

Mr. Chris Hare
EGLE-AQD
401 Ketchum Street
Bay City, Michigan, 48708

June 9, 2022

Subject: Response to VN 20220531 Dated May 31, 2022
MI-ROP-B1493-2021
Michigan Sugar Company – Bay City Factory

Dear Mr. Hare:

Michigan Sugar Company (MSC) respectfully submits this response to the May 31, 2022 Violation Notice (VN) issued by the Michigan Department of Environment, Great Lakes and Energy (EGLE). In that VN, EGLE alleged a violation of Rule 901 and MI ROP-B1493-2016 (current MI ROPB1493-2021) General Condition 12 based on alleged odors in the vicinity of MSC's Bay City Facility.

The VN indicates that *"In the professional judgment of AQD staff, the odors that were observed were of sufficient intensity, frequency, and duration so as to constitute a violation of Rule 901 of the administrative rules promulgated under Act 451 ("the Act") and General Condition 12 of ROP number MI-ROP-B1493-2016."*

MSC notes that the VN fails to provide any information regarding the observed intensity, frequency, or duration of odors or the protocol followed by the agency in making its determination. MSC reiterates its long-held position that EGLE has failed to establish any meaningful standards for determining compliance with (or violations of) Rule 901. As a result, *any and all* alleged violations set forth in this VN are premised solely on the subjective perception of the inspector (rather than any scientifically valid approach supported by relevant data). Moreover, EGLE has failed and refused to implement defined standards or protocols for the performance of odor investigations, and therefore, EGLE has not provided relevant information or data in support of alleged violations.

Subject to the objections set forth above, MSC further responds as follows with regard to the specific statements and allegations in the VN:

1. Flume Ponds and Aeration Ponds – While MSC has observed odors from the wastewater facilities, those odors are believed to have resulted from upset conditions in its wastewater treatment system, which are addressed in more detail below. On March 18, 2022, MSC submitted notification to EGLE of a Force Majeure event indicating the anaerobic digester would be bypassed due to upset conditions. As stated in the Force Majeure notification, high strength wastewater bypassing the anaerobic digester was routed to the aeration ponds. MSC undertook the necessary steps to bring the anaerobic digester back on-line (in order to end the bypass, which ended on April 25th, 2022). Thus, when AQD staff was onsite May 12, 2022, MSC was no longer bypassing the anaerobic digester due to improved digester health. At that time, water quality within the aerobic ponds was still

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recovering from the March 18, 2022 anaerobic digester upset as DO levels in the aeration ponds gradually returned to above 1 mg/l on or about May 16, 2022.¹

2. Channel and Beet Piling Grounds – MSC disputes the allegation in the VN that the channel and beet piling grounds were a discernable source of increased odors (as suggested in the VN). MSC believes that that the VN inaccurately and inappropriately attempts to attribute alleged odors to the channel and beet piling grounds.

EGLE has now repeatedly attempted to attribute increased odors to specific areas within the Bay City Plant (e.g., the Channel and Piling Grounds) without any supporting data or information. MSC reminds the agency that even if the agency had developed an appropriate and scientifically valid process for evaluating compliance with Rule 901 (which MSC disputes), the point of compliance with Rule 901 is offsite (at or across the property line). EGLE has not developed an adequate or scientifically valid procedure or methodology to determine whether any specific on-site source of odors is a specific cause of odors on or at the property line (much less in surrounding residential areas). Based on the foregoing, MSC once again objects to EGLE's attempts to attribute off-site odors to any specific areas at the Bay City Plant.

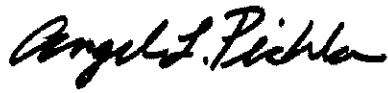
In addition to the responses to the alleged violations set forth above, the VN requested additional information regarding the operations at the facility that are addressed by the Consent Judgment and that MSC has provided or will provide to EGLE staff consistent with its obligations under that Consent Judgment.

- The last date wastewater was removed from the “old” Main Aeration Pond: **May 9, 2022**
- The dates MSC BC applied hydrogen peroxide to the Main Aeration Pond: **Hydrogen peroxide was present in the “old” Main Aeration Pond during the requested period from April 22nd – May 9, 2022 when all water was removed.**
- The dates MSC BC operated odor neutralizing equipment: **Odor neutralizing equipment was operating during the entire requested time of April 22 – May 12, 2022.**
- Records of odor complaints MSC BC received from April 22 – May 12, 2022:
 - **May 5 – 1 complaint**
 - **May 6 – 1 complaint**
 - **May 11 – 2 complaints**
 - **May 12 – 3 complaints**
- The amount and dates of material removed from the flume clarifier: **Start date of material removed from the flume clarifier was on May 10, 2022. Removal continues to present day with intermittent off days. From May 10 – May 12 approximately 1508 tons of material removed.**

Notwithstanding the foregoing, MSC desires to cooperate with EGLE to the extent possible. Please feel free to contact me directly should you wish to discuss this matter further.

¹ Although the Consent Judgment includes requirements to maintain a DO level at or above 1.0 mg/l, that DO concentration when intended to provide margin of error to prevent anaerobic conditions in the aeration ponds. However, a DO concentration below 1.0 mg/l in the ponds does not necessarily cause anaerobic conditions or nuisance odors.

Sincerely,

A handwritten signature in black ink that reads "Angel L. Pichla". The signature is written in a cursive, flowing style.

Angel L. Pichla
Environmental Superintendent

Notification

ec: Jason Lowry, MSC - Vice President of Operations
Kelly Scheffler, MSC – Bay City Factory Manager
Meaghan Martuch, MSC – Air Compliance Manager
Eric Rupprecht, Waste and Wastewater Compliance Manager
Matthew Eugster, Varnum
Matthew Zimmerman, Varnum