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PHYSICAL DOCUMENT

LPS-n265551-v1

CAA NOTICE OF INTENT

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Document Type:	LETTER
LSA(s):	
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Distribution List:	Williams, Kim (ENRD);Rose, Robert (ENRD);Reed, Jason (ENRD);True, Michael (ENRD);Robinson, Vanessa (ENRD);Smith, Justin (ENRD);Counts, Rachel (ENRD);Woody, Carolyn (ENRD)
Fileroom:	LPS - Main Justice
DJ#:	ADMIN
Case Name:	Administrative Duties
Court:	
Notes:	SCANNED/UNASSIGNED
Double-Sided:	N
Received Date:	8/30/2018
Urgent:	N
Oversize:	N
Bound Document:	N

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Protecting Human Health & The Environment

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

AK Steel Holding Corporation
c/o: Roger K. Newport
9227 Centre Pointe Drive
West Chester, OH 45069

AK Steel Corporation
c/o: Roger K. Newport
9227 Centre Pointe Drive
West Chester, OH 45069

AK Steel - Middletown Works
c/o: Dale Rupp, General Manager
1801 Crawford Street
Middletown, OH 45044

DEPT. OF JUSTICE ENRD
ENVIRONMENT DIVISION
18 AGO 30 AM 10:08

August 17, 2018

Re: 60-Day Notice of Intent to File Citizen Suit Under Clean Air Act Section 304(a) for Violations of the Clean Air Act by AK Steel Holding Corporation and AK Steel Corporation at the Middletown Works Iron and Steel Plant in Middletown, Ohio

Dear Messrs. Newport and Rupp:

My law firm represents Donna Ballinger, who resides in Middletown, Ohio on Ottawa Street and the Sierra Club (clients). Pursuant to Section 304(a) of the Clean Air Act (CAA), 42 U.S.C. § 7604(a), and 40 C.F.R. Part 54, Donna Ballinger and the Sierra Club and its members hereby notify you that AK Steel Holding Corporation and AK Steel Corporation (the Responsible Parties) have violated and will continue to violate emission standards and limitations under CAA Section 304(a) & (f)[1] as described in this Notice. Just two weeks after a referral from the Ohio EPA to the Ohio Attorney

[1] 42 U.S.C. § 7604(a)(1) & (f)

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General's office, the Ohio EPA and AK Steel filed the December 4, 2017 consent decree (CD). **The CD appears to have been filed to attempt to hinder any community enforcement effort and was *filed in state court with no notice to the affected community*. The CD will not achieve compliance with the CAA and fails to require abatement of the unlawful nuisance conditions created by the Responsible Parties.**

Unless these violations and the underlying causes are fully and verifiably remediated within 60 days, my clients intend to file a citizen suit seeking civil penalties for the Responsible Parties' violations and an injunction compelling the Responsible Parties to comply with the CAA. During this 60-day period, we are willing to meet with the Responsible Parties and/or any and all interested government officials to implement concrete and enforceable steps to end these violations.

The Responsible Parties and Location of the Violations

AK Steel Corporation owns and operates an iron and steel manufacturing plant, Middletown Works, located at 1801 Crawford Street, Middletown, Ohio 45044 on a 2,791-acre parcel in Butler County (the Facility). AK Steel Corporation is a wholly owned subsidiary of AK Steel Holding Corporation.

The odors; smoke; flames; black, red, or orange plumes; and clouds containing a myriad of particulates and other substances (including: ash; black, white, silver, yellow, or red material; dust; coal; coke; coke breeze; soot; kish; slag; broken-glass-like particulates; and iron/metallic particles) that the Responsible Parties have released, and continue to release from the Facility have repeatedly violated and continue to violate emission standards and limitations, permit requirements, the National Emission Standards for Hazardous Air Pollutants (NESHAPs), and Ohio's federally-approved State Implementation Plan (Ohio SIP), including the air pollution nuisance provision (Ohio Adm. Code § 3745-15-07), all of which are federally enforceable by citizens. The Responsible Parties are owners and/or operators of the Facility and are persons who have violated and who are in violation of the emission standards and limitations set forth herein.

Background

Donna Ballinger has lived in the vicinity of the Facility for her entire 53-year life and has lived at her current address, 3014 Ottawa Street, Middletown, Ohio 45044, since October 2012. Ms. Ballinger's property is south and west of and in close proximity to the

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Facility. The odors and substances and/or combinations of substances released from the Facility discussed in this Notice have caused Ms. Ballinger to be greatly concerned for her health and welfare and have caused unreasonable damage to her property. Ms. Ballinger is a member of the Sierra Club.

Sierra Club, founded in 1892, is the nation's oldest and largest grassroots nonprofit environmental organization, with more than 825,000 members nationwide. The Ohio Chapter has over 23,000 members, including 506 in Butler County. Sierra Club's Ohio Chapter has an extensive history of grassroots environmental protection in Ohio. Sierra Club's purposes are to explore, enjoy, and protect the wild places of the Earth; to practice and promote the responsible use of the Earth's ecosystems and resources; to educate and enlist humanity in the protection and restoration of the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Since its founding over a century ago, Sierra Club has become a leader in working to reduce air pollution. The Sierra Club's members include people who live and breathe air in Ohio, and who are affected by the quality of Ohio air. Ms. Ballinger and other members of the Sierra Club have suffered and continue to suffer injuries directly traceable to the Responsible Parties' CAA violations.

The Facility operates under a Title V Permit[2] issued to AK Steel Corporation by the Ohio Environmental Protection Agency.

No Agency is Diligently Prosecuting Violations of the Standards and Limitations Stated Herein

On December 4, 2017, after receiving Ms. Ballinger's and Sierra Club's October 6, 2017 notice of intent to file a CAA citizen suit, the State of Ohio simultaneously filed a complaint and proposed consent decree—with no notice to the affected community—against the Responsible Parties in the Butler County, Ohio Court of Common Pleas. Within 30 minutes of filing the complaint, a consent decree (CD) was signed by the court and entered. And only after the Clerk's office closed for the day did the State of Ohio notify our office that an action had been filed. The case was deemed closed.

[2] Unless otherwise specified, the term "Title V Permit" refers collectively to the Facility's permit P0096473, effective January 3, 2005, and all subsequent renewals, including the renewal issued August 10, 2017 (P0105157).

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The State's actions deprived Ms. Ballinger, the Sierra Club, and the Middletown community of any opportunity to participate, object, or intervene. The State of Ohio acted with full awareness that our clients and the Middletown community had an interest and stake in any "enforcement" deal it made with the Responsible Parties.

The State of Ohio has a long history of failing to bring the Responsible Parties into compliance with the CAA. The December 4, 2017 CD is another example of this failure.

The CD does not enforce, resolve, or otherwise remedy the violations discussed in this Notice. For example, the State of Ohio has not required that the violations of Ohio Adm. Code § 3745-15-07 be abated and has not mandated a remedy for the causes of the air nuisance. In fact, the CD authorizes the nuisance to continue so long as the Responsible Parties provide some affected citizens annual power washing of their homes and vouchers or reimbursement for some car washes. Because the CD only attempts to address property impacts limited to particulate accumulations on vehicles and house siding, the CD is incapable of, and not reasonably calculated to, abate the odor or health nuisance caused by the Responsible Parties.

Further, the CD only purports to touch upon five sources of particulate emissions and entirely fails to require that anything be done for dozens of other particulate pollution sources, including other large emitters of particulate matter. Other provisions of the CD, including those relating to the five sources, are, on their face, illusory, as they require nothing more than studies or analyses, reporting on potential corrective steps, and then updating of the Facility's Operation and Maintenance Plans, "if necessary." The CD contains no enforceable standards for particulate emission reductions and no requirement to operate or implement technology or corrective measures after the period of study. Compliance with the CD will not result in compliance with the CAA, including Ohio Adm. Code § 3745-15-07.

Additionally, on June 19, 2018, the Ohio EPA issued an interim administrative order to AK Steel related to excess benzene and visible particulate emissions. The order does not reference or enforce the air nuisance provision, and PM2.5 is, by definition, not a visible particulate emission. Further, the work in the interim order is limited in scope and will not remedy the severe air nuisance impacting the community. In short, the nuisance has continued to remain severe and nearly daily, and no administrative agency, including Ohio EPA, has taken steps to bring the nuisance to an end. Ms.

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Ballinger, members of the Sierra Club, and the Middletown community have suffered and will continue to suffer irreparable harm, including exposure to toxic air emissions.

Activities that Violate the Clean Air Act

As part of its iron and steel making operation, the Facility has: 76 by-product coke ovens and related air contaminant sources (emissions units B918, P067, P068, P070, P075, T002, and T021), including quenching operations (F021 and P043); paved and unpaved roadways and parking areas (F001); operations that handle, load and unload, process, store, and transfer coal, raw materials, iron bearing materials, coke, ore, slag, flux material, and fluxing agents (F002, P901, F003, F004, F005, F008, F010, F012); basic oxygen furnaces and related air contaminant sources (P926, P927, F011, and F025); a continuous caster (P902); slab scarfing and slitting equipment (F015); coating lines (P019 and P022); a hot metal pouring and desulfurization station (P047); electrogalvanizing line (P062); a cold rolling steel operation (P065); a hot strip mill (P094); a flushing liquor and tar decanter tank, equipped with gas blanketing (P096); a blast furnace (P925); a steel refining station (P934); vacuum degassing operations (P935); hot metal pouring and desulfurization operations (P047 and P956); annealing operations (B021, B022, B023, and B026); industrial boilers (B007, B008, B009, and B010); ladle and tundish preheaters (B027, B028, B029, B030, B031, and B032); steel pickling lines (P023 and P024); slab reheat furnaces (P009, P010, P011, and P012); temper mills (P091, P092, and P095); a corrective rewind line (P093); gasoline and diesel dispensing facilities (G001); and metal parts spray painting operations (K001).

The Responsible Parties' CAA violations stem from their illegal, improper, and/or careless operation of the Facility, poor maintenance of the Facility, failure to employ emission controls, and release of excess emissions from the Facility. In addition, the Responsible Parties have allowed and continue to allow noxious odors; clouds of particulates (containing, *inter alia*: ash; black, white, silver, yellow, or red material; dust; coal; coke; coke breeze; soot; kish; slag; broken-glass-like particulates; and iron/metallic particles); hazardous air pollutants; greenhouse gases; oxides of nitrogen; sulfur dioxide; acid gases; organic compounds; volatile organic chemicals; and toxic metals to be released from the Facility and to be deposited onto nearby properties, including Ms. Ballinger's property.

Each of these CAA violations, as further described in this Notice, is a violation of an "emission standard or limitation" under the CAA for which citizens may bring suit and obtain enforceable relief. Each violation involves one or more of the following

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"emission standards or limitations" under the CAA: (1) an emission limitation, standard of performance, or emission standard under 42 U.S.C. § 7604(f)(1); (2) a condition or requirement of a permit under 42 U.S.C. § 7604(f)(3); and (3) a standard or limitation established in a Title V permit or in the Ohio SIP under 42 U.S.C. § 7604(f)(4). The Responsible Parties are each persons who have repeatedly violated and who are in violation of emission standards or limitations.

The Facility Is Operated in Such a Manner as to Create an Air Pollution Nuisance in Violation of the CAA, the Title V Permit, and the Ohio SIP

Under the CAA, the Ohio Administrative Code, and the Title V Permit, the Facility is subject to the "air pollution nuisance prohibition" of Ohio Adm. Code § 3745-15-07:

> [T]he emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

Importantly, the federally enforceable and Ohio EPA-issued Title V Permit also mandates that "air contaminants emitted by the emissions units covered by [the] permit shall not cause a public nuisance, in violation of OAC rule 3745-15-07." (emphasis added) [3] Hence, Ohio's air pollution nuisance provision is federally enforceable under the Title V Permit, is federally enforceable both because it is part of the Ohio SIP and because it is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4).

The Facility has released, and continues to release, noxious odors, ash, dust, coal, coke, coke breeze, soot, kish, slag, broken glass-like particulates, iron/metallic particles, hazardous air pollutants, acid gases (such as hydrochloric acid), oxides of nitrogen, sulfur dioxide, organic compounds, volatile organic chemicals, and toxic metals. These odors and substances are visibly emitted or spewed from one or more of the iron, steel,

[3] Part I.A.20, No. P0096473 and A.21., No. P0105157.

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or coke making operations as black or gray smoke; dust clouds; red, orange, or black plumes; explosions; fire; and haze and enter the community surrounding the Facility. The odors invade nearby residents' properties, including Ms. Ballinger's property, and permeate inside the homes. The ash, dust, coal, coke, soot, kish, and other particulates and air contaminants frequently settle onto nearly every surface of the properties surrounding the Facility.

The deleterious substances being released from the Facility are known to be toxic and/or to cause adverse health effects, including cancer. For example, coke oven and steel plant emissions and many metals and chemicals found in the particulate matter released from the Facility are known carcinogens or are extremely toxic, even at low levels. Exposure to particulate matter, including PM10 and PM2.5, is linked with "premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of airways, coughing, and difficulty breathing." Exposure to PM10 causes irritation of the eyes, nose, and throat. ***PM2.5 poses the greatest risk to health because the particles can become lodged deep in the lungs and may enter the bloodstream,*** inducing and contributing to heart disease, reduced life expectancy, and lung diseases. PM2.5 and other ultrafine particles in air pollution have been rated as a Group 1, known human carcinogen. People with heart or lung diseases, older adults, and children are the most vulnerable. PM2.5 can cause or aggravate respiratory diseases, such as asthma and bronchitis. In 2012, coke production was rated as an occupation known to cause cancer by the International Agency for Research on Cancer. ***In fact, there is no safe level of exposure to PM2.5.*** Real-time PM2.5 data, recently collected pursuant to an ambient air monitoring protocol, demonstrates that AK Steel is emitting ultrafine particles at levels known to be injurious to both healthy and vulnerable populations. These data also further corroborate the air nuisance reports of Ms. Ballinger and other community members.

Benzene is a human carcinogen, and exposure significantly increases the risk of leukemia, and increases the risk of Hodgkin's lymphoma. Hydrochloric acid is corrosive and can cause difficulty breathing and nasal and respiratory irritation when inhaled. Sulfur dioxide is toxic to the respiratory system and can cause permanent injury with exposure to small quantities. In addition, many of these air contaminants, substances, and combinations of substances released from the Facility are known to damage property.

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The odors and releases from the Facility have interfered with the use and enjoyment of Ms. Ballinger's property, caused unreasonable damage to her property, aggravated existing health conditions, and endangered her health and welfare. Particulate fallout from the Facility intermittently lands on Ms. Ballinger's property. The frequency and intensity of the fallout has greatly increased in the past year or so. The particulate deposits include large pieces of metal that accumulate and cover her cars, deck, window sills, home, and grandchildren's toys. The black deposits are difficult to clean and some of the material cannot be washed off. The particulates accumulate on and damage her gutters—which were installed about a year ago and already need to be replaced. The particulate fallout drops "like rain" because Ms. Ballinger can feel it hitting her body, even though the particles are not always visible.

Ms. Ballinger cannot tolerate being outside her home because releases from the Facility make it difficult for her to breathe. She rarely, if ever, cooks outside. Intermittent loud noises from the Facility shake her house. Analysis of samples taken after a recent and especially heavy particulate fallout event—which covered her cars and property and a four-block area to the south, west and north of her home—showed that 70-80 percent of the sample was slag and included particulates "resembling glass slivers and pieces of broken glass." Ms. Ballinger feels panicked and concerned for her health and is especially concerned about learning that she is breathing air with broken-glass-like particulates.

When exposed to the odors, ashes, dust, dirt, grime, coal and coke wastes, soot, kish, slag, broken glass-like particulates, iron/metallic particles, and other particulates, my client and her neighbors, and other Sierra Club members, suffer a range of irritating to unbearable symptoms such as: coughing, difficulty breathing, sinus congestion, and other respiratory problems; headaches; nausea; burning noses and throats; a "coal stove" or metallic taste in the mouth; and burning eyes. Even pets are adversely impacted by Facility emissions, frequently coughing or scratching their skin after exposure. The sulfur, chemical, coal, coal burning, gas, steel-making, or coking odors from the Facility interfere with Ms. Ballinger's and other residents' use and enjoyment of their decks and porches and have even kept residents up all night. Ms. Ballinger refrains from opening her windows, but strong odors still invade her home.

The visible deposits of ashes, dust, dirt, grime, coal and coke wastes, soot, kish, slag, broken glass-like particulates, iron/metallic particles, and other particulates (called "fallout" by my client and other residents) accumulate frequently on Ms. Ballinger's and her neighbors' properties. The fallout covers nearly every surface—yards, decks,

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homes, outdoor furniture, and vehicles—and even gets inside homes. The visible deposits coat vehicles and damage paint. Due to the nature of the particulates, the material is very difficult to clean and remove. Residents struggle to keep their properties and homes clean. HVAC filters must be changed more often. The visible deposits accumulate quickly and often reappear within a couple of days after an attempted cleaning. The fallout has been so thick it resembles snow fall. On numerous occasions, residents go outside in the morning to find that the particulates have been deposited overnight. The impacts of periods of particularly heavy fallout can be felt for days or several weeks at a time. On days of heavy fallout, substances from the Facility will visibly accumulate on residents' skin and clothes if they are outside for only 10 to 15 minutes.

Hamilton County Department of Environmental Services/Southwest Ohio Air Quality Agency staff have collected numerous samples of the fallout on Ms. Ballinger's and several neighbors' properties. Analysis of the samples show that the fallout contains mostly kish, coke, coke breeze, magnetic iron particles, slag, broken-glass-like particulates, graphite, and calcium compounds—directly attributable to the Facility.

The noxious odors, smoke, haze, clouds, ash, dust, coal, coke, coke breeze, soot, kish, iron/metallic particles, hazardous air pollutants, and other deleterious substances released from the Facility into the surrounding community have created conditions that endanger the health, safety, and welfare of Ms. Ballinger, residents, and other Sierra Club members and have caused unreasonable injury to residents' properties on, at least, the following exemplar dates: 9/14/2012; 9/21–22/2012; 10/8/2012; 10/16/2012; 11/19/2012; 11/27/2012; 12/6/2012; 12/12/2012; 12/13–14/2012; 12/15–17/2012; 3/8/2013; 3/25/2013; 5/1/2013; 5/21/2013; 5/28/2013; 6/19/2013; 7/13/2013; 7/14/2013; 7/25/2013; 8/13/2013; 8/14/2013; 8/17/2013; 8/23/2013; 8/24/2013; 8/30/2013; 9/3/2013; 9/6/2013; 9/14/2013; 9/17/2013; 9/20/2013; 9/26/2013; 10/8/2013; 10/10/2013; 10/11/2013; 11/4/2013; 11/11/2013; 2/3/2014; 2/7/2014; 3/6/2014; 3/18/2014; 3/19/2014; 5/22–23/2014; 6/2/2014; 6/14/2014; 6/15/2014; 6/23/2014; 6/27/2014; 6/29/2014; 6/30/2014; 7/14/2014; 7/25/2014; 7/26/2014; 7/31/2014; 8/1/2014; 8/6–8/2014; 8/10/2014; 8/12/2014; 8/16/2014; 8/28/2014; 8/29/2014; 9/5/2014; 9/28–29/2014; 10/20/2014; 12/4–5/2014; 12/19/2014; 12/21/2014; 12/22/2014; 2/7/2015; 3/12/2015; 3/15/2015; 3/22/2015; 4/15/2015; 5/22/2015; 6/10/2015; 7/16/2015; 7/22/2015; 7/23–26/2015; 7/29/2015; 8/10/2015; 8/13/2015; 8/28/2015; 9/14/2015; 9/15/2015; 9/19/2015–10/7/2015; 10/9–10/2015; 10/20/2015; 10/21/2015; 10/26/2015; 11/28/2015; 2/17/2016; 2/21/2016; 4/15–16/2016; 4/19/2016; 5/22–24/2016; 5/31/2016; 6/2–3/2016; 6/5–6/2016; 6/7–8/2016; 6/17/2016; 6/19/2016; 6/28/2016; 7/9/2016; 8/4/2016; 8/11/2016; 8/22/2016; 9/19/2016; 10/5/2016; 10/11–13/2016; 11/11–12/2016; 11/18/2016; 11/21/2016;

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These releases have resulted from the Responsible Parties' illegal, improper, and careless operation of the Facility. The Responsible Parties are aware that the Facility has released, and continues to release, these nuisance emissions and odors that have

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harmed and continue to harm the Facility's neighbors. Despite this, the Responsible Parties have failed to abate the nuisance.

The releases from the Facility, in the manner described above, are a public nuisance under Ohio Adm. Code § 3745-15-07 in violation of Ohio's SIP, the Title V Permit, and the CAA. The public nuisance is ongoing and will continue after the date of this letter and the subsequent filing of a lawsuit, unless and until the Responsible Parties take verifiable and enforceable steps to abate the nuisance. My clients are providing notice for the violations listed above, as well as all ongoing and continuing violations, including those committed subsequent to the date of this Notice.

Other CAA Violations

Exceedances of the particulate matter emissions limit for the No. 3 Blast Furnace (P925)

The Title V Permit limits the emission of particulates from the No. 3 Blast Furnace to 73.8 pounds per hour.[4] This permit requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, this requirement was exceeded on at least the following dates: 8/22/2012; 9/2/2012; 9/4/2012; 9/7/2012; 9/8/2012; 9/10/2012; 9/16/2012 (2 times); 9/17/2012 (2 times); 9/26/2012; 9/27/2012; 9/30/2012; 10/4/2012; 10/11/2012; 10/12/2012; 10/20/2012; 11/28/2012; 12/11/2012; 12/21/2012; 12/29/2012; 1/15/2013; 1/16/2013; 1/21/2013; 1/30/2013; 2/15/2013 (2 times); 2/19/2013; 3/17/2013; 3/18/2013; 4/29/2013; 4/30/2013 (2 times); 5/7/2013; 5/14/2013 (2 times); 5/16/2013; 5/17/2013; 5/20/2013; 5/27/2013 (2 times); 5/28/2013; 6/5/2013 (2 times); 6/12/2013; 6/21/2013; 7/17/2013; 7/18/2013; 7/20/2013; 7/21/2013 (4 times); 7/22/2013 (6 times); 7/23/2013; 7/24/2013; 7/25/2013; 7/28/2013; 8/1/2013; 8/2/2013 (4 times); 8/4/2013 (2 times); 8/7/2013 (2 times); 8/9/2013 (2 times); 8/11/2013; 8/16/2013; 8/17/2013 (2 times); 8/18/2013; 8/20/2013; 8/21/2013 (6 times); 8/23/2013 (3 times); 8/30/2013 (3 times); 8/31/2013; 9/1/2013; 9/5/2013; 9/6/2013; 9/7/2013; 9/8/2013; 9/9/2013; 9/10/2013; 9/11/2013 (4 times); 9/12/2013 (3 times); 9/15/2013; 9/24/2013 (2 times); 9/25/2013 (2 times); 9/26/2013; 9/27/2013 (2 times); 9/29/2013 (2 times); 9/30/2013; 10/3/2013; 10/6/2013; 10/22/2013 (2 times); 10/29/2013; 11/1/2013 (3 times); 11/4/2013; 11/6/2013; 11/7/2013; 11/8/2013; 12/7/2013; 12/10/2013 (2 times); 12/25/2013; 1/2/2014; 1/5/2014; 1/22/2014; 3/27/2014;

[4] P925 Part III.A.I.1, No. P0096473 and C.23.b)(1)b., No. P0105157.

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3/30/2014; 5/12/2014; 8/5/2014; 8/23/2014; 9/8/2014; 9/26/2014; 10/24/2014; 10/27/2014; 10/28/2014; 10/29/2014; 11/1/2014; 12/19/2014; 1/12/2015; 1/29/2015; 6/9/2015; 6/10/2015 (2 times); 6/26/2015; 6/27/2015; 6/28/2015; 7/20/2015; 9/24/2015 (2 times); 11/12/2015 (2 times); 12/17/2015; 10/13/2016; 11/29/2016; 12/6/2016; 12/13/2016 (2 times); 12/15/2016 (2 times); 12/21/2016; 12/30/2016; 1/14/2017; 1/16/2017; 2/27/2017; 3/6/2017; 3/13/2017; 3/14/2017; 3/17/2017; 3/18/2017; 3/25/2017 (2 times); 4/5/2017; 4/8/2017; 4/10/2017 (2 times); 4/22/2017; 4/26/2017 (2 times); 4/30/3017 (2 times); 8/3/2017; and 8/9/2017. Each of these exceedances is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Failure to maintain the RS scrubber water flow rate at or above the required minimum of 661 gallons per minute (P925)

The Title V Permit requires that the RS scrubber water flow rate be maintained at or above a minimum of 661 gallons per minute (gpm).[5] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, the RS scrubber water flow rates were below the required minimum of 661 gpm on at least the following dates: October 27 and 28, 2014 for five consecutive shifts. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Failure to maintain the required inlet static pressure in the Secondary Emissions Control Baghouse for the Basic Oxygen Furnaces (P926 and P927)

The Title V Permit, the NESHAPs for Integrated Iron and Steel Manufacturing Facilities, and the Facility's operations and maintenance plan requires the Facility to maintain the inlet static pressure of 6 inches W.C. in the Secondary Emissions Control Baghouse.[6] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, the Responsible Parties failed to maintain the required inlet static pressure on at least the following dates: August 22, 2012; April 23, 2014; and May 17, 2014. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

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[5] P925 Part III.A.II.2, No. P0096473 and C.23.d)(7)c., No. P0105157.

[6] P926 & P927 Part II.A.3, No. P0096473; B.5., No. P0105157; 40 CFR Part 63, Subpart FFFFF.

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Failure to maintain the required tap hood damper set point for the Basic Oxygen Furnaces (P926 and P927)

The Title V Permit, the NESHAPs for Integrated Iron and Steel Manufacturing Facilities, and the Facility's operations and maintenance plan requires the Facility to maintain the tap hood damper set point in the Basic Oxygen Furnaces.[7] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, the Responsible Parties failed to maintain the required tap hood damper set point on at least the following dates: 8 days between March 9 and March 31, 2015; 9 days between April 1 to April 22, 2015; January 29, 2017; and January 30, 2017. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Exceedances of the hydrochloric acid emissions limit for the Pickling Lines (P023 & P024)

The Title V Permit and the NESHAPs for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants limits the hydrochloric acid (HCl) emissions from the Pickling Lines to 18 parts per million by volume (ppmv).[8] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, this limit was exceeded on or between at least the following dates: July 10 to August 15, 2014 (P024) and October 21, 2016 to Jan. 19, 2017 (P023). Each of these exceedances is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Failure to employ required reasonably available control measures for pushing operations at the No. 2 Coke Plant (B918)

The Title V Permit requires the Facility to minimize or eliminate visible fugitive particulate emissions through the employment of reasonably available control measures (RACM). The Facility must, at a minimum, employ a pushing emission control system consisting of a fixed duct and land-based coke guide evacuated to a baghouse collector.[9]

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[7] P926 & P927 Part II.A.3, No. P0096473; B.5., No. P0105157; 40 CFR Part 63, Subpart FFFFF.
[8] P023 & P024 Part III.A.I.1 and A.I.2.b.i., No. P0096473; C.33.b)(1)e. and b)(2)a.i., No. P0105157; 40 CFR Part 63, Subpart CCC.
[9] B918 Part III.A.I.1, No. P0096473; C.1.b)(1)v., No. P0105157.

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This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, the Facility failed to employ the required RACM on at least the following dates: October 5 – 6, 2012 while pushing 39 ovens; October 16, 2013; and May 12, 2014. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Failure to operate the emergency bypass bleeder flare on the No. 2 Coke Plant with a continuously operable pilot flame (B918)

The Title V Permit requires the emergency bypass bleeder flare to be operated with a continuously operable pilot flame.[10] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, the Facility failed to continuously operate the pilot flame on at least the following dates: January 1, 2013; January 9, 2013; June 2, 2016; and June 15, 2016. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Failure to employ reasonably available control measures and good operating or engineering practices (B918, F001, F002, F012, F015, F025, P019, P022, P047, P062, P065, P094, P901, P902, P925, P935, P956, P926, P927, B027, B028, B029, B030, B031, B032, F003, F004, F005, F008, F010, P024, P091, P092, P093, and P095)

The Title V Permit requires the Facility to employ reasonably available control measures and good operating or engineering practices to minimize or eliminate visible emissions of fugitive dust.[11] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on documented reports by Middletown residents near the Facility, the Facility failed to

[10] B918 Part III.A.II.1.c., No. P0096473.

[11] Part III.A.I.1. for B918, F001, F002, F012, F015, F025, P019, P022, P047, P062, P065, P094, P901, P902, P935, B027, B028, B029, B030, B031, B032, F003, F004, F005, F008, F010, P024, P091, P092, P093, and P095 and Part III.A.I.2 for P925, P956, P926, and P927, No. P0096473; C.1.b)(1)v., C.2.b)(1)c., C.3.b)(1)b. & (2), C.5.b)(1)b. & (2)b., C.6.b)(1)b. & (2)a., C.8.b)(1)b., C.9.b)(1)b., C.10.b)(1)b., C.12.b)(1)c., C.13.b)(1)d., C.14.b)(1)c., C.19.b)(1)b., C.21.b)(1)b. & (2)b., C.22.b)(1)b. & (2)a., C.23.b)(1)e. & (2), C.25.b)(1)c. & (2), C.26.b)(1)c. & (2)a., C.29.b)(1)c. & (2)a., C.31.b)(1)b., C.32.b)(1)b. & (2), C.33.b)(1)g., C.35.b)(1)b. & (2)a., No. P0105157.

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employ the required control measures on at least the following dates: 9/14/2012; 9/21–22/2012; 10/8/2012; 10/16/2012; 11/19/2012; 12/6/2012; 12/12/2012; 12/13–14/2012; 12/15–17/2012; 3/8/2013; 3/25/2013; 5/1/2013; 5/21/2013; 6/19/2013; 7/13/2013; 7/14/2013; 8/13/2013; 8/14/2013; 8/17/2013; 8/23/2013; 8/30/2013; 9/3/2013; 9/14/2013; 9/17/2013; 9/20/2013; 9/26/2013; 10/8/2013; 10/10/2013; 10/11/2013; 11/4/2013; 11/11/2013; 2/3/2014; 2/7/2014; 3/18/2014; 3/19/2014; 5/22–23/2014; 6/2/2014; 6/14/2014; 6/15/2014; 6/23/2014; 6/27/2014; 6/29/2014; 6/30/2014; 7/14/2014; 7/25/2014; 7/26/2014; 7/31/2014; 8/1/2014; 8/6–8/2014; 8/10/2014; 8/12/2014; 8/28/2014; 8/29/2014; 9/5/2014; 9/28–29/2014; 10/20/2014; 12/4–5/2014; 12/19/2014; 12/21/2014; 12/22/2014; 3/15/2015; 3/22/2015; 5/22/2015; 6/10/2015; 7/16/2015; 7/22/2015; 7/23–26/2015; 7/29/2015; 8/10/2015; 8/13/2015; 8/28/2015; 9/14/2015; 9/15/2015; 9/19/2015–10/7/2015; 10/9–10/2015; 10/20/2015; 10/21/2015; 2/17/2016; 2/21/2016; 4/15–16/2016; 4/19/2016; 5/22–24/2016; 5/31/2016; 6/2–3/2016; 6/5–6/2016; 6/7–8/2016; 6/17/2016; 6/19/2016; 6/28/2016; 7/9/2016; 8/4/2016; 8/11/2016; 8/22/2016; 9/19/2016; 10/11–13/2016; 11/11–12/2016; 11/18/2016; 11/21/2016; 2/12/2017; 2/16/2017; 2/21/2017; 3/30/2017; 5/1/2017; 5/10/2017; 5/18/2017; 5/25/2017; 5/30–31/2017; 6/5/2017; 6/9–10/2017; 6/10–11/2017; 6/20/2017; 6/26/2017; 7/5/2017; 7/11/2017; 7/13/2017; 7/18/2017; 8/9/2017; 8/14/2017; 8/21/2017; 8/28/2017; 8/29/2017; 8/30/2017; 9/6/2017; 9/8/2017; 9/11/2017; 9/14/2017; 9/15/2017; 9/16/2017; 9/17/2017; 9/18/2017; 9/19/2017; 9/21/2017; 9/22/2017; 9/23/2017; 9/24/2017; 9/25/2017; 9/26/2017; 9/27/2017; 9/28/2017; 9/29/2017; 9/30/2017; 10/1/2017; 10/2/2017; 10/3/2017; 10/4/2017; 10/6/2017; 10/7/2017; 10/9/2017; 10/10/2017; 10/11/2017; 10/12/2017; 10/13/2017; 10/14/2017; 10/15–31/2017; 11/1/2017; 11/2/2017; 11/3/2017; 11/4/2017; 11/5/2017; 11/6/2017; 11/7/2017; 11/8/2017; 11/9/2017; 11/10/2017; 11/11/2017; 11/12/2017; 11/13/2017; 11/14/2017; 11/15/2017; 11/16/2017; 11/17/2017; 11/18/2017; 11/19/2017; 11/20/2017; 11/21/2017; 11/23/2017; 11/24/2017; 11/25/2017; 11/26/2017; 11/27/2017; 11/28/2017; 11/29/2017; 11/30/2017; 12/1/2017; 12/2/2017; 12/3/2017; 12/4/2017; 12/5/2017; 12/6/2017; 12/7/2017; 12/8/2017; 12/9/2017; 12/10/2017; 12/12/2017; 12/13/2017; 12/14/2017; 12/15/2017; 12/16/2017; 12/17/2018; 12/18/2017; 12/19/2017; 12/20/2017; 12/21/2017; 12/22/2017; 12/24/2017; 12/25/2017; 12/26/2017; 12/27/2017; 12/28/2017; 12/29/2017; 12/30/2017; 12/31/2017; 1/1/2018; 1/3/2018; 1/4/2018; 1/5/2018; 1/6/2018; 1/7/2018; 1/8/2018; 1/10/2018; 1/14/2018; 1/15/2018; 1/16/2018; 1/17/2018; 1/18/2018; 1/19/2018; 1/22/2018; 1/27/2018; 1/29/2018; 1/30/2018; 2/8/2018; 2/9/2018; 2/10/2018; 2/12/2018; 2/13/2018; 2/14/2018; 2/15/2018; 2/16/2018; 2/18/2018; 2/23/2018; 2/24/2018; 2/25/2018; 2/27/2018; 3/5/2018; 3/6/2018; 3/8/2018; 3/10/2018; 3/12/2018; 3/18/2018; 3/19/2018; 3/20/2018; 3/21/2018; 3/28/2018; 3/30/2018; 3/31/2018; 4/1/2018; 4/18/2018; 4/25/2018; 4/27/2018; 4/29/2018; 4/30/2018; 5/1/2018; 5/2/2018; 5/6/2018; 5/8/2018; 5/9/2018; 5/11/2018; 5/12/2018; 5/13/2018; 5/14/2018; 5/15/2018; 5/17/2018; 5/18/2018; 5/19/2018; 5/20/2018; 5/21/2018; 5/22/2018; 5/23/2018; 5/24/2018; 5/25/2018; 5/26/2018; 5/27/2018; 5/28/2018; 5/29/2018; 5/30/2018;

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6/2/2018; 6/3/2018; 6/4/2018; 6/5/2018; 6/6/2018; 6/7/2018; 6/8/2018; 6/10/2018; 6/12/2018; 6/13/2018; 6/14/2018; 6/15/2018; 6/16/2018; 6/17/2018; 6/20/2018; 6/21/2018; 6/23/2018; 6/24/2018; 6/26/2018; 6/27/2018; 6/28/2018; 6/29/2018; 6/30/2018; 7/1/2018; 7/2/2018; 7/3/2018; 7/4/2018; 7/6/2018; 7/8/2018; 7/9/2018; 7/10/2018; 7/12/2018; 7/13/2018; 7/14/2018; 7/15/2018; 7/16/2018; 7/17/2018; 7/19/2018; 7/20/2018; 7/22/2018; 7/23/2018; 7/24/2018; 7/27/2018; 7/28/2018; 7/29/2018; 7/31/2018; 8/2/2018; 8/4/2018; 8/6/2018; 8/9/2018; 8/10/ 2018; 8/12/2018; and 8/13/2018. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Failure to operate the flare with a continuously operable pilot flame when the basic oxygen furnace is in operation and oxygen blows are occurring (P927)

The Title V Permit requires the flare to be operated at all times when the basic oxygen furnace is in operation and oxygen blows are occurring.[12] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on reports prepared and certified to be true, accurate, and complete by Facility personnel and submitted to Ohio EPA, the Facility failed to continuously operate the pilot flame for the flare for at least eight heats on at least the following dates: March 21, 2017 and March 25, 2017. Each of these failures is a violation of the Title V Permit, the Ohio SIP, and the CAA.

Exceedances of the visible emissions opacity limit for the No. 15 Basic Oxygen Furnace (P926)

The Title V Permit and the NESHAPS for Integrated Iron and Steel Manufacturing Facilities limits the opacity of visible particulate emissions from the No. 15 Basic Oxygen Furnace to 20 percent as a three-minute average.[13] This requirement is an "emission standard or limitation" under 42 U.S.C. § 7604(f)(1), 42 U.S.C. § 7604(f)(3), and 42 U.S.C. § 7604(f)(4). Based on USEPA Method 9 visual determinations of opacity emissions performed by SWOAQA staff, this limit was exceeded on at least the following dates: August 4, 2017 and August 30, 2017. Each of these exceedances is a violation of the Title V Permit, the Ohio SIP, and the CAA.

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[12] P927 Part III.A.II.1. and A.III.2., No. P0096473; C.29.d)(1), No. P0105157.

[13] P926 Part III.A.I.1, No. P0096473; B.5 and C.29.b)(1)b., No. P0105157; 40 CFR Part 63, Subpart FFFFFF (40 CFR § 63.7790(a)).

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The CAA violations are ongoing

This Notice is not intended to describe the full extent of pollution at and interference with neighboring properties or all of the Responsible Parties' acts and omissions that contribute to these ongoing violations. The violations described above are ongoing and will continue after the date of this letter and the subsequent filing of a lawsuit. These violations are and have been preventable and are the result of the Responsible Parties' illegal, improper, and/or careless operations of the Facility. My clients are providing notice for the violations listed above, as well as all ongoing and continuing violations, including those committed subsequent to the date of this Notice.

The Persons Giving Notice

Donna Ballinger and the Sierra Club are the persons giving notice. Their contact information is as follows:

Donna Ballinger
3014 Ottawa Street
Middletown, Ohio 45044
513-217-7034

Sierra Club
2101 Webster St.
Suite 1300
Oakland, CA 94612
415-977-5500

Sierra Club, Ohio Chapter
131 North High Street
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614-461-0734

Donna Ballinger and Sierra Club are represented by counsel, identified below:

D. David Altman
AltmanNewman Co., L.P.A.
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(513) 721-2180 x100
Fax: (513) 721-2299
daltman@environlaw.com

Conclusion

My clients would prefer to resolve this matter within the next 60 days without filing suit. To that end, my clients are willing to discuss solutions and seek full and complete information about, and the abatement of, the environmental conditions that now exist at and around the affected properties. If enforcement litigation is necessary, my clients will seek injunctive relief compelling the Responsible Parties to: abate the Clean Air Act violations; install effective air pollution controls; effectively control ash, kish, coke, coal, and other particulate emissions; perform a complete assessment and remediation of affected properties; perform any corrective action or remediation necessary to abate the endangerment to health and welfare; and to otherwise curtail the Responsible Parties' violations. To assure that concrete and enforceable actions are timely implemented, my clients will seek the appointment of both a special master to directly oversee the remedy and a citizen oversight committee. My clients will also seek any other relief that the Court may deem appropriate, including litigation costs and civil penalties.

Because the violations and discovery of these violations are ongoing, nothing in this Notice should be construed as limiting any further claim under this Notice or the filing of any additional notice that may be presented on behalf of my clients or any other person adversely affected.

All future questions and correspondence regarding this matter should be directed to me.

Very truly yours,

D. David Altman

Not for Public Distribution

cc via certified mail:

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The Honorable John R. Kasich
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The Honorable Jeff Sessions
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