

MEMORANDUM

TO: *Sety Lurche*  
FROM: Mr. Lacey  
SUBJECT: Abatement Schedule Creation/Revision

DATE: 11-20-92  
FILE NO. 89-57

*File*  
*LTV skel*  
*# 15532*

Please monitor the firm's compliance with the abatement schedule created/revisted by the attached Order. Notify us of the completion of any violation of this schedule.

<u>Reviewed by:</u>	<u>Initialed:</u>	<u>Date:</u>	<u>Assigned to:</u>
1. Natural Resources	_____	_____	_____
Water	_____	_____	_____
Air Resources	_____	_____	_____
Solid Waste	<i>PJD</i>	<i>11/20/92</i>	<i>D. WELLS</i>
Hazardous Waste	_____	_____	_____
Regulatory Affairs	_____	_____	_____
Law Enforcement	_____	_____	_____

2. Copy of Order sent to:

*Dale Papsjik, Esq.*

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
-----

In the Matter of Closure of a Landfill Operated Pursuant to Part 360 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York and Environmental Conservation Law Article 27 by:

LTV STEEL COMPANY, INC.  
3100 East 45th Street  
Cleveland, Ohio 44127

ORDER  
ON  
CONSENT

FILE NO. 89-57  
R9-2808-89-05

Respondent  
-----

WHEREAS:

1. Article 27 of the New York State Environmental Conservation Law (hereinafter cited as Article 27) establishes the powers of the Department of Environmental Conservation over the use of land for the purpose of refuse disposal and for the operation and maintenance of refuse disposal areas; and Article 27 permits the establishment of Part 360 of Title 6 of the Official Compilations of Codes, Rules and Regulations of the State of New York (hereinafter cited as Part 360).

2. Respondent is the corporate successor to Republic Steel Corporation, located at 1175 South Park Avenue, Buffalo, New York. As such, Respondent maintains a refuse disposal area on land owned and controlled by the Respondent; to wit premises situated on Marilla Street in the City of Buffalo, New York (hereinafter referred to as "the Site").

3. A diagram of the Site is set forth in Exhibit A attached hereto and made a part hereof. The Site boundaries lie in the dark, outlined area marked with diagonal lines.

4. Approximately six acres of the Site are known to contain basic oxygen furnace (BOF) dust. These six acres have completed closure in accordance with a hazardous waste closure plan approved on April 11, 1989. Said six acres are hereinafter referred to as the "BOF Dust Sector." Another portion of the Site is referred to as the "Clarifier Sludge and Fine Refuse Sector." Both Sectors are currently collectively denominated as the "Part 360 Area."

5. The Respondent has exhausted the capacity of the Site and has ceased using the Site for landfill purposes. Accordingly, the Respondent is currently implementing closure of the Part 360 Area as outlined in Schedule A.

6. The Site currently is listed as an inactive hazardous waste site on the Inactive Hazardous Waste Site Registry of New York State. Accordingly, the State is evaluating the Site pursuant to Environmental Conservation Law Article 27, Title 13 ("Phase I"). Respondent will conduct a Hazardous Waste Remediation Phase II investigation ("Phase II investigation") of the entire Part 360 Area as required by law pursuant to a comprehensive Solid Waste Management Facility Investigation Program (SWMFIP) as outlined in Schedule B attached hereto. Respondent will conduct the SWMFIP investigation, including required groundwater monitoring, in accordance with Schedule B

attached hereto pursuant to law. Respondent will submit a report summarizing the investigation and results obtained.

7. Respondent presently is involved in ongoing litigation related to its Chapter 11 bankruptcy proceedings, in the United States District Court for the Southern District of New York, U.S. v. Chateaugay Corp. et al., Nos. 87 Civ. 8144, 88 Civ. 0834 (JES); In re Chateaugay Corp., Reomar, Inc., The LTV Corp. et al. No. 89 Civ. 6687 (JES). Due to the pendency of those proceedings, Court and/or creditor approval may be necessary to implement various elements of this Order. Respondent has maintained that this Order may not be construed in a manner which would abridge the rights or obligations of the parties to the litigation cited in this paragraph, such rights being defined by the decision of the court hearing the case or any resulting settlement agreement. The Department and Respondent, by entering into this Order, waive no right each may have as determined by said litigation or settlement agreement.

8. Respondent affirmatively waives its rights to a hearing on this matter as provided by law and consents to the issuing and entering of this Order and agrees to be bound by the provisions, terms and conditions contained herein.

#### ORDER

NOW, having considered this matter and being duly advised, it is ORDERED:

I. THAT immediately upon service of a conformed copy of this Order upon Respondent, Respondent shall be bound as

hereinafter provided by this Order and Schedule A and Schedule B attached hereto and made a part hereof.

II. THAT the purpose of this Order is to effect fully, proper closure, post-closure maintenance and monitoring of the Part 360 Area pursuant to Part 360 of Title 6 as well as to conduct a Phase II investigation of the Site and to tender a report upon that investigation in the form of a SWMFIP Report; the parties recognize that further obligations may exist pursuant to ECL Article 27, Title 13.

III. THAT all submissions required herein shall be made to the Regional Engineer - Division of Solid Waste, Department of Environmental Conservation, 270 Michigan Avenue, Buffalo, New York 14203.

IV. THAT duly authorized representatives of the State of New York shall be permitted access to any premises wherein a refuse disposal area is wholly or partially controlled, operated, maintained, permitted, allowed or condoned by the Respondent for the purpose of inspecting such refuse disposal areas, performing any tests, taking samples or otherwise determining compliance with this Order, the Environmental Conservation Law, and any rules promulgated thereunder.

V. THAT in those instances in which the Respondent desires that any of the provisions, terms or conditions of this Order be changed, it shall make a written submittal, setting forth its proposed resolution to the Department. When the Department disapproves a revised submittal by means of a notice of

disapproval, Respondent shall be in violation of this Order unless, within 10 days of receipt of the Department's notice of disapproval, Respondent requests to meet with the Director of the Division of Solid Waste ("the Director") in order to discuss the Department's objections. Respondent shall be available to meet with the Director promptly thereafter.

At said meeting, Respondent shall be given an opportunity to present its responses to the Department's objections. The Director shall thereafter have the authority to modify and/or withdraw such objections at the time of said meeting or within 10 days thereof.

In the event that the parties fail to reach agreement on any matter raised at the meeting, either party may pursue any action authorized by law as such party deems appropriate.

VI. THAT any change in this Order shall not be made or become effective except as specifically set forth by written Order of the Regional Director, such written Order being made either upon written application of the Respondent, upon the Regional Director's own findings after an opportunity to be heard has been given to Respondent, after a hearing pursuant to Paragraph V of this Order, or pursuant to the Summary Abatement provisions of the Environmental Conservation Law, or as otherwise provided by law.

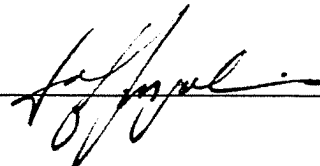
VII. THAT if any event occurs which causes or may cause a violation of any provision of this Order by the Respondent, the

Respondent shall notify the Department of Environmental Conservation in writing within twenty (20) days of the date on which the Respondent is aware or informed of such event. The Respondent will adopt all reasonable measures to avoid or minimize any such violation. If any violation of this Order occurs which is caused by circumstances beyond the reasonable control of the Respondent, the Respondent shall be excused as to that violation for the period of time the violation continues due to such circumstances. The Respondent's time for performance shall be extended for a period not exceeding the delay actually resulting from such circumstances. Failure by the Respondent to comply with the notice requirements of this Paragraph shall render this Section void and of no force and effect as to the particular incident involved, and constitutes a waiver of the Respondent's right under this provision to obtain an extension of its obligation based on that incident.

VIII. THAT the provisions, terms and conditions of this Order shall be deemed to bind the Respondent, and its agents, servants, employees, successors and assigns.

*October 19, 1972*  
*Buffalo, N.Y.*

THOMAS C. JORLING, Commissioner  
New York State Department of  
Environmental Conservation



---

## SCHEDULE A

Respondent shall, on or before the dates indicated:

<u>Item</u>	<u>Date</u>
1. Submit Solid Waste Management Facility Investigation Program (SWMFIP) as outlined in Schedule B.	45 days from date of execution of Order
2. Submit a detailed closure plan for the Clarifier Sludge and Fine Refuse Sector (a conceptual plan was previously submitted and approved) pursuant to Part 360.  a. Such plan shall clearly identify the boundaries of the area subject to closure.  b. Such plan shall encompass clay soils, cap construction and vegetative cover. Closure shall include a clay cap of 18" in depth with 10-7 cm/sec permeability; cover cap with topsoil 12" in depth; vegetate topsoil.  c. Such plan shall include provisions for post-closure maintenance and monitoring.	Completed
3. Commence Part 360 closure of Clarifier Sludge and Fine Refuse Sector.	Completed
4. Commence Part 360 closure of remaining portion of Site.	Completed
5. Complete closure of Clarifier Sludge and Fine Refuse Sector.	Completed
6. Submit final SWMFIP Report in approvable form.	April 1, 1993
7. Complete Part 360 closure of remaining portion of Site including vegetative cover.	October 1, 1993



- |  |   |
|--|---|
| 8. Submit certification of Part 360 closure, signed by a professional engineer licensed to practice in New York State.   | 30 days after date of completion of each phase of closure as identified in Paragraph A.4 and A.6.           |
| 9. Submit Part 360 post-closure maintenance and monitoring plan for Site including plan for financial surety for post-closure activities pursuant to requirements of Part 360 of the Environmental Conservation Law. | 60 days after acceptance of SWMFIP results.   |
| 10. Continue groundwater monitoring program pursuant to the requirements of Part 360.  | Pending implementation of Dept.-approved post-closure maintenance and monitoring plan referenced in Item 9. |
| 11. Submit financial assurance mechanism.  | 60 days after date of Dept. approval of post-closure maintenance and monitoring plan.                       |
| 12. Implement Part 360 post-closure maintenance and monitoring plan requirements as set forth in Dept.-approved plan.  | 30 years from date of implementation of post-closure maintenance and monitoring plan.                       |

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained therein.

Respondent LTV STEEL COMPANY, INC.

By X RJD

Title V.P. Eng. & Env.

Date 9/24/92

(Seal)

Corporate

State of OHIO )  
County of CUYAHOGA )

On this 29th day of September, 1992, before me personally came R. J. Hipple to me known, who being by me duly sworn did depose and say that he resides at 10035 Hunting Dr., Brecksville, OH that he is the V.P. Eng. & Env. Mgmt. of LTV Steel Company, Inc. the corporation described in and which executed the foregoing instrument; and that he signed his name as authorized by said corporation.

Mary C. Connell  
NOTARY PUBLIC

MARY C. CONNELL, Notary Public  
State of Ohio, Cuyahoga County  
My Commission Expires 10-24-94

[DEP/CMF2288]  
7/6/92