

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 28, 2004

LTC Jason D. Shirley
Installation Manager
Camp Stanley Storage Activity
25800 Ralph Fair Road
Boerne, TX 78015-4800

Re: Comments to RFI and Interim Measures Waste Management Plan dated August 2002;
Camp Stanley Storage Activity, Boerne, TX;
TCEQ SWR No. 69026

Dear LTC Shirley:

The Texas Commission on Environmental Quality (TCEQ) has reviewed the report entitled *RFI and Interim Measures Waste Management Plan August 2002*. A list of the comments is enclosed as Enclosure No. 1. Please prepare a written response to each comment, referencing the assigned TCEQ comment number.

An original and one copy of the written response to these comments must be submitted to the TCEQ at the letterhead address using mail code number MC-127. An additional copy should be submitted to the TCEQ Region 13 Office in San Antonio. Your response must be received on or before December 27, 2004. The facility name, location and identification number(s) in the TCEQ reference line above should be included in your response.

To document compliance with the Texas Professional Geoscience Act, the Remediation Division will not review reports and documents received on or after September 1, 2004 that do not contain the seal of a Texas Professional Geoscientist for geoscience services and work. Reports and documents containing geoscience information that are not stamped with a Texas Professional Geoscience seal will be returned to the submitting party. For further information, please consult the webpage of the Texas Board of Professional Geoscience at <http://www.tbpg.state.tx.us>. Any inquiry regarding what constitute geoscience information or what information requires a Professional Geoscientist seal shall be made to the Board by calling 512.936.4400, in Austin, Texas. Examples of geology work which requires a Professional Geologist seal are provided in the link: <http://www.tnrcc.state.tx.us/permitting/remed/techsupp/PGReports.pdf>.

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Please call me at 512.239-2371 or email me at srayos@tceq.state.tx.us if you wish to discuss or if you have questions concerning this letter. Please use Mail Code MC-127 when responding by mail.

Sincerely,



Sonny Rayos, P.G., Project Manager
Team I, Corrective Action Section
Remediation Division
Texas Commission on Environmental Quality

Enclosures: 1. Comments to the RFI and Interim Measures Waste Management Plan
2. TCEQ letter dated April 29, 2002

cc: Mr. Greg Lyssy, U.S. EPA Region 6, 1445 Ross Ave (6SF-LT), Dallas, TX 75202-2733
Mr. Brian Murphy, Camp Stanley Storage Activity, 25800 Ralph Fair Road, Boerne, TX
78015-4800
Ms. Julie Burdey, Parsons Engineering, 8000 Centre Park Drive, Suite 200, Austin, TX
78754
Waste Program Manager, TCEQ Region 13 Office, San Antonio, TX

COMMENTS to the RFI and INTERIM MEASURES WASTE MANAGEMENT PLAN

1. During the teleconference on July 1, 2004, CSSA staves discussed the basis for classifying contaminated environmental media as listed hazardous waste. This was again articulated in your letter dated July 16, 2004 under the heading "Unresolved Area of Concern #2 - AOC 65 and F listed Waste." The TCEQ has reviewed CSSA's discussion. This review indicates that the waste management plan contained a provision for the purpose of resolving disputes. Section 3.1.1. of the Waste Management Plan cites 30 Texas Administrative Code §335.512. Section 335.512(b) states that a person who believes that the executive director staff has inappropriately classified a waste may appeal this decision. The person shall file an appeal directly with the executive director requesting a review of the waste classification. Our records indicate that CSSA availed of this executive director review option. Attached please find Enclosure No. 2, Mr. Scott Green's letter dated April 29, 2002 which responded to your letter dated April 15, 2002. This TCEQ letter stated "*However, I would like to point out that the fact that subject soil is located at or near a vat that is known to have contained perchloroethylene (PCE) and trichloroethylene (TCE) used for their solvent properties up to 1995 could provide grounds for strong circumstantial case that any PCE or TCE contamination found in the soil is from a listed source.*" As a result of this letter, the TCEQ has maintained that contaminated environmental media which contains listed hazardous waste should be managed as hazardous waste. The TCEQ requires that any future remediation, cleanup, removal and disposal of contaminated media from or near AOC 65 (and/or Building 90) should be according to the intent of the TCEQ letter dated April 29, 2002. In addition, any future remediation, cleanup, removal and disposal of contaminated media from units or AOCs having similar or identical circumstances such as those identified for AOC 65, shall be according to the intent of the TCEQ letter dated April 29, 2002.

2. Section 2.1.1 - Management of groundwater investigation derived media. The TCEQ suggests changing the title to "Management of investigation derived waste - groundwater medium." In addition this section may be divided into two subsections, such as: a) management of uncontaminated groundwater and b) management of contaminated groundwater. Please note that recovered groundwater during well development may be included in this section.

3. Section 2.1.2 - Management of solid investigative derived media. The TCEQ suggests changing the title to "Management of investigation derived waste - soil medium." In addition, this section may be divided into two subsections, such as: a) management of uncontaminated soils and b) management of contaminated soils. Please note that soil cuttings may be included in this section.

4. The term "periodically" is undefined in Sections 2.1.1 and 2.1.2. For groundwater and soils, Camp Stanley Storage Activity (CSSA) should include a sampling frequency protocol (e.g., one analytical sample per (x) gallons and one analytical sample per (y) cubic yards).

TCEQ letter dated October 28, 2004
ENCLOSURE: 1 of 2
SWR No. 69026

5. CSSA should include a section and discussion on appropriate disposal or management for industrial solid waste, municipal waste, trash, or unexploded ordnance, etc., that may be discovered during remediation and excavation activities.

6. CSSA received previous approval from the TCEQ to continue remediation and cleanup according to the Risk Reduction Standards (RRS). In Section 2.1.1, the report specified sampling of investigation derived wastes and then comparing to the Texas Risk Reduction Program (TRRP) Tier 1 Protective Concentration Levels (PCLs) or Maximum Concentration Levels (MCLs). For consistency, CSSA should make a determination whether remediation will be according to RRS or TRRP. In addition, CSSA should make a determination whether Residential or Non-residential PCLs or MCLs will be used.

7. With regard to the waste management plan to discharge groundwater onto the ground surface after analysis that the COCs are below health-based standards, this would require a review and concurrence from the TCEQ Water Quality Division. Please provide a copy of the TCEQ letter approving said disposal process.

8. The waste management plan, in Section 2.1.1, proposed the construction of two ponds. Please provide notification to the TCEQ according to the requirements of 30 Texas Administrative Code §335.6. As stated in §335.6, a person who intends to store, process, or dispose of industrial solid waste without a permit shall notify the executive director in writing that storage, processing or disposal activities are planned, at least 90 days prior to engaging in such activities.

9. Section 2.1.2 states that solids with VOC concentrations at or less than background will be transported and managed as fill material. Please note that background concentration for VOCs is non-detect.

10. Mr. Richard Clarke, TNRCC Corrective Action Section, in a letter dated August 12, 1996, approved the criteria for disposal and management of investigation derived waste onto the ground. Since that time, more regulations and/or guidance have been written concerning the management of investigation derived wastes or remediation wastes. The TCEQ requests CSSA to reevaluate and update the approved criteria to remain consistent with current regulations or guidance concerning remediation and investigation-derived wastes.

11. In the detailed discussion of U210 and U228 wastes, it was stated "it does not refer to solvent mixtures with multiple active ingredients or process wastes." This quote was not found in the 40 Code of Federal Regulations (CFR) for U listed waste. The TCEQ requests that said citations be removed from the discussions.

12. Discussions on "Determination when contamination is caused by listed hazardous waste" cited as reference the final NCP preamble as stated in 55 Federal Register 8758 and the HWIR-Media

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proposed preamble in 61 Federal Register 18805. It has been the understanding of the undersigned that preambles are unenforceable. Please provide additional discussions and/or examples where preambles have been enforced by the EPA.

13. The last paragraph of Section 3.1.1, states that "CSSA may assume the source, contaminant or waste is not listed hazardous waste and, therefore, provided that the material in question does not exhibit a characteristic of hazardous waste, RCRA management requirements do not apply." Several pages of discussion focused on the premise that TCE and PCE are not listed waste. CSSA should provide analytical protocol (frequency, testing, etc.) in establishing characteristically hazardous media or wastes. In addition, the TCEQ had stated in a previous letter that screening for toxicity characteristic using the factor 20X may not be a reliable indicator of the leaching capacity of the material. The TCEQ cautions CSSA in using the 20X factor. The TCEQ requires actual laboratory analysis of the sample for TCLP determination and statement(s) in the waste management plan requiring such an analysis should be added.

14. The statement in Section 3.3 which states that "there are no regulatory treatment requirements for non-hazardous waste prior to disposal" may be inaccurate. The closure or remediation performance standard includes the statement that the remediation (of which treatment may be a part of) shall be conducted in a manner that minimize or eliminate, to the extent necessary to protect human health and the environment, the escape of wastes, contaminants, leachate, run-off or decomposition products to the surrounding environmental media. Please modify this statement to incorporate the remediation/closure performance standard.

15. Section 3.4.1 discusses hazardous waste treatment and references 40 CFR 264 - Standards for owners and operators of hazardous waste treatment, storage and disposal facilities. Several discussions were made concerning the possible use of Corrective Action Management Unit, Treatment Unit, Remediation Waste Management Site, Remedial Action Plan and Staging Piles. These are remediation units available to expedite cleanup at a permitted facility and, therefore, may not be applicable for use at CSSA because CSSA does not have a hazardous waste permit. The TCEQ requires a determination whether these units are available for use at CSSA under the authority of the 3008(h) Order. Otherwise, the only alternative available for hazardous waste treatment at CSSA would be the exemption allowed if treatment were to be conducted in tank and containers and within 90 days as provided in 40 CFR 262.34.

16. Section 4.1 Waste Identification, the TCEQ requires CSSA to include a sampling protocol for TCLP analyses.

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

April 29, 2002

ENCLOSURE: 2

Lt. Colonel Jason D. Shirley, U.S. Army
Department of the Army
Camp Stanley Storage Activity, RRAD
25800 Ralph Fair Road
Boerne, TX 78015-4800

Re: Area Of Concern (AOC)-65 Media Management Evaluation
Solid Waste Registration Number 69026
Technical Analysis File Number 1491

Dear Colonel Shirley:

This is in response to your April 15, 2002 letter regarding the classification of soils generated from the AOC-65 site at Camp Stanley located in Boerne, Texas.

Although your letter does briefly discuss the matter of when a contaminated media actually becomes a solid waste, its main focus is on the protocol that the Department of the Army (DOTA) proposes to use when making a hazardous waste determination for the subject soil. For this reason, my letter will *not* address the question of when the subject soil becomes a solid waste. Instead, it will address the question of whether the DOTA's protocol is appropriate for making a proper hazardous waste determination for the soil.

Making a hazardous waste determination consists of two steps. One step is to determine whether a waste exhibits one or more characteristics of a hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261, Subpart C. The other is to determine whether the waste is a listed hazardous waste as defined in 40 CFR Part 261, Subpart D.

The information in your letter says that the DOTA has determined that the subject soil does not exhibit any characteristic of a hazardous waste. At the current time, the Technical Analysis Team has no reason to question that portion of the DOTA's hazardous waste determination for the soil.

The Technical Analysis Team has no reason to object to what is said in the Environmental Protection Agency's October 4, 1998 memorandum entitled, "Management of Remediation Waste Under RCRA, EPA530-F-98-026" memorandum. However, I would like to point out that the fact that subject soil is located at or near a vat that is known to have contained perchloroethylene (PCE) and trichlorethylene (TCE) used for their solvent properties up to 1995 *could* provide grounds for a strong circumstantial case that any PCE or TCE contamination found in the soil is from a listed source. Given this fact, I would like to respectfully recommend that the portion of making a hazardous waste determination for the soil that involves determining whether the soil contains a listed hazardous waste be made as follows:

INFORMATION COPY
2002 APR 29 PM 2:51
REGIONAL OFFICE
SAN ANTONIO
REGION

Lt. Colonel Jason D. Shirley
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Re: Area Of Concern (AOC)-65 Media Management Evaluation
Solid Waste Registration Number 69026
Technical Analysis File Number 1491

- ▶ If the May 5, 1999 Administrative Consent Order mentioned in your letter specifically mandates how to determine whether the soil contains a listed hazardous waste, please follow the provisions of the protocol; and
- ▶ If the Order does *not* address how to determine whether the soil contains a listed hazardous waste, then please rely on the language of 30 Texas Administrative Code (TAC) Chapter 350, Section 350.2(h)(3) to do so.

If you have any questions regarding this letter, please contact Mr. Jesse Boultinghouse of my team at (512) 239-2334. If responding by letter, please use Mail Code (MC-130) after the recipient's name.

If you have questions regarding 30 TAC Chapter 350 or other matters related to the clean-up of the Camp Stanley site, please contact Mr. Kirk Coulter of the Corrective Action Division at (512) 239-2572.

Sincerely,

M. Scott Green

Scott Green, Leader
Technical Analysis Team
I&H Waste Permits Section
Waste Permits Division
Texas Natural Resource Conservation Commission

MSG/JKB/cm

cc: Mr. Jesse Boultinghouse
Mr. Kirk Coulter

KIR Added
2/4/04
[Signature]