



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF: WN-16J

OCT 16 2007

Bruno Pigott, Assistant Commissioner
Office of Water Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

Re: US Steel Corporation, Gary Works
Gary, Indiana
Draft Permit No. IN0000281

Dear Mr. Pigott:

On October 1, 2007, the U. S. Environmental Protection Agency (EPA) sent the Indiana Department of Environmental Management (IDEM) a letter pertaining to the above-referenced draft permit which we received on July 20, 2007. In that letter, we committed to continue our review of the permit, and to provide you with any additional comments that we might have. A copy of the October 1, 2007, letter is enclosed, and incorporated by reference into this letter. We have completed that review, and by this letter, are providing additional grounds for objection to the draft permit in accordance with 40 CFR 123.44(c). As provided by 40 CFR 123.44(b)(2)(ii), we are indicating the actions that must be taken by the State to eliminate the objection, including conditions which the permit would include if it were issued by EPA.

Inclusion of Schedules For Achieving Compliance With Continuous Thermal Monitoring Requirements and Thermal Water Quality-Based Effluent Limitations

The draft permit contains water quality-based effluent limits for temperature applicable to multiple discharges from the facility. The draft permit also requires continuous monitoring of the temperature of certain discharges. Finally, the draft permit contains a one-year compliance schedule for achievement of the continuous monitoring requirements, and a three-year compliance schedule for achievement of the thermal effluent limitations. As described below, EPA objects to inclusion of these compliance schedules.

As noted in our October 1, 2007, letter, 40 CFR 122.47(a) and 40 CFR 123.25(a)(18) allow schedules of compliance in NPDES permits, but only "when appropriate," and only when the schedule of compliance requires achievement of compliance "as soon as possible" and meets other specified conditions. The draft permit does not meet these requirements because there has been no showing that a compliance schedule is appropriate for either the continuous monitoring requirements or the thermal effluent limitations. Moreover, even if compliance schedules are

appropriate, there has been no showing that the 1-year period of time for achieving compliance with the continuous monitoring requirements is “as soon as possible” or that the 3-year period of time for achieving compliance with the thermal effluent limitations is “as soon as possible.” Indeed, there is no indication from the fact sheet that the permittee is currently unable to meet either the continuous monitoring requirements or the thermal effluent limitations; no indication as to what measures the permittee would have to construct or implement to enable it to meet those requirements (assuming that they cannot currently be met); and no indication as to the amount of time it would take for the permittee to construct or implement any measures necessary for achieving compliance.

To eliminate these objections, the final permit must either remove the compliance schedule provisions or ensure that they meet the requirements of 40 CFR 122.47(a) and 40 CFR 123.25(a)(18). EPA would either not include such compliance schedules, or revise those schedules to ensure that they meet the requirements of 40 CFR 122.47(a), if EPA were the permitting authority.

Antidegradation

The draft permit contains new effluent limitations applicable to discharges of total recoverable chromium, cadmium, copper, nickel, silver, total cyanide, total toxic organics, and hexavalent chromium through internal outfall 604. Except for total recoverable chromium, the previous permit did not contain limitations for these parameters; and with respect to total recoverable chromium, the draft permit appears to authorize an increase in loadings. It is not clear, in light of this information, whether the draft permit and these limitations meet the antidegradation requirements of the State’s water quality standards as required by 40 CFR 122.44(d) and 123.25(a)(14). IDEM needs to provide information in the fact sheet or elsewhere in the administrative record demonstrating that these requirements have been met before IDEM issues the final permit. EPA would take such actions if it were the permitting authority.


Cooling Water Intake Structures

40 CFR 122.44(b)(3), 123.25(a)(15) and 125.90(b) require that permitting authorities include requirements in NPDES permits consistent with Section 316(b) of the Clean Water Act, that reflect the best technology available for minimizing adverse environmental impact associated with existing cooling water intake structures. Such requirements are to be determined on a case-by-case, best professional judgment basis. EPA objects to the draft permit because it contains no such requirements pertaining to the permittee’s existing cooling water intake structures, and no explanation in the fact sheet as to why such requirements were not included.

To eliminate this objection, the final permit must contain requirements consistent with Section 316(b) of the Clean Water Act, that reflect the best technology available for minimizing adverse environmental impact associated with the permittee’s existing facility cooling water intake structures. If EPA were the permitting authority, EPA would include such requirements, based upon best professional judgment, in accordance with Section 316(b) of the Clean Water Act, and 40 CFR 122.44(b)(3) and 125.90(b).

Please be advised that under 40 CFR 122.4(c), the State may not issue this permit over an EPA objection. We look forward to working with IDEM as it revises the permit to ensure that it complies with the Clean Water Act and EPA's implementing regulations. In accordance with 40 CFR 123.44(e), the State or any interested person may request that a public hearing be held by the Regional Administrator on these objections. Following such a hearing (if one is held), the Regional Administrator may reaffirm the original objection, modify the terms of the objection, or withdraw the objection. 40 CFR 123.44(g). The Regional Administrator may issue the permit if IDEM does not timely resubmit a permit revised to meet EPA's objections. 40 CFR 123.45(h). Please contact Peter Swenson at (312) 886-0236, if you have any questions.

Sincerely yours,



Kevin M. Pierard
Acting Director, Water Division

Enclosure

cc: Stan Rigney, IDEM
Beth Tallon, IDEM
Kenneth Mentzel, US Steel Corporation, Gary Works