

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0161-AIR-E **TCEQ ID:** RN100217306 **CASE NO.:** 35302

RESPONDENT NAME: EBAA Iron, Inc.

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 checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input 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: EBAA Iron Eastland Plant, 702-30 County Road 442, Eastland, Eastland County</p> <p>TYPE OF OPERATION: Ductile iron foundry</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 21, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Sidney Wheeler, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-4969; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Joy Cole, Safety & Environmental Manager, EBAA Iron, Inc., P.O. Box 877, Eastland, Texas 76448 Mr. Earl T. Bradley, CEO, EBAA Iron, Inc., P.O. Box 877, Eastland, Texas 76448 Respondent's Attorney: Mr. McCord Wilson, Rader & Campbell, Stemmons Place, Suite 1125, 2777 North Stemmons Freeway, Dallas, Texas 75207</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 27, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 15, 2008 (NOE)</p> <p>Background Facts: This was a routine records review.</p> <p>AIR</p> <p>Failure to submit an annual compliance certification for the period July 27, 2006 through September 6, 2006 [30 TEX. ADMIN. CODE § 122.146(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,500</p> <p>Total Deferred: \$700 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,800</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 within 30 days after the effective date of this Agreed Order, submit a complete and accurate annual compliance certification for the period July 27, 2006 through September 6, 2006.</p>

Additional ID No(s): EA0006G



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

DATES	Assigned	22-Jan-2008	Screening	25-Jan-2008	EPA Due	25-Nov-2008
	PCW	11-Feb-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	EBAA Iron, Inc.
Reg. Ent. Ref. No.	RN100217306
Facility/Site Region	3-Abilene
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35302	No. of Violations	1	
Docket No.	2008-0161-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Sidney Wheeler	
Multi-Media		EC's Team	Enforcement Team 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	40% Enhancement	Subtotals 2, 3, & 7	\$1,000

Notes: Enhancement due to two agreed final enforcement orders containing a denial of liability.

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

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$45	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$500	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,500
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DEFERRAL	20% Reduction	Adjustment	-\$700
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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	\$2,800
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Screening Date 25-Jan-2008

Docket No. 2008-0161-AIR-E

PCW

Respondent EBAA Iron, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35302

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN100217306

Media [Statute] Air

Enf. Coordinator Sidney Wheeler

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>	2	40%
	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 judgments 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) 40%

>> **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

Enhancement due to two agreed final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 25-Jan-2008	Docket No. 2008-0161-AIR-E	PCW
Respondent EBAA Iron, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35302	<i>PCW Revision January 29, 2008</i>	
Reg. Ent. Reference No. RN100217306		
Media [Statute] Air		
Enf. Coordinator Sidney Wheeler		
Violation Number 1		
Rule Cite(s)	30 Tex. Admin. Code § 122.146(1) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to submit an annual compliance certification for the period July 27, 2006 through September 6, 2006. Specifically, the Respondent submitted certifications for the period September 7, 2005 through July 26, 2006, and for the period September 7, 2006 through September 6, 2007, but failed to include the period from July 27, 2006 through September 6, 2006.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="25%"/>
Matrix Notes	100% of the permit requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent EBAA Iron, Inc.
Case ID No. 35302
Reg. Ent. Reference No. RN100217306
Media Air
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
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	6-Oct-2006	25-Jul-2008	1.8	\$45	n/a	\$45

Notes for DELAYED costs

Estimated cost to timely submit an annual compliance certification. Date required is the date the certification was due. Final date is the date of estimated compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$45

Compliance History

Customer/Respondent/Owner-Operator:	CN600129100 EBAA Iron, Inc.	Classification: AVERAGE	Rating: 5.10																														
Regulated Entity:	RN100217306 EBAA IRON EASTLAND PLANT	Classification: AVERAGE	Site Rating: 10.91																														
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">EA0006G</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2315</td> </tr> <tr> <td>PETROLEUM STORAGE TANK REGISTRATION</td> <td>REGISTRATION</td> <td>50767</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>664</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>EA0006G</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4813300012</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED</td> <td>ID NUMBER</td> <td>TXD980748750</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL</td> <td>EPA ID</td> <td>TXD980748750</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>85929</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD980748750</td> </tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER	EA0006G	AIR OPERATING PERMITS	PERMIT	2315	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	50767	AIR NEW SOURCE PERMITS	PERMIT	664	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	EA0006G	AIR NEW SOURCE PERMITS	AFS NUM	4813300012	INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED	ID NUMBER	TXD980748750	INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL	EPA ID	TXD980748750	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	85929	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD980748750
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INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD980748750																															
Location:	702-30 CR 442, EASTLAND, TX, 76448		Rating Date: September 01 07 Repeat Violator: NO																														
TCEQ Region:	REGION 03 - ABILENE																																
Date Compliance History Prepared:	January 24, 2008																																
Agency Decision Requiring Compliance History:	Enforcement																																
Compliance Period:	January 24, 2003 to January 24, 2008																																

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

Name: Sidney Wheeler Phone: (210) 403-4078

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? | N/A |
| 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 judgments, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 12/23/2004 | ADMINORDER 2001-0979-IHW-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 335, SubChapter C 335.62 | |
| 30 TAC Chapter 335, SubChapter R 335.503(a) | |
| 30 TAC Chapter 335, SubChapter R 335.513 | |
| Description: Fail. to do haz. waste determination & waste classification for each waste stream. | |
| Effective Date: 08/10/2007 | ADMINORDER 2006-0232-AIR-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 106, SubChapter S 106.433(7)(A) | |
| Description: Failure to comply with the volatile organic compound (VOC) emissions limits listed in 30 TAC 106.433(7)(A), claimed for operation of the Xylan Coating Process. | |
- 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 | 06/24/2003 | (123017) |
| 2 | 10/28/2003 | (250884) |
| 3 | 03/03/2004 | (264802) |
| 4 | 05/14/2004 | (270446) |
| 5 | 10/19/2004 | (337151) |

6 02/24/2006 (453240)
7 12/22/2006 (534887)
8 01/16/2008 (612349)

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
EBAA IRON, INC.
RN100217306**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0161-AIR-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 EBAA Iron, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. McCord Wilson of the law firm of Rader & Campbell, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a ductile iron foundry located at 702-30 County Road 442 in Eastland, Eastland County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 January 20, 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 Three Thousand Five Hundred Dollars (\$3,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Two Thousand Eight Hundred Dollars (\$2,800) of the administrative penalty and Seven Hundred Dollars (\$700) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 Plant, the Respondent is alleged to have failed to submit an annual compliance certification for the period July 27, 2006 through September 6, 2006, in violation of 30 TEX. ADMIN. CODE § 122.146(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on December 27, 2007. Specifically, the Respondent submitted certifications for the period September 7, 2005 through July 26, 2006, and for the period September 7, 2006 through September 6, 2007, but failed to include the period from July 27, 2006 through September 6, 2006.

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: EBAA Iron, Inc., Docket No. 2008-0161-AIR-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, within 30 days after the effective date of this Agreed Order, submit a complete and accurate annual compliance certification for the period July 27, 2006 through September 6, 2006 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:

Air Section, Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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 Plant 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

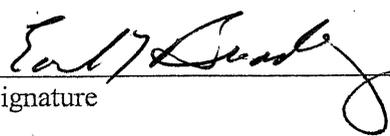
6/30/2008

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

15 MAY 08

EARL T BRADLEY

Name (Printed or typed)
Authorized Representative of
EBA Iron, Inc.

Title

CEO

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.

Handwritten title or header text, possibly a name or date.

Handwritten text, possibly a date or location.

Handwritten paragraph of text, possibly a letter or report.

Handwritten paragraph of text, possibly a letter or report.

Handwritten text, possibly a signature or name.

Handwritten text at the bottom of the page, possibly a footer or concluding sentence.