

Executive Summary – Enforcement Matter – Case No. 41461
Structural Metals, Inc.
RN102413689
Docket No. 2011-0557-IHW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

SMI Texas, 1 Steel Mill Drive, Seguin, Guadalupe County

Type of Operation:

Steel works with an electrical arc furnace and rolling mills

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 1, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,525

Amount Deferred for Expedited Settlement: \$1,105

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,210

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$2,210

Name of SEP: Texas State University River Systems Institute - Continuous Water

Quality Monitoring Network

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41461
Structural Metals, Inc.
RN102413689
Docket No. 2011-0557-IHW-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 30, 2011
Date(s) of NOE(s): March 30, 2011

Violation Information

Failed to demonstrate acceptable financial assurance that meets the requirements of the financial test option. Specifically, the Respondent did not provide an independently audited year-end financial statement for the latest fiscal year including the "unqualified opinion" of the auditor and a special report from its independent certified public accountant [30 TEX. ADMIN. CODE § 37.251(c)(2) and (3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that on April 1, 2011 the Respondent completed and submitted an independently audited year-end financial statement for the latest fiscal year and the special report from its independent certified public accountant.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 7, MC R-12, (713) 767-3682; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Ann J. Bruder, Corporate Secretary, Structural Metals, Inc., 6565 North MacArthur Boulevard, Suite 800, Irving, Texas 75039
Murray McClean, President, Structural Metals, Inc., 6565 North MacArthur Boulevard, Suite 800, Irving, Texas 75039
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0557-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Structural Metals, Inc.
Penalty Amount:	Four Thousand Four Hundred Twenty Dollars (\$4,420)
SEP Offset Amount:	Two Thousand Two Hundred Ten Dollars (\$2,210)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas State University River Systems Institute- <i>Continuous Water Quality Monitoring Network</i>
Location of SEP:	Bandera, Bell, Bexar, Blanco, Burnet, Hays, Lee, Travis, and Williamson Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas State University** for the **Continuous Water Quality Monitoring Network** as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a “real time” monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas State University - San Marcos
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &
Director of Edwards Aquifer Research and Data Center
601 University Drive JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Apr-2011	Screening	11-Apr-2011	EPA Due	
	PCW	3-May-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Structural Metals, Inc.		
Reg. Ent. Ref. No.	RN102413689		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41461	No. of Violations	1
Docket No.	2011-0557-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **47.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,175**

Notes: Enhancement for one order with denial of liability, two NOVs with same/similar violations, and nine NOVs with dissimilar violations. Reduction for one notice of intent to conduct an audit.

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** **\$250**

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

Total EB Amounts **\$2,100**
 Approx. Cost of Compliance **\$2,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,425**

OTHER FACTORS AS JUSTICE MAY REQUIRE **61.3%** **Adjustment** **\$2,100**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance associated with the violation.

Final Penalty Amount **\$5,525**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,525**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,105**

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 **\$4,420**

Screening Date 11-Apr-2011

Docket No. 2011-0557-IHW-E

PCW

Respondent Structural Metals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413689

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

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>)	2	10%
	Other written NOVs	9	18%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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>)	1	-1%
	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) 47%

>> **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 one order with denial of liability, two NOVs with same/similar violations, and nine NOVs with dissimilar violations. Reduction for one notice of intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 11-Apr-2011

Docket No. 2011-0557-IHW-E

PCW

Respondent Structural Metals, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102413689

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 37.251(c)(2) and (3)

Violation Description Failed to demonstrate acceptable financial assurance that meets the requirements of the financial test option. Specifically, the Respondent did not provide an independently audited year-end financial statement for the latest fiscal year including the "unqualified opinion" of the auditor and a special report from its independent certified public accountant.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (25%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 12

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual (marked with x), single event.

Violation Base Penalty \$2,500

One annual event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$250

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent came into compliance on April 1, 2011, after the NOE dated March 30, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,100

Violation Final Penalty Total \$5,525

This violation Final Assessed Penalty (adjusted for limits) \$5,525

Economic Benefit Worksheet

Respondent Structural Metals, Inc.
Case ID No. 41461
Req. Ent. Reference No. RN102413689
Media Industrial and Hazardous 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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$2,000	30-Nov-2010	1-Apr-2011	1.00	\$100	\$2,000	\$2,100
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance demonstration for the Facility. The Date Required is the date the financial assurance demonstration was due and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$2,000

TOTAL

\$2,100

Compliance History

Customer/Respondent/Owner-Operator: CN600129001 Structural Metals, Inc. Classification: Average Rating: 2.34

Regulated Entity: RN102413689 SMI Texas Classification: Average Site Rating: 0.35

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	GL0028H
AIR OPERATING PERMITS	PERMIT	1316
INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50142
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD008119414
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31533
WASTEWATER	PERMIT	WQ0001712000
WASTEWATER	EPA ID	TX0083178
WASTE WATER GENERAL PERMIT	PERMIT	2E0000001
STORMWATER	PERMIT	TXR05P323
AIR NEW SOURCE PERMITS	PERMIT	20694
AIR NEW SOURCE PERMITS	PERMIT	8248
AIR NEW SOURCE PERMITS	REGISTRATION	22713
AIR NEW SOURCE PERMITS	REGISTRATION	24479
AIR NEW SOURCE PERMITS	REGISTRATION	30797
AIR NEW SOURCE PERMITS	REGISTRATION	44023
AIR NEW SOURCE PERMITS	REGISTRATION	44924
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	GL0028H
AIR NEW SOURCE PERMITS	EPA ID	PSDTX708
AIR NEW SOURCE PERMITS	AFS NUM	4818700001
AIR NEW SOURCE PERMITS	EPA ID	PSDTX708M4
AIR NEW SOURCE PERMITS	EPA ID	PSDTX708M6
AIR NEW SOURCE PERMITS	EPA ID	PSDTX708M5
AIR NEW SOURCE PERMITS	REGISTRATION	79519
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	20531
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31533
POLLUTION PREVENTION PLANNING	ID NUMBER	P00660
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	GL0028H

Location: 1 STEEL MILL DR, SEGUIN, TX, 78155

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: April 11, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 11, 2006 to April 11, 2011

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

Name: Danielle Porras Phone: (713) 767-3682

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?

OWNOPR	Structural Metals, Inc.
OWNOPR	C M C Steel Fabricators, Inc
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN C M C Steel Fabricators, Inc
5. When did the change(s) in owner or operator occur? 11/15/2006 OWN C M C Steel Fabricators, Inc
6. Rating Date: 9/1/2010 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.

Effective Date: 03/07/2011 ADMINORDER 2010-1606-IWD-E
 Classification: Moderate

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits for organic carbon and oil and grease as documented by a TCEQ record review of self-reported data.

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	08/17/2006	(488909)
2	04/14/2006	(503497)
3	05/15/2006	(503498)
4	06/08/2006	(503499)
5	07/07/2006	(503500)
6	08/08/2006	(525859)
7	09/06/2006	(525860)
8	10/06/2006	(525861)
9	12/06/2006	(532941)
10	01/09/2007	(533363)
11	02/16/2007	(550318)
12	11/06/2006	(550319)
13	11/06/2006	(550320)
14	12/06/2006	(550321)
15	01/09/2007	(550322)
16	03/05/2007	(586074)
17	04/13/2007	(586075)
18	05/14/2007	(586076)
19	06/11/2007	(586077)
20	07/11/2007	(586078)
21	09/19/2007	(593738)
22	11/08/2007	(600717)
23	08/14/2007	(604652)
24	10/05/2007	(604653)
25	03/05/2008	(613618)
26	01/23/2008	(613627)
27	01/11/2008	(613765)
28	03/05/2008	(613889)
29	11/05/2007	(624193)
30	12/11/2007	(624194)
31	01/15/2008	(624195)
32	04/28/2008	(654208)
33	02/12/2008	(675146)
34	03/06/2008	(675147)
35	04/10/2008	(675148)
36	02/12/2008	(675149)
37	08/25/2008	(686902)
38	08/29/2008	(687477)
39	05/09/2008	(693511)

40	06/04/2008	(693512)
41	07/08/2008	(693513)
42	09/12/2008	(701478)
43	08/11/2008	(714789)
44	10/09/2008	(714790)
45	11/05/2008	(714791)
46	01/08/2009	(722544)
47	02/02/2009	(723031)
48	02/27/2009	(726027)
49	12/04/2008	(730697)
50	01/09/2009	(730698)
51	02/04/2009	(753935)
52	03/03/2009	(753936)
53	04/03/2009	(753937)
54	08/24/2009	(765805)
55	05/08/2009	(771283)
56	06/04/2009	(771284)
57	01/13/2010	(788123)
58	01/22/2010	(788748)
59	02/23/2010	(792938)
60	03/30/2010	(795948)
61	04/14/2010	(798354)
62	02/12/2010	(813820)
63	07/10/2009	(813821)
64	08/04/2009	(813822)
65	09/11/2009	(813823)
66	10/08/2009	(813824)
67	11/09/2009	(813825)
68	12/16/2009	(813826)
69	01/13/2010	(813827)
70	09/06/2010	(842025)
71	09/03/2010	(844005)
72	07/06/2010	(861701)
73	09/21/2010	(864869)
74	11/04/2010	(866609)
75	08/09/2010	(868082)
76	09/09/2010	(875015)
77	11/29/2010	(878739)
78	10/14/2010	(882622)
79	01/04/2011	(886137)
80	11/17/2010	(889043)
81	12/20/2010	(897413)
82	01/05/2011	(903302)
83	03/29/2011	(907798)
84	03/30/2011	(908106)
85	02/10/2011	(910222)

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

Date: **01/31/2007** (550318)

CN600129001

Self Report? YES Classification: 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 Classification: 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) 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: **08/29/2008** (687477) CN600129001

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) 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: **09/22/2009** (842025) CN600129001

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) CN600129001

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) 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: **08/05/2010** (864869) CN600129001

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter C 37.251(c)(3)
Description: Failure to provide certain support documentation from independent accountant, as required by rule, when a company opts to use a financial test/corporate guarantee financial assurance mechanism.

Date: **03/04/2011** (907798) CN600129001

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter C 37.251(c)(2)
30 TAC Chapter 37, SubChapter C 37.251(c)(3)
Description: Structural Metals, Inc. failed to provide an acceptable financial assurance mechanism that was due by November 30, 2010.

F. Environmental audits.

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.

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
STRUCTURAL METALS, INC.
RN102413689**

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

**AGREED ORDER
DOCKET NO. 2011-0557-IHW-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. HEALTH & SAFETY CODE ch. 361 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 works with an electrical arc furnace and rolling mills located at 1 Steel Mill Drive in Seguin, Guadalupe County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 April 4, 2011.
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 Five Thousand Five Hundred Twenty-Five Dollars (\$5,525) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Ten Dollars (\$2,210) of the administrative penalty and One Thousand One Hundred Five Dollars (\$1,105) 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. Two Thousand Two Hundred Ten Dollars (\$2,210) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 on April 1, 2011 the Respondent completed and submitted an independently audited year-end financial statement for the latest fiscal year and the special report from its independent certified public accountant.
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 demonstrate acceptable financial assurance that meets the requirements of the financial test option, in violation of 30 TEX. ADMIN. CODE § 37.251(c)(2) and (3), as documented during a record review conducted on March 30, 2011. Specifically, the Respondent did not provide an independently audited year-end financial statement for the latest fiscal year including the "unqualified opinion" of the auditor and a special report from its independent certified public accountant.

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. 2011-0557-IHW-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

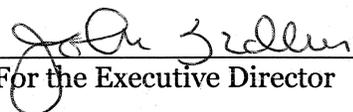
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Two Hundred Ten Dollars (\$2,210) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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 Facility 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 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 7/6/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 6/2/2011

Ann J. Bruder

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

Corporate Secretary

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.

Attachment A
Docket Number: 2011-0557-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Structural Metals, Inc.

Penalty Amount: Four Thousand Four Hundred Twenty Dollars
(\$4,420)

SEP Offset Amount: Two Thousand Two Hundred Ten Dollars
(\$2,210)

Type of SEP: Pre-approved

Third-Party Recipient: Texas State University River Systems Institute-
Continuous Water Quality Monitoring Network

Location of SEP: Bandera, Bell, Bexar, Blanco, Burnet, Hays, Lee,
Travis, and Williamson Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas State University** for the **Continuous Water Quality Monitoring Network** as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a “real time” monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas State University - San Marcos
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &
Director of Edwards Aquifer Research and Data Center
601 University Drive JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.