



TULANE LAW SCHOOL

TULANE ENVIRONMENTAL LAW CLINIC

July 20, 2021

Via certified mail

Louisiana Department of Environmental Quality
Office of the Secretary
Legal Division
P.O. Box 4302
Baton Rouge, LA 70821-4302
Attn: Oscar Magee, Attorney

RE: Louisiana Department of Environmental Quality and Nucor Steel Louisiana LLC (Respondent), Proposed settlement Agreement, Settlement Tracking No. SA-MM-20-001 9; Agency Interest Number 157847

Dear Mr. Magee,

On behalf of Ms. Myrtle Felton, Ms. Barbara Washington, Ms. Gail Leboeuf, Inclusive Louisiana, and the Louisiana Bucket Brigade, we respectfully submit this comment in opposition to the terms of the proposed settlement between the Louisiana Department of Environmental Quality ("LDEQ") and Nucor Steel Louisiana LLC ("Nucor"). Ms. Felton, Ms. Washington and Ms. Leboeuf are residents of St. James Parish, specifically in the community of Romeville, and live on roads adjacent to Nucor's property and current facility.

The proposed Settlement between Nucor and LDEQ showcases the extensive history of Nucor's gross, repeated permit violations and a corresponding lack of adequate consequences.¹ Yet, after years of documented regulatory violations and industrial accidents, Nucor is currently subject to fewer permit conditions than its original permit entailed and potentially faces only a single \$89,760.32 penalty with no acknowledgement of wrongdoing.² \$89,760.32 is not adequate to resolve the problems created when Nucor failed to comply with its permits, nor is it sufficient to deter future violations.

There are over 21,000 people living in St. James Parish as of the 2019 Census, and almost 200 people living in Romeville, some only a mile away from Nucor's facility, as of 2018; these citizens bear the daily consequences of Nucor's emissions, whether permitted or illegal. LDEQ must enforce greater penalties and regulations to ensure the safety of the citizens and environment of St. James Parish.³

¹ Nucor Settlement on Permit Violations. June 7, 2021. EDMS #12748630.

² *Id.*

³ <https://datausa.io/profile/geo/romeville-la/>;
<https://www.census.gov/quickfacts/fact/table/stjamesparishlouisiana/PST045219>

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DEQ-Nucor Proposed Settlement

July 20, 2021

Page 2 of 18

The proposed \$89,760.32 penalty does nothing whatsoever to help the communities affected by Nucor's failure to comply with Louisiana's environmental regulations. Nor does it do anything to prevent or stem the ongoing and excessive emissions that Nucor continues to release in flagrant violation of its permit. Further, the Settlement fails to propose other reasonable non-monetary relief, such as requiring Nucor to monitor and report local air quality conditions, or funding the installation and maintenance of air monitors around the plant fenceline or around the parish, or funding repairs to local residents' roofs and cars that have been damaged by constant exposure to air emissions. The Settlement also fails to suggest the relatively simple, yet powerful and necessary requirement of providing public notice and individual notification of all nearby residents whenever an unpermitted or emergency release occurs. To combat the effects of Nucor's past illegal pollution and protect against further damage to the current environment and residents of St. James Parish by deterring future violations, Nucor must face greater monetary and non-monetary penalties for its history of permit violations.

I. THE EXTENSIVE HISTORY OF NUCOR'S PERMIT VIOLATIONS.

Nucor Steel LA has benefitted greatly from its facility in Louisiana. The SEC reported that Nucor Steel LA made \$25,067,279 in sales and \$2,481,084 in net earnings in 2018 alone, making a penalty of \$89,760.32 for over seven years of reported violations especially inadequate.⁴ This facility is the largest DRI plant in the world and the only DRI plant in the United States, with an annual production capacity of 2.5 million tons of direct reduced iron. This gives Nucor – both the Louisiana company and its global parent company – a substantial economic advantage in responding to increases and volatility in raw material prices.⁵

Nucor's history of noncompliance with the LDEQ is far reaching and well documented, on the LDEQ's Electronic Document Management System (EDMS) as well as within the lengthy account of permit violations within the proposed 2021 Settlement on Permit Violations, which covers permit violations occurring between 2014 and 2018.

Documents on EDMS show that Nucor submitted a permit exceedance notification to LDEQ on May 29, 2014.⁶ During a subsequent review of the facility LDEQ found ten different types of violations, including that Nucor failed to submit a number of reports by the required deadline, failed to comply with permitted requirements, failed to maintain the required differential pressure as required by its Title V permit, and failed to prepare standby plans to lower emissions.⁷ An amended consolidated compliance order and notice of potential penalty was served in January of 2015.⁸ LDEQ issued warning letters to Nucor in both 2016 and 2018 informing the company that violation reports would be forwarded to the enforcement division.⁹

⁴ <https://www.sec.gov/Archives/edgar/data/73309/000119312519057744/d691427dex13.htm>

⁵ <https://www.nucor.com/history/>

⁶ EDMS #9328761

⁷ EDMS #9425744

⁸ EDMS #9626889

⁹ EDMS #10400857, EDMS#1127149

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 3 of 18

More recently, in November of 2020, the LDEQ confirmed Nucor was continuing to emit pollutants in violation of its permit when the facility failed a test of its DRI Unit No. 1 Process Heater Stack.¹⁰ When the test was repeated in January of 2021, Nucor failed the same test for a *second* time.¹¹ Over the same time period, beginning September 2020, LDEQ field inspectors identified numerous violations at the facility, leading to the issuance of Warning Letter AE-L-21-00250.¹²

Past lawsuits show that Nucor's residential and industrial neighbors in Louisiana have also raised valid concerns about the company's emissions and their inability or unwillingness to provide information in support of permit applications. In 2009, Zen-Noh, owners of a grain elevator near Nucor sued in both federal and state court to enjoin the LDEQ from issuing Nucor's permit as there was not access "to all of the information submitted in support of Nucor's permit application" and as such Zen-Noh, and the public, were "unable to meaningfully participate in the permitting process."¹³ Concerningly, Zen-Noh also raised the fact that the level of allowable emissions could harm their product (grain) and their employees' health.¹⁴

Nucor's consistent permit violations in Louisiana reflect Nucor activity nationwide. Nucor's parent company, Nucor Corporation, Inc., has violated the Clean Air Act nationwide and "failed to control the amount of pollution released from its steel factories."¹⁵ For example, in 2000, Nucor Corp. settled a case with the U.S. EPA concerning its excessive emissions in fourteen facilities throughout Alabama, Arkansas, Indiana, Nebraska, South Carolina, Texas, and Utah.¹⁶ According to the EPA, the \$98 million penalty in that case was the largest and most comprehensive environmental settlement ever with a steel manufacturer.¹⁷

Significantly for these purposes, this record-setting penalty included \$4 million specially designated to fund "continued emissions monitoring of hazardous pollutants and environmental projects to benefit the communities where the factories [were] located." This demonstrates Nucor's ability to engage in emissions monitoring and beneficial projects as a penalty for emissions violations, and demonstrates that the EPA, unlike LDEQ, has required Nucor to provide community protection as a part of settlement.¹⁸

¹⁰ EDMS #12533423

¹¹ EDMS #12704794; 12746694

¹² EDMS #12640897; 12665479

¹³ *Zen-Noh Grain Corp. v. Leggett*, 2009 U.S. Dist. LEXIS 35238 (E.D. La. Apr. 7, 2009)

¹⁴ Gordon Russel, In "Cancer Alley", Toxic Polluters Face Little Oversight From Environmental Regulators, ProPublica (Dec 19, 2019) <https://www.propublica.org/article/in-cancer-alley-toxic-polluters-face-little-oversight-from-environmental-regulators>

¹⁵ *Nucor Corporation, Inc. Multimedia Settlement*, EPA, <https://www.epa.gov/enforcement/nucor-corporation-inc-multimedia-settlement> (last visited April 20, 2021).

¹⁶ Virginia Sutcliffe, *Steel Maker Will Pay \$100 Million for Pollution Released*, EHS Today, (Dec 20, 2000) [https://www.ehstoday.com/archive/article/21905252/steel-maker-will-pay-100-million-for-pollution-released#:~:text=Nucor%20Corporation%20Inc.%20will%20spend%20nearly%20%24100%20million%20to%20settle,Department%20of%20Justice%20\(DOJ\).](https://www.ehstoday.com/archive/article/21905252/steel-maker-will-pay-100-million-for-pollution-released#:~:text=Nucor%20Corporation%20Inc.%20will%20spend%20nearly%20%24100%20million%20to%20settle,Department%20of%20Justice%20(DOJ).) See also:

<https://www.justice.gov/archive/opa/pr/2000/December/703enrd.htm>

¹⁷ <https://www.epa.gov/enforcement/nucor-corporation-inc-multimedia-settlement>

¹⁸ <https://www.justice.gov/archive/opa/pr/2000/December/703enrd.htm>

Settlement Descriptions Showcase Nucor's Egregious Permit Violations

Nucor and LDEQ's proposed 2021 Settlement document itself describes systemic violations of Nucor's Title V permit, including everything from relatively minor recordkeeping violations to multiple concurrent emergency dumps of unregulated air emissions for weeks at a time.¹⁹ The Settlement document requires 21 pages to list all of the violations. The following are some of the incidents cited in the proposed Settlement that demonstrate the severity of Nucor's permit violations, none of which were reported to nearby residents at the time:

1. Perhaps most egregiously, Nucor operated three emergency dumps in 2015 without informing nearby residents, even when these dumps were occurring concurrently:
 - a. "...during the reported period from April 4, 2015, through June 30, 2015, the facility operated an emergency dump (DC-19) for **2112 hours** prior to permit modification. The unauthorized operation of DC-19 until a permit has been issued by the Department is a violation of LAC 33:III.501.C.1, LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). A permit modification application was submitted on July 24, 2015, and requests the DC-19 be added. Settlement offer 4/18/2017 states that the incident occurred from 1/1/2015 – 6/30/2015." (emphasis added).²⁰
 - "...during the reported period from April 21, 2015, through June 30, 2015, the facility operated an emergency dump (DC-11) for **1704 hours** prior to permit modification. The unauthorized operation of DC-II until a permit has been issued by the Department is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). A permit modification application was submitted on July 24, 2015, and requests the DC-11 be added." (emphasis added).²¹
 - "...during the reported period from January 24, 2016 the facility operated an emergency dump (DC-11) prior to permit modification. The unauthorized operation of DC-11 until a permit has been issued by the Department is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). A permit modification application was submitted on July 24, 2015, and requested the DC-11 be added." No further information was provided on this potential third emergency dump occurring the year after the two concurrent emergency dumps in 2015.
2. During routine maintenance of the facility on 5/19/2015, 8/24/2015, 4/5/2016, 6/8/2016, and 6/20/2016, the DRI Reactor "interpreted data it was receiving as an emergency condition which caused the plant to trip and release the pressurized gas in the reactor to

¹⁹ Nucor Settlement on Permit Violations. June 7, 2021. EDMS #12748630

²⁰ *Id.*, pp. 19-20.

²¹ *Id.*

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 5 of 18

the atmosphere as a safety precaution. This is a violation of LAC 33: III.501.C.2²², La. R.S. 30:2057(A)(1)²³, and 30:2057(A)(2)²⁴. In correspondence dated 1/19/2018, Nucor stated that the reactor holds 20,000nm³ of gas which contains Hydrogen, Nitrogen, Oxygen, Steam, Carbon monoxide, Methane, and trace amounts of Hydrogen sulfide. Nucor stated that the DRI Reactor is not currently a permitted source. Nucor stated that a permit modification application will be submitted to address emissions from the reactor. Nucor stated in settlement offer dated 4/18/2017 that emissions did not exceed the MER or RQ.”²⁵

Again, this release of potentially up to 20,000nm³ of gas directly into the atmosphere was not reported to the nearby residents or community. Potential impacts from this release are not addressed in the proposed Settlement.

3. “In the 1st Half 2016 Semiannual Monitoring Report dated September 29, 2016, [Nucor] reported that, the result of the stack test for the period of January 11, 2016, through June 30, 2016 revealed that the emissions of Cobalt, Manganese, and Sulfuric acid were over the permitted levels. Each emission exceedance is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence dated 1/19/2018, [Nucor] stated that the permitted emission rate for Cobalt, [and] Manganese is less than 0.001 lb./hr. The stack test showed emissions of 0.0019 lb./hr. for Cobalt, 0.0018 lb./hr. for Manganese and 1.05 lb./hr. of Sulfuric acid. [Nucor] stated that Sulfuric acid is currently not permitted and a permit application will be submitted on 3/15/2018 to account for the emissions exceedance found during the stack test.”

Notably, a permit modification application was submitted to LDEQ on March 23, 2018 – but nowhere in that application is the issue of sulfuric acid or its illegal release by Nucor directly raised.²⁶

4. Nucor has also had repeated problems with its required ambient air quality monitoring:

“In the Revised 1st Half 2017 Semiannual Monitoring Report dated March 29, 2018, and 1st Half 2018 Semiannual Monitoring Report dated September 26, 2018, [Nucor] reported the failure to perform ambient air quality monitoring. Specially, **the air quality monitoring station was inadvertently shut down and remained down throughout the year due to confusion over whether it was**

²² LAC 33: III.501.C.2: Except as specified in LAC 33:III.Chapter 3, no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of air contaminants as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2) and a permit (certificate of approval) has been issued by the permitting authority. <https://deq.louisiana.gov/assets/docs/Air/Asbestos/AsbestosRegulations.pdf>

²³ La. R.S. 30:2057(A)(1): No person shall: Discharge air contaminants or noise pollution into the air of this state in violation of regulations of the secretary or the terms of any permit, license, or variance issued hereunder. <https://law.justia.com/codes/louisiana/2012/rs/title30/rs30-2057/>

²⁴ La. R.S. 30:2057(A)(2): No person shall: Violate any rule or regulation adopted by the secretary under this Chapter. <https://law.justia.com/codes/louisiana/2012/rs/title30/rs30-2057/>

²⁵ Nucor Settlement on Permit Violations. June 7, 2021. EDMS #12748630 (pg. 20).

²⁶ Nucor, Title V Modification and Request for Expedited Permit Processing, March 23, 2018, EDMS #1103838.

required or still voluntary on 1/1/2017 through 6/21/2018, 77 incidents. The failure to continuously monitor the ambient air quality is a violation of LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). On March 23, 2018, [Nucor] applied to modify the Fugitive Dust Management plan to eliminate the ambient air quality monitoring. This was approved in Title V Air Permit No. 3086-V5 issued on 6/22/2018.” (emphasis added.)

“In the Revised 1st Half 2017 Semiannual Monitoring Report dated March 29, 2018, [Nucor] reported the failure to identify that the ambient air quality monitoring station was inadvertently shutdown prior, first half semiannual monitoring report on September 30, 2017. [Nucor] submitted an updated 2017 1st half semiannual monitoring report with the 2nd half semiannual monitoring report. This is a violation of LAC 33:III.501.C.4 and La. R.S. 30.2057(A)(2).”

Nucor provides no further information on how it provided ambient air quality monitoring data despite its monitoring station having been shut down at the time, and since this permit approval it seems that Nucor’s facility has not been required to perform ambient air quality monitoring since 2018.

5. In 2014 alone, Nucor experienced 875 incidents in which the differential pressure of their baghouse was operating outside the permitted range. The source of the problem appeared to be that the baghouses “contain[ed] different bags than those originally permitted.” Of these incidents, 34 occurred after Nucor temporarily returned to interim limits agreements on 8/12/14 and 15 more were reported in 2015.²⁷
6. Several other incidents involving overproduction occurred at Nucor’s facility, including several unpermitted storage piles staying onsite *for months* without correction:

“...during the commission of the facility from July 1, 2014 through December 31, 2014, the facility experienced a process upset which resulted in the byproducts to be produced in larger quantities than anticipated. The storage piles were created as a last resort to store the byproducts, the facility stated that the emissions from these storage piles were not included in the current Permit No. 3086-V2. The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification is a violation of LAC 33:III.501.C.1, LAC 33:III.501.C.2 and La. R.S. 30.2057(A)(2). A permit modification application was submitted on December 15, 2014, and requests that the storage piles be added. Settlement offer 4/18/2017 states that the incident occurred from 7/1/2014-4/21/2015.”

“...during the reported period from January 1, 2015, through September 1, 2015, the facility experienced a process upset which cause[d] DRI Fines to be produced in large[r] quantities than anticipated. The DRI Fines which is typically sent to the briquetting mill to be reclaimed and sold as product was stored onsite; the facility stated that emission from these piles were not included in the Permit Nos. 3086-

²⁷ *Id.* at pp. 14-15.

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 7 of 18

V2 and 3086-V3. The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification is a violation of LAC 33.III.501.C.1, LAC 33:III.501.C.2, and La. R.S. 30.2057(A)(2). A permit modification was submitted on July 24, 2015, and requested emissions from DRI Fines piles be added.”²⁸

7. Other incidents at Nucor’s facility were caused by equipment failures, such as the emission exceedance caused by the collapse of Nucor’s storage domes:

“...during the reported period from January 1, 2015, through December 31, 2015, the facility experienced a failure with the collapsing of the storage domes, the large generation of iron oxides fines from ore yard was stored in a pile onsite until they were sold to a third party. The facility stated that emissions from the iron oxides piles were not included in Permit Nos. 3086-V2 and 3086-V3. The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification is a violation of LAC 33.III.501.C.1, LAC 33:III.501.C.2, and La. R.S. 30.2057(A)(2). A permit modification was submitted on July 24, 2015, and requested emissions from iron oxides piles be added.”²⁹

This incident seemed to cause an additional permit violation when Nucor attempted to store DRI fines in unapproved silos:

“...during the reported period from January 1, 2015, through June 30, 2015, the facility experienced a process upset which required additional storage of DRI Fines. The facility ordered additional DRI Fines Silo No. 2 to serve the briquetting mill. The facility stated that the emissions from the DRI Fines Silo No. 2 were not included in the Permit Nos. 3086-V2 and 3086-V3. The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification is a violation of LAC 33.III.501.C.1, LAC 33:III.501.C.2, and La. R.S. 30.2057(A)(2). A permit modification was submitted on July 24, 2015, and requested the DRI Fines Silo No. 2 be added.”³⁰

8. Nucor also violated their permit’s regulations on the facility’s pellet chute:

“During the reported period from January 1, 2015, through June 30, 2015, the facility installed and operated an oversized pellet chute (DC-5 Reject Pellet Chute) for **4344 hours** prior to permit modification application. A permit modification application was submitted on July 24, 2015, and requests the DC-5 Reject Pellet Chute be added.”³¹

²⁸ *Id.* at. p. 18.

²⁹ *Id.* at. p. 18.

³⁰ *Id.* at. p. 18.

³¹ *Id.* at p. 19.

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 8 of 18

No further information was provided on whether this permit modification was accepted or if there were any attempts to address the increased air pollution caused by the oversized pellet chute.

9. From 2015 to late 2016, Nucor had a problem that seemed to cause several impediments to the movement of ammonia through the facility and a repeated need for preventative maintenance that caused emissions outside of permit compliance:

“During this period, ammonia flow to the SCR injection skid was impeded. Preventative maintenance was performed and the unit was returned to compliance. Each emission exceedance is a violation of LAC 33:III.501.C.4³² and LAC 33:III.905, La R.S. 30:2057(A)(1)³³ and 30:2057(A)(2). In correspondence dated 7/4/17, [Nucor] stated that during initial startup, there were some issues with corrosion of the ammonia tank before it became conditioned. The facility has installed filters and monitors to minimize clogging of the ammonia injector vaporizing nozzle.”

This occurred on 8/2/2015 (1 hour), 8/11/2015 (1 hour), 9/13/2015 (1 hour), 9/21/2015 (8 hours), 10/9/2015 (3 hours), 3/30/2016 (3 hours), 4/4/2016 (2 hours), 6/16/2016 (3 hours), 6/22/2016-6/23/2016 (24 hours), and 7/20/2016, 7/21/2016, 9/13/2016, 9/20/2016, 9/26/2016, 11/30/2016, 12/2/2016 (no duration total given). Nucor stated that the initial plugging that seemed to cause these problems “was likely preventable.”³⁴

10. In early 2017, Nucor experienced another emission exceedance due to ammonia’s movement into the SCR unit:

“The exceedance occurred due to ammonia not flowing to the SCR unit. [Nucor] promptly undertook system review, identified where the implement to flow was occurring, and removed the impediment, restoring ammonia flow and proper operation of the system. Each emission exceedance is a violation of LAC 33:III.501.C.4 and LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence dated 12/4/2018, [Nucor] stated that the issue appeared to be related to rust in the tank. The tank has been lined and a nitrogen blanket has been placed over the tank to prevent rusting. [Nucor] also installed a filter to prevent reoccurrence.”³⁵

11. In 2016, Nucor experienced a period of emission exceedance where “[o]ptimizing the flue gas temperature was not successful in prolonging the life of the catalyst. Several attempts were made to get the catalyst to perform according to the specifications with short term results. On 5/7/2016 after failing to sustain long term results, the facility began the shutdown procedure to change the catalyst. Each emission exceedance is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence dated 7/4/2017, [Nucor] stated that a PGH failure in 2014 resulted in overheating of

³² Full text of LAC 33:III: <https://deq.louisiana.gov/assets/docs/Air/Asbestos/AsbestosRegulations.pdf>

³³ Full text of La R.S. 30:2057: <http://legis.la.gov/legis/Law.aspx?d=87121>

³⁴ Nucor Settlement on Permit Violations. June 7, 2021. EDMS #12748630, at pp. 6-7.

³⁵ *Id.* at p. 12.

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 9 of 18

certain tubes resulting in chromium poisoning. The PGH failure was not preventable which resulted in the poisoning.” This non-compliance persisted for 57 hours, over a four day stretch.³⁶

12. Later that year, Nucor “experienced equipment failure which lead to a fault of the process gas heater resulting in excess emissions. The facility resumed startup on 6/9/2016. Each emission exceedance due to operator error is a violation of LAC 33:III.501.C.4, LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In correspondence dated 7/4/2017, [Nucor] stated that this event was a preventable incident caused by operator error.” This incident occurred for 3 hours on 6/9/2016.³⁷

13. The next year, Nucor experienced an unexplained emission exceedance for 4 hours on 2/5/2017 and 6 hours on 2/6/2017:

“During th[ese] time periods when natural gas was not flowing to the process heater caused emissions exceedances. The cause of the exceedance is unknown. Each emission exceedance is a violation of LAC 33:III.501.C.4 and LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). [Nucor] reported in correspondence dated 12/4/2018 that [Nucor] is studying the control programming to ascertain the cause of the error and repair any errors in the programming to prevent reoccurrence.”³⁸

No further information was given on whether the cause of the error was ever discovered or what was done to resolve the problem.

14. Later that year, Nucor experienced another emission exceedance due to equipment failures:

“The exceedance occurred due to the pocket belt ripping. Specifically, once emissions began to rise, plant operation determined the pocket belt was ripped. A plantwide shutdown, including the process gas heater was down and no gas was being fed to the burners, the process heater continued to generate declining quantities of “thermal NOx” until the innards cooled below the threshold temperature. Once the plant was restarted and the SCR bed reached working temperatures, emissions returned to normal. Each emission exceedance is a violation of LAC 33:III.501.C.4 and LAC 33:III.905, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).”

This emission exceedance persisted for 39 hours from 4/4/2017-4/6/2017.³⁹

³⁶ *Id.* at p.7.

³⁷ *Id.* at p. 8.

³⁸ *Id.* at pp. 11-12.

³⁹ *Id.* at p.13.

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 10 of 18

15. There were several vaguely described incidents in 2015, such as this report from 10/12/2015 through 10/13/2015:

“[Nucor] performed maintenance and repairs to the affected source when the deviation was discovered and the source was returned to compliance as quickly as possible. Filter vents: Differential Pressure > 1 and < 11.0 inches w.c. Each failure to operate according to permitted requirements is a violation of any applicable permit, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).”⁴⁰

This incident occurred over a 24-hour period and no further information was provided on what the deviation was, what may have been emitted during the deviation, or how it was resolved.

In addition to demonstrating the severity and extent of Nucor’s permit violations, the above incidents exemplify Nucor’s inconsistency when reporting permit violations: it does not consistently include the duration of the incident, generally gives vague descriptions of what happened, and does not always include any information on what was done in response to this failure or results of any follow-up analysis of the incidents.⁴¹ At no time does the company ever state that nearby residents – such as the individuals submitting this comment, who live adjacent to the facility – were notified about these incidents and releases in their neighborhood.

Ongoing Violations Confirm the Need for Greater Penalties

Nucor’s egregious and continuing violations also show the inadequacy of the proposed Settlement. Although the 2021 Settlement between Nucor and LDEQ only covers violations up to 2018, Nucor’s continuing permit violations are relevant to this discussion, particularly because they demonstrate both the scope of the problems Nucor has with its air emissions and the fact that it is undisputable its violations will continue without greater deterrent in the Settlement.

For example, Nucor submitted a letter to the LDEQ on April 3, 2020, admitting to the unpermitted emissions of tons of hydrogen sulfide and sulfuric acid mist – none of which was addressed in the proposed Settlement. The letter stated that Nucor released 139.53 tons of hydrogen sulfide (H₂S) from 2014 to 2018.⁴² This exceeded their permitted emissions by 139.53 tons as Nucor had **zero** permitted emissions for hydrogen sulfide.⁴³ Nucor reported that they also released 21.26 tons of sulfuric acid mist from 2014 to 2018 despite having **zero** permitted emissions for sulfuric acid mist. These emissions violations are particularly egregious as Nucor does not currently have a permit for either of these pollutants, despite knowing that it is emitting tons of both every year. Moreover, in both 2016 and 2018, Nucor exceeded their permitted amount of sulfur dioxide (SO₂) by 2.45 and 9.24 tons respectively. These unauthorized emissions continued into 2020.⁴⁴

⁴⁰ *Id.* at. p. 15.

⁴¹ Nucor Settlement on Permit Violations. June 7, 2021. EDMS #12748630, *passim*.

⁴² Letter from Nucor to LDEQ. Apr 3, 2020. EDMS # 12202353.

⁴³ *Id.*

⁴⁴ Nucor, 2020 1st Semi-Annual Monitoring Report (9/29/20), EDMS #12429519

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 11 of 18

Nucor's letter details these and other air permit violations that occurred repeatedly from 2014 to 2019, due to engineering and operational failures. Nucor proceeded to vaguely explain that it undertook "preliminary process control adjustments to minimize emissions" yet provides no meaningful explanation as to what those process control adjustments are.⁴⁵

II. THE SETTLEMENT DOCUMENT FAILS TO ADDRESS THE INADEQUACY OF NUCOR'S CURRENT ENVIRONMENTAL PROTECTIONS:

Despite its well-documented history of non-compliance, Nucor has repeatedly gotten approval from LDEQ to lessen or avoid regulations on their emissions.

For example, LDEQ has removed or lessened Nucor's air monitoring requirements. Specific examples include: on March 23, 2018, and September 26, 2018, Nucor Steel reported a failure to perform ambient air quality monitoring due to confusion over whether it was required or still voluntary from January 1, 2017, through June 21, 2018, encompassing at least 77 incidents of unmonitored emissions.⁴⁶ In the March report, Nucor also applied to modify the Fugitive Dust Management plan to eliminate the ambient air quality monitoring. This was approved in Title V Air Permit No. 3086-V5 issued on 6/22/2018.⁴⁷ This means that when Nucor was uncertain whether its permit required monitoring the ambient air quality, it failed to either continue monitoring or confirm the requirement for over a year, and yet it still received approval from LDEQ to discontinue future air monitoring in 2018.⁴⁸ According to Nucor's Settlement document, the facility still has not monitored its ambient air quality since January 1, 2017.⁴⁹ The Settlement document is a straightforward opportunity to reinstitute air monitoring requirements to deter future emissions violations and protect the surrounding community, but capitulates to Nucor instead and provides nothing to the community.

Nucor's plans for increasing emissions further demonstrates the need for additional community protection under the Settlement agreement. Nucor is currently – even as it negotiates this settlement for its long history of air emissions violations – applying both to renew its Title V permit and to expand its operations through construction of a new "Pelletizer Project" on the site. This means that Nucor expects to further increase its emission – endangering both the neighboring community and local, national, and global efforts to reduce greenhouse gases. Reports generated by the EPA's FLIGHT ("Facility-Level Information on Green House gases Tool") show that that Nucor's CO_{2e} emissions increased significantly between 2015 and 2019.⁵⁰ The emissions listed in Nucor's proposed permit, 1,091,350 tons per year,⁵¹ would be the most CO_{2e} Nucor Steel LA has ever produced, exceeding its previous biggest spike in emissions in 2018 with a total of 1,031,807.5 metric tons of CO_{2e} emissions.⁵² This request to expand its permitted emissions even beyond what it is already allowed is especially concerning because

⁴⁵ Letter from Nucor to LDEQ. Apr 3, 2020. EDMS # 12202353.

⁴⁶ Nucor Settlement on Permit Violations. June 7, 2021. EDMS #12748630 (pg. 21).

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ <https://ghgdata.epa.gov/ghgp/main.do>

⁵¹ Nucor Steel Louisiana, LLC, Pelletizer Plant Project; Title V Air Permit Renewal, Significant Modification, and PSD Application (prepared July 2020).

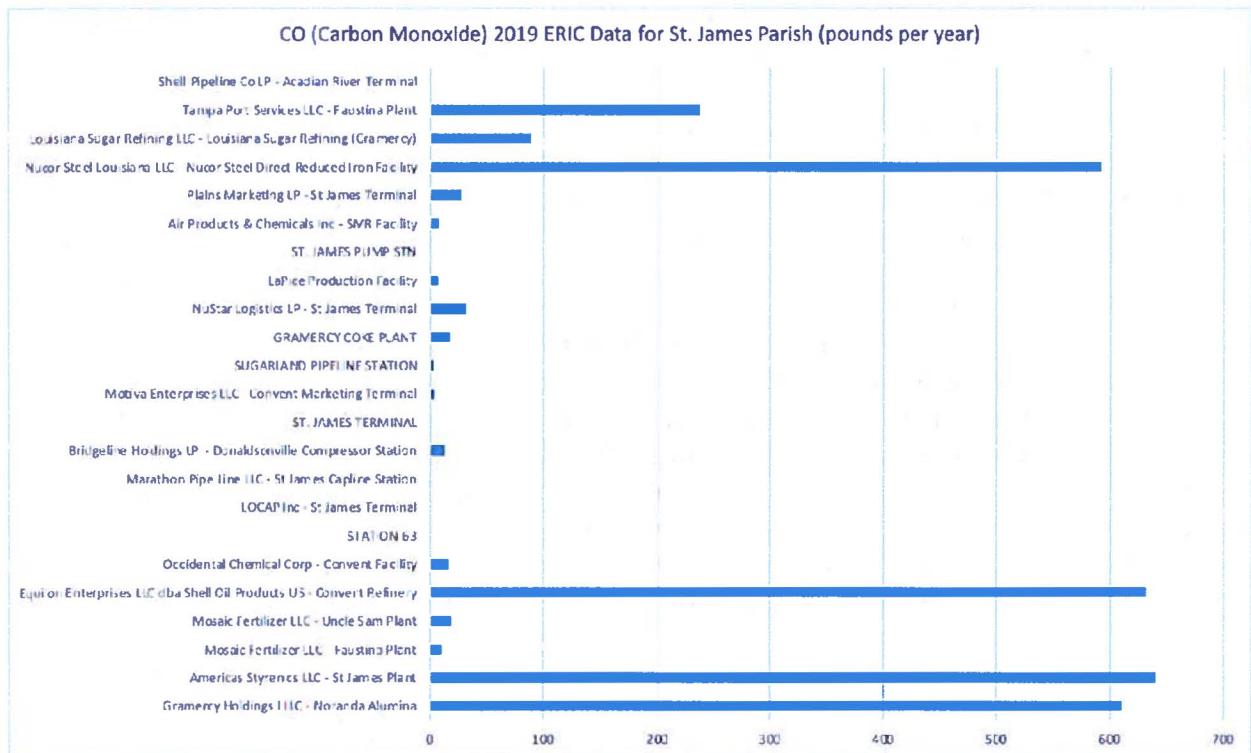
⁵² <https://ghgdata.epa.gov/ghgp/main.do>

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 12 of 18

according to the ERIC data from St. James Parish, Nucor is already one of the biggest sources of Carbon Monoxide (CO) emission, and a major source of several other dangerous pollutants in St. James Parish, such as Hydrogen Sulfide (H₂S), Lead (Pb), Nitrogen Oxides (NO_x) and Particulate Matter (PM₁₀ and PM_{2.5}).⁵³ The EPA's FLIGHT tool also shows that Nucor's facility released 0.76 metric tons of Methane, 40,482.2 metric tons of Carbon dioxide, and 0.076 metric tons of Nitrous Oxide (NO) in 2019 alone, as the charts below (generated by the EPA FLIGHT tool) indicate.⁵⁴



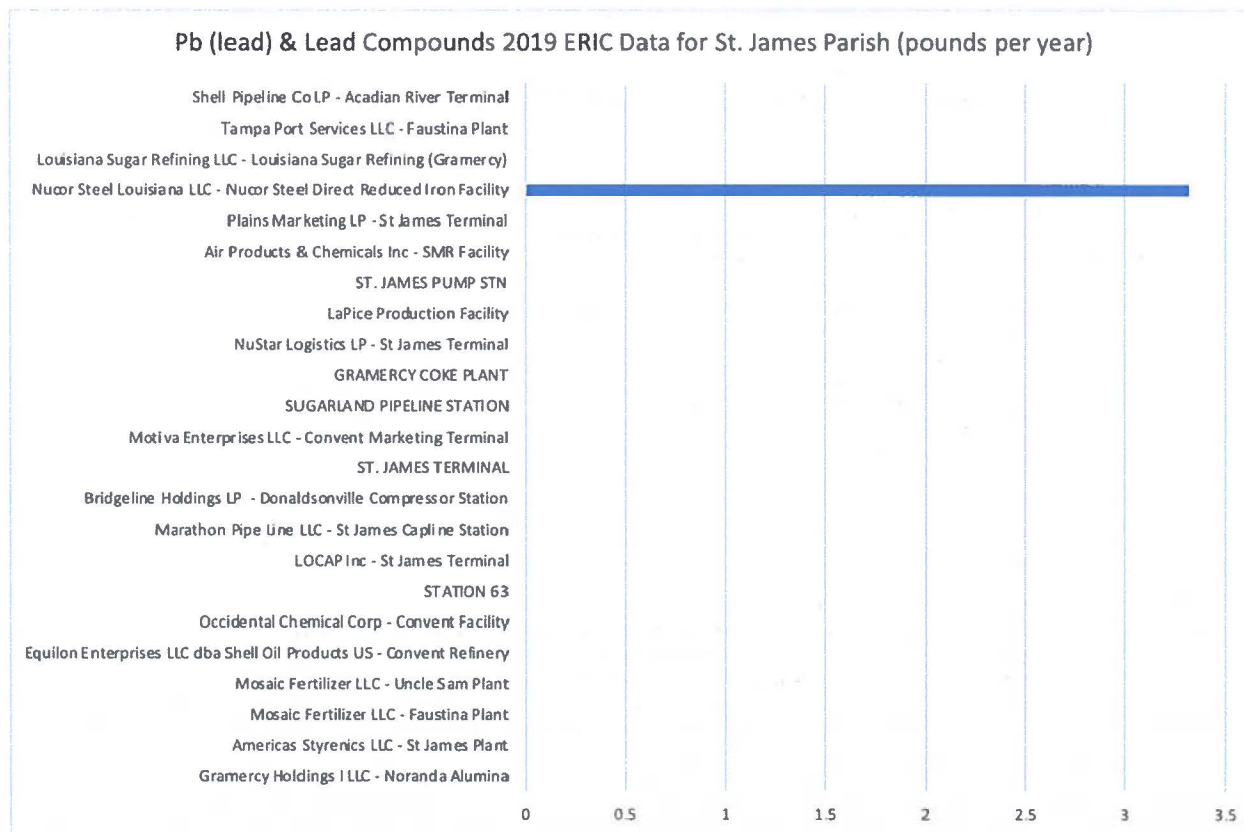
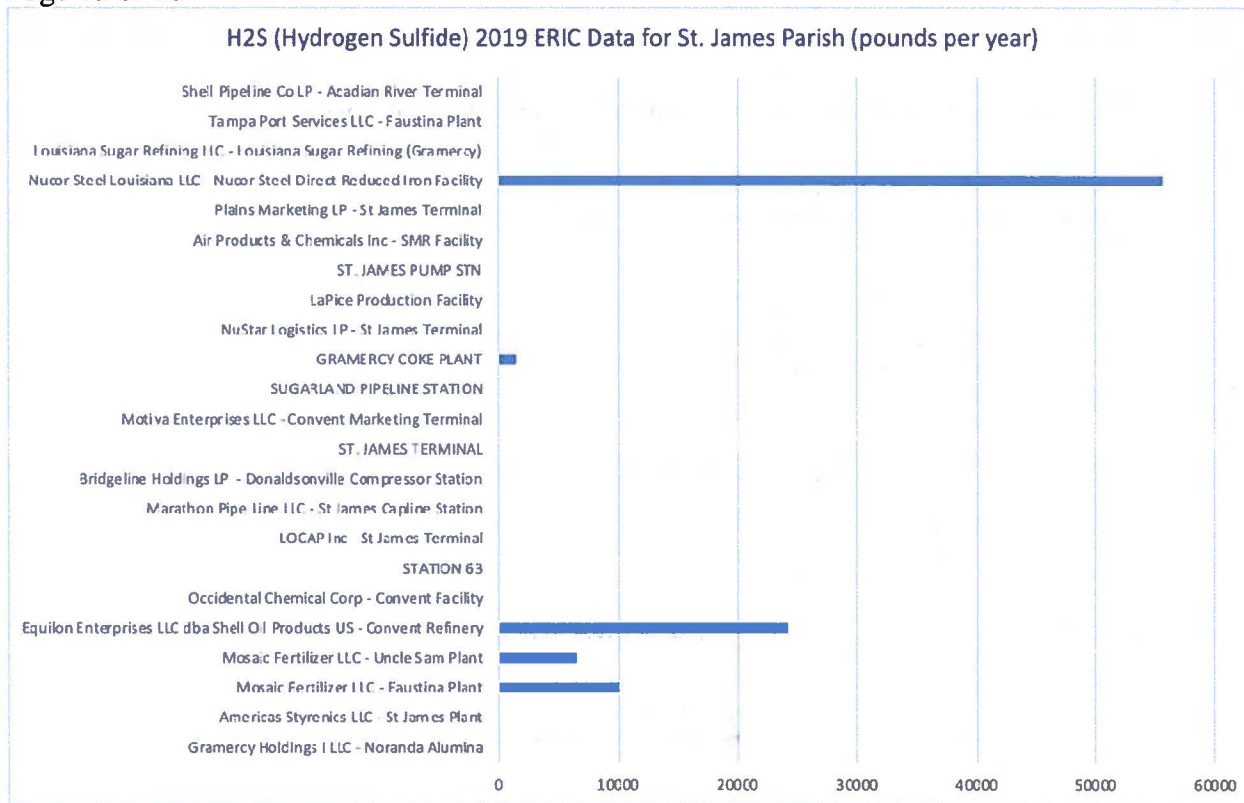
⁵³ ERIC 2019 Data Report for St. James Parish.

⁵⁴ <https://ghgdata.epa.gov/ghgp/main.do>

DEQ-Nucor Proposed Settlement

July 20, 2021

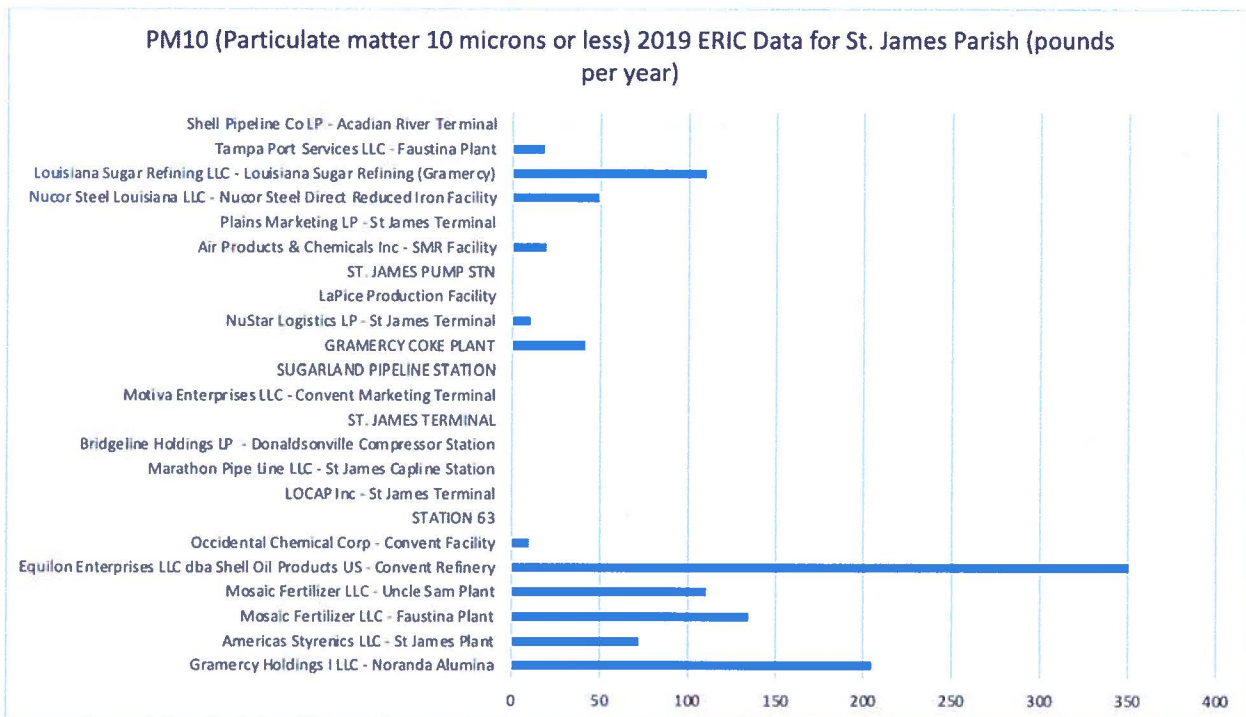
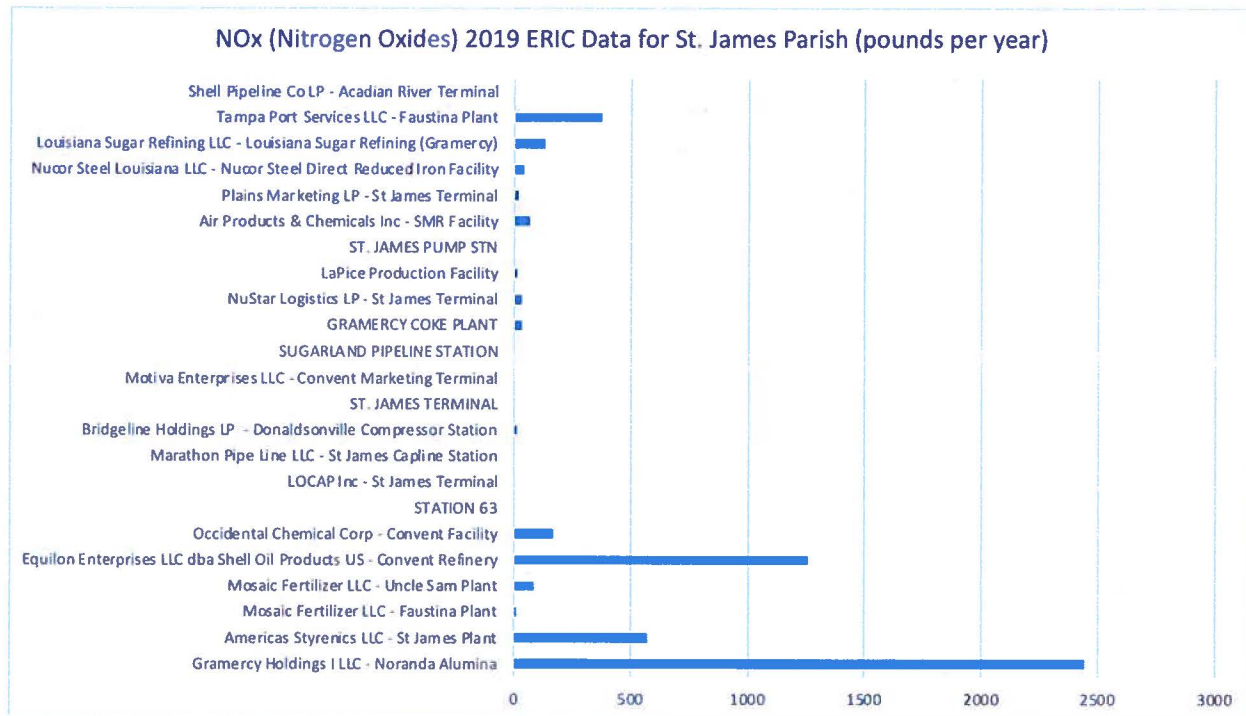
Page 13 of 18



DEQ-Nucor Proposed Settlement

July 20, 2021

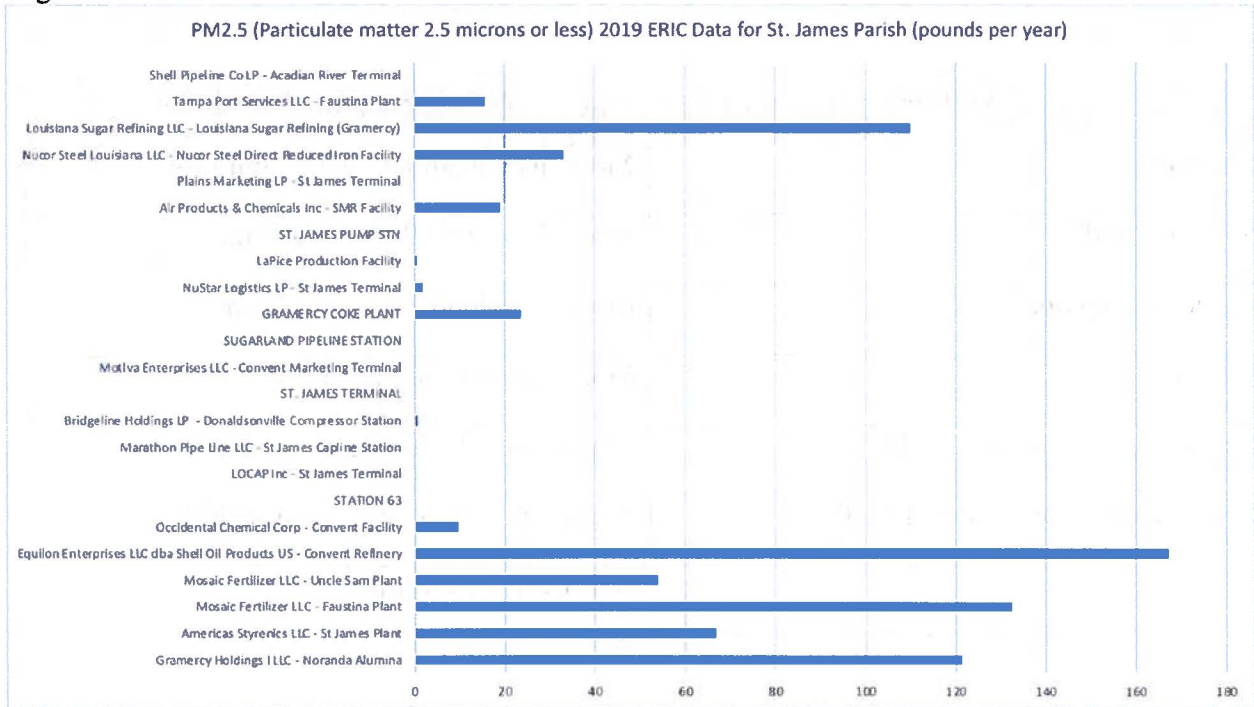
Page 14 of 18



DEQ-Nucor Proposed Settlement

July 20, 2021

Page 15 of 18



While Nucor is currently a major emitter of pollutants like particulate matter, including PM_{2.5}, its proposed expansion threatens to increase those levels by over 125 tons per year. According to the EPA, air pollutants increase the amount and seriousness of lung and heart disease in addition to other health problems.⁵⁵ Fine particulate matter (PM_{2.5}) is considered especially dangerous, as well as lead (of which Nucor is also a major emitter in the parish), which has no safe level of concentration due to the serious threat to human health it poses.⁵⁶ Clinical and epidemiological research demonstrates that both short-term and long-term exposure to air pollution increases mortality from respiratory and cardiovascular diseases, especially exposure to particulate matter emissions.⁵⁷ Fine particulate matter (PM_{2.5}) accounts for majority of health impacts due to air pollution in the U.S., affecting everyone from unborn children to older adults.⁵⁸ Even small changes in average concentrations of PM_{2.5} have large implications for public health, making the proposed increase of over 125 tons per year for Nucor’s PM_{2.5} emissions from its Pelletizer project exceptionally dangerous for the people living within St. James Parish, especially those nearby Nucor’s facility.⁵⁹

And, as mentioned above, according to Nucor’s most recent stack test from January 2021, Nucor is currently violating its emission regulations for fourteen out of the nineteen pollutants included within the stack test’s result, including:⁶⁰

⁵⁵ <https://www.epa.gov/air-research/research-health-effects-air-pollution>

⁵⁶ <https://www.epa.gov/isa>

⁵⁷ <https://pubmed.ncbi.nlm.nih.gov/28303426/>

⁵⁸ <https://nca2018.globalchange.gov/chapter/13/>; <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1539-6924.2011.01630.x>

⁵⁹ <https://nca2018.globalchange.gov/chapter/13/>; <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1539-6924.2011.01630.x>; Nucor Steel Louisiana, LLC, Pelletizer Plant Project; Title V Air Permit Renewal, Significant Modification, and PSD Application (prepared July 2020)

⁶⁰ EDMS #12746337; EDMS #12746694

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 16 of 18

Pollutant	Amount over permit limit
Manganese	More than quadruple the permit limit
Sulfuric Acid ⁶¹	More than triple the permit limit
Carbon Monoxide	More than double the permit limit
Cobalt	More than double the permit limit
Fine Particulate Matter (PM2.5)	Approximately double the permit limit
Coarse Particulate Matter (PM10)	Approximately double the permit limit
Lead	50% over permit limit
Copper	30% over permit limit
Arsenic	30% over permit limit
Selenium	30% over permit limit
Barium	16% over permit limit
Chromium Nickel	5% over permit limit
Sulfur Dioxide	2% over permit limit

In short, documents on EDMS show a pattern of Nucor admitting wrongdoing or demonstrating a failure to comply with regulations, through tests like the above stack test or failed inspections, while not being held accountable for these mistakes and even being allowed to modify its permit requirements *post facto* without consequence.⁶²

LDEQ must enforce environmental regulations on facilities like Nucor for the protection of Louisiana's environment and its citizens. Allowing such lax compliance with regulations is extremely dangerous for both Nucor's current neighbors and the future of St. James Parish. St. James Parish is already experiencing several consequences of pollution exposure: many residents suffer health complications due to the concentration of airborne emissions from the multiple

⁶¹ In their recent Settlement, Nucor stated that Sulfuric Acid is currently not permitted, and a permit application will be submitted to account for the emissions exceedance found during the stack test. After going through their current permit application, we could not find a request to add Sulfuric Acid to their permitted emissions. The March 2018 permit application likewise did not mention Sulfuric Acid.

⁶² EDMS #12746337; EDMS #12746694

DEQ-Nucor Proposed Settlement

July 20, 2021

Page 17 of 18

nearby facilities⁶³ and Blind River, a waterbody near Nucor's facility, has a mercury-in-fish health advisory.⁶⁴ Nucor's residential neighbors – many of whom were living in the area long before Nucor arrived – now routinely have unknown particles coating their homes and vehicles, causing damage to paints, finishes, roofs, and gardens. LDEQ offers no explanation for why its proposed Settlement omits monitoring requirements and other community protections.

III. CONCLUSION

Nucor Steel Louisiana LLC must be subject to greater environmental regulations and must be required to monitor the effects of its air emissions on nearby communities and the local environment.

As Nucor was planning a new expansion, the Pelletizer Project, and asking for even greater leave to emit regulated pollutants, it was simultaneously violating its permit with uncontrolled and unlawful emissions and repeatedly failing tests of a major emission source. Nucor's history of significant permit violations is especially concerning given the vast increase in emissions proposed by its pending permit application. LDEQ should take a proactive approach to ensure compliance to current and future permits, including levying a higher fine as a deterrent and providing monetary and non-monetary relief to St. James Parish to counter the effects of Nucor's environmental violations. The residents of St. James Parish, particularly those living in Romeville along Nucor's property line, face regular unpermitted and illegal emissions from their giant neighbor; if Nucor faces almost no consequences for its years-long bad acts, there is no reason to believe such violations will cease upon payment of the Settlement payment.

The need for reducing air pollution is urgent. Although LDEQ is best suited to enforce sufficient environmental regulations on Nucor Steel Louisiana LLC and end their history of noncompliance without significant consequence, the current Settlement it has proposed with Nucor is inadequate to achieve that purpose. Instead, the Settlement should require (1) a much greater monetary penalty, sufficient at least to offset any financial benefit Nucor received from its failures to meet permit requirements; and (2) non-monetary penalties that benefit the immediate community and environment, which could include: (a) increased and constant air monitoring around the fenceline of Nucor, with publicly-available data; (b) required notification of residents within a specified radius when emergency or unplanned emissions in violations of the permit occur; (c) offers of repairs to nearby homes, cars and gardens in Romeville damaged by particulate matter and other pollutants emitted by Nucor; and (d) other such non-monetary but ongoing environmentally beneficial projects approved by LDEQ that will both benefit residents for the impacts they suffer as a result of Nucor's ongoing permit violations and also serve as an effective deterrent against further violations.

⁶³ Kimberly A. Terrell, Gianna St. Julien, "Toxic Air Pollution is Linked to higher Cancer Rates among Impoverished communities in Louisiana," June 21, 2021 (available at: <https://law.tulane.edu/sites/law.tulane.edu/files/u1286/LTR%20Cancer%20Rates%20v%20Pollution-Related%20Risk%202021-6-21%20rev.%202021-6-23.pdf>)

⁶⁴ Affidavit of Barry Kohl, Ph.D., June 8, 2017 (attached to public comment on Noranda; EDMS # 10712769, p. 12).

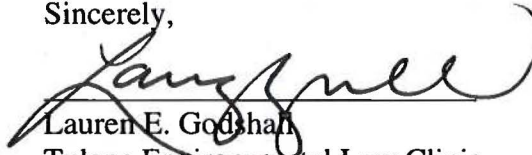
DEQ-Nucor Proposed Settlement

July 20, 2021

Page 18 of 18

Finally, we request that the LDEQ hold a public hearing on the proposed Settlement.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren E. Godshall", written over a horizontal line.

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