



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JUN 30 1993

CERTIFIED MAIL; RETURN RECEIPT REQUESTED P 323 409 832

Lieutenant Colonel Oscar L. Major
Department of the Army
Camp Stanley Storage Activity, RRAD
Post Office Box 69027
San Antonio, Texas 78269-0627

Re: Complaint, Compliance Order, and Notice of Opportunity for Hearing
Camp Stanley Storage Activity, Docket No. RCRA VI-310-H
EPA I.D. No. TX2210020739

Dear Colonel Major:

Enclosed herein is a Complaint, Compliance Order, and Notice of Opportunity for Hearing (Complaint) filed by the U.S. Environmental Protection Agency (EPA) against Camp Stanley Storage Activity, 25800 Ralph Fair Road, Boerne, Texas, 78006. This Complaint is filed pursuant to the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, as amended (RCRA). EPA alleges in the Complaint that Camp Stanley Storage Activity has failed to comply with Subtitle C of RCRA and the regulations promulgated thereunder. These violations are specifically set out in the Complaint.

We call Camp Stanley's attention to the part of the Complaint entitled "Notice of Opportunity to Request a Hearing". Should Camp Stanley request a hearing, its written request must be filed with the Regional Hearing Clerk within thirty (30) days of service of this Complaint. Upon failure to file an answer within thirty (30) days of service of this Complaint, a default judgement may be entered and the proposed civil penalty may be assessed without further proceedings.

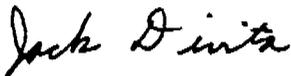
In addition, Camp Stanley will be subject to penalties of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day, per violation for failure to comply with the Compliance Order section of the Complaint.

Camp Stanley has the right to be represented by an attorney at any stage of these proceedings. The Rules of Practice at 40 CFR § 22.08 prohibit unilateral discussion of the merits of the case with the Regional Administrator, the Regional Judicial Officer, or the Administrative Law Judge after issuance of the Complaint.

Furthermore, each day of continued violation of the cited regulations may constitute a new violation for which additional penalties may be imposed.

Any questions regarding this matter may be addressed to either the attorney assigned to this case, Pat Larkin, who can be reached at (214) 655-8023, or Guy L. Tidmore, P.G., Chief, Texas Section, RCRA Enforcement Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, or telephone (214) 655-6794.

Sincerely yours,



for Allyn M. Davis, Director
Hazardous Waste Management Division (6H)

Enclosure

cc: Susan S. Ferguson, Director
Industrial and Hazardous Waste Division
Texas Water Commission

Anne C. Dobbs, Manager
Industrial & Hazardous Waste Enforcement Section
Texas Water Commission

Billy Boggs, District 8
Texas Water Commission

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

JUN 30 AM 11:24
EPA REGION VI

IN THE MATTER OF:

Camp Stanley Storage Activity
P.O. Box 690627
San Antonio, Texas 78269

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DOCKET NO.
RCRA VI-310-H

EPA I.D. NO. TX2210020739
RESPONDENT.

**COMPLAINT, COMPLIANCE ORDER, AND NOTICE
OF OPPORTUNITY FOR HEARING**

The Complainant, Director of the Hazardous Waste Management Division, issues this COMPLAINT, COMPLIANCE ORDER, AND NOTICE OF OPPORTUNITY FOR HEARING to the Respondent, Camp Stanley Storage Activity, San Antonio, Texas.

I

STATEMENT OF AUTHORITY

This COMPLAINT, COMPLIANCE ORDER, AND NOTICE OF OPPORTUNITY FOR HEARING (Complaint), is issued pursuant to Section 3008(a) of the Solid Waste Disposal Act of 1976, 42 U.S.C. §§ 6928(a), as amended by the Resource Conservation and Recovery Act "RCRA", as further amended by the Hazardous and Solid Waste Amendments of 1984 "HSWA", 42 USC §§ 6901, et. seq., and as further amended by the Federal Facility Compliance Act of 1992, Pub. Law No. 102-386. This Complaint is issued consistent with the requirements of Executive Order 12088, Federal Compliance With Pollution Control Standards.

Complainant is authorized to issue Complaints whenever Complainant has information that any person has violated or is in violation of any requirements of Subtitle C of RCRA, 42 U.S.C. §§6921 to 6939(b). The requirements of Subtitle C of RCRA also include the requirements of the authorized program in a State which has been authorized to carry out a hazardous waste management program under Section 3006 of RCRA, 42 U.S.C. §6926. On December 26, 1984 EPA granted authority to the State of Texas to administer a hazardous waste management program (49 Fed. Reg. 48300, December 26, 1984). The Texas Water Commission (TWC) is the State agency designated to carry out the authorized program. The State of Texas received HSWA authority effective July 23, 1990. 55 Fed. Reg. 21383 (May 24, 1990). The State of Texas has not been authorized to enforce all of the provisions of HSWA. Therefore, EPA enforces the federal program and the implementing regulations for those provisions of HSWA that are not included in the authorized program. This Complaint pertains to violations of the State authorized program.

The authority to issue this Complaint in the State of Texas has been delegated by the Administrator of the U.S. Environmental Protection Agency (EPA) to the Regional Administrator of EPA Region 6 and further delegated to the Director, Hazardous Waste Management Division, EPA Region 6 (Complainant).

II

NOTICE TO THE STATE

Notice of this action was given to the State of Texas prior to the issuance of this Complaint pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

III

PRELIMINARY STATEMENT

Where used herein, the terms "you" or "yours" refer to Respondent.

1. Respondent is a "Federal agency", as defined in Section 1004(4) of RCRA, 42 U.S.C. §6903(4), and 40 CFR §260.10.

2. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. §6903(15), as amended by the Federal Facility Compliance Act of 1992, Pub. Law No. 102 - 486, and as defined in 31 TAC §§335.1, 335.42, [40 C.F.R. §§ 260.10 and 270.2].

3. Pursuant to Sections 6001 and 6004 of RCRA, 42 U.S.C. §§6961 and 6964, respectively, each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal or management of solid waste or hazardous waste, as defined at 40 CFR §260.10, is subject to, and must comply with, all Federal, State, interstate, and local requirements, both

substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as any person is subject to such requirements.

4. Section 3010(a) of RCRA, 42 U.S.C. §6930(a), requires any person generating or transporting any listed or characteristic hazardous waste, or owning or operating a facility for treatment, storage, or disposal of such substance to file with EPA or the State (if the State has an authorized program) a notification stating the location and general description of such activity and the identified, listed, or characteristic hazardous wastes handled by such person.

5. Pursuant to Section 3010 of RCRA, 42 U.S.C. §6930, on or about September 22, 1980, Respondent provided to EPA a Notification of Hazardous Waste Activity with respect to its facility located at Camp Stanley, Texas (the Facility). In the Notification, Respondent identified itself as an operator of a hazardous waste treatment, storage, and disposal facility.

6. On or about November 19, 1980, Respondent submitted its Part A permit application with respect to the Facility. In its Part A permit application, Respondent stated that it generated and stored hazardous wastes identified by the EPA hazardous waste codes F001 (spent halogenated solvents used in degreasing) and

D002 (corrosive) and identified the Red River Army Depot as the owner of the Facility.

7. The substances identified in paragraph 6 above are "solid wastes" as defined at 40 CFR §261.2 and 31 TAC §335.1.

8. The substances identified in paragraph 6 above are also "hazardous wastes" as defined at 40 CFR §261.2 and 31 TAC §335.1.

9. The substances identified in paragraph 6 above are also "hazardous industrial wastes" as defined at 31 TAC §335.1. For the purposes of this complaint, the term "hazardous waste" shall mean "hazardous waste" and "hazardous industrial waste."

10. Pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), Respondent obtained interim status with respect to the Facility.

11. Respondent submitted subsequent hazardous waste activity notifications, as alterations in hazardous waste activities warranted, through the years 1980 to 1988. However, although several subsequent notifications were posted, none addressed the Open Burning/Open Detonation activities that were conducted at the Facility.

12. Respondent is a "generator" of hazardous waste as defined in 40 CFR §§260.10 and 270.2, and 31 TAC §335.1.

13. Respondent is engaged in the "treatment", "storage", or "disposal" of hazardous waste as those terms are defined in Sections 1004(3), 1004(33), and 1004(34) of RCRA, 42 U.S.C. §§6903(3), 6903(33), 6903(34); 40 CFR §§260.10 and 270.2, and 31 TAC §335.1.

14. In its Notification and Part A permit application, Respondent identified itself as the operator of the Facility. Therefore, Respondent is an "operator" as defined at 40 CFR §§260.10 and 270.2, and 31 TAC § 335.1.

15. Because the Facility was in existence and in operation on or before November 19, 1980, Respondent is the operator of an "existing hazardous waste management facility" as defined in 40 CFR §§260.10 and 270.2, and 31 TAC §335.1.

16. On or about January 21, 1993, Respondent's facility was inspected by an enforcement officer of EPA Region 6 and a representative of the TWC, pursuant to authority granted by Section 3007(a) of RCRA, 42 U.S.C. §6927(a) and by Section 361.003 of the Texas Solid Waste Disposal Act.

IV

VIOLATIONS

COUNT I - UNPERMITTED TREATMENT

17. Paragraphs 1 through 16 are incorporated herein by reference.

18. Pursuant to 31 TAC §335.43 [40 CFR §§270.1 and 270.10] and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) , no person may, except as provided at 31 TAC §335.43(b) [40 CFR §270.10], store, treat, or dispose of hazardous waste without first having obtained or applied for a permit.

19. Pursuant to Section 3005(e) of RCRA and 40 CFR §270.10(e), owners and operators of existing hazardous waste

management facilities were required to submit their Part A RCRA permit application to EPA on or before November 19, 1980, for all facilities used for the treatment, storage or disposal of hazardous waste.

20. Respondent submitted its Part A application for a permit on or before November 19, 1980. This Part A application identified container and surface impoundment storage activities, but did not identify any treatment activities or treatment units at the Facility.

21. Section 3005(e)(1) of RCRA, 42 U.S.C. § 6925, gives "interim status" to facilities which were in existence on November 19, 1980, or which are in existence on the effective date of statutory or regulatory changes under RCRA that render the facility subject to the requirement to have a RCRA permit, provided the facility complies with the requirements of Sections 3010 and 3005(e) of RCRA, 42 USC §§6930 and 6925(e).

22. Pursuant to 40 CFR § 270.71(a) and 31 TAC §305.51, during the interim status period the interim status facility is prohibited from employing processes not specified in its Part A permit application.

23. "Thermal treatment" (40 CFR §260.10), and "thermal processing" (31 TAC §335.1), mean the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. For the purposes of this

complaint, the term "thermal treatment" shall mean "thermal treatment" and "thermal processing."

24. Pursuant to 40 CFR § 265.10 and 40 CFR Part 265 Subpart P, incorporated by reference at 31 TAC §335.112(15), open burning and open detonation are considered thermal treatment.

25. At its facility, Respondent operates an open burning/open detonation unit (the OB/OD unit).

26. The OB/OD unit is used by the Respondent as a "thermal treatment" unit to manage or dispose of D003 reactive hazardous waste. The unit is a "hazardous waste management unit" as defined in 31 TAC §335.1 [40 CFR §260.10].

27. The Respondent failed to obtain interim status for the operation of a thermal treatment unit because it did not include this treatment process or unit in its November 19, 1980, RCRA Part A permit application.

28. Based upon discussions with the Respondent during the January 21, 1993, inspection and based upon a review of demolition activity records provided by Respondent, the open burning/open detonation unit at the Facility was used from 1969 through 1987 to thermally treat D003 reactive hazardous waste.

29. Therefore, the Respondent has violated 31 TAC §335.43(a) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a) [40 CFR §§270.1 and 270.10] by treating hazardous waste without a permit or interim status.

COUNT II - FAILURE TO HAVE CLOSURE PLAN

30. Paragraphs 1 - 29 are hereby incorporated by reference.

31. In accordance with 31 TAC §§ 335.8, 335.112(6) [40 CFR § 265.112], an owner or operator of a hazardous waste management facility must have a written closure plan that describes how each hazardous waste management unit will be closed in accordance with 31 TAC § 335.118 [40 CFR § 265.111]. The closure plan must be furnished upon request to EPA or the state (in a state with an authorized program).

32. During the January 21, 1993 inspection, and in response to the request of the EPA employee to view the closure plan for the OB/OD unit, Respondent stated it did not have a written closure plan for the OB/OD unit.

33. Therefore, Respondent has violated 31 TAC §§335.8 and 335.112(6) [40 CFR § 265.112], by failing to have a written closure plan for the OB/OD unit.

V

COMPLIANCE ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following immediate action, and provide evidence of compliance within thirty (30) days, unless otherwise noted, of receipt of this Order:

1. UNPERMITTED TREATMENT. Upon receipt of this Complaint, immediately cease the use of the open burning/open detonation unit and any other thermal treatment unit which is not permitted

or which does not have interim status, in accordance with 40 CFR §270.71(a) and 31 TAC §305.51 .

2. CLOSURE PLAN. Prepare and submit closure plans for the open burning/open detonation site and any other thermal treatment unit located at the facility. This closure plan must be submitted to the EPA for review and comment, and to the TWC for review and approval. Any and all closure plans submitted must meet the requirements of 40 CFR Part 265 Subpart G and 31 TAC Chapter 335. Respondent shall immediately begin complying with the closure plan upon approval by TWC.

3. ENVIRONMENTAL AUDIT. The Respondent shall institute a facility environmental audit as described in Attachment A.

In addition to the service requirements for pleadings and documents set forth at 40 CFR §22.05, Respondent shall mail a copy, in duplicate, of any documentation required by the Order to the following addresses:

Guy L. Tidmore, Chief
Texas Section (6H-CT)
RCRA Enforcement Branch
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Susan Ferguson, Director
Industrial and Hazardous Waste
Texas Water Commission
P.O. Box 13087, Capitol Station
Austin, Texas 78711

In all instances in which this Order requires written submissions to EPA, each submission must be accompanied by the following certification signed by a "responsible official":

"I certify that the information contained in or accompanying this submission is true, accurate and complete. As to those identified portions of this submission for which I cannot personally verify the truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting upon my direct instructions, made the verification, that this information is true, accurate, and complete."

For the purpose of this certification, a "responsible official" of a federal agency means a person in charge of a principal business function, or any other person who performs similar decision-making functions for the federal agency.

NOTICE: If you fail to take the required action(s) within the time specified in the Order, you may be liable for an additional penalty of up to TWENTY-FIVE THOUSAND (\$25,000) DOLLARS for each day of continued noncompliance, and may be subject to further enforcement action, including injunction from any further generation, transportation, treatment, storage or disposal of hazardous waste and such other and further relief as may be necessary to achieve compliance with Subtitle C of RCRA, all pursuant to Section 3008(c) of RCRA, 42 U.S.C. § 6928(c).

Notwithstanding any other provision of this Complaint, an enforcement action may be brought against the Respondent pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority if EPA finds that the handling, storage, treatment, transportation or disposal of solid waste or hazardous waste at

the facility presents an imminent and substantial endangerment to human health or the environment.

VI

PROPOSED CIVIL PENALTY

Section 3008 of RCRA authorizes a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day for each violation of RCRA and the regulations promulgated thereunder. Complainant proposes to assess a civil penalty of \$ SIX HUNDRED AND NINETY-THREE THOUSAND DOLLARS (\$ 693,000) against Respondent. The violations and associated penalties are itemized as follows:

Count I: Unpermitted Treatment - \$ THREE HUNDRED AND FORTY-SIX THOUSAND FIVE HUNDRED DOLLARS (\$ 346,500); and Count II: Failure to have a Closure Plan - \$ THREE HUNDRED AND FORTY SIX THOUSAND FIVE HUNDRED DOLLARS (\$ 346,500). The computation of this amount is based upon the seriousness of the violations, the threat of harm to public health or the environment, the Respondent's good faith efforts to comply with the applicable regulations, the Respondent's ability to pay and the October 1990 RCRA Civil Penalty Policy.

If you wish to contest any material fact contained in the Complaint, or the appropriateness of this penalty, see the following Section entitled "Notice of Opportunity to Request a Hearing".

VII

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Where Respondent (1) contests any material fact upon which the Complaint is based; (2) contends that the amount of the penalty proposed in the Complaint is inappropriate; or (3) contends that it is entitled to judgment as a matter of law, Respondent shall file a written Answer to the Complaint with the Regional Hearing Clerk, Region 6, within thirty (30) days after the filing of the Complaint.

The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where the Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. Failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint constitutes an admission of the allegation.

The Answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) the facts which Respondent intends to place at issue; and (3) whether a hearing is requested. A hearing upon the issues raised by the Complaint and Answer shall be held upon request of the Respondent in the Answer.

The hearing, if requested, will be conducted in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. § 552 et seq.), and the Consolidated Rules of Practice, codified

at 40 CFR Part 22. A copy of these Rules is enclosed.

Respondent may retain counsel to represent it at the hearing.

The Regional Hearing Clerk's address is:

Regional Hearing Clerk
U.S. Environmental Protection Agency
First Interstate Bank Tower
1445 Ross Avenue
Dallas, Texas 75202-2733

VIII

DEFAULT ORDER

If Respondent fails to file an Answer within thirty (30) days of the filing date of this Complaint, it may be found to be in default pursuant to 40 CFR § 22.17. For purposes of this action, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing under Section 3008 of RCRA, 42 U.S.C. § 6928, concerning such factual allegations. The proposed penalty shall become due and payable by Respondent without further proceedings sixty (60) days after issuance of a Final Order upon Default. Upon issuance of the Final Order upon Default, Respondent must immediately comply with the Order provisions in the Complaint.

IX

SETTLEMENT CONFERENCE

Whether or not the Respondent requests a hearing, it may confer with Complainant concerning settlement. EPA encourages settlement consistent with the provisions and objectives of RCRA

and applicable regulations. A request for a settlement conference does not extend the thirty (30) day period during which the written Answer and a request for hearing must be submitted. The settlement conference procedure may be pursued as an alternative to and simultaneous with the formal hearing procedures. Respondent may appear at the settlement conference and/or be represented by counsel.

Any settlement reached by the parties shall be finalized upon the issuance of a written Consent Order by the Regional Administrator, EPA Region 6, in accordance with 40 CFR § 22.18. The issuance of a Consent Order shall constitute a waiver of Respondent's right to request a hearing on any matter stipulated to therein.

To explore the possibility of settlement in this matter, contact the attorney assigned to this case, Patrick Larkin, who can be reached at (214) 655-2156, or contact Guy Tidmore, Chief, Texas Section, RCRA Enforcement Branch, U.S. EPA, Region 6, First Interstate Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202-2733, or by telephone at (214) 655-6794.

Jack Divita

for Allyn M. Davis
Director
Hazardous Waste Management Division (6H)
U.S. EPA, Region 6

Dated this 30th day of June 1993, at Dallas, Texas.

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing
Complaint, Compliance Order, and Notice of Opportunity For
Hearing regarding Camp Stanley Storage Activity, at San Antonio,
Texas, RCRA Docket No. VI - 310 - H was filed with the Regional
Hearing Clerk, EPA Region 6, Dallas, Texas, and a true and
correct copy of such Complaint was placed in the United States
mail, postage prepaid, certified mail, return receipt requested,
on this 30th day of June 1993,
addressed to the following:

Lt. Col. Oscar L. Major
Department of the Army
Camp Stanley Storage Activity, RRAD
P.O. Box 69027
San Antonio, TX 78269-0627

Lauretta Scott
Lauretta Scott