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September 14, 2020

Jonathan Lamb, Senior Air Quality Analyst
Michigan Department of Environment, Great Lakes, and Energy (EGLE)
Air Quality Division
3058 W. Grand Boulevard
Suite 2300
Detroit, MI 48202

RE: EQ Detroit, Inc. (DBA US Ecology – Detroit South) – Response to Violation Notice dated August 24, 2020 for Alleged Nuisance Odors on August 18, 2020

Dear Mr. Lamb:

Please accept this letter as US Ecology – Detroit South’s (USE-DS) response to the Violation Notice (VN) dated August 24, 2020, regarding odors allegedly caused by USE-DS’s operations in violation of PTI No. 269-04H; General Condition 6 and R336.1901(b) on August 18, 2020. The letter stated that inspections conducted by EGLE-AQD in response to a complaint reportedly found a moderate to strong (level 3 and 4), burnt lime dust and chemical-type odors, attributable to US Ecology’s operations, impacting areas downwind of the facility.

A call was received by USE personnel from EGLE at 4:14pm on August 18th informing USE-DS of an odor complaint and that a subsequent field investigation was taking place. At the time of the complaint, the operator was mixing waste in tank 703 utilizing a new method which slows down the process to reduce the potential for odors. Based on odor evaluations by personnel on site at the time of the complaint there were no unusual or offensive odors from the process. Additionally, USE personnel conducted odor evaluations of the neighborhood at approximately 7am and 7pm and did not identify odors. The complaint was initiated from the area of St. Aubin and Garfield, which is south of the facility near Canfield Street. At the time of the complaint the wind was from the north with occasional breezy periods. I immediately met the inspector at Farnsworth Street on the south property line of the facility. There were intermittent lime and chemical odors at this location. It was also noted that odors were detected at this location by the inspector when he began the field investigation.

The evaluation continued to Canfield just west of St. Aubin but no odors were detected there. This location would align with the location of the original complaint call. However, the inspector stated there were odors at the location at the beginning of the investigation. The next location evaluated was at Warsaw Street between Canfield and Farnsworth. Initially there were no odors in this area but after a few minutes a slight intermittent odor was detected. Then the odor dissipated within a few minutes. Both the presence and then subsequent absence of any odors in the vicinity of the complaint, as well as the intermittent nature of the odors detected in the Warsaw area, indicate that odors associated with USE-DS's operations may be experienced very briefly depending upon onsite operations and weather conditions.

I continued my observation in the area of Dubois and E. Warren where the inspector was stopped in his vehicle on the opposite corner. I detected no odors in this area at that time nor while driving in the area southeast of the facility. It should be noted that the intersection of Dubois and E. Warren is also a considerable distance from the site of the original complaint and much closer to the USE-DS facility. At 5:02pm the inspector called me to say that he detected odor at St. Aubin and Warren, an area just across a vacant city block from the USE-DS fence line, and that a violation notice would be issued. I drove to the area and detected odor but returned at 5:20pm and did not detect any odors.

USE-DS does not agree with AQD personnel's determination that a Rule 901(b) violation occurred based on the brief detection of odors at St. Aubin and E. Warren. Rule 901(b) is supposed to address the "unreasonable interference with the comfortable enjoyment of life and property" experienced by a property owner at their location. AQD's own internal guidance on the application of Rule 901(b) requires that an investigation document that the intensity of the odor, as well as the duration of the experience, and the frequency with which it impacts a property owner all be documented in support of a violation.

In this case, odors were detectable for a brief period of time and the location AQD offers as the basis for finding an unreasonable interference with someone's property rights is not at the location of the complaint, but rather just across a vacant field from the facility's fence line. USE-DS is greatly concerned with the method AQD has developed for responding to Rule 901(b) complaints. AQD's approach seems to include driving all around the neighborhood, whether located near the residence alleging a nuisance or not, in search of even an intermittent odor with no regard for the location or duration of detection to justify alleging that a nuisance condition has been established. Under these circumstances, AQD could receive a complaint from a residence located any distance from the USE-DS facility, and if odors cannot be confirmed at that location, AQD personnel are free to drive around the area up to and including locations where no residential occupancy exists (like across a vacant field) very close to the USE-DS facility in search of any detectable odor they feel is of sufficient intensity to support a Rule 901(b) violation. This practice not only creates a disconnect between the actual "property owner" who

says a nuisance exists and AQD's eventual "confirmation" of that nuisance, but also completely disregards AQD's own guidance requiring the duration and frequency of alleged nuisance conditions at a property owner's location to be considered.

Despite our spirited disagreement over the current AQD field investigation methods, USE-DS appreciates EGLE notifying the facility of potential issues and following-up with investigations. In order to enable USE-DS to respond most effectively to odor concerns, we ask that AQD field personnel make every effort to notify me as soon as possible with all essential details when any odor complaint potentially relating to USE-DS is received. This will allow USE-DS to immediately investigate and potentially respond to the complaint and report the results.

If you have questions concerning this response, please feel free to contact me at (313) 347-1300.

Sincerely,



John C. Barta
General Manager

cc (via email):

Paul Max, City of Detroit, BSEED
Rich Conforti, EGLE
Todd Zynda, EGLE
Tracy Kecskemeti, EGLE
Greg Morrow, EGLE
Margie Ring, EGLE
Lonnie Lee, EGLE
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