

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-0955-AIR-E **TCEQ ID:** RN100218205 **CASE NO.:** 37832
RESPONDENT NAME: Matrix Metals LLC

| | | |
|--|---|--|
| 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: Richmond Foundry, 126 Collins Road, Richmond, Fort Bend County</p> <p>TYPE OF OPERATION: Steel manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Complaints were received on November 18, 19, and 24, 2008, alleging odors and red dust clouds coming for the Respondent's property. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have 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 December 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jessie C. Payne, EHS Manager, Matrix Metals LLC, 126 Collins Road, Richmond, Texas 77469 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: November 18, 19, and 24, 2008</p> <p>Date of Investigation Relating to this Case: January 13, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 10, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to submit an annual Permit Compliance Certification ("PCC") and two semi-annual deviation reports. Specifically, the Respondent failed to submit a certified PCC for the period June 22, 2007 to June 21, 2008 and semi-annual deviation reports for the June 22, 2007 to December 21, 2007 and December 22, 2007 to June 21, 2008 reporting periods [Federal Operating Permit ("FOP") No. O2121, General Terms and Conditions, and Special Terms and Conditions 9, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain records of opacity observations. Specifically, the Respondent failed to maintain records of opacity readings for stationary vents and buildings containing an emission source, enclosed facility, or other structure containing or associated with an air emission source [FOP No. O2121, Special Terms and Conditions 3(A)(iv)(3) and 3(C)(iii)(2), 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain all pollution emission capture equipment and abatement equipment in good working condition. Specifically, Baghouse #7 had a hole in the down chute and a missing panel [New Source Review Permit No. 1814A, Special</p> | <p>Total Assessed: \$18,750</p> <p>Total Deferred: \$3,750 <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: \$15,000</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. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement procedures designed to ensure a timely reporting of PCCs and semi-annual deviation reports;</p> <p>ii. Implement procedures designed to ensure records of opacity observations are maintained;</p> <p>ii. Implement procedures designed to ensure all emissions abatement equipment is maintained in good working condition; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.</p> |

| | | |
|---|--|--|
| Condition 4, FOP No. O2121, Special Terms and Conditions 7(A), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | |
|---|--|--|

Additional ID No(s): FG0044H



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|------------|
| DATES | Assigned | 15-Jun-2009 | Screening | 17-Jun-2009 | EPA Due | 7-Mar-2010 |
| | PCW | 24-Aug-2009 | | | | |

| | | | |
|--|-------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Matrix Metals LLC | | |
| Reg. Ent. Ref. No. | RN100218205 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37832 | No. of Violations | 3 |
| Docket No. | 2009-0955-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Martina Kusniadi |
| | | 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 | \$12,500 |
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | | |
| <small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small> | | | |
| Compliance History | 50.0% Enhancement | Subtotals 2, 3, & 7 | \$6,250 |
| Notes | The penalty was enhanced by two similar NOV's and two 1660-style agreed orders. | | |
| Culpability | No 0.0% Enhancement | Subtotal 4 | \$0 |
| Notes | The Respondent does not meet the culpability criteria. | | |
| Good Faith Effort to Comply Total Adjustments | | Subtotal 5 | \$0 |
| Economic Benefit | 0.0% Enhancement* <small>*Capped at the Total EB \$ Amount</small> | Subtotal 6 | \$0 |
| Total EB Amounts | \$281 | | |
| Approx. Cost of Compliance | \$4,000 | | |
| SUM OF SUBTOTALS 1-7 | | Final Subtotal | \$18,750 |
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
| Notes | | | |
| | | Final Penalty Amount | \$18,750 |
| STATUTORY LIMIT ADJUSTMENT | | Final Assessed Penalty | \$18,750 |
| DEFERRAL | 20.0% Reduction | Adjustment | -\$3,750 |
| Notes | Deferral offered for expedited settlement. | | |
| PAYABLE PENALTY | | | \$15,000 |

Screening Date 17-Jun-2009

Docket No. 2009-0955-AIR-E

PCW

Respondent Matrix Metals LLC

Policy Revision 2 (September 2002)

Case ID No. 37832

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218205

Media [Statute] Air

Enf. Coordinator Martina Kusniadi

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> | 2 | 10% |
| | 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 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% |
| <i>Please Enter Yes or No</i> | | | |
| 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) 50%

>> **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

The penalty was enhanced by two similar NOVs and two 1680-style agreed orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

| | | |
|---|---|--|
| Screening Date 17-Jun-2009 | Docket No. 2009-0955-AIR-E | PCW |
| Respondent Matrix Metals LLC | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 37832 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN100218205 | | |
| Media [Statute] Air | | |
| Enf. Coordinator Martina Kusniadi | | |
| Violation Number 1 | | |
| Rule Cite(s) | Federal Operating Permit ("FOP") No. O2121, General Terms and Conditions, and Special Terms and Conditions 9, 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A), and 122.146(2), and Tex. Health & Safety Code § 382.085(b) | |
| Violation Description | Failed to submit an annual Permit Compliance Certification ("PCC") and two semi-annual deviation reports. Specifically, the Respondent failed to submit a certified PCC for the period June 22, 2007 to June 21, 2008 and semi-annual deviation reports for the June 22, 2007 to December 21, 2007 and December 22, 2007 to June 21, 2008 reporting periods, as documented during an investigation on January 13, 2009. | |
| | Base Penalty | \$10,000 |
| >> Environmental, Property and Human Health Matrix | | |
| | Harm | |
| | Release | Major Moderate Minor |
| OR | Actual | <input type="text"/> <input type="text"/> <input type="text"/> |
| | Potential | <input type="text"/> <input type="text"/> <input type="text"/> |
| | Percent | <input type="text" value="0%"/> |
| >> Programmatic Matrix | | |
| | Falsification | Major Moderate Minor |
| | <input type="text"/> | <input checked="" type="text" value="x"/> <input type="text"/> <input type="text"/> |
| | Percent | <input type="text" value="25%"/> |
| Matrix Notes | The Respondent failed to comply with 100% of the rule requirements. | |
| | Adjustment | \$7,500 |
| | | <input type="text" value="\$2,500"/> |
| Violation Events | | |
| | Number of Violation Events | <input type="text" value="3"/> <input type="text" value="514"/> Number of violation days |
| <i>mark only one with an x</i> | daily | <input type="text"/> |
| | weekly | <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 | \$7,500 |
| | Three single events are recommended based on the three missing reports. | |
| Good Faith Efforts to Comply | <input type="text" value="0.0%"/> Reduction | \$0 |
| | Before NOV NOV to EOPRP/Settlement Offer | |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="text" value="x"/> (mark with x) | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| | Violation Subtotal | \$7,500 |
| Economic Benefit (EB) for this violation | <input type="text" value="\$98"/> | |
| | Statutory Limit Test | |
| Estimated EB Amount | <input type="text" value="\$98"/> | Violation Final Penalty Total <input type="text" value="\$11,250"/> |
| | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$11,250"/> |

Economic Benefit Worksheet

Respondent: Matrix Metals LLC
Case ID No.: 37832
Reg. Ent. Reference No.: RN100218205
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 | | | | 0.00 | \$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 | \$1,000 | 20-Jan-2008 | 1-Jan-2010 | 1.95 | \$98 | n/a | \$98 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs
 Estimated costs to provide additional oversight of the reporting system. The Date Required is the date the first deviation report was due, 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) | | | | | | |
|-------------------------------|--|---------------|------------|------|----------------|---------------|-----------|
| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
| 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 TOTAL
\$1,000 \$98

| | | | | | | | | | | | | | | | | |
|---|--|---------------------------------------|--------------------------|----------|----------------------|----------------|-------------------------------------|--------------------------|--------------------------|---|----------------------|----------------------|----------------------|--|-------------------------------------|-------------------------------|
| Screening Date 17-Jun-2009 | Docket No. 2009-0955-AIR-E | PCW | | | | | | | | | | | | | | |
| Respondent Matrix Metals LLC | <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small> | | | | | | | | | | | | | | | |
| Case ID No. 37832 | | | | | | | | | | | | | | | | |
| Reg. Ent. Reference No. RN100218205 | | | | | | | | | | | | | | | | |
| Media [Statute] Air | | | | | | | | | | | | | | | | |
| Enf. Coordinator Martina Kusniadi | | | | | | | | | | | | | | | | |
| Violation Number <input type="text" value="2"/> | | | | | | | | | | | | | | | | |
| Rule Cite(s) | FOP No. Q2121, Special Terms and Conditions 3(A)(iv)(3) and 3(C)(ii)(2), 30 Tex. Admin. Code § 122.143(4), and Tex. Health & Safety Code § 382.085(b) | | | | | | | | | | | | | | | |
| Violation Description | Failed to maintain records of opacity observations. Specifically, the Respondent failed to maintain records of opacity readings for stationary vents and buildings containing an emission source, enclosed facility, or other structure containing or associated with an air emission source, as documented during an investigation on January 13, 2009. | | | | | | | | | | | | | | | |
| Base Penalty | | <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | |
| Harm | | | | | | | | | | | | | | | | |
| OR | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">Major</td> <td style="width:33%; text-align: center;">Moderate</td> <td style="width:33%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Release Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> | | Major | Moderate | Minor | Release Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> | | |
| | Major | Moderate | Minor | | | | | | | | | | | | | |
| Release Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | |
| Falsification | | | | | | | | | | | | | | | | |
| OR | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">Major</td> <td style="width:33%; text-align: center;">Moderate</td> <td style="width:33%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table> | | Major | Moderate | Minor | Falsification | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text" value="25%"/> | | | | | | |
| | Major | Moderate | Minor | | | | | | | | | | | | | |
| Falsification | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | | | | | | |
| Matrix Notes | The Respondent failed to comply with 100% of the rule requirement. | | | | | | | | | | | | | | | |
| Adjustment | | <input type="text" value="\$7,500"/> | | | | | | | | | | | | | | |
| | | <input type="text" value="\$2,500"/> | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | |
| Number of Violation Events | <input type="text" value="1"/> | Number of violation days | | | | | | | | | | | | | | |
| | <input type="text" value="155"/> | | | | | | | | | | | | | | | |
| <small>mark only one with an x</small> | <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:30%;">daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table> | daily | <input type="text"/> | weekly | <input type="text"/> | monthly | <input type="text"/> | quarterly | <input type="text"/> | semiannual | <input type="text"/> | annual | <input type="text"/> | single event | <input checked="" type="checkbox"/> | Violation Base Penalty |
| daily | <input type="text"/> | | | | | | | | | | | | | | | |
| weekly | <input type="text"/> | | | | | | | | | | | | | | | |
| monthly | <input type="text"/> | | | | | | | | | | | | | | | |
| quarterly | <input type="text"/> | | | | | | | | | | | | | | | |
| semiannual | <input type="text"/> | | | | | | | | | | | | | | | |
| annual | <input type="text"/> | | | | | | | | | | | | | | | |
| single event | <input checked="" type="checkbox"/> | | | | | | | | | | | | | | | |
| | | <input type="text" value="\$2,500"/> | | | | | | | | | | | | | | |
| One single event is recommended based on the one set of records not maintained. | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | | | | | | | | | | | | | | | |
| 0.0% Reduction | | <input type="text" value="\$0"/> | | | | | | | | | | | | | | |
| <small>Before NOV NOV to EDRP/Settlement Offer</small> | | | | | | | | | | | | | | | | |
| Extraordinary | <input type="text"/> | | | | | | | | | | | | | | | |
| Ordinary | <input type="text"/> | | | | | | | | | | | | | | | |
| N/A | <input checked="" type="checkbox"/> | <small>(mark with x)</small> | | | | | | | | | | | | | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | | | | | | | | | | | | | |
| Violation Subtotal | | <input type="text" value="\$2,500"/> | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | | | | | | | | | | | | | | | |
| Estimated EB Amount | | <input type="text" value="\$48"/> | | | | | | | | | | | | | | |
| Statutory Limit Test | | | | | | | | | | | | | | | | |
| Violation Final Penalty Total | | <input type="text" value="\$3,750"/> | | | | | | | | | | | | | | |
| This violation Final Assessed Penalty (adjusted for limits) | | <input type="text" value="\$3,750"/> | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent Matrix Metals LLC
Case ID No. 37832
Reg. Ent. Reference No. RN100218205
Media Air
Violation No. 2

| | |
|-------------------------|------------------------------|
| 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 | | | | 0.00 | \$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 | \$1,000 | 13-Jan-2009 | 1-Jan-2010 | 0.97 | \$48 | n/a | \$48 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to maintain opacity observation records. The Date Required is the date of the investigation, 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

\$1,000

TOTAL

\$48

| | | |
|---|--|---|
| Screening Date 17-Jun-2009 | Docket No. 2009-0955-AIR-E | PCW |
| Respondent Matrix Metals LLC | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 37832 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN100218205 | | |
| Media [Statute] Air | | |
| Enf. Coordinator Martina Kusniadi | | |
| Violation Number <input type="text" value="3"/> | | |
| Rule Cite(s) | New Source Review Permit No. 1814A, Special Condition 4, FOP No. O2121, Special Terms and Conditions 7(A), 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), and Tex. Health & Safety Code § 382.085(b) | |
| Violation Description | Failed to maintain all pollution emission capture equipment and abatement equipment in good working condition. Specifically, Baghouse #7 had a hole in the down chute and a missing panel, as documented during an investigation that began on January 13, 2009. | |
| | Base Penalty | <input type="text" value="\$10,000"/> |
| >> Environmental, Property and Human Health Matrix | | |
| | Harm | |
| | Release | Major Moderate Minor |
| OR | Actual | <input type="text"/> <input type="text"/> <input checked="" type="text" value="x"/> |
| | Potential | <input type="text"/> <input type="text"/> <input type="text"/> |
| | Percent | <input type="text" value="25%"/> |
| >> Programmatic Matrix | | |
| | Falsification | Major Moderate Minor |
| | <input type="text"/> | <input type="text"/> <input type="text"/> <input type="text"/> |
| | Percent | <input type="text" value="0%"/> |
| Matrix Notes | Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors. | |
| | Adjustment | <input type="text" value="\$7,500"/> |
| | | <input type="text" value="\$2,500"/> |
| Violation Events | | |
| | Number of Violation Events | <input type="text" value="1"/> <input type="text" value="155"/> Number of violation days |
| <i>mark only one with an x</i> | daily | <input type="text"/> |
| | weekly | <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 | <input type="text" value="\$2,500"/> |
| | One single event is recommended based on the date of investigation. | |
| Good Faith Efforts to Comply | | |
| | <input type="text" value="0.0%"/> Reduction | <input type="text" value="\$0"/> |
| | Before NOV NOV to EDP/PP/Settlement Offer | |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="text" value="x"/> (mark with x) | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| | Violation Subtotal | <input type="text" value="\$2,500"/> |
| Economic Benefit (EB) for this violation | | |
| | Estimated EB Amount | <input type="text" value="\$135"/> |
| Statutory Limit Test | | |
| | Violation Final Penalty Total | <input type="text" value="\$3,750"/> |
| | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$3,750"/> |

Economic Benefit Worksheet

Respondent Matrix Metals LLC
Case ID No. 37832
Reg. Ent. Reference No. RN100218205
Media Air
Violation No. 3

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|------------|------|-----|-------|-------|
| Equipment | \$2,000 | 13-Jan-2009 | 1-Jan-2010 | 0.97 | \$8 | \$129 | \$135 |
| 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 | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to have a regular equipment maintenance system. The Date Required is the date of the investigation, 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

\$2,000

TOTAL

\$135

Compliance History Report

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|-------------------|-------------------------|-----------------------|--------|------|-----------------------|----------------|---------|---|--------|--------------|---|----------------------------------|-------|------------------------|--------|-------|------------------------|--------|--------|------------------------|----------------|---------|------------------------|---------|------------|------------------------|--------|-------|--|
| Customer/Respondent/Owner-Operator: | CN602243305 | Matrix Metals LLC | Classification: AVERAGE | Rating: 5.75 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Regulated Entity: | RN100218205 | RICHMOND FOUNDRY | Classification: AVERAGE | Site Rating: 5.75 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ID Number(s): | <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 30%;">PERMIT</td> <td style="width: 20%;">2121</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>ACCOUNT NUMBER</td> <td>FG0044H</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD987997582</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>83047</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>1814A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>14398A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>FG0044H</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4815700011</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>84879</td> </tr> </table> | | | AIR OPERATING PERMITS | PERMIT | 2121 | AIR OPERATING PERMITS | ACCOUNT NUMBER | FG0044H | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD987997582 | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 83047 | AIR NEW SOURCE PERMITS | PERMIT | 1814A | AIR NEW SOURCE PERMITS | PERMIT | 14398A | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | FG0044H | AIR NEW SOURCE PERMITS | AFS NUM | 4815700011 | AIR NEW SOURCE PERMITS | PERMIT | 84879 | |
| AIR OPERATING PERMITS | PERMIT | 2121 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR OPERATING PERMITS | ACCOUNT NUMBER | FG0044H | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD987997582 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 83047 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | PERMIT | 1814A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | PERMIT | 14398A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | FG0044H | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | AFS NUM | 4815700011 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | PERMIT | 84879 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Location: | 126 COLLINS RD, RICHMOND, TX, 77469 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TCEQ Region: | REGION 12 - HOUSTON | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date Compliance History Prepared: | June 16, 2009 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Compliance Period: | June 15, 2004 to June 15, 2009 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Name: | <u>Martina Kusnadi</u> | | Phone: | <u>713-767-3682</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

| | | |
|-----------------|---|----------------------------|
| Effective Date: | 09/26/2004 | ADMINORDER 2004-0385-AIR-E |
| Classification: | Moderate | |
| Citation: | 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.146(2) 5C THSC Chapter 382, SubChapter A 382.085(b) | |
| Rqmt Prov: | General Terms and Conditions OP | |
| Description: | As owner and operator of the Plant, Matrix Metals is alleged to have failed to submit an annual compliance certification within 30 days after the end of the June 22, 2002 to June 21, 2003 certification period. | |
| Effective Date: | 02/08/2009 | ADMINORDER 2008-0995-AIR-E |
| Classification: | Moderate | |
| Citation: | 30 TAC Chapter 116, SubChapter H 116.770(a) 5C THSC Chapter 382 382.085(b) | |
| Description: | failed to obtain authorization to operate Arc Furnace No. 1 and Arc Furnace No. 2 or shut these furnaces down by September 1, 2003 | |
- 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 | 11/15/2004 | (340853) |
| 2 | 12/10/2004 | (297200) |
| 3 | 12/10/2004 | (343885) |
| 4 | 02/08/2005 | (348107) |
| 5 | 11/04/2005 | (432026) |
| 6 | 12/15/2006 | (509039) |
| 7 | 01/30/2007 | (538088) |
| 8 | 02/28/2007 | (541558) |
| 9 | 01/08/2008 | (595722) |
| 10 | 06/10/2009 | (703581) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/10/2004 (297200)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.146(1)

O-02121, General Terms & Conditions OP

O-02121, Special Terms & Conditions 2.A. OP

Description: Failure to conduct the annual visual observations within the specified time frame.
Category B19.g.(1)

Date: 12/15/2006 (509039)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)

Description: Failure to maintain a complete copy of NSR Permits 1814 and 7985 on-site.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter H 116.770

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to obtain a permit for arc furnaces EPN D and E.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Failure to submit a complete deviation report.

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
MATRIX METALS LLC
RN100218205

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0955-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 Matrix Metals LLC ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a steel manufacturing plant at 126 Collins Road in Richmond, Fort Bend 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 June 15, 2009.
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 Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Dollars (\$15,000) of the administrative penalty and Three Thousand Seven Hundred Fifty Dollars (\$3,750) 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:

1. Failed to submit an Annual Permit Compliance Certification ("PCC") and two semi-annual deviation reports, in violation of Federal Operating Permit ("FOP") No. O2121, General Terms and Conditions, and Special Terms and Conditions 9, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 13, 2009. Specifically, the Respondent failed to submit a certified PCC for the period June 22, 2007 to June 21, 2008 and semi-annual deviation reports for the June 22, 2007 to December 21, 2007 and December 22, 2007 to June 21, 2008 reporting periods.
2. Failed to maintain records of opacity observations, in violation of FOP No. O2121, Special Terms and Conditions 3(A)(iv)(3) and 3(C)(iii)(2), 30 TEX. ADMIN. CODE § 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 13, 2009. Specifically, the Respondent failed to maintain records of opacity readings for stationary vents and buildings containing an emission source, enclosed facility, or other structure containing or associated with an air emission source.
3. Failed to maintain all pollution emission capture equipment and abatement equipment in good working condition, in violation of New Source Review Permit No. 1814A, Special Condition 4, FOP No. O2121, Special Terms and Conditions 7(A), 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an

investigation conducted on January 13, 2009. Specifically, Baghouse #7 had a hole in the down chute and a missing panel, as documented during an investigation that began on January 13, 2009.

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: Matrix Metals LLC, Docket No. 2009-0955-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement procedures designed to ensure a timely reporting of PCCs and semi-annual deviation reports;
 - ii. Implement procedures designed to ensure records of opacity observations are maintained;
 - iii. Implement procedures designed to ensure all emissions abatement equipment is maintained in good working condition; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my

knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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:

Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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

John Srdian

For the Executive Director

12/11/2009

Date

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.

Jessie C. Payne

Signature

9/15/2009

Date

Jessie C. Payne

Name (Printed or typed)
Authorized Representative of
Matrix Metals LLC

Env. Manager

Title

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.