



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

September 25, 2020

**VIA ELECTRONIC MAIL**  
**DELIVERY RECEIPT REQUESTED**

Ms. Amy K. Sand  
Vice President People Wellness  
Taubensee Steel and Wire Company  
600 Diens Drive  
Wheeling, Illinois 60090  
[asand@taubensee.com](mailto:asand@taubensee.com)

Re: Consent Agreement and Final Order  
Facility Name: Taubensee Steel and Wire Company  
EPA Identification No.: ILD005075346  
Docket No: **RCRA-05-2020-0018**

Dear Ms. Sand:

Attached, please find a signed, fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The CAFO was filed on September 25, 2020, with the Regional Hearing Clerk (RHC).

Please pay the civil penalty in the amount of \$35,219 in the manner prescribed in paragraphs 52 – 54 of the CAFO, and reference all checks with the docket number RCRA-05-2020-0018. Your payment is due within 30 calendar days of the effective date of the CAFO. Also, attached is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*. Thank you for your cooperation in resolving this matter.

If you have any questions or concerns regarding this matter, please contact Graciela Scambiaterra, of my staff, at [scambiaterra.graciela@epa.gov](mailto:scambiaterra.graciela@epa.gov) or 312-353-5103.

Sincerely,

MICHAEL  
CUNNINGHAM

Digitally signed by  
MICHAEL CUNNINGHAM  
Date: 2020.09.23  
10:37:20 -05'00'

Michael Cunningham, Chief  
RCRA Compliance Section 1

Attachments

cc: Todd Marvel, IEPA ([todd.marvel@illinois.gov](mailto:todd.marvel@illinois.gov)) w/attachments  
James Jennings, IEPA ([james.m.jennings@illinois.gov](mailto:james.m.jennings@illinois.gov)) w/attachments  
Jeryl Olson, Seyfarth Shaw LLP ([jolson@seyfarth.com](mailto:jolson@seyfarth.com)) w/attachments

## **NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS**

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No.</b> RCRA-05-2020-0018
	)	
Taubensee Steel and Wire Company	)	<b>Proceeding to Commence and Conclude</b>
Wheeling, Illinois	)	<b>Under Section 3008(a) of the Resource</b>
	)	<b>Conservation and Recovery Act,</b>
U.S. EPA ID No.: ILD005075346	)	<b>42 U.S.C. § 6928(a)</b>
	)	
<b>Respondent.</b>	)	
<hr/>	)	

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. U.S. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

4. Respondent is Taubensee Steel and Wire Company, a corporation doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the

issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO and the terms of this CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

8. Jurisdiction for this action is conferred upon U.S. EPA by Sections 3006 and 3008 of RCRA, 42 U.S.C. §§ 6926 and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

#### **Statutory and Regulatory Background**

11. U.S. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to Sections 3001 - 3007 and 3013, among others, of RCRA, 42 U.S.C. §§ 6921 - 6927 and 6934.

12. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions.

13. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA constitutes a violation of RCRA, subject to the assessment of civil penalties and

issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time or both. The Administrator of U.S. EPA may assess a civil penalty of up to \$99,681 per day for each violation of Subtitle C of RCRA that occurred after November 2, 2015, pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. Part 19.

#### **Factual Allegations and Alleged Violations**

16. Respondent is a "person" as defined by 35 Ill. Adm. Code § 720.110, Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 260.10.

17. Respondent is an "owner" or "operator," as those terms are defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10, of a facility located at 600 Diens Drive, Wheeling, Illinois (the Facility).

18. At all times relevant to this CAFO, Respondent's Facility consisted of land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

19. Respondent's Facility is a "facility," as that term is defined under and 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10.

20. At all times relevant to this CAFO, Respondent is a wire and bar processing facility.

21. At all times relevant to this CAFO, Respondent's activities or processes produced a spent pickle liquor waste.

22. For the shipments identified in this CAFO U.S. EPA alleges, Respondent's spent pickle liquor waste was a "solid waste" as that term is defined under Ill. Adm. Code § 721.102 and 40 C.F.R. § 261.2.

23. For the shipments identified in this CAFO U.S. EPA alleges, that the spent pickle liquor waste was a "hazardous waste" as that term is defined under Ill. Adm. Code § 721.103 and 40 C.F.R. § 261.3.

24. At all times relevant to this CAFO, Respondent was a "generator" as that term is defined under 35 Ill. Adm. Code § 720.110 and 40 C.F.R. § 260.10 because its spent pickle liquor was a hazardous waste.

25. At all times relevant to this CAFO, Respondent generated during each calendar month, more than 1,000 kg of hazardous waste at the Facility. Therefore, Respondent is a large quantity generator.

26. Respondent generated and managed hazardous waste at its Facility after November 19, 1980.

27. On September 21, 2016, the U.S. EPA conducted an initial Compliance Evaluation Inspection of the Facility (the September 2016 CEI).

28. On November 1, 2018, U.S.EPA issued an Information Request under Section 3007 of RCRA (Information Request) to Respondent.

29. On January 22, 2019 and February 4, 2019, Respondent submitted to U.S. EPA written responses to the Information Request.

30. On December 23, 2019, U.S. EPA issued a Notice of Violation (NOV) to

Respondent alleging certain violations of RCRA discovered during the September 2016 CEI.

31. On January 31, 2020 and February 10, 2020, Respondent submitted to U.S. EPA written responses to the NOV asserting that certain shipments of its spent pickle liquor were not hazardous waste.

32. On June 1, 2020, U.S. EPA issued a Pre-Filing Notice and Opportunity to Confer (PFN) to Respondent alleging certain violations of RCRA that were discovered during the September 2016 CEI and follow-up correspondence.

33. On June 9, 2020, Respondent submitted to U.S. EPA a written response to the PFN.

34. At all times relevant to this CAFO, the State of Illinois had not issued a permit to Respondent to treat, store, or dispose of hazardous waste at its Facility.

35. At all times relevant to this CAFO, Respondent did not have interim status for the treatment, storage, or disposal of hazardous waste at its Facility.

36. Respondent's initial Hazardous Waste Notification was submitted on or near April 14, 1983.

37. In its Hazardous Waste Notifications referenced above, Respondent identified itself as a large quantity generator of hazardous waste.

38. Respondent generated and sent off-site the shipments of spent pickle liquor waste identified in the NOV between February 2, 2015 and October 16, 2015. Respondent characterized these shipments as non-hazardous waste destined for recycling. Respondent did not use the Hazardous Waste Manifest (Manifest) for these shipments.

**Count 1: Failure to Make Hazardous Waste Determinations**

39. Complainant incorporates paragraphs 1 through 38 of this CAFO as though set forth in full in this paragraph.

40. Pursuant to 35 Ill. Adm. Code § 722.111 and 40 C.F.R. § 262.11, a generator of hazardous waste must accurately determine whether the solid waste it generates is hazardous waste and must maintain records supporting its hazardous waste determination

41. Pursuant to 35 Ill. Adm. Code § 720.143 and 40 C.F.R. § 260.43, a person who claims that a hazardous secondary material such as a spent pickle liquor is exempt because it is recycled must make certain demonstrations in order to accurately characterize its wastes.

42. EPA alleges that Respondent failed to have adequate documentation to support its characterization that the shipments alleged in paragraphs 39 and 40 were legitimately recycled. Consequently, Respondent violated 35 Ill. Adm. Code § 722.111 and 40 C.F.R. § 262.11.

### **Count II - Failure to Prepare Hazardous Waste Manifests**

43. Complainant incorporates paragraphs 1 through 38 of this CAFO as though set forth in full in this paragraph.

44. Pursuant to 35 Ill. Adm. Code § 722.120 and 40 C.F.R. § 262.20, a generator of hazardous waste who transports, or offers for transport hazardous waste for offsite shipment must prepare a Hazardous Waste Manifest (Manifest) according to the instructions included in the appendix to this part.

45. U.S. EPA alleges that by failing to prepare a Manifest for the shipments as alleged in paragraphs 39 and 40, Respondent shipped hazardous waste offsite without a manifest, in violation of 35 Ill. Adm. Code § 722.120 and 40 C.F.R. § 262.20.

### **Count III - Failure to Submit Annual Hazardous Waste Reports**

46. Complainant incorporates paragraphs 1 through 38 of this CAFO as though set forth in full in this paragraph.



47. Pursuant to 35 Ill. Adm. Code § 722.141, a generator of more than 1,000 kilograms of hazardous waste must provide to the director or the director's designee the data necessary for the department to prepare and submit Illinois' hazardous waste report as required. An annual report is due by March 1 of each numbered year.

48. Respondent did not prepare and submit an annual report for the Wheeling Facility (U.S. EPA ID No.: ILD005075346) to the Illinois Environmental Protection Agency by March 1, 2016, for the preceding calendar year (2015), in violation of 35 Ill. Adm. Code § 722.141.

49. Respondent did not prepare and submit an annual report for the Wheeling Facility (U.S. EPA ID No.: ILD005075346) to the Illinois Environmental Protection Agency by March 1, 2017, for the preceding calendar year (2016), in violation of 35 Ill. Adm. Code § 722.141.

50. Respondent did not prepare and submit an annual report for the Wheeling Facility (U.S. EPA ID No.: ILD005075346) to the Illinois Environmental Protection Agency by March 1, 2018, for the preceding calendar year (2017), in violation of 35 Ill. Adm. Code § 722.141

51. Respondent did not prepare and submit an annual report for the Wheeling Facility (U.S. EPA ID No.: ILD069963585) to the Illinois Environmental Protection Agency by March 1, 2019 for the preceding calendar year (2018), in violation of 35 Ill. Adm. Code § 722.141.

#### **Civil Penalty**

52. Pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant determined that an appropriate civil penalty to settle this action is \$35,219. In determining the penalty amount, Complainant took into account the seriousness of the violations and any good faith efforts to comply with the applicable requirements. Complainant also considered U.S. EPA's RCRA Civil Penalty Policy, dated June 23, 2003.

53. Within thirty (30) days after the effective date of this CAFO, Respondent shall pay a \$35,219 civil penalty for the RCRA violations alleged herein:

***For checks sent by regular U.S. Postal Service mail***, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The check must state Respondent's name and the docket number of this CAFO.

***For checks sent by express mail***, sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must state Respondent's name and the docket number of this CAFO.

***For electronic funds transfer***, sending funds electronically, payable to "Treasurer, United States of America," and to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Respondent's name and the docket number of this CAFO.

54. After paying the civil penalty, Respondent agrees to send evidence of that payment via mail and email with a cover letter stating Respondent's name, the case title: "In the Matter of: Taubensee Steel and Wire Company, Wheeling, IL," and the case docket number, to:

Regional Hearing Clerk (ECA-18J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604  
Or via email at [whitehead.ladawn@epa.gov](mailto:whitehead.ladawn@epa.gov)

Land Enforcement and Compliance Assurance Branch  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 5  
[R5lecab@epa.gov](mailto:R5lecab@epa.gov)

Graciela Scambiaterra  
Environmental Scientist  
RCRA Branch (ECR-17J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604  
[Scambiaterra.graciela@epa.gov](mailto:Scambiaterra.graciela@epa.gov)

Richard Clarizio  
Office of Regional Counsel (C-17J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604  
[Clarizio.richard@epa.gov](mailto:Clarizio.richard@epa.gov)

55. This civil penalty is not deductible for federal tax purposes.

56. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

57. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment

was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a fifteen dollar (\$15) handling charge each month that any portion of the penalty is more than thirty (30) days past due. In addition, Respondent must pay a six percent (6%) per year penalty on any principal amount ninety (90) days past due.

### **General Provisions**

58. The Parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: clarizio.richard@epa.gov (for Complainant), and jolson@seyfarth.com (for Respondent).

59. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in this CAFO.

60. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

61. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

62. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, EPA's RCRA Civil Penalty Policy, and U.S. EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

63. The terms of this CAFO bind Respondent, its successors, and assigns.

64. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

65. Each party agrees to bear its own costs and attorneys' fees in this action.

66. This CAFO constitutes the entire agreement between the parties.

**In the Matter of: Taubensee Steel and Wire Company, Wheeling, Illinois**

**Docket No.** RCRA-05-2020-0018

**Taubensee Steel and Wire Company, Respondent**

09/22/2020  
Date

Amy K. Sand  
Amy K. Sand  
Vice-President People Wellness  
Taubensee Steel and Wire Company  
Wheeling, Illinois

**In the Matter of: Taubensee Steel and Wire Company, Wheeling, Illinois**

**Docket No.** RCRA-05-2020-0018

**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2020.09.23  
16:09:44 -05'00'

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Michael D. Harris**  
Division Director  
Enforcement and Compliance Assurance Division  
United States Environmental Protection Agency  
Region 5


**In the Matter of: Taubensee Steel and Wire Company, Wheeling, Illinois**

**Docket No.** RCRA-05-2020-0018

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 5. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

\_\_\_\_\_  
Date

ANN COYLE  Digitally signed by ANN  
COYLE  
Date: 2020.09.24  
11:42:03 -05'00'

\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

In the matter of: Taubensee Steel and Wire Company  
U.S. EPA ID No.: ILD005075346  
Docket Number: RCRA-05-2020-0018

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number RCRA-05-2020-0018 which was filed on September 25, 2020, in the following manner to the following addresses:

Copy by email to Respondent's Representatives: Amy K. Sand  
Vice President People Wellness  
Taubensee Steel and Wire Company  
[asand@taubensee.com](mailto:asand@taubensee.com)

Jeryl Olson  
Partner  
Seyfarth Shaw LLP  
[jolson@seyfarth.com](mailto:jolson@seyfarth.com)

Copy by email to Enforcement Officer: Graciela Scambiaterra  
[Scambiaterra.graciela@epa.gov](mailto:Scambiaterra.graciela@epa.gov)

Copy by email to Attorney for Complainant: Richard Clarizio  
[clarizio.richard@epa.gov](mailto:clarizio.richard@epa.gov)

Copy by email to Regional Judicial Officer: Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Copy by email to Illinois state contacts: Todd Marvel  
[Todd.marvel@illinois.gov](mailto:Todd.marvel@illinois.gov)

James Jennings  
[James.m.jennings@illinois.gov](mailto:James.m.jennings@illinois.gov)

LADAWN WHITEHEAD Digitally signed by LADAWN WHITEHEAD  
Date: 2020.09.25 05:56:20 -05'00'

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LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 5