

bcc: Ms. Susan Jere White, Staff Attorney, Waste Section, Environmental Law Div.
Mr. Gary Beyer, Remediation Division
Ms. Jean Shaw, I&HW Permits Section
Mr. Michael Brashear, Waste Section Manager, Tyler Regional Office

STATUS UPDATE SEPTEMBER 30, 2008

Addressing Hearing Request, PCO Overview, and Site Characterization of U. S. Steel Tubular Products Plant

I. TIMING of PCO APPLICATION, HEARING REQUEST, and PCO SIGNING

In March 2001, Lone Star Steel (LSS) (now U.S. Steel Tubular Products) asked the Executive Director to suspend technical review of its application for a RCRA permit which would have addressed closure and post-closure of units at the site. Effective September 2001, the 77th Texas Legislature authorized PCOs as an alternative authorization mechanism for post-closure activities in lieu of the RCRA permit. The Commission adopted PCO rules in December of 2002.

After the Executive Director processed LSS's 2004 PCO application (amended 7 times from 2005-2008), LSS published Notice of a Proposed PCO and Preliminary Decision in July 2007. In August 2007, the Staff sent a Final PCO to LSS for signature. At that time, LSS informed the Staff that the Company had been merged into U.S. Steel Corporation and would be undergoing a reorganization. The Staff worked with LSS representatives over several months to modify the proposed PCO to reflect the name change of the new corporate entity.

In December, 2007, Mr. Donnie Turner submitted a hearing request (*see Exhibit A*) for both the PCO application and an air quality renewal application. Mr. Turner's hearing request was not timely for the PCO because it was submitted five months after the notice period. Instead of a formal Response to Comments, the Waste Section of the Office of Legal Services sent a Comment Response Letter to Mr. Turner, which is attached as **Exhibit B**.

The Comment Response Letter addresses Mr. Turner's allegation that LSS illegally dumped hazardous materials onto his property and that LSS's waste sites would contaminate his groundwater. As the Comment Response Letter explains, both EPA and TCEQ Region V investigators checked into the claims and independently concluded that LSS did not illegally dispose of wastes onto Mr. Turner's property. The Executive Director's staff in the Remediation Division concluded that the direction of the groundwater flow at the site is away from his property and that the waste units at LSS posed no threat to Mr. Turner or members of the public.

Finally, the Comment Response Letter indicates that TCEQ rules do not provide members of the public with an opportunity for a contested case hearing. Only an Applicant, Executive Director, or Public Interest Counsel may request a contested case hearing. (*See* 30 TAC §80.109 (b) (11)).

II. OVERVIEW OF PROPOSED PCO

The PCO proposed for U.S. Steel Tubular Products (formerly Lone Star Steel or LSS) is unique among PCOs presented to the Commission because it addresses both closed and unclosed units.

Two closed RCRA hazardous waste landfills at the facility are subject to PCO provisions requiring post-closure care (e.g. unit security, unit inspections to ensure integrity of final cover, and continued groundwater monitoring). Under the PCO, the post-closure care period for the closed units is 30 years from the date of certified and approved closure. LSS must also submit biennial status reports and notify the Executive Director if a release of hazardous contaminants is detected. To date, no LSS RCRA waste management unit has had a release to groundwater above background levels and above health-based levels

Under the PCO, LSS must investigate solid waste management unit (SWMU) 5B and must perform corrective action for groundwater remediation at SWMU D.

To date, no RCRA waste management unit at LSS has had a release to groundwater above background levels and above health-based levels but SWMU D has had a release which LSS must address under the proposed PCO provisions.

III. SITE HISTORY

The site was originally an iron ore strip mine in the 1950's and 1960's. In the 1950s, LSS began using the site for non-mining industrial activities such as coal tar distillation and steel tubing manufacturing. LSS disposed of wastes generated by these activities in landfills and impoundments located around the site (see map; further details on specific units provided below).

IV. SITE GEOLOGY

The LSS facility is located near the town of Lone Star on Highway 250 in Morris County, just north of the Lake of the Pines and Sorrels Basin. It is situated on top of a ridge made of the Sparta and Weches Formation. Once LSS removed the limited Sparta sands, it strip mined ironstone from the very hard, dense clays and silts of the upper Weches Formation.

The clay layers beneath all of the units limit the mobility of groundwater. Both the Weches and Queen City Formations under the site contain interlaminated sands and clays which limit the vertical migration of potential contaminants.

V. AQUIFER

Most citizens in the local area get their drinking water supply from surface water sources, rather than groundwater. Cypress Aquifer, the uppermost aquifer at the site, is located between 50 to 60 feet in depth from the land surface. There are no drinking water wells within ½ mile of the site.

The site geology is expected to be protective of groundwater. In his comment letter dated December 14, 2007, Mr. Donnie Turner expressed concern that groundwater from under LSS's waste units would contaminate his property. However, LSS has demonstrated that the underlying aquifer is not contaminated and the groundwater flow direction is away from his property.

VI. BACKGROUND of RCRA UNITS

A. Unit 01/02

LSS closed and capped Landfill Unit 01/02 in April 1991 which contained 820,000 cubic yards of both hazardous and nonhazardous waste. Waste managed in the unit includes friable asbestos, dredgings, sludges, flue dust, baghouse dust, plant refuse, spent refractory brick, mill scale, slag, spent barium heat treating salts, threadlube compound, and varnish residue.

The Chemicals of Concern (COCs) for the unit are benzene, toluene, ethylbenzene, xylene, chromium and lead, based on an evaluation of the constituents stored in the landfill and groundwater monitoring results. The Unit is subject to periodic inspection and detection groundwater monitoring to ensure that the unit does not contaminate the groundwater. LSS samples the Unit's monitoring wells semiannually for the COCs listed above, plus pH and specific conductance.

The landfill cap is constructed of a three-foot thick compacted clay which meets standards for landfill caps found in the TCEQ Rules (see 30 TAC Chapter 335). LSS also inspects the final cap and berm semiannually to protect against erosion and infiltration of water which could leach the contaminants of concern into an aquifer underlying the Unit.

Unit 01/02 has 9 monitoring wells sited up gradient and down gradient to provide background quality of the groundwater and to detect any releases to groundwater. The most recent sampling report for this Unit dated January 10, 2008, reflects no detection of COCs above background levels nor above health-based levels.

B. Unit 07A

The August 1991 closure of Landfill Unit 07A consisted of construction of a three-foot thick clay cap with one-foot vegetation cover on the top and sides of the above-graded fill. This Unit contains 155,000 cubic yards of mostly hazardous waste. Waste managed in the unit includes open hearth flue dust, air pollution sludge from open-hearth and electric arc furnaces, and hazardous dredgings.

The COCs for the unit are cadmium, chromium, lead, and zinc, based on an evaluation of the constituents stored in the landfill and on groundwater monitoring results. Unit 07A is subject to inspection and groundwater detection monitoring. LSS samples the Unit's monitoring wells semiannually for cadmium, chromium, lead, zinc, sulfate, pH, and specific conductance. LSS inspects the final cap and berm semiannually.

Unit 07A also has 9 monitoring wells sited up gradient and down gradient to provide background quality of the groundwater and to detect any releases to groundwater. The most recent sampling report for this Unit dated January 10, 2008, reflects no detection of COCs above background levels nor above health-based levels.

VII. BACKGROUND of SOLID WASTE MANAGEMENT UNITS (SWMUs)

A. SWMU 5B

One Solid Waste Management Unit (SWMU) at the site, Solid Waste Registration Unit 5B, remains under RCRA Facility Investigation (RFI) status. The PCO requires LSS to submit an acceptable RFI Report and, if necessary, to conduct a corrective action study which evaluates feasible remedies to address any release.

B. SWMU D

The PCO also requires LSS to implement corrective measures at SWMU D, the Former Tarry Waste Impoundment Site (referred to as Pre-RCRA Facility D on the site map). In 1996, LSS removed and properly recycled or disposed of liquid contents of the former Tar Impoundments. LSS then excavated and treated the contaminated soils and returned the treated soils to the excavation area.

The corrective measures specified in the proposed PCO require LSS monitor a plume management zone (PMZ) under SWMU D. In essence, a PMZ designation means that an underground area contains contaminated groundwater which exceeds TCEQ's Protective Concentration Levels which are set for contaminants of concern determined by sampling of monitoring wells around the zone of contamination. See 30 TAC § 350.4 (a) (65).

In this case, the groundwater contamination is confined to a small area near SWMU D. In a letter dated June 20, 2008, the Executive Director approved LSS's response action

effectiveness report (RAER) for SWMU D. LSS's RAER demonstrated that the plume which has formed under this unit is not expanding and that the release from the unit does not pose a threat to human health and the environment. The proposed PCO requires LSS to continue to monitor the release from this unit and to report the sampling results for evaluation by Remediation Division staff.

C. Other SWMUs

The PCO does not address certain other SWMUs which appear on the site map because these units have been closed in a manner which does not require post-closure care. Specifically, LSS closed other SWMUs under 1991 Risk Reduction Standard No. 2 (*see* 30 TAC §§ 335.551- .599). LSS determined that the releases from these other SWMUs are less than TCEQ risk-based standards and, therefore, require no further action. These other SWMUs include: Unit 5A, the Former Salvage Yard, Pre-RCRA Unit 03, Pre-RCRA Unit 07B, PMC Pond, Unit 008--Former Landspreading Area, Unit 009--Former Service Station Ponds, and Unit 48--Former Biological Treatment Pond.

VIII. CONCLUSIONS AND RECOMMENDATIONS

The proposed PCO appropriately addresses historic waste management practices at the LSS facility with provisions protective of the underlying soils and aquifer. The proposed PCO requires LSS to perform facility investigations, corrective action, and closure of certain waste units in compliance with TCEQ regulations, as well as to conduct specified post-closure activities at RCRA-permitted units.

EPA and TCEQ investigations determined that LSS did not illegally disposed of wastes onto property owned by commenter Donnie Turner. Site geology indicates that the direction of the groundwater flow is away from property owned by Mr. Turner and that groundwater under LSS's site poses no threat to his groundwater.

Under the provisions of the proposed PCO, Staff will continue to evaluate LSS groundwater monitoring reports to ensure that no member of the general public is adversely affected as a result of the closure and post-closure care of the waste management units.

Therefore, the Staff recommends denial of the Hearing Request because:

1. The Hearing Request was untimely as far as the PCO application (*See* § 55.156(b)(1));
2. Mr. Turner has no right to a hearing under § 80.109 (b)(11); and
3. EPA and TCEQ investigations have satisfactorily addressed Mr. Turner's concerns.

The Staff also recommends issuance of the proposed PCO to govern the post-closure period for 2 closed RCRA units and the continued investigation and corrective action period for SWMUs at the site.

Exhibit A

CHIEF OF POLICE OFFICE



LONG BEACH CA 908

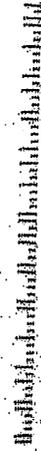
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RECEIVED
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78711-3087



Faint, illegible text from the reverse side of the envelope, possibly a return address or recipient information.

Exhibit B

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 23, 2008

Mr. Donnie O. Turner
P.O. Box 56159
Riverside, CA 92517

Re: Response to Comment Letter
U. S. Steel Tubular Products, Inc. (formerly Lone Star Steel, LLC)
Application for Post-closure Order
POST-CLOSURE ORDER NO. 30093
DOCKET NO. 2006-0349-IHW

Dear Mr. Turner:

The Executive Director of the Texas Commission on Environmental Quality (TCEQ) received your comment letter dated December 14, 2007 related to Lone Star Steel Company (Applicant) of Lone Star, Morris County, Texas. In the letter, you request a contested case hearing on applications for both an air permit renewal and a post-closure order (PCO) filed by the Applicant, which became U. S. Steel Tubular Products, Inc. (USSTP) on January 1, 2008.

Your comment letter is timely as far as the air permit renewal and, accordingly, you will soon receive a formal response to your air quality comments. However, your letter was not timely as far as the PCO. The comment period for the PCO ended July 15, 2007. Although your letter was not received during the comment period for the PCO, the Executive Director is pleased to provide you with an informal response to your four comments about waste-related matters.

By way of background, the USSTP facility conducted on-site waste disposal as part of its steel manufacturing operations. Wastes were disposed in two landfills authorized by registration under the Resource Conservation and Recovery Act (RCRA) program and subsequently closed as part of the Land Ban restrictions limiting the types of wastes that may be applied to the land. USSTP's compliance history dated March 2008 shows no waste-related violations. No complaints have been filed with TCEQ's Region Office in Tyler regarding this facility over the past 5 years. The last RCRA inspection of this facility by TCEQ was March 2003.

A. As to your first comment, the Executive Director inquired into the allegations of illegal waste dumping by USSTP, which at the time was Lone Star Steel (LSS). You provided no date when this incident or incidents occurred. TCEQ Regional investigators reviewed a number of documents related to a complaint alleging the same violations you filed in 2004 with the Environmental Protection Agency (EPA), including: EPA memos regarding its investigation into the allegations; closure reports from LSS related to waste handling practices at units, including maps of the area in question; an EPA Investigation Worksheet evaluating LSS's waste management units; and a final assessment memo from the Criminal Investigation Division (CID) at the EPA Washington office.

Based on topographical maps and LSS's identification as to the location of your property, Region Office investigators believe that the site of LSS's disposal of wastes was not on your property but rather just east of your property on LSS property. Historically, LSS had disposed of two different waste streams on LSS property near your property. LSS's landfills were properly registered with TCEQ. LSS had "clean closed" one of the landfills (Unit 07A) in the late 1980's by removing all waste materials (i.e., sludges generated by the air pollution control device). Under a closure plan approved by TCEQ, the removed wastes were consolidated with material in the other landfill (Unit 07B) and then topped with an engineered clay cap and vegetation. At the same time, LSS also closed its acid pits (Unit 04) by neutralizing the dilute sulfuric acid, solidifying the liquids into solids, and then constructing an engineered clay cap over the pits consisting of three feet of compacted clay, one foot of topsoil, and vegetation to prevent erosion. In 1991, LSS submitted its closure plans for the three units and began post-closure monitoring of the three areas consistent with TCEQ's Chapter 335 rules. In 1996 TCEQ approved closure of these units. The 1996 report from LSS demonstrated that there had been no release to the groundwater from either landfill. TCEQ authorized discontinuation of groundwater monitoring of Unit 07B. Monitoring of Units 07A continues to show no release to groundwater. These units have been deed recorded as closed in county records.

To date, LSS continues its groundwater monitoring of this so-called Northern Waste Management Area. The results are submitted to TCEQ annually and were reviewed by Mr. Chris Siegel, a chemical engineer in the Remediation Division. Mr. Siegel indicated that the groundwater flow in the subject area is to the northeast, which would be away from your property. Therefore, the Executive Director has concluded that these waste units should have no adverse impact on your property.

The Executive Director's position is supported by an EPA investigation conducted in 2004 in response to your allegations of illegal dumping of hazardous chemicals by LSS. EPA investigator Keith Phillips reviewed the closure plans approved by TCEQ for the waste landfills and the pits referenced by you. The investigator concludes: "Based on the investigation to date, no further action is warranted. This lead is closed." By memo dated December 8, 2004, EPA Washington CID reviewed the report by EPA's investigator and also concluded that no further action is warranted and closed the case.

B. The Executive Director agrees with your second comment about the public having a right to be informed about industrial chemicals at a facility such as USSTP. This facility is subject to state and federal statutory requirements for reporting quantities and types of hazardous chemicals kept at the site. Title 30 Texas Administrative Code (TAC) Chapter 370 of the Texas Health and Safety Code authorizes the State of Texas to administer Section 313 of the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). TCEQ staff in the Emissions Assessment section of the Air Quality Division receives USSTP's annual Toxic Release Inventory (TRI) reports filed in compliance with EPCRA and makes the reports available to the public. In addition, Chapter 505 of the Texas Health and Safety Code authorizes the Texas State Health and Human Services Commission to administer the EPCRA Section 312 program for emergency planning. Under this program, USSTP must submit annual Texas Tier Two Chemical Description reports which are available for public review.

C. As to your request for a contested case hearing, the issue of waste dumping which alleged occurred within the last 5 years would be relevant and material to USSTP's compliance history for the post-closure order matter. Also, the units in question are part of the PCO, which requires USSTP to continue post-closure monitoring and maintenance of all solid waste management units at the facility, including those units of concern to Mr. Turner.

However, TCEQ rules do not provide private citizens an opportunity for a contested case hearing on post-closure orders. Title 30 TAC Section 80.109(b)(11) limits the parties to a contested case hearing on a post-closure order to the executive director, applicant, and Office of Public Interest Counsel. TCEQ rules allow the public the opportunity to comment on the proposed post-closure order itself, which you chose not to do and instead raised illegal dumping allegations which has been investigated by EPA. You also did not recommend any changes to the proposed PCO nor recommend denial of issuance of the PCO. Accordingly, the Executive Director has made no changes to the proposed PCO in response to public comment.

D. TCEQ rules do not provide for appointment and payment of an attorney to assist a private citizen in a contested case hearing.

In summary, EPA fully investigated the allegations related to hazardous waste management and found no merits to your claims. The Executive Director reviewed the record related to these allegations and agrees with EPA's conclusions. Issuance of the PCO is in the best interests of all parties, as well as the general public, because the PCO mandates strict schedules for inspection of the units and reporting of any releases from the units.

If you have any questions regarding this matter, you may contact Susan Jere White, Staff Attorney, Environmental Law Division at 512/239-0454 or me at 512/239-6259.

Sincerely,

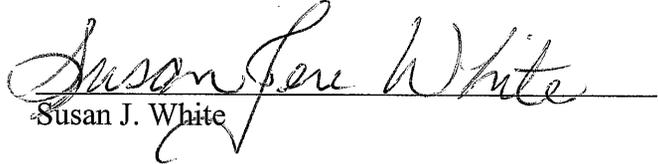
A handwritten signature in black ink, appearing to read "Guy Henry". The signature is written in a cursive, flowing style.

Guy Henry,
Senior Attorney,
Waste Section
Environmental Law Division

cc: Blas Coy, Public Interest Counsel, TCEQ MC 103
Michael Brashear, Waste Section Manager, Tyler Regional Office, MC R-5

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document will be served on the following parties of record on this 30th day of September, 2008.


Susan J. White

FOR THE APPLICANT:

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Area Manager, Environmental Compliance
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