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VIA ELECTRONIC MAIL
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Re: Public Comments on Oil Technology, Inc. – Contractor of Cleveland-Cliffs Steel, LLC
Administrative Part 70 Operating Permit Renewal No. T 089-48887-00369

To Indiana Department of Environmental Management:

The Conservation Law Center, the Environmental Law & Policy Center, Gary Advocates for Responsible Development, and Just Transition Northwest Indiana (collectively, "Commenters") respectfully submit the following comments on the above-referenced Draft Title V Part 70 "Administrative" Operating Permit renewal ("Draft Permit" or "Permit") issued by the Indiana Department of Environmental Management ("IDEM") to Oil Technology, Inc. – contractor of Cleveland-Cliffs Steel, LLC ("Oil Technology") for its oil recycling facility co-located at Cleveland-Cliffs Steel's facility at 3210 Watling Street, East Chicago, Lake County, Indiana. We appreciate the opportunity to make these public comments.

Collectively, the commenters are non-profit organizations that work to promote a healthier environment for all. Federal and state environmental regulations exist to ensure that businesses operate in a manner that does little harm to human health and the environment. And that equitable enforcement of those regulations ensures that businesses stand on equal footing and do not receive a competitive advantage by polluting the environment.

Comment 1: IDEM has not justified issuing an "Administrative" Part 70 Permit.

This permitting action is purported to be a renewal of an Administrative Part 70 Operation Permit.[1] However, IDEM provides no explanation in the Draft Permit or Technical Support Document ("TSD") for how an "administrative" Part 70 permit is defined or how it differs from a normal Part 70 permit. Commenters found nothing in Indiana's State

[1] IDEM Virtual File Cabinet ("VFC") Doc. No. 83842178.

Implementation Plan ("SIP") or any other Indiana regulations authorizing such permits.[2] IDEM's practice of separately permitting the various contractors at Cleveland-Cliffs Steel at Indiana Harbor East and Indiana Harbor West (collectively, "Indiana Harbor Complex") through "administrative" Part 70 permits is inconsistent and unclear. IDEM must explain its rationale and authority for only issuing "administrative" Part 70 permits to the various Cleveland-Cliffs Steel contractors when it has an obligation to address applicable requirements for all emission units at the entire Cleveland-Cliffs Steel complex as part of the Part 70 major source.

Comment 2: The Permit fails to identify the location of the permitted emission sources.

Due in part to the confusion created by the issuance of an "administrative" Part 70 permit, the Draft Permit defines the source as an integrated steel mill collocated with on-site contractors, *see* Sec. A.2, and defines the emission units for this source as six tanks, a tank trailer, and a loading electric pump. The Draft Permit does not identify the location of the facility on Cleveland-Cliffs Steel's Indiana Harbor Complex. The Draft Permit fails to identify where Oil Technology is permitted to conduct its operations.

The Draft Permit similarly fails to identify the source of and types of emissions Oil Technology generates or otherwise explain how it operates. Based on past permits and IDEM inspection reports, it appears that Oil Technology's operations are exclusively conducted in above-ground storage tanks outdoors without any pollution control equipment. According to the most recent IDEM inspection report, dated December 8, 2023, Oil Technology only stores oily water in some of its six tanks and that recycling of the oily water is conducted at a separate Oil Technology facility at Indiana Harbor West. *See* VFC #83569299 (IDEM OAQ Inspection Report, Dec. 8, 2023).

The Indiana Harbor Complex houses what used to be two separate and independent integrated iron and steel facilities, now operated together by Cleveland-Cliffs Steel. IDEM must revise the Draft Permit to clearly identify the specific location of the permitted activities to ensure that the Permit includes all Oil Technology emission units and associated requirements and to ensure enforceability of the Permit as a whole. 326 IAC 2-9-1(c)(2). It also appears Oil Technology is operating its two waste oil recycling facilities at the Indiana Harbor Complex as one integrated process. Accordingly, in determining whether all Oil Technology emission units and associated requirements are included as enforceable conditions in the Revised Permit, IDEM should also reevaluate its "source" definition of Oil Technology to determine whether all of the emission-producing activities at the two locations should be combined under a single permit.

Comment 3: IDEM must remove inapplicable requirements from the Draft Permit.

The Draft Permit appears to contain requirements that are applicable to the entire Indiana Harbor Complex, some of which are inapplicable to Oil Technology. For example, the Draft Permit contains opacity limits for the entire source, but these are meaningless for VOCs that are

[2] 326 IAC 2, Rule 7. *See* Clean Air Act Final Approval of Operating Permit Program Revisions; Indiana, 67 Fed. Reg. 34844 (May 16, 2002).

colorless and invisible to the human eye.[3] *See* Draft Permit, Sec. C.1. In addition, the Draft Permit contains performance testing requirements that do not appear to apply to any Oil Technology emission units. *See* Draft Permit, Sec. C.7. The Draft Permit also contains fugitive dust requirements for many types of sources that do not appear at the Oil Technology facility, such a visible emission limit of zero percent for material processing facilities "from a building enclosing all or part of the material processing equipment" without identifying whether Oil Technology has any operations inside a building. *See* Draft Permit, C.5(h)(1). And to the extent that some of these fugitive dust limits may apply to Oil Technology's operations (such as the 10% opacity limits for paved and unpaved roads), the Draft Permit does not contain the Fugitive Dust Control Plan specifically identified as the compliance mechanism for those limits. *See* Draft Permit, Sec. C.5. IDEM must revise the Draft Permit to include only the Oil Technology emission units and associated requirements applicable to them, with all the necessary information to make those requirements enforceable at Oil Technology. 326 IAC 2-9-1(c)(2).

Comment 4: The Final Permit must include a Statement of Basis

Clean Air Act regulations require IDEM to "provide a statement that sets forth the legal and factual basis for the Draft Permit conditions (including references to the applicable statutory or regulatory provisions)."[4] This "statement" is a separate document from the permit that must "include a discussion of decision-making that went into the development of the Title V permit and to provide the permitting authority, the public, and the USEPA a record of the applicability and technical issues surrounding issuance of the permit."[5] In addition to discussing monitoring and operational requirements, the statement of basis must identify all applicability and exemption determinations, and "include the rationale for such a determination and reference any supporting materials relied upon in the determination."[6] Finally, it should include attainment status, permitting history, and "[c]ompliance history including inspections, any violations noted, a listing of consent decrees into which the permittee has entered and corrective action(s) taken to address noncompliance."[7]

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[3] The most significant emissions from Oil Technology's storing of oily water are emissions of volatile organic compounds ("VOCs"), primarily the colorless hazardous air pollutants benzene, toluene, ethylbenzene, and xylene. *See* Draft Permit, TSD App. A, at 6. Due to the relatively small size of the six storage tanks, the only requirement listed under "emission limitations" in the Draft Permit for VOCs is the routine inspections and reporting required by 326 IAC 8-9-6. *See* Draft Permit, Sec. D.1.1. Nonetheless, IDEM inspectors routinely report "no visible emission from the storing oily water holding tanks." IDEM Field Inspection Report (Dec. 8, 2023), at 3 (VFC #83569299).

[4] 40 CFR § 70.7(a)(5).

[5] Letter, from U.S. EPA Region V to Ohio EPA, (December 20, 2001) at 1, *available at* https://www.epa.gov/sites/default/files/2015-08/documents/sbguide.pdf (providing guidelines on the content of an adequate statement of basis). *See also In the Matter of Midwest Generation, LCC Waukegan Generating Station*, Order on Petition Number V-2004-5 (September 22, 2005).

[6] *Id*. at 2.

[7] *Id.* at 3.

The Draft Permit does not contain any designated "Statement of Basis." To the extent IDEM believes that the TSD can serve as a Statement of Basis, the Department is incorrect. The TSD only "sets forth the legal and factual basis for a draft Part 70 permit conditions (including references to the applicable statutory or regulatory provisions)."[8] The TSD does include some Statement of Basis items, including permitting and compliance history. But while the TSD includes a section on enforcement, it merely states "[t]here are no enforcement actions pending"[9]; it does not address compliance history. IDEM must provide a statement of basis for public review and comment before issuing the Final Permit.

Thank you for considering these comments.

Respectfully submitted,

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8 326 IAC 2-7-8(d)(1).

9 Draft Permit Technical Support Document at 3.