

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

SOUTH DEARBORN ENVIRONMENTAL
IMPROVEMENT ASSOCIATION,

Plaintiff,

v

SEVERSTAL DEARBORN, LLC,

Defendant.

Case No. 14-_____-CE

Hon. _____

COMPLAINT

14-010875-CE

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CATHY M. GARRETT

Christopher M. Bzdok (P53094)
Emerson Hilton (P76363)
OLSON, BZDOK & HOWARD, P.C.
Attorneys for Plaintiff
420 East Front Street
Traverse City, MI 49686
Telephone: (231) 946-0044
Email: chris@envlaw.com
emerson@envlaw.com

Tracy Jane Andrews (P67467)
LAW OFFICE OF TRACY JANE ANDREWS, PLLC
Co-Counsel for Plaintiff
713-B Lake Avenue
Traverse City, MI 49684
Telephone: (231) 714-9402
Email: tjandrews@ymail.com

STATEMENT PURSUANT TO MCR 2.113(C)(2)(a): There is no other pending or resolved state court civil action arising out of the transaction or occurrence alleged in the Complaint. There is a pending appeal by Plaintiff and other organizations of a decision by the Michigan Department of Environmental Quality (MDEQ) to issue Air Permit to Install (PTI) No. 182-05C to Severstal Dearborn, LLC. That appeal has been designated as Wayne County Circuit Case No. 14-008887-AA and assigned to Hon. Robert L. Ziolkowski. That appeal is not an action subject to joinder with this Complaint, but the subject matter of the appeal and this Complaint are substantially related.

Additionally, Plaintiff has brought a citizen enforcement action under the Federal Clean Air Act against Severstal Dearborn, LLC in Federal District Court for the Eastern District of Michigan, for violating provisions of the Clean Air Act and Severstal's existing air pollution permits. That action has been designated as Federal District Court Case No. 2:14-cv-12387-GER-PJK and assigned to Hon. Gerald E. Rosen. The Federal District Court has exclusive jurisdiction of that action.

INTRODUCTION

1. Plaintiff, South Dearborn Environmental Improvement Association (SDEIA), brings this action against Severstal Dearborn, LLC (“Severstal”) under Part 17 of the Natural Resources and Environmental Protection Act, MCL 324.1701 *et seq.*, also known as the Michigan Environmental Protection Act (“MEPA”). On behalf of its members, Plaintiff seeks equitable relief to abate and mitigate Severstal’s ongoing pollution, impairment, and destruction of the air and other natural resources and the public trust therein.

PARTIES

2. Plaintiff SDEIA is a Michigan non-profit corporation. SDEIA’s mission is to undertake activities to further the improvement of environmental conditions in South Dearborn. Most of SDEIA’s members live in the South End neighborhood of Dearborn, in Wayne County, which is immediately adjacent to, and downwind from, the Severstal facility. The health, property, recreational, and aesthetic interests of SDEIA’s members are adversely impacted by Severstal’s air pollution.

3. Defendant Severstal Dearborn, LLC, is a subsidiary of the Russian steel and mining company known simply as Severstal. Severstal is organized under the laws of the State of Delaware. Severstal owns and operates a steel production facility located at 4001 Miller Road in Dearborn, Michigan (State Registration Number A8640).

JURISDICTION AND VENUE

4. This Court has jurisdiction to grant the relief requested in this Complaint, and venue is proper, under MCL 324.1701(1).

FACTUAL BACKGROUND

5. Severstal's Dearborn steel plant is an approximately 350-acre complex containing numerous buildings, processes, and components.

6. The plant includes a blast furnace in which iron, coke, and limestone are charged and react with hot air to produce molten iron ("the C-Blast Furnace").

7. The plant also includes a Basic Oxygen Furnace ("BOF") in which high pressure oxygen together with flux materials are added to molten iron and scrap steel to produce steel.

8. Severstal emits very high amounts of air pollution. These pollutants include, but are not limited to, fine particulate matter (PM_{2.5}); coarse particulate matter (PM₁₀); Sulfur Dioxide (SO₂); Manganese (Mn); Lead (Pb); Carbon Monoxide (CO); Mercury (Hg); and Volatile Organic Compounds (VOCs).

9. Particulate matter, including PM_{2.5} and PM₁₀, refers to solid and liquid airborne particles. PM is regulated according to the size of the particles. PM_{2.5} refers to particles less than 2.5 micrometers (µm) in size. PM₁₀ refers to particles less than 10 µm in size.

10. The health effects of exposure to particulates – particularly fine particulates – include premature death in people with heart or lung disease; heart attacks; irregular heartbeat; aggravated asthma; decreased lung function; and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.

11. Current scientific consensus is that there is no "safe" threshold level of PM_{2.5} below which adverse health effects do not result from these pollutants.

12. The neighborhoods in which Plaintiff's members live contain the highest average PM_{2.5} concentrations in the State of Michigan.

13. The U.S. Environmental Protection Agency ("EPA") has previously designated areas in and around Severstal and in Wayne County as "non-attainment" for PM_{2.5} under the prior National Ambient Air Quality Standard (NAAQS) for PM_{2.5}, which was 15 micrograms per cubic meter. This non-attainment designation was lifted by EPA on August 29, 2013. 78 Fed Reg 53272-53275.

14. The current NAAQS for PM_{2.5} is 12 micrograms per cubic meter. EPA is expected to make new non-attainment designations based on the new standard – which may again include the neighborhoods in which Plaintiff's members live – by December 2014.

15. Sulfur Dioxide (SO₂) is also harmful to human health. Short-term exposure to SO₂ causes narrowing of the airways and difficulty breathing, increased asthma symptoms, and more frequent emergency room visits and hospitalizations. SO₂ emissions are also associated with emissions of other sulfur oxides (SO_x), which also have adverse impacts on public health. In addition, SO₂ in the ambient air leads to the formation of fine sulfate particles, which have significant adverse public health impacts. SO₂ reacts with other compounds in the ambient air to create fine particulates that cause or worsen respiratory disease and aggravate existing heart disease.

16. Severstal's plant and Plaintiff's neighborhood are in an area designated as "nonattainment" for the current SO₂ NAAQS. This means that the levels of SO₂ in the ambient air around Severstal's facility already exceed the requisite national standard established by the EPA for protection of public health.

17. Manganese (Mn) is defined as a toxic air contaminant under Michigan Air Pollution Control Rules. Emissions of manganese into the ambient air can cause adverse health impacts in exposed humans, including adverse effects on the central nervous system and motor function, as well as an increased likelihood of developing respiratory and infectious lung diseases.

18. Ambient air monitoring data from the communities surrounding Severstal has shown elevated levels of manganese above health protective benchmark levels.

19. Lead (Pb) is also defined as a toxic air contaminant under Michigan Air Pollution Control Rules. Human exposure to lead emissions in the ambient air can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems, the cardiovascular system, and the oxygen carrying capacity of the blood. Exposure to lead in the air has neurological effects on children and cardiovascular effects, including high blood pressure and heart disease, in adults. Infants and young children are especially sensitive to lead, even at low levels, and lead exposure can contribute to behavioral problems, learning deficits, and lowered IQ.

20. Carbon Monoxide (CO) causes numerous adverse health effects in exposed humans, including reduced oxygen delivery to the body's organs, including the heart and brain, and other tissues. Exposure to CO can also exacerbate heart disease and cause chest pain.

21. Mercury (Hg) is also defined as defined as a toxic air contaminant under Michigan Air Pollution Control Rules. Mercury is a neurotoxin that causes severe adverse human health effects.

22. Volatile Organic Compounds (VOCs) cause eye, nose, and throat irritation; headaches, loss of coordination, and nausea; as well as damage to the liver, kidney, and central nervous system.

23. SDEIA's members and their relatives regularly breathe, and are regularly exposed to, the emissions from Severstal described above.

24. SDEIA's members and their relatives are adversely impacted by pollution and odors in the ambient air downwind from Severstal's facility.

25. The property, recreational, and aesthetic interests of SDEIA's members are also adversely impacted by air pollution emissions from Severstal. Many of SDEIA's members own property that has been impacted by repeated fallout events caused by operations and events at Severstal.

26. Severstal had a Permit to Install from the Michigan Department of Environmental Quality ("MDEQ") under which it legally emitted certain quantities of each of these pollutants during the course of Severstal's operations. The Permit to Install was designated PTI No. 182-05B.

27. Severstal violated emission limits, opacity limits, and other provisions of PTI No. 182-05B on a recurring, chronic, and regular basis.

28. On May 12, 2014, MDEQ issued a new Permit to Install to Severstal that was designated PTI No. 182-05C.

29. The permit process was unduly influenced by the Michigan Economic Development Corporation, acting at the behest of Severstal.

30. PTI No. 182-05C significantly increases the amounts of pollution that Severstal is permitted to emit.

31. MDEQ and Severstal claimed to justify some of these increases based upon tests performed of emissions from the smoke stacks at Severstal. However, in many cases the new emission limits far exceed the emissions demonstrated by the stack tests.

32. A summary of the prior limits, the stack tests, and the new limits is provided below:

Pollutant	Source	Prior Emissions Limit		Stack Test Result	New Emissions Limit		Increase (tons per year, <i>except * is in lb/yr</i>)
		lb/hr	tpy	lb/hr	lb/hr	tpy	
Particulate Matter (PM)	B Blast Furnace Casthouse Baghouse	5.59	24.48		6.1	26.72	2.23
	C Blast Furnace Stoves	14.6	63.95		6.98	30.57	-33.38
	C Blast Furnace Casthouse Baghouse	11.17	48.92		13.87	60.75	11.83
	Desulfurization Baghouse	2.09	9.15		7.7	33.73	24.57
	BOF ESP	50.94	223.12		62.6	274.19	51.07
	BOF Roof Monitor		15.88			61.90	46.02
	BOF Baghouse	7.75	33.95		15.6	68.33	34.38
	Combined B/C Roof Monitors		19.93			87.41	67.48
	TOTAL INCREASED PM:						
PM10	B BF Casthouse Baghouse	2.85	12.48		7.6	33.29	20.81
	C BF Stoves	14.16	62.02	9.78	19.72	86.37	24.35
	C BF Casthouse Baghouse	5.7	24.97	8.13	18.24	79.89	54.93
	Relading Roof Monitor		3.22			3.60	0.38
	Desulfurization baghouse	1.55	6.79	1.48	3.6	15.77	8.98
	Desulfurization roof monitor		6.88		24.38	106.78	99.90
	BOF ESP	37.7	165.13	18.19	47.5	208.05	42.92
	BOF Roof (fugitives)		7.25			28.30	21.05
	BOF Baghouse	3.35	14.67	6.56	17.71	77.57	62.90
	Combined B/C BF casthouse fugitives (roof monitors)		10.16			15.04	4.88
	Combined B/C stoves	14.16	62.02		27.84	121.94	59.92
	TOTAL INCREASED PM10:						

Carbon monoxide (CO)	BOF ESP	3,057.40	13391.41	3237.00	7048.00	30870.24	17478.83
Sulfur dioxide (SO₂)	B-BF Casthouse Baghouse	6.91	30.27		71.9	314.92	284.66
	B-BF Stove	70.9	310.54		38.75	169.73	-140.82
	C-BF stove	275.1	1204.94		193.6	847.97	-356.97
	C-BF casthouse baghouse	23.03	100.87	128.28	179.65	786.87	686.00
	TOTAL INCREASED SO₂:						
NOx	C-BF casthouse baghouse	2.45	10.73		5.46	23.91	13.18
Volatile Organic Compounds (VOC)	C-BF casthouse baghouse	6.77	29.65	4.22	9.92	43.45	13.80
	Combined B/C BF baghouses		27.00			49.42	22.42
	TOTAL INCREASED VOC:						
Lead (Pb)	C-BF casthouse baghouse	0.00015		0.001	0.0077		0.00755*
	Desulfurization baghouse	0.000278		0.000539	0.0016		0.001322*
	Combined B/C BF Casthouse baghouses	0.000223			0.00753		0.007307*
	Combined B/C Roof monitors	0.000087			0.0064		0.006313*
	TOTAL INCREASED Pb (lb/hr):						
Manganese (Mn)	C-BF casthouse baghouse	0.00256		0.01897	0.042		0.03944*
	Desulfurization baghouse	0.00064		0.00395	0.013		0.01236*
	Combined B/C Furnace Roof Monitors	0.006			0.0448		0.0388*
	Combined B/C Furnace baghouses	0.00385			0.0597		0.05585*
	TOTAL INCREASED Mn (lb/hr):						

33. These levels of emissions, and emissions increases, are harmful to human beings – especially elderly people, people with respiratory conditions, pregnant women, and children – and the air, water, and other natural resources of the State of Michigan.

34. Severstal’s persistent violations of its permits are also harmful to human beings and the air, water, and other natural resources of the State of Michigan.

35. On July 21, 2014, just over two months after receiving the permit, Severstal announced that it is selling the Dearborn plant to AK Steel, and exiting North America.

COUNT I

MICHIGAN ENVIRONMENTAL PROTECTION ACT

36. SDEIA re-alleges the preceding paragraphs.

37. MEPA authorizes any person to maintain an action in the Circuit Court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory and equitable relief against any person for the protection of the air, water, and other natural resources and the public trust in these resources from pollution, impairment, or destruction. MCL 324.1701(1).

38. MEPA further states that in granting relief as just outlined, if there is a standard for pollution or for an antipollution device or procedure, fixed by rule or otherwise, by the state or an instrumentality, agency, or political subdivision of the state, the Court may:

- a. Determine the validity, applicability, and reasonableness of the standard;
and
- b. If the Court finds a standard to be deficient, direct the adoption of a standard approved and specified by the Court. MCL 324.1701(2).

39. Severstal has polluted, impaired, and/or destroyed the air and other natural resources, and continues to do so.

40. Numerous standards for pollution specified in PTI No. 182-05C are unreasonable and insufficient to protect the air and other natural resources from pollution, impairment, or destruction.

41. The current antipollution devices in place at the Severstal plant are unreasonable and insufficient to protect the air and other natural resources from pollution, impairment, or destruction.

42. Further, evidence that Severstal 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 Severstal's conduct has polluted, impaired, or destroyed natural resources and is likely to continue to do so.

43. As a direct and proximate result of Severstal's actions and failures to act, Plaintiff's members have sustained the injuries and damages more fully described above.

44. Plaintiff is therefore entitled to declaratory and injunctive relief against Severstal in accordance with the provisions of MEPA.

45. This relief should include – but not necessarily be limited to – review by the Court of existing pollution standards applicable to the Severstal plant and anti-pollution devices in place at the plant, and directing the adoption of new standards and the implementation of new devices approved and specified by the Court.

REQUEST FOR RELIEF

For the reasons stated above, Plaintiff SDEIA respectfully requests that the Court:

a. Grant declaratory and equitable relief against Severstal necessary to protect the air and other natural resources from pollution, impairment, and destruction.

b. Review the existing pollution standards applicable to the Severstal plant, and anti-pollution devices in place at the plant, and direct the adoption of new standards and the implementation of new devices approved and specified by the Court.

c. Grant such other relief as may be required under the circumstances, including all relief that is reasonable, equitable, and just.

Respectfully Submitted:

OLSON, BZDOK & HOWARD, P.C.
Attorneys for Plaintiff SDEIA

Date: August 21, 2014

/s/ Christopher M. Bzdok

By: _____
Christopher M. Bzdok (P53094)
Emerson Hilton (P76363)

LAW OFFICE OF TRACY JANE ANDREWS, PLLC
Co-Counsel for Plaintiff SDEIA

Date: August 21, 2014

/s/ Tracy Jane Andrews

By: _____
Tracy Jane Andrews (P67467)