



DEPARTMENT OF PUBLIC HEALTH
CITY OF CHICAGO

October 17, 2016

Kim R. Walberg
TAFT STETTINIUS & HOLLISTER LLP
111 East Wacker, Suite 2800
Chicago, IL 60601

RE: S. H. Bell Company, 10218 South Avenue O
Request for Variances from Air Pollution Control Rules and Regulations for Control of
Emissions from Handling and Storage of Bulk Material Piles

Dear Ms. Walberg,

The Chicago Department of Public Health ("CDPH") is in receipt of S. H. Bell Company's ("S.H. Bell's") June 10, 2014 letter requesting eleven variances from requirements of CDPH's Rules and Regulations for Control of Emissions from the Handling and Storage of Bulk Material Piles ("Bulk Material Regulations") and supplemental materials in support of the variance requests provided by S.H. Bell dated March 3, 2015. Pursuant to the Bulk Material Regulations, CDPH accepted written comments on the variance request during an extended 60-day comment period. Subsequently, in S.H. Bell's March 3, 2015 response to CDPH's request for additional information, the company withdrew all but two variance requests. Accordingly, this response letter will address only the two remaining requests.

The two variance requests are:

1. Fugitive Dust Monitoring: S.H. Bell requested a variance from Section 3.0(4) of the Bulk Material Regulations, which requires the installation, operation, and maintenance of permanent, continuous Federal Equivalent Method (FEM) real-time PM10 monitors around the perimeter of the facility in accordance with specified requirements.
2. Protection of Waterways: S.H. Bell requested a variance from Section 5.0(3) of the Bulk Material Regulations, which requires a 50-foot setback from any waterway.

SUMMARY OF CDPH VARIANCE DETERMINATIONS

As set forth in greater detail in subsequent sections of this document, following is a summary of CDPH's determinations for each of S.H. Bell's variance requests:

1. Fugitive Dust Monitoring: With respect to S.H. Bell's request regarding installation of dust monitors, for the reasons set forth below, CDPH finds that S.H. Bell has failed to meet the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations for issuance of a variance, and the variance request is therefore denied. In summary, the basis for this determination includes, but is not limited to, CDPH's finding that S.H. Bell has not demonstrated that issuance of the variance will not create a public nuisance or adversely impact the surrounding area. Importantly, CDPH found that S.H. Bell's implementation of its current Fugitive Dust Plan has not ensured the suppression of fugitive dust as evidenced by recent City inspections, as well as findings by the United States Environmental Protection Agency (USEPA). This information, combined with deficiencies identified in S.H. Bell's supporting materials, leads CDPH to conclude that S.H. Bell has not established that the facility's operations do not result in off-site fugitive dust emissions. Accordingly, the monitors required by Section 3.0(4) of the Regulations must be installed within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the Bulk Material Regulations.

2. Protection of Waterways: With respect to S.H. Bell's request regarding setbacks from waterways, CDPH grants the variance request subject to the following conditions pursuant to Section 8.0(3)(c): 1) S.H. Bell must maintain a minimum twenty-foot setback from any waterway; 2) S.H. Bell must maintain in good condition an engineered containment berm, such as the containment wall described in S.H. Bell's March 3, 2015 letter, to prevent any materials from falling into the river; and 3) S.H. Bell must maintain adequate site drainage and grading to ensure there is no run-off into the river. Please note that pursuant to Section 8.0(3)(d) of the Bulk Material Regulations, a variance may be revoked at any time if the Commissioner finds that operation of the facility is creating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.

DETAILED DISCUSSION

I. Requirements for Issuance of a Variance

Under Section 8.0 of the Bulk Material Regulations, the burden of proof is upon the applicant for the variance to demonstrate that issuance of the requested variance will not create a public nuisance or adversely impact the surrounding area, the surrounding environment, or surrounding property uses. In the event that the applicant does not meet this burden, the variance request will be denied. Pursuant to Section 8.0(2), a variance request must be in writing and must set forth, in detail, all of the following (in pertinent part):¹

- a) A statement identifying the regulation or requirement from which the variance is requested;
- b) A description of the process or activity for which the variance is requested, including pertinent data on location, size, and the population and geographic area affected by, or potentially affected by, the process or activity;
- c) The quantity and types of materials used in the process or activity in connection with which the variance is requested, as appropriate;
- d) A demonstration that issuance of the variance will not create a public nuisance or adversely impact the surrounding area, surrounding environment, or surrounding property uses;
- e) A statement explaining:
 - i. Why compliance with the regulations imposes an arbitrary or unreasonable hardship;
 - ii. Why compliance cannot be accomplished during the required timeframe due to events beyond the Facility Owner or Operator's control such as permitting delays or natural disasters; or
 - iii. Why the proposed alternative measure is preferable.

¹ Because the variance requests under review do not involve a request for an extension of time for full enclosure, requirement 8.0(2)(i) is not relevant to this discussion, and is therefore omitted.

- f) A description of the proposed methods to achieve compliance with the regulations and a timetable for achieving that compliance, if applicable;
- g) A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a variance;
- h) A statement regarding the person's current status as related to the subject matter of the variance request[.]

In addition, Section 8.0(3) of the Bulk Material Regulations sets forth the criteria for reviewing applications:

- a) In determining whether to grant a variance, the Commissioner [of CDPH] will consider public comments received pursuant to 8.0(4) and will evaluate the information provided in the application to meet the requirements of 8.0(2). Particular consideration will be given to the following information:
 - i. Inclusion of a definite compliance program;
 - ii. Evaluation of all reasonable alternatives for compliance;
 - iii. Demonstration that any adverse impacts will be minimal.
- b) The Commissioner may deny the variance if the application for the variance is incomplete or if the application is outside the scope of relief provided by variances.
- c) The Commissioner may grant a variance in whole or in part, and may attach reasonable conditions to the variance to ensure minimization of any adverse impacts.
- d) Issuance of a variance is at the sole discretion of the Commissioner. A variance may be revoked at any time if the Commissioner finds that operation of the Facility is creating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.

II. Variance Process and Public Comments

In addition to the requirement that the Commissioner of CDPH ("Commissioner") consider public comments, as set forth in Section 8.0(3)(a) of the Bulk Material Regulations, Section 8.0(5) also provides that the Commissioner will not grant any variance until members of the public have had an opportunity to submit written comments on the variance application. This

section further provides that public notice will be provided by publication in a newspaper of general circulation published within the City and by publication on the City's website, and that the Commissioner will accept written comments for a period of not less than thirty (30) days from the date of the notice.

On July 2, 2014, public notice of S.H. Bell's variance request was provided by publication in the Chicago Sun-Times and on the City's website at www.cityofchicago.org/environmentalrules. This notice stated that, to be considered, written comments must be received by CDPH on or before August 1, 2014. On July 16, 2014, a subsequent public notice was published in the same manner, notifying the public that the comment period had been extended upon request of members of the public. The new deadline for public comments was September 2, 2014. During the public comment period, CDPH received one written submission from the public, which is posted on the website referenced above.

The public comment letter, dated September 2, 2014, was submitted jointly by the Natural Resources Defense Council ("NRDC") and the Southeast Environmental Task Force ("SETF") (hereafter collectively referred to as "NRDC and SETF"). This letter stated that the S.H. Bell application was incomplete and failed to demonstrate that the requested variances would not have an adverse impact on the community and environment. In particular, with regard to the two outstanding variance requests, NRDC and SETF stated 1) that S.H. Bell did not establish that facility operations do not result in off-site fugitive dust emissions as required to receive a variance from the air monitoring requirement, and 2) that claims regarding the effectiveness of barriers at a twenty-foot setback from the river were unsupported. NRDC and SETF also cited a July 15, 2014 Notice of Violation issued by the United States Environmental Protection Agency (USEPA) alleging multiple violations of the Clean Air Act, including violations related to fugitive dust, and a March 3, 2012 complaint filed by the State of Illinois against S.H. Bell related to operation of the facility without the required permit.

In response to CDPH's request for more information, and in response to the public comments, S.H. Bell submitted additional information on March 3, 2015. This information is also posted on the above-referenced website.

III. Variance Requests and Determinations Detailed Analysis

1. Fugitive Dust Monitoring.

A. Detailed Fugitive Dust Monitoring Variance Request: S.H. Bell requested a variance from Section 3.0(4) of the Bulk Material Regulations, which requires installation and operation of permanent, continuous Federal Equivalent Method (FEM) real-time PM10 monitors around the perimeter of all bulk material facilities. S.H. Bell stated that the monitoring requirement “imposes an unreasonable hardship and is duplicative of measures already taken by S.H. Bell Co. as part of its Fugitive Operating Program to exercise effective control of dust emissions.” (June 10, 2014 S.H. Bell Variance Petition, p. 4.) S.H. Bell further stated that “it is technically infeasible to rely on FEM monitors which alone cannot accurately evaluate Fugitive Dust in the ambient air around the Facility.” *Id.* In a subsequent submission, S.H. Bell reiterated its position that the dust monitoring requirement set forth in the Bulk Material Regulations is “inherently flawed because there is no assurance that dust monitored and corrective actions taken in response to ‘action levels’ reached are based on S.H. Bell Co.’s operation.” (March 3, 2015 S.H. Bell Additional Information, p. 3.)

B. Analysis of Variance Request:

i. Minimization of Adverse Impacts. Section 8.0(2)(d) of the Bulk Material Regulations requires a demonstration that issuance of a variance will not create a public nuisance or adversely impact the surrounding area, environment, or property uses. In this case, as pointed out by NRDC and SETF, nearly 20,000 residents live within a one-mile radius of S.H. Bell’s facility. Furthermore, publicly available online maps show that the nearest residential property is within 100 feet of the facility’s boundary.

In its variance application, S.H. Bell stated that its “previously approved Fugitive Operating Program has effectively controlled Fugitive Dust emissions at the Facility without continuous PM10 monitoring.” (June 10, 2014 S.H. Bell Variance Petition, p. 4.) Further, in its supplementary materials, S.H. Bell stated that it “prefers to dedicate its resources to dust control, rather than monitoring.” (March 3, 2015 S.H. Bell Additional Information, p. 3.) S.H. Bell listed the control measures it uses at each transfer point at the facility. (March 3, 2015 S.H. Bell Additional Information Exhibit 5.) For active storage piles, paved and unpaved roadways, railcar

loading, and railcar unloading, the primary means of dust control is use of a water spray system. (*Id.*)

However, notwithstanding these statements, S.H. Bell has not demonstrated that its chosen dust control methods are effective. To the contrary, a CDPH inspector recently observed uncontrolled dust at several points within outdoor areas at the facility. Specifically, the inspector observed and documented a significant amount of dust on the access roads where trucks pass from the barge unloading area to the storage building; at the point of barge unloading; and at the point of railcar unloading. In addition, the inspector noted that the sprinkler system was not effective because it was positioned at a distance from the dry ferrous silicon material and was not reaching dust emissions from the material. (See the CDPH inspection report dated August 17, 2016, attached hereto as Exhibit A.) In fact, the facility manager told the inspector that the ferrous silicon material cannot be wetted, because it must stay dry for S.H. Bell's customers. Therefore, it would appear that using water may not be a feasible method of dust control for ferrous silicon material.

Furthermore, the United States Environmental Protection Agency (EPA) issued a Notice of Violation to S.H. Bell on July 15, 2014 based, in part, on EPA's observations of "dry, dusty roads with heavy truck traffic" and observations of "fugitive dust crossing the property line at multiple locations at S.H. Bell." (Notice of Violation EPA-5-14-IL-15, p. 2, attached hereto as Exhibit B.) In addition, EPA inspectors observed dust that exceeded statutory opacity limits on at least two occasions at a storage pile at the facility's barge unloading dock. (*Id.* p. 3-4.) Subsequently, on March 4, 2015, EPA requested S.H. Bell to submit a plan for the installation of continuous Federal Equivalent Method (FEM) real-time PM10 air pollution monitors and Federal Reference Method (FRM) PM10 filter-based monitors at the facility. (USEPA Section 114 Request to S.H. Bell Company, attached hereto as Exhibit C.)²

As explained in an April 22, 2016 letter from the Department of Justice to an attorney representing S.H. Bell:

EPA has had concerns about particulate matter pollution at S.H. Bell's facility since at least May 2014, when EPA inspectors found high opacity and visible fugitive particulate matter emissions crossing the facility's property line, in violation of the federally-enforceable Illinois State Implementation Plan ("SIP") and S.H. Bell's Permit. The facility is located directly across the street from

² Thereafter, on August 9, 2016, EPA filed a civil lawsuit based on S.H. Bell's refusal to install air pollution monitors. That case (Civil Action No. 16-7955) is currently pending in federal court.

homes in an environmental justice residential area. The people living in this community are potentially adversely affected by breathing in particulate matter pollution from S.H. Bell.

In discussions with EPA over the past year, S.H. Bell has claimed that it has improved its fugitive dust control practices. EPA is not convinced that the alleged improvements are sufficient to address potential violations of the Illinois SIP and S.H. Bell's Permit. Specifically, a more recent inspection in December 2015 again uncovered violations of the prohibition against visible fugitive particulate matter emissions crossing the property line. In any event, the purpose of the particulate matter monitors is to determine whether S.H. Bell's pollution control practices result in compliance with the CAA. S.H. Bell's current verification measures, which include Reference Method 22 opacity readings taken only once every three months, are inadequate, particularly given EPA's findings at the facility.

(Letter from Nicholas McDaniel, Trial Attorney, Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice, April 22, 2016, attached hereto as Exhibit D.)

Furthermore, the federal Agency for Toxic Substances and Disease Registry (ATSDR) recently issued a report entitled "Review of Analysis of Particulate Matter and Metal Exposures in Air."³ The report presented the results of a two-year study which examined monitoring data collected from February 2014 through January 2015. The data was collected from nine PM10 perimeter monitors at two petcoke transfer facilities operated by KCBX Terminals Company. Among ATSDR's findings was the presence of high concentrations of manganese in combination with elevated concentrations of iron, a mixture the report referred to as the "Manganese Factor." Based on an analysis of wind speed and direction, ATSDR concluded that the source of the Manganese Factor was likely a facility across the river from KCBX's North Terminal. In fact, in its risk evaluation, ATSDR concluded that the non-cancer health hazard in the area "was driven by potential manganese exposure—a pollutant handled in large quantities at a facility directly across the river, east and east-southeast from the North Terminal." (ATSDR Report, p. 21.)

A review of Google Maps indicates that the closest facility directly east-southeast and across the river from KCBX North is S.H. Bell's facility. In addition, S.H. Bell is the only facility in that immediate vicinity that handles manganese. Thus, if off-site, downwind monitors

³ The report may be found online at http://www.atsdr.cdc.gov/HAC/pha/KCBXPetroleumCoke/KCBX_Petroleum%20Coke_HC_508.pdf.

picked up dust emissions from S.H. Bell, as the available data suggests, then this further calls into question S.H. Bell's assertions regarding the effectiveness of its dust control measures.

Just as EPA requested PM monitors to determine compliance with the Clean Air Act, the Bulk Material Regulations require monitors to confirm compliance with the regulations. As stated in Section 3.0(4) of the Bulk Material Regulations, installation of the specified monitors is required "[u]nless, pursuant to the Variance procedure set forth in 8.0 below, the Facility Owner or Operator establishes that the Facility's operations do not result in off-site fugitive dust emissions." For example, if a facility establishes that the material it handles is uniquely dust resistant when handled properly, or that the dust emissions are effectively contained, captured, or controlled, then a variance might be appropriate. In this case, the information submitted in support of the variance application did not include such evidence.

ii. Alternative Compliance Program. Instead of installing air monitors, S.H. Bell stated that it would evaluate its emissions through the use of more frequent visible emissions evaluations. As stated by S.H. Bell, "[t]he effectiveness of the Fugitive Operating Program is best demonstrated through S.H. Bell Co.'s records showing the frequency of visible emissions observed at the property line; the results of Method 22 testing conducted; and the frequency of operations being curtailed or delayed due to the presence of dust." (March 3, 2015 S.H. Bell Additional Information, p. 5.)

However, the Bulk Material Regulations require both perimeter air monitors and quarterly opacity and visibility observations. (See Section 3.0(f)(ii) of the Bulk Material Regulations.) Routine visible monitoring is important in order to ensure that dust controls are working on a localized level. However, they do not take the place of permanent fence line monitors which operate continuously, regardless of weather conditions or the hour of the day or night.

As expressed in CDPH's Official Response to Public Comments on the Proposed Bulk Material Regulations, on March 13, 2014:

The requirement for fugitive dust monitoring is a critical component of the regulations to ensure that the facility's dust control measures are working. City inspectors cannot observe facility operations on a daily basis. And facility workers who are occupied in doing their jobs may not always realize when there is a dust problem. Therefore, the PM monitors are important for alerting facility

operators when there might be an issue with their dust control systems. They are also important to ensure compliance with the fugitive dust prohibition, as well as to give neighbors a level of comfort in knowing that the air is being monitored. [p. 23.]

Thus, S. H. Bell's proposal to increase visible monitoring is not an adequate substitute for permanent PM10 monitors.

In addition, S.H. Bell mentioned that another option could be "use of devices such as the TSI DustTrak DRX," which, S.H. Bell stated, "are significantly more economical than FEM PM10 Monitors." (March 3, 2015 S.H. Bell Additional Information, p. 6.) However, S.H. Bell provided no technical information about "DustTrak monitors" nor any evidence of the effectiveness of such monitors.

C. CDPH Determination: For the reasons set forth above, with respect to S.H. Bell's request not to be required to install continuous FEM PM10 dust monitors, CDPH finds that S.H. Bell has failed to meet the requirements set forth in Sections 8.0(2) and 8.0(3)(a) of the Bulk Material Regulations for issuance of a variance, and the variance request is therefore denied. Accordingly, S.H. Bell must submit a dust monitoring plan to CDPH, and install dust monitors in accordance with the requirements of Section 3.0(4) of the Bulk Material Regulations, within ninety (90) days from the date of this variance determination letter, consistent with the 90-day timeframe set forth in Section 6.0(2) of the Bulk Material Regulations.

2. Protection of Waterways.

A. Detailed Waterways Variance Request: S.H. Bell requested a variance from Section 5.0(3) of the Bulk Material Regulations, which requires outdoor storage piles to be set back at least 50 feet from any waterway, except during the process of loading and unloading barges "for a period of time not to exceed 24 hours so long as no materials will fall, erode, be thrown, discharged, dumped, disposed of, or deposited in the waterway at any time." S.H. Bell requested to be allowed a twenty-foot setback in certain areas of the facility, specifically "the strip of land adjacent to the Middle Slip and the Southwest Shoreline as indicated in the Facility diagram Exhibit 3." (March 3, 2015 S.H. Bell Additional Information, p. 6.) S.H. Bell stated that increasing its current 20-foot setback in this location would be impractical and economically

infeasible. Further, the applicant stated that its current operations, including compliance with its Stormwater Pollution Prevent Plan (SWPPP) and revised Fugitive Operating Plan, effectively prevent materials from falling, blowing, or running off into waterways. *Id.*

B. Analysis of Variance Request:

i. Minimization of Adverse Impacts. Section 8.0(2)(d) of the Bulk Material Regulations requires a demonstration that issuance of the variance will not create a public nuisance or adversely impact the surrounding area, environment, or property uses. S.H. Bell provided a description of its current stormwater controls and best management practices to support its assertion that approval of a twenty-foot setback will not cause adverse impacts. For example, S.H. Bell noted that “the materials stored outside are not water soluble; the use of absorbent material (*e.g.* dirt, rock and gravel) along the perimeter of the storage areas; the use of a containment wall; storage of material on impervious/paved surfaces to prevent migration into subsoil/groundwater; and steel piling barriers between site activities and the river....” *Id.*

ii. Alternative Compliance Program. In lieu of the 50-foot setback, S.H. Bell proposed to continue the measures outlined in its SWPPP, which are consistent with recognized industry practices, and to also include additional practices to ensure its controls are effective. Specifically, S.H. Bell cited its “combination of physical barriers, such as concrete blocks, steel pilings, earthen berms, rip-rap, *etc.*, a minimum 20 foot setback from the waterway, the use of best management practices such as roadway sweeping and the observance of SPC protocols,” as well as compliance with the other requirements for outdoor storage piles in the Bulk Material Regulations. (March 3, 2015 S.H. Bell Additional Information, p. 10.)

C. CDPH Determination: Based on S.H. Bell’s comprehensive plan for alternative controls to ensure the protection of waterways, CDPH conditionally grants the variance with regard to setbacks from the waterway. Thus, S.H. Bell may maintain limited portions of its operations within 50 feet of the Calumet River on three conditions: 1) S.H. Bell must maintain a minimum twenty-foot setback from any waterway; 2) S.H. Bell must maintain in good condition an engineered containment berm, such as the containment wall described in S.H. Bell’s March 3,

2015 letter, to prevent any materials from falling into the river; and 3) S.H. Bell must maintain adequate site drainage and grading to ensure there is no run-off into the river.

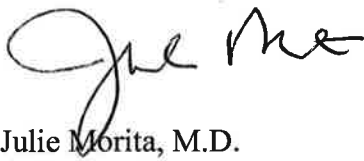
CONCLUSION

CDPH's determinations regarding S.H. Bell's variance requests will be effective as of the date of this letter, and will be posted, along with appendices and supporting materials, on CDPH's website at www.cityofchicago.org/environmentalrules. Please be advised that if S.H. Bell fails to comply with the Bulk Material Regulations within the timeframes provided above, S.H. Bell will be subject to enforcement action including daily fines in the amount of \$1,000 to \$5,000 per violation as provided by Section 11-4-810(a)(7) of the Chicago Municipal Code. Furthermore, CDPH may issue a summary abatement order pursuant to Section 11-4-025(c) of the Chicago Municipal Code, requiring S.H. Bell to correct any violations within a timeframe prescribed by the Commissioner.

Finally, in accordance with Section 8.0(3)(d) of the Bulk Material Regulations, CDPH reserves the right to revoke the variances granted herein if the Commissioner finds that operation of the facility pursuant to a variance is creating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.

Please contact Assistant Commissioner Dave Graham at (312) 745-4034 if you have any questions regarding the above.

Sincerely,



Julie Morita, M.D.
Commissioner

cc: Mort Ames, DOL

Attachments

Exhibit A - CDPH inspection report, August 17, 2016

Exhibit B - Notice of Violation EPA-5-14-IL-15

Exhibit C - USEPA Section 114 Request to S.H. Bell Company

Exhibit D - Letter from Nicholas McDaniel, United States Department of Justice, April 22, 2016

EXHIBIT A



CITY OF CHICAGO
DEPARTMENT OF PUBLIC HEALTH
PERMITTING AND ENFORCEMENT

NARRATIVE EVALUATION

INSPECTION DATE: 08/17/2016
SITE NAME: S H Bell Company
SITE ADDRESS: 10218 S AVENUE O , CHICAGO, IL 60617
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
EMPLOYEE: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285

SUMMARY

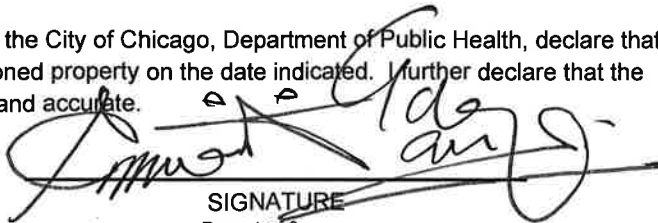
I carried out periodic inspection of SH Bell Company, today is sunny, wind West at 7mph, Low 75 degree F and High 90 degree F. SH Bell Company provides handling, storage, processing, and packaging services of pig iron, ferrous silicon (FeSi) and other ferrous materials to a customer base comprised of producers, and international traders and importers of metals, minerals, and semi-finished raw materials used in industrial processes in North America. Upon arrival I met Messrs. James M. Langbehn (Terminal Manager) and Steve Kroon (Environmental and Safety Compliance Manager). After a short meeting, they both took me around for today's inspection. The access roads were very dusty when I first arrived at the facility, I observed truck wheels driving through, picking up and dispersing dust. The facility later activated the road sweeper and water truck wetting of the roads during my inspection. I observed particulate dust emissions from ferrous silicon (FeSi) unloading from the rail cars (see photo #s 1, 2, 3, and 4). I also observed particulate dust emissions from ferrous silicon barge unloading operations (see photo #s 7 and 8). According to James Langbehn, the facility terminal manager, the only control device that the facility uses to control particulate dust emissions from FeSi unloading operations is a mobile water sprinkler system which can be positioned at 10 to 15 feet away from the ferrous silicon material. He said the material must not be wet or sprayed with water because of the customers (customers preferred the material dry). The control device (mobile water sprinkler system) was present during the unloading operation, but too far to effectively control the dust emissions from the operation. The mobile water sprinkler system was not controlling the dust emissions and it is not effective (which means, it was not reaching the particulate dust emissions from the unloading operations). The FeSi loaded into the trucks from the barge unloading area is not covered with tarp, the trucks take the material from barge unloading area through scale and finally to the storage building. Under this protocol, the material (FeSi) is susceptible to becoming windborne. See the attachments.

REPORT COMPLETED? YES NO
INVESTIGATION COMPLETED? YES NO
NOV ISSUED? YES NO
ATTACHMENTS? YES NO

I, EMMANUEL ADESANYA, an employee of the City of Chicago, Department of Public Health, declare that I have conducted an inspection of the above mentioned property on the date indicated. I further declare that the observations set forth on the report are true and accurate.

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STAR #


SIGNATURE
Page 1 of 8

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS:

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#1 Direction: SE Comments: Dust and particulate emissions from Ferrous Silicon(FESI)unloading operations from rail cars.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#10 Direction: SE Comments: Pig iron pile.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#11 Direction: South Comments: Pig iron pile.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#2 Direction: SE Comments: Dust and particulate emissions from Ferrous Silicon(FESI)unloading operations from rail cars.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#3 Direction: SE Comments: Dust and particulate emissions from Ferrous Silicon(FESI)unloading operations from rail cars.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#4 Direction: SE Comments: Dust and particulate emissions from Ferrous Silicon(FESI)unloading operations from rail cars.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#5 Direction: East Comments: Mobile Water Sprinkler system(for controlling dust)placed distance away from ferrous silicon unloading operations.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#6 Direction: East Comments: Mobile Water Sprinkler system(for controlling dust)placed distance away from ferrous silicon unloading operations.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#7 Direction: SW Comments: Particulate dust emissions from ferrous silicon barge unloading operations.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#8 Direction: SW Comments: Particulate dust emissions from ferrous silicon(FESI)unloading operations.The FESI inside the trucks are not covered with tarp, from the point of loading to the scale & the storage building.

DATE: 08/17/2016
SITE: 10218 S AVENUE O
SITE CODE: S H Bell Company
PERMIT #: ENVAIR112481

TIME: 2:25 pm
INSPECTOR: EMMANUEL ADESANYA
COUNTY: COOK / CHICAGO
INSPECTION #: 827285



COMMENTS: Photo#9 Direction: NE Comments: Mobile Water Sprinkler System stationed far away from the barge unloading operations.

EXHIBIT B

7. On April 10, 2006, the Illinois Environmental Protection Agency (IEPA) issued a Federally Enforceable State Operating Permit (FESOP) to S.H. Bell at its 10218 South Avenue O, Chicago, Illinois location, under the Application Number 83020023.
8. Condition Number 2(c) of S.H. Bell's FESOP lists emission limitations for storage piles. Specifically, "no person shall cause or allow fugitive particulate matter emissions from any storage pile to exceed an opacity of 10%, to be measured four feet from the pile surface," pursuant to SIP Rule 212.316(d).
9. Condition Number 9 of S.H. Bell's FESOP states "no person shall cause or allow any visible emissions of fugitive particulate matter from any process, including material handling or storage activity, beyond the property line of the emission source..." pursuant to SIP Rule 212.301.

Findings of Fact

10. S.H. Bell is a bulk material storage handling facility located at 10218 South Avenue O, Chicago, Illinois (the facility).
11. S.H. Bell performs crushing, screening, loading and unloading operations of various materials, 90% of which are manganese-based alloys.
12. EPA inspected the facility on April 25, 2014; May 19, 2014; and May 20, 2014.
13. On each of the three inspections, April 25, 2014; May 19, 2014; and May 20, 2014, EPA inspectors noted dry, dusty roads with heavy truck traffic.
14. At the April 25, 2014 inspection, James Langbehn, S.H. Bell Terminal Manager, stated that S.H. Bell waters its roadways two times each day: in the morning and at 3:00 pm.
15. At the April 25, 2014 inspection, James Langbehn stated that S.H. Bell purchased a water truck one week before the inspection to do additional pile and roadway watering.
16. At the May 19, 2014 inspection, James Langbehn stated that S.H. Bell typically watered its roadway 2 times each hour.
17. At the May 19, 2014 inspection, EPA inspectors witnessed S.H. Bell watering its roads at 11:31 am and 11:52 am.
18. On May 19, 2014, an EPA inspector certified to perform EPA Reference Method 9 conducted visible emission observations on a direct reduced iron (DRI) storage pile at the barge pile loading dock.
19. DRI is a manganese-based alloy.
20. At the May 20, 2014 inspection, two EPA inspectors witnessed fugitive dust crossing the property line at multiple locations at S.H. Bell.

21. At the May 20, 2014 inspection, EPA inspectors witnessed S.H. Bell watering its roads at 7:58 am, 8:16 am, and 8:35 am.
22. At the May 20, 2014 inspection, James Langbehn stated that the water truck operates from 7 am to 3 pm.
23. KCBX Terminals Company (KCBX) operates two bulk storage facilities at 3259 East 100th Street (North Plant) and 10740 South Burley Avenue (South Plant) in Chicago, Illinois. The North and South Plants unload, store, and load coal and petroleum coal that contain trace amounts of manganese. The North Plant is located directly west, across the Calumet River, of S.H. Bell.
24. Analysis of the materials processed by KCBX have demonstrated manganese is present in trace amounts.
25. On February 28, 2014, an air monitor at KCBX North Plant, near the S.H. Bell facility, reported readings of 0.576 microgram per cubic meter concentration of manganese at its North Plant NE monitoring station. The wind on February 28, 2014 was from the south-southeast.
26. The Agency for Toxic Substances and Disease Registry (ATSDR) has identified the inhalation minimal risk level (MRL) for chronic exposure to manganese to be 0.3 µg/m³. An MRL is an estimate of the daily human exposure to a hazardous substance that is likely to be without appreciable risk of adverse non-cancer health effects over a specified duration of exposure.
27. On April 17, 2014, EPA staff conducted a first round of wipe sampling from home and public spaces in the residential neighborhoods adjacent to the North and South Plants. Eleven wipes were given to the EPA Regional Laboratory for analysis for metals and polycyclic aromatic hydrocarbons.
28. On May 20, 2014, EPA received results from the preliminary wipe sampling conducted April 17, 2014. The wipe sample taken in direct proximity to the S.H. Bell facility, approximately 2,640 feet away, showed the highest concentration of manganese, at 11.5%, as compared to the other 10 samples which ranged in manganese concentration between 2% to 7%.

Violations

29. On April 25, 2014, EPA inspectors noted that normal traffic pattern access areas surrounding storage piles, and throughout the property were not treated with water, oils, or other chemical dust suppressants pursuant to SIP Rule 212.306.
30. From 11:33 am through 11:39 am on May 19, 2014, an observation using Method 9 visible emissions found opacity from a storage pile on the barge pile loading dock to have an opacity average of 12.7%. Opacity readings reached 85% during the 6-minute average. A 12.7% opacity average is in excess of SIP Rule 212.316(d).

31. From 11:45 am through 11:51 am on May 19, 2014, an observation using Method 9 visible emissions found opacity from a storage pile on the barge pile loading dock to have an opacity average of 10.4%. Opacity readings reached 80% during the 6-minute average. A 10.4% opacity average is in excess of SIP Rule 212.316(d).
32. On May 20, 2014, EPA inspectors noted and photographed visible fugitive particulate matter from material handling crossing the western property line beyond the emission source, and at the eastern property line beyond the emission source at the S.H. Bell facility, in violation of SIP Rule 212.301.

Environmental Impact of Violations

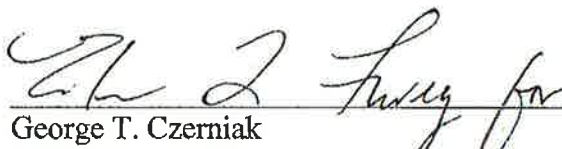
33. These violations have caused or can cause excess emissions of particulate matter.

Particulate Matter: Particulate matter, especially fine particulates contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:

- irritation of the airways, coughing, and difficulty breathing;
- decreased lung function;
- aggravated asthma;
- chronic bronchitis;
- irregular heartbeat;
- nonfatal heart attacks; and
- premature death in people with heart or lung disease.

Date

7/15/14


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

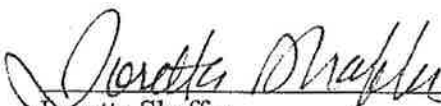
I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-14-IL-15, by Certified Mail, Return Receipt Requested, to:

James M. Langbehn
S.H. Bell Company
10218 South Avenue O
Chicago, Illinois 60617

I also certify that I sent copies of the Notice of Violation by first-class mail to:

Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

On the 17 day of July 2014.


Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 0186 0064

EXHIBIT C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

S.H. Bell Company
10218 South Avenue O
Chicago, Illinois 60617

ATTENTION:

James M. Langbehn
Terminal Manager

Request to Provide Information Pursuant to the Clean Air Act

The U.S. Environmental Protection Agency is requiring S.H. Bell Company (SHB or you) to submit certain information about its facilities at 10218 South Avenue O in Chicago, Illinois. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. You must send this information to us according to the schedule in Appendix B.

We are issuing this information request under Section 114(a) of the Clean Air Act (the CAA), 42 U.S.C. § 7414(a). Section 114(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Air and Radiation Division, Region 5.

SHB owns and operates emission sources at the Chicago, Illinois, facility. We are requesting this information to determine whether your emission source is complying with the Clean Air Act, including but not limited to the Illinois State Implementation Plan.

SHB must send all required information to: owens.katharine@epa.gov,
Cantello.nicole@epa.gov and R5enforcement@epa.gov.

SHB must submit all required information under an authorized signature with the

following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act and 18 U.S.C. §§ 1001 and 1341.

As explained more fully in Appendix C, you may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice. You should be aware, moreover, that pursuant to Section 114(c) of the CAA and 40 C.F.R. § 2.301(a) and (f), emissions data, standards and limitations are not entitled to confidential treatment and shall be made available to the public notwithstanding any assertion of a business confidentiality claim. Appendix C provides additional information regarding the meaning and scope of the term "emissions data."

This information request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

We may use any information submitted in response to this request in an administrative, civil or criminal action.

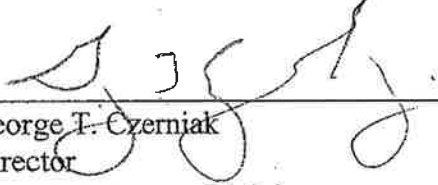
Failure to comply fully with this information request may subject SHB to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413.

You should direct any questions about this information request to Katie Owens at (312)

886-6097.

3/4/15

Date



George T. Czerniak
Director
Air and Radiation Division

Appendix A

When providing the information requested in Appendix B, use the following instructions and definitions.

Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.
2. Precede each answer with the number of the question to which it corresponds and at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

Electronic Submissions

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for "image over text" to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should

allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide submission on physical media such as compact disk, flash drive or other similar item.
4. Provide a table of contents for each compact disk or flash drive containing electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. *We recommend the use of electronic file folders organized by question number.* In addition, each compact disk or flash drive should be labeled appropriately (e.g., Company Name, Disk 1 of 4 for Information Request Response, Date of Response).
5. Documents claimed as confidential business information (CBI) must be submitted on separate disks/drives apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.
6. Certify that the attached files have been scanned for viruses and indicate what program was used.

Definitions

All terms used in this information request have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*

1. The terms “document” and “documents” shall mean any object that records, stores, or presents information, and includes writings, memoranda, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy should also include attachments to or enclosures with any documents.
2. The terms “relate to” or “pertain to” (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
3. The term “monitoring site” shall mean monitoring sites for two continuous PM monitors, one filterable PM monitor (to analyze mass and metal on a 1-in-3 day schedule), and one met station.

Appendix B

The following monitoring, results, and general information for S.H. Bell Company (SHB) facility located at 10218 South Avenue O, Chicago, Illinois (“the facility”) shall be installed/provided in accordance with the foregoing Request for Information pursuant to the Clean Air Act within the specified time frames:

1. Within 10 days of receipt of this Request, SH Bell shall submit a written certification of its intent to comply with this Request.

PM₁₀ Monitors and Siting

2. Within 30 days of receipt of this information request, SHB shall submit proposed monitoring site locations for continuous Federal Equivalent Method (FEM) real-time PM₁₀ monitoring and Federal Reference Method (FRM) PM₁₀ filter-based monitoring at the facility for EPA review and approval prior to establishing the monitoring sites.
3. Within 30 days of receipt of this request, SHB shall submit to EPA a map showing the property lines of the facility, the locations of nearby residences and industrial properties, and proposed locations of the monitoring sites.
4. Within 30 days of EPA approval specified in paragraph 2, SHB shall install, operate, and maintain ambient monitoring sites at the facility. At the facility, both FEM real-time PM₁₀ monitoring and FRM PM₁₀ filter-based monitoring must be incorporated. The monitoring sites and monitoring equipment shall conform with the following requirements:
 - a. The PM₁₀ real-time and filter-based instruments shall meet the specifications of FRM/FEM monitors on this list;
www.epa.gov/ttn/amtic/files/ambient/criteria/reference-equivalent-methods-list.pdf;
 - b. SHB shall follow all monitoring, siting, and quality assurance criteria in 40 CFR Part 58, Appendix E;
 - c. PM₁₀ concentrations from filter-based sampling shall be determined according to 40 CFR 50, Appendix J to Part 50 – “Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere”;
 - d. The PM₁₀ filter-based sampling shall follow the 3-day EPA Monitoring Schedule for 2015 (posted here:
http://www.epa.gov/ttn/amtic/files/ambient/pm25/calendar_2015.pdf);
 - e. The PM₁₀ filters collected will undergo both gravimetric analysis and determination of lead and toxic metals (arsenic, cadmium, chromium, manganese, nickel, and vanadium) following an FRM/FEM laboratory method (listed here:
<http://www.epa.gov/ttnamti1/files/ambient/criteria/reference-equivalent-methods-list.pdf>);
 - f. All data collected shall be consistent with units in the National Ambient Air Quality Standards for PM₁₀; and,

- g. A data logger shall be attached to the monitors to record readings from the continuous monitors.
5. SHB shall also follow the operating procedures identified in the "Quality Assurance Handbook for Air Pollution Measurement Systems" (located at <http://www.epa.gov/ttn/amtic/qabook.html>), 40 CFR Part 58, Appendix A, and any specified procedures in the manufacturer's maintenance manual for the units used to monitor PM₁₀.
 6. SHB shall be responsible for all operation and maintenance associated with the PM₁₀ monitors. Maintenance shall include, at a minimum, the replacement of any equipment and cleaning on a schedule specified in the manufacturer's maintenance manual.
 7. SHB shall order and pay for any necessary replacement parts, accessories, maintenance, etc.
 8. SHB shall properly change the PM₁₀ filters in all sampling devices.
 9. SHB shall archive all filters from the PM₁₀ filter-based instruments for at least three years.
 10. Monitoring shall take place for at least one year from the date of installation.

Wind Speed and Direction Monitoring

11. SHB shall install a meteorological tower at a location representative of local wind conditions. At a minimum, the meteorological tower must continuously measure and record wind speed and wind direction at one-hour intervals throughout the entire ambient monitoring period. SHB shall correlate 1-hr and 24-hr ambient PM₁₀ measurements with wind speed and wind direction data to determine source direction and the effects of wind speed on PM₁₀ concentrations. The meteorological tower must also include calibrated ambient temperature and pressure instrumentation for purposes of determining corrected (actual) PM₁₀ concentrations as recorded by the monitors. SHB shall maintain and/or submit reports and records in accordance with the paragraphs 18-19, below.
12. With respect to the meteorological monitoring site, SHB shall follow the Quality Assurance Handbook for Air Pollution Measurement Systems Volume IV: Meteorological Measurements Version 2.0 (Final) found at: http://www.epa.gov/ttnamti1/files/ambient/met/Volume%20IV_Meteorological_Measurements.pdf
13. The internal clocks of all PM₁₀ analyzers, data loggers, and the wind speed and wind direction data logger shall be synchronized to within 60 seconds of each other (local time and not adjusted for Daylight Savings Time) and shall be checked against a calibrated reference clock at least once every 30 days. Instrument clocks that are more or less than

60 seconds from the reference clock shall be reset to within 60 seconds of the reference clock. Each of these inconsistencies and each reset time shall be noted in the study log.

14. SHB shall be responsible for maintenance associated with the meteorological tower on a schedule specified in the manufacturer's maintenance manual. SHB shall order and pay for any necessary replacement parts, accessories, maintenance, etc.

General Requirements Applicable to All Requests

15. Within 30 days of EPA approval of the monitoring sites, SHB shall submit a Quality Assurance Project Plan (QAPP) to EPA. The guidance document for writing a QAPP is "EPA Guidance for Quality Assurance Project Plans," EPA QA/G-5, EPA/600/R-02/009 - December 2002. The guidance is available at <http://www.epa.gov/QUALITY/qs-docs/g5-final.pdf>. Any measures identified by this information request should be incorporated into the QAPP.
16. SHB shall provide EPA and/or Illinois Environmental Protection Agency (IEPA) access to the monitor sites and respond to any inquiries regarding monitor siting, operations, or maintenance. In the event that an inspector or auditor identifies problems, SHB shall take appropriate corrective actions. Any changes made to monitor siting, operations, or maintenance shall be approved by EPA prior to the change.
17. SHB shall keep a daily log and monthly reports of the following information:
 - a. Each site visit and operator activities;
 - b. Any monitoring system downtime (date, time, duration, and reason) along with any corrective actions taken;
 - c. Any possible interferences observed by the operator such as nearby construction or demolition; and
 - d. Any calibration data provided by the manufacturer or performed by SHB.
18. Hourly data from each monitor and meteorological monitoring site, and 24-hour data from gravimetric monitors shall be downloaded as ASCII comma-delimited files and provided to EPA on CD every month. The files should have a single "header" row, with all following rows being individual records, and all columns being a single variable according to the header row.
19. Monthly reports specified in item 18 above shall be submitted to EPA for a period of one year. Each report is due within 14 days of the end of the month being reported. At the end of the one year time frame, EPA will re-evaluate and adjust, if necessary, the Section 114(a) request. SHB shall submit these monthly reports to:
 - a. Owens.katharine@epa.gov,

- b. Cantello.nicole@epa.gov,
- c. R5airenforcement@epa.gov,
- d. Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

20. Within 30 days of the receipt of this request, SHB shall maintain a record of the following items, in an Excel or compatible format, for each day the loading, unloading, and processing operations (material transfer, screening, crushing) at the facility were occurring:
- a. Date, approximate start time and duration, type of material unloaded, and mode of transportation (barge, truck, rail);
 - b. Date, approximate start time and duration, type of material loaded, and mode of transportation;
 - c. Date, approximate start time and duration, and type of material processed through a screener; and
 - d. Date, approximate start time and duration, and type of material processed through a crusher.
21. SHB shall notify EPA, for each of the following months (March 2015 – March 2016) at least 7 days in advance of any barge unloading operations of direct reduced iron (DRI) fines.
22. Within 30 days of receipt of this request, SHB shall provide detailed cost assessments, including but not limited to: capital costs, operation and maintenance costs, and staff required on an annual basis, for the following items:
- a. Material storage bins;
 - b. Material pile and roadway watering;
 - c. Use of surfactants on roadways;
 - d. Dust collectors used on material load out buildings;
 - e. Meteorological station;
 - f. Street sweeping;
 - g. Additional rumble strips and tire wash station; and
 - h. Mobile dust collector.

Appendix C

Confidential Business and Personal Privacy Information

Assertion Requirements

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emissions of any substance into the air:

Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

Information necessary to determine the identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and

A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. § 2.301(a)(2)(i)(A), (B) and (C).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 114(c) of the CAA and 40 C.F.R Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the Request to Provide Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

Determining Whether the Information is Entitled to Confidential Treatment

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208, which provides in part that you must satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; that the information is not and has not been reasonably obtainable by legitimate means without your consent and that disclosure of the information is likely to cause substantial harm to your business's competitive position.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential **by page, paragraph, and sentence**. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, **explain with specificity** why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
8. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, **you bear the burden of substantiating your confidentiality claim.** Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

Personal Privacy Information

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as "Personal Privacy Information." Disclosure of such information to the general public may constitute an invasion of privacy.

CERTIFICATE OF MAILING

I, Kathy Jones, certify that I sent a Request to Provide Information Pursuant to the Clean Air Act by Certified Mail, Return Receipt Requested, to:

James Langbehn, Terminal Manager
S. H. Bell Company
10218 South Avenue O
Chicago, Illinois 60617

I also certify that I sent a copy of the Request to Provide Information Pursuant to the Clean Air Act by First-Class Mail to:

Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

On the 5th day of March 2015.

Kathy Jones
for Loretta Shaffer
Program Technician, AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7011 1130 0000 2640 6080

EXHIBIT D



U.S. Department of Justice

Environment and Natural Resources Division

*Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044*

*Telephone (202) 514-0096
Facsimile (202) 616-6584
Email nicholas.a.mcdaniel@usdoj.gov*

BY EMAIL

April 22, 2016

Scott R. Dismukes
Eckert, Seamans, Cherin & Mellot, LLC
600 Grant Street
44th Floor
Pittsburgh, PA 15219

Re: EPA Clean Air Act Section 114 Request for Monitoring of Particulate Matter

Dear Mr. Dismukes:

I am writing to you about EPA's Information Request under Section 114 of the Clean Air Act ("CAA"), issued to S.H. Bell Company on March 4, 2015. That Request, issued over a year ago, requires S.H. Bell to install fence line monitors for measuring particulate matter pollution at S.H. Bell's Southeast Chicago facility, located at 10218 South Avenue O. This Request was issued pursuant to EPA's lawful statutory authority to determine S.H. Bell's compliance with the CAA. The first step toward complying with the Request was for S.H. Bell to submit proposed monitoring site locations. S.H. Bell still has not submitted a siting plan and has refused to install pollution monitors at its facility.

The purpose of this letter is to set a final deadline of May 22, 2016, for S.H. Bell to submit a monitor siting plan to EPA.¹ Over the past year, we have worked with you in good faith in an effort to reach an agreement on monitoring. If S.H. Bell continues to refuse to install any monitors, the United States will explore its enforcement options.

EPA has had concerns about particulate matter pollution at S.H. Bell's facility since at least May 2014, when EPA inspectors found high opacity and visible fugitive particulate matter emissions crossing the facility's property line, in violation of the federally-enforceable Illinois State Implementation Plan ("SIP") and S.H. Bell's Permit. The facility is located directly across the street from homes in an environmental justice residential area. The people living in this community are potentially adversely affected by breathing in particulate matter pollution from S.H. Bell.

¹ If S.H. Bell would prefer that EPA set the pollution monitoring locations, the agency is willing to provide a siting plan for the company. S.H. Bell has not expressed this preference to the agency.

In discussions with EPA over the past year, S.H. Bell has claimed that it has improved its fugitive dust control practices. EPA is not convinced that the alleged improvements are sufficient to address potential violations of the Illinois SIP and S.H. Bell's Permit. Specifically, a more recent inspection in December 2015 again uncovered violations of the prohibition against visible fugitive particulate matter emissions crossing the property line. In any event, the purpose of the particulate matter monitors is to determine whether S.H. Bell's pollution control practices result in compliance with the CAA. S.H. Bell's current verification measures, which include Reference Method 22 opacity readings taken only once every three months, are inadequate, particularly given EPA's findings at the facility.

As the United States has explained previously, the particulate matter pollution monitors are appropriate to determine S.H. Bell's compliance with at least three CAA requirements that apply to the facility. 35 Ill. Admin. Code 201.141 states:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

Another provision of the Illinois SIP, 35 Ill. Admin. Code 212.301, prohibits S.H. Bell from allowing visible particulate matter emissions to cross beyond the facility's property line. This prohibition is also in S.H. Bell's Permit.

These two SIP provisions set three requirements for S.H. Bell's facility:

- (1) 35 Ill. Admin. Code 201.141's prohibition against polluting at a level that will prevent the attainment or maintenance of the particulate matter National Ambient Air Quality Standard;
- (2) 35 Ill. Admin. Code 201.141's prohibition on "air pollution;"² and
- (3) 35 Ill. Admin. Code 212.301's prohibition of visible particulate matter emissions crossing the property line.

EPA issued the Section 114 Request to determine if S.H. Bell is in compliance with these requirements. Data from the particulate matter monitors, which continuously measure and quantify particulate matter pollution, will demonstrate S.H. Bell's compliance or noncompliance with these three CAA requirements. In addition, the Section 114 Request is reasonably tailored in that it allows S.H. Bell to propose the number and location of monitors at its facility.

The United States expects S.H. Bell to submit its monitoring siting plan—or request that EPA set the monitoring locations—by the final deadline of May 22. If you have any questions or would like to discuss these matters further, please feel free to contact me.

² 35 Ill. Admin. Code 201.102 defines "air pollution" as "the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property."

Sincerely,

s/ Nicholas McDaniel

Nicholas McDaniel

Trial Attorney

Environmental Enforcement Section

Environment and Natural Resources Division

United States Department of Justice