EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1262-MLM-E **TCEQ ID:** RN105710552 **CASE NO.:** 40138

RESPONDENT NAME: H & H Iron and Metal, Inc.

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	X MULTI-MEDIA (check all that apply)	X INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
X MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: H & H Iron and Metal Rincon Yard, on Rincon Road, approximately one-half mile northeast of Burleson Street, Corpus Christi, Nueces County

TYPE OF OPERATION: Scrap metal recycling yard

SMALL BUSINESS: X **Yes** ___ **No**

OTHER SIGNIFICANT MATTERS: On April 23, 2010, a complaint was received alleging that the Respondent was dumping metals into the Rincon Channel in order to make a ramp. The complaint also stated that during loading activities metals were spilled into the channel. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 17, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Gena Hawkins, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2583; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Kenneth Hobbs, President, H & H Iron and Metal, Inc., P.O. Box 9580, Corpus Christi, Texas 78469
Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT NAME: H & H Iron and Metal, Inc.
DOCKET NO.: 2010-1262-MLM-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: X Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** April 23, 2010 **Date of Investigation Relating to this Case:** April 30, 2010 **Date of NOV/NOE Relating to this Case:** June 29, 2010 (NOE) **Background Facts:** This was a complaint investigation. **WASTE** 1) Failed to prevent unauthorized collection, handling, storage, processing or disposal and failed to manage industrial solid waste in a manner as to prevent the discharge or threat of discharge into or adjacent to water in the state [30 TEX. ADMIN. CODES §§ 335.2(a) and 335.4(1), and TEX. WATER CODE § 26.121]. 2) Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].	**Total Assessed:** $8,250 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $8,250 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** Human health or the environment has been exposed to pollutants which exceed levels that are protective.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site: a. On April 30, 2010, transported five 55-gallon drums containing oily waste debris to an authorized facility for proper storage and disposal; b. By May 17, 2010, removed and properly disposed of all nonhazardous industrial solid waste at the Site. Also, secondary containment was added at the Site to capture and contain grease and oil related debris; and c. By June 22, 2010, removed all remaining MSW including electrical wiring, tire shreds, metal, wood, plastic, concrete, fibrous board, a damaged gas can, rubber, rope, paper and garbage.

Additional ID No(s).: TXR000080126

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	6-Jul-2010				
PCW	4-Aug-2010	Screening	13-Jul-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	H & H Iron and Metal, Inc.		
Reg. Ent. Ref. No.	RN105710552		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40138	No. of Violations	2
Docket No.	2010-1262-MLM-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste	Enf. Coordinator	Gena Hawkins
		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* **$11,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement *Subtotals 2, 3, & 7* **$0**

Notes: No adjustment for Compliance History.

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* **$2,750**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **$0**

Total EB Amounts $2,644
Approx. Cost of Compliance $365,932

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$8,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$8,250**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$8,250**

DEFERRAL **0.0%** Reduction *Adjustment* **$0**

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$8,250**

Screening Date 13-Jul-2010 **Docket No.** 2010-1262-MLM-E **PCW**

Respondent H & H Iron and Metal, Inc.

Case ID No. 40138

Reg. Ent. Reference No. RN105710552

Media [Statute] Municipal Solid Waste

Enf. Coordinator Gena Hawkins

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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*)	0	0%
	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*	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%

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

Screening Date 13-Jul-2010 **Docket No.** 2010-1262-MLM-E **PCW**

Respondent H & H Iron and Metal, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40138

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105710552

Media [Statute] Municipal Solid Waste

Enf. Coordinator Gena Hawkins

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Codes §§ 335.2(a) and 335.4(1), and Tex. Water Code § 26.121

Violation Description Failed to manage industrial solid waste in a manner as to prevent the discharge or threat of discharge into or adjacent to water in the state, as documented during an investigation conducted on April 30, 2010. Specifically, five 55-gallon drums in poor condition were being stored and leaking oily waste debris and bauxite adjacent to Rincon Harbor.

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 the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 17 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the April 30, 2010 violation date to the May 17, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction — $250

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

Notes: The Respondent came into compliance on May 17, 2010, and the NOE is dated June 29, 2010.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $750

This violation Final Assessed Penalty (adjusted for limits) $750

Economic Benefit Worksheet

Respondent H & H Iron and Metal, Inc.
Case ID No. 40138
Reg. Ent. Reference No. RN105710552
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$2,500	30-Apr-2010	17-May-2010	0.05	$6	n/a	$6
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs Estimated cost to dispose of the industrial solid waste at an authorized facility. The Date Required is the date of the violation and the Final Date is the actual 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 $2,500

TOTAL $6

Screening Date	13-Jul-2010	**Docket No.** 2010-1262-MLM-E	**PCW**
Respondent	H & H Iron and Metal, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	40138		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105710552		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	Gena Hawkins		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"), as documented during an investigation conducted on April 30, 2010. Specifically, approximately 23,000 cubic yards of MSW including electrical wiring, tire shreds, metal, wood, plastic, concrete, fibrous board, a damaged gas can, rubber, rope, paper and garbage were disposed of at the Site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to a significant amount of pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events: 2 — 53 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

Two monthly events are recommended from the April 30, 2010 investigation date to the June 22, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction — $2,500

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

Notes: The Respondent came into compliance by June 22, 2010, and the NOE is dated June 29, 2010.

Violation Subtotal $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $2,639

Statutory Limit Test

Violation Final Penalty Total $7,500

This violation Final Assessed Penalty (adjusted for limits) $7,500

Economic Benefit Worksheet

Respondent H & H Iron and Metal, Inc.
Case ID No. 40138
Reg. Ent. Reference No. RN105710552
Media Municipal Solid Waste
Violation No. 2

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				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	$363,432	30-Apr-2010	22-Jun-2010	0.15	$2,639	n/a	$2,639
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs Estimated cost to dispose of approximately 23,000 cubic yards of MSW at an authorized facility. The Date Required is the investigation date and the 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 $363,432 **TOTAL** $2,639

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600932487	H & H Iron and Metal, Inc.	Classification: AVERAGE	Rating: 17.00
Regulated Entity:	RN105710552	H & H IRON AND METAL RINCON YARD	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	ID NUMBER		TXR000080126
	INDUSTRIAL AND HAZARDOUS WASTE	ID NUMBER		F2074
Location:	ON RINCON ROAD APPROXIMATELY ONE-HALF MILE NORTHEAST OF BURLESON STREET IN CORPUS CHRISTI, NUECES COUNTY, TEXAS			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	July 13, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 13, 2005 to July 13, 2010			

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

Name: Gena Hawkins Phone: (512) 239 - 2583

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: 9/1/2009 Repeat Violator: NO

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.)
N/A

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

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
H & H IRON AND METAL, INC.	**§**	
RN105710552	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1262-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding H & H Iron and Metal, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent operates a scrap metal recycling yard on Rincon Road, approximately one-half mile northeast of Burleson Street in Corpus Christi, Nueces County, Texas (the "Site").

2. The Respondent involves or involved the management of municipal solid waste ("MSW") and industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. During an investigation on April 30, 2010, TCEQ staff documented that the Respondent:

   a. Failed to manage industrial solid waste in a manner as to prevent the discharge or threat of discharge into or adjacent to water in the state. Specifically, five 55-gallon drums in poor condition were being stored and leaking oily waste debris and bauxite adjacent to Rincon Harbor; and

   b. Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 23,000 cubic yards of MSW including electrical wiring, tire shreds, metal, wood, plastic, concrete, fibrous board, a damaged gas can, rubber, rope, paper and garbage were disposed of at the Site.

4. The Respondent received notice of the violations on July 1, 2010.

5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:

   a. On April 30, 2010, transported five 55-gallon drums containing oily waste debris to an authorized facility for proper storage and disposal;

   b. By May 17, 2010, removed and properly disposed of all nonhazardous industrial solid waste at the Site. Also, secondary containment was added at the Site to capture and contain grease and oil related debris; and

   c. By June 22, 2010, removed all remaining MSW including electrical wiring, tire shreds, metal, wood, plastic, concrete, fibrous board, a damaged gas can, rubber, rope, paper and garbage.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3.a., the Respondent failed to prevent unauthorized collection, handling, storage, processing or disposal and failed to manage industrial solid waste in a manner as to prevent the discharge or threat of discharge into or adjacent to waters in the state, in violation of 30 TEX. ADMIN. CODES §§ 335.2(a) and 335.4(1), and TEX. WATER CODE § 26.121.

3. As evidenced by Findings of Fact No. 3.b., the Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

5. An administrative penalty in the amount of Eight Thousand Two Hundred Fifty Dollars ($8,250) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Eight Thousand Two Hundred Fifty Dollar ($8,250) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Eight Thousand Two Hundred Fifty Dollars ($8,250) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: H & H Iron and Metal, Inc., Docket No. 2010-1262-MLM-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 Site operations referenced in this Agreed Order.

3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

4. 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.

5. 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.

6. 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.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

12/27/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of H & H Iron and Metal, Inc. I am authorized to agree to the attached Agreed Order on behalf of H & H Iron and Metal, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, H & H Iron and Metal, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Ken Hobbs
Signature

Nov. 4, 2010
Date

Ken Hobbs
Name (Printed or typed)
Authorized Representative of
H & H Iron and Metal, Inc.

President
Title

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