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July 31, 2024

BY EMAIL ONLY

Kateryna Palyshniuk
IDEM, Office of Air Quality
100 North Senate Avenue
MC 61-53 IGCN 1003
Indianapolis, IN 46204-2251
kpalyshn@idem.in.gov

Re: Public comments on Indiana Sugars MSOP Renewal No. M089-47394-00490

Dear Ms. Palyshniuk,

The Conservation Law Center submits these comments on the above-referenced proposed minor source operating permit renewal for the facility owned and operated by Indiana Sugars, Inc. at 911 Virginia Street in Gary, Indiana. To be clear, CLC does not oppose the renewal of Indiana Sugars' MSOP. While every contribution to the Region's air pollution merits careful scrutiny, the relative amount added by the true minor source that is Indiana Sugars pales in comparison to the plethora of major stationary sources in Gary and the surrounding area.

Nonetheless, all air permits should be accurate and understandable to those subject to the permitted emissions. In the Technical Support Document ("TSD") for the draft permit, IDEM lists identical amounts of criteria air pollutants for the facility's unrestricted potential emissions and its potential to emit of the entire source including source-wide fugitive emissions. These amounts, in tons per year, include 0.07 tpy SO₂, 4.59 tpy NO_x, 0.28 tpy VOC, and 3.93 tpy CO. Permit, TSD at 7-8. The TSD lists higher "actual emissions" of these same criteria pollutants as 0.09 tpy SO₂, 13.35 tpy NO_x, 0.72 tpy VOC, and 11.22 tpy CO. *Id.*, at 8.

For purposes of minor source air permits issued under 326 IAC Article 2, Rule 6.1, a stationary source's "potential to emit" is its *maximum capacity* to emit any air pollutant under its physical and operational design. 326 IAC § 2-1.1-1(12). Common sense would suggest that "actual emissions" could not exceed a facility's maximum capacity to emit. *See* 326 IAC 2-6-2(1) ("Actual emissions" means the emissions in tons per year of any pollutant emitted by an emissions unit for the calendar year."); *see also* 40 C.F.R. § 52.21(b)(21).

IDEM appears to have taken these emissions calculations directly from Parts A and B of the applicant's MSOP renewal application. *See* VFC Doc. #83660133 (pdf pgs 22-23). To add to this confusion, the draft permit states that the actual emissions data "reflects the 2024 OAQ emission data," Permit, TSD at 8, despite the fact that the year was not half over when Indiana Sugars submitted this MSOP application.

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Because of its minor source status, Indiana Sugars does not publicly report its annual emissions like major sources. That is all the more reason for IDEM to scrutinize the basis for its reported emissions and to explain that basis to the public reviewing the draft permit renewal. Because the public has limited access to information about a facility's emissions, it is imperative that IDEM provide a complete and accurate explanation for its permitting decisions.

Thank you for considering these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Zoeller", with a stylized flourish at the end.

Michael J. Zoeller
Senior Staff Attorney

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Organizations joining these comments:

Robert Michaels

Managing Attorney

Environmental Law & Policy Center

Betsy Maher

Executive Director

Save the Dunes

Dorreen Carey

President

Gary Advocates for Responsible

Development