

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1606-IWD-E **TCEQ ID:** RN102413689 **CASE NO.:** 40411  
**RESPONDENT NAME:** Structural Metals, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> SMI Texas, located one mile west of the intersection of Interstate Highway 10 and Farm-to-Market Road 464, west of Seguin, Guadalupe County</p> <p><b>TYPE OF OPERATION:</b> Steel works with blast furnace and rolling mills</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 10, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Philip Seidenberger, Director of Mill Operations, Structural Metals, Inc., P.O. Box 911, Seguin, Texas 78156  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 2, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 3, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to comply with the permitted effluent limits for total organic carbon and oil &amp; grease [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0001712000 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$6,200</p> <p><b>Total Deferred:</b> \$1,240  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,960</p> <p><b>Compliance History Classification:</b>                      Person/CN – Average                      Site/RN – Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has required all company automobiles to be parked in an area where storm water run-off does not discharge into Segment 1804 of the Guadalupe River Basin and achieved compliance with permit limits by June 1, 2010.</p>

Additional ID No(s): WQ0001712000



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned PCW</b>	7-Sep-2010	<b>Screening</b>	15-Sep-2010	<b>EPA Due</b>	
		16-Sep-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Structural Metals, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102413689
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40411	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1606-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$5,000</b>
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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.

<b>Compliance History</b>	<b>49.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,450</b>
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Notes: Enhancement for nine months of self-reported effluent violations and three NOVs for dissimilar violations; and a reduction for two letters of intended environmental audits.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$1,250</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$2  
 Approx. Cost of Compliance \$100  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$6,200</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	<b>\$6,200</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$6,200</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$1,240</b>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$4,960</b>
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**Screening Date** 15-Sep-2010

**Docket No.** 2010-1606-IWD-E

**PCW**

**Respondent** Structural Metals, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 40411

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102413689

**Media [Statute]** Water Quality

**Enf. Coordinator** Harvey Wilson

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	9	45%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	2	-2%
	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)** 49%

>> **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 for nine months of self-reported effluent violations and three NOVs for dissimilar violations; and a reduction for two letters of intended environmental audits.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 49%

Screening Date 15-Sep-2010

Docket No. 2010-1606-IWD-E

PCW

Respondent Structural Metals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40411

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413689

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0001712000 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits, as documented in a record review conducted on August 2, 2010 (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5

93 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Five quarterly events are recommended: one for outfall 002, two for outfall 003, and two for outfall 004.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent returned to compliance by June 1, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$6,200

This violation Final Assessed Penalty (adjusted for limits) \$6,200

# Economic Benefit Worksheet

**Respondent** Structural Metals, Inc.  
**Case ID No.** 40411  
**Reg. Ent. Reference No.** RN102413689  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				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)	\$100	31-Dec-2009	1-Jun-2010	0.42	\$2	n/a	\$2

Notes for DELAYED costs

The estimated cost of requiring company automobiles be to parked in an area where storm water run-off does not discharge into Segment 1804 of the Guadalupe River Basin. Date Required is the date the violation was first documented. Final Date is the 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 \$100

**TOTAL** \$2

Structural Metals, Inc.  
Docket No. 2010-1606-IWD-E  
Permit No. WQ0001712000  
RN102413689  
Violation Table

Date	Outfall 002 Total Organic Carbon Daily Maximum 75 mg/L	Outfall 003 Oil & Grease Daily Maximum 15 mg/L	Outfall 004 Oil & Grease Daily Maximum 15 mg/L (Grab)
December 2009	C	17.9	294
March 2010	C	23.5	15.9
May 2010	102	C	24.1
mg/L = milligrams per Liter      C = compliant			





**Components (Multimedia) for the Site :**

A. Final Enforcement Orders, court judgments, 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	09/14/2005	(445240)
2	10/18/2005	(476447)
3	11/16/2005	(476448)
4	11/17/2005	(437263)
5	12/14/2005	(439974)
6	12/15/2005	(476449)
7	01/09/2006	(476450)
8	02/03/2006	(476445)
9	03/20/2006	(476446)
10	03/27/2006	(458458)
11	04/14/2006	(503497)
12	05/15/2006	(503498)
13	06/08/2006	(503499)
14	07/07/2006	(503500)
15	08/08/2006	(525859)
16	08/17/2006	(488909)
17	09/06/2006	(525860)
18	10/06/2006	(525861)
19	11/06/2006	(550319)
20	11/06/2006	(550320)
21	12/06/2006	(532941)
22	12/06/2006	(550321)
23	01/09/2007	(533363)
24	01/09/2007	(550322)
25	02/16/2007	(550318)
26	03/05/2007	(586074)
27	04/13/2007	(586075)
28	05/14/2007	(586076)
29	06/11/2007	(586077)
30	07/11/2007	(586078)
31	08/14/2007	(604652)
32	09/19/2007	(593738)
33	10/05/2007	(604653)
34	11/05/2007	(624193)
35	11/08/2007	(600717)
36	12/11/2007	(624194)
37	01/11/2008	(613765)
38	01/15/2008	(624195)
39	01/23/2008	(613627)
40	02/12/2008	(675146)
41	02/12/2008	(675149)
42	03/05/2008	(613618)
43	03/05/2008	(613889)

44	03/06/2008	(675147)
45	04/10/2008	(675148)
46	04/28/2008	(654208)
47	05/09/2008	(693511)
48	06/04/2008	(693512)
49	07/08/2008	(693513)
50	08/11/2008	(714789)
51	08/25/2008	(686902)
52	08/29/2008	(687477)
53	09/12/2008	(701478)
54	10/09/2008	(714790)
55	11/05/2008	(714791)
56	12/04/2008	(730697)
57	01/08/2009	(722544)
58	01/09/2009	(730698)
59	02/02/2009	(723031)
60	02/04/2009	(753935)
61	02/27/2009	(726027)
62	03/03/2009	(753936)
63	04/03/2009	(753937)
64	05/08/2009	(771283)
65	06/04/2009	(771284)
66	07/10/2009	(813821)
67	08/04/2009	(813822)
68	08/24/2009	(765805)
69	09/11/2009	(813823)
70	10/08/2009	(813824)
71	11/09/2009	(813825)
72	12/16/2009	(813826)
73	01/13/2010	(788123)
74	01/13/2010	(813827)
75	01/22/2010	(788748)
76	02/12/2010	(813820)
77	02/23/2010	(792938)
78	03/30/2010	(795948)
79	04/14/2010	(798354)
80	09/03/2010	(844005)
81	09/06/2010	(842025)

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

Date:	10/31/2005	(476448)	CN600129001
Self Report?	YES		Classificati Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007	(550318)	CN600129001
Self Report?	YES		Classificati Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007	(586075)	CN600129001
Self Report?	YES		Classificati Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2007	(604652)	

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 08/29/2008 (687477)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.8

Description: Failure to close solid waste management units 005, 007, and 009.

Date: 11/30/2008 (730697) CN600129001

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2009 (771284)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 09/22/2009 (842025)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

5C THSC Chapter 382 382.085(b)

Description: Failure to prevent nuisance conditions.

No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of property.

Date: 09/25/2009 (706230)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

5C THSC Chapter 382 382.085(b)

Description: Failure to prevent nuisance conditions.

No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as to interfere with the normal use and enjoyment of property.

Date: 12/31/2009 (813827)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2010

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

Notice of Intent Date: 12/16/2005 (452317)

No DOV Associated

Notice of Intent Date: 12/07/2007 (615530)

No DOV Associated

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.

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
STRUCTURAL METALS, INC.  
RN102413689**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1606-IWD-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 Structural Metals, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. 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 works with blast furnace and rolling mills located one mile west of the intersection of Interstate Highway 10 and Farm-to-Market Road 464, west of Seguin, Guadalupe County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26
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 September 8, 2010.
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 Six Thousand Two Hundred Dollars (\$6,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Nine Hundred Sixty Dollars (\$4,960) of the administrative penalty and One Thousand Two Hundred Forty Dollars (\$1,240) 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 has required all company automobiles be parked in an area where storm water run-off does not discharge into Segment 1804 of the Guadalupe River Basin and achieved compliance with permit limits by June 1, 2010.
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 Facility, the Respondent is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0001712000 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 2, 2010, and shown in the table below:

Violation Table

Date	Outfall 002 Total Organic Carbon Daily Maximum 75 mg/L	Outfall 003 Oil & Grease Daily Maximum 15 mg/L	Outfall 004 Oil & Grease Daily Maximum 15 mg/L (Grab)
December 2009	C	17.9	294
March 2010	C	23.5	15.9
May 2010	102	C	24.1
mg/L = milligrams per Liter      C = compliant			

### 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: Structural Metals, Inc., Docket No. 2010-1606-IWD-E" to:  
  

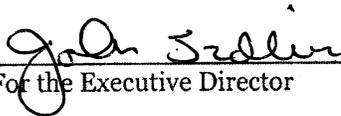
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

  
\_\_\_\_\_  
For the Executive Director

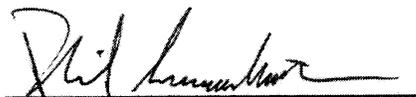
12/16/2010  
Date

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.

  
\_\_\_\_\_  
Signature

12/13/2010  
Date

Phil Seidenberger  
Name (Printed or typed)  
Authorized Representative of  
Structural Metals, Inc.

Director of Mill Operations-Central  
Region, CMC Americas Division  
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.