

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	)	

**COMPLAINT**

The United States of America, by the authority of the Attorney General of the United States and through its undersigned attorneys, acting on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), and the State of Indiana (“State” or “Indiana”), on behalf of the Indiana Department of Environmental Management (“IDEM”), (collectively, “Plaintiffs”), file this Complaint and allege as follows:

**NATURE OF ACTION**

1. This civil action comprises claims brought by the United States and Indiana against two Defendants, Cleveland-Cliffs Steel LLC (“CC Steel”) and Cleveland-Cliffs Burns Harbor LLC (“CCBH”) (collectively “Defendants” or “Cleveland-Cliffs”). The claims relate to the Cleveland-Cliffs Burns Harbor facility (“Burns Harbor Facility” or “Facility”) in Burns Harbor, Porter County, Indiana, owned and operated by Cleveland-Cliffs. The Facility is used by Cleveland-Cliffs to manufacture and finish steel.

2. For over five years, Defendants and their steelmaking operation have violated pollution laws aimed at protecting health and the environment. Those violations include illegal discharges of cyanide, ammonia, and other pollutants, as well as violations of emergency reporting requirements in the event of spills. In responding to these illegal discharges, the United States and Indiana have also incurred costs that are recoverable from Cleveland-Cliffs.

3. The United States asserts claims pursuant to the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq.*, as amended; the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11001 *et seq.*; and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9601 *et seq.* The United States seeks injunctive relief, civil penalties, and cost recovery against Cleveland-Cliffs under the CWA, EPCRA, CERCLA, and their implementing regulations.

4. Indiana asserts claims in this action under Title 13 of the Indiana Code (“IND. CODE”) and Title 327 of the Indiana Administrative Code (“IAC”). Indiana seeks injunctive relief, civil penalties, and cost recovery against Cleveland-Cliffs under Title 13 and Title 327, and the rules adopted thereunder.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1355; CWA Section 309(b), 33 U.S.C. § 1319(b); EPCRA Section 325(b)(3) and (c)(4), 42 U.S.C. § 11045(b)(3) and (c)(4); and CERCLA Section 113(b), 42 U.S.C. § 9613(b).

6. This Court has supplemental jurisdiction over the state law claims asserted by Indiana pursuant to 28 U.S.C. § 1367(a) because the State claims are related to the federal claims and form part of the same case or controversy.

7. Venue lies in this District pursuant to 28 U.S.C. §§ 1331, 1345, 1391(b) and (c) and 1395(a); CWA Section 309(b), 33 U.S.C. §§ 1319(b); EPCRA Section 325(b)(3), 42 U.S.C. § 11045(b)(3); and CERCLA Sections 107 and 113(b), 42 U.S.C. §§ 9607 and 9613(b), because the violations at the Facility have occurred and are occurring in this judicial district, and the release occurred within this district.

### **NOTICE**

8. As a signatory to this Complaint, Indiana has actual notice of the commencement of this action in accordance with Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

### **THE PARTIES**

9. Plaintiffs are the United States, on behalf of EPA, and the State of Indiana, on behalf of IDEM.

10. The United States Department of Justice has authority to bring this action on behalf of the Administrator of the EPA, pursuant to 28 U.S.C. §§ 516 and 519.

11. The Indiana Attorney General is authorized to appear and represent Indiana in this case pursuant to IND. CODE §§ 4-6-3-2(a), 13-30-4-1, and 13-14-2-6.

12. Defendant CCBH is organized as a limited liability company under the laws of Delaware, with a principal place of business in Burns Harbor, Indiana.

13. Defendant CC Steel is organized as a limited liability company under the laws of Delaware, with a principal place of business in Chicago, Illinois. CC Steel is the parent

company of CCBH. CC Steel and CCBH are collectively referred to as “Cleveland-Cliffs” in this Complaint.

14. Since December 9, 2020, Defendants CCBH and CC Steel have owned and operated a steel manufacturing and finishing facility known as the Burns Harbor Facility located at 250 U.S. Route 12, in Burns Harbor, Porter County, Indiana.

15. Prior to December 9, 2020, the Burns Harbor Facility was owned and operated by ArcelorMittal USA, LLC, and ArcelorMittal Burns Harbor, LLC (“AMBH”).

16. Cleveland-Cliffs completed its acquisition of ArcelorMittal USA, LLC, and all its subsidiaries, including AMBH, on December 9, 2020. As part of the acquisition, Cleveland-Cliffs assumed all ArcelorMittal liabilities relevant to the claims in this action.

17. Defendants CCBH and CC Steel are each “persons” within the meaning of CWA Section 502(5), 33 U.S.C. § 1362(5), EPCRA Section 329(7), 42 U.S.C. § 11049(7); CERCLA Sections 101(21), 103(a) and 107, 42 U.S.C. §§ 9601(21), 9603(a) and 9607.

18. CC Steel is the corporate parent of CCBH and, based upon reasonable investigation and the opportunity to take further discovery, exercises financial and managerial control over the Facility and over CCBH and has participated in, controlled, and/or directed the activities underlying the violations alleged in this Complaint.

### **STATUTORY BACKGROUND**

#### **Provisions of the Clean Water Act and Indiana Law**

19. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with a National Pollutant Discharge Elimination System (“NPDES”) permit issued by EPA or an authorized state pursuant to CWA

Section 402, 33 U.S.C. § 1342. Pursuant to 327 IAC 5-2-2, Indiana prohibits the discharge of pollutants to “waters of the state” except as authorized by a duly issued NPDES permit.

20. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to mean, among other things, “any addition of any pollutant to navigable waters from any point source.” See also 327 IAC 5-1.5-11 (similarly defining “discharge of a pollutant”).

21. CWA Section 502(6), 33 U.S.C. § 1362(6), defines “pollutant” as “spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” See also 327 IAC 5-1.5-41.

22. CWA Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” as “waters of the United States, including territorial seas.” Indiana law defines “waters of the state” to include “the accumulations of water, surface and underground, natural and artificial, public and private, or a part of the accumulations of water that are wholly or partially within, flow through, or border upon Indiana.” IND. CODE § 13-11-2-265.

23. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” See also 327 IAC 5-1.5-40.

24. CWA Section 402(a), 33 U.S.C. § 1342(a), provides that EPA may issue NPDES permits that authorize the discharge of any pollutant to navigable waters, upon the condition that such discharge will meet certain specific requirements of the CWA or such other conditions as

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