

OPINION

Op-ed: Indiana steel mill that violated Clean Water Act must be held accountable

Howard Learner Published 6:00 a.m. ET Nov. 3, 2019

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In August, ArcelorMittal violated its permits by spewing dangerous chemicals, including cyanide and ammonia, into the Little Calumet River, which flows into Lake Michigan. The company delayed informing public officials of this toxic chemical spill.

The impact: 3,000 dead fish, closed beaches along Lake Michigan and Indiana Dunes National Park, and safe drinking water at risk. What's more, ArcelorMittal is a serial polluter. This Luxembourg-based company violated its Clean Water Act permits more than 100 times since 2015 at its Burns Harbor plant.

[The Environmental Law & Policy Center and Hoosier Environmental Council filed a 60-day notice for a citizen enforcement lawsuit to hold ArcelorMittal accountable for its ongoing pollution violations](#) that threaten clean water and the Great Lakes ecosystem. ArcelorMittal should be forced to pay sufficiently high fines so there's strong economic incentives for company management to change their pollution behavior and recurring permit violations.

Optimally, the U.S. Environmental Protection Agency and Indiana Department of Environmental Management would do their jobs well. Faced with ArcelorMittal's repeated Clean Water Act violations, these agencies would bring enforcement actions promptly, strongly and fairly. That plan would get an A grade.

Unfortunately, here's what happens too often. A company spills toxic chemicals, then, after environmental groups file notice of intent to sue, the government agencies "overfile" to stop the citizen suit from going forward. They agree to a weak settlement with insufficient fines that the polluting company treats as a "cost of doing business" for that particular spill while the broader pattern of violations goes unpunished. That plan would get a C-minus.

Case in point: in April 2017, U.S. Steel Corporation spilled hexavalent chromium into a Portage waterway that flows into Lake Michigan. The Surfrider Foundation and City of Chicago filed a 60-day notice of intent to sue.

The U.S. EPA and IDEM then "overfiled" with their own lawsuit, thereby stalling the citizen enforcement lawsuit. The governmental agencies agreed to a relatively weak settlement and consent decree. U.S. Steel will improve its wastewater processing monitoring system and repair failed equipment that contributed to the toxic chemical spill, pay \$600,000 in civil penalties and reimburse agencies for assessment and response costs and some damages.

Attorneys for Surfrider and city of Chicago objected to the settlement as inadequate compensation for the substantial ecological damage from this toxic chemical spill. They are working to require higher penalties and stronger remedial actions for the serious, ongoing threats to safe, clean water.

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This time around, let's not allow ArcelorMittal connive with the U.S. EPA and IDEM to game the environmental enforcement system by "overfilling," and then agreeing to a weak settlement with insufficient fines for the August toxic chemical spill that ignores ArcelorMittal's overall pattern of many prior Clean Water Act violations.

Either the Trump Administration's EPA and IDEM should step up with strong, effective enforcement to protect the public against ArcelorMittal's continued pollution violations, or they should allow the environmental groups' enforcement lawsuit to go forward. That's the public-private partnership. Let's shoot for A's; not an overfilling C-minus.

ArcelorMittal has until December to respond to the 60-day notice of intent-to-sue letter. At that point, the environmental groups can move forward with an enforcement lawsuit. We'll request sufficiently strong penalties for ArcelorMittal's toxic spill and serial Clean Water Act violations, and demand that the company improve its equipment and operating and management practices to reduce pollution going forward. We can negotiate a tough, but fair settlement.

Let's move forward with the necessary environmental legal enforcement and high enough fines and remedial actions so that ArcelorMittal performs better and doesn't continually violate its Clean Water Act permits with toxic chemical spills and other pollution that harms safe, clean water. There are two paths to accomplish this, but watch out for ArcelorMittal trying to overfile with the U.S. EPA and IDEM. The public and our Great Lakes deserve better....*Howard Learner is an attorney and the executive director of the Environmental Law & Policy Center, the Midwest's leading public interest environmental legal advocacy and eco-business innovation organization.*