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FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 29, 1997

CONTACT: PATRICK SHAUGHNESSY
512/239-5000 (Pager 512/896-3727)

CHAPARRAL STEEL FINED FOR AIR, WASTE VIOLATIONS

The Texas Natural Resource Conservation Commission (TNRCC) has fined Chaparral Steel Midlothian L.P. almost \$100,000 for air and waste violations at its steel manufacturing facility in Midlothian.

The TNRCC will allow the company to offset a portion of the penalty, however, on the condition that it contributes to a Supplemental Environmental Project (SEP) that will provide direct environmental benefits to the Midlothian area.

The order alleges that Chaparral, 300 Ward Road, violated waste regulations by improperly managing a landfill at the facility. The order also alleges the company violated air regulations by failing to timely report fires that occurred at the facility on August 27 and February 21, 1996.

The TNRCC fined the company \$99,920, but will allow Chaparral to offset half of the penalty, \$49,960, on the condition that it contributes \$49,960 toward the removal and replacement of two underground petroleum storage tanks at 990 U.S. Highway 67. The tanks are owned by the city of Midlothian.

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Barry R. McBee, *Chairman*
 R. B. "Ralph" Marquez, *Commissioner*
 John M. Baker, *Commissioner*
 Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

October 26, 1995

CERTIFIED MAIL

James C. Morris III, Esq.
 Thompson & Knight
 8 San Jacinto Blvd., Suite 1200
 Austin, TX 78701

RE: CHAPARRAL STEEL; Docket No. 95-0676-IHW-E; SWR No. 30661
 Agreed Order requiring certain actions

Enclosed is a certified copy of:

an enforcement order of the Commission determining substantial noncompliance, assessing administrative penalties, imposing stipulated penalties, and/or requiring certain actions, the details being more fully set out therein.

an order cancelling a Commission permit. This cancellation is a memorandum of official action taken with respect to the permit and is notification that the permit is no longer in effect.

an order dismissing an application for a Commission permit.

an emergency order issued by the Commission. If applicable, please note the date and time at which the Commission will affirm, modify, or set aside the order.

an order affirming, modifying or setting aside an emergency order of the Commission.

an order approving construction of facilities.

an order authorizing discharge of wastewater.

an order regarding the above-referenced matter.

Should you have any questions, please contact us.

Sincerely,

Gloria A. Vasquez
 Gloria A. Vasquez, Chief Clerk

AV:ra

cc: TNRCC Region 4
 Glenn Hall, Staff Attorney, TNRCC
 Ravi Rao, Enforcement Coordinator, TNRCC
 Jerry Balbo; Environmental Manager; Chaparral Steel; 300 Ward Road; Midlothian, TX
 76065-9651

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



DOCKET 95-0676-IHw-E

IN THE MATTER OF CHAPARRAL	§	BEFORE THE
STEEL;	§	
SWR NO. 30661	§	TEXAS NATURAL RESOURCE
	§	
	§	CONSERVATION COMMISSION

AGREED ORDER

Requiring Certain Actions of Chaparral Steel Company Under the Authority of the Solid Waste Disposal Act, TEX. HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon 1992 and Supp. 1994), the Texas Water Code, Chapters 5 and 26 (Vernon 1988 and Supp. 1994), and the Texas Clean Air Act, TEX. HEALTH & SAFETY CODE ANN. Chapter 382 (Vernon 1992 and Supp. 1994)

OCT 11 1995

On OCT 11 1995, the Texas Natural Resource Conservation Commission (the "Commission" or "TNRCC") (references to the TNRCC include, as appropriate, references to predecessor agencies including the Texas Water Commission and the Texas Air Control Board) considered an oral report by the Executive Director to the Commission alleging violations of the Solid Waste Disposal Act, TEX. HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon 1992 and Supp. 1994) (the "Act"), the Texas Water Code, TEX. WATER CODE ANN., Chapter 26 (Vernon 1988 and Supp. 1994) (the "Code"), and the rules of the Commission, and requesting appropriate relief. The facility made the subject of this Agreed Order is Chaparral Steel Company, ("Chaparral"), located at 300 Ward Road, in Midlothian, Ellis County, Texas.

After proper notice, the parties appeared and announced before the Commission that they had reached a settlement and requested the Commission to enter this Agreed Order.

Chaparral understands that it has certain procedural rights,

violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Chaparral agrees to waive all notice and procedural rights. Chaparral acknowledges that a Preliminary Report was not issued in this matter by the Executive Director in order to expedite issuance of this Agreed Order.

This Agreed Order is entered without trial or final adjudication of any issue of law or fact and is the result of the compromise and settlement of disputed issues of law and fact. In consenting to the entry of this Agreed Order, Chaparral does not admit any allegations or to any violation. Chaparral agrees, however, not to contest the Findings of Fact and Conclusions of Law or matters resolved by this Agreed Order in any Commission proceeding or proceeding brought on behalf of the Commission. Because of the cost and uncertainties of litigation and to continue to address promptly and effectively its environmental responsibilities by implementing technical remedial actions approved by the TNRCC, Chaparral agrees to entry of this Agreed Order, and to perform the actions set forth in this Agreed Order.

It is understood and agreed by the Executive Director and Chaparral that accepting this Agreed Order does not, in any way, release Chaparral, any of its officers, agents, assigns, employees, or any other person acting for or on behalf of Chaparral, from federal criminal liability, if any, arising out of the situation this Agreed Order addresses.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall remain valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Chaparral and upon its successors and assigns.

This Agreed Order requires Chaparral to perform an investigation both on property owned or controlled by Chaparral and on property owned or controlled by persons not presently parties to this Agreed Order. Chaparral shall use best efforts to gain access to the off-site areas necessary for performance of this Agreed Order. In the event that Chaparral cannot secure such access, Chaparral shall notify the TNRCC and request assistance in obtaining access. If the Executive Director determines that Chaparral cannot obtain access despite using best efforts to do so, such lack of access shall be considered good cause for extending additional time for work dependent upon such access. Chaparral, however, is not relieved of the obligation to investigate in accordance with this Agreed Order. Once access is obtained, Chaparral shall proceed with the investigation in accordance with this Agreed Order. If necessary access is not obtained, upon

this Agreed Order. If necessary access is not obtained, upon concurrence of the Executive Director, Chaparral shall utilize alternate investigative measures, such as alternate sampling locations, where practicable and consistent with the scope and goals of this Agreed Order.

If Chaparral fails to comply with any of the deadlines imposed by this Agreed Order or the Workplans attached hereto and such failure is caused (in whole or in part) by events beyond the control of Chaparral, such failure shall not be construed as a violation of this Agreed Order. The burden of establishing that an event is beyond its control lies with Chaparral. When events are occurring or have occurred which may cause such delay, Chaparral shall notify the Executive Director within seven (7) days of becoming aware of such a delaying event and shall take reasonable measures to mitigate and/or minimize the delay. The notice shall specify the reason for and expected duration of the delay and shall provide a revised timetable for any tasks affected by the delay. The revised timetable shall become effective upon approval, or approval with modification, by the Executive Director.

If a dispute arises concerning the implementation of this Agreed Order, including any decision of the Executive Director under this Agreed Order, Chaparral and the TNRCC staff shall attempt to resolve it informally. If the matter cannot be resolved informally, Chaparral or the TNRCC staff may refer the matter to the appropriate Deputy Director, or his or her designee. The Deputy Director, or his or her designee, shall have sole discretion whether to hear any dispute under this provision. All decisions of the Deputy Director under this provision, or a decision not to hear a dispute, shall be binding and shall constitute a final determination by the Commission for purposes of judicial review. The pendency of a dispute shall not stay any requirement or deadline contained in this Agreed Order that is not the subject of the dispute or that is not dependent upon the completion of the action that is the subject of the dispute, unless the parties otherwise agree.

The Commission, after hearing a report by the Executive Director and considering the settlement of the parties, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Chaparral Steel operates a steel manufacturing facility located at 300 Ward Road, Midlothian, Ellis County, Texas.
2. Chaparral Steel manufactures structural steel and rebars from metal scrap and wrecked automobiles.

3. Chaparral Steel's operations generate industrial solid waste and hazardous waste. Chaparral Steel has notified the Commission that it generates, in part, the following wastestreams:
 - a) Waste No. 001 - Automobile shredder residue;
 - b) Waste No. 002 - Baghouse dust, EPA Hazardous Waste No. K061; and
 - c) Waste No. 016 - Landfill leachate, EPA HW No. K061 (wastewater).
4. Chaparral Steel has been issued TNRCC Permit No. HW-50162. This permit authorizes the operation of certain hazardous waste landfills (Landfills #2 and #3). Landfills #2 and #3 which were used for the disposal of baghouse dust were closed in 1987 and 1994 respectively. Landfill #1 which was operated before the issuance of the permit for the disposal of baghouse dust, was closed in 1987 and the property has been deed recorded.
5. Chaparral Steel has been issued Air Permit Nos. 1634, 1635, 3026, 8097, 8098, 8099, and PSD-TX-138M4, and Standard Exemption No.'s 5, 76, and 106 to operate sources of air contaminants at its facility. Chaparral formerly operated under Air Permit No. 1636 which was voided on October 10, 1985. On December 8, 1977, Air Permit No. 5983 was issued to International Mill Services, Inc. ("IMS") to operate the metallic recovery processing plant / slag handling area. IMS has operated the metallic recovery processing plant / slag handling area since approximately that time.
6. TNRCC Region 4 representatives conducted a sampling inspection in the vicinity of the Chaparral facility from February 3, 1994 through May 20, 1994. Based on the results of this sampling, the Executive Director alleged that cadmium, chromium, copper, lead, manganese, molybdenum, and zinc levels in soils samples collected from property to the north and south of Chaparral Steel's property were greater than apparent background levels.
7. Chaparral has agreed to conduct an investigation of metal concentrations in soils and air emissions from its facility.
8. In 1985 the State of Texas brought suit against Chaparral, in part for unauthorized discharges of industrial solid waste from Landfill No. 2, which was used to dispose of industrial solid waste (EPA Hazardous Waste No. K061). An Agreed Final Judgment was entered against Chaparral on September 12, 1985 settling that suit. That Judgment expressly retains the State's right to require Chaparral to take action under the Solid Waste Disposal Act to address conditions resulting from unauthorized discharges from Landfill No. 2.

CONCLUSIONS OF LAW

1. Chaparral has managed industrial solid waste and sources of air contaminants at the facility located in Midlothian, Ellis County, Texas and is therefore subject to the jurisdiction of the Texas Natural Resource Conservation Commission pursuant to the Solid Waste Disposal Act, Texas Clean Air Act, TEX. HEALTH & SAFETY CODE ANN. Chapter 382 (Vernon 1992 and Supp. 1994) ("TCAA") and the Texas Water Code.
2. The Commission has the authority to issue orders directing compliance with the Act and the Code and requiring monitoring pursuant to the following provisions: §361.302 of the Act, §26.019 of the Code, §§382.016, 382.023, and 382.024 of the TCAA, and 30 TAC §337.1.
3. In accordance with §2001.056 of the Administrative Procedure Act, TEX. GOV. CODE ANN., Chapter 2001 (Vernon 1993), Sections 26.136(p) of the Code and Section 361.2152 (r) of the Act, the Commission may resolve this matter by entry of this Agreed Order.

NOW, THEREFORE, THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION ORDERS that:

This Agreed Order resolves only violations alleged or which could have been alleged regarding conditions which are present on property outside the Chaparral facility boundary as defined in TNRCC Permit No. HW-50162 on the date of this Agreed Order ("Original Boundary") and which are the subject of the investigation and remediation described in the Investigation Plans attached hereto as Attachment 1 and in Ordering Provisions Nos. 1-3. The Commission shall not be constrained from seeking penalties and/or requiring technical actions for violations occurring after the date this Agreed Order is issued or that are not addressed by this Agreed Order. Specifically, the Commission reserves the right to seek additional relief for violations of statutory or regulatory requirements not addressed by this Agreed Order, including, but not limited to, the following items: 1) violations of TNRCC rules, the Act, the Code, or the TCAA relating to conditions within the Original Boundary; and 2) violations of TNRCC rules, the Act the Code, or the TCAA relating to contamination or nuisance conditions not required to be remediated by Ordering Provisions Nos. 2 and 3. Chaparral may raise any defenses it has in any subsequent proceeding except that Chaparral shall not contest the Findings of Fact and Conclusions of Law of this Agreed Order.

IT IS FURTHER ORDERED BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION that:

1. Immediately upon issuance of this Agreed Order, Chaparral Steel shall implement the Southern Area and Northern Area

Investigation Plans (collectively "IP"), attached to this Agreed Order as Attachment 1 and incorporated herein for all purposes, in accordance with the schedule set forth therein.

2. Within 120 days of issuance of this Agreed Order, Chaparral Steel shall submit an Investigation Report ("IR") describing the results of the completed IP to the Executive Director for approval or approval with modifications. This report shall include at a minimum, but not be limited to:
 - a. A topographic map at a scale not to exceed 1 inch to 1000 feet showing all the sampling locations for all the contaminated media;
 - b. A detailed description of the results of all samples collected and analyzed during the investigation and copies of all original (following QA/QC) laboratory reports including a summary of analytical results in tabular form and a computation of background using data from both the Northern Area and Southern Area;
 - c. A graphical depiction showing the horizontal extent of contamination for all the constituents of concern;
 - d. Discussion of results of soil, water and sediment contamination, and recommendations including any steps Chaparral will take to control any contaminants from migrating off-site; and
 - e. A determination of what areas, if any, to the south of the Original Boundary have been impacted in whole or in part by unauthorized discharge(s) from industrial solid waste management activities. The phrase "unauthorized discharges from industrial solid waste management activities" is intended to include the unauthorized discharge of materials that might not otherwise be considered solid waste except when discharged (e.g., products), but is not intended to include permitted air emissions. The south side of the Original Boundary shall be considered the area south of the Original Boundary and extending along the same parallel line of that boundary both east and west. The determination of what areas to the south side of the Original Boundary have been impacted shall begin with the assumption that the cross-hatched area set forth in Figure 4-1 of Attachment 1 has been impacted by unauthorized discharges from industrial solid waste activities. Chaparral shall also include any information developed in IP indicating what additional areas, if any, have been impacted by unauthorized discharges from industrial solid waste management activities.
 - f. A provision for submission of a Remediation Plan ("RP"), including implementation schedules, for actions

addressing all media contaminated in whole or in part by unauthorized discharges from industrial solid waste management activities. The RP shall comply with the requirements of 30 TAC Chapter 335, Subchapter S, relating to Risk Reduction Standards, and shall be submitted to the Executive Director for review and approval or approval with modifications.

3. Within 30 days of written approval or approval with modifications of the RP by the Executive Director, including the determination of what areas have been impacted by unauthorized discharges from industrial solid waste management activities, Chaparral shall implement the RP in accordance with the schedule set forth therein and in accordance with the requirements set forth in 30 TAC Chapter 335, Subchapter S, to address all the contaminated media identified in the IR, as approved or approved with modifications, as contamination attributable to unauthorized discharges from industrial solid waste management activities at Chaparral.
4. Immediately upon issuance of this Agreed Order, Chaparral shall implement in accordance with the schedule set forth therein, the Air Monitoring Plan attached to this Agreed Order as Attachment 2 and incorporated herein for all purposes. Chaparral shall provide to the Executive Director the reports described in the Air Monitoring Plan in accordance with the schedules described therein.

IT IS FURTHER ORDERED BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION AS FOLLOWS:

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Chaparral Steel shall be made in writing to the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. No deadline is extended until the Executive Director approves the extension in writing.
6. Notwithstanding any other provision of this Agreed Order, the Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General if the Executive Director determines that Chaparral Steel is noncompliant with the requirements set forth in this Agreed Order.
7. This Agreed Order shall not negatively affect Chaparral's compliance history or the compliance history of any parent, subsidiary, or corporate affiliate of Chaparral.

8. Any notice to Chaparral required by this Agreed Order is satisfied by mailing to: Jerry M. Balbo, Manager - Environmental, Chaparral Steel, 300 Ward Road, Midlotian, Texas 76065-9651 with a courtesy copy to counsel for Chaparral Steel, James C. Morriss III, at Thompson & Knight, P.C., 98 San Jacinto Blvd., Suite 1200, Austin, Texas 78701.
9. The item "Executive Director" as used in this Agreed Order may mean TNRCC staff, as appropriate.
10. This Agreed Order shall terminate when the Executive Director determines in writing that all terms and conditions of this Agreed Order have been complied with by Chaparral.
11. The Chief Clerk shall provide a copy of this Order to each of the parties.

Issuance date: OCT 18 1995

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



Barry R. McBee, Chairman

ATTEST:



Gloria A. Vasquez Chief Clerk