

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA, and	)	
the STATE OF INDIANA,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 22-26
	)	
CLEVELAND-CLIFFS BURNS	)	
HARBOR LLC and CLEVELAND-	)	
CLIFFS STEEL LLC,	)	
	)	
Defendants	)	

**NOTICE OF LODGING OF CONSENT DECREE**

The United States, by and through its undersigned attorneys, and on behalf of the U.S. Environmental Protection Agency (“EPA”), hereby lodges the accompanying proposed Consent Decree with this Court for the purposes of soliciting public comment on the proposed agreement. No action is requested of the Court at this time.

The United States and the State of Indiana, on behalf of the Indiana Department of Environmental Management, have filed an action under several environmental statutes relating to a steel manufacturing and finishing facility in Burns Harbor, Indiana (“Facility”) owned and operated by Cleveland-Cliffs Burns Harbor LLC and its corporate parent Cleveland-Cliffs Steel LLC (collectively, “Cleveland-Cliffs”). The Complaint asserts claims against Cleveland-Cliffs pursuant to the Clean Water Act (“CWA”), the Emergency Planning and Community Right-to-Know Act (“EPCRA”), and the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”). Among other things, the Complaint alleges that Cleveland-Cliffs exceeded discharge pollution limits for cyanide and ammonia, including during an August 2019

spill; failed to properly report those cyanide and ammonia releases under CERCLA and EPCRA; and violated other CWA permit terms.

On December 11, 2019, citizen groups Environmental Law & Policy Center (“ELPC”) and Hoosier Environmental Council (“HEC”) (collectively, “Citizen Plaintiffs”) also filed a complaint against Defendants alleging violations of the CWA and CCBH’s NPDES permit, seeking civil penalties, declaratory and injunctive relief, with costs and fees, under the CWA citizen suit provision, 33 U.S.C. § 1365(a). *Environmental Law & Policy Center and Hoosier Environmental Council v. Cleveland-Cliffs Burns Harbor LLC and Cleveland-Cliffs Steel LLC*, Case No. 19-cv-473 (N.D. Ind.). The proposed Consent Decree, if ultimately entered by the Court, would also resolve the claims of the Citizen Plaintiffs in Case No. 19-cv-473.

Under the Consent Decree, Cleveland-Cliffs would be required to take a number of measures to come into compliance with the law. In particular, the proposed Consent Decree requires the operation of ammonia and cyanide treatment systems; measures to improve pollution control system reliability; specific procedures for preventing violations during another Facility incident, including the diversion of wastewater to a retention pond, treatment of wastewater, and prompt shutdown of the Facility processes; improvements to Cleveland-Cliffs’ sampling and lab analysis; and public notification in the event of certain exceedances. Defendants are also required to complete two Environmentally-Beneficial Projects, to be administered by the state of Indiana: (1) the donation of 127 acres of land abutting the Indiana Dunes National Park to a qualified land trust organization for permanent conservation protection; and (2) a water sampling project to monitor and report on water quality at four locations in the East Branch of the Little Calumet River and Lake Michigan. Finally, the proposed Consent Decree would require

payment of a civil penalty of \$3 million, split evenly between the United States and Indiana, and reimbursement of the governments' response costs in responding to the August 2019 spill.

Pursuant to U.S. Department of Justice policy, the United States will publish notice of the lodging of the proposed Consent Decree in the Federal Register to commence a thirty (30)-day public comment period. The Court should not sign the proposed Consent Decree until the public has had an opportunity to comment and the United States has addressed those comments, if any. The United States may withhold its consent to the proposed Consent Decree if the comments disclose facts or considerations which indicate that the proposed Consent Decree is improper, inappropriate, inadequate, or not in the public interest. At the conclusion of the public comment period, the United States will: (1) file with the Court any written comments received pertaining to the proposed Consent Decree; and (2) either notify the Court of its withdrawal of the proposed Consent Decree, or respond to comments received and request this Court to approve and enter the proposed Consent Decree.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

s/ Nicholas McDaniel  
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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2022, the foregoing Notice of Lodging was filed electronically and notice of this filing will be automatically sent to counsel of record on the ECF system. A copy of the foregoing Notice of Lodging was also sent by electronic mail to the following counsel:

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