

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0806-IHW-E **TCEQ ID:** RN102154523 **CASE NO.:** 35870
RESPONDENT NAME: Houston Unlimited Inc. Metal Processing

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Houston Unlimited Metal Processing, 9400 Highway 290 East, Chappell Hill, Washington County</p> <p>TYPE OF OPERATION: Metal processing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received December 5, 2007, alleging that the Respondent is illegally dumping hazardous waste onto the ground near a culvert. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 17, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Julian Kuciemba, President, Houston Unlimited Inc. Metal Processing, P.O. Box 143, Chappell Hill, Texas 77426 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: December 5, 2007</p> <p>Date of Investigation Relating to this Case: January 2, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 10, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>Failure to prevent the unauthorized discharge of industrial hazardous waste into or adjacent to water in the state. Specifically, water samples collected from a culvert located at the Facility indicated a pH level of 12.7. In addition, water and soil samples collected from the Facility property and adjacent properties contained constituents of concern that exceed Texas Risk Reduction Program ("TRRP") Tier 1 action levels. Specifically, the surface water samples exceeded TRRP Tier 1 action levels for chromium, copper, aluminum, and zinc. The soil samples contained a level of aluminum exceeding the TRRP Tier 1 action level [30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$25,000</p> <p>Total Deferred: \$5,000 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$575 (remaining \$19,425 due in 35 monthly payments of \$555 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease the unauthorized discharge of industrial hazardous waste at the Facility;</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(I)); and Institutional Controls under Subchapter F; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): SWR 39505



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	22-Apr-2008	PCW	8-May-2008	Screening	8-May-2008	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	Houston Unlimited Inc. Metal Processing
Reg. Ent. Ref. No.	RN 102154523
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35870	No. of Violations	1	
Docket No.	2008-0806-IHW-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Clinton Sims	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$25,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes No change due to average performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0.0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,019	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$20,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$25,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$25,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$25,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$5,000
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$20,000
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Screening Date 8-May-2008	Docket No. 2008-0806-IHW-E	PCW
Respondent Houston Unlimited Inc. Metal Processing	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35870	<i>PCW Revision April 29, 2008</i>	
Reg. Ent. Reference No. RN 102154523		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Clinton Sims		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	8-May-2008	Docket No.	2008-0806-IHW-E	PCW
Respondent	Houston Unlimited Inc. Metal Processing			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35870			<i>PCW Revision April 29, 2008</i>
Reg. Ent. Reference No.	RN 102154523			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Clinton Sims			

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 335.4(1) and Tex. Water Code § 26.121(a)(1)
Violation Description	Failed to prevent the unauthorized discharge of industrial hazardous waste into or adjacent to water in the state, as documented during an investigation conducted on January 2, 2008. Specifically, employees have been emptying 55-gallon containers of process material onto the ground on a regular basis. Water samples collected from a culvert located at the Facility indicated a pH level of 12.7. In addition, water and soil samples collected from the Facility property and adjacent properties contained constituents of concern ("COC") that exceed Texas Risk Reduction Program ("TRRP") Tier 1 action levels. Specifically, the surface water samples exceeded TRRP Tier 1 action levels for chromium, copper, aluminum, and zinc. The soil samples contained a level of aluminum exceeding the TRRP Tier 1 action level.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual		X		Percent 50%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed protective levels.				
	Adjustment	\$5,000			

\$5,000

Violation Events

Number of Violation Events	5	Number of violation days	127
mark only one with an x	daily		Violation Base Penalty \$25,000
	monthly	X	
	quarterly		
	semiannual		
	annual		
	single event		
Five monthly events are recommended from the January 2, 2008 investigation date to the May 8, 2008 screening date.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$1,019
Violation Final Penalty Total	\$25,000
This violation Final Assessed Penalty (adjusted for limits)	\$25,000

Economic Benefit Worksheet

Respondent Houston Unlimited Inc. Metal Processing
Case ID No. 35870
Reg. Ent. Reference No. RN 102154523
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$20,000	2-Jan-2008	8-Jan-2009	1.02	\$1,019	n/a	\$1,019
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an Affected Property Assessment Report (APAR). The Date Required is the investigation date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$1,019

Compliance History

Customer/Respondent/Owner-Operator: CN603345570 Houston Unlimited Inc. Metal Processing Classification: AVERAGE Rating: 3.01

Regulated Entity: RN102154523 HOUSTON UNLIMITED METAL PROCESSING Classification: AVERAGE Site Rating: 3.01 BY DEFAULT

ID Number(s): STORMWATER PERMIT TXR05X073
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TX0000248633
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 39505
 GENERATION (SWR)

Location: 9400 HIGHWAY 290 E, CHAPPELL HILL, TX, 77426 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: May 21, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 21, 2003 to May 21, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Clinton Sims Phone: (512) 239-6933

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 03/25/2008 (637137)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HOUSTON UNLIMITED INC. METAL
PROCESSING
RN102154523

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0806-IHW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Houston Unlimited Inc. Metal Processing ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a metal processing plant at 9400 Highway 290 East in Chappell Hill, Washington County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 15, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty-Five Thousand Dollars (\$25,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Seventy-Five Dollars (\$575) of the administrative penalty and Five Thousand Dollars (\$5,000) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nineteen Thousand Four Hundred Twenty-Five Dollars (\$19,425) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Fifty-Five Dollars (\$555) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to prevent the unauthorized discharge of industrial hazardous waste into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on January 2, 2008. Specifically, water samples collected from a culvert located at the Facility indicated a pH level of 12.7. In addition, water and soil samples collected from the Facility property and adjacent properties contained constituents of concern ("COC") that exceed Texas Risk Reduction Program ("TRRP") Tier 1 action levels. Specifically, the surface water samples exceeded TRRP Tier 1 action levels for chromium, copper, aluminum, and zinc. The soil samples contained a level of aluminum exceeding the TRRP Tier 1 action level.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Houston Unlimited Inc. Metal Processing, Docket No. 2008-0806-IHW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease the unauthorized discharge of industrial hazardous waste at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.4(1);
 - b. Within 60 days after the effective date of this Agreed Order, submit an **Affected Property Assessment Report**, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F to:

Remediation Division, MC 225
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

- c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

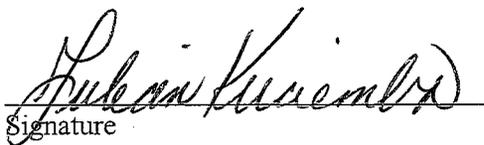
Date 10/30/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 8-21-2008

Julian Kuciemba

Name (Printed or typed)
Authorized Representative of
Houston Unlimited Inc. Metal Processing

Title President

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

