



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

OFFICE OF THE  
SECRETARY

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DOVER, DELAWARE 19901

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**NOTICE OF CONCILIATION  
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. § 6005(b)(2)

**Order No. 2006-A-0048**

*PERSONALLY SERVED BY ENVIRONMENTAL  
ENFORCEMENT OFFICER*

**Issued To:**  
Claymont Steel, Inc.  
Attn: Jeff Bradley, Chairman  
4001 Philadelphia Pike  
Claymont, DE 19703

**Registered Agent:**  
Corporation Trust Company  
1209 Orange  
Wilmington, DE 19801

CitiSteel, Inc.  
4001 Philadelphia Pike  
Claymont, DE 19703

H.I.G. Capital  
4001 Philadelphia Pike  
Claymont, DE 19703

Dear Chairman Bradley and companies:

This is to notify Claymont Steel, Inc., CitiSteel, Inc., and H.I.G. Capital ("Claymont Steel") that the Secretary of the Department of Natural Resources and Environmental Control has found Claymont Steel in violation of 7 Del. C. § 6003(a)(1), and Air Regulation No. 6, Section 6.1, and is ordering compliance in accordance with 7 Del. C. § 6005(b)(2).

*Delaware's Good Nature depends on you!*

## FINDINGS

Claymont Steel operates a steel recovery and steel refinery type operation in Claymont, Delaware ("Facility"). Claymont Steel stores steel refinery slag ("slag") at the Facility. Particulate matter from the slag and from other operations and activities at the Facility ("slag dust") is subject to becoming airborne and windborne. The slag dust is then released from the Facility and deposited in the surrounding area.

The Department of Natural Resources and Environmental Control ("Department") received approximately one-hundred and two (102) complaints from citizens during the time-frame of October 18, 2005 thru October 16, 2006 concerning fugitive slag dust releases from Claymont Steel. These complaints consisted of the appearance and presence of slag dust on automobiles and other property, primarily in the Knollwood and Aniline Village Developments, located in Delaware. In response to these complaints, Department staff from various offices in the Air & Waste Management Division, including Enforcement and Air Quality Management, responded to identify potential violations and actions designed to prevent further releases. On November 15, 2005 the Department's Enforcement Section charged Claymont Steel in violation of 7 Del. C. § 6003 for causing or contributing to the release of an air contaminant, slag dust, occurring on October 1, 2005 and November 4, 2005. On March 15, 2006, Claymont Steel pled no contest and paid a criminal fine of \$272, with \$2,550 ordered in restitution.

As a result of the investigations and the Department's monitoring of fugitive slag dust releases, Claymont Steel has taken the following steps to minimize such fugitive emissions from the facility:

- Constructed a series of slag bay cooling structures to contain slag material and implemented wet suppression of the material with fine water spray heads to provide increased dust control coverage.
- Employed continuous watering of the Slag Yard, the Scrap Yard, and Unpaved and Paved Haul Roads. Installed a speed limit which has been enforced at the Facility to further reduce suspension of road fugitive dust from truck traffic. Paved approximately 2300 linear feet of roadway on the haul roads, allowing truck traffic to haul on a continuous paved surface. These actions, in conjunction with sweeping/vacuuming roadways were instituted to reduce fugitive dust. In mid-April 2006, Claymont Steel also purchased and demonstrated the use of a Tenant Vacuum Sweeper.
- Purchased and installed a weather station at the facility to track wind speed direction, in order to assist in complaint response and decisions on processing slag material and dust. Committed to constructing a slag enclosure in an existing warehouse structure to wet out dry ladle slag prior to processing, a final step in the Company's mitigation efforts.
- Planted 12 Cypress trees along Naamans Road in late April 2006 in attempt to act as a barrier between the facility and the nearby Aniline Village Development, a community which a majority of the complaints on-file have been received.

Claymont Steel has indicated to the Department that it has taken the following steps to minimize fugitive slag dust emissions from the facility:

- Attempted to minimize the inventory of slag material and slag dust to reduce stockpile exposure to wind.
- Instructed equipment operators at the Facility in best management procedures for minimizing slag dust generation and indicated that there has been an increased effort to train their load operators.

The Department's Enforcement Section has collected at least 14 samples of material identified as slag dust as a result of complaints from communities near the Facility. The samples were taken in the residential communities nearest the Facility and the appearance and characteristics of the samples are consistent with slag dust from a steel refinery type operation. There are no steel refineries or similar steel refinery type operations, other than the Claymont Steel Facility, anywhere near the communities from which samples were obtained. These slag dust samples originated at the Facility.

On December 7, 2005, a representative of the Department and a representative from the Division of Public Health witnessed slag dust emissions from the facility, in which the slag dust became airborne and windborne, leaving the property in a northeasterly direction traveling over Philadelphia Pike.

On December 8, 2005, a representative of the Department witnessed slag dust emissions and digitally photographed said emissions from the slag area.

On August 24, 2006, and August 31, 2006, a representative from the Department's Enforcement Section witnessed visible slag dust emissions from the slag area.

Citizens in the surrounding neighborhoods have complained and continue to complain of property damage and adverse physical symptoms resulting from the slag dust, such as itchy throat and eyes, coughing, upper respiratory symptoms, etched windows and scratched finish on automobiles, and adverse effects to residential homes and landscaping. Citizens have collected slag dust samples from their real and personal property located near the Facility.

### **REGULATORY AND STATUTORY PROVISIONS**

Seven *Del. C. § 6003(a)(1)* states:

“No person shall, without first having obtained a permit from the Secretary, undertake any activity in a way which may cause or contribute to the discharge of an air contaminant.”

Delaware Regulations Governing the Control of Air Pollution, Regulation No. 6,

Section 6.1 states in pertinent part:

“No person shall cause or allow stockpiling or other storage of material or transport to or from a storage facility in such a manner as may cause a condition of air pollution.”

Delaware Regulations Governing the Control of Air Pollution, Regulation No. 1

and 7 *Del. C. § 6002* define "Air Pollution" as:

"The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life or to property or which unreasonably interferes with the enjoyment of life and property within the jurisdiction of the State, excluding all aspects of employer-employee relationships as to health and safety hazards."

Air Regulation No. 1 defines "Air Contaminant" as:

"Particulate matter, dust, fumes, gas, mist, smoke, or vapor of any combination thereof, exclusive of uncombined water."

## CONCLUSION

Claymont Steel has violated, and continues to violate, *7 Del. C. § 6003(a)(1)* and Regulation No. 6, Section 6.1, by air contaminant emissions and releases of slag dust from stockpiling, storage or transport at the Facility (a storage facility), and such emissions and releases are without a permit and in sufficient quantities and of such characteristics and duration as to unreasonably interfere with the enjoyment of life and property, causing a condition of air pollution.

## NOTICE OF CONCILIATION AND ORDER

It is the desire and demand of the Department that Claymont Steel take action to correct its violations by the dates below, and abate dust slag emissions from the Facility causing or contributing to conditions of air pollution in the adjacent community, to a level that is protective of Delaware's citizens and its environment. Therefore, in consideration of the foregoing findings,

IT IS HEREBY ORDERED that Claymont Steel shall take the following actions:

1. Claymont Steel shall sponsor and fund an independent study of engineering and operational options to control slag dust and other particulate emissions from the facility so that the slag dust emissions and other particulate emissions shall not interfere with the enjoyment of life and property in the neighborhoods surrounding the Facility.
2. The scope of the study should include, but not be limited to: (A) Slag dust abatement options, including but not limited to: (i) complete enclosure of all areas of the plant producing dust

emissions, (ii) the use of covers for certain areas and storage piles producing dust emissions, (iii) the use of spray materials to suppress the fugitive dust emissions from areas producing dust emissions, and (iv) reorganizing the materials handling procedures to minimize inventories of dust producing materials and (B) a plan for ambient air monitoring in and around the adjacent neighborhoods to the facility prior to and following the implementation of additional control measures employed as a result of the findings of the study.

3. To help ensure the independence and technical rigor of the study, Claymont Steel shall submit to the Department the names and background information for three alternative organizations or individuals to conduct the study and serve as contractor for the study.
4. The study will address the effectiveness of each alternative in slag dust emission reduction, cost (capital and O&M), community impact (including aesthetics), length of time to complete each project, and examples of where the technologies and methods have been used in other locations (including location, circumstances, results, and contact information for more information about the application). The report shall include prioritized recommendations for the abatement method.
5. Claymont Steel shall submit for the Department's consideration the names of alternative study contractors by November 15, 2006. The

Department shall select one of the submitted contractors based on technical excellence, communications ability, time to complete the study, independence and cost-effectiveness, and send to Claymont Steel its selection from among the proposed contractors by December 1, 2006 to abate slag dust emissions from the aforementioned source to address long term slag dust emissions.

Claymont Steel will contract with the selected contractor and ensure the study is completed in draft form by March 1, 2007.

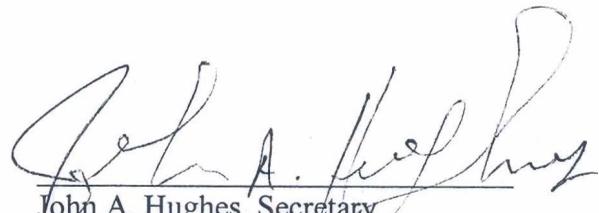
6. The Department will provide an opportunity for a minimum of 15 days of public comment on alternatives identified in the draft study.
  7. Based on, and depending on the results of this study and public comments received, the Department will determine the appropriate option to abate the slag dust emissions so that they will not interfere with the enjoyment of life and property in the neighborhoods surrounding the Facility. The Department intends to complete this determination by May 1, 2007.
  8. Within 60 days of the Department determining the appropriate option, Claymont Steel shall submit a plan for implementation of the appropriate option, including an expedited implementation schedule, for Department approval.
  9. Claymont Steel shall implement the plan according to the schedule set by the Department.
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**PUBLIC HEARING**

This Notice and Order shall become effective and final unless the Secretary receives from Claymont Steel, no later than 30 days from receipt of this Notice, a written request for a public hearing on these matters as provided in 7 Del. C. s 6005(b)(2). In the event Claymont Steel requests a hearing, the Secretary reserves the right to withdraw this Notice and Order and to take additional enforcement actions regarding these and other violations at Claymont Steel's Facility, including but not limited to, the imposition of civil penalties and recovery of the Department's costs and attorney's fees. The Department does not otherwise intend to convene a public hearing on these matters, but reserves the right to do so at its discretion. In the event that Claymont Steel does not request a hearing and this Order becomes final as provided above, the Department retains and reserves the right to bring any additional enforcement, penalty, injunctive, or other action or appropriate legal proceeding.

If you have any questions, please contact Paul Foster at (302) 323-4542.

10-23-06  
Date

  
John A. Hughes, Secretary

**SERVICE OF DOCUMENTS**

I PERSONALLY SERVED SECRETARY'S ORDER NO. 2006-A-0048 ON THIS

(DATE) 23RD OF OCTOBER ON CITISTEEL

(NAME) ALLEN EGENER BY LEAVING IN HIS/HER HANDS

A TRUE AND CORRECT COPY, AT HIS/HER PLACE OF BUSINESS ON

10/23/2006 2006.

  
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SIGNATURE OF DNREC ENVIROMENTAL PROTECTION OFFICER

MARI GRESHOVSKY 9704  
PRINTED NAME OF DNREC OFFICER

97-06-3298

**SERVICE OF DOCUMENTS**

I PERSONALLY SERVED SECRETARY'S ORDER NO. 2006-A-0048 ON THIS

(DATE) 24th of October ON CORPORATE TRUST

(NAME) JACQUELINE WITZMAN BY LEAVING IN HIS/HER HANDS

A TRUE AND CORRECT COPY, AT HIS/HER PLACE OF BUSINESS ON

10/24 / 2006.

SIGNATURE OF DENREC ENVIROMENTAL PROTECTION OFFICER

MARI GREGORSKY  
PRINTED NAME OF DENREC OFFICER

97 - 06-3303