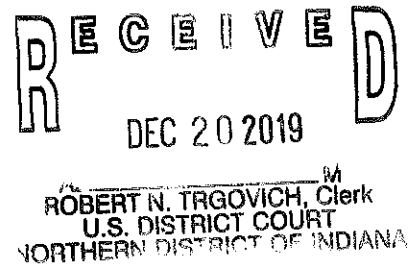


December 18, 2019

Attn: Chief Judge Theresa Lazar Springmann
United States District Court for the Northern District of Indiana
Hammond Division
5400 Federal Plaza
Suite 4300
Hammond, IN 46320



RE: Plaintiffs' Motion to Enter Revised Consent Decree - United States of America and the State of Indiana v. United States Steel Corporation, Case No. 2:18-cv-00127

Dear Madam:

Between April 10-12, 2017, U.S. Steel's Midwest Plant released 902 pounds of the carcinogenic chemical, hexavalent chromium, to the Burns Waterway that flows into Lake Michigan 500 yards downstream in an egregious violation of their permitted allowance of 0.51 pounds per dayⁱ. This spill at the Midwest Plant was not the first or the last violation of the federal Clean Water Act, 33 U.S.C. § 1311 (a), and their National Pollution Discharge Elimination System (NPDES) Permit IN0000337. Investigations by the Environmental Protection Agency and the Indiana Department of Environmental Management (IDEM) in response to the spill uncovered a history of repeat violations at the Midwest Plant that have continued through the current calendar year^{ii,iii,iv,v,vi,vii}. In response to the April 2017 event, approximately 2,700 public comments were submitted to the U.S. Department of Justice on a proposed settlement to bring the Midwest Plant into compliance as outlined in the Consent Decree between the *United States and State of Indiana v. United States Steel Corporation* in the United States District Court for the Northern District of Indiana (Case No. 2:18-cv-00127)^{viii}. Recently, the plaintiffs have moved to enter a revised Consent Decree with U.S. Steel^x; however, this revised Consent Decree is largely unchanged from the draft that stakeholders commented on in 2018. Therefore, it is of grave concern that this revised Consent Decree will not deter another spill into Lake Michigan or bring U.S. Steel into compliance with their NPDES permit. To that end, the undersigned request that the Court reject the revised Consent Decree based on the concerns contained within this letter and delay entering a final judgement until such time that the Consent Decree is revised to address them in full:

1. The proposed civil penalty of \$601,242 for Clean Water Act and Emergency Planning and Community Right-to-Know Act claims does not reflect the seriousness, duration or magnitude of egregious NPDES permit violations at this facility. Neither the proposed civil penalty or the "good faith efforts"^x by U.S. Steel to come into compliance will prevent future violations considering ongoing and systemic failures at the aging facility. Specifically, while the revised Consent Decree suggests that U.S. Steel has demonstrated sufficient capacity to comply with their NPDES permit, violations continue unabated at the Midwest Plant as demonstrated by exceedances of hexavalent chromium, sulfuric acid, oil sheens, iron flock solids and other discharges reported on May 9, Aug. 8, Aug. 20, Sept. 6, Oct. 30, and Nov. 20, 2019 (c.f. Endnotes). Furthermore, and as reflected in the nearly 2,700 comments received by the Department of Justice, a great deal of public trust was lost and significant costs were incurred by local communities responding to their constituencies' concerns – neither of which have been recovered to date and neither of which are accounted for by a penalty of

\$601,242. These concerns are underscored by the long history of violations documented in *The Surfrider Foundation v. U.S. Steel (Case No. 2:18-cv-20)*. **We the undersigned therefore request that the civil penalty is re-evaluated and increased to adequately hold U.S. Steel accountable and deter future events at this aging facility.**

2. The expansion of notification within the revised Consent Decree **must** include specific requirements to notify the public. The Department of Justice's response to comments that they "do not know how U.S. Steel could feasibly notify every fisherman or other recreator..." and that "In any event, it is likely..." recreators will be notified by other entities^x undercuts any effort to rebuild public trust. U.S. Steel has the capacity to submit a press release to local news media in an expedited manner. News media update their coverage of events throughout the day and often serve as the first line of defense that the public has to emergency situations as they unfold - particularly those visitors from outside the region who may not have access to emergency alerts from local communities. Considering the close proximity of this facility to popular recreation destinations at the Indiana Dunes National Park, the Public Marina in Portage, downstream communities, among others, and the nature of public access to devices that enable constant access to news, prompt public notification must be included within the revised Consent Decree. **We request that the Court identifies a clear process for alerting the public through the press or other comparable means to ensure public protection from exposure to toxic chemicals released by U.S. Steel.**
3. The ongoing violations at the aging Midwest Plant indicate that U.S. Steel is unable to meet their NPDES permit obligations (c.f. Endnotes). These chronic, systemic violations continue to erode public trust by continuing to threaten the safety of our lakeshore, drinking water, and sensitive ecosystems of the Indiana Dunes National Park. The revised Consent Decree does little to provide confidence or full understanding of how it will serve to prevent future disasters, or how this information will be communicated publicly. While we appreciate U.S. Steel files compliance documents on the IDEM Virtual Filing Cabinet, this information is largely inaccessible to the public without technical expertise. **We request that the Court requires U.S. Steel to host public forums that engage the public in the best practices they are required to implement by the revised Consent Decree.**
4. We appreciate the addition of an "Environmentally Beneficial Project" in the revised Consent Decree, but as described, it will only require water samples to monitor Total Chromium, Hexavalent Chromium, pH, Temperature, Total Suspended Solids, Transparency, Cyanobacteria and E. Coli. **In order for this project to have more meaning, we request that the scope and associated costs of the "Environmentally Beneficial Project" are increased to monitor additional heavy metals and chemicals that have been released in exceedance of U.S. Steel's NPDES permit. We also request that the levels of these contaminants are made publicly available in a manner that also interprets what they mean with regard to protecting public and environmental health.**

For the reasons outlined above, we believe the revised Consent Decree is inadequate and that additional revisions are necessary to protect public health and the environment in Northwest Indiana. We therefore request that the Court reject the revised Consent Decree and only enter final judgement after the comments contained within this letter are considered in full and the Consent Decree is modified

accordingly. We sincerely appreciate the Court's time and consideration in addressing these matters. The undersigned are available to answer any questions or provide points for clarification at the Court's request.

Respectfully submitted,

Natalie Johnson, *Executive Director*
Save the Dunes

Joel Brammeier, *President & CEO*
Alliance for the Great Lakes

Indra Frank, MD, MPH
Environmental Health & Policy Director
Hoosier Environmental Council

Charlie Palmgren, *President*
Illinois Division of the Izaak Walton League

Keith Halper, *President*
Indiana Division of the Izaak Walton League

Capt. Mike Schoonveld, *Executive Secretary*
Indiana's North Coast Charter Association

Gene Hopkins, *President*
Indiana Sportsmen's Roundtable

Emily Wood, *Executive Director*
Indiana Wildlife Federation

Rick Graham, *Chairman*
Izaak Walton League Great Lakes Committee

Barb Schilling and Linda Hanson, *Co-Presidents*
League of Women Voters of Indiana

Barb Schilling, *President*
League of Women Voters of the Calumet Area

Barbara S. Clark, *Executive for Business*
League of Women Voters of Greater Lafayette

Krista Grimm, *President*
**League of Women Voters Lake Michigan
Region**

Jo Ann Engquist, *President*
League of Women Voters of LaPorte County

Dr. Helen Mundy Hudson, *President*
**League of Women Voters of Montgomery
County**

Patty Slamkowski, *President*
League of Women Voters of Porter County

Stylios Shephard, *President*
Northwest Indiana Paddlers Association

Bowden Quinn, *Director*
Sierra Club Hoosier Chapter

ⁱ Complaint; United States of America and the State of Indiana v. United States Steel Corporation, Case No. 2:18-cv-00127, Document 1, Filed 04/02/18, Page 16, Paragraph 64. <https://www.epa.gov/in/u-s-steel-corporation-consent-decree>

ⁱⁱ EPA Inspection Report – U.S. Steel Corporation – Midwest Plant. May 4, 2017. <https://www.epa.gov/in/u-s-steel-corporation-consent-decree>

ⁱⁱⁱ "Documents reveal additional responses this summer to oil sheens near U.S. Steel in Portage," Sarah Reese, *Northwest Indiana Times*. September 12, 2019.

^{iv} “Water company closes Ogden Dunes facility after USS reports sheen in Burns Waterway,” *Chesterton Tribune*. September 9, 2019.

^v “U.S. Steel shuts down part of Portage plant after reporting another hexavalent chromium spike,” Meredith Colias-Pete, *Post-Tribune*. October 31, 2019.

^{vi} “U.S. Steel ‘discoloration’ near Burns Waterway is likely petroleum, Portage mayor says,” Meredith Colias-Pete, *Post-Tribune*. August 20, 2019.

^{vii} “U.S. Steel reported release the same day government sought approval of consent decree, IDEM says.” Sarah Reese, *Northwest Indiana Times*. November 25, 2019.

^{viii} Lodged Consent Decree, United States of America and the State of Indiana v. United States Steel Corporation, Case No. 2:18-cv-00127, Document 2-1, Filed 04/02/18. <https://www.epa.gov/in/u-s-steel-corporation-consent-decree>

^{ix} Revised Consent Decree, United States of America and the State of Indiana v. United States Steel Corporation, Case No. 2:18-cv-00127, Document 46-1, Filed 11/20/19. <https://www.epa.gov/in/u-s-steel-corporation-consent-decree>

^x United States’ Response to Comments; United States of America and the State of Indiana v. United States Steel Corporation, Case No. 2:18-cv-00127, Document 47-1, Filed 11/20/19, Pages 30-32. <https://www.epa.gov/in/u-s-steel-corporation-consent-decree>