the current permit application will not preclude Severstal from submitting an application when the non-compliance issues are addressed to the satisfaction of EPA Region 5. The maintenance and other technical remedies to be implemented should make test results more consistent and make the permitting process fit well within the 180 day time frame allowed by state law.

Please help your client recognize that the major impediment to the permitting process is the requirement to address the compliance issues that are now under the jurisdiction of the EPA. They need to focus their efforts on clearing these issues as rapidly as is possible, as a new permit is not a realistic goal until resolved.

As a side issue, you had asked for information of the use of lime injection with an ESP. DEQ staff believes this could be a low cost means to address at least some portion of the manganese issue, and may serve to avoid a more expensive solution that could be prescribed in the compliance plan. There are multiple references to this application available, including:
http://www.ladco.org/about/general/Emissions_Meeting/Sloat_032510rev2.pdf

I wish I were able to see a different course, but I do not. I am open to your suggestions, but at this point, I see withdrawal of the permit application, and focus on addressing compliance issues as the most realistic and cost effective approach for your client.

Sincerely,

Amy

AMY BANNINGA

State Business Ombudsman
Michigan Economic Development Corporation
300 N. Washington Square | Lansing, MI 48913
Office: 517.241.2092 | Mobile: 989.292.0197
Mail to: banningaa1@michigan.org
<http://www.michigan.org>
<http://www.michiganadvantage.org>



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Leventhal

8/22/12

Jane Morris
Nerby
Jim E
Scott
David

Scott D / Status

- Correct existing permit
- Address compliance issues

TRK work

3 of 8 compartments done

- continue to discover add'l issues

- 9 of 20 controls

- Reggers

- Gas flow conditioning underway

Stack Test

- Prelim results, report underway

Steel Sector Trust
1 mtg w/ EPA

BOF - discuss w/ EPA - O&M Plan Revis

work on revisions to O&M plan - Prelim
to EPA mid-Sept to amend current

Roof Monitor Issues

- TRK to examine - may be contrib to
emissions - in depth observ to

- could change BOF oper procedures

New Technology - still looking

HRF Stack - anomalous data

1 Bayhouse appears OK - 2nd under inspect

DEQ staff invited to attend test - may not
be avail

EXHIBIT

17

DEQ Concerns

Vince
Finn

- no valid data -

- revision of data = new permit

- exceeded ~~limits~~ time frame

- too many uncertainties of where emissions will be

* In the time elapsed since original submit

- admin record built a will be public (2 yrs of Ding results)

- need solid app & backed w/ 1 set of solid data (not multiple iterations)

- too many inconclusive results

- need to address original permit

issues - Clarify why wrong -

need to establish logic/justification for revision

- defensible, durable

- Established compliance plan w/ EPA will make permit process more durable, defensible, etc.

* - Cannot issue permit w/out EPA enforcement schedule (Vince)

EQ not
confident get out/
effs will be
threw w/out
adequate controls

Severstal Concerns / Reasons to Continue

- History - Multiple sources covered by permit
- Correction of existing permit ← multiple errors
 - B thought condensers would not be issue - DEQ pointed out, Severstal did not revise (Timing of sharing of EPA report not clear)
 - S working thru stack test probe w/ DEQ
 - DEQ reacted to ICR EPA results ending cooperation / revision process
 - As made to date are a track record of trying to comply / correct
- Reasons
- Restart of decision & baselining issues ^{lose progress toward agreement}
 - New Requirements for State (grandfathering)
 - Cannot comply w/ current permit
 - Not sure they can continue to operate - will authority continue if they are not pursuing a remedy / agreement?
- Key Open Issues on Construction
- Believe major EPA issue opacity - once resolved ~~EPA~~ DEQ can issue (Contra Vice)
 - Or will they have to curtail production to where not econ feasible
- Assess - Severstal document what led since

Open Issues

- * ① Grandfathering (Δs since 4/20/2012)
admin complete ? Scott does not agree
- ② Authority to Continue to Operate
Open app demon to EPA process delightfully pursuing remedy
- ③ Author of DEQ to issue w/ open
EPA Enforcement
- ④ Admin Record Containing data issues
Incomplete / Inconsistent data
14 iterations
- Server stat - proves track record
of trying

- DEQ - liability
- inconsistent data
- new Pb → maintenance issues

Jims
Idea - New app bringing in track record
of improvements Δs

- withdraw → resubmit close together
- "germane" history

- Jim could discuss ^{w/ EPA} if this would
clarify authority to continue to operate
- Vince says our open permit app does
not provide cover "settlement discussions"

DEQ Jim S

Regulatory
- Grandfathering Analysis

- Meet to discuss

If regulatory scheme
not issue

9/12/12

9/14/12 \pm

10 AM

- Then withdrawal & revised a
app w/ history

- Denial if cannot
come to agreement

9/21/12

30 day notice for
~~to~~ engineers
retirement

No EPA right now.

8/22/2012

AGENDA

1. Severstal Progress Report
2. Assessment of Severstal/DEQ Process for Extended Permitting Period
 - a. DEQ Concerns
 - b. Severstal Concerns
 - c. Discussion of Potential to Continue Current Process
3. Clarifying Commitments & Communications

NOTES

1. Severstal Progress Report
2. Assessment of Severstal/DEQ Process for Extended Permitting Period
 - a. DEQ Concerns – there is no demonstration that work underway will result in adequate changes—so there is no justification for extension
 - b. Severstal Concerns – new regulations and other items that will apply to a new application
 - c. Discussion of Potential to Continue Current Process
3. Conditions for Extended Permitting Period
*and Rationale for Continuance
Need*
4. Clarifying Communications & Commitments
Assignments
 - a. GOALS of Current Process – by November XX, these items will be addressed
*which justifies, but also sets criteria for
Progress & Continuation*
 - i. Opacity – in compliance
 - ii. Manganese & Lead – in compliance, or at least with data and a consistent process to document acceptable revised limits and consistent methods to verify compliance on an ongoing basis
 - b. Plan as Outlined in 7/30/2012 Severstal Letter – is this complete and does it address our GOALS?
 - c. COMMITMENTS
 - i. Clarity *Explicit*
 - ii. Continuity with prior communications
 - iii. New issues and developments highlighted
 - iv. Misunderstandings discussed, not acted upon immediately
 - v. Clear requests for action, information, assistance
 - d. TIMING of Communications
 - i. Progress Reports from Severstal
 - ii. DEQ/Severstal discussion of results
 - iii. DEQ feedback on progress reports
 - e. Expected Elements of Progress Reports from Severstal
 - i. When available, test results performed using a consistent method

Original Revised

Army
8/21/2012

Task	Assigned To	Planned Completion	Status & Updates	Commitment Made
MI Air Toxics Modeling - Rule 225 Compliance				
1. Results Reported	Severstal	6/22/2012		6/19/2012
2. Feedback to Company	DEQ			
3. BOF Evaluation	Severstal	7/3/2012		6/19/2012
Manganese Emissions - BOF Lime Injection Concept Applicable to Mn, Steel Mill				
1. Technical Source ID	DEQ		Open - Requested 6/5, 6/19, 7/12, 7/20	6/19/2012
2. Evaluation	Severstal			
3. Determination of Effectiveness	Both			
Manganese Emissions - Ambient Air				
Fugitive Dust Controls				
1. Feedback on Proposed Approach	DEQ		<i>Culpability Analysis w/ Labor Days</i>	6/19/2012
Raw Material Evaluation (<i>Mn & Pb</i>)	Severstal	9/30/2012		6/19 & 8/10/2012
Emissions Inventory	Severstal	8/31/2012		6/19/ & 8/10/2012
Scarfig Method Evaluation	Severstal			6/19/2012
Review Stack Emissions Control Technology	Severstal			8/10/2012
BOF ESP				
Maintenance & Repair	Severstal	9/30/2012	8/10 - On schedule, second shift added	7/20/2012
Flow Optimization	Severstal	9/30/2012		7/20/2012
Gas Conditioning	Severstal	9/30/2012	<i>RAM Plan Revisions (EPA)</i>	7/20/2012
Electronic Controls Tuning & Upgrade (<i>R2P</i>)	Severstal	10/31/2012	<i>Root Monitor Issues</i>	7/20/2012
Conduct Method 9 Visible Emission Tests, for a minimum of 16 hours and 16 heats	Severstal	11/9/2012		7/20/2012
BOF ESP Stack Tests using test methods required by 182-05B/182-05C				
1. Conducted	Severstal	7/13/2012		6/19 & 7/20/2012
2. Results Reported	Severstal	8/20/2012	8/10 - Out of compliance for Mn and Pb	7/20/2012
3. Feedback to Company	DEQ			
LRF Stack Tests - Method?				
1. Conducted	Severstal	7/20/2012	Complete	6/19 & 7/20/2012
2. Results Reported	Severstal	8/20/2012	8/20 - Unable to report - anomalous data?	7/20/2012
3. Feedback to Company	DEQ			

be submitted for DEQ eval, or subject for discussion?

Amy Banninga

From: SDismukes@eckertseamans.com
Sent: Tuesday, September 11, 2012 11:45 AM
To: Amy Banninga
Cc: Morris, Dave; DRockman@eckertseamans.com; 'FIEDLERL@michigan.gov'; Hellwig, Vince (DEQ); 'Earl, Jim'; Szymanski, Marty; Sygo, Jim (DEQ)
Subject: Re: Reminder: Severstal/MDEQ Meeting Friday
Attachments: pic19408.jpg; Severstal DEQ Action Plan.docx

Amy: Severstal is on schedule to send out by close of business tomorrow a document ("the 9/12 document") which reviews the adverse impact of permit denial, reviews the grandfathering issues and addresses several other contextual matters. With respect to the emission inventory and culpability analysis, during our last meeting we requested some additional time beyond August 31st so that Severstal had an opportunity to review and analyze the information prior to submittal to the DEQ. With the work necessary to draft the 9/12 document the development of the culpability information has taken a little longer than we anticipated. This information will be submitted tomorrow along with the 9/12 document, and we thank everyone for their patience and understanding in this regard. We will respond separately regarding the proposed agenda. Thank you.

Scott R. Dismukes
Eckert Seamans Cherin & Mellott, LLC
U. S. Steel Tower
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Pittsburgh, PA 15219-2788
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Amy Banninga
<banningaa1@michigan.org>
To
Scott R Dismukes/ESCM@ESCM, David A
Rockman/ESCM@ESCM, "Szymanski,
Marty"
<Marty.Szymanski@severstalna.com>,
"Earl, Jim"
<Jim.Earl@severstalna.com>,
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<Dave.Morris@severstalna.com>,
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<SygoJ@michigan.gov>, "Hellwig,
Vince (DEQ)"
<HELLWIGV@michigan.gov>,
"FIEDLERL@michigan.gov"
<FIEDLERL@michigan.gov>
cc

Subject
Reminder: Severstal/MDEQ Meeting
Friday

Just a reminder that we will be meeting this Friday to discuss the air permitting process for Severstal. I would like to suggest the following agenda for our meeting:

1. Severstal Progress Report
 - a. Culpability Analysis
 - b. LRF Stack Re-Test

2. Permitting Process
 - a. Regulatory Grandfathering Analysis
 - b. Deadline 9/21/2012

3. Clarifying Commitments & Communications

When we last met, several deadlines were set. Scott committed to an updated culpability analysis by 9/7, and a review of regulatory grandfathering issues by 9/12. I hope that reports of these items can be shared prior to the meeting so we can have an informed discussion.

I have been keeping a running tally of the commitments that have been made. I thought I would share this with you to remind you of commitments and so you can see that there are a lot of moving pieces and deadlines. I hope you'll me know if I've missed something or have misstated a commitment.

Please let me know if there are other items that should be included in the agenda, or if you have other concerns or adjustments.

Looking forward to seeing you all on Friday.

Amy Banninga

State Business Ombudsman

Michigan Economic Development Corporation

300 N. Washington Square | Lansing, MI 48913

Office: 517.241.2092 | Mobile: 989.292.0197 Mail to: banningaa1@michigan.org <http://www.michigan.org>

<http://www.michiganadvantage.org> (Embedded image moved to file: pic19408.jpg)Description:

cid:image001.jpg@01CC0F28.4450B470

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(See attached file: Severstal DEQ Action Plan.docx)

September 12, 2012

Via Email

Jim J. Sygo, Deputy Director
G. Vinson Hellwig, Chief, Air Quality Division
Michigan Department of Environmental Quality
Constitution Hall
525 West Allegan Street
PO Box 30473
Lansing, MI 48909

Subject: Severstal Dearborn, LLC, Permit Application 182-05C

Dear Mr. Sygo and Mr. Hellwig:

As committed during our August 22 meeting, and in advance of our meeting this Friday, we write to provide a summary of the reasons why Severstal Dearborn, LLC believes that DEQ's recent efforts to seek withdrawal or denial of the pending permit update/revision application (designated as 182-05C) will have detrimental impact on Severstal and the State of Michigan, and are unnecessary and inconsistent with the established permit correction process. Withdrawal or denial of the permit application would position Severstal such that future operation of the Dearborn facility may no longer be viable. Achieving the same permit updates and revisions via a new application, as DEQ has suggested, is not feasible for the reasons discussed in this letter. Instead of denial of the pending application, there are available paths forward, including use of an ROP compliance plan or a consent decree, that can appropriately and fully address DEQ's concerns, preserve Severstal's ability to operate now and in the future, and help further a cooperative approach to a broader range of air issues. Further, Severstal is willing to offer several voluntary projects to help DEQ achieve improvements in ambient air quality if DEQ will work with Severstal to see the 182-05C through to completion and issuance with all appropriate and necessary permit corrections.

This letter addresses the following points:

- * Severstal recognizes the obligation to achieve and maintain compliance;
- * The requested permit corrections are necessary and justified;
- * Withdrawal or denial of the application poses potentially severe consequences to Severstal and the future operation of the plant;
- * MDEQ is not compelled to deny or otherwise act on the permit application now;
- * Severstal is actively and aggressively addressing current compliance issues;

- * Severstal will voluntarily commit to perform projects that will help MDEQ address broader air quality concerns; and
- * There are available and appropriate paths forward that can provide for compliance and avoid permit denial.

In order to first put these issues in perspective, we believe it is important to recall the purpose and context of the 182-05 series of permits. In 2004, Severstal acquired and began operation of the bankrupt Rouge Steel Company's assets, which avoided a permanent shutdown of the Dearborn facility and the resulting loss of employment, and facilitated Severstal's subsequent \$1.4 billion investment in Dearborn. In 2005, Severstal engaged in discussions with the DEQ regarding a commitment to install new, state of the art, air pollution control baghouses on both blast furnaces and the basic oxygen furnace ("BOF"). The baghouse installation resulted in significant reductions in particulate matter and metals emissions. The current permit correction/revision process is the final step of this continuing project.

At the onset of the permitting process, there were no pre-existing site-specific data from the Severstal/Rouge facility that could be used to quantify many of the facility's emissions. By collecting emissions that were previously fugitive in nature or that passed through the roof monitors, the baghouses significantly reduced net emissions but created new emissions points (i.e. new stacks) that had not previously existed. The project also resulted in emissions limits for pollutants that had not previously been subject to limits, at both existing and new emissions points, including many not modified by the C Furnace/baghouse project. As a result, the permit development process followed the typical approach for development of emission limits, and unavoidably involved making a number of assumptions and the use of correlations to provide an estimate of actual and future emissions. This included the use of established emissions factors, data from other similar but not identical facilities, and correlation of available information, such as baghouse dust concentrations, to estimate emissions.

Subsequent emissions testing revealed that in a number of instances the shared assumptions made during the permit development had underestimated the actual amount of pre-existing emissions generated by Severstal's operations. In other words, the testing identified emissions that had essentially always been there, but which had never before been measurable or quantified.¹

As a result, it became necessary and appropriate to utilize the new data to correct the assumptions and correlations used in permit development. With this goal in mind, Severstal approached DEQ in February 2009 to address this issue, and embarked on a mutually agreed multi-step process to 1) identify which new permit limits were not currently being met, 2) evaluate whether there was any way Severstal could meet the existing limits, and 3) for any limits that could not be met, utilize the new information to correct the baseline and potential to emit calculations in support of more

¹ Recognition and accounting for corrected emissions levels does not negatively impact any ambient air issues, since the emissions in question are already present and within the set of emissions already being measured at relevant ambient air monitors.

appropriate permit limits – i.e. the limits that would have been imposed in the first place had more accurate information been available. As of this June, the ongoing and continual effort by DEQ and Severstal had resulted in general agreement on draft permit conditions that were effectively ready for public notice and comment.

Severstal's obligation to be in compliance

Severstal recognizes the obligation to achieve and maintain full compliance with all applicable requirements. Where there is non-compliance, Severstal understands the need to return to compliance and to be subject to enforceable requirements to ensure such a return to compliance. Since initial discussions in 2009, Severstal has always been willing to submit to enforceable compliance plan requirements. Severstal remains willing to do so.

The permit corrections are critical to continued operation by Severstal

The permit corrections sought by the pending application are necessary for continued operation by Severstal. Until this May, DEQ was in agreement that the permit updates/revisions were necessary and appropriate, and has acknowledged that it was within a few weeks of issuing a corrected permit for public notice. Nothing has happened to alter the need for, or appropriateness of, the permit updates/revisions, and the recent problems at the BOF ESP do not undermine the record supporting issuance of a corrected permit based on the cooperative path that began in February 2009.

The modification of C Furnace and the baghouse installations authorized under the original permits have already been completed. The pending application is dissimilar from an application for the construction of a new facility or a new modification to an existing facility, where withdrawal or denial of the application would merely delay commencing construction. Instead, the pending application updates and revises inaccurate mutual assumptions and correlations used in the development of the current permit limits. These corrections are necessary for continued operations.

A prime example is the sulfur dioxide (SO₂) emission limits at the blast furnace stoves and casthouse. The current permit imposed, for the first time, SO₂ emission limits on these emission points. Prior to the construction of the baghouse, casthouse SO₂ emissions were emitted via the roof monitor, and as a result could not be tested, and historically had not been quantified. The permit also authorized the use of pulverized coal in the blast furnace, which introduced a new element of uncertainty into projecting future emissions, and was expected to influence sulfur levels in the blast furnace gas. It was anticipated that the bulk of SO₂ emissions would be emitted from the blast furnace stoves, rather than the casthouse, since that is where the blast furnace gas is burned. However, site-specific stack testing data now demonstrates that the bulk of the SO₂ is emitted from the casthouse, and not the stoves.

The pending application supports reallocation of the SO₂ emissions between these two emissions points at the blast furnace emission unit. Without this reallocation, the casthouse cannot operate in compliance with its stack specific SO₂ limit. This is true even though overall SO₂ emissions from

blast furnace operations (casthouse and stoves) are no greater than authorized by the current permit. The pending permit application includes an equivalency demonstration that the impact on ambient air from correcting this error and reallocating the allowable SO₂ emissions will not result in any greater impact to the ambient air. The U.S. EPA has already indicated that it does not object to the use of this equivalency demonstration. Correction of the existing permit to adjust these limits is thus justified and appropriate, and without such a correction, the blast furnace cannot operate in compliance with the currently applicable permit limit.

Further examples are the lead and manganese limits at the desulfurization baghouse. The pre-existing desulfurization baghouse was not modified by the C Furnace/baghouse project, but new limits for lead and manganese were included in order to support Rule 225 compliance. With the inclusion of these limits, there was no intent to reduce emissions at the desulfurization baghouse. Unfortunately, when these metals limits were derived, it was assumed that there would not be a material condensable portion of the particulate matter emissions. See DEQ Response to Comments for PTI 182-05, dated January 31, 2006. This assumption turned out to be incorrect. For example, in the case of manganese, approximately 90% of the manganese emissions in the baghouse exhaust are condensable. These emissions are pre-existing and have always been there. Correcting the permit limits to properly account for them will not result in an increase in emissions. Without updating/revising the assumptions used to develop these metals limits via the pending application, the desulfurization baghouse will not be able to operate in compliance with the current limits. Similar examples pertain to the other permit limit updates requested in the pending application.

It is important to remember that steelmaking is a batch process, subject to short bursts of emissions, rather than steady-state emissions. Severstal's operations do not allow the option of running a production line slowly to meet lb/hr emission limits. Because of the nature of Severstal's emissions, an inappropriate emissions limit threatens to shut down iron and steelmaking operations entirely.

What are the consequences of permit denial or withdrawal?

Withdrawal or denial of the pending application risks changing the permit update/revision process from a difficult task to a nearly impossible one. Since 2006, when construction began on the project, and since 2009 when Severstal first contacted DEQ to address this issue, numerous changes to Clean Air Act requirements have occurred.² The pending permit application, which updates and revises the original application, has until now been grandfathered from these regulatory changes that occurred after Severstal began actual construction on the project and after the original permit issuance. In contrast, a new permit application would reset the clock on the application's timing and interrupts the sequence of work that began in 2009 when the new site-specific test data was first discussed by DEQ and Severstal. It would eliminate the existing grandfathering and reset the baseline of post-baghouse controls, change the baseline actual to projected-actual/potential-to-emit

² The new regulations in question include the 1-hour SO₂ and 1-hour NO₂ ambient air standards, the SO₂ precursor requirements for PM_{2.5}, expiration of the PM₁₀ surrogate policy, and greenhouse gas requirements.

emissions increase calculations, dramatically alter the netting demonstration, and expand the BACT/LAER applicability associated with the original project.

U.S. EPA guidance provides clear support for the permit correction process that Severstal and DEQ have been following, which consists of the following steps: 1) determine whether there is compliance with the limits, 2) evaluate whether emissions can be reduced to the permitted level, and 3) if the permitted emissions levels cannot be achieved, then there can be reevaluation of the permit limits, which must include a reevaluation of BACT (Best Available Control Technology) for any sources that triggered BACT review. *See U.S. EPA Memorandum, Request for Determination on Best Available Control Technology (BACT) Issues – Ogden Martin Tulsa Municipal Waste Incinerator Facility*, November 19, 1987. This is the path that has been followed since Severstal and DEQ first addressed these issues in 2009, and should continue to be followed.

U.S. EPA guidance also recognizes that there is a difference between permit updates/revisions and new permit applications. Permit revisions can be exempted from any new PSD (Prevention of Significant Deterioration) requirements that were added between the time of the original permit issuance and the submission of the proposed change if the source had commenced construction prior to the adoption of the new PSD requirement. *See U.S. EPA Memorandum, Revised Draft Policy on Permit Modifications and Extensions*, July 5, 1985, at p. 15³, and June 11, 1991 update. For Severstal, construction commenced in the Spring of 2006, well before promulgation of the new standards in question.

A new permit application would result in the following, given the new regulations and the passage of time since the original permitting:

* The baseline actual emissions for the new permit application/project would change, and would, in part, be based on the limits contained in the current permit. This would result in nonattainment New Source Review and PSD being triggered for multiple pollutants, at multiple modified emissions units, where it was not triggered for the original project. The result would be a far more complicated permitting process, which is likely to result in the application of new BACT and LAER (Lowest Achievable Emission Rate) requirements as well as the need to obtain offsets for non-attainment pollutants. A lack of available offsets would have the potential to render this an impossible task, and the cost of LAER would likely make such a project infeasible, even if that caused shutdown of the affected units.⁴

³ *See U.S. EPA Region IX letter, November 6, 1991 re: North County Resource Recovery Associates, at Attachment 2, confirming that U.S. EPA Regional Offices are expected to follow the July 5, 1985 Revised Draft Policy; see also Bay Area Air Quality Management District, Permit Evaluation and Statement of Basis for Minor Revisions to the Major Facility Review Permit for Los Medanos Energy Center, LLC, March 2012 and Kansas Department of Health and Environment, Permit Summary Sheet, Sunflower Electric Power Corp – Holcomb Unit 2, December 2010 (both relying on the 1985 Revised Draft Policy).*

⁴ Further, even if offsets are obtained, the result could be that this project, originally for the installation of baghouses, which provided a real reduction in actual particulate matter emissions, could actually result in a process that requires removal of the baghouse and installation of more complicated controls. This would be unfair to Severstal, and serve as warning to all facilities to resist installing pollution controls if such a result is a potential outcome.

* A demonstration of compliance with the new 1-hour SO₂ NAAQS (National Ambient Air Quality Standard) would be required, which poses a Catch-22. Because Severstal is located in an area that is currently classified as attainment, the project would be subject to PSD review for SO₂ and an air quality impact analysis would be required for SO₂. However, since ambient monitoring data in Southeast Michigan for SO₂ currently exceeds the SO₂ NAAQS, a cumulative air quality impact analysis to demonstrate that the source's emissions, when combined with the background SO₂ concentration, do not exceed the NAAQS does not appear to be possible. As a result, since the project related emissions change associated with this new permitting action could not be modeled below the significant impact levels (SILs) (i.e, those levels below which by definition the project does not cause or contribute to a violation), without the installation of LAER type controls, then an application that included a compliant air quality impacts analysis would not be possible.

* SO₂ is also classified as a precursor for PM_{2.5} and Wayne County is currently classified as non-attainment for PM_{2.5}. As a result, SO₂ offsets would need to be obtained, SO₂ LAER controls would be required on applicable emissions units, and a compliance certification would be required. There is no established market for SO₂ offsets, and they may be simply unobtainable. Further, imposition of LAER would likely be cost-prohibitive to future operations.

* The new 1-hour NO₂ standard could require NO₂ emissions reductions from emissions units not affected by the project in order to achieve an air quality impact analysis in compliance with this new standard. Furthermore, due to ambient air concentrations, it may not be possible for Severstal to make the necessary modeling demonstration under any circumstance.

* PM_{2.5} requirements would be triggered, due to the expiration of the surrogate policy. Further, the forthcoming revision to the PM_{2.5} annual standard, expected this December from U.S. EPA, has the potential to introduce additional complications. Since the installation of the baghouses has already significantly reduced actual PM_{2.5} emissions, this reduction would then be used to lower the baseline and require further controls and offsets, which presents a potentially unachievable set of requirements.

* A Carbon Dioxide equivalent/Greenhouse Gas (CO₂e/GHG) BACT review would be required. While this goal is theoretically achievable, CO₂e/GHG emissions are a hot-button issue, and working through a CO₂e/GHG BACT analysis would require significant effort by DEQ staff, response to EPA oversight and review, and potentially draw significant interest from the outside. This would likely result in significant additional delay to the permitting process.

These new permitting challenges did not exist when the original permit application was submitted and when the project commenced construction. Because of the continuum of ongoing activities between the DEQ and Severstal, the pending application has a legitimate and justifiable basis for being grandfathered from these new requirements. A new permit application would arguably lose this key basis supporting grandfathering. As a result, there is a high probability that the necessary

permit limit correction would not be achievable if sought via a new permit application. As such, any withdrawal or denial of the pending application would place Severstal and DEQ in a potentially impossible situation.

Is MDEQ required to act on the permit application on an immediate basis?

DEQ has full discretion to hold the application pending appropriate resolution of the current compliance concerns. On August 22, DEQ stated that the timing requirements of Rule 206 (R 336.1206) dictate that Severstal should immediately withdraw its permit application, or it will be denied by DEQ. However, Rule 206, which requires DEQ to act on a permit application within 120 days of the application being complete, and affords a right of relief to permit applicants when action is not taken, does not expressly compel MDEQ to deny or otherwise act on Severstal's permit application.⁵ Further, it is appropriate to consider the 120 day period as currently tolled, pending the further information that is being provided by Severstal to DEQ pursuant to DEQ's requests; such tolling is expressly provided for by Rule 206.

Although DEQ has identified April 6, 2012 as the date of technical completeness⁶ of the pending application, DEQ is not compelled to consider the 120 day period to have begun on April 6th. April 6th was the third time that DEQ provided draft conditions, with prior draft conditions having been provided on August 18, 2011 and December 28, 2011. Another draft was then received from DEQ on May 25, 2012. Since that time, the DEQ and Severstal have engaged in continuing discussions on permit conditions. These included meetings between the DEQ permit writer and Severstal and Severstal's permitting consultant, on April 27, May 8, and May 16, followed by a revised draft permit provided by DEQ on May 25th, and the subsequent submittal of further comments by Severstal on June 6th. The further exchanges and continuing provision of information by Severstal since June evidences that this process is still continuing and can appropriately be deemed to have stayed the running of any 120 day period.

Severstal's Compliance Status

As DEQ has acknowledged, it was within several weeks of issuing the permit correction for public notice when concerns arose at the BOF ESP with respect to opacity, manganese (as a result of the testing done for U.S. EPA), and then with lead. However, Severstal has committed to and embarked on an aggressive program to correct opacity, and a program to evaluate and identify

⁵ Action on a permit application within a 120 day time period is not federally mandated. See Clean Air Act Section 165, 42. U.S.C. § 7475, and *Hancock County v. U.S. EPA*, 1984 U.S. App. LEXIS 14024, at *12-*13 (6th Cir. 1984).

⁶ We note that Michigan's regulatory revision process has recognized that the concept of "technical completeness" is not defined or addressed in any DEQ regulations. The proposed revisions to Rule 206 from the Office of Regulatory Reinvention states that "[t]he current wording within the rule is too vague and Rule 206 should be revised for permit action by specific deadlines, for both minor and major source PTI based upon date of receipt of the permit application. This would provide more regulatory certainty, and speed the issuance of permits. Historically, the term "technical completeness" has been somewhat arbitrarily determined as supported by lack of documentation within existing PTI application files." See *Recommendations of the Michigan Office of Regulatory Reinvention Regarding Environmental Regulations*, dated December 23, 2011, at pp. 7 and A-10.

potential solutions for BOF ESP manganese and lead emissions and LRF particulate emissions. These activities have been detailed in our submittals of June 19, June 22, July 3, July 20, August 31, and September 7, and are being addressed on a continuing basis.

Severstal's offer of voluntary projects

Severstal recognizes its obligations and is committed to working cooperatively with DEQ and with local citizens in addressing air quality concerns. Severstal is willing to propose and implement several voluntary measures to help further reduce emissions and help DEQ meet its goals with respect to ambient air quality. Severstal is willing to move forward with these measures if DEQ will commit to continue the current 182-05C permit update/revision process through to issuance of a corrected permit. Accordingly, Severstal proposes the following projects:

1. **Manganese control** – Severstal proposes to eliminate hand scarfing of steel slabs, and construct an automatic scarfing machine that would be controlled with a baghouse. As illustrated in our submittal of July 20, 2012, modeled impacts of machine scarfing outside of Severstal's property are considerably less than the modeled impacts of hand scarfing.
2. **SO₂ control** – Severstal proposes to install a lime injection system at the C Furnace casthouse to control SO₂ emissions from the casthouse baghouse. This would be a technology-forcing project, as this is not a demonstrated technology for blast furnaces and Severstal is not aware of any blast furnace casthouses using lime injection for control of SO₂. Severstal anticipates lime (or potentially Trona, another SO₂ absorbing material) would allow for a material reduction in SO₂ emissions from the casthouse. This project would help DEQ meet its obligations with respect to the 1-hour SO₂ ambient air quality standard.

Upon installation of an SO₂ lime injection system, Severstal also proposes to test whether lime injection affords any reduction in manganese emissions. Lime injection was identified as a control solution in DEQ's March 2012 study regarding ambient air concentrations of manganese. Severstal is not aware of lime injection having been implemented for manganese control, but developing new data would provide valuable information to DEQ, Severstal and the public.

3. **Fallout mitigation, particulate control and manganese control** – Severstal will commit to installing a desulfurization slag pot watering station, which has previously been discussed with DEQ and proposed, without resolution, as a possible measure to reduce the potential for fallout from Severstal's operations. Severstal also believes that a slag pot watering station will control fugitive emissions, and thereby reduce both fugitive particulate matter and manganese emissions. Severstal recognizes that the alleged fallout violations are currently subject to enforcement by U.S. EPA. However, no detailed discussions on fallout mitigation have occurred with U.S. EPA, and it is uncertain whether the slag pot watering station will be an element of any resolution of claims with U.S. EPA. Severstal now proposes a commitment to DEQ to install slag pot watering station, regardless of the outcome of any discussions with U.S. EPA. Severstal will not seek consideration of this project as a Supplemental Environmental Project with either DEQ or U.S. EPA.

4. **BOF ESP enhancement** – As a result of the current focus on operation of the BOF ESP, Severstal has identified a significant project that would allow for enhanced operation of the ESP. This project is not necessary for the ESP to operate in compliance with opacity limits, but would provide enhanced control of particulate matter, and as a result is anticipated to also provide a margin of benefit for manganese. Severstal intends to address this project at our September 14 meeting.

Lack of Benefit to DEQ from Permit Denial

It is also worth noting that withdrawal or denial of the permit does not appear to provide any material benefit to DEQ. DEQ was within several weeks of issuing a draft permit for public notice and comment before the compliance issues at the BOF ESP sidetracked the draft permit. In contrast, the serious detrimental consequences to Severstal from a denial of the pending permit application would force Severstal to contest that denial. Regrettably, Severstal would simply have no choice. Denial of the permit threatens the existence of the facility, and the thousands of direct and indirect jobs that rely on it, including customers and suppliers across the state, with broad impacts in the immediate Dearborn and Southeast Michigan area, to the iron mine that supplies Severstal in the Upper Peninsula.

Charting a Path Forward without Permit Denial

Well established regulatory mechanisms exist for DEQ and Severstal to address the current permitting and compliance issues without denial or withdrawal of the current permit application. This can be accomplished through either a consent decree or through the use of a compliance plan in Severstal's Renewable Operating Permit (ROP). Use of an ROP compliance plan is a federally supportable approach, one that is not at odds with any U.S. EPA enforcement action, and the majority of the work on Severstal's ROP renewal has already been accomplished.

A compliance plan can be imposed without the need to first allow any U.S. EPA enforcement to be resolved, and is appropriate even if there are unresolved current compliance issues.⁷ Indeed, the very purpose of a compliance plan is to allow permit issuance when there is a current compliance issue.⁸ Specifically, DEQ can expand the compliance plan in Severstal's currently pending ROP renewal that would provide enforceable measures and milestones for bringing all units of concern

⁷ U.S. EPA would be able to comment on any revised ROP compliance plan, as per the ROP issuance process. Further, any current or future enforcement measures imposed by U.S. EPA can be incorporated into the ROP compliance plan.

⁸ See, e.g., 40CFR §70.6(c)(3), 70.5(c)(8)(iii)(C); Rule 336.1213(4). See also, e.g., *In Re: Tesoro Refining and Marketing Company*, Petition IX-2004-6. Further, EPA evaluations of whether a given NOV or allegation of non-compliance necessitates a compliance plan in an Title V permit (i.e. ROP) all make clear that a compliance plan is an available tool to address known current non-compliance issues. See *In the matter of Georgia Power Company, Bowen Steam-Electric Generating Plant*, Final Order at 5-9 (January 8, 2007); *In the matter of East Kentucky Power Cooperative Inc., Hugh L. Spurlock Generating Station*, Petition IV-2006-4, Final Order at 13-18 (August 30, 2007); and *In the matter of CEMEX, Inc.*, Petition VIII-2008-01, Final Order at 6 (April 20, 2009).

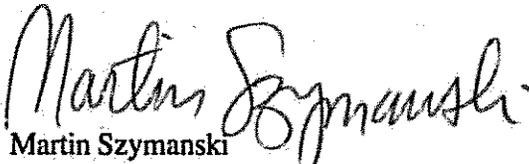
into compliance, while at the same time imposing a process for accomplishing the necessary revisions.

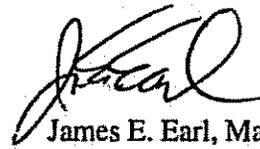
Conclusion

For the foregoing reasons, Severstal is unable to withdraw its pending application, and seeks the cooperation of DEQ to hold the permit application, address compliance concerns via an enforceable compliance plan, and work together toward issuance of a corrected permit and implementation of other projects beneficial to air quality.

We look forward to discussing these issues with you further at our meeting scheduled for September 14. In the interim, if there are questions regarding the above information, please contact us.

Very truly yours,


Martin Szymanski
Vice President and General Counsel


James E. Earl, Manager
Environmental Engineering

cc (via email):

Amy Banninga
Bruce Black
Dave Morris
Scott Dismukes, Esq.
David Rockman, Esq.

Severstal

9/12/2012 Letter on Reasons Not to Deny Permit Application

Letter Subject is the permit, not settlement

Subject is "Permit Application" but also labeled "Settlement Confidential Not Admissible Evidence." This correspondence is related to the permit application. DEQ is not in settlement discussions with Severstal. DEQ's role in settlement ended January 2012, now EPA is lead on enforcement. Page 3 states that "permit corrections are critical..."

Letter Analysis

Item	Analysis	Page
Unknown, but pre-existing emissions	Can be used as basis to revise permit, but cannot continue to change information after application for permit correction is submitted.	2, 4
Data and limits in current application	Subsequent testing is in conflict with data included in the application. This invalidates the application and removes the basis for making a decision. If the permit were issued using the application data, Severstal would be non-compliant and would be subject to enforcement action...the same place they are now. <i>DEQ does not believe defensible or durable</i>	
Grand fathering of Regulatory Changes	<ul style="list-style-type: none"> - DEQ does not believe that Severstal loses grandfathering benefits if the application is withdrawn. New regulations since construction began will not apply. See Avenal decision. - New regulations may be brought into an EPA enforcement/consent agreement. Until the issues with EPA are settled, a valid and durable permit is not possible 	4
EPA Guidance on Permit Process	<p>Was Ogden Martin Tulsa (1987) superseded by Avenal decision (2011)?</p> <ul style="list-style-type: none"> - Were there changes to data after application was submitted? - Was EPA in enforcement action with the company? <p>The information that you have submitted indicates that on December 23, 1982, a PSD permit was issued ... Prior to construction... permit modifications were issued to the source resulting in a final permit ... The units were constructed in conformity with the modified permit and subjected to compliance testing .. Measured ... emissions exceed the permit limit by a "significant" amount as defined in 40 CFR 52.21(b)(23)(i). The source has requested that the permit be revised to reflect the actual measured emissions of these pollutants.</p> <p><u>You have requested a determination on whether the exceedance of permitted emissions by "significant" amounts, or the determination of a new "significant" pollutant by performance testing triggers the reopening of the BACT review process for the Ogden Martin facility. If BACT review is reopened, which pollutant(s) would be subject, to what degree should the limitations and economics of the existing facility come into play, and would the June 25, 1987, "Operational Guidance on Control Technology for New and Modified Waste Combustors" apply to this facility?</u></p> <p><u>Based on the information presented, this response assumes that errors, faulty data, or incorrect assumptions contained in the original or modified permit applications have resulted in what may be inappropriate BACT emission levels and unpermitted significant emissions, and there is no indication that the applicant intentionally acted to</u></p>	5



Item	Analysis	Page
	<p><u>misrepresent or conceal data</u> in their original and modified permit applications and BACT analysis. <u>This guidance does not apply to any other type of noncompliance scenario.</u></p> <p>... the source has an initial obligation to comply with the permit. At a minimum the source should be required to investigate and report to the permitting agency all available options to reduce emissions to a lower (if not the permitted) level. If compliance with the permit can be reasonably achieved, the source should be required to take steps to reduce emissions. <u>If sufficient emission reductions down to the permitted level cannot be reasonably achieved, then a reevaluation of the permit may be warranted.</u></p> <p><u>For H2SO4, if potential emissions cannot be reduced below the significance level, a PSD review is required and the results must be incorporated in the source's PSD permit. As with NOx and mercury emissions, the BACT analysis considers current technology and requirements while weighing the additional retrofit costs and other costs associated with an already existing facility.</u></p> <p>If a revision to the permit is determined to be appropriate, the revision must also address all other PSD requirements which may be affected by an allowable increase in permitted or newly regulated emissions (eg., protection of the standards and increments, additional impacts, monitoring) The control of emissions of toxic air pollutants is an important aspect of PSD review. <u>This memorandum does not address potential air toxics issues.</u></p>	
EPA Enforcement	Has primacy. Ignores state permit actions.	
Why deny?	<ul style="list-style-type: none"> - DEQ's position is that rules require action on a permit within 120 days after receipt of all the information required—administratively complete. DEQ has no legal mechanism to put a hold on the application until EPA has acted—they have to act if the application is not withdrawn - They have responsibility to act on resident complaints 	
DEQ Must act within 120 Days	Rule or performance target?	7
Administratively complete?	Do subsequent revisions point to the application not being truly complete?	7
ORR Recommendation (rule has not been changed)	<p>ORR Recommendation: R 336.1206 must be more specific and must include a definition for "administratively complete". The rule should be amended to:</p> <ul style="list-style-type: none"> ... Require AQD to act (issue or deny) on all minor source Permit to Install (PTI) applications within 180 days of receipt. This should include "opt-out" PTIs... Allow for the extension of these deadlines with the mutual consent of both the applicant and the DEQ. 	7
Voluntary Projects	<p>What are priorities? What is timeline?</p> <p>Severstal should focus on those projects that are most likely to:</p> <ul style="list-style-type: none"> - Meet EPA's requirements under a consent agreement - Have the greatest impact on emissions 	8
Reason to Extend	Enforceable compliance plan under current permit?	9

AGENDA - SEVERSTAL & MDEQ - September 14, 2012

1. Severstal Progress Report
 - a. Culpability Analysis
 - b. LRF Stack Re-Test
2. Permitting Process
 - a. Regulatory Grandfathering Analysis
 - b. Deadline 9/21/2012
3. Clarifying Commitments & Communications

David Rockne - Jim S
Phil - Envir - Lynn F
Consult - Vince
Marty
Scott D
Jim E
David Morris



Marty - recognizes Severstal's "systemic issues"
- now recognizes need for integrated environmental management systems
- SMART objectives around env compliance
- need to emphasize importance to compensation & performance reviews
- repeatedly said he is not responsible for environmental. Who on their Sr leadership is?

Jim S - letter not what expected -
Agrees w/ need to revise permit -
shares objectives

This is a correction of 2003 permit
EPA 114 request - led to conflicting data

Phil - Concerned of break in record that will trigger new regs - EPA & Sierra Club
- "Reset" - does that add new issues to the permit - how do we establish continuity in admin record

- Requests letter from state that clarifies stoppage of efforts but continuing correction process
"administrative convenience" 14 iterative

threshold - loses continuum - opens up to
delegation - Scott says high risk - letter
is not sufficient protection
Doesn't think an AG opinion sufficient

JIMS

DEQ Order to withdraw & why

? When did administrative record begin (2010)
would Dmg "administratively complete"
date & things? Can DEQ say they
shouldn't have done this?
Can both parties agree not complete?

vinco steps
technical complete -
subsequent data

BRA did not include permit in NAV - but DEQ
believes they will

Opacity
Fallout
Not Permit

Scott

? Can DEQ/Severstal agree portion of app
was incorrect - so not complete

higher efficiency
basis - Viability under

Jim asked if Severstal could have met revised
limits in permit that was going out for
comment? Scott says maybe? (Generally yes -
IER data raised new data issue MQ still open)

LEF - open

basis for not technically complete
Intent was good, but new info revealed
- Old method incomplete

Telling Agreement

9/14/12

Tolling Agreement

Jim S

- Mutual
- Conditions, deadlines, obligations
- Intent to give apply
 - do all testing to package essentially a new app
- Shall deny not may
- ORR recommendation not applicable to air
- Still look - legal challenge to going around Rule 207. Fall back will be denial if challenged.

Neil Gordon - DEQ, 8/28/12

- OK w/ tolling - but
- Does not agree w/ need to
into consent decree - does not show any
more relationship to the original permit

Consent Decree

- Since says there must be a notation
APP if plan + ^{Public Notice} comment period

Tolling

- No basis in law - so comment period
must be required

Open Issues

- Administrative record

- DEQ's role in state defense
buildy of record

Consideration?

Each party giving up something?

Voluntary projects

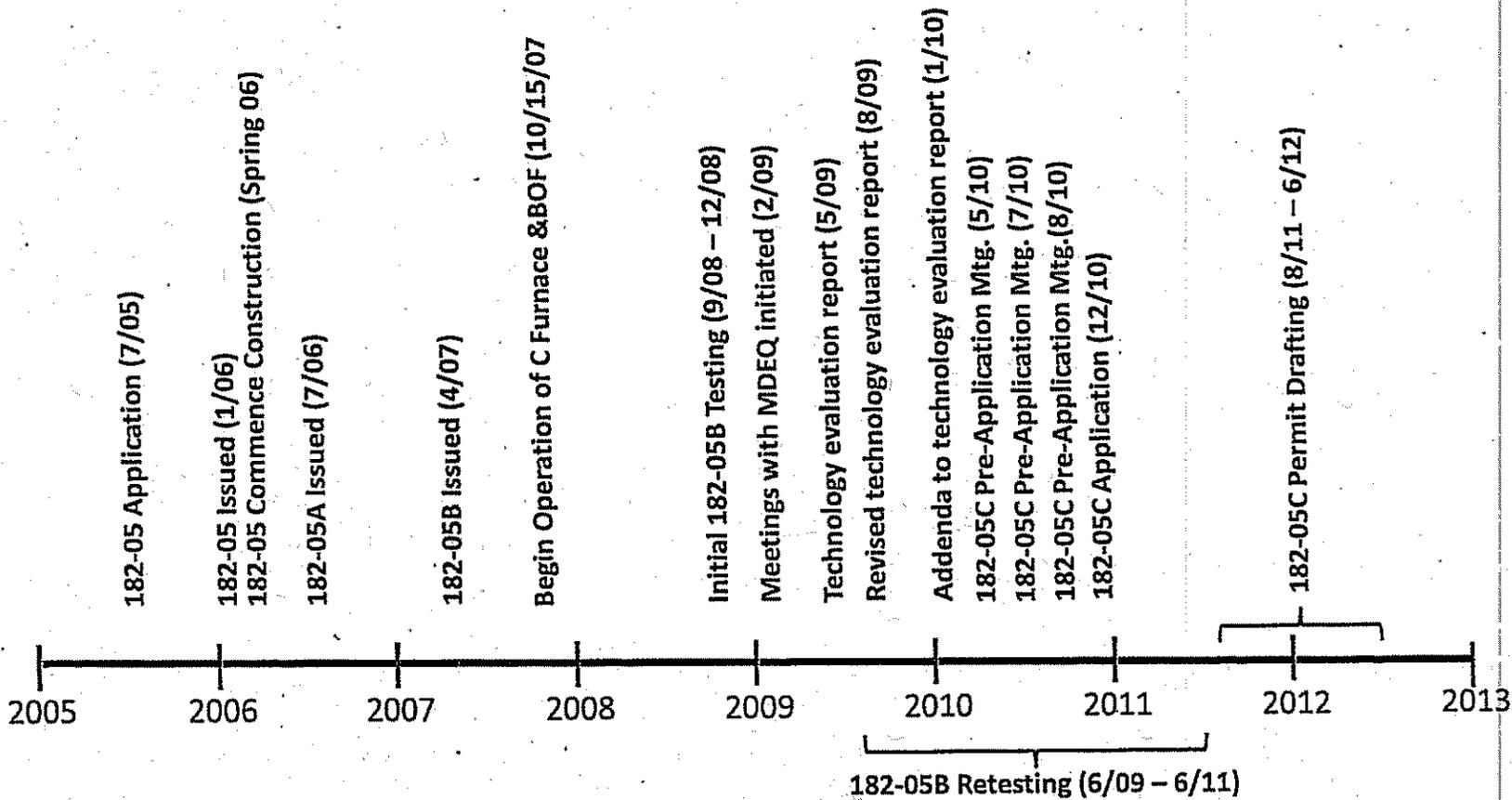
Compliance strategy w/ EPA completed

No corrected permit until EPA compliance program is in place? What if EPA takes years?

Completed by first wk October

Phil 9/14/12

PTI 182-05 History



Privileged and Confidential - Attorney-Client
Privileged, Prepared at the Request of an
Attorney

Phil 9/14/12

182-05C Permit Drafting

8/18/11	Rough draft received from Telesz
8/22/11	mtg w/ DEQ
8/25/11	mtg w/ DEQ
8/30/12	mtg w/ DEQ
9/6/11	mtg w/ DEQ
9/27/11	New draft submitted to MDEQ during mtg w/ Telesz & Koster
11/14/11	mtg w/ DEQ
12/9/11	mtg w/ DEQ
12/28/11	Telesz issued another draft
1/17/12	Severstal provided comments to 12/28 draft (in person mtg)
1/18/12	Call w/ MDEQ as a follow-up to outstanding issues regarding draft permit
1/25/12	Severstal provided comments to 1/17 draft
1/27/12	met w/ MDEQ to verbally discuss 1/25 comments
4/6/12	Telesz issued another draft
4/27/12	in person mtg to go over 4/6 draft
5/8/12	in person mtg to go over 4/6 draft
5/16/12	in person mtg w/ MDEQ to go over 4/6 Draft
5/25/12	Telesz submitted new draft
6/6/12	Severstal submitted final comments on agreed upon final draft conditions

Privileged and Confidential - Attorney-Client
Privilege, Prepared at the Request of an
Attorney

Phil 9/14/12

182-05 Testing Details

Emission Unit	Test Date	Pollutant
Annealing	Sep 18-19, 2008	PM, NOx (Meth 5, 202, 7E)
HSM Reheat Furn 1	Nov 4-5, 2008	PM, NOx (Meth 5, 202, 7E)
BOF BH	Sep 16-17, 2008	PM, PM ₁₀ , NOx (Meth 5, 7E, 201, 202)
BOF ESP	Nov 21 and 25, 2008	PM, NOx, CO (Meth 5, 7E, 10)
	June 29-30, 2009	PM ₁₀ (Meth 201A and OTM28)
Combined BOF	Nov 18-20, 2008	Pb, Mn, speciated Hg (Meth 29, ASTM D6784-02)
C FCE BH	Sep 23, 2008;	PM, opacity (MACT) (Meth 5, 9)
	Dec 17-18, 2008	PM ₁₀ , NOx, SO ₂ , VOC, Pb, Mn (Meth 6C, 7E, 10, 25A, 29, 201A, 202)
C FCE Stove	Dec 9-10, 2008	PM, PM ₁₀ , NOx, CO, SO ₂ , Pb, Mn, Hg (Meth 5, 6C, 7E, 10, 29, 201A, 202)
Desulf BH	Jan 6-12, 2009	PM, PM ₁₀ , Pb, Mn (Meth 5, 29, 201A, 202)
LRF 1 and 2	Sep 30-Oct 3, 2008	PM, Pb (Meth 5, 29, 202)
RETEST---		
BOF BH	Aug 25-26, 2009	PM10 (Meth 5/202 and 201A/OTM28)
BOF ESP	Oct 26-30, 2009	Temp CO CEMS
C FCE BH	June 11-12, 2009	PM ₁₀ (OTM 28 used instead of Mth 202) and SO ₂ (Meth 6C)
	Aug 27, 2009;	PM ₁₀ (Meth 5/202 and 201A/OTM28)
	Aug 17-19, 2010	Pb, Mn (Meth 29)
	May 26 - July 22, 2011	Temp SO2 and NOx CEMS
C FCE Stove	June 15-17, 2011	Pb, Mn, Hg, CO, FPM, CPM, PM ₁₀ ?, SAM (Meth 5, 6C, 8, 10, 29, 202)
Desulf BH	Aug 17-19, 2010	Pb, Mn (Meth 29)

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 Attorney

(v) The requirements for control technology determinations for major sources in accordance with 40 C.F.R. §63.40 to §63.44 and §63.50 to §63.56, adopted by reference in R 336.1299.

(d) Sufficient information has not been submitted by the applicant to enable the department to make reasonable judgments as required by subdivisions (a) to (c) of this subrule.

(2) When an application is denied, the applicant shall be notified in writing of the reasons therefore. A denial shall be without prejudice to the applicant's right to a hearing pursuant to section 5505(8) of the act or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 2003 MR 12, Eff. July 1, 2003; 2008 MR 12, Eff. June 20, 2008.

R 336.1208 Rescinded.

History: 1979 ACS 1, Eff. Jan. 19, 1980; rescinded 1995 MR 7, Eff. July 26, 1995.

R 336.1208a Limiting potential to emit by registration.

Rule 208a. (1) A major source may limit potential to emit through a registration process if actual emission threshold levels established in this rule are not exceeded. The actual emissions shall be maintained below the threshold levels during every consecutive 12-month period, beginning with the 12-month period immediately preceding the stationary source's registration pursuant to this rule. The stationary source shall maintain actual emissions less than or equal to all of the following emission threshold levels:

(a) Consistent with the criteria in R 336.1211(1)(a)(i) as follows:

(i) Five tons for each consecutive 12-month period of any hazardous air pollutant that has been listed pursuant to section 112(b) of the clean air act.

(ii) Twelve and one-half tons for each consecutive 12-month period of any combination of hazardous air pollutants that have been listed pursuant to section 112(b) of the clean air act.

(iii) Fifty percent of a lesser quantity as the administrator of the United States environmental protection agency may establish by rule for any hazardous air pollutant listed pursuant to section 112(b) of the clean air act. The department shall maintain, and make available upon request, a list of the hazardous air pollutants for which a lesser quantity criteria has been established.

(b) Consistent with the criteria in R 336.1211(1)(a)(ii), 50 tons for each consecutive 12-month period of each of the following:

(i) Lead.

(ii) Sulfur dioxide.

(iii) Nitrogen oxides.

R 336.1206 Processing of applications for permits to install.

Rule 206. (1) The department shall review an application for a permit to install for administrative completeness pursuant to R 336.1203(1) within 10 days of its receipt by the department. The department shall notify the applicant in writing regarding the receipt and completeness of the application.

(2) Except for permit to install applications subject to a public comment period pursuant to R 336.1205(1)(b) or section 5511(3) of the act, the department shall take final action to approve or deny a permit within 60 days of receipt of all information required pursuant to R 336.1203(1) and (2). The department shall take final action to approve or deny a permit to install subject to a public comment period pursuant to R 336.1205(1)(b) or section 5511(3) of the act within 120 days of receipt of all information required pursuant to R 336.1203(1) and (2). For the purpose of this subrule, the time between when the department requests additional information from an applicant and when the applicant actually provides that information shall not be included in the 60-day and 120-day time frames for final action by the department. The failure of the department to act on an application that includes all the information required pursuant to R 336.1203(1) and (2) within the time frames specified in this subrule may be considered a final permit action solely for the purpose of obtaining judicial review in a court of competent jurisdiction to require that action be taken by the department without additional delay.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 2003 MR 12, Eff. July 1, 2003.

R 336.1207 Denial of permits to install.

Rule 207. (1) The department shall deny an application for a permit to install if, in the judgment of the department, any of the following conditions exist:

(a) The equipment for which the permit is sought will not operate in compliance with the rules of the department or state law.

(b) Operation of the equipment for which the permit is sought will interfere with the attainment or maintenance of the air quality standard for any air contaminant.

(c) The equipment for which the permit is sought will violate the applicable requirements of the clean air act, as amended, 42 U.S.C. §7401 et seq., including any of the following:

(i) The standards of performance for stationary sources, 40 C.F.R. part 60, adopted by reference in R 336.1299.

(ii) The national emission standards for hazardous air pollutants, 40 C.F.R. part 61, adopted by reference in R 336.1299.

(iii) The requirements of prevention of significant deterioration of air quality, R 336.2801 to R 336.2819 and R 336.2823.

(iv) The requirements of nonattainment new source review, R 336.2901 to R 336.2903, R 336.2907, and R 336.2908.

Extension Agreement Timeline

Severstal PTI Application 182-05C

Feb 1, 2013
Extension agreement signed

May 2, 2013
Severstal shall conduct required performance testing

Dec 28, 2013
Severstal shall submit an updated application that addresses all items included in the agreement

Feb 26, 2014
Severstal shall submit additional information, if requested

June 26, 2014
MDEQ will take final action if the submittal is determined to be complete on January 27, 2014

Mar 18, 2013
Severstal shall submit a report detailing all repairs and activities associated with BOF ESP

July 1, 2013
Severstal shall submit a copy of the performance test report

Jan 27, 2014
MDEQ will complete review of submittal and let Severstal know of additional information required

Mar 28, 2014
MDEQ will review the revised submittal and determine if application now complete

July 26, 2014
MDEQ will take final action if the submittal is determined to be complete on March 28, 2014

Timeline

- 1-Feb-13 Extension Agreement Signed
- 18-Mar-13 Severstal shall submit a report detailing all repairs and activities associated with BOF ESP
- 2-May-13 Severstal shall conduct required performance testing
 - 1-Jul-13 Severstal shall submit a copy of the performance test report
- 28-Dec-13 Severstal shall submit an updated application that addresses all items included in the agreement
- 27-Jan-14 MDEQ will complete review of submittal and let Severstal know of additional information required
- 26-Feb-14 Severstal shall submit additional information, if requested
- 28-Mar-14 MDEQ will review the revised submittal and determine if application now complete
- 26-Jun-14 MDEQ will take final action if the submittal is determined to be complete on January 27, 2014
- 26-Jul-14 MDEQ will take final action if the submittal is determined to be complete on March 28, 2014

Amiee Evans

From: Amy Banninga
Sent: Friday, January 25, 2013 8:19 AM
To: Steve Hilfinger; Michael Finney; James McBryde
Subject: RE: Severstal Update - January 2013

DEQ had a phone discussion with Severstal and their attorney last night after the senators had left. They had quite a discussion, but ended up agreeing to go back and look at the most recent plan and see if they could take some time off the end. There was a misunderstanding by some of the DEQ staff negotiating the details of the tolling agreement, and additional testing was added prior to submission of the revised permit application. This testing is necessary, as it may determine if the original permit was valid. But they may be able to change the timing of the testing and reduce the total time in the plan. Jim Sygo will be watching the process more closely to make sure that staff stays on plan.

DEQ and Severstal will be meeting in person next week, and I am planning to attend.

From: Amy Banninga
Sent: Wednesday, January 23, 2013 8:00 PM
To: Steve Hilfinger; Michael Finney; James McBryde
Subject: RE: Severstal Update - January 2013

We had our meeting with Senator Kowall today. Jim Sygo, Vince Helwig, Maggie Datema and I met with him at 4:30. He was definitely not surprised by DEQ's decision, just wanted to understand if there was anything else that could change their mind. Here's some background:

- The Senator will be visiting the company on Thursday morning as part of a contingent of state senators, including Tom Casperson. Casperson is interested because Severstal is a major buyer of taconite from Cleveland Cliffs UP mine. DEQ will wait until Thursday afternoon to talk with the company, so that the Senators are not "walking into a hornet's nest".
- DEQ will ask the company to withdraw their application, or they will deny. They have given the company this offer before, but the company did not want to withdraw because they were concerned that it would show a break in the administrative record, and indicate that they were not committed to the permitting process. They are in negotiations with EPA on several matters. DEQ does not believe this break in the record will make a difference for the company, but was previously willing to cede the issue. They offered the tolling agreement to give the company a few more months to provide better data. The company has now proposed that a few months be extended out more than a year. DEQ could face sanctions from EPA if they take things too far.
- The company has changed consultants several times, I think because their law firm has advised it. The Senator sees this an indication that they had poor consultants, and now are getting good advice. DEQ has said that the newest consulting firm is top notch. They definitely have excellent outside legal counsel. Every time we have met with the company, additional repairs and upgrades have been proposed, and I assume that their consultants are finding more issues the further they go, adding to the company's timeline for compliance.
- In my opinion, the best course for the company is to withdraw their permit application. If DEQ denies the permit, there will be a public hearing held that will air the many issues. The company previously said they were willing to go through the denial process, but more issues have surfaced since then. There have been over 200 violations, complaints and response visits to the site since 7/2010—10 since mid-August.

Senator Kowall's concerns:

- That the company will decide not to make the capital improvements they are proposing – the vertical mill. I encouraged him to separate company upgrades and expansion from base maintenance. The company talks about the billion dollars they have invested in upgrades, but they should also be including funding for maintenance to base systems, per the operations and maintenance plan required by their permit.



- The changes to the 21CJF. He said that the changes proposed would enable them to bond for their improvements. I assume this is related to the port authority changes, but I was confused. No matter what, we cannot issue federally tax exempt bonds, and we can already issue taxable bonds, if they can find a buyer. I may be missing something, so I will let Jim speak to that. He also mentioned that harbor dredging will be an allowed activity. Of a TIF? Again, I decided not to pursue, as we were there to talk Severstal.

Please let me know if you have any questions, or advice. I assume I will be fielding questions from their lawyers on Friday.

From: Amy Banninga
Sent: Friday, January 18, 2013 2:44 PM
To: Steve Hilfinger; Michael Finney
Subject: RE: Severstal Update - January 2013

DEQ has really gone the extra mile—maybe the extra 10 miles. Dan agrees there is no more they can do, but will be discussing with the governor. There is also a federal angle that could change this. I can provide more info if you would like to discuss.

From: Steve Hilfinger
Sent: Friday, January 18, 2013 2:37 PM
To: Michael Finney
Cc: Amy Banninga
Subject: Re: Severstal Update - January 2013

This is high profile. These guys may have made more capital investment here in last few years than anyone. Have had entourages from Gov's office visit site. Any way to avoid this result?

Sent from my iPhone. mI

On Jan 18, 2013, at 2:30 PM, "Michael Finney" <michael@michigan.org> wrote:

Hi Amy,

Thanks for the Update. I trust you are convinced that DEQ has gone as far as they can??

Mike

Michael A. Finney
President & CEO
Michigan Economic Development Corporation
<http://www.michiganadvantage.org>

Email: Michael@Michigan.org
Work: 517-241-1400
Cell: 734-660-4795



Picture (Device Independent Bitmap) 1.jpg>

From: Amy Banninga
Sent: Friday, January 18, 2013 1:15 PM
To: Michael Finney; Steve Hilfinger
Subject: Severstal Update - January 2013

Mike and Steve--

I have been working with DEQ and Severstal since July and we've had some high and low points. At the end of next week, DEQ is planning to notify Severstal that they need to withdraw their permit application, or it will be denied. Denial will trigger the public hearing process.

They have not been able to work out the details of the tolling agreement that was agreed to in principle back in September. DEQ had not done this before, but they worked with their AG who agreed to try to craft a mutual agreement to take the application offline, and avoid the 180 day deadline for action. The agreement has gone back and forth and suffered some delays (AG was out of the country, explosion at the facility, holidays, etc.). These delays would have added a month or two to the process, but the company has now proposed a process that will extend it into 2014. I can discuss the details with you if you would like more information.

I recommended that DEQ assemble a communication plan so they have an opportunity to address the issue more effectively:

- Dan Wyant will be informing Governor Snyder
- DEQ staff and I are assembling a timeline and some talking points so we are communicating consistently
- DEQ's legislative liaison has set a meeting with Senator Kowall for next Thursday morning to inform him of the pending action. Jim McBryde agreed that I should attend, so Senator Kowall knows we have worked hard to find a solution, and answer any questions about the MEDC's role. Senator Kowall has been pursuing changes to the MSF Act related to Port Authorities. Severstal is a big user of the Port of Detroit, so he needs to be informed. Jim has another appointment on Thursday morning, so he will not be able to attend.
- DEQ will call the company on Friday, followed by official correspondence

Please call me if you would like more information, or would like to discuss your concerns.

Amy

From: Amy Banninga
Sent: Friday, September 14, 2012 12:39 PM
To: Michael Finney
Subject: RE: SWMF Michigan Medical Device Accelerator

Thanks--will do. I'm glad to hear that these "special" partner projects go through the standard process. That has not always been true, and has been a great source of staff frustration. A positive step toward employee engagement.

On a side note, I just finished another session with Severstal and DEQ and progress was finally made. The parties have agreed in concept to tolling the company's permit application, essentially putting it on hold while the company collects adequate and consistent data and makes major repairs. This will avoid denial or withdrawal of the permit application. Still a lot of legal details to work out, but a step in the right direction.

Have a wonderful weekend!

-----Original Message-----

From: Amy Banninga
Sent: Wednesday, August 22, 2012 12:57 PM
To: Michael Finney
Cc: Jennifer Nelson
Subject: Severstal Update

Just wanted to let you know that DEQ granted an extension to Severstal until September 21. DEQ did a nice job, Jim Sygo particularly. I ran into Dan Wyant and told him how well it went, but you may also want to say something to Dan if you see him.

Amy Banninga
Michigan Economic Development Corporation

Amy Banninga

From: Michael Finney
Sent: Friday, May 17, 2013 4:21 PM
To: Amy Banninga; Governor Rick Snyder
Cc: Steve Hilfinger; Dennis Muchmore; John Roberts; Allison Scott
Subject: Re: Severstal

Hello Governor Snyder,

Thought you would like to be aware of this action.

Mike

Michael A. Finney
President & CEO
Michigan Economic Development Corporation

Email: Michael@Michigan.org
Work: 517-241-1400

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On May 17, 2013, at 1:19 PM, "Amy Banninga" <banningaa1@michigan.org> wrote:

I thought you should know that the Department of Justice is preparing a filing in federal court since Severstal has not been forthcoming in settlement negotiations with EPA. Director Wyant has sent a referral to the AG to join the action and this was at the request of DOJ.

-----Original Message-----

From: Hellwig, Vince (DEQ) [<mailto:HELLWIGV@michigan.gov>]
Sent: Friday, May 17, 2013 1:10 PM
To: Amy Banninga
Cc: Sygo, Jim (DEQ)
Subject: RE: Severstal Bi-weekly Update - April 29, 2013 through May 10, 2013

Amy,
Severstal is progressing with the milestones in the schedule. However there were several other violations: in March there was an opacity violation at the ESP, in May there was a notice of violation for the "C" cast house for failure to keep records on the baghouse operations and maintenance, and there was a violation of an emissions stack test at the galvanizing line.

In addition the Department of Justice is preparing a filing in federal court since Severstal has not been forthcoming in settlement negotiations with EPA. Director Wyant has sent a referral to the AG to join the action and this was at the request of DOJ.

-----Original Message-----

From: Amy Banninga [<mailto:banningaa1@michigan.org>]



Amiee Evans

From: Amy Banninga
Sent: Wednesday, February 19, 2014 4:10 PM
To: Aaron Young; Christine Roeder; Vince Nystrom; Michael Finney; Steve Hilfinger
Cc: Karen Putnam
Subject: FW: Severstal Dearborn LLC
Attachments: 182-05CCoLtr.pdf; 182-05C.pdf; 182-05CFactSheet.pdf; 182-05CIPLtr.pdf; 182-05CNOH.pdf

Just wanted to update you on the work the Ombudsman office has been doing with Severstal.

The company continues to perform heavy maintenance to systems that contributed to their numerous infractions. They have made a great deal of progress, which has made it possible for DEQ to move their permit to install forward to public hearing. Notice for the Public Information session and Public Hearing have been issued and the hearing is scheduled for March 19th.

This is progress, but there is still a separate EPA enforcement action underway that will be newsworthy. There may be some who do not agree with moving forward with this permit to install new equipment while there are still outstanding historic infractions that include possible criminal changes.

From: Hartman, Amie (DEQ)
Sent: Wednesday, February 12, 2014 9:13 AM
To: jearl@severstalna.com
Cc: rkallnowsky@nthconsultants.com; may@rtpenv.com; mayoro@city.windsor.on.ca; MINISTER@ENE.GOV.ON.CA; madeleine.godwin@ontario.ca; Michael.moroney@ontario.ca; Doug.mcdougall@ontario.ca; Karen.clark2@ontario.ca; cmanzon@city.windsor.on.ca; mcdonaldj@ottawa.ljic.org; aparent@city.windsor.on.ca; damico.genevieve@epa.gov; BLATHRAS.CONSTANTINE@EPA.GOV; mike.ahern@epa.state.oh.us; ivarga5@yahoo.com; Sygo, Jim (DEQ); Wurfel, Brad (DEQ); Ethridge, Christopher (DEQ); McLemore, Wilhemina (DEQ); Hellwig, Vince (DEQ); Rosenbaum, Barb (DEQ); Mitchell, Mark (DEQ); Switzer, Annette (DEQ); Koster, Katherine (DEQ); Sills, Robert (DEQ); Hengesbach, Stephanie (DEQ); Dolehanty, Mary Ann (DEQ); Seidel, Teresa (DEQ); Brown, Ambrosia (DEQ); Hess, Tom (DEQ)
Subject: Severstal Dearborn LLC

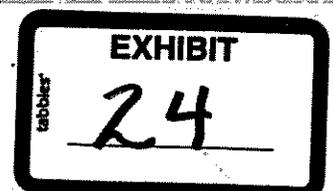
Mr. Earl,

I have attached the public participation documents for Permit to Install Application number 182-05C for Severstal Dearborn LLC, located at 4001 Miller Road, Dearborn, Michigan.

If you have any questions, please contact Annette Switzer.

Thank you.

Amie Hartman, Secretary
Permit Section, Air Quality Division
Michigan Department of Environmental Quality
517-284-6793
Hartmana4@michigan.gov



Sent: Friday, May 17, 2013 11:19 AM
To: Hellwig, Vince (DEQ)
Subject: FW: Severstal Bi-weekly Update - April 29, 2013 through May 10, 2013

Vince—

Just wanted to check in to see how it's going with Severstal. I hope it's all positive, but want to make sure I know if there are any issues.

Let me know—don't need details unless there are problems.

Amy

—Original Message—

From: SDismukes@eckertseamans.com [mailto:SDismukes@eckertseamans.com]

Sent: Wednesday, May 15, 2013 2:29 PM

To: mclemorw@michigan.gov; kosterk1@michigan.gov; DOLEHANTYM@michigan.gov; fiedlerl@michigan.gov; seidelt@michigan.gov; sygoj@michigan.gov; hellwigv@michigan.gov; gordonn1@michigan.gov; mszymans@severstalna.com; jearl@severstalna.com; Bruce.Black@severstalna.com; pond@descc.com; Ed.Asbury@severstalna.com; Ronald.Kostyo@severstalna.com; Amy Banninga; may@rtpenv.com; saini@rtpenv.com; sdismukes@eckertseamans.com; drockman@eckertseamans.com

Subject: Severstal Bi-weekly Update - April 29, 2013 through May 10, 2013

All:

Please find below the bi-weekly update of activities associated with Severstal's Permit Application 182-05C correction efforts and associated emissions testing and compliance-related activities for the weeks of April 29, 2013 through May 10, 2013.

- * During the week of April 29, Severstal conducted stack testing at the C Blast Furnace Stove Stack and C Blast Furnace Casthouse. The testing involved measurement of particulate matter (filterable and condensable) at both sources, and metals (lead and manganese) at the C Blast Furnace Casthouse. The required visible emissions testing demonstrated compliance.

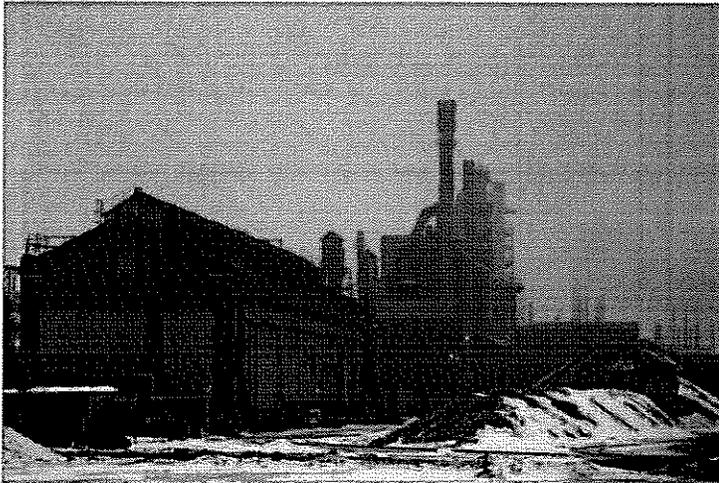
- * On May 2nd, Severstal's slag handling contractor, the Edw. C. Levy Co., submitted a PTI application to DEQ for the construction of a slag pot watering station, for the handling of desulfurization slag, and a pot reheater station.

Scott R. Dismukes
Eckert Seamans Cherin & Mellott, LLC
U. S. Steel Tower
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Dearborn steel plant may be allowed to release higher levels of toxins

By Keith Matheny Detroit Free Press Staff Writer Filed Under Local News Wayne County Dearborn Lansing Jul. 02



State Department of Environmental Quality and Severstal officials say pollution wouldn't increase — it's what's already been spewing from the Dearborn plant for years. / Mandi Wright/Detroit Free Press

To speak out on Severstal's permit revision

The public comment period on Severstal Dearborn's proposed emissions permit revision runs until March 19. Written comments can be addressed to Mary Ann Dolehanty, Permit Section Supervisor, MDEQ Air Quality Division, P.O. Box 30260, Lansing 48909-7760.

Comments may also be submitted from the web page www.deq.state.mi.us/aps/cworp.shtml (click on Submit Comment under the Severstal Dearborn Permit to Install No. 182-05C listing).

On March 19, an informational session and a public hearing will be held in Rooms 122 and 126 at

Henry Ford Community College, M-TEC, 3601 Schaefer Road, Dearborn. The informational session will begin at 6 p.m., at which time DEQ Air Quality Division staff will provide a brief introduction regarding the proposed project and will answer questions. The public hearing will begin at 7 p.m.

Severstal Dearborn, a steel plant that's one of metro Detroit's biggest polluters, would be allowed to release much higher volumes of toxins into the atmosphere — in some cases, hundreds of times more — in a permit revision proposed by the state Department of Environmental Quality.

The changes, revising a 2006 emissions permit, would approve releasing more than 725 times more lead into the air from one portion of Severstal's plant.

Permitted lead releases from other Severstal operations would also increase hundreds of times over, as would releases of the metal manganese.

Figures: Permitted pollutants from Severstal Dearborn that would rise under revision

Carbon monoxide emissions would be approved to more than double; allowed volatile organic compounds releases would rise sharply; and allowances for PM10 or fine dust emissions would rise between two and five times from the permitted levels eight years ago.

But DEQ and Severstal officials say it's not an increase in pollutants — it's what's already been spewing from the plant for years.

Severstal's 2006 emissions permit was based on data that was "limited, incomplete and, as the current emissions test data have revealed, not as representative of Severstal's operations as anticipated," the DEQ states in public documents seeking the permit revision.

"They had tested previously, but we questioned the validity of some of those results because their

equipment was in disrepair," said Vince Hellwig, chief of the DEQ's Air Quality Division.

"The permit today is based on current testing, after the repairs have been made."

For residents nearby, surrounded by refineries and heavy industry in one of Michigan's most polluted areas — the 48217 ZIP code, where the area's toxicity score from the U.S. Environmental Protection Agency is 45 times that of the statewide average — the proposed permit change and the missed pollution in 2006 aren't welcome news.

"The fallout here is every day," said Patricia Guziak, 58, a resident of Dora Street in Melvindale, less than a mile from Severstal's plant and several others, including only being a few blocks from the large Marathon oil refinery.

"It has ruined the paint on my car. In the summertime, I'm sweeping up black dust every day. Dust is dust, but this is not normal. And the stink — you'll get smells so bad you can't sit on the porch."

Just down the street, Jaye Rodriguez said her family has lived in the area for 10 years and, despite the nearby factories and pollution, they don't regret it.

"We've got a good neighborhood," she said.

Rodriguez opposes the permit changes for Severstal, but says that won't matter.

"They're going to do what they want to do," she said. "They don't care about how we feel."

She's correct on at least her first point.

"Citizens may object to it, but that's not something we consider on whether to issue or deny the permit," Hellwig said, adding that there would have to be a "major reason" to deny the permit change and in Severstal's case, "there's no imminent hazard there."

Potential health hazards

All the pollutants that the permit would allow to rise are potentially harmful:

PM-10, or fine dust particles 10 microns or smaller, can affect breathing, damage lungs and cause cancer or premature death, according to the U.S. Environmental Protection Agency. Elderly people, children and people with asthma, influenza or other respiratory disorders are most vulnerable.

Lead air pollution can harm every system in the body, particularly targeting the nervous system, according to the American Lung Association. It can cause permanent learning disabilities and diminished cognitive function in children that is irreversible. It can also lead to severe brain and kidney damage, premature death and is listed as cancer-causing by the EPA.

Chronic, long-term exposure to high levels of manganese by inhalation in humans may result in central nervous system effects, the EPA states.

Volatile organic compounds can cause problems ranging from eye, nose and throat irritation; headaches; loss of coordination and nausea; up to damage to the liver, kidney and central nervous system, according

to the EPA. Some VOCs are known to cause cancer in humans.

Breathing carbon monoxide can cause headache, dizziness, vomiting and nausea. Exposure to moderate and high levels of the colorless, odorless gas over long periods has also been linked with increased risk of heart disease, according to the U.S. Centers for Disease Control and Prevention.

Hellwig, however, said the levels emitted by Severstal are not a public health concern.

"Even at the levels proposed in the current permit, we did model to see if that was still protective of public health, and it is," he said.

Rhonda Anderson, environmental justice organizer for the Sierra Club in Detroit, isn't buying that.

"We feel we have more than enough data that says it most definitely will hurt people's health — especially when you have so much industry in one small area," she said. "It's about cumulative impacts."

The circumstances show the problems associated with industries self-reporting their emissions, Anderson said.

"This permit, we feel, is a slap in the face of the people, because it is a major increase," she said, adding that "DEQ should have noticed it a long time ago" that the emissions data upon which the 2006 permit was based were wrong.

Enforcement actions

Severstal is a Russian company and one of the world's largest in the areas of mining and metals. It created Severstal Dearborn when it purchased the nearly century-old Rouge Steel plant at 4001 Miller Road out of bankruptcy in 2004. Severstal manufactures flat-rolled carbon steel products for the automotive and other industries.

The EPA considers the company a major source of air pollutants and has issued 36 informal enforcement actions to Severstal in the past five years and one formal enforcement action last year.

That came after a 90-day review of emissions from a Severstal smokestack in 2012 showed 1,660 violations of state and federal regulations for smoke opacity, a measure of particle levels in the smoke.

"Severstal recognizes that it purchased a plant that was challenged to meet its environmental goals, but accepted that challenge and invested significantly to improve the plant's environmental performance," said Severstal spokeswoman Katya Pruett.

The company has invested more than \$1.6 billion into the Dearborn plant, including the installation of baghouses — pollution control devices that collect emissions and filter them through mesh bags to collect fine particles — on both its blast furnace, where iron ore is transformed to molten iron, and its basic oxygen furnace, where molten iron is processed and turned to steel, Pruett said.

The baghouses have meant "the capture and removal of about 3,000 tons of particulate matter per year, most of which had been previously emitted," she said.

Though the DEQ is the state's environmental regulator, it does not set allowable air pollution emissions levels, Hellwig said.

"The applicant comes in with an emission limit and we determine whether it's protective of public health," he said. "We do not establish the limit."

Severstal's proposed permit revision continues to meet state and federal air toxin requirements, "which are very stringent," Hellwig said.

But the huge spike in allowed air pollutants "sounds horrible," said Kimberly Hill Knott, policy director for the nonprofit Detroiters Working for Environmental Justice.

She noted the community near Severstal is in the notorious 48217 ZIP code, surrounded by refineries and heavy industries and highlighted in a 2010 Detroit Free Press investigation as the state's most polluted ZIP code.

"We need more information to ensure this isn't adding a further burden to what's already the state's most vulnerable population," she said.

Anderson said the Severstal permit revision proposal makes her wonder how accurate the emissions records are from other factories in the area.

"We don't know," she said. "Who's there to look out for the people?"