Portland Area Workers' Rights Board Hearing

Concerning the Labor, Health, Safety, and Environmental Practices of

Oregon Steel

September, 2000
Lutheran Inner-City Ministries
Portland, Oregon

The Portland Area Workers' Rights Board
is a project of Portland Jobs with Justice
123 NE 3rd Avenue, Portland, OR 97232
(503) 236-5573, jobswj@teleport.com
Report and Recommendations

Background

During the summer of 2000, the United Steelworkers of America brought a series of concerns about Oregon Steel, a Portland based corporation, to the Portland Area Workers’ Rights Board, a project of Portland Jobs with Justice. Those concerns included:

- a 3-year long illegal lockout of more than 1000 union workers
- misuse of the appeals process to avoid two federal court orders returning locked-out workers to the mill
- violations of Colorado’s Clean Air Act, leading to a lawsuit by the state of Colorado
- the worst industrial safety record in Colorado
- recent OSHA fines of $487,000 — over 1,000 OSHA violations
- exceeding opacity emission standards at the Portland mill
- receiving a $10 million tax break from the City of Portland despite its abuse of labor, health, safety and environmental laws
- Portland’s mass transit authority is considering buying rail from Oregon Steel without consideration of responsible contractor norms

The Workers’ Rights Board was sufficiently impressed by the seriousness of the charges that a panel was convened to conduct a public hearing. This hearing took place on Tuesday, Sept 12, 2000. Both the company and the union were invited to make statements and provide witnesses and documentation of their positions. The union presented testimony; the company was unavailable to participate in the hearing. Members of the hearing panel were:

Martin Gonzalez, Panel Chair,
Community Economic Development Director, American Friends Service Committee

Martin Hart-Landsberg
Professor of Economics, Lewis and Clark College

Barbara Dudley
Professor of Political Science, Portland State University

Geri Washington
Board member, Multnomah Education Service District

Randy Tucker
Policy Advocate and Communications Director, 1000 Friends of Oregon

Organizations listed for identification purpose only.
The Workers’ Rights Board panel heard testimony on worker issues from:

Paul Bogart
Coordinator, USWA Oregon Steel Campaign

Jan Pacheco
wife of locked out Steelworker

Marty Santoyo
recalled Steelworker

Clint Allison
son of recalled Steelworker killed in the Pueblo mill

Nick Mikatich
locked out Steelworker

David Leslie
Executive Director
Executive Director, Ecumenical Ministries of Oregon (written testimony)

Barbara Byrd
Professor of Labor Education, University of Oregon

The Workers’ Rights Board panel heard testimony on community issues from:

John Perquin
USWA Assistant Director for Health, Safety, and the Environment

Jeri Sundvall
Organizing Director, Environmental Justice Action Group, Portland

Dan Gardner
Oregon State Representative, District 14

Organizations listed for identification purpose only

This report was prepared by Workers’ Rights Board staff
Margaret Butler and Jerry Atkin
Summary of the issues raised in the testimony

This report is drawn from written and oral testimony presented at the hearing. Throughout this report references are made to Oregon Steel, CF&I, and Rocky Mountain Steel Mill. CF&I (Colorado Fuel and Iron) was the name of the Pueblo facility when Oregon Steel bought it in 1993. In 1998 management changed the name of the mill to Rocky Mountain Steel Mill. Each section concludes with the guiding principles used to determine the Board’s recommendations.

Worker Issues

History of the labor dispute

Colorado Fuel & Iron’s workforce had a long history of working with management to overcome difficulties. There had not been a strike at the mill in Pueblo since 1959, and that was a national steel strike. In the 1980s alone, the workers gave up more than $50 million in contract concessions. When Oregon Steel bought the mill in 1993, an additional $35 million in concessions were made to the new owners.

In less than five years (1993-1998), the CF&I Steelworkers turned the Pueblo mill into one of the most productive and profitable steel-making facilities in the nation. According to testimony received at the hearing, productivity at CF&I had nearly doubled in the two years before the strike and the value of Oregon Steel’s investment in CF&I increased by more than 657% between 1993 and 1998. In the third quarter of 1997, just prior to the strike, Oregon Steel’s operating profit per ton was more than double the industry average. By the fall of 1997, CF&I had become one of the premier steel producers in the country.

When contract negotiations began, after years of working under substandard conditions (straight time wage and pension costs alone were $3.67 per hour below the industry average) the Steelworkers expected Oregon Steel to recognize their sacrifices in a new labor agreement. One of the key elements of the union’s proposal was the elimination of a forced overtime system that often scheduled workers 70-80 hours a week. This level of overtime threatened their family lives and kept them from participating in community affairs.

Rather than addressing these issues, Oregon Steel responded with a series of actions which the NLRB later found to be unfair labor practices (see below), forcing 1,100 Steelworkers to call an unfair labor practice strike

For decades, our community has drawn its whole identity from the steel mill. The strike forced people to take sides and even ended lifelong friendships. What Oregon Steel didn’t realize was that when they bought the mill, they also bought its history. A history of proud hard working people, a union culture, and a determination to keep the mill going with their sweat and blood. They might have changed its name to Rocky Mountain Steel Mills, but they’ll never change its history – we are the mill!

Jan Pacheco
wife of locked-out steelworker
on October 3, 1997. The company then hired 600 replacement workers and attempted to resume operations. On December 30, 1997, the union made an unconditional offer to return to work while negotiations on a fair contract continued. The company, in violation of federal labor law, refused the offer. To date, fewer than 275 of the 1,100 union workers have been called back to the mill. (Testimony of Paul Bogart, Jan Pacheco, Nick Mikatich, and Marty Santoyo).

**Principle 1:** Corporations are responsible to bargain in good faith with their workforce within the framework of existing labor law.

**Principle 2:** Work represents only one facet of any individual's life, and the policy of mandatory overtime can be unhealthy to both family and community life if implemented in an excessive and inflexible fashion.

**Recommendation:** The Workers’ Rights Board recommends that Oregon Steel return locked out workers to the mill and settle a fair contract with the Steelworkers that includes limits on forced overtime and offers salaries and benefits comparable to industry standards.

**Unfair Labor Practices**

In October of 1997, workers walked off the job in an unfair labor practices strike to protest Oregon Steel's repeated violations of federal labor laws. These unfair labor practices included:

- bargaining in bad faith
- denial of the right to wear union decals or insignia on work clothes or helmets
- Threatening job loss if workers voted to strike
- Threatening to close certain departments, or the entire mill, if workers went on strike
- negotiating directly with individuals
- surveillance of union meetings and gatherings

On May 17, 2000, Administrative Law Judge Albert J. Metz of the NLRB ruled that Rocky Mountain Steel had engaged in "serious unfair labor practices, including bargaining in bad faith and refusing to immediately reinstate the unfair labor practice strikers." Metz upheld an earlier ruling and found Oregon Steel guilty of more than one hundred violations of Federal labor law. This decision sustained nearly every allegation made in the original complaint against Rocky Mountain Steel filed with the NLRB. Oregon Steel ignored that order and is now appealing the ruling to the Circuit Court of Appeals. (Testimony of Marty Santoyo and Nick Mikatich)

*When Oregon Steel took over the plant they immediately opened a campaign that slowly ate at the dignity and self-respect of every member of the workforce... Oregon Steel’s attitude was: we are paying you, therefore we own you. We will tell you when to work, when you can go home, when you can see your families, when you can participate in community functions. We own you!*  

Marty Santoyo  
recalled steelworker

*We concluded that much of the difficulty in Pueblo was the result of an imbalance of power and a lack of commitment by CF & I/ Oregon Steel to honor the skills, commitment and contributions made by the union workers that ensured a good product and profitability at the plant.*  

David Leslie, Executive Director  
Ecumenical Ministries of Oregon
**Principle:** Workers have the right to join, participate, and engage in concerted activity without management interference. This includes the right to withhold their labor, in the form of a strike, without fear of permanent replacement, when all other avenues of pressing their claims have been exhausted.

**Recommendation:** The Workers' Rights Board recommends that Oregon Steel comply with the decisions of the NLRB and the Administrative Law Judge.

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**Health and Safety**

The testimony and accompanying documentation presented by the replaced workers, USWA officials, and the son of a steelworker killed in the mill last year, paints a frightening picture of the Oregon Steel Pueblo facility. Two worker deaths within a ten-month period between May of 1999 and February of 2000 have contributed to Rocky Mountain Steel having the worst industrial safety record in the state of Colorado [The Oregonian: 2/17/00].

In 1999 alone, Rocky Mountain Steel paid OSHA fines in excess of half a million dollars, including the second largest single fine in Colorado history. This year, they have already been fined an additional half million dollars for more than one thousand instances of safety and health violations. Many of these violations are "serious" and "repeat" violations. "Serious" violations are defined by OSHA as ones in which "a substantial probability that death or serious physical harm could result and the employer knew or should have known of the hazard."

Documentation provided to the Workers' Rights Board quoted OSHA Administrator Charles N. Jeffress to the effect that, "CF&I Steel is no stranger to OSHA inspections and should be very aware of safety and health regulations for its workers. Just three years ago OSHA fined the company $1.1 million for some of these same issues; yet management has continued to disregard employee safety. The result is a tragedy that more attention to safety and health could have prevented." (Testimony of John Perquin, Clint Allison, Marty Santoyo)

**Principle:** Every worker has the right to a safe and healthy work environment.

**Recommendation:** Oregon Steel immediately correct the health and safety violations identified by OSHA.
Community Issues

Public Health and the Environment

Oregon Steel facilities in both Pueblo and Portland operate in, or near, residential communities. In both cases, these facilities emit substances (lead, manganese, chromium, arsenic, etc.) that can, in sufficient concentration, do harm to people, particularly the young and the old. Based on information available in public records, as well as Oregon Steel’s own monitoring reports, Oregon Steel has repeatedly exceeded visual opacity emissions limits from both the Pueblo and Portland facilities. In Portland, records indicate 51 violations of the visual emissions limit during the most recent two-year period for which records are available [Associated Press: 6/19/00].

Oregon Steel has requested a relaxation of standards for fine particulate for the pending pollution permit at their Portland facility. Fine particles are of great concern because they penetrate the furthest into human lungs and cause the most health damage. Oregon Steel is requesting a limit that would be 150 times greater than they currently claim to be emitting.

In addition to the existing toxic burden from Oregon Steel’s daily emissions (both permitted and non-permitted), residents of Portland face the prospect of additional pollution from the use of “pollution credits”. These credits, currently held by Oregon Steel, could be applied to other parts of the facility or sold to other local industries, allowing them to further pollute the air that Portland residents breathe.

Documents indicate that the environmental compliance record for Oregon Steel’s Pueblo facility is even worse and the State of Colorado has filed suit against the company for repeated and ongoing violations of the Clean Air Act. Recent data shows that Pueblo County residents face an elevated incidence of several serious illnesses. (Testimony of John Perquin and Jeri Sundvall)

**Principle:** The health and safety of the community must be safeguarded as well as that of the workers.

**Recommendation 1:** The Workers’ Rights Board recommends that Oregon Steel take immediate action to lessen the pollution burden on the Portland community.

**Recommendation 2:** The Board recommends that the Department of Environmental Quality study the effect of Oregon Steel’s emissions on the health of the community and that monitoring and enforcement procedures at the Portland facility be improved.
Corporate Responsibility

There is a long history in Oregon of the Legislature making rules to ensure that our tax money is used responsibly. Prevailing wage laws and contracting to purchase goods that are friendly to the environment are two examples. In 1999 the Oregon Legislature reaffirmed the importance of using public resources responsibly by adding responsible contractor language when it amended Oregon’s public contracting laws. In the past, state and local government in Oregon could not refuse to award a contract to a lower bidder unless that bidder had repeatedly violated its contracts with the contracting body. Now the law allows governments to refuse to deal with bidders who do not have a track record of “integrity.” At the very least, a track record of integrity must mean that the bidder obeys the labor, environmental, and consumer protection laws that have been enacted to protect people. This is the standard the federal government is seeking to adopt in its rulemaking processes. The Steelworkers are proposing that Tri-Met adopt this standard as well. (Testimony of Dan Gardner)

Oregon Steel also receives a $10 million tax abatement from the City of Portland. They are required to maintain employment levels and hire a percentage of the work force from inside the inner North-Northeast Enterprise Zone. There is evidence that Oregon Steel has not maintained the overall employment level or hired the requisite numbers from the Enterprise Zone. (Testimony of Paul Bogart and Jeri Sundvall).

Principle 1: Corporations must be accountable for their actions.

Principle 2: As a community, we must make sure that publicly funded bodies contract with responsible corporate citizens who act within the law and act with integrity.

Principle 3: These criteria must also be applied to granting tax abatements.

Recommendation 1: The Workers’ Rights Board recommends that Oregon Steel’s City of Portland tax abatement be discontinued next year when the issue is reconsidered unless they have corrected the abuses and violations outlined above.

Recommendation 2: The Workers’ Rights Board recommends that Tri-Met Board adopt responsible contractor language as one of its bidding requirements, especially as this would apply to their purchase of rail for the extension of the Interstate MAX.
Summary of principles applicable to this case

**Principle 1:** Corporations are responsible to bargain in good faith with their workforce within the framework of existing labor law.

**Principle 2:** Work represents only one facet of any individual’s life, and the policy of mandatory overtime can be unhealthy to both family and community life if implemented in an excessive and inflexible fashion.

**Principle 3:** Workers have the right to join, participate, and engage in concerted activity without management interference. This includes the right to withhold their labor, in the form of a strike, without fear of permanent replacement, when all other avenues of pressing their claims have been exhausted.

**Principle 4:** Every worker has the right to a safe and healthy work environment.

**Principle 5:** The health and safety of the community must be safeguarded, as well as that of the workers.

**Principle 6:** Corporations must be accountable for their actions.

**Principle 7:** As a community, we must make sure that publicly funded bodies contract with responsible corporate citizens who act within the law and act with integrity.

**Principle 8:** These criteria must also be applied to granting tax abatements.

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**Comments from the Panel**

*People ask why we should be concerned about a strike in Pueblo, Colorado, and I would say that we should be concerned for the same reasons we should be concerned about sweatshops in Thailand as well.*

Barbara Dudley

*Fundamental fairness to every member of the community, economically and in the workplace, is a key aspect of livability.*

Randy Tucker

*Everyone deserves to have basic rights, and the most important basic right is to have a clean environment. Clean air, clean water, a clean environment to raise our children.*

Geri Washington

*We need to send a message to Tri-Met that we are not promoting transit that improves our air quality by degrading the air quality of a particular community in our own city and in Pueblo, Colorado. We don’t want to get our benefits at the expense of others.*

Randy Tucker
Recommended Workers’ Rights Board Actions

Based on these principles, after listening to the testimony, the Oregon Steel panel of the Portland Area Workers’ Rights Board recommended that the Workers’ Rights Board take the following actions:

- Prepare a summary of the hearing testimony documenting Oregon Steel’s pattern of disregard for the labor rights of its workers, for their health and safety, and for the environment of the communities in which they operate.

- Write a letter to Oregon Steel CEO Joe Corvin and the Board of Directors summarizing the Board’s findings and recommendations and requesting a meeting to discuss them.

- Recommend that Oregon Steel settle a fair contract with its union and return the Pueblo strikers to work.

- Recommend that Oregon Steel take immediate and concrete action to lessen the pollution burden on the Portland community.

- Write a letter asking DEQ to study the effect of Oregon Steel’s emissions on the health of the community and insist that DEQ upgrade their monitoring and enforcement procedures and practices.

- Give the Tri-Met Board of Directors a copy of the hearing report.

- Have panel members testify at the Tri-Met hearing about the importance of adopting responsible contractor language.

- Write to the Portland City Council recommending that Oregon Steel’s tax abatement be discontinued next year when the issue is reconsidered.

Comments from the Panel

This is a corporation over which we have some power... and we should exercise every bit of that power. We need to put our energy into working to make our city behave responsibly toward our corporations, and our corporations behave responsibly to workers.

Barbara Dudley

We need to use our collective efforts to change the way labor laws exist in this country. The NLRB is not adequate to build the kind of workplace relations, safety and democratic control over the workplace we should have.

Martin Hart-Landsberg

It is an honor to be here in solidarity with these steelworkers. As we say in Latin America, it is important to make this a causas comun, a common struggle. We should feel the abuse of workers in another part of the world as a slap in the face. When we develop that sensitivity fully, we will have a better world.

Martin Gonzalez
Martin Gonzalez, Panel Chair
Community Economic Development Director, American Friends Service Committee

Martin Hart-Landsberg
Professor of Economics, Lewis & Clark College

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