

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

MOHAMMED O. AHMED, HADEER AHMED,
NORIEAH AHMED, SAMIRA ALASBAHI,
WILLIAM ALI, MAHMOUD AND IBTISAM
IJBARA, and other persons similarly situated,

Class Action Plaintiffs,

v

SEVERSTAL NORTH AMERICA, INC., a
Delaware corporation,

Defendant.

Case N^o: 04-438968-CE

Hon. Michael F. Sapala

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SECOND AMENDED CLASS ACTION COMPLAINT AND JURY DEMAND

Plaintiffs Mohammed Ahmad, Hadeer Ahmed, Norieah Ahmed, Samira Alasbahi, William Ali, and Mahmoud and Ibtisam Ijbara, through their attorneys, OLSON, BZDOK & HOWARD, P.C., and on behalf of themselves and all other persons similarly situated (collectively, "Plaintiffs"), state in support of their Class Action Complaint against Defendant Severstal North America, Inc. ("Defendant") the following:

NATURE OF THE ACTION

1. This is an action necessary to protect the personal and property rights of the Named Plaintiffs and all other similarly situated persons, which rights have been unreasonably interfered with and damaged as a result of Defendant's operation of the Rouge Steel Facility, in Dearborn, Wayne County, Michigan.

2. Defendant's operation of the Rouge Steel Facility results in the emission of particulate matter and other air pollutants, which migrate onto Plaintiffs' properties, causing material injury to Plaintiffs' person and property.

3. Plaintiffs bring this action on behalf of themselves and all other residents of the South Dearborn Neighborhood (bound by Miller Road, Riverside Drive, the Holly Cross Cemetery, and Southern Street) who similarly suffer from the actual and threatened physical invasion of their person and property by dust, debris, particulate matter, and other air pollutants generated by Defendant's operation of the Rouge Steel Facility.

4. There are many persons who have been similarly affected, the questions to be determined are of common and general interest to many residents of the South Dearborn Neighborhood who constitute the class of Plaintiffs, and the class is so numerous as to make it impracticable to bring them all before the Court. Therefore, Plaintiffs have initiated this litigation for all persons similarly situated, pursuant to MCR 3.501.

5. Issues of fact and law common to the members of the Class predominate over questions affecting the individual Named Plaintiffs.

6. The claims of the Named Plaintiffs are similar to the typical claims of the Class.

7. The maintenance of this litigation as a Class Action will be superior to other methods of adjudication in promoting the convenient administration of justice.

8. The Named Plaintiffs and the law firm OLSON, BZDOK & HOWARD, P.C., will fairly and adequately assert and protect the interests of the Class.

PARTIES

9. Named Plaintiff Mohammed Ahmed resides at 9920 Omar Street, Dearborn, Wayne County, and has resided there at all times relevant to this lawsuit.
10. Named Plaintiff Hadeer Ahmed resides at 9920 Omar Street, Dearborn, Wayne County, and has resided there at all times relevant to this lawsuit.
11. Named Plaintiff Norieah Ahmed resides at 2784 Holly Street, Dearborn, Wayne County, and has resided there at all times relevant to this lawsuit.
12. Named Plaintiff Samira Alasbahi resides at 1245 Ferney Street, Dearborn, Wayne County, and has resided there at all times relevant to this lawsuit.
13. Named Plaintiff William Ali resides at 2737 Roulo Street, Dearborn, Wayne County, and has resided there at all times relevant to this lawsuit.
14. Named Plaintiffs Mahmoud and Ibtisam Ijbara reside at 3006 Salina Street, Dearborn, Wayne County, and have resided there at all times relevant to this lawsuit.
15. Defendant Severstal North America, Inc., is a Delaware corporation and is a wholly owned indirect subsidiary of OAO SeverStal, a Russian joint stock company.

JURISDICTION AND VENUE

16. At all times relevant to this action, the Named Plaintiffs have resided in Dearborn, Wayne County, Michigan.
17. Defendant Severstal North America, Inc., is a corporation doing business in Dearborn, Wayne County, Michigan.
18. The Rouge Steel Facility, which is the subject of this lawsuit, is located within the Rouge Industrial Complex, at 3001 Miller Road, Dearborn, Wayne County, Michigan.
19. The matter in controversy exceeds \$25,000.00.
20. This Court has jurisdiction over this case under authorities including, but not limited to the Michigan common law of nuisance and MCL 324.1701 and MCL 324.1704.

21. Pursuant to MCL 600.1627, venue is proper in Wayne County because the actions complained of occurred in Wayne County.

FACTS COMMON TO ALL COUNTS

22. The Rouge Steel Facility encompasses approximately 500 acres on the southern half of the Rouge Industrial Complex, located at 3001 Miller Road, Dearborn, Michigan, and is adjacent to the South Dearborn Neighborhood.

23. The Rouge Steel Facility is an integrated steel plant that consists of several interrelated processes: iron production and preparation; steel production; product preparation; and handling and transport of raw, intermediate, and waste materials.

24. Defendant became the owner of the Rouge Steel Facility, including all related real property, equipment and machinery, inventory, supplies, permits, and other assets related to the Rouge Steel Facility, through the purchase of such assets from Rouge Industries, Inc., and Rouge Steel Company in January 2004.

25. Defendant is responsible for ownership, operational control, coverage, and liability associated with the Rouge Steel Facility, including the stationary sources and all relevant emission units, and has been responsible for such ownership, operational control, coverage, and liability since January 2004.

26. The manufacturing processes at the Rouge Steel Facility include two blast furnaces for iron making, a basic oxygen furnace for production of molten steel, ladle metallurgical facilities, casting machines for the production of steel slabs, a hot strip mill, and a cold rolling mill containing hydrochloric acid pickling lines.

27. Iron is produced in the blast furnaces, wherein iron, coke, and limestone are charged and react with hot air to produce molten iron.

28. Steel is produced in the Basic Oxygen Furnace (BOF), wherein high pressure oxygen together with flux materials are added to molten iron and scrap steel to produce steel.

29. Air pollutants, including particulate matter containing varying constituents, are emitted into the ambient air from roof monitors or stacks at the blast furnaces and the BOF and from other processes and sources at the Rouge Steel Facility.

30. The quantity and quality of particulate and other pollutants emitted into the ambient air from the manufacturing processes at the Rouge Steel Facility depend on various factors, including the quality of raw materials and scrap, emissions controls, operation and maintenance practices, and other factors.

31. In addition to emissions resulting from iron and steel production processes, the Rouge Steel Facility also emits particulate matter and other pollutants from open dust sources, including but not limited to vehicles on unpaved roads, raw materials handling, and wind erosion from storage piles.

32. Defendant has failed to provide the Rouge Steel Facility with adequate emissions control equipment to limit and reduce particulate and other emissions.

33. Defendant has failed to integrate into Rouge Steel Facility's iron and steel production processes adequate operational and maintenance procedures to limit particulate and other emissions.

34. Defendant has failed to operate and manage open dust sources at the Rouge Steel Facility adequately to reduce or limit particulates and other emissions.

35. Defendant operates the Rouge Steel Facility iron and steel productions on a continuous, daily basis.

36. Particulate matter and other pollutants from the Rouge Steel Facility are distributed by prevailing winds.

37. On numerous occasions, Plaintiffs have observed dust, smoke, particulate matter, and other pollutants being emitted from the Rouge Steel Facility and blowing into their neighborhood.

38. On an almost-daily basis, particulate and other emissions from the Rouge Steel Facility are deposited on Plaintiffs' properties, including on their vehicles and inside their homes.

39. The particulate and other emissions that physically invade Plaintiffs' properties necessitate constant cleaning of clothing, vehicles, and other properties, and may cause damage to the paint or surface finish of property exposed to the particulate emissions.

40. The particulate and other emissions that physically invade Plaintiffs' properties necessitate keeping windows and doors closed at all times, in an attempt to limit particulate emissions from entering Plaintiffs' homes.

41. Particulate and other pollutant emissions from the Rouge Steel Facility affect the air quality in Plaintiffs' neighborhood and in their homes, and significantly and unreasonably interfere in Plaintiffs' health and well-being, as well as their use and enjoyment of their property.

42. Defendant has known, or should have known, that its operations result in increased particulate and other pollutant emissions, which have substantially and unreasonably impacted Plaintiffs' property and the air quality in their neighborhood.

43. The United States Environmental Protection Agency, the Michigan Department of Environmental Quality, and the County of Wayne County have cited the Rouge Steel Facility for emissions of particulate matter violative of federal, state, or local law.

44. Despite citations by regulatory agencies and legal action by private citizens, the Rouge Steel Facility continues to emit high levels of particulate matter and other pollutants.

45. The emission of particulate matter and other pollutants from the Rouge Steel Facility has polluted, impaired, and destroyed air quality and other natural resources, and the public trust in such resources, in Plaintiffs' neighborhood.

46. An air quality monitor in Plaintiffs' neighborhood documents levels of particulate matter continuously above the National Ambient Air Quality Standard approved by the United States Environmental Protection Agency.

47. Fine particulate matter emissions from the Rouge Steel Facility have significantly contributed to the high levels of fine particulate matter detected in the air monitor in Plaintiffs' neighborhood.

48. As a direct and proximate result of Defendants' operation of the Rouge Steel Facility as described above, Plaintiffs have sustained damages including but not limited to the following:

- a) Loss of use and enjoyment of their properties;
- b) Diminution in market value of their properties;
- c) Costs associated with cleaning and removing from their property dust and particulate emissions;
- d) Interruption in recreational and other normal outdoor activities;
- e) Adverse health effects, including harm to the respiratory and cardiovascular systems, eye and skin irritation, and other personal injuries; and
- f) Such other damages that flow naturally and consequentially from Defendant's actions.

COUNT I – NUISANCE

49. Plaintiffs reallege the previous paragraphs.

50. Defendant's operations at the Rouge Steel Facility unreasonably interfere with Plaintiffs' health and with the use and enjoyment of their properties, which results in significant harm to Plaintiffs and thereby constitutes private and public nuisances.

51. Defendant's operations at the Rouge Steel Facility have resulted in deposition of particulate matter on Plaintiffs' properties and have significantly contributed to the degradation of air quality in Plaintiffs' neighborhood, and have created a continuing nuisance that unreasonably interferes with Plaintiffs' health and with their use and enjoyment of their properties.

52. Plaintiffs have not consented to the physical invasion and deposition of particulate matter on their properties and the significantly degraded air quality in their neighborhood cause by the Rouge Steel Facility.

53. Defendant knows or should know that its operations of the Rouge Steel Facility unreasonably interfere with Plaintiffs' health and with their properties and their use and enjoyment thereof.

54. Defendant's substantial and unreasonable interference with Plaintiffs' health and use and enjoyment of their properties constitutes an intentional nuisance, for which Defendant is liable to Plaintiffs for all damages arising from such nuisance, including compensatory, exemplary, injunctive, and punitive damages.

55. As a direct and proximate result of the public and private nuisance created by Defendant's operations of the Rouge Steel Facility, Plaintiffs have sustained significant injuries and damages as more fully described above.

COUNT II – MICHIGAN ENVIRONMENTAL PROTECTION ACT

56. Plaintiffs reallege the previous paragraphs.

57. The Michigan Environmental Protection Act, MCL 324.1701, *et seq* ("MEPA"), authorizes Plaintiffs to bring suit in this Court for declaratory and equitable relief against Defendant for the protection of the air, water and other natural resources and the public trust in these resources from pollution, impairment or destruction. MCL 324.1702(1).

58. This Court may grant temporary and permanent equitable relief against Defendant as necessary to protect the air, water, and other natural resources or the public trust in those resources, from pollution, impairment or destruction. MCL 324.1704(1).

59. As described above, Defendant's operations of the Rouge Steel Facility have polluted, impaired, and/or destroyed the air and other natural resources, which constitutes a violation of MEPA.

60. Operations of the Rouge Steel Facility that result in pollution, impairment, or destruction, or threatened pollution, impairment, or destruction of natural resources, have continued unabated for many years, and are continuing still.

61. Evidence that Defendant has or is likely to continue to violate other state and/or federal pollution control standards provides sufficient evidence to establish a *prima facie* MEPA case that Defendant's conduct has polluted, impaired, or destroyed natural resources and is likely to continue to do so.

62. MEPA requires Defendant to determine the likely environmental effects of its proposed actions, to consider and evaluate alternative methods for accomplishing its goals, and to prevent or minimize the risks and negative consequences of its conduct to the environment.

63. Defendant has not done these things outlined in the preceding paragraph.

64. As a direct and proximate result of Defendant's violation of MEPA, Plaintiffs have sustained the injuries and damages more fully described above.

65. Plaintiffs are entitled to declaratory and equitable relief against Defendant in accordance with the provisions of MEPA.

RELIEF REQUESTED

For the reasons stated above, Plaintiffs respectfully request that this Court enter the following relief:

A. Grant preliminary and permanent injunctive relief and order Defendant to undertake corrective actions to reduce or eliminate the emission of particulate matter from the Rouge Steel Facility into the air in Plaintiffs' neighborhood and the deposition of particulate matter upon Plaintiffs' properties. This should include but not be limited to:

- (1) Install adequate emissions reduction technologies to minimize the release of particulate matter from the Rouge Steel Facility; and
- (2) Institute sufficient operation and maintenance practices to minimize the release of particulate matter from the Rouge Steel Facility.

B. Award Plaintiffs damages for all costs associated with the clean-up and removal of particulate matter from their properties.

C. Award Plaintiffs damages for the diminution in property values caused by Defendant's operations of the Rouge Steel Facility.

D. Award Plaintiffs damages for the interference with the use and enjoyment of their properties caused by Defendant's operations of the Rouge Steel Facility.

E. ~~Award Plaintiffs damages for personal injuries suffered as a result of Defendant's operations of the Rouge Steel Facility.~~

F. Award Plaintiffs all costs and attorneys fees that have resulted from this litigation.

G. Award all other relief that is reasonable, equitable, and just.

JURY DEMAND

Plaintiffs in the above entitled action demand a trial by jury on all issues so triable.¹

OLSON, BZDOK & HOWARD, P.C.
Attorneys for Plaintiffs

Date: November 29, 2005

By: _____
Christopher M. Bzdok (P53094)
Tracy J. Andrews (P67467)

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¹ The jury fee was paid at the time the original Class Action Complaint was filed on December 23, 2004.