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C T CORPORATION SYSTEM

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RE: Notice of Intent (NOI) to Sue for Violations of the Clean Water Act, Warrick Newco Permit No. IN0001155

Dear all:

On behalf of the Sierra Club, I am writing to provide you with notice that the Sierra Club intends to file a civil lawsuit against Warrick Newco, LLC. for significant and ongoing violations of the federal Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.*, described herein at the Alcoa Warrick aluminum smelting complex, located at 4000 W. State Road 66 Newburgh, Indiana, 47629. Warrick Newco, LLC, a wholly owned subsidiary of Alcoa Corporation, holds the National Pollutant Discharge Elimination System (NPDES) permit for the Alcoa Warrick complex, IN0001155.

As explained more fully below, the Alcoa Warrick complex is routinely discharging pollutants in violation of the terms and conditions of the IN0001155 permit and the CWA. By failing to comply with its NPDES permit and the CWA, Warrick Newco has injured and will continue to injure or threaten to injure, the health, environmental, aesthetic, and economic interests of the Sierra Club and its members. These injuries or risks are traceable to violations of

the Warrick Newco IN0001155 Permit and redressing these ongoing violations will redress the Sierra Club members' injuries or risks.

Section 505(a) of the CWA permits citizen suits in federal court against persons "alleged to be in violation of (A) an effluent standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation." 33 U.S.C. § 1365(a)(1). An effluent standard or limitation is defined, as relevant here, as an effluent limitation or other limitation under 33 U.S.C. §§ 1311 or 1312; standard of performance under 33 U.S.C. § 1316; or a NPDES permit or condition of a NPDES permit. 33 U.S.C. § 1365(f). Exceedances of NPDES permit limits are violations of a NPDES permit and a violation of the CWA. 33 U.S.C. § 1311(a); 40 C.F.R. § 122.41(a).

Pursuant to 33 U.S.C. § 1365(b)(1)(A), this NOI serves to notify Warrick Newco that the Sierra Club intends to file suit for CWA violations, unless corrected, in the U.S. District Court for the Southern District of Indiana at any time beginning 60 days after the postmarked date of this NOI. 40 C.F.R. § 135.2(c). This NOI includes sufficient information to allow Warrick Newco to identify the specific activities alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of such violation, and the full name, address, and telephone number of the person giving notice. 40 C.F.R. § 135.3(a). Additionally, the Sierra Club notifies Warrick Newco of their intention to sue for ongoing violations of the same type that occur after the violations outlined in this NOI.

I. IN0001155 Permit Requirements

The Alcoa Warrick complex is located on the banks of the Ohio River and includes an aluminum smelter, an aluminum rolling mill, and a coal-fired power plant. The aluminum smelter and coal plant's primary NPDES permit, the IN0001155 permit, is held by Warrick Newco, LLC., a wholly owned subsidiary of Alcoa Corporation. The permit was issued by the Indiana Department of Environmental Management (IDEM) in 2018, modified in 2021, and modified again in 2023.¹ The Warrick Newco Permit authorizes discharges into the Ohio River and an unnamed tributary of Cypress Creek. 2018 Warrick Newco Fact Sheet § 4 (Dec. 2018).²

A. Effluent Limitations and Monitoring Requirements

The IN0001155 Permit requires Warrick Newco to meet the following effluent mercury limits and monitoring requirements, among others, as of January 1, 2022:

| Outfall No. | Kind of Limit | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. |
|-------------|---------------|-----------------------|-------|---------------------------|
| 1 | Concentration | 12 | ng/L | MO AVG |
| 1 | Concentration | 20 | ng/L | DAILY MX |
| 3 | Quantity | 0.00094 | lb./d | MO AVG |

¹ [2018 Warrick Newco Permit](#), [2021 Warrick Newco Permit Modification](#), [2023 Warrick Newco Permit Modification](#) (collectively, "Warrick Newco Permit" and "IN0001155 Permit"). The documents referenced in this NOI can be found in [this Google folder](#) and in an accompanying zipdrive.

² [2018 IN0001155 Fact Sheet](#) (Dec. 2018).

| Outfall No. | Kind of Limit | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. |
|-------------|---------------|-----------------------|-------|---------------------------|
| 3 | Concentration | 12 | ng/L | MO AVG |
| 3 | Concentration | 20 | ng/L | DAILY MX |
| 4 | Concentration | 12 | ng/L | MO AVG |
| 4 | Concentration | 20 | ng/L | DAILY MX |
| 5 | Concentration | 20 | ng/L | DAILY MX |
| 5 | Quantity | Monitoring | lb./d | MO AVG |
| 5 | Quantity | Monitoring | lb./d | DAILY MX |
| 5 | Concentration | 12 | ng/L | MO AVG |
| 5 | Concentration | 20 | ng/L | DAILY MX |

2018 Warrick Newco Permit § I.A. The IN0001155 Permit requires Warrick Newco to meet, among others, the following effluent limits and monitoring requirements as of January 1, 2022:

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. |
|-------------|---------------------------|---------------|-------|------|---------------------------|
| 1 | Copper, total recoverable | Concentration | 0.062 | mg/L | DAILY MX |
| 1 | Copper, total recoverable | Concentration | 0.036 | mg/L | MO AVG |
| 1 | pH | Must be above | 6 | SU | DAILY MN |
| 1 | Zinc, total recoverable | Concentration | 1 | mg/L | DAILY MX |
| 1 | Zinc, total recoverable | Concentration | 0.61 | mg/L | MO AVG |
| 2 | Chlorine, total residual | Concentration | 0.2 | mg/L | DAILY MX |
| 3 | Chlorine, total residual | Concentration | 0.038 | mg/L | DAILY MX |
| 4 | Copper, total recoverable | Concentration | 0.062 | mg/L | DAILY MX |
| 4 | Copper, total recoverable | Concentration | 0.036 | mg/L | MO AVG |
| 4 | Zinc, total recoverable | Concentration | 1 | mg/L | DAILY MX |
| 4 | Zinc, total recoverable | Concentration | 0.61 | mg/L | MO AVG |
| 5 | Copper, total recoverable | Concentration | 0.036 | mg/L | MO AVG |
| 5 | Copper, total recoverable | Concentration | 0.062 | mg/L | DAILY MX |
| 5 | Zinc, total recoverable | Concentration | 0.61 | mg/L | MO AVG |
| 6 | Chlorine, total residual | Concentration | 0.06 | mg/L | DAILY MX |
| 6 | Chlorine, total residual | Concentration | 0.06 | mg/L | MO AVG |

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. |
|-------------|-----------------------------|---------------|----------------------|---------|---------------------------|
| 603 | Aluminum, total recoverable | Quantity | 25 | lb./d | MO AVG |
| 603 | Aluminum, total recoverable | Quantity | 53 | lb./d | DAILY MX |
| 603 | Fluoride, total | Quantity | 93 | lb./d | MO AVG |
| 603 | Fluoride, total | Quantity | 210 | lb./d | DAILY MX |
| 603 | Nickel, total recoverable | Quantity | 1.9 | lb./d | DAILY MX |
| 603 | Zinc, total recoverable | Quantity | 7.1 | lb./d | DAILY MX |
| 603 | Aluminum | Quantity | 53 | lb./day | DAILY MX |
| 603 | Fluoride | Concentration | 210 | lb./d | DAILY MX |
| 006S | Chlorine, total residual | Concentration | 0.006 (quantifiable) | mg/L | DAILY MX |

2018 Warrick Newco Permit § I.A; 2021 Warrick Newco Permit at 36.

B. Other Permit Requirements

The IN0001155 Permit also requires, among other recordkeeping and monitoring requirements, that Warrick Newco submit accurate monitoring reports to the IDEM containing the sampling results obtained during the previous month no later than the 28th day of the month following each completed monitoring period. 2018 Warrick Newco Permit §§ I.C.2, I.C.6, I.C.8.

II. Receiving Water

The Warrick Newco Permit authorizes discharges into the Ohio River and an unnamed tributary of Cypress Creek that discharges to the Ohio River. 2018 Warrick Newco Fact Sheet § 4 (Dec. 2018).

Indiana has designated the receiving sections of the Ohio River between the Alcoa Warrick complex and Evansville (INH6_10, INH7_01, INH8_01) for full body contact recreation, drinking water supplies, and warmwater aquatic habitat. These Ohio River segments are on the federal list of impaired and threatened waters (the CWA Section 303(d) list) due to levels of mercury, dioxin, *E. coli*, and/or PCBs.³

III. Specific Activities Alleged to Constitute a CWA Violation, Including the Dates of Such Violations

Over the last two years, Warrick Newco has repeatedly exceeded its permitted effluent limits for mercury, aluminum, chlorine, copper, fluoride, nickel, pH, and zinc. These exceedances are continuing.

³ https://www.in.gov/idem/nps/files/ir_2022_apndx_1_listing_tables.xlsx

These permit limit exceedances are violations of the Warrick Newco Permit and the CWA. The Warrick Newco permit exceedances are discharges of pollutants into waters of the United States from point sources. Industrial process wastewater and contaminated stormwater are “pollutants” as that term is defined in section 502(6) of the CWA. 33 U.S.C. § 1362(6). The term “discharge of a pollutant” includes “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). The pipes and storm drains that discharge pollutants at the Warrick Newco plant are point sources. 33 U.S.C. § 1362(14). Mercury, aluminum, chlorine, copper, fluoride, nickel, pH, and zinc are pollutants. Both receiving waters—the Ohio River and Cypress Creek—are federal waters. 40 C.F.R. § 120.2.

Warrick Newco has been issued a valid NPDES permit. Section 402 of the CWA, 33 U.S.C. § 1342, created the NPDES program, under which EPA may issue NPDES permits for point source discharges to waters of the United States. Section 402(b) of the Act, 33 U.S.C. § 1342(b), authorizes the EPA Administrator to delegate to the states the authority to issue NPDES permits. The state of Indiana, through IDEM, was delegated the authority to issue NPDES permits in 1986 and has been implementing the federal permitting program since. IDEM issued the Warrick Newco IN0001155 permit in 2018, then modified the permit in 2021 and 2023. Warrick Newco must comply with the Warrick Newco IN0001155 permit.

Section 301(a) of the CWA makes unlawful the discharge of any pollutant into waters of the United States by any person except in compliance with certain other enumerated sections of the CWA, including compliance with validly-issued NPDES permits. 33 U.S.C. § 1311(a); *see also* 33 U.S.C. § 1342 (permitting requirements). Moreover, under Section II.A of the 2018 Warrick Newco Permit, “[t]he permittee shall comply with all terms and conditions of this permit ... Any permit noncompliance constitutes a violation of the Clean Water Act.” *See also* 40 C.F.R. § 122.41(a) (“Any permit noncompliance constitutes a violation of the Clean Water Act”); 40 C.F.R. § 123.25 (applying the regulation to state programs).

These CWA violations are described in detail in the counts that follow:

- Count 1: Violations of Warrick Newco Permit’s Mercury Effluent Limits
- Count 2: Violations of Warrick Newco Permit’s Aluminum Limits
- Count 3: Violations of Warrick Newco Permit’s Chlorine Limits
- Count 4: Violations of Warrick Newco Permit’s Copper Limits
- Count 5: Violations of Warrick Newco Permit’s Fluoride Limits
- Count 6: Violations of Warrick Newco Permit’s Nickel Limits
- Count 7: Violations of Warrick Newco Permit’s pH Limits
- Count 8: Violations of Warrick Newco Permit’s Zinc Limits

Sierra Club can bring suit for these CWA violations. Section 505(a) of the CWA permits citizen suits in federal court against persons “alleged to be in violation of (A) an effluent standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation.” 33 U.S.C. § 1365(a)(1). For purposes of citizen

suits, “effluent standard or limitation,” includes violations of numeric effluent limits in a permit. *See* 33 U.S.C. § 1365(f) (defining the term for purposes of Section 505).

For the violations below and for similar violations that occur after the date of this NOI, each day of each violation of the Warrick Newco Permit constitutes a violation for which a penalty of up to \$64,618 can be assessed under the CWA, and for which injunctive relief to abate the noncompliance is available. 88 Fed. Reg. 986 (Jan. 6, 2023). Each day of each daily maximum effluent limitation exceedance constitutes a separate violation of the Warrick Newco Permit and subjects Warrick Newco to a penalty of up to \$64,618 for each day. *Id.* Each day of the month in which the discharged wastewater exceeded the monthly average limit is a separate violation of the Warrick Newco Permit limit for which a penalty of up to \$64,618 can be assessed under the CWA. *Id.*

A. Count 1: Violations of Warrick Newco Permit’s Mercury Limits

Warrick Newco has consistently violated its permit’s effluent limitations for mercury since these limits became effective in 2022. Warrick Newco has also failed to submit required monitoring for mercury. The 2022 and 2023 mercury exceedances Warrick Newco reported on its Discharge Monitoring Reports (DMRs)⁴ and the DMR non-receipt violations listed on EPA’s ECHO database are below:

| Outfall No. | Kind of Limit | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|----------------------------|-----------------------|-------|---------------------------|--------------------------|-------------------------------------|-------|------------------------|
| 1 | Concentration ² | 12 | ng/L | MO AVG | 6/30/2023 | 14 | ng/L | 17% |
| 3 | Quantity ¹ | 0.00094 | lb./d | MO AVG | 6/30/2023 | 0.00142 | lb./d | 51% |
| 3 | Concentration ² | 12 | ng/L | MO AVG | 6/30/2023 | 20 | ng/L | 67% |
| 4 | Concentration ² | 12 | ng/L | MO AVG | 6/30/2023 | 257 | ng/L | 2,042% |
| 4 | Concentration ³ | 20 | ng/L | DAILY MX | 6/30/2023 | 257 | ng/L | 1,185% |
| 5 | Concentration ³ | 20 | ng/L | DAILY MX | 6/30/2023 | DMR Non-Receipt Reporting Violation | | |
| 5 | Quantity ² | | lb./d | DAILY MX | 6/30/2023 | DMR Non-Receipt Reporting Violation | | |
| 5 | Quantity ¹ | | lb./d | MO AVG | 6/30/2023 | DMR Non-Receipt Reporting Violation | | |
| 5 | Concentration ² | 12 | ng/L | MO AVG | 6/30/2023 | DMR Non-Receipt Reporting Violation | | |
| 1 | Concentration ³ | 20 | ng/L | DAILY MX | 3/31/2023 | 80.9 | ng/L | 305% |
| 5 | Concentration ³ | 20 | ng/L | DAILY MX | 3/31/2023 | 59.4 | ng/L | 197% |
| 5 | Concentration ² | 12 | ng/L | MO AVG | 3/31/2023 | 59.4 | ng/L | 395% |
| 1 | Concentration ² | 12 | ng/L | MO AVG | 3/31/2023 | 37.63 | ng/L | 214% |
| 4 | Concentration ² | 12 | ng/L | MO AVG | 12/31/2022 | 213 | ng/L | 1,675% |
| 4 | Concentration ³ | 20 | ng/L | DAILY MX | 12/31/2022 | 213 | ng/L | 965% |
| 3 | Concentration ³ | 20 | ng/L | DAILY MX | 12/31/2022 | 26.2 | ng/L | 31% |

⁴ All DMRs can be found [here](#).

| Outfall No. | Kind of Limit | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|----------------|-----------------------|-------|---------------------------|--------------------------|--------------|-------|------------------------|
| 1 | Concentration3 | 20 | ng/L | DAILY MX | 12/31/2022 | 25.45 | ng/L | 27% |
| 1 | Concentration2 | 12 | ng/L | MO AVG | 12/31/2022 | 21.33 | ng/L | 78% |
| 3 | Concentration2 | 12 | ng/L | MO AVG | 12/31/2022 | 18.3 | ng/L | 53% |
| 3 | Quantity1 | 0.00094 | lb./d | MO AVG | 12/31/2022 | 0.00157 | lb./d | 67% |
| 1 | Concentration3 | 20 | ng/L | DAILY MX | 9/30/2022 | 207 | ng/L | 935% |
| 1 | Concentration2 | 12 | ng/L | MO AVG | 9/30/2022 | 88.6 | ng/L | 638% |
| 5 | Concentration2 | 12 | ng/L | MO AVG | 9/30/2022 | 46.1 | ng/L | 284% |
| 5 | Concentration3 | 20 | ng/L | DAILY MX | 9/30/2022 | 46.1 | ng/L | 131% |
| 5 | Concentration2 | 12 | ng/L | MO AVG | 6/30/2022 | 155 | ng/L | 1,192% |
| 5 | Concentration3 | 20 | ng/L | DAILY MX | 6/30/2022 | 155 | ng/L | 675% |
| 1 | Concentration3 | 20 | ng/L | DAILY MX | 6/30/2022 | 35.4 | ng/L | 77% |
| 1 | Concentration2 | 12 | ng/L | MO AVG | 6/30/2022 | 15.1 | ng/L | 26% |
| 5 | Concentration3 | 20 | ng/L | DAILY MX | 3/31/2022 | 174 | ng/L | 770% |
| 5 | Concentration2 | 12 | ng/L | MO AVG | 3/31/2022 | 104 | ng/L | 767% |
| 3 | Concentration2 | 12 | ng/L | MO AVG | 2/28/2022 | 15.9 | ng/L | 33% |
| 3 | Quantity1 | 0.00094 | lb./d | MO AVG | 2/28/2022 | 0.00107 2 | lb./d | 14% |

Warrick Newco also separately provided IDEM additional notices of exceedances of the following mercury permit limits:

| Outfall No. | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------------------|---------|---------------------------|------------------------|---------------|---------|
| 1 | 20 | ng/L | DAILY MX | 1/02/2023 ⁵ | 80.9 | ng/L |
| 5 | 20 | ng/L | DAILY MX | 1/02/2023 | 59.4 | ng/L |
| 3 | 12 | ng/L | MO AVG | 2/02/2022 | 162,000 | ng/L |
| 3 | 12 | ng/L | MO AVG | 2/02/2022 | 155,000 | ng/L |
| 5 | 20 | ng/L | DAILY MX | 3/06/2022 | 174 | ng/L |
| 5 | 12 | ng/L | MO AVG | 3/06/2022 | 174 | ng/L |
| 1 | 20 | ng/L | DAILY MX | 4/13/2022 | 35.4 | ng/L |
| 3 | .00094 | lb./day | MO AVG | June 2022 | .000674 | lb./day |
| 1 | 12 | ng/L | MO AVG | Q2 2002 | 15.1 | ng/L |
| 1 | 12 | ng/L | MO AVG | 6/29/2023 | 14 | ng/L |
| 4 | 12 | ng/L | MO AVG | 6/29/2023 | 257 | ng/L |
| 4 | 20 | ng/L | DAILY MX | 6/29/2023 | 257 | ng/L |
| 5 | 20 | ng/L | DAILY MX | 6/29/2023 | Missed Sample | |
| 3 | .00094 | lb./day | MO AVG | 6/06/2023 | .00142 | lb./day |
| 3 | 12 | ng/L | MO AVG | 6/06/2023 | 20 | ng/L |

⁵ Warrick Newco's additional notices of exceedances can be found [here](#).

| Outfall No. | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------------------|------|---------------------------|--------------------|--------------|------|
| 5 | 20 | ng/L | DAILY MX | 7/08/2022 | 42.95 | ng/L |

In a September 2023 inspection, IDEM stated that “[t]he September 2022 DMR did not correctly fill out the exceedance column for Zinc, Copper, & Mercury for [Outfall] 005,” and “[t]he December 2022 DMR did not correctly fill out the exceedance column for Mercury for 001 AQ.”⁶ This NOI also provides notice for any exceedances of mercury limits that were not correctly documented by Warrick Newco in its DMRs.

B. Count 2: Violations of Warrick Newco Permit’s Aluminum Limits

Warrick Newco has also repeatedly exceeded the aluminum limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs:

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|-----------------------------|---------------|-------|-------|---------------------------|--------------------------|-----------|-------|------------------------|
| 603 | Aluminum, total recoverable | Quantity1 | 25 | lb./d | MO AVG | 6/30/2023 | 34 | lb./d | 36% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 6/30/2023 | 168.2 | lb./d | 217% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 5/31/2023 | 748.5 | lb./d | 1,312% |
| 603 | Aluminum, total recoverable | Quantity1 | 25 | lb./d | MO AVG | 5/31/2023 | 89.48 | lb./d | 258% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 9/30/2022 | 62.5 | lb./d | 18% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 8/31/2022 | 184 | lb./d | 247% |
| 603 | Aluminum, total recoverable | Quantity1 | 25 | lb./d | MO AVG | 8/31/2022 | 35.6 | lb./d | 42% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 7/31/2022 | 377.8 | lb./d | 613% |
| 603 | Aluminum, total recoverable | Quantity1 | 25 | lb./d | MO AVG | 7/31/2022 | 73.5 | lb./d | 194% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 6/30/2022 | 83.2 | lb./d | 57% |

⁶ [9-13-2023 IDEM Inspection Summary/ Noncompliance Letter](#) at 6.

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|-----------------------------|---------------|-------|-------|---------------------------|--------------------------|-----------|-------|------------------------|
| 603 | Aluminum, total recoverable | Quantity1 | 25 | lb./d | MO AVG | 6/30/2022 | 28.1 | lb./d | 12% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 4/30/2022 | 141 | lb./d | 166% |
| 603 | Aluminum, total recoverable | Quantity1 | 25 | lb./d | MO AVG | 4/30/2022 | 37 | lb./d | 48% |
| 603 | Aluminum, total recoverable | Quantity2 | 53 | lb./d | DAILY MX | 3/31/2022 | 86.3 | lb./d | 63% |

Warrick Newco also separately provided IDEM additional notices of the following permit limit exceedances:

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------|-----------------------|---------|---------------------------|------------------------|--------------|---------|
| 303/603 | Aluminum | 53 | lb./d | DAILY MX | 3/22/2022 ⁷ | 82.09 | lb./d |
| 403/603 | Aluminum | 53 | lb./d | DAILY MX | 3/22/2022 | 4.31 | lb./d |
| 603 | Aluminum | 53 | lb./day | DAILY MX | 7/20/2022 | 56.5 | lb./day |
| 603 | Aluminum | 53 | lb./day | DAILY MX | 7/25/2022 | 377.8 | lb./day |
| 603 | Aluminum | 53 | lb./day | DAILY MX | 8/30/2022 | 184 | lb./day |
| 603 | Aluminum | 53 | lb./day | DAILY MX | 6/14/2023 | 169.7 | lb./day |

C. Count 3: Violations of Warrick Newco Permit's Total Residual Chlorine Limits

Warrick Newco has also repeatedly exceeded the total residual chlorine limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs:

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|--------------------------|-----------------|-------|------|---------------------------|--------------------------|-----------|------|------------------------|
| 10 | Chlorine, total residual | Concentration 3 | 0.06 | mg/L | DAILY MX | 8/31/2023 | 0.06 | mg/L | 0% |
| 3 | Chlorine, total residual | Concentration 3 | 0.038 | mg/L | DAILY MX | 1/31/2023 | 0.04 | mg/L | 5% |

⁷ Warrick Newco's additional notices of exceedances can be found [here](#).

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|--------------------------|-----------------|-------|------|---------------------------|--------------------------|-----------|------|------------------------|
| 8 | Chlorine, total residual | Concentration 3 | 0.06 | mg/L | DAILY MX | 12/31/2022 | 0.16 | mg/L | 167% |
| 6 | Chlorine, total residual | Concentration 3 | 0.06 | mg/L | DAILY MX | 10/31/2022 | 0.14 | mg/L | 133% |
| 6 | Chlorine, total residual | Concentration 3 | 0.06 | mg/L | DAILY MX | 9/30/2022 | 0.4 | mg/L | 567% |
| 6 | Chlorine, total residual | Concentration 2 | 0.06 | mg/L | MO AVG | 9/30/2022 | 0.07 | mg/L | 17% |
| 6 | Chlorine, total residual | Concentration 3 | 0.06 | mg/L | DAILY MX | 8/31/2022 | 0.58 | mg/L | 867% |
| 6 | Chlorine, total residual | Concentration 2 | 0.06 | mg/L | MO AVG | 8/31/2022 | 0.18 | mg/L | 200% |
| 2 | Chlorine, total residual | Concentration 3 | 0.2 | mg/L | DAILY MX | 5/31/2022 | 0.47 | mg/L | 135% |

Warrick Newco also separately provided IDEM additional notices of the following exceedances:

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-------------------------|-----------------------|------|---------------------------|-------------------------|--------------|------|
| 2 | Total Residual Chlorine | 0.2 | mg/L | DAILY MX | 05/22/2022 ⁸ | 0.47 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 8/15/2022 | 0.08 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 8/16/2022 | 0.17 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 8/16/2022 | 0.22 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 8/22/2022 | 0.21 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 8/22/2022 | 0.24 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 8/31/2022 | 0.54 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 9/9/2022 | 0.45 | mg/L |
| 006S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 10/10/2022 | 0.1 | mg/L |
| 008S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 12/28/2022 | 0.16 | mg/L |

⁸ Warrick Newco's additional notices of exceedances can be found [here](#).

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-------------------------|-----------------------|------|---------------------------|--------------------|--------------|------|
| 008S | Total Residual Chlorine | 0.006 | mg/L | DAILY MX | 12/28/2022 | 0.09 | mg/L |
| 3 | Total Residual Chlorine | 0.038 | mg/L | DAILY MX | 1/30/2023 | 0.04 | mg/L |

On September 13, 2023, IDEM sent Warrick Newco an “Inspection Summary/ Noncompliance Letter” stating that “there was one chlorine exceedance for 008 SM that was not reported,” and “[t]he July 2023 DMR did not have various exceedance columns filled out.”⁹ This NOI also provides notice for any exceedances of permit limits that were not correctly documented by Warrick Newco in its DMRs.

D. Count 4: Violations of Warrick Newco Permit’s Copper Limits

Warrick Newco has also repeatedly exceeded the copper limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs.

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|---------------------------|----------------|-------|------|---------------------------|--------------------------|-----------|------|------------------------|
| 1 | Copper, total recoverable | Concentration3 | 0.062 | mg/L | DAILY MX | 6/30/2023 | 0.133 | mg/L | 115% |
| 1 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 6/30/2023 | 0.133 | mg/L | 269% |
| 4 | Copper, total recoverable | Concentration3 | 0.062 | mg/L | DAILY MX | 6/30/2023 | 0.075 | mg/L | 21% |
| 4 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 6/30/2023 | 0.075 | mg/L | 108% |
| 5 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 6/30/2023 | 0.044 | mg/L | 22% |
| 5 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 3/31/2023 | 0.068 | mg/L | 89% |
| 5 | Copper, total recoverable | Concentration3 | 0.062 | mg/L | DAILY MX | 3/31/2023 | 0.068 | mg/L | 10% |
| 5 | Copper, total recoverable | Concentration3 | 0.062 | mg/L | DAILY MX | 9/30/2022 | 0.145 | mg/L | 134% |
| 5 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 9/30/2022 | 0.145 | mg/L | 303% |
| 5 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 6/30/2022 | 0.148 | mg/L | 311% |
| 5 | Copper, total recoverable | Concentration3 | 0.062 | mg/L | DAILY MX | 6/30/2022 | 0.148 | mg/L | 139% |
| 5 | Copper, total recoverable | Concentration3 | 0.062 | mg/L | DAILY MX | 3/31/2022 | 0.12 | mg/L | 94% |
| 5 | Copper, total recoverable | Concentration2 | 0.036 | mg/L | MO AVG | 3/31/2022 | 0.088 | mg/L | 144% |

⁹ [9-13-2023 IDEM Inspection Summary/ Noncompliance Letter](#) at 6.

Warrick Newco also separately provided IDEM additional notices of the following exceedances:

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------|-----------------------|------|---------------------------|-----------------------|--------------|------|
| 5 | Copper | 0.036 | mg/L | MO AVG | Q2 2002 ¹⁰ | 0.148 | mg/L |
| 5 | Copper | 0.062 | mg/L | MO AVG | 6/01/2022 | 0.15 | mg/L |
| 5 | Copper | 0.062 | mg/L | MO AVG | 7/8/2022 | 0.145 | mg/L |
| 5 | Copper | 0.036 | mg/L | MO AVG | 6/29/2023 | 0.044 | mg/L |

On September 13, 2023, IDEM sent Warrick Newco an “Inspection Summary/ Noncompliance Letter” stating that “[t]he September 2022 DMR did not correctly fill out the exceedance column for Zinc, Copper, & Mercury for [Outfall] 005,” and “[t]he July 2023 DMR did not have various exceedance columns filled out.”¹¹ This NOI also provides notice for any exceedances of permit limits that were not correctly documented by Warrick Newco in its DMRs.

E. Count 5: Violations of Warrick Newco Permit’s Fluoride Limits

Warrick Newco has also repeatedly exceeded the fluoride limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs:

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|-----------------|---------------|-------|-------|---------------------------|--------------------------|-----------|-------|------------------------|
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 5/31/2023 | 1,073 | lb./d | 411% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 9/30/2022 | 211.5 | lb./d | 1% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 8/31/2022 | 345 | lb./d | 64% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 8/31/2022 | 106 | lb./d | 14% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 7/31/2022 | 652.7 | lb./d | 211% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 7/31/2022 | 156.7 | lb./d | 68% |

¹⁰ Warrick Newco’s additional notices of exceedances can be found [here](#).

¹¹ [9-13-2023 IDEM Inspection Summary/ Noncompliance Letter](#) at 6.

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|-----------------|---------------|-------|-------|---------------------------|--------------------------|-----------|-------|------------------------|
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 6/30/2022 | 241.1 | lb./d | 15% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 4/30/2022 | 396.6 | lb./d | 89% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 4/30/2022 | 117.7 | lb./d | 27% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 5/31/2023 | 160.7 | lb./d | 73% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 5/31/2023 | 1,073 | lb./d | 411% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 9/30/2022 | 211.5 | lb./d | 1% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 8/31/2022 | 345 | lb./d | 64% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 8/31/2022 | 106 | lb./d | 14% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 7/31/2022 | 652.7 | lb./d | 211% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 7/31/2022 | 156.7 | lb./d | 68% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 6/30/2022 | 241.1 | lb./d | 15% |
| 603 | Fluoride, total | Quantity2 | 210 | lb./d | DAILY MX | 4/30/2022 | 396.6 | lb./d | 89% |
| 603 | Fluoride, total | Quantity1 | 93 | lb./d | MO AVG | 4/30/2022 | 117.7 | lb./d | 27% |

Warrick Newco also separately provided IDEM additional notices of the following exceedances:

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------|-----------------------|---------|---------------------------|-------------------------|--------------|---------|
| 303/603 | Fluoride | 210 | lb./d | DAILY MX | 4/16/2022 ¹² | 377.1 | lb./d |
| 403/603 | Fluoride | 210 | lb./d | DAILY MX | 4/16/2022 | 155,000 | lb./d |
| 603 | Fluoride | 93 | lb./d | MO AVG | 4/18/2022 | 174 | lb./d |
| 603 | Fluoride | 210 | lb./d | DAILY MX | 4/18/2022 | 231.5 | lb./d |
| 603 | Fluoride | 210 | lb./d | DAILY MX | 6/08/2022 | 241 | lb./day |
| 603 | Fluoride | 210 | lb./day | DAILY MX | 7/25/2022 | 652.67 | lb./day |

¹² Warrick Newco's additional notices of exceedances can be found [here](#).

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------|-----------------------|---------|---------------------------|--------------------|--------------|---------|
| 603 | Fluoride | 210 | lb./day | DAILY MX | 7/31/2022 | 232.97 | lb./day |
| 603 | Fluoride | 210 | lb./day | DAILY MX | 8/30/2022 | 345 | lb./day |
| 603 | Fluoride | 210 | lb./day | DAILY MX | 9/12/2022 | 211.5 | lb./day |

F. Count 6: Violations of Warrick Newco Permit's Nickel Limits

Warrick Newco has also repeatedly exceeded the nickel limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs:

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|---------------------------|---------------|-------|-------|---------------------------|--------------------------|-----------|-------|------------------------|
| 603 | Nickel, total recoverable | Quantity 2 | 1.9 | lb./d | DAILY MX | 5/31/2023 | 5.79 | lb./d | 205% |
| 603 | Nickel, total recoverable | Quantity 2 | 1.9 | lb./d | DAILY MX | 7/31/2022 | 2.25 | lb./d | 18% |
| 603 | Nickel, total recoverable | Quantity 2 | 1.9 | lb./d | DAILY MX | 5/31/2023 | 5.79 | lb./d | 205% |
| 603 | Nickel, total recoverable | Quantity 2 | 1.9 | lb./d | DAILY MX | 7/31/2022 | 2.25 | lb./d | 18% |

G. Count 7: Violations of Warrick Newco Permit's pH Limits

Warrick Newco has also repeatedly exceeded the pH limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs:

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Minimum/Maximum | End of Monitoring Period | DMR Value | Unit |
|-------------|-----------|---------------|-------|------|-----------------------|--------------------------|-----------|------|
| 1 | pH | Must be above | 6 | SU | DAILY MN | 9/30/2022 ¹³ | 5 | SU |
| 1 | pH | Must be above | 6 | SU | DAILY MN | 6/30/2022 | 3.6 | SU |
| 1 | pH | Must be above | 6 | SU | DAILY MN | 9/30/2022 | 5 | SU |
| 1 | pH | Must be above | 6 | SU | DAILY MN | 6/30/2022 | 3.6 | SU |

H. Count 8: Violations of Warrick Newco Permit's Zinc Limits

Warrick Newco has also repeatedly exceeded the zinc limits in the Warrick Newco NPDES permit. These exceedances were reported by Warrick Newco on its DMRs:

¹³ Warrick Newco's additional notices of exceedances can be found [here](#).

| Outfall No. | Pollutant | Kind of Limit | Limit | Unit | Daily Max. or Monthly Av. | End of Monitoring Period | DMR Value | Unit | % of Limit Exceeded By |
|-------------|-------------------------|-----------------|-------|-------|---------------------------|--------------------------|-----------|-------|------------------------|
| 1 | Zinc, total recoverable | Concentration 3 | 1 | mg/L | DAILY MX | 6/30/2023 | 1.06 | mg/L | 6% |
| 1 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 6/30/2023 | 1.06 | mg/L | 74% |
| 4 | Zinc, total recoverable | Concentration 3 | 1 | mg/L | DAILY MX | 6/30/2023 | 12.554 | mg/L | 1,155% |
| 4 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 6/30/2023 | 12.554 | mg/L | 1,958% |
| 603 | Zinc, total recoverable | Quantity2 | 7.1 | lb./d | DAILY MX | 5/31/2023 | 9.72 | lb./d | 37% |
| 5 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 9/30/2022 | 0.857 | mg/L | 40% |
| 5 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 6/30/2022 | 0.752 | mg/L | 23% |
| 1 | Zinc, total recoverable | Concentration 3 | 1 | mg/L | DAILY MX | 6/30/2023 | 1.06 | mg/L | 6% |
| 1 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 6/30/2023 | 1.06 | mg/L | 74% |
| 4 | Zinc, total recoverable | Concentration 3 | 1 | mg/L | DAILY MX | 6/30/2023 | 12.554 | mg/L | 1,155% |
| 4 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 6/30/2023 | 12.554 | mg/L | 1,958% |
| 603 | Zinc, total recoverable | Quantity2 | 7.1 | lb./d | DAILY MX | 5/31/2023 | 9.72 | lb./d | 37% |
| 5 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 9/30/2022 | 0.857 | mg/L | 40% |
| 5 | Zinc, total recoverable | Concentration 2 | 0.61 | mg/L | MO AVG | 6/30/2022 | 0.752 | mg/L | 23% |

On September 13, 2023, IDEM sent Warrick Newco an “Inspection Summary/ Noncompliance Letter” stating that “[t]he September 2022 DMR did not correctly fill out the exceedance column for Zinc, Copper, & Mercury for [Outfall] 005,” and “[t]he July 2023 DMR did not have various exceedance columns filled out.”¹⁴ This NOI also provides notice for any exceedances of permit limits that were not correctly documented by Warrick Newco in its DMRs.

Warrick Newco also separately provided IDEM additional notices of the following exceedances:

¹⁴ [9-13-2023 IDEM Inspection Summary/ Noncompliance Letter](#) at 6.

| Outfall No. | Parameter | Permit Effluent Limit | Unit | Daily Max. or Monthly Av. | Date of Exceedance | Sample Value | Unit |
|-------------|-----------|-----------------------|------|---------------------------|-----------------------|--------------|------|
| 5 | Zinc | 0.61 | mg/L | MO AVG | Q2 2002 ¹⁵ | 0.752 | mg/L |
| 5 | Zinc | 0.61 | mg/L | MO AVG | 7/8/2022 | 0.857 | mg/L |
| 1 | Zinc | 1 | mg/L | DAILY MX | 6/29/2023 | 1.051 | mg/L |
| 1 | Zinc | 0.61 | mg/L | MO AVG | 6/29/2023 | 1.051 | mg/L |
| 4 | Zinc | 1 | mg/L | DAILY MX | 6/29/2023 | 12.55 | mg/L |

In sum, this NOI provides notice of Warrick Newco’s violation of its permit’s limits for mercury, aluminum, chlorine, copper, fluoride, nickel, pH, and zinc since January 2022; for violations of these parameters that occur after the date of this NOI; and for any other exceedances of these parameters that Warrick Newco improperly reported on its DMRs. Each day of each of these violations of the Warrick Newco Permit constitutes a violation of the CWA for which penalties can be assessed under the CWA.

IV. The Person or Persons Responsible for the Alleged Violations

The person or persons responsible for the alleged violations is Warrick Newco LLC. Under the CWA, the term ‘person’ “means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.” 33 U.S.C. § 1362(5). As a corporation, Warrick Newco LLC is a person for purposes of the CWA. Warrick Newco is the holder of the IN0001155 NPDES permit. As the permit holder, Warrick Newco is responsible for the permit violations and, consequently, the CWA violations. Warrick Newco is also the owner and operator of the Alcoa Warrick primary aluminum smelting facility located at 4400 West State Road 66, Newburgh, IN 27629-0010.

V. The Location of the Alleged Violations

The location of the alleged violations is:

Alcoa Warrick Operations
4400 West State Road 66
Newburgh, IN 47629-0010

VI. The Full Name and Address and Phone Number of the Person Giving the Notice

The Sierra Club is the person giving Warrick Newco LLC notice regarding the violations of effluent standards or limitations and provides its organizational information pursuant to 40 C.F.R. § 135.3. The Sierra Club is located at 2101 Webster Street, Suite 1300, Oakland, California, 94612 and its phone number is (415) 977-5589.

¹⁵ Warrick Newco’s additional notices of exceedances can be found [here](#).

The Sierra Club is a nationwide non-profit environmental membership organization, which has its purpose to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

Members of the Sierra Club Hoosier (Indiana) chapter are avid bird-watchers along the Ohio and in the area around Newburgh, regularly walk along the Ohio River, drink treated Ohio River water and otherwise use the Ohio River downstream of the Alcoa Warrick complex and discharges. These members have been injured and continue to be injured by the Warrick Newco pollution exceeding the Warrick Newco Permit limits, as described herein, as these violations threaten members' use and enjoyment of the Ohio River and their enjoyment of the birds that use the Ohio River.

VII. Conclusion

Warrick Newco has repeatedly exceeded the effluent limits in the Warrick Newco IN0001155 permit, and thus the CWA. Due to the high number and repetitive nature of the violations, the Sierra Club believes that Warrick Newco will continue to violate the Warrick Newco NPDES Permit and the CWA. Accordingly, EIP intends to file suit on behalf of the Sierra Club in the U.S. District Court for the Southern District of Indiana pursuant to 33 U.S.C. § 1365(a)(1) and 33 U.S.C. § 1365(b)(1)(A) any time after 60 days from the postmarked date of this NOI. This lawsuit will seek to enjoin and abate the violations described above, ensure future compliance with federal and state law, obtain civil penalties, recover attorneys' fees and costs of litigation, and obtain any other appropriate relief.

If you believe any of the facts described above are in error or have any information indicating that you are not violating and have not violated the CWA, or if you are interested in an early and prompt resolution of this matter, I urge you to contact me immediately.

Respectfully submitted,

s:/ Meg Parish

Meg Parish, Senior Attorney

Environmental Integrity Project

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Washington, DC 20005

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