**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

| | | |
|---|---|---|
| IN THE MATTER OF: | ) | |
| | ) | |
| PETITION OF WESTWOOD LANDS INC. for an ADJUSTED STANDARD from portions of 35 Ill.Adm.Code 807.104 and 35 Ill.Adm.Code 810.103, or in the alternative, A FINDING OF INAPPLICABILITY. | ) | AS 09-03 (Adjusted Standard -- Land) |

**NOTICE OF FILING**

To: (See attached Service List.)

PLEASE TAKE NOTICE that on this 22nd day of June 2009, the following was filed with the Illinois Pollution Control Board: **Petitioner Westwood Lands Inc.'s Amended Petition for Adjusted Standard**, which is attached and herewith served upon you.

WESTWOOD LANDS INC.

By: _____
One of its attorneys

Elizabeth S. Harvey
John P. Arranz
Swanson, Martin & Bell
330 North Wabash Avenue
Suite 3300
Chicago, IL 60611
312.321.9100
312.321.0990 (facsimile)

CERTIFICATE OF SERVICE

I, the undersigned non-attorney, state that I served a copy of the above-described document to counsel of record via U.S. Mail at 330 North Wabash Avenue, Chicago, IL 60611, at or before 5:00 p.m. on June 22, 2009.

_____
Jeanette M. Podlin

[x] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.

4376-001

# SERVICE LIST

***Westwood Lands, Inc. v. Illinois Environmental Protection Agency***
**AS 09-03**
**(Adjusted Standard – Land)**

William Ingersoll
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4376-001



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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| IN THE MATTER OF: | ) | |
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| PETITION OF WESTWOOD LANDS INC. for an ADJUSTED STANDARD from portions of 35 Ill.Adm.Code 807.104 and 35 Ill.Adm.Code 810.103, or in the alternative, A FINDING OF INAPPLICABILITY. | ) | AS 09-3 (Adjusted Standard – Land) |

## AMENDED PETITION FOR ADJUSTED STANDARD

Petitioner WESTWOOD LANDS, INC. ("Westwood"), by its attorneys Swanson Martin & Bell LLP, hereby submits its amended petition for adjusted standard.

### Background

On March 31, 2009, Westwood filed its petition for adjusted standard, or in the alternative, a finding of inapplicability. Westwood seeks a determination that the raw material used in its production process is not a "waste," and that therefore Westwood does not need waste permits pursuant to the Board's regulations. In the alternative, if the Board disagrees that the material used is not a waste, Westwood seeks an adjusted standard from portions of the Board's waste regulations. On May 21, 2009, the Board issued an order directing Westwood to provide additional information in support of the petition. This amended petition addresses the questions asked by the Board in its order, and is intended to be read in conjunction with Westwood's March 31, 2009 petition. The sections in this amended petition coincide with the numbered sections of the Board's order.

## Introduction

Westwood will construct and operate a facility that will process steelmaking slag fines to extract the metallic content (metallic iron and iron oxides) from the fines. The metallic material is formed into briquettes and nuggets, and will be sold to steel manufacturers for use in the making of steel in electric arc furnaces. The briquettes and nuggets are not fuel for the furnaces; they are "raw material" and are made into steel. There are two commercial advantages to Westwood's product: 1) because non-metallic materials have been greatly reduced during Westwood's process, the nuggets and briquettes have a high level of metallic content and are efficient material for making into steel; and 2) the nuggets and briquettes are easy to handle and can be used in a wide variety of electric arc furnaces.

Westwood's process is completely enclosed, from the delivery of the steelmaking slag fines through the production process. The fines will be delivered to the facility and unloaded inside the production building. The fines are then put through three stages of size reduction; each stage has its own dust collection and related control equipment. After size reduction, the material is classified as coarse, medium, fine, and very fine fractions. The coarse fractions are nuggets, which range in size from 1/16 of an inch to half an inch. The medium, fine, and very fine fractions are fed to individual magnetic drums, which separate the predominately metallic particles from the non-metallic particles. The metallic particles are subsequently combined with hydrated lime and molasses to create briquettes. All of these operations take place within the building, and are subject to a series of air pollution control equipment.

Westwood continues to believe, as demonstrated in the adjusted standard

petition, that the material used in the production process is not a "waste." (See Petition for Adjusted Standard, pp. 2-6.) The material does not fit the regulatory definition of "waste," and thus cannot be regulated as such. In the alternative, Westwood seeks an adjusted standard. Westwood provides this additional information at the request of the Board, to support that alternative request, without prejudice to Westwood's demonstration that the material is not a "waste."

Section 1.

The Board asks the effective date of the standards from which an adjusted standard is sought. Westwood seeks an adjusted standard from the following definitions of 35 Ill.Adm.Code 807.104: "facility," "solid waste," "solid waste management," "waste," and "unit." Section 807.104 was first effective on July 27, 1973. The section has been amended several times, including on September 18, 1990.

Westwood also seeks an adjusted standard from the following definitions of 35 Ill.Adm.Code 810.103: "facility," "landfill," and "solid waste." Section 810.103 became effective on September 18, 1990, and has subsequently been amended several times.

Sections 2 through 5.

In Sections 2 through 5, the Board asks a series of questions about the applicability of specific provisions of Part 721 of the Board's rules.

The steelmaking slag fines used by Westwood are not hazardous. They are not listed as a hazardous waste, and do not exhibit a characteristic of hazardous waste. See Exhibit G, attached.[1] The steelmaking slag fines are not classified as hazardous under any of the provisions of Part 721.

The steelmaking slag fines are not "solid waste" under Part 721. Section

[1] Exhibits A-F are attached to Westwood's March 31, 2009 petition.

721.101(a) states that Part 721 identifies "those solid wastes that are subject to regulation as hazardous wastes...." Section 721.101(b), "limitations on definition of solid waste," provides:

> The definition of solid waste contained in this Part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials....that are not otherwise hazardous and that are recycled.
>
> (35 Ill.Adm.Code 721.101(b)(1).)

This provision applies to the steelmaking slag fines. The fines are not hazardous, and thus the definitions of "solid waste" contained in Part 721 do not apply to the fines. Further, Part 721, Appendix Z is a chart used to categorize materials as solid waste (or not solid waste) under Part 721. None of the categories on the left-hand side of Appendix Z applies to the steelmaking slag fines. The fines are not a "spent material," which is defined as a "material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing." (Section 721.101(c)(1)(emphasis added).) The fines are not sludge, either listed or exhibiting a characteristic of hazardous waste. Likewise, while the steelmaking slag fines could be considered a "by-product" as defined by Section 721.101(c)(3), the fines are not listed in Sections 721.131 or 721.132, nor do they exhibit a characteristic of hazardous waste. Thus, the fines do not fit the "by-product" categories in Appendix Z. Finally, the steelmaking slag fines are not a commercial chemical product, nor are they scrap metal. None of the categories in Appendix Z apply to the steelmaking slag fines.

The steelmaking slag fines are not listed hazardous waste. K177 waste listed in Section 721.132(a) applies to "wastes" from inorganic chemical production, not to

materials generated from steel production. Further, even if the K177 definition applied to steel production, the slag fines are not "speculatively accumulated or disposed of," as provided in the definition of K177 wastes.

Section 6.

The Board asks if the steelmaking slag fines constitute an Illinois special waste. They do not.

Under the current "special waste" statutory and regulatory scheme, the steelmaking slag fines are eligible for self-certification by the generator (for example, U.S. Steel) that its industrial process waste is not "special waste," pursuant to Section 22.48 of the Act. (415 ILCS 5/22.48.) The steelmaking slag fines, even if considered industrial process waste, do not fit into any of the categories (i.e., liquid waste, contains asbestos or PCBs, delisted hazardous waste, decharacterized hazardous waste or a waste resulting from shredding recyclable metals) which would prohibit the generator from self-certifying the waste as non-special waste. Westwood will utilize only slag fines which have a certification from the supplier that the fines are not special waste.

Section 7.

The Board asks several questions about the parameters Westwood uses to evaluate whether specific fines are appropriate and useful for Westwood's process.

The most important parameter for Westwood's process is that the steelmaking slag fines have a metallic content of 50% or more. That level of metallic content is necessary for Westwood's process to produce a saleable product. The exact amount of metallic content needed in the raw material (the steelmaking slag) can vary with market conditions such as the price of metals. The metallic content of the raw material

obviously impacts the metallic content of the finished products. Under fluctuating market conditions, the amount of metal in the finished product needed to make the product saleable can vary. Therefore, it is not possible to establish a hard and fast percentage of metals needed in the steelmaking slag fines. However, a figure of 50% or more is a general guide.

The steelmaking slag fines are not hazardous, and Westwood will ensure that no hazardous material is included in the fines. Westwood has received test results from the generator of the steelmaking slag fines (U.S. Steel) that demonstrate the fines are not hazardous. Westwood plans to contract with suppliers in addition to U.S. Steel, and will require those suppliers to provide test results showing that the fines are not hazardous.[2] Requiring testing of each load of fines would render the process unworkable and not economically viable. Requiring test results of a representative sample of a supplier's fines will allow Westwood to ensure that its raw materials are not hazardous.[3]

In addition to ensuring that the steelmaking slag fines contain the appropriate metallic content, and that the fines are not hazardous, Westwood will also visually examine the loads for trash or any other "non-fine" material. If any load contains items other than steelmaking slag fines, Westwood will either remove those items, or reject the load, depending upon the circumstances. For example, and speaking theoretically, if a load contains a single piece of non-fine material (such as wood), it would be most

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[2] It is possible that Westwood will sometimes have the tests performed, of a representative sample provided by the supplier. Regardless of whether the tests are performed by the supplier or by Westwood, there will testing of representative samples of steelmaking slag fines from all suppliers.

[3] This procedure of obtaining test results of a representative sample is similar to the procedures used to test waste before acceptance at a landfill.

efficient for Westwood to simply remove that non-fine material, rather than reject the load. However, if there is a large amount of non-fine material in a load, or if Westwood has reason to suspect that the load might contain off-specification fines, Westwood would reject the load.

Section 8.

The Board asks about the end market for the coarse fractions generated by Westwood's process. The end market for Westwood's product is the same regardless of whether the product comes from the coarse fractions or from the medium, fine, and very fine fractions. It is useful to visualize the bulk form of the coarse fractions as nuggets, which range in size from approximately 1/16 of an inch to half an inch. Those nuggets will be sold for use in electric arc furnaces used for steelmaking. Quite simply, the extracting of the metals from the steelmaking slag and forming the extracted metals into nuggets allow those nuggets to be made into steel.

The contract between Westwood and U.S. Steel (included as Exhibit A to the petition) includes provisions for U.S. Steel to purchase Westwood's products. (See redacted Section 10 of Exhibit A, claimed as a trade secret.)[4] Westwood has had discussions with other possible purchasers, but has not yet entered into formal contracts. Because Westwood cannot be sure when its facility will be permitted and operational, it is impossible for Westwood to enter into formal contracts at this time.

Section 9.

None of Westwood's end product will be used as soil amendment at abandoned mines or for land reclamation projects. Westwood's product is much too valuable to be

[4] On March 31, 2009, Westwood claimed trade secret protection for portions of the contract between Westwood and U.S. Steel (Exhibit A), and for portions of the correspondence between Westwood and Stein, Inc. (Exhibit C).

used in such a way; the product contains a high amount of metallic content, and will be sold for use in making steel in electric arc furnaces. Because the product will be sold on the open market to steel manufacturers, and not used as soil amendment, Westwood does not plan to work with state agencies on land reclamation or soil amendment projects. Westwood included the information that its raw material (the steelmaking slag fines) has been approved for such soil amendment use only to demonstrate that there should be no concern that the raw material is an environmental threat.

Section 10.

As discussed above in Section 8, the end market for Westwood's briquettes is the same as the end market for the nuggets; they will be sold for use in steelmaking in electric arc furnaces. Westwood has an agreement with U.S. Steel regarding the purchase of Westwood's products. Westwood has pursued discussions with other potential purchasers, but cannot at this time enter into formal contracts because of the uncertainty about when the facility will be operational.

Section 11.

The Board asks for information on the calcium magnesium silicate that will remain at the end of Westwood's process. Roughly one-third (by weight) of the raw material (the steelmaking slag fines) will be usable product (the nuggets and briquettes), while the remaining two-thirds will be the calcium magnesium sulfate.[5] The calcium magnesium sulfate is not a listed or hazardous waste; test results are attached as Exhibit H. Two landfills have already approved the calcium magnesium sulfate for disposal at their non-hazardous facilities. Westwood provided test results for the

[5] Westwood acknowledges that its March 31, 2009 petition used the word "small" when describing the percentage of calcium magnesium sulfate remaining at the end of the process. That adjective should not have been used.

calcium magnesium sulfate to a Waste Management facility and to the Perry Ridge Landfill. Both facilities verbally indicated they would accept the calcium magnesium sulfate when Westwood's facility becomes operational. In fact, it was one of the landfills that indicated the calcium magnesium sulfate may be approvable as cover material.

Westwood may use landfills in Illinois, but would utilize any permitted landfill that makes economic sense. Disposal fees and other market conditions change, so that the landfill which makes sense at one time might not be the preferred disposal location at another time. Westwood needs the flexibility to respond to changing conditions in choosing the disposal facility. Of course, Westwood will use only permitted facilities.

The calcium magnesium silicate is not an Illinois special waste. Under the current "special waste" statutory and regulatory scheme, the calcium magnesium silicate is eligible for self-certification by Westwood that its industrial process waste is not "special waste," pursuant to Section 22.48 of the Act. (415 ILCS 5/22.48.) The calcium magnesium silicate, even if considered industrial process waste, does not fit into any of the categories (liquid waste, contains asbestos or PCBs, delisted hazardous waste, decharacterized hazardous waste or a waste resulting from shredding recyclable metals) which would prohibit the generator from self-certifying the waste as non-special waste. Westwood will self-certify that the calcium magnesium silicate is not a special waste.

Section 12.

Westwood noted in its petition for adjusted standard that it is possible the calcium magnesium silicate remaining at the end of the production process could be approved for use as landfill cover. One of the landfills that has verbally approved the calcium

magnesium silicate for disposal originally suggested that possible use. Westwood has not yet fully explored the testing and approval process, and has not determined whether it would be able to sell that silicate for cover. Westwood is concentrating on obtaining approval for its facility to operate, but will continue to explore possibilities for beneficial uses of the calcium magnesium silicate. Westwood believes there may be other uses of the silicate beyond landfill cover, but has not yet determined whether other uses are viable and approvable. For purposes of this petition, Westwood presumes that it will dispose of the calcium magnesium silicate at an approved landfill.

Section 13.

The two buildings at the Westwood facility in Madison, Illinois, were constructed in 2006 and 2007. That facility has not yet operated because of IEPA's position that the facility needs local siting approval as a "pollution control facility".[6] The facility is located at 4 Caine Drive in Madison, and is on a parcel measuring 4.94 acres. The area around the Westwood facility is zoned for commercial use.

The Westwood facility will employ approximately 12 people per shift, and run two shifts per day. Thus, the facility will create jobs for approximately 24 people. Additionally, Westwood plans to contract with local trucking companies for the trucking of the raw materials (steelmaking slag fines) to the facility, and for the trucking of the finished product (nuggets and briquettes) to the purchasers. Thus, local truck drivers will have additional work as a result of the Westwood facility.

The facility will have a complete system of air pollution control equipment, including cyclones, baghouses, bin vent filters, and stacks. Please note that

[6] As noted in Westwood's petition, the facility will need an air permit before it operates. This petition is limited to "waste" issues, and does not involve the air permit.

Westwood's process is conducted inside, so that dust or particulate matter generated by the process are fully contained and routed through the air pollution equipment. The primary dust collection system is Baghouse #1. Fines from Baghouse #1 will be routed to a second baghouse, and the fines from that second baghouse will be routed to Baghouse #3. There will also be bin vent filters on the silos used to store the raw material, and the airstream that results from transporting of the end product within the enclosed facility will also be vented through a bin vent filtering system. Westwood will obtain an air permit prior to operating. Details of the air pollution control equipment will be approved by IEPA.

Section 14.

As explained in the petition for adjusted standard (see page 7-8) and above, Westwood's process occurs entirely within its production building. This includes storage of the fines before processing. The incoming fines, which arrive by truck, are unloaded within the building and stored inside until used in Westwood's process. The entire production process occurs inside. After the nuggets and briquettes are complete, they are stored on a large pad, which will be covered. Because the fines used in the process, as well as the finished product, are not stored outside and are not exposed to the elements, there is no need for stormwater runoff permits.

There may be some misunderstanding about the statement of the mayor of Madison that the facility is located adjacent to the area where slag may be stored. (See Exhibit D.) The mayor's reference is to the area where slag is currently stored on U.S. Steel's property, not to storage of slag on Westwood's property. The Westwood facility is located nearby to the U.S. Steel facility, which results in efficiencies in transporting

the slag to Westwood. The slag is unloaded at Westwood inside the building, and stored in hoppers until use in the production process.[7] There are no piles of slag at Westwood, and thus no concern about the height of the piles or exposure of the slag to the elements.

Section 15.

The Board asks about the testing Westwood would require or perform to determine whether steelmaking slag fines from sources other than U.S. Steel are acceptable. Westwood would obtain the same information from other suppliers as it has from U.S. Steel. As previously described in Section 7, the most important parameter to Westwood's process is that the slag fines have a metallic content of approximately 50% or greater. Of course, Westwood would require the same testing to demonstrate that the fines are not hazardous as it obtained from U.S. Steel. As described in Section 7, Westwood will obtain test results for a representative sample of any supplier's fines (U.S. Steel or any other supplier) to ensure that the fines are not hazardous. This is similar to the process used for disposal of waste at a landfill, where a representative sample is tested in advance of disposal. No steelmaking slag fines will be used, from any supplier, without testing of a representative sample.

Section 16.

Westwood believes it is unnecessary to include, in the language of the adjusted standard, conditions specifying the parameters of acceptable slag fines. As explained in Section 7, the metallic content required for Westwood's process to produce a saleable product may vary over time, depending upon market conditions. Thus,

[7] Westwood estimates that slag stored in its hoppers will be used in its process in a week or less. The slag will not be stored long-term at Westwood. It is to Westwood's benefit to use the slag in its process as quickly as possible, so it is not storing raw material for which it has paid.

including a specific percentage of metallic content in the language of the adjusted standard would limit Westwood's ability to respond to changing market conditions. Conversely, including a percentage of metallic content in the adjusted standard would not result in any environmental benefit. Of course, Westwood would agree to language that the steelmaking slag fines not be hazardous or contain asbestos, PCBs, or a listed hazardous waste.[8]

Westwood would reject a load if that load contained a large amount of trash or material that is not steelmaking fines. Additionally, Westwood would reject a load that appeared materially different than steelmaking slag fines ordinarily used in the process, or if Westwood had any other reason to believe the fines were hazardous, or contained asbestos, PCBs or a listed hazardous waste. It should be noted that it is to Westwood's benefit to ensure that it uses only raw materials (steelmaking slag fines) that are suitable for its process, and do not contain other materials that are hazardous, contain asbestos, PCBs, or listed hazardous waste. Westwood is committed to complying with environmental standards and regulations, and to running an efficient operation. In order to achieve those goals, and in order to produce a saleable product in an economically-efficient manner, it is essential to Westwood that it use only steelmaking slag fines that meet the parameters of the representative samples.

As described in Section 7, requiring testing of each load of fines received at Westwood's facility would render Westwood's process unworkable and not economically viable. Westwood requires suppliers of fines to provide test results of a representative sample of steelmaking slag fines, so that Westwood can ensure that its

[8] Westwood believes those limitations are already presumed in the proposed language of subsection (4), that Westwood operates its facility in compliance with other provisions of the Environmental Protection Act, but would agree that limitations be more specifically spelled out.

raw material is consistent, non-hazardous, and contains the metallic content needed for Westwood's process.[9] This process is similar to the representative sample process used at landfills in Illinois: landfills do not test each and every load of waste coming into the facility. Instead, they require testing of a representative sample of a waste stream, to ensure that waste stream can be disposed at their facility. Westwood does not in any way admit or imply that its facility is a "landfill": it is a production facility, and not a "disposal" facility. Westwood uses this example only to demonstrate that there is no need for testing of each load of fines received at Westwood's facility.

If Westwood finds, after slag fines arrive at its facility, that the slag fines exhibit a characteristic of hazardous waste or contain asbestos, PCBs, or a listed hazardous waste, Westwood will reject the load and return the fines to the supplier. Westwood would agree to such a condition in the language of the adjusted standard.

Westwood's costs to achieve the proposed adjusted standard are similar to the costs necessary to operate its process. Because the proposed adjusted standard would exempt Westwood's facility from the specified definitions, there are no additional costs of achieving compliance with the adjusted standard. The costs of testing the steelmaking slag fines will sometimes be borne by the supplier. Where Westwood undertakes the testing of representative samples provided by the supplier, Westwood's costs do not increase as a result of the adjusted standard because Westwood will undertake that testing in any event.

Westwood would, however, be faced with huge costs if it does not obtain a finding of inapplicability or an adjusted standard. In those events, Westwood would be

[9] As noted above, it is possible that Westwood would arrange for testing of a representative sample provided by a supplier. Regardless of who performs the testing, no fines will be used without testing a representative sample.

forced to obtain local siting approval and to comply with the myriad requirements of the Illinois solid waste regulations. Obtaining local siting approval is extremely expensive, as the Board is aware. The fee for filing a siting application is often more than $100,000, and the costs of proceeding with a siting hearing are equally high. Having to obtain local siting approval and comply with the Illinois solid waste regulations would almost certainly render it economically impossible for Westwood to construct and operate its proposed facility.

Section 17.

In Section 17, the Board asks several questions about IEPA's approval for steelmaking slag to be used as a soil amendment in mine reclamation projects. As Westwood has previously addressed in this amended petition (see Section 9), Westwood included the information that steelmaking slag from U.S. Steel had been approved for a specific soil amendment use only to demonstrate that the raw material used in Westwood's process is not an environmental threat. Westwood's end product will not be used as a soil amendment or for land reclamation.

Westwood had no involvement in the approval process for the use of steelmaking slag fines as a soil amendment, and cannot answer specific questions about that approval. Because the use of steelmaking slag fines as a soil amendment is not related to Westwood's process or to the use of its product, the testing or types of slag used are not directly relevant to this petition. Based on the correspondence approving the use, however, IEPA agreed that the use of steel slag fines as a soil amendment is a "not otherwise prohibited use," and therefore is allowed under 35 Ill.Adm.Code 817.101(c). (See Exhibit F.) Section 817.101(c) provides that Part 817 does not apply to "the not

otherwise prohibited use of iron and steelmaking slags, including the use as a base for road building, but not including use for land reclamation except as allowed under subsection (e)."[10]

Section 18.

The Board notes that the unredacted portions of contract between Westwood and U.S. Steel discuss different types of steelmaking slag fines. The Board asks which types of slag fines will be used in Westwood's process. Westwood will purchase, from U.S. Steel, all types of steelmaking slag fines discussed in the contract: desulfurization slag fines, steel slag fines, and ladle metallurgy facility (LMF) slag. All of those types of steelmaking slag fines will be used in Westwood's process. The contract between Westwood and U.S. Steel uses the term "steelmaking slag fines" as an inclusive term for slag fines generated from the processing of raw steelmaking slag. "Desulfurization slag fines," "steel slag fines," and "ladle metallurgy facility (LMF) slag" are categories of "steelmaking slag fines." (See unredacted Sections 1.3, 1.3.1, 1.3.2, and 1.3.3 of Exhibit A.) In its petition for adjusted standard, and in this amended petition, Westwood uses the phrase "steelmaking slag fines" as that phrase is defined in the U.S. Steel contract, as an inclusive term to refer to all types of steelmaking slag fines.

Section 19.

Please see Sections 7 and 15 for a description of the testing of the fines to ensure they are not hazardous wastes (by characteristic or listing), do not contain asbestos, PCBs or other listed hazardous wastes, and are suitable for use in Westwood's process. As described, it is essential to Westwood to ensure the quality of

[10] Westwood notes that Section 817.101(f) provides "This Part shall not apply to the use or reuse of iron and steelmaking slags and foundry sands as ingredients in an industrial process to make a product." Thus, it is clear that Part 817 does not apply to Westwood.

the fines it receives, both in order to comply with environmental regulations and to ensure its process proceeds in an efficient and economic manner. If the Board has concerns about the statement in the U.S. Steel contract that U.S. Steel does not warranty the quality of the steelmaking slag fines, Westwood again points to the specific provision that Westwood may "reject any materials that may have a chemical analysis that does not fit the parameters needed to make a quality product." (Unredacted Section 4.2 of Exhibit A.) Westwood has, and will exercise, an absolute right to reject any fines that do not comply with environmental regulations or with the metallic content required for its process.

## Conclusion

Westwood Lands, Inc. has demonstrated that the steelmaking slag fines used in its process are not a "waste." Therefore, Westwood seeks a finding of inapplicability, with the result that Westwood's facility does not need waste permits pursuant to Parts 807 and 810 of the Board's rules. Alternatively, if the Board disagrees that the material is not a "waste," Westwood seeks an adjusted standard from the specified portions of Sections 807.104 and 810.103.

Respectfully submitted,

WESTWOOD LANDS, INC.

By: _____
One of its attorneys

Dated: June 22, 2009

# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


January 18, 2007

Carl Cannon
U.S. Steel-Granite City Works
20th & State Streets
Granite City, IL 62040
TEL: (618) 451-3013
FAX: (618) 451-4020

ACCREDITED IN ACCORDANCE WITH nelac
NELAP Accredited #100226

RE: Steelmaking Slag C-Fines

OrderNo. 07010324

Dear Carl Cannon:

TEKLAB, INC received 1 sample on 1/11/2007 3:35:00 PM for the analysis presented in the following report. A list of report contents can be found on the following page.

Samples are analyzed on an as received basis unless otherwise requested and documented. The sample results contained in this report relate only to the requested analytes of interest as directed on the chain of custody. IL ELAP and NELAP accredited fields of testing are indicated by the letters NELAP under the Certification column.

All quality control criteria applicable to the test methods employed for this project have been satisfactorily met and are in accordance with NELAP except where noted. The following report shall not be reproduced, except in full, without the written approval of Teklab, Inc.

If you have any questions regarding these tests results, please feel free to call.

Sincerely,

Kelly A. Klostermann

Kelly A. Klostermann
Project Manager
(618)344-1004 ex.11



EXHIBIT
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# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


Client: U.S. Steel-Granite City Works
Project: Steelmaking Slag C-Fines
LabOrder: 07010324
Report Date: January 18, 2007

## REPORT CONTENTS

**This reporting package includes the following:**

# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


Client: U.S. Steel-Granite City Works
Project: Steelmaking Slag C-Fines
LabOrder: 07010324
Report Date: January 18, 2007

## CASE NARRATIVE

Cooler Receipt Temp 5.6 °C

Original Chain of Custody and sample receipt checklist are on file at Teklab.

See the sample receipt checklist for any noted deviations from NELAP sample acceptance policies.

**Qualifiers**

| | | |
|---|---|---|
| **DF** - Dilution Factor | **B** - Analyte detected in the associated Method Blank | **E** - Value above quantitation range |
| **RL** - Reporting Limit | **J** - Analyte detected below reporting limits | **H** - Holding time exceeded |
| **ND** - Not Detected at the Reporting Limit | **R** - RPD outside accepted recovery limits | **D** - Diluted out of sample |
| **Surr** - Surrogate Standard added by lab | **S** - Spike Recovery outside accepted recovery limits | **MI** - Matrix interference |
| **TNTC** - Too numerous to count | **X** - Value exceeds Maximum Contaminant Level | **DNI** Did Not Ignite |
| **IDPH** - Illinois Department of Public Health | **NELAP** - IL ELAP and NELAP Accredited Field of Testing | |

# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


## Laboratory Results

| | | | |
|---|---|---|---|
| **CLIENT:** | U.S. Steel-Granite City Works | **Client Project:** | Steelmaking Slag C-Fines |
| **WorkOrder:** | 07010324 | **Client Sample ID:** | Slag C-Fines |
| **Lab ID:** | 07010324-001 | **Collection Date:** | 1/11/2007 10:00:00 AM |
| **Report Date:** | 18-Jan-07 | **Matrix:** | SOLID |

| Analyses | Certification | RL | Qual | Result | Units | DF | Date Analyzed | Analyst |
|---|---|---|---|---|---|---|---|---|
| **ASTM D3987, EPA 600 160.1, IN SHAKE EXTRACT** | | | | | | | | |
| Total Dissolved Solids, SHAKE | | 20 | | 432 | mg/L | 1 | 1/17/2007 | CDH |
| **ASTM D3987, SW-846 3005A, 6010B, METALS IN SHAKE EXTRACT BY ICP** | | | | | | | | |
| Arsenic | | 0.0250 | | < 0.0250 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Barium | | 0.0050 | | 0.0208 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Cadmium | | 0.0020 | | < 0.0020 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Chromium | | 0.0075 | | < 0.0075 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Copper | | 0.0100 | | < 0.0100 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Iron | | 0.0200 | | < 0.0200 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Manganese | | 0.0050 | | < 0.0050 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Selenium | | 0.0500 | | < 0.0500 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| Zinc | | 0.0100 | | < 0.0100 | mg/L | 1 | 1/16/2007 12:47:28 PM | LAL |
| **ASTM D3987, SW-846 3020A, METALS IN SHAKE EXTRACT BY GFAA** | | | | | | | | |
| Lead, SHAKE by GFAA | 7421 | 0.0020 | | < 0.0020 | mg/L | 1 | 1/16/2007 | JMW |
| **ASTM D3987, SW-846 9038, IN SHAKE EXTRACT** | | | | | | | | |
| Sulfate | | 5 | | 22 | mg/L | 1 | 1/17/2007 | SMK |
| **ASTM D3987, SW-846 9210, IN SHAKE EXTRACT** | | | | | | | | |
| Nitrate, SHAKE | | 0.20 | H | 0.40 | mg/L | 1 | 1/16/2007 3:00:00 PM | KLE |
| **ASTM D3987, SW-846 9214, IN SHAKE EXTRACT** | | | | | | | | |
| Fluoride | | 0.10 | | 0.34 | mg/L | 1 | 1/16/2007 | AET |
| **ASTM D3987, SW-846 9251, IN SHAKE EXTRACT** | | | | | | | | |
| Chloride, SHAKE | | 1 | | 3 | mg/L | 1 | 1/16/2007 9:45:00 AM | MVS |

**Sample Narrative**

# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


January 16, 2007

Carl Cannon
U.S. Steel-Granite City Works
20th & State Streets
Granite City, IL 62040
TEL: (618) 451-3013
FAX: (618) 451-4020

ACCREDITED IN ACCORDANCE WITH nelac
NELAP Accredited #100226

RE: Steelmaking Slag C-Fines

OrderNo. 07010380

Dear Carl Cannon:

TEKLAB, INC received 1 sample on 1/12/2007 3:40:00 PM for the analysis presented in the following report. A list of report contents can be found on the following page.

Samples are analyzed on an as received basis unless otherwise requested and documented. The sample results contained in this report relate only to the requested analytes of interest as directed on the chain of custody. IL ELAP and NELAP accredited fields of testing are indicated by the letters NELAP under the Certification column.

All quality control criteria applicable to the test methods employed for this project have been satisfactorily met and are in accordance with NELAP except where noted. The following report shall not be reproduced, except in full, without the written approval of Teklab, Inc.

If you have any questions regarding these tests results, please feel free to call.

Sincerely,

Heather A. Barnes

Heather A. Barnes
Project Manager
(618)344-1004 ex.20

# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


Client: U.S. Steel-Granite City Works
Project: Steelmaking Slag C-Fines
LabOrder: 07010380
Report Date: January 16, 2007

## REPORT CONTENTS

**This reporting package includes the following:**

# TEKLAB, INC.

5445 HORSESHOE LAKE ROAD
COLLINSVILLE, ILLINOIS 62234

ENVIRONMENTAL TESTING LABORATORY

TEL: 618-344-1004
FAX: 618-344-1005


Client: U.S. Steel-Granite City Works
Project: Steelmaking Slag C-Fines
LabOrder: 07010380
Report Date: January 16, 2007

## CASE NARRATIVE

Cooler Receipt Temp 4.2 °C

Original Chain of Custody and sample receipt checklist are on file at Teklab.

**Qualifiers**

| | | |
|---|---|---|
| **DF** - Dilution Factor | **B** - Analyte detected in the associated Method Blank | **E** - Value above quantitation range |
| **RL** - Reporting Limit | **J** - Analyte detected below reporting limits | **H** - Holding time exceeded |
| **ND** - Not Detected at the Reporting Limit | **R** - RPD outside accepted recovery limits | **D** - Diluted out of sample |
| **Surr** - Surrogate Standard added by lab | **S** - Spike Recovery outside accepted recovery limits | **MI** - Matrix interference |
| **TNTC** - Too numerous to count | **X** - Value exceeds Maximum Contaminant Level | **DNI** Did Not Ignite |
| **IDPH** - Illinois Department of Public Health | **NELAP** - IL ELAP and NELAP Accredited Field of Testing | |

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ENVIRONMENTAL TESTING LABORATORY

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## Laboratory Results

| | | | |
|---|---|---|---|
| **CLIENT:** | U.S. Steel-Granite City Works | **Client Project:** | Steelmaking Slag C-Fines |
| **WorkOrder:** | 07010380 | **Client Sample ID:** | Slag C-Fines |
| **Lab ID:** | 07010380-001 | **Collection Date:** | 1/12/2007 10:10:00 AM |
| **Report Date:** | 16-Jan-07 | **Matrix:** | SOLID |

| Analyses | Certification | RL | Qual | Result | Units | DF | Date Analyzed | Analyst |
|---|---|---|---|---|---|---|---|---|
| **SW-846 1312, 5030, 8260B, VOLATILE ORGANIC COMPOUNDS IN SPLP EXTRACT BY GC/MS** | | | | | | | | |
| 1,1,1-Trichloroethane | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| 1,1-Dichloroethene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| 1,2-Dichloroethane | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| 1,2-Dichloropropane | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Benzene | NELAP | 0.002 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Bromodichloromethane | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Bromoform | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Carbon tetrachloride | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Chlorobenzene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Chloroform | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| cis-1,2-Dichloroethene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Dibromochloromethane | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Ethylbenzene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| m,p-Xylenes | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| o-Xylene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Styrene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Tetrachloroethene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Toluene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| trans-1,2-Dichloroethene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Trichloroethene | NELAP | 0.005 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Vinyl chloride | NELAP | 0.002 | | ND | mg/L | 1 | 1/15/2007 7:20:00 PM | GEK |
| Surr: 1,2-Dichloroethane-d4 | | 73.9-129 | | 105.9 | %REC | 1 | 1/15/2007 7:20:00 PM | GEK |
| Surr: 4-Bromofluorobenzene | | 83-113 | | 103.3 | %REC | 1 | 1/15/2007 7:20:00 PM | GEK |
| Surr: Dibromofluoromethane | | 83.8-118 | | 85.5 | %REC | 1 | 1/15/2007 7:20:00 PM | GEK |
| Surr: Toluene-d8 | | 85.5-115 | | 96.6 | %REC | 1 | 1/15/2007 7:20:00 PM | GEK |

**Sample Narrative**

Michigan Technological University
309 Minerals & Materials Engineering Building
1400 Townsend Drive, Houghton, Michigan 49931-1295

Institute of Materials Processing
906/487-2600
Fax: 906/487-2921

CLIENT: Westwood Lands INC.
110 Airport Drive
Negaunee, Michigan 49866

DATE: January 7, 2007

RE:
IRON (LGI)
Chemical Analysis Performed by Zhiyong Xu, Ph.D.

| Chemical Composition | Wt % |
|---|---|
| Total Iron | 14.48 |
| Metallic Iron | 2.27 |
| Fe2O3 | 8.87 |
| FeO | 5.44 |
| P2O5 | 0.30 |
| CaO | 43.23 |
| SiO2 | 19.40 |
| Al2O3 | 4.68 |
| MgO | 11.20 |
| MnO | 0.09 |
| K2O | 0.03 |
| Na2O | 0.02 |
| Carbon | 0.64 |
| Sulfur | 3.76 |
| TiO2 | 0.12 |
| Zn | <0.003 |

**Not Detected / Below Detection Limit**
Cd, Ag, Se, As, Cr, Hg, Pb, Ba
Please review attached page for specific analyte detection limit

**METHODS OF ANALYSIS:**
Samples were quantitatively analyzed using an Inductively Coupled Plasma (ICP) Spectrometer. Specimens were dissolved with a four acid (perchloric, nitric, hydrochloric, and hydroflouric) digestion.

**APPROVED BY:**
Jiann-Yang (Jim) Hwang, Ph.D.
Director, Institute of Materials Processing



EXHIBIT
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