



facility as a “support facility” to a nearby steel mill, and thus a major source requiring a CAAPP permit or FESOP. NACME appealed this permit condition and the State withdrew the permit condition and issued SOP #96020074 on February 8, 2001.

3. NACME in fact applied for the FESOP that the State asserts NACME requires in October 2005 and waited until April 26, 2012 for IEPA to issue a draft of it. When IEPA finally issued a draft FESOP it contained an unacceptable condition which would have converted NACME into a “new source”. NACME appealed but the Board held the appeal not ripe. (See, PCB 13-07)

4. The State has admitted on numerous occasions that NACME’s SOP is still valid and in effect. Indeed, the State threatened more than once to sue NACME for alleged violations of the SOP.

5. The State admits in a “Tier III” inspection report dated September 29, 2010 that the SOP is in effect and, indeed, notes purported violations of the SOP (See, Exhibit A)

6. The State again admits in a “Violation Notice” dated March 3, 2011 that the SOP is in effect and cites NACME for the same purported violations of the SOP. The notice also states that NACME “may be required to obtain a Clean Air Act Permit Program (“CAAPP”) permit or Federally Enforceable State Operating Permit (FESOP)”. (See, Exhibit B)

7. The State again admits the validity of SOP #96020074 in a notice of intent to pursue legal action dated July 15, 2011, and again cites the same purported violations of the SOP. The State also again notes that NACME “may be required” to obtain a CAAPP permit or FESOP. (See, Exhibit C).

8. In a letter from the Illinois Attorney General's office ("IAG") dated January 5, 2012, the State, again admits the validity of the SOP and again asserts the purported violations of the SOP. It also again states that NACME "may be required" to obtain a CAAPP permit or a FESOP. (See, Exhibit D)

9. A state operating permit, like the one here which the State admits remains in effect, is a federally enforceable permit. See, e.g., *United States v East Kentucky Power Cooperative*, 498 F. Supp. 995 (E.Dist. Ky 2007); *United States v Louisiana- Pacific Corporation*, 682 F. Supp. 1141 (D. Colo 1988) (collecting cases)

10. "Federally enforceable" means enforceable by the United States Environmental Protection Agency. 415 ILCS § 39.5

11. Thus, assuming that the State is correct, and that NACME has the potential to emit pollutants above a major source threshold, NACME in fact has in place a type of federally enforceable state operating permit limiting such admissions to below major source status, although not of the precise type which the State asserts in a legal conclusion is required.

### **Second Defense (Laches)**

12. The State was aware, or should have been aware, of its alleged claim many years before it issued its violation notice ("NOV") in March 2011. In fact the State was aware or should have been aware of NACME's alleged potential to emit as a "major source" since at least 2001 when the State first tried, and failed, to designate NACME as a "major" source. The unreasonable and unjustified delay in issuing the NOV prejudiced NACME by subjecting it to greater penalty amounts—\$10,000 per day of violation according to the State's NOV.

Accordingly, the State's Complaint is barred by the doctrine of laches because the IEPA has known for years of the facts underlying its claim but failed without cause to act until years later, to NACME's prejudice.

**Third Defense (Waiver)**

13. The State was aware of its alleged claim many years before it issued its violation notice ("NOV") in March 2011. In fact the State was aware of NACME's alleged potential to emit as a "major source" since at least 2001 when the State first tried, and failed, to designate NACME as a "major" source. This unreasonable delay warrants an inference that the State intended to waive its claim. Accordingly, the State's claim is barred by the doctrine of waiver.

**NACME STEEL PROCESSING, L.L.C.,**

**Respondent**

By: Ed Walsh  
One of Its Attorneys

Edward V. Walsh, III  
ReedSmith, LLP  
10 South Wacker Drive  
Suite 4000  
Chicago, Illinois 60606  
(312) 207-1000

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served the attached **NACME STEEL PROCESSING L.L.C.'S AMENDED AFFIRMATIVE DEFENSES**, by U.S. Regular Mail, upon the following persons:

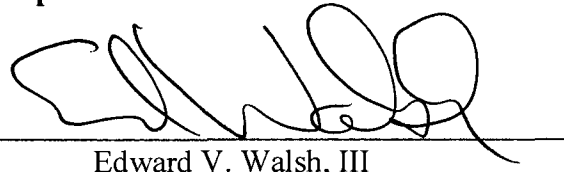
Nancy J. Tikalsky  
Assistant Attorney General  
Office of the Illinois Attorney General  
Environmental Bureau  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

**NACME STEEL PROCESSING, L.L.C.,  
Respondent**

By:



Edward V. Walsh, III

Date: January 15, 2013

# EXHIBIT A



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829  
 James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

## TIER III

**Date:** September 29, 2010 **Inspection Date:** September 28, 2010  
**To:** Steve Youngblut *ck* **Last Inspection:** December 21, 2006  
**From:** George Ordija *go* **Region/District:** 1/ 16  
**Source:** *Bob* Nacme Steel Processing LLC **Identification No.:** 031600FWL  
*10/1/10*  
**Address:** 429 W. 127<sup>th</sup> Street **Sic No.:** 3316  
**City/State/Zip:** Chicago, IL 60628  
**Contact/Title:** Bob Hendrickson/Plant Manager **Telephone No.:** 219-397-5088  
 Ext. 177  
**Purpose:** Workplan Inspection (FESOP)

<u>Permit No.</u>	<u>Type</u>	<u>Issued</u>	<u>Expires</u>	<u>Unit</u>
05100052	FESOP*	Pending		Steel Pickling Line
96020074	State	02-08-2001	10-25-2005	Steel Pickling Line
01040081	Construction	04-12-2002		Turbo-tunnel Enclosure
	-Revised			

\* FESOP application was received on October 25, 2005. A revision to the FESOP requesting a higher allowable steel throughput was received on April 12, 2007.

### 1.0 Source/Process Description

Nacme Steel Processing LLC owns and operates a 90 ton per hour continuous coil pickling line at the subject location. Four pickling tanks utilize hydrochloric acid (HCl) at various concentrations and at a temperature of 190°F to remove "mill scale" or rust and impurities from hot rolled steel. During the hot rolling of steel in the presence of air, an oxide scale forms on the steel coil and must be removed before the steel coil can be used. After pickling the steel coil goes through an aqueous based four stage washer followed by slitting, oil coating, and finally recoiling. Emissions from the pickling tanks and four stage washer are vented to a Pro-Eco 12,000 cfm four tray scrubber. The scrubber uses city water in a once-through operation.

### 2.0 Non-Compliance History

Violation Notice A-2000-00202 was issued on September 18, 2000. The violation notice cited violations involving HCl emissions to the environment causing citizen complaints, HCl emissions in excess of permit limits, operating control equipment in a manner that the performance of the control equipment causes a violation of the Act or allowable emission limits

Nacme Steel Processing LLC  
ID#: 031600FWL  
Inspection Date: September 28, 2010  
Page 2

established in the operation permit, failure to apply for a CAAPP permit, failure to submit an ERMS baseline, failure to submit a Seasonal Emissions Report, and failure to demonstrate compliance with 40 CFR, Subpart CCC for its acid pickling operation. Based on available information on file, the violations appeared to have been resolved.

**3.0 Date of Communications**

None

**4.0 Inspection Narrative**

09-28-2010 – G. Ordija

The author met with Bob Hendrickson, plant manager at Nacme Steel Processing. Mr. Hendrickson explained the process including the operation of the Pro-Eco Scrubber. The pickling line consists of four pickling tanks arranged in series followed by a four stage washer. The pickling tanks, which are heated to approximately 190°F, range in acid concentration from 3 percent at #1 pickle tank to 12 percent at #4 pickle tank. Makeup HCl is fed to #4 pickle tank at a specified amount based footage of steel processed through a footage monitoring system. The HCl makeup rate is not directly monitored. The pickling tanks are enclosed in a turbo tunnel enclosure that was installed in April 2002 under Construction Permit 01040081. HCl emissions from the pickling tanks and the four stage washer, which according to the FESOP application is also enclosed, are vented to the Pro-Eco Scrubber. City water at the rate of 1.5 to 2.0 gpm is continuously fed to the scrubber in a once-through process. A digital readout mounted on the scrubber continuously monitors the incoming city water flow rate to the scrubber. The spent water from the scrubber is pumped to #4 pickle tank and ultimately recycled to the pickling tanks.

The author, Mr. Hendrickson, and Britt Wenzal of Mostardi Platt Environmental by phone discussed the current permitting status at the facility. The author maintains that, with the pending FESOP application, the facility is currently subject to Operating Permit 96020074 and the conditions contained therein. Mr. Wenzal disagrees and maintains that the facility is only subject to revised Construction Permit 01040081. Operating Permit 96020074 specifies emission limits, monitoring requirements, recordkeeping requirements, and reporting requirements. Construction Permit 01040081 specifies higher production and emission limits, applicable only during stack testing, and the requirement to perform a stack test to measure HCl at the stack outlet. The construction permit does not specify any monitoring requirements, recordkeeping requirements, or reporting requirements. Furthermore, there is no language in the construction permit allowing the construction permit to supersede the operating permit. On the day after inspection, the author confirmed with Valeriy Brodsky (Permit Section) that the facility was subject to the operating permit and not the construction permit.

The author conducted a records review pursuant to Condition 7 of Operating Permit 96020074. Refer to Section 5.0, Inspection Findings for details.

The author, accompanied by Mr. Hendrickson, conducted a walkthrough of the facility. The author noted that tank covers on the four stage washer were partially missing exposing



Nacme Steel Processing LLC  
 ID#: 031600FWL  
 Inspection Date: September 28, 2010  
 Page 3

some of the rinse tanks to atmosphere. Visible vapors were observed coming off the exposed tanks. Piping, which were apparently used to duct emissions from the washer to the Pro-Eco Scrubber, were observed lying in pieces on top of the rinse tank covers. Contrary to the FESOP application, emissions from the four stage washer are not being vented to the scrubber. The author reviewed monitoring logs on the scrubber. According to the logs, HCl concentration is monitored every two hours by method of titration. The log confirmed that the pickling tanks are maintained in the range of 3 to 12 percent. The pickling solution temperature is measured every two hours using a hand held meter. The temperature is not monitored continuously as required by the operating permit. The logs confirmed that pickling temperatures are maintained in the neighborhood of 190°F. As indicated earlier, the HCl makeup rate is not monitored continuously as required by the operating permit. No records of HCl makeup rates are maintained. The scrubber makeup water flow rate, which is taken from the scrubber mounted digital readout, is recorded every two hours in the log. The log confirmed that the scrubber makeup water flow rate is in the range of 1.5 to 2.0 gpm.

No visible emissions or odors were observed coming from the scrubber exhaust stack. According to Mr. Hendrickson, the facility has been operating 24 hours per day and five days per week.

**5.0 Emission Unit Information**

001 [Steel Pickling Line]

Inspection Date: 09-28-2010

Inspector: G. Ordija

Control Equipment Name: Pro-Eco Scrubber

Control Efficiency: 97-99% (estimated)

Applicable Regulations:

40 CFR, Subpart CCC—National Emission Standards for Hazardous Air Pollutants for Steel Pickling. No owner or operator of an existing affected continuous or batch pickling line at a steel pickling facility shall cause or allow to be discharged into the atmosphere from the affected pickling line any gases that contain HCl in a concentration in excess of 18 parts per million by volume (ppmv).

Emission Limitations:

Pursuant to Condition 2 of Operating Permit 96020074, the operation and hydrogen chloride (HCl) emission from the pickling line shall not exceed the following limits:

Steel Throughput (Tons/Mo) (Tons/Yr)		Emission Factor (Lb/10 <sup>3</sup> Ton)	HCl Emission (Lb/Mo) (Tons/Yr)	
55,000	600,000	4.8	240	1.4

Nacme Steel Processing LLC  
ID#: 031600FWL  
Inspection Date: September 28, 2010  
Page 4

These limits are based on the maximum production rate and emission factor derived from the most recent stack test. Operational parameters shall not exceed those during the stack test at which the emission factor was derived. Those are: steel process rate no more than 69 Ton/Hr, the highest HCl concentration in the pickling tanks 12%, the highest pickling solution temperature 190° F, HCl makeup rate no more than 235.3 Gal/Hr, and scrubber makeup water flow rate no less than 1.5 Gal/min. Compliance with annual limits shall be determined from a running total of 12 months of data.

Monitoring Requirements:

Pursuant to Condition 6 of Operating Permit 96020074, the Permittee shall monitor the following operational parameters:

- a. HCl concentration in the pickling tanks - every 4 hours;
- b. Pickling solution temperature in each tank - continuously;
- c. HCl makeup rate - continuously;
- d. Scrubber makeup water flow - continuously.

Recordkeeping Requirements:

Pursuant to Condition 7 of Operating Permit 96020074, the Permittee shall maintain monthly records of the following items:

- a. Steel throughput (Ton/Mo, Ton/Yr)
- b. Hydrochloric acid usage (Gal/Mo, Gal/Yr) and its concentration (Wt. %);
- c. Pickling line operating hours (Hr/Mo, Hr/Yr);
- d. Monitoring devices records;
- e. HCl emission calculations (Lb/Mo, Ton/Yr).

Reporting Requirements:

Pursuant to Condition 9 of Operating Permit 96020074, if there is an exceedance of the requirements of this permit as determined by the records required by this permit, the Permittee shall submit a report to the Illinois EPA's Compliance Section in Springfield, Illinois within 30 days after the exceedance. The report shall include the emissions released in accordance with the recordkeeping

Nacme Steel Processing LLC  
ID#: c31600FWL  
Inspection Date: September 28, 2010  
Page 5

requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.

Inspection Findings:

A stack test to measure HCl at the scrubber exhaust stack was performed on December 21, 2006 to measure HCl emissions at increased steel throughput rates. The results of the test, which was voluntarily performed by the facility, were used as revised input to the pending FESOP application. The results indicated that at an average steel throughput rate of 119.998 tons per hour, a maximum HCl concentration in the pickling tanks of 16%, a maximum pickling solution temperature of 190°F, and a maximum HCl makeup rate of 236 gallons per hour, gaseous emissions of HCl at the scrubber exhaust were measured to be below 0.01 part per million by volume (ppmv) which is below the permissible level of 18 ppmv, pursuant to 40 CFR 63.1157(a) (1).

Records requested pursuant to Condition 7 of Operating Permit 96020074 were emailed to the author on day after inspection. The records contained monthly steel production and HCl emissions and rolling twelve-month HCl emissions. The records did not contain HCl usage (gal/month and gal/year) and pickling line operating hours as required by the permit. Scrubber monitoring records were not included but were previously inspected at the facility. Based on the emailed records, steel throughput and HCl emissions during calendar 2009 and 2010 to date are well within operating permit limits. It should be noted that due to the recession, the facility did not operate during the first nine months of 2009. The emailed records confirm that the HCl emission calculations are based on the operating permit specified emission factor of 4.8 lbs HCl/1000 tons steel.

## 6.0 Miscellaneous Information

### a) Fugitive Dust Program

Fugitive dust plan is not required.

### b) Section 9(a) Factors

Complaints of acid fallout were received in August 2000. The complaints and other violations uncovered during an inspection conducted on August 8, 2000, resulted in the issuance of Violation Notice A-2000-00202.

### c) Attainment/Non-Attainment

Nacme Steel Processing LLC  
ID#: 031600FWL  
Inspection Date: September 28, 2010  
Page 6

This source is located in an area that, is designated non-attainment for the National Ambient Air Quality Standards for ozone and PM<sub>2.5</sub> and attainment or unclassifiable for all other criteria pollutants (CO, lead, NO<sub>2</sub>, PM<sub>10</sub> and SO<sub>2</sub>).

d) AER Date of last submission: 04-27-2010

e) Stack Test Performed?  Yes  No

Emission unit name(s): Steel Pickling Line

Date stack test conducted: December 21, 2006

Results of Stack Test: The results indicate that at an average steel throughput rate of 119.998 tons per hour, a maximum HCl concentration in the pickling tanks of 16%, a maximum pickling solution temperature of 190°F, and a maximum HCl makeup rate of 236 gallons per hour, gaseous emissions of HCl at the scrubber exhaust were measured to be below 0.01 part per million by volume (ppmv).

f) CEM on site?  Yes  No

Emission unit name(s): Steel Pickling Line Contaminant: HCl

CEM checklist attached?  Yes  No

The CEM, which was not operating on the day of inspection due to malfunction, is apparently required by the City of Chicago. It is designed to measure HCl concentration, in ppm, at the scrubber stack outlet.

g) Annual Plant Wide Emissions

	<u>2009/TPY</u>
HCl	0.306296

h) Other/Miscellaneous Issues

None

# EXHIBIT B



## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829  
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

TDD 217/782-9143

MAR 03 2011

CERTIFIED MAIL #7008 1830 0001 4716 4512  
RETURN RECEIPT REQUESTED

Bob Hendrickson  
Nacme Steel Processing LLC  
429 W. 127<sup>th</sup> Street  
Chicago, Illinois 60628

**RE: Violation Notice A-2010-00151  
I.D. 031600FWL**

Dear Mr. Hendrickson:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(a)(1), and is based upon a review of available information and an investigation by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of violations of environmental laws, regulations or permits as set forth in Attachment A to this letter. Attachment A includes an explanation of the activities that the Illinois EPA believes may resolve the specified violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the violations cited, please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in Attachment A and include for each an explanation of the activities that will be implemented and the time schedule for the completion of each activity. The written response will constitute a proposed Compliance Commitment Agreement ("CCA") pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.

Page 2

Violation Notice A-2010-00151

Nacme Steel Processing LLC, I.D. 031600FWL

If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and meet, and the Illinois EPA may proceed with a referral to the prosecutorial authority.

Written communications should be directed to YASMINE KEPPNER-BAUMAN, Illinois EPA, Bureau of Air, Compliance Unit, P.O. Box 19276, Springfield, Illinois 62794-9276. All communications must reference the Violation Notice number in this matter.

Questions regarding this matter should be directed to GEORGE ORDIJA at 847/294-4000.

Sincerely,



Raymond E. Pilapil, Manager  
Compliance Section  
Bureau of Air

REP: ykb

Attachments

Violation Notice A-2010-00151  
Nacme Steel Processing LLC, I.D. 031600FWL

ATTACHMENT A

Per observations by George Ordija on September 28, 2010, and other available information:

VIOLATIONS:

1. Section 39.5(6)(b) of the Act: Nacme Steel Processing may have potential hydrogen chloride (HCl) emissions greater than 10 tons per year and may be required to obtain a Clean Air Act Permit Program (CAAPP) permit or Federally Enforceable State Operating Permit (FESOP). Nacme Steel Processing may have failed to timely file a CAAPP permit application and may now operate without the required CAAPP permit.
2. Section 9(b) of the Act and standard condition 7 of operating permit 96020074: Nacme Steel Processing LLC failed to maintain the enclosure and associated scrubber exhaust piping on the four stage washer.
3. Section 9(b) of the Act and condition 2 of operating permit 96020074: Nacme Steel Processing LLC may have exceeded the HCl emissions limits delineated in condition 2 of operating permit 96020074.
4. Section 9(b) of the Act and condition 6(b) of operating permit 96020074: Nacme Steel Processing LLC failed to continuously monitor the pickling solution temperature.
5. Section 9(b) of the Act and condition 6(c) of operating permit 96020074: Nacme Steel Processing LLC failed to continuously monitor the HCl makeup rate.
6. Section 9(b) of the Act and condition 7(b) of operating permit 96020074: Nacme Steel Processing LLC failed to maintain records of the hydrochloric acid usage.
7. Section 9(b) of the Act and condition 7(c) of operating permit 96020074: Nacme Steel Processing LLC failed to maintain records of the pickling line operating hours.
8. Section 9(b) of the Act and condition 9 of operating permit 96020074: Nacme Steel Processing LLC failed to submit exceedance reports to the Illinois EPA, Bureau of Air, Compliance Section.



Violation Notice A-2010-00151  
Nacme Steel Processing LLC, I.D. 031600FWL

ATTACHMENT A (continued)

RECOMMENDATIONS:

The Illinois EPA suggests that Nacme Steel Processing LLC take the following actions to address the violations stated above:

1. Within 45 days of receipt of this Violation Notice, submit to the Illinois EPA estimations of the "potential to emit" for HCl emissions from the facility, together with supporting calculations. The potential to emit of the source represents the maximum capacity of the source to emit HCl emissions under its physical and operational design.
2. Within 45 days of receipt of this Violation Notice, submit a construction permit application and a revision to the existing FESOP application to reflect the emission factor and steel throughput from the most recent performance testing conducted at the source.
3. Immediately repair the enclosures and associated scrubber exhaust piping on the four stage washer. Furthermore, all future repairs on ductwork associated with pollution control equipment must be performed promptly. Within 45 days of receipt of this Violation Notice, submit documentation to the Illinois EPA that demonstrates the necessary repairs have been made.
4. Immediately establish and maintain a system for continuously monitoring the pickling solution temperature. Within 45 days of receipt of this Violation Notice, provide documentation to the Illinois EPA that demonstrates the appropriate monitoring systems have been implemented.
5. Immediately establish and maintain a system for continuously monitoring the HCl makeup rate. Within 45 days of receipt of this Violation Notice, provide documentation to the Illinois EPA that demonstrates the appropriate monitoring systems have been implemented.
6. Immediately establish and maintain records of the hydrochloric acid usage. Within 45 days of receipt of this Violation Notice, provide a sampling of the required records to the Illinois EPA, Bureau of Air, Compliance Section.
7. Immediately establish and maintain records of the pickling line operating hours. Within 45 days of receipt of this Violation Notice, provide a sampling of the required records to the Illinois EPA, Bureau of Air, Compliance Section.

Violation Notice A-2010-00151  
Nacme Steel Processing LLC, I.D. 031600FWL

ATTACHMENT A (continued)

RECOMMENDATIONS (continued):

8. In the future, submit exceedance reports within 30 days of each exceedance to the Illinois EPA, Bureau of Air, Compliance Section.

NATIONAL PROCESSING

219-397-5088

FAX 219-397-5720

FACSIMILE TRANSMITTAL SHEET

TO: Britt Wenzal FROM: Bob Hendrickson

DATE: March 8, 2011

TOTAL NO. OF PAGES INCLUDING COVER: 12

RE:

URGENT  FOR REVIEW  PLEASE COMMENT  PLEASE REPLY  PLEASE RECYCLE

# EXHIBIT C



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829  
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

217/782-5544  
217/782-9143 (TTY)

July 15, 2011

Certified Mail # 7004 2510 0001 8619 1937  
Return Receipt Requested

Bob Hendrickson  
Nacme Steel Processing LLC  
429 W. 127<sup>th</sup> Street  
Chicago, Illinois 60628

**RE: Notice of Intent to Pursue Legal Action  
Violation Notice A-2010-00151  
I.D. 031600FWL**

Dear Mr. Hendrickson:

This Notice of Intent to Pursue Legal Action is provided pursuant to Section 31(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(b)(2000).

The Illinois Environmental Protection Agency ("Illinois EPA") is providing this notice to inform Nacme Steel Processing LLC of its intention to pursue legal action for the violations of environmental laws and regulations specified in Attachment A. This Notice of Intent to Pursue Legal Action provides Nacme Steel Processing LLC an opportunity to schedule a meeting with representatives of the Illinois EPA in an effort to resolve the violations prior to the filing of a formal complaint. If a meeting is requested, it must be held within thirty (30) days of receipt of this notice unless an extension of time is agreed to by the Illinois EPA.

If you wish to schedule a meeting with representatives of the Illinois EPA or have any questions, please contact the undersigned or Maureen Wozniak, the attorney assigned to this matter at 217/782-5544, at the earliest possible convenience.

Sincerely,

Julie K. Armitage  
Associate Counsel  
Division of Legal Counsel

JKA:MW:kt

Attachment

Violation Notice A-2010-00151  
Nacme Steel Processing LLC, I.D. 031600FWL

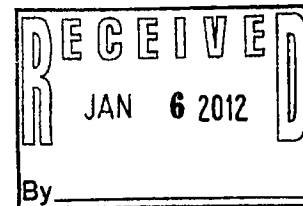
ATTACHMENT A

Per observations by George Ordija on September 28, 2010, and other available information:

VIOLATIONS:

1. Section 39.5(6)(b) of the Act: Nacme Steel Processing may have potential hydrogen chloride (HCl) emissions greater than 10 tons per year and may be required to obtain a Clean Air Act Permit Program (CAAPP) permit or Federally Enforceable State Operating Permit (FESOP). Nacme Steel Processing may have failed to timely file a CAAPP permit application and may now operate without the required CAAPP permit.
2. Section 9(b) of the Act and standard condition 7 of operating permit 96020074: Nacme Steel Processing LLC failed to maintain the enclosure and associated scrubber exhaust piping on the four stage washer.
3. Section 9(b) of the Act and condition 2 of operating permit 96020074: Nacme Steel Processing LLC may have exceeded the HCl emissions limits delineated in condition 2 of operating permit 96020074.
4. Section 9(b) of the Act and condition 6(b) of operating permit 96020074: Nacme Steel Processing LLC failed to continuously monitor the pickling solution temperature.
5. Section 9(b) of the Act and condition 6(c) of operating permit 96020074: Nacme Steel Processing LLC failed to continuously monitor the HCl makeup rate.
6. Section 9(b) of the Act and condition 7(b) of operating permit 96020074: Nacme Steel Processing LLC failed to maintain records of the hydrochloric acid usage.
7. Section 9(b) of the Act and condition 7(c) of operating permit 96020074: Nacme Steel Processing LLC failed to maintain records of the pickling line operating hours.
8. Section 9(b) of the Act and condition 9 of operating permit 96020074: Nacme Steel Processing LLC failed to submit exceedance reports to the Illinois EPA, Bureau of Air, Compliance Section.

# EXHIBIT D



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

January 5, 2012

David Susler  
Associate General Counsel  
Nacme Steel Processing  
1965 Pratt Boulevard  
Elk Grove Village, IL 60007

*Sent via US mail certified, return receipt*

Re: Nacme Steel Processing -Enforcement Action for Alleged Violations of the Illinois  
Environmental Protection Act and Illinois Pollution Control Board Regulations

Dear Mr. Susler:

The Illinois Environmental Protection Agency ("Illinois EPA") referred the above-referenced matter to the Office of Attorney General for the initiation of an enforcement action. Specifically, the Illinois EPA alleges the violations listed in the enclosed attachment A against Nacme Steel Processing.

Our office policy is to approach a potential defendant before filing a complaint in an effort to resolve the matter. In your case, an acceptable alternative to litigation would consist of entering into a court enforceable settlement agreement. The settlement agreement would include, among other things, an agreement to cease and desist from future violations of the Illinois Environmental Protection Act ("Act") and related regulations, and payment of a civil penalty. Section 42 of the Act, 415 ILCS 5/42, provides for penalties up to \$50,000.00 per violation plus \$10,000.00 per day each violation continued.

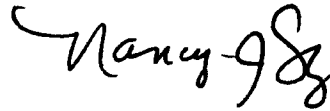
In addition, if we discuss settlement at some point in our future communications, please be advised that no settlement discussion(s) and proposed settlement term(s) are ever final or accepted until and unless approved by the management of our office and the management of the Illinois EPA. Furthermore, any settlement to resolve this or any pending action whether filed in the courts or with the Pollution Control Board must be in writing, memorialized in a Stipulation and Proposal for Settlement or Consent Order, fully executed by all the parties or their duly authorized representatives, and the Illinois EPA by its duly authorized representative. Only after such Stipulation and Proposal for Settlement is accepted by the Illinois Pollution Control Board



through the issuance of a Board Order, or after entry by the Court of the Consent order does such settlement documents become enforceable Orders.

The Office of the Illinois Attorney General offers you the opportunity to meet with representatives of this Office and the Illinois EPA to resolve this matter. A meeting is scheduled for Tuesday, January 24, 2012 at 1:30 p.m. at our office located at 69 West Washington Street, Suite 1800, Chicago. Please call to confirm your attendance by Friday January 20, 2012. If you do not respond to this letter, then a formal complaint will be filed without resolving the matter.

Sincerely,



Nancy J. Tikalsky  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., Suite 1800  
Chicago, IL 60602  
(312) 814-8567

Enc. Attachment A  
c. Maureen Wozniak, Legal Counsel, Illinois EPA

Violation Notice A-2010-00151

Nacme Steel Processing LLC, I.D. 031600FWL

ATTACHMENT A

Per observations by George Ordija on September 28, 2010, and other available information:

VIOLATIONS:

1. Section 39.5(6)(b) of the Act: Nacme Steel Processing may have potential hydrogen chloride (HCl) emissions greater than 10 tons per year and may be required to obtain a Clean Air Act Permit Program (CAAPP) permit or Federally Enforceable State Operating Permit (FESOP). Nacme Steel Processing may have failed to timely file a CAAPP permit application and may now operate without the required CAAPP permit.
2. Section 9(b) of the Act and standard condition 7 of operating permit 96020074: Nacme Steel Processing LLC failed to maintain the enclosure and associated scrubber exhaust piping on the four stage washer.
3. Section 9(b) of the Act and condition 2 of operating permit 96020074: Nacme Steel Processing LLC may have exceeded the HCl emissions limits delineated in condition 2 of operating permit 96020074.
4. Section 9(b) of the Act and condition 6(b) of operating permit 96020074: Nacme Steel Processing LLC failed to continuously monitor the pickling solution temperature.
5. Section 9(b) of the Act and condition 6(c) of operating permit 96020074: Nacme Steel Processing LLC failed to continuously monitor the HCl makeup rate.
6. Section 9(b) of the Act and condition 7(b) of operating permit 96020074: Nacme Steel Processing LLC failed to maintain records of the hydrochloric acid usage.
7. Section 9(b) of the Act and condition 7(c) of operating permit 96020074: Nacme Steel Processing LLC failed to maintain records of the pickling line operating hours.
8. Section 9(b) of the Act and condition 9 of operating permit 96020074: Nacme Steel Processing LLC failed to submit exceedance reports to the Illinois EPA, Bureau of Air, Compliance Section.