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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

IN THE MATTER OF:

FLORIDA STEEL SITE
Indiantown, Martin County,
Florida

U.S. EPA DOCKET NO. 87-19-C

FLORIDA STEEL CORPORATION,

Respondent.

Proceeding Under Sections
104, 106(a) and 122(d)(3)
of the Comprehensive
Environmental Response,
Compensation and Liability
Act of 1980 (42 U.S.C.
§9604, 9606(a) and 9622(d)
(3)), as amended by the
the Superfund Amendments
and Reauthorization Act of
1986, PL 99-499, October 17,
1986.

ADMINISTRATIVE ORDER ON CONSENT

I. JURISDICTION

This Administrative Order on Consent (hereinafter called "Consent Order") is entered into by the Florida Steel Corporation (herein after called "Respondent") and the United States Environmental Protection Agency (hereinafter called "EPA") pursuant to the authority vested in the President of the United States by Section 104, Section 106(a), and Section 122(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (hereinafter called "CERCLA"), 42 U.S.C. §9604, §9606(a), and §9622(d)(3), as amended by the Superfund

Amendments and Reauthorization Act of 1986 (hereinafter called "SARA"), Public Law 99-499, October 17, 1986. This authority was delegated to the Administrator of EPA on January 23, 1987 by Executive Order 12580, 52 Federal Register 2923 (January 29, 1987) and further delegated to the Regional Administrator of Region IV, EPA. The parties stipulate that EPA has made the necessary determinations regarding the release and threat of release of hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14) from the following location:

Property of Florida Steel Corp.
State Road 710, Martin County
35 miles NW of West Palm Beach, Florida

Solely for the purposes of this Consent Order, the Respondent consents to and agrees not to contest EPA jurisdiction to issue this Consent Order. Provided, however, the Respondent does not admit, accept, concede, or acknowledge, and specifically denies the determinations, allegations, findings of fact, and conclusions of law made by EPA in this Consent Order and specifically reserves the right to contest any such determinations, allegations, findings, and conclusions in any proceeding regarding the Florida Steel Site (hereinafter called the "Site") in other than actions brought by EPA to enforce this Consent Order. Furthermore, Respondent specifically denies any fault or liability under CERCLA or any other statutory or common law and any responsibility for response costs or damages thereunder, and does not,

by signing this Consent Order, waive any rights it may have to assert claims under CERCLA against any person, as defined in Section 101(21) of CERCLA, 42 U.S.C., §9601(21). Notwithstanding the preceding, Respondent specifically waives any rights it may have, or obtain, to assert claims under CERCLA against the Hazardous Substance Response Trust Fund (Superfund).

Respondent agrees not to challenge the foregoing Findings of Fact and Conclusions of Law for purposes of this Consent Order.

II. PARTIES

This Consent Order shall apply to and be binding upon the following parties:

A. Florida Steel Corporation, any parent company or any subsidiaries, and all persons, including, but not limited to firms, corporations, contractors and consultants, acting under or for the Respondent; and

B. The United States Environmental Protection Agency.

III. FINDINGS OF FACT

For purposes of this Consent Order, EPA finds:

A. The Respondent owns a 150-acre facility located on State Road 710 in Martin County, Florida about 35 miles northwest of West Palm Beach.

B. The Respondent is both the owner of the Site and generator of the waste present at the Site.

C. This Site was added to the National Priorities List

on December 20, 1982, pursuant to the provisions of Section 105 of CERCLA, 42 U.S.C. §9605.

D. The facility has been inactive since 1982. When operational, the facility used an electric furnace process to recycle steel scrap into steel reinforcing bars used in construction. A by product of this process is a fine brown-grey powdered dust listed under the Resource Conservation and Recovery Act as hazardous waste number K061, emission control ("EC") dust 40 C.F.R. 261.33. EC dust contains lead, cadmium and chromium and is a potential source of contamination of groundwater. Florida Steel began removing the EC dust in February 1984, however, unknown quantities still remain on-site.

E. The Respondent has indicated that Polychlorinated Biphenyls ("PCBs") were probably used during the early 1970's in its casting process and in some of its hydraulic systems. In late 1983, Florida Steel consultants conducted a PCB, metals, and volatile organics sampling study. As reflected in the April 1984 Final Remedial Action Master Plan for the Site, extensive quantities of PCBs were identified in the soil near the dirty water tank and in other areas such as in sludges and sediments from several locations on the Site. In accordance with a Consent Agreement with the State of Florida, PCB-contaminated soils were collected in a vault and have been in storage on the Site since May of 1986, pending a later decision (which is the subject of this Order) on the ultimate disposition of this material. The leachate from this vault has been collected in a companion tank.

F. There is a release or substantial threat of release into the environment of PCBs and EC Dust which may present an imminent and substantial danger to the public health or welfare.

IV. CONCLUSIONS OF LAW

EPA concludes that:

A. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

B. The Respondent is a person as defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21), and is a responsible party under Section 107(a)(3) of CERCLA, 42 U.S.C. §9607(a)(3).

C. Polychlorinated Biphenyls ("PCBs") and lead are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

D. The hazardous substances described above were utilized at the facility in such a manner that they have been released into the environment and their potential migration pathways constitute both an actual release and threatened release within the meaning of Section 101(22) and 104 of CERCLA, 42 U.S.C. §9601(22) and §9604.

V. DETERMINATIONS BY THE REGIONAL ADMINISTRATOR

Based on the foregoing Findings of Fact and Conclusions of Law, and the entire record of this proceeding, the Regional Administrator has determined that:

A. In order to protect public health and welfare and the

environment, it is necessary that action be taken to mitigate the release and threat of release of hazardous substances from the facility into the environment; and

B. The actions required in this Consent Order are consistent with the National Contingency Plan, 40 C.F.R. Part 300 et seq.

VI. ORDER

It is hereby AGREED and ORDERED that Respondent shall undertake the following activities pursuant to CERCLA Sections 104, 106(a), and 122(d)(3), 42 U.S.C. §9604, §9606(a) and §9622(d)(3):

A. The Respondent shall complete the following measures, which shall be undertaken at the direction of EPA through its On-Scene Coordinator (OSC) and consistent with the National Contingency Plan:

1. Respondent has submitted a Removal Action Plan (RAP) which is currently being reviewed by EPA. Within seven (7) days of the effective date of this Consent Order, EPA shall notify the Respondent in writing of EPA's approval or disapproval of the RAP or any part thereof. In the event of any disapproval, EPA shall specify in writing both the deficiencies and any EPA-recommended modifications.

2. Within seven (7) days of the receipt of EPA notification of RAP disapproval, the Respondent shall amend and submit to EPA a revised RAP. In the event of subsequent disapproval of the RAP, and subject to the provisions of Section VII hereinbelow,

EPA retains the right to undertake the activities required by this Consent Order pursuant to its authority under CERCLA/SARA.

3. Within five (5) days of EPA approval of the RAP, the Respondent shall begin implementation of the tasks detailed in the approved RAP subject to the provisions of Section VII hereinbelow. Respondent shall complete implementation of the RAP in accordance with the Schedule contained therein.

B. All actions carried out by the Respondent pursuant to this Order shall be done in accordance with all applicable federal, state, and local laws.

C. It is understood that Florida Steel intends to incinerate the PCB wastes that are contained in the on-site vault, and that an ash will be produced from the incineration process. It is anticipated that the ash will contain elevated levels of lead, cadmium or chromium which will not pass the EP toxicity test (40 C.F.R. 261.24) and will therefore be considered to be hazardous waste that must be stored and ultimately disposed of in an EPA-approved manner. Before this ash can be stored and/or disposed of, EPA must be informed of the storage and/or disposal method selected and must approve the method before it can be implemented. Respondent may be required to conduct investigations or other studies before EPA approval can be granted.

D. Upon request, Respondent will provide EPA with split samples of any samples collected in accordance with the requirements of this Order.

E. All response work performed pursuant to this Order

shall be under the direction and supervision of a qualified professional engineer or certified geologist or other qualified professional with expertise and experience in hazardous waste site cleanup. Respondent shall notify EPA as to such engineer, geologist or other qualified professional and of any contractors and subcontractors to be used in carrying out the terms of this Order promptly following the entry of this Consent Order or in advance of their involvement at the Site, whichever is the later.

F. Respondent shall use quality assurance/quality control, and chain-of-custody procedures in accordance with EPA Region IV Environmental Services Division, Standard Operating Procedures and Quality Assurance Manual, April 1, 1986, throughout all activities. Respondent shall consult with EPA in planning for sampling and analysis. Respondent shall provide a quality control report to EPA certifying that all activities have been performed as approved.

VII. DISPUTE RESOLUTION

If the Respondent objects to any EPA notice of disapproval or decision made pursuant to this Consent Order, the Respondent shall notify EPA in writing of its objections within fourteen (14) calendar days from the receipt of the decision. EPA and the Respondent then have an additional fourteen (14) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any issue within this fourteen (14) calendar day period, EPA shall provide a written statement of its decision to the Respondent.

VIII. FORCE MAJEURE

Respondent's activities under this Consent Order shall be performed within the time limits set forth in the RAP referenced in VI above unless performance is delayed by events which constitute a force majeure.

For purposes of this Consent Order, a force majeure is defined as any event arising from causes beyond the reasonable control of Respondent which could not have been prevented by the exercise of due diligence. Increased costs incurred by Respondent in conducting the RAP or changed economic circumstances of Respondent shall not be considered as constituting a force majeure.

The Respondent shall notify EPA in writing no later than seven (7) business days from the inception of any event which Respondent contends constitutes a force majeure as defined above. The written notice shall describe fully the nature of the delay, why the delay is beyond the control of the Respondent, the actions taken and/or that will be taken to mitigate, prevent and/or minimize further delay, the anticipated length of the delay and the timetable by which the actions to mitigate, prevent and/or minimize the delay will be taken. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay.

Delay that results from circumstance beyond the control of the Respondent that cannot be overcome by due diligence on the Respondent's part shall not be deemed to be a violation of this Consent Order. To the extent a delay is caused by circumstances

beyond the control of the Respondent, the schedule affected by the delay shall be extended for a period equal to the delay resulting from such circumstances.

Failure of the Respondent to comply with the notice requirements of this Section shall constitute a waiver of the Respondent's right to invoke the benefits of this Section with respect to that event.

IX. RESERVATION OF RIGHTS

It is agreed and understood that this Order only addresses material presently stored in the on-site vault. EPA expressly reserves its right to determine what, if any, further action is required with respect to any and all contaminants, including PCBs, located outside the vaulted area.

Notwithstanding compliance with the terms of this Consent Order, the Respondent is not released from liability, if any, for any actions beyond the terms of this Consent Order taken by EPA respecting the Site. EPA reserves the right to take any enforcement action pursuant to CERCLA/SARA and/or any available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or this Consent Order.

In entering into this Consent Order, the Respondent waives any right to seek reimbursement under Section 106(b)(2) of CERCLA for any past costs and costs incurred in complying with this Order.

The Respondent and EPA expressly reserve all rights and defenses that they may have, including EPA's right both to disapprove of work performed by the Respondents and to request that the Respondents perform tasks in addition to those detailed in the RAP, as provided in this Consent Order. In the event that the Respondent declines to perform any additional and/or modified tasks, EPA will have the right to undertake any removal work. In addition, EPA reserves the right to undertake removal actions and/or remedial actions, other than those required by this Consent Order, at any time. In either event, EPA reserves the right to seek reimbursement from the Respondent thereafter for such costs incurred by the United States.

Respondent reserves all rights it has or may have to assert claims against persons or entities for matters arising out of the Site or its operation and ownership, including, but not limited to, claims for breach of contract, indemnity, contribution, nuisance and claims under federal, state and local laws.

IX. STATE NOTIFICATION

Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), the State of Florida has been notified of this order by EPA.

X. EFFECTIVE DATE OF CONSENT ORDER

The effective date of this Consent Order shall be the date it is signed by the Regional Administrator.

IT IS SO AGREED TO AND ORDERED:

For the U.S. Environmental Protection Agency:

for Charles H. Stry

LEE A. DEIHNS, III
Acting Regional Administrator
U.S. EPA, Region IV
345 Courtland Street, NE
Atlanta, Georgia 30365

Date:

9/21/87

For Respondent Florida Steel Corporation:

James D. Reed
FLORIDA STEEL CORPORATION

Date:

9/18/87