

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1592-AIR-E **TCEQ ID:** RN101970648 **CASE NO.:** 38454
RESPONDENT NAME: Mineral Technologies, 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: Sheffield Station, from the intersection of State Highways 290 and 349 near the town of Sheffield, approximately 5.3 miles west on State Highway 290, and thence southwest on a lease road for approximately 6.1 miles to the site, Pecos County</p> <p>TYPE OF OPERATION: Oil and gas production plant</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 December 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Bruce Martin, Vice President - Operations, Mineral Technologies, Inc., P.O. Box 5823, Midland, Texas 79704 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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 31, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 25, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to timely report deviations that occurred during the semiannual reporting periods of May 8, 2006 to May 7, 2008. Specifically, deviations occurred during those periods, with the latest report due no later than June 6, 2008, but those deviations were not reported until December 8, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), TEX. HEALTH & SAFETY CODE § 382.085(b), and General Operating Permit No. O-2870/Oil and Gas General Operating Permit No. 514, Site-wide requirements (b)(2)].</p>	<p>Total Assessed: \$8,000</p> <p>Total Deferred: \$1,600 <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: \$6,400</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent, on December 8, 2008, submitted all information relating to deviations that occurred during the semiannual reporting periods of May 8, 2006 to May 7, 2008.</p>

Additional ID No(s): PE0047E



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	31-Aug-2009	Screening	25-Sep-2009	EPA Due	
	PCW	29-Sep-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mineral Technologies, Inc.
Reg. Ent. Ref. No.	RN101970648
Facility/Site Region	7-Midland
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38454	No. of Violations	1
Docket No.	2009-1592-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Terry Murphy
		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	\$10,000
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$500
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Notes: Penalty enhanced by one same or similar NOV.

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 Total Adjustments	Subtotal 5	\$2,500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$201
Approx. Cost of Compliance	\$2,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,000
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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 \$8,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,000
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,600
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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	\$6,400
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Screening Date 25-Sep-2009

Docket No. 2009-1592-AIR-E

PCW

Respondent Mineral Technologies, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38454

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101970648

Media [Statute] Air

Enf. Coordinator Terry Murphy

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 5%

>> 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

Penalty enhanced by one same or similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 25-Sep-2009

Docket No: 2009-1592-AIR-E

PCW

Respondent Mineral Technologies, Inc.

Policy Revision 2 (September 2002)

Case ID No: 38454

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101970648

Media [Statute]: Air

Enf. Coordinator: Terry Murphy

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), Tex. Health & Safety Code § 382.085(b), and General Operating Permit No. O-2870/Oil and Gas General Operating Permit No. 514, Site-wide requirements (b)(2)

Violation Description

Failed to timely report deviations that occurred during the semiannual reporting periods of May 8, 2008 to May 7, 2009, as documented during an investigation conducted on July 31, 2009. Specifically, deviations occurred during those periods, with the latest report due no later than June 8, 2008, but those deviations were not reported until December 8, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

The Respondent failed to comply with 100% of the requirement.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

732 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$10,000

Four single events are recommended, based on the four reports that were submitted untimely.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The reports were submitted December 8, 2008, and the NOE is dated August 25, 2009.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$201

Violation Final Penalty Total \$8,000

This violation Final Assessed Penalty (adjusted for limits) \$8,000

Economic Benefit Worksheet

Respondent: Mineral Technologies, Inc.

Case ID No.: 38454

Reg. Ent. Reference No.: RN101970648

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
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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	\$2,000	7-Dec-2006	8-Dec-2008	2.01	\$201	n/a	\$201
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 prepare and submit deviation reports (\$500/report X four reports). The Date Required is the due date of the first of the four reports, and Final Date is the date the deviations were reported.

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

\$201

Compliance History Report

Customer/Respondent/Owner-Operator: CN602999906 Mineral Technologies, Inc. Classification: AVERAGE Rating: 0.25
Regulated Entity: RN101970648 SHEFFIELD STATION Classification: AVERAGE Site Rating: 0.25
ID Number(s):
AIR NEW SOURCE PERMITS PERMIT 4536
AIR NEW SOURCE PERMITS ACCOUNT NUMBER PE0047E
AIR NEW SOURCE PERMITS REGISTRATION 78451
AIR NEW SOURCE PERMITS AFS NUM 4837100186
AIR OPERATING PERMITS PERMIT 2870
AIR OPERATING PERMITS ACCOUNT NUMBER PE0047E
AIR EMISSIONS INVENTORY ACCOUNT NUMBER PE0047E
Location: From the intersection of State Highways 290 and 349 near the town of Sheffield, approximately 5.3 miles west on State Highway 290, and thence southwest on a lease road approximately 6.1 miles, Pecos County
TCEQ Region: REGION 07 - MIDLAND
Date Compliance History Prepared: September 17, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 17, 2004 to September 17, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Terry Murphy Phone: (512) 239-5025

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? Yes
3. If Yes, who is the current owner/operator? Mineral Technologies, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? Eclipse Oil & Gas, Inc.
5. When did the change(s) in owner or operator occur? 03/27/2006
6. Rating Date: 9/1/2009 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.
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 08/10/2007 (571628)
 - 2 07/14/2008 (683435)
 - 3 08/25/2009 (764268)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/25/2009 (764268)
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: Failure to have a satisfactory Cause of Deviation and Corrective Action in the Deviation Report. This is an alleged violation of 30 Texas Administrative Code (TAC) 122.145(2)(A) and Texas Health Code (THC) 382.085(b).
- 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
MINERAL TECHNOLOGIES, INC.
RN101970648**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1592-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 Mineral Technologies, 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates an oil and gas production plant located from the intersection of State Highways 290 and 349 near the town of Sheffield, approximately 5.3 miles west on State Highway 290, and thence southwest on a lease road for approximately 6.1 miles, Pecos 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 August 30, 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 Eight Thousand Dollars (\$8,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Four Hundred Dollars (\$6,400) of the administrative penalty and One Thousand Six Hundred Dollars (\$1,600) 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 recognizes that the Respondent, on December 8, 2008, submitted all information relating to deviations that occurred during the semiannual reporting periods of May 8, 2006 to May 7, 2008.
10. 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.
11. 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.
12. 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 timely report deviations that occurred during the semiannual reporting periods of May 8, 2006 to May 7, 2008, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), TEX. HEALTH & SAFETY CODE § 382.085(b), and General Operating Permit No. O-2870/Oil and Gas General Operating Permit No. 514, Site-wide requirements (b)(2), as documented during an investigation conducted on July 31, 2009. Specifically, deviations occurred during those periods, with the latest report due no later than June 6, 2008, but those deviations were not reported until December 8, 2008.

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: Mineral Technologies, Inc., Docket No. 2009-1592-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. 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.
3. 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.
4. 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.
5. 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 Szollier
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.

Bruce Martin
Signature
MINERAL TECHNOLOGIES, INC.

BRUCE MARTIN
Name (Printed or typed)
Authorized Representative of
Mineral Technologies, Inc.

NOVEMBER 3, 2009
Date

V. P. - OPERATIONS
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.