

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Denver, Colorado 80246-1530
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8100 Lowry Blvd.
Denver, Colorado 80230-6928
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Colorado Department
of Public Health
and Environment

July 20, 2009

Alan Cohen, President
Iron & Metals, Inc.
5555 Franklin Street
Denver, CO 80216

Certified Mail Number: 7005 1820 0000 3208 0855

RE: Order for Civil Penalty, Number: SP-090720-1

Dear Mr. Cohen:

Iron & Metals, Inc. is hereby served with the enclosed Order for Civil Penalty ("Penalty Order"). This Penalty Order is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §25-8-608(2) of the *Colorado Revised Statutes*. Payment of the imposed civil penalty should be made in accordance with the methods referenced in the Penalty Order and Compliance Order on Consent, Number: SC-090511-1.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact me at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,

Michael Harris
Enforcement Unit
WATER QUALITY CONTROL DIVISION

cc: Denver Environmental Health

cc: Aaron Urdiales, EPA Region VIII
Doug Camrud, Engineering Section, CDPHE
Gary Beers, Permits Unit, CDPHE
Nathan Moore, Permits Unit, CDPHE
Dick Parachini, Watershed Program, CDPHE
Carolyn Schachterle, OPA, CDPHE
Christine Hayes, Isaacson Rosenbaum P.C.

Enclosure(s)



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
DIVISION OF ADMINISTRATION
WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY

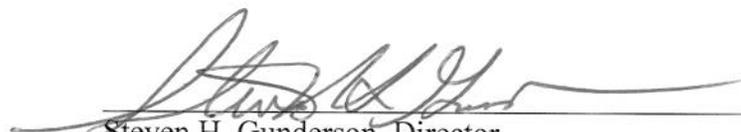
NUMBER: SP-090720-1

IN THE MATTER OF: IRON & METALS, INC.
CDPS PERMIT NO. COR-060000
CERTIFICATION NO. COR-060138
DENVER COUNTY, COLORADO

This matter having come to my attention as the Designee of the Executive Director of the Colorado Department of Public Health and Environment upon petition for imposition of a civil penalty by the Water Quality Control Division's Compliance Assurance Section, and pursuant to §25-8-608 C.R.S., I hereby impose a civil penalty in the amount of Eighteen Thousand Four Hundred Dollars (\$18,400.00) against Iron & Metals, Inc. for the violations cited in the Compliance Order on Consent between the Division and Iron & Metals, Inc., executed on May 11, 2009 (the "Consent Order"). A copy of the Consent Order is attached hereto as Exhibit A and is incorporated herein by reference. The civil penalty shall be paid within thirty (30) calendar days of the date of this Order for Civil Penalty, as set forth in the Consent Order. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Michael Harris
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CADM-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Dated this 20th day of July, 2009.



Steven H. Gunderson, Director
Water Quality Control Division
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION**

COMPLIANCE ORDER ON CONSENT

NUMBER: SC-090511-1

**IN THE MATTER OF: IRON & METALS, INC.
 CDPS PERMIT NO. COR-060000
 CERTIFICATION NO. COR-060138
 DENVER COUNTY, COLORADO**

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §25-8-605, C.R.S. of the Colorado Water Quality Control Act ("the Act") §§25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Iron & Metals, Inc. ("Iron & Metals"). The Division and Iron & Metals may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, civil penalties for the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order (Number: SO-070426-3) that the Division issued to Iron & Metals on April 26, 2007.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Iron & Metals and Iron & Metals' compliance with the Act and its stormwater permit certification.
3. At all times relevant to the alleged violations identified herein, Iron & Metals was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.
4. Iron & Metals is a "person" as defined by the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

Exhibit A

5. Iron & Metals operates an industrial facility involved in the processing of scrap metals, located at 5555 Franklin Street, in the City of Denver, Denver County, Colorado (the "Facility"). The Facility is classified within the Standard Industrial Classification (SIC) code 5093 – Scrap and Waste Materials.
6. The Facility is covered under the Colorado Discharge Permit System General Permit, Number COR-060000, for Stormwater Discharges Associated with the Recycling Industry (the "Permit"). On November 24, 1999, the Division issued Iron & Metals Certification Number COR-060138, authorizing Iron & Metals to discharge stormwater from the industrial activities associated with the Facility to the South Platte River under the terms and conditions of the Permit. Certification Number COR-060138 remains in effect until December 31, 2011 or until Iron & Metals inactivates Permit coverage.
7. The South Platte River is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(101).
8. Pursuant to 5 CCR 1002-61, §61.8, a permittee must comply with all the terms and conditions of a permit and violators of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to sections 25-8-601 through 612, C.R.S.
9. On October 14, 2005 and October 21, 2005, a representative from the Denver Department of Environmental Health (the "Inspector") conducted onsite inspections of the Facility on behalf of the Division, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Iron & Metal's compliance with the Water Quality Control Act and the Permit. During the inspections, the Inspector interviewed Facility representatives, conducted a review of the Facility's stormwater management records, and conducted physical inspections of the Facility.

Deficient and/or Incomplete Stormwater Management Plan

10. Pursuant to Part I. B. of the Permit, Iron & Metals is required to prepare a Stormwater Management Plan ("SWMP") for the Facility that identifies Best Management Practices ("BMPs") that, when implemented, will meet the terms and conditions of the Permit. The SWMP is required to identify potential sources of pollution, which may be reasonably expected to affect the quality of stormwater discharges associated with industrial activity from the Facility. In addition, the plan is required to describe and ensure the implementation of BMPs, which will be used to reduce the pollutants in stormwater discharges associated with industrial activity.
11. Pursuant to Part I. B. 2. of the Permit, the SWMP for Scrap and Waste Recycling Facilities shall include, at a minimum, the following items:
 - a. Industrial Activity Description – The plan shall include a narrative description of the industrial activity taking place at the site.
 - b. Site Map – The plan shall include a site map indicating an outline of the drainage area of each stormwater outfall, each existing structural control measure to reduce pollutants in stormwater runoff, surface water bodies, and the location of outdoor processing activities, storage areas, monitoring points and maintenance areas.

Exhibit A

- c. Stormwater Management Controls – The plan shall include a description of stormwater management controls and shall address the following minimum components:
- i. SWMP Administrator – The SWMP shall identify a specific individual(s) who is responsible for developing the SWMP and assisting the plant manager in its implementation, maintenance and revision.
 - ii. Identification of Potential Pollutant Sources and Best Management Practices – The SWMP shall identify potential sources of pollutants and describe BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges.
 - iii. Mandatory BMPs – The SWMP shall include a supplier notification program, a discussion of measures and controls specific to the handling, storage and disposition of scrap lead-acid batteries, a recyclable material inspection program, a quarterly inspection for leaks on vehicles and equipment stored outdoors, and other BMPs appropriate for the control of any identified potential pollutant sources.
 - iv. Sampling Information – The plan shall include a summary of any existing discharge sampling data describing pollutants in stormwater discharges and a description of each proposed sampling point.
 - v. Preventive Maintenance – The plan shall include a preventive maintenance program that involves inspection and maintenance of stormwater management devices, as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.
 - vi. Good Housekeeping – The plan shall address cleaning and maintenance schedules, trash disposal and collection practices, grounds maintenance, etc.
 - vii. Spill Prevention and Response Procedures – The plan shall identify areas where potential spills can occur, with their accompanying drainage points. Procedures for cleaning up spills shall be identified.
 - viii. Implementation of BMPs – The plan shall include an implementation schedule for any BMPs that involve major renovation to the site.
 - ix. Employee Training – The plan shall include procedures for conducting employee training that addresses topics such as spill response, good housekeeping, material management practices, and plant operation and design features. Each plan shall identify periodic dates for such training.
 - x. Identification of Discharges other than Stormwater – The plan shall include a description of the results of an evaluation for the presence of discharges other than stormwater, including the method used, the date of evaluation, and the onsite drainage points that were observed.

Exhibit A

- d. Comprehensive Inspections – The SWMP shall identify qualified personnel that will inspect designated equipment and plant areas. The SWMP shall specify the procedures and intervals of the comprehensive inspections.
 - e. Consistency with Other Plans – SWMPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the Clean Water Act, or BMP Programs otherwise required by a CDPS permit.
12. The Division has determined that Iron & Metals failed to prepare and maintain a complete and accurate SWMP for the Facility as described in paragraphs 12(a–g) below:
- a. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include a discussion of measures and controls specific to the proper handling, storage and disposition of scrap lead-acid batteries.
 - b. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include a recyclable materials inspection program.
 - c. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include procedures for conducting quarterly inspections for leaks on vehicles or equipment stored or used outside.
 - d. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include a description of each proposed sampling point nor a summary of any existing discharge sampling data describing pollutants in stormwater discharges.
 - e. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include BMPs for the underground storage tanks located just south of the aluminum storage area, which were at full capacity.
 - f. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include a description of an employee training program.
 - g. During the October 21, 2005 inspection, the Inspector reviewed the Facility’s SWMP and identified that the SWMP did not include a description of discharges other than stormwater.
13. Iron & Metal’s failure to prepare and maintain a complete and accurate SWMP for the Facility constitutes violation(s) of Part I. B. and Part I. B. 2. of the Permit.

**Failure to Implement and/or Maintain
Best Management Practices to Protect Stormwater Runoff**

14. Pursuant to Part I. B. 2. c. 2) of the Permit, Iron & Metals is required to identify potential sources of pollutants at the Facility and implement BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges. The Permit specifies that where stormwater pollution potential exists, appropriate preventative measures must be taken and documented.

Exhibit A

15. Pursuant to Part I. B. 2. c. 3) b) of the Permit, Iron & Metals is required to implement BMPs specific to the proper handling, storage and disposition of scrap lead-acid batteries.
16. Pursuant to Part I. B. 2. c. 3) d) of the Permit, Iron & Metals is required to take measures to reduce the potential of leaks from vehicles, equipment or outdoor liquid storage containers from contributing pollutants to stormwater discharges.
17. The Facility utilizes a stormwater detention pond that captures stormwater runoff from various areas of the site. Iron & Metals periodically pumps stormwater that has collected in the pond and discharges the stormwater offsite. The discharge is sampled and analyzed at least once each year and the results of the analyses are submitted to the Division with the Facility's annual report for each year. Sampling results of the Facility's stormwater discharges from 2003, 2004, 2005 and 2006 revealed significant exceedances of the Environmental Protection Agency ("EPA") benchmarks for aluminum, iron, lead, chemical oxygen demand and total suspended solids, which have been established for the recycling industry.
18. The Division has determined that Iron & Metals failed to implement and/or maintain functional BMPs at the Facility as described in paragraphs 18(a-h) below:
 - a. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed sediment and debris located along the southeast side of the Facility. No source control BMPs were observed in place to prevent the sediment and debris from discharging from the area during storm events.
 - b. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed sediment and debris located at the southwest side of the Facility adjacent to a storm drain inlet. No BMPs were observed in place to prevent the sediment and debris from discharging to the storm drain during storm events.
 - c. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed that the secondary containment surrounding the waste oil area at the Facility was nearly at capacity. No BMPs were being implemented to maintain the holding capacity of the secondary containment at functional levels and no other source control BMPs were observed in place to prevent the waste oil from discharging from the area during storm events.
 - d. During the October 14, 2005 inspection of the Facility, the Inspector observed oil and/or liquid wastes that had leaked and/or been spilled in the central area of the Facility. The leaked and/or spilled material had not been cleaned up and no BMPs were observed in place to prevent the spilled material from discharging from the area during storm events.
 - e. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed a steam wash bay that Iron & Metals was utilizing for truck washing activities at the Facility. No BMPs were observed in place to prevent process water discharges from the steam wash bay. Additionally, no source control BMPs were observed in place to prevent pollutants from the truck washing activities from discharging from the area during storm events.

Exhibit A

- f. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed aluminum fines that were being stored outside of the aluminum containment structure at the Facility. No source control BMPs were observed in place to prevent stormwater from intermingling with the aluminum fines before discharging from the area.
 - g. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed several drums and pans containing oil, chemicals, and/or liquid wastes that were being stored outside, uncovered, with no secondary containment or other source control BMPs in place to prevent discharges of pollutants from the area.
 - h. During the October 14, 2005 and October 21, 2005 inspections of the Facility, the Inspector observed scrap lead-acid batteries that were being stored outside, uncovered, with no source control BMPs in place to prevent stormwater from contacting the batteries before discharging from the area. Additionally, the Inspector observed significant staining on the ground surrounding the battery storage area from leaking and/or spilled materials or waste that had not been cleaned up.
19. Iron & Metal's failure to implement and maintain functional BMPs to protect stormwater quality from the industrial activities at the Facility constitutes violation(s) of Part I. B. 2. c. 2) and Part I. B. 2. c. 3) of the Permit.

ORDER AND AGREEMENT

20. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number: SO-070426-3, the Division orders Iron & Metals to comply with all provisions of this Consent Order, including all requirements set forth below.
21. Iron & Metals agrees to the terms and conditions of this Consent Order. Iron & Metals agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Iron & Metals also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Iron & Metals against the Division:
- a. The issuance of this Consent Order;
 - b. The factual and legal determinations made by the Division herein; and
 - c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.
22. Notwithstanding the above, Iron & Metals does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Iron & Metals pursuant to this Consent Order shall not constitute evidence of fault by Iron & Metals with respect to the conditions of the Facility.

Exhibit A

CIVIL PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECTS

23. In addition to all other funds necessary to comply with the requirements of this Consent Order, Iron & Metals shall pay One Hundred Thousand Dollars (\$100,000.00) in the form of civil penalties and expenditures on Supplemental Environmental Projects ("SEPs") in order to achieve settlement of this matter.
24. Based upon the application of the Division's Stormwater Civil Penalty Policy (January 25, 2007), and consistent with Departmental policies for violations of the Act, Iron & Metals shall pay Eighteen Thousand Four Hundred Dollars (\$18,400.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Eighteen Thousand Four Hundred Dollar (\$18,400.00) civil penalty for the above violation(s) and Iron & Metals agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Michael Harris
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CADM-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
25. Iron & Metals shall also perform the SEP identified below. Iron & Metals' total expenditure for the SEP shall be not less than Eighty One Thousand Six Hundred Dollars (\$81,600.00).
26. Iron & Metals shall undertake the following SEP, which the Parties agree is intended to secure significant environmental or public health protection and improvements:
27. Iron & Metals shall donate Eighty One Thousand Six Hundred Dollars (\$81,600.00) to The Nature Conservancy of Colorado ("TNC"). The funds will be used for TNC's Metro-Denver Outreach Project in the counties comprising the Denver metropolitan area, and as further described in Attachment A. Iron & Metals shall make the payment of Eighty One Thousand Six Hundred Dollars (\$81,600.00), and shall include with the donation a cover letter identifying the monies for the above-described project, within thirty (30) calendar days of the effective date of this Consent Order. Iron & Metals shall provide the Division with a copy of the cover letter and check within thirty (30) calendar days of the effective date of this Consent Order. Iron & Metals shall not deduct the payment of the SEP donation provided for in this paragraph for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.
28. Iron & Metals hereby certifies that, as of the date of this Consent Order, it is not under any existing legal obligation to perform or develop the SEP. Iron & Metals further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that Iron & Metals has, or will receive credit under any other legal obligation for the SEP, Iron & Metals shall pay Eighty One Thousand Six Hundred Dollars (\$81,600.00) to the Division as a civil penalty within thirty (30) calendar days of receipt of a demand for payment by the Division. Method of payment shall be as specified in paragraph 24 above.

Exhibit A

29. All SEPs must be completed to the satisfaction of the Division by December 31, 2009 and must be operated for the useful life of the SEP. In the event that Iron & Metals fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, Iron & Metals shall be liable for penalties as follows:
 - a. Payment of a penalty in the amount of Eighty One Thousand Six Hundred Dollars (\$81,600.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.
 - b. Iron & Metals shall pay this penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be as specified in paragraph 24 above.
30. Iron & Metals shall submit a SEP Completion Report to the Division by December 31, 2009. The SEP Completion Report shall contain the following information:
 - a. A detailed description of the SEP as implemented;
 - b. A description of any operating problems encountered and the solutions thereto;
 - c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
 - d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
 - e. A description of the environmental and public health benefits resulting from implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible).
31. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.
32. Iron & Metals shall include the following language in any public statement, oral or written, making reference to the SEP: "This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of the Colorado Water Quality Control Act."

SCOPE AND EFFECT OF CONSENT ORDER

33. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations alleged herein, in the April 26, 2007 Notice of Violation / Cease and Desist Order (Number: SO-070426-3), and in the inspection report and associated record prepared in connection with the City and County of Denver's October 14, 2005 and October 21, 2005 onsite inspections.
34. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Iron & Metals each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

Exhibit A

35. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty following the public comment period. Any violation of the provisions of this Consent Order by Iron & Metals, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.
36. Notwithstanding paragraph 22 above, the violations described in this Consent Order will constitute part of Iron & Metals' compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Iron & Metals. Iron & Metals agrees not to challenge the use of the cited violations for any such purpose.
37. This Consent Order does not relieve Iron & Metals from complying with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and shall obtain all necessary approvals and/or permits to conduct the activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

38. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to civil penalties for the specific instances of violations cited herein, in the April 26, 2007 Notice of Violation / Cease and Desist Order (Number: SO-070426-3), and in the inspection report and associated record prepared in connection with the City and County of Denver's October 14, 2005 and October 21, 2005 onsite inspections. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
39. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
40. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.
41. Upon the effective date of this Consent Order, Iron & Metals releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.
42. Iron & Metals shall not seek to hold the State of Colorado or its employees, agents or representatives liable for any injuries or damages to persons or property resulting from acts or omissions of Iron & Metals, or those acting for or on behalf of Iron & Metals, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Iron & Metals shall not hold out the State of Colorado or its employees, agents or

Exhibit A

representatives as a party to any contract entered into by Iron & Metals in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

NOTICES

43. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CADM-B2
Attention: Michael Harris
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3598
E-mail: michael.harris@state.co.us

For Iron & Metals:

Alan Cohen, President
Iron & Metals, Inc.
5555 Franklin Street
Denver, CO 80216

Christine L. Hayes, Esq.
Isaacson Rosenbaum P.C.
633 17th Street, Suite 2200
Denver, Colorado 80202
Telephone: 303.256.3974
E-mail: chayes@ir-law.com

MODIFICATIONS

44. This Consent Order may be modified only upon mutual written agreement of the Parties.

NOTICE OF EFFECTIVE DATE

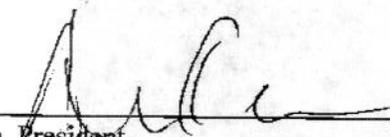
45. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty following the public comment period. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

Exhibit A

BINDING EFFECT AND AUTHORIZATION TO SIGN

46. This Consent Order is binding upon Iron & Metals and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. Iron & Metals agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR IRON & METALS, INC.:

 Date: 4/21/09
Alan Cohen, President

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

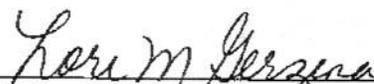
 Date: 5/11/09
Lori M. Gerzina, Section Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Exhibit A
ATTACHMENT A



Conservation Outreach in Metro-Denver



Project Recipient: The Nature Conservancy of Colorado
Audrey Wolk, Outreach Program Director (720.974.7011)

Name of Project: Metro-Denver Outreach (Audrey Wolk, leader)

Geographical Area to Benefit: Metro-Denver

Type of Project: Environmental Education and Training.
Environmental Restoration

Project Description and Public Benefit:

The long-term success of conservation in Colorado and around the globe requires that people understand the connection between human well-being and nature.

At no time has support for the environment been more essential for our future, yet for most people, including political and opinion leaders, concern for the environment is low. In a recent Conservancy survey, 68 percent of the Americans sampled said they had "never heard about the loss of biodiversity."

The National Academy of Sciences recently published research showing that across the U.S. and in other developed nations, people are spending far less time outdoors than ever before. Researchers

Exhibit A ATTACHMENT A

say this study — the most comprehensive look yet at nature recreation — is a “grim confirmation” of a long-held theory that people, especially children, are spending less time in the great outdoors. The studies’ authors say that they “are seeing a fundamental shift away from people’s interest in nature, not just in the US but in other countries, too. The consequences of this could be deep and far-ranging for health, for human well-being, and for the future of the planet.” Direct experience with nature is the most highly cited influence on environmental attitude and conservation activism.

To build a broad constituency strongly committed to conservation, the Conservancy must amplify the scientific, social, and economic messages of our work through existing and new partnerships in both urban and rural areas. Showing how conservation, clean air, and clean water go together, for example, is a powerful means of awakening people to the relationship between protecting nature and safeguarding the quality of human life.

To do this, The Nature Conservancy is launching an urban outreach program in the metro-Denver area. Two key pieces of this program are our new partnership with Bluff Lake Nature Center and our lecture series with the Denver Museum of Nature and Science.

Partnership with Bluff Lake Nature Center:

Bluff Lake Nature Center provides high quality science education at a 123 acre urban wildlife refuge along Denver’s Sand Creek to over 5,000 school children each year. The curriculum is offered in English and Spanish, and is free to underserved schools. Through this partnership, the Conservancy will touch the lives of children whose future depends on understanding the importance of conservation, for people and nature.

Bluff Lake Nature Center currently offers programming during warm weather months, yet the demand for conservation related programs continues to grow. To respond to the demand, Bluff Lake will build a new 5000 square-foot Environmental Education Center. The new facility will provide year round meeting space for conservation planning and an interpretive center for education programs and public lectures.

The Nature Conservancy (TNC) will participate in the expansion of Bluff Lake Nature Center in a number of ways:

1. TNC will develop and fund the interpretive signage for the new facility. (note that the designers will be consulted/contracted with and our science team will work on sign content in calendar year 2009; the actual signs will be made in 2010, as the new facility will not be completed until 2010 or 2011)
2. TNC will co-create the curriculum used for school programs, camps and public lectures. (will begin in 2009 and will be ongoing)
3. TNC will provide staff (scientists and conservation program staff) to lead lectures, field experiences and trainings. (will begin in 2009 and will be ongoing)
4. TNC will participate in the planning and implementation of site based restoration projects. (will begin in 2009 and will be ongoing)

Exhibit A ATTACHMENT A

Lecture Series with Denver Museum of Nature and Science

For the past 5 years, The Nature Conservancy has hosted conservation lectures in the Denver Museum's IMAX Theater – focused on local and global environmental issues. This year, we will expand upon this annual series by holding 2 lectures and exhibit tours as follows:

- “Nature Unleashed”: On April 29, 2009, TNC's lead scientist, M. Sanjayan will give a talk on natural disasters: his personal experiences, the causes and the impacts on people and nature. Guests will then enjoy a private tour of this new exhibit, which focuses on catastrophic natural events such as hurricanes, tsunamis and tornadoes.
- “Genghis Kahn”: In September, 2009 (firm date yet to be set), TNC will feature one of our Mongolia Country Program Directors to speak to the natural world in Mongolia, how ancient cultures are intimately linked to its health and the challenges this country is currently facing as it goes through modernization. This lecture will be followed by a personal tour of the Museum's new exhibit on Genghis Kahn.

Through these programs, we will reach close to 1000 people, helping them to make the connection between the preservation of the natural world and our personal well-being.

Metro-Denver Outreach Project Cost and Use of SEP Funds:

The Nature Conservancy will invest a total of \$181,000 in our metro-Denver outreach program during the next 12 months. The project end date is December 31, 2009. This figure excludes overhead (operations, finance, development, grants, etc.) We respectfully request a gift of \$81,600.00 from SEP to support the Metro-Denver Outreach project. Your gift would be designated to the following budget:

ALLOCATION	TOTAL COST	SEP	TASK/TIMELINE	OUTCOME
25% of TNC's Director of Outreach's time.	\$20,000	\$10,000	Development and management of partnerships with Bluff Lakes and Denver Museum. Execution and evaluation of both programs. Budget reflects the entire 2009 calendar year.	Successful partnerships and programming with Bluff Lakes and Denver Museum of Nature and Science. Both partnerships will serve approximately 1500 individuals in 2009.
25% of TNC's Special Events Manager's time.	\$20,000	\$5,200	Assists the Director of Outreach and the Science and Conservation Teams with all aspects of running these 2 metro Denver Outreach partnerships. Budget reflects the entire 2009 calendar year.	Successful partnerships and programming with Bluff Lakes and Denver Museum of Nature and Science. Both partnerships will serve approximately 1500 individuals in 2009.
5% of TNC's Marketing Director's time.	\$4,000		Design of all advertisements, press releases, publications, brochures and materials for Bluff Lake and Denver Museum partnerships. Budget reflects the entire 2009 calendar year.	Advertisements and press releases in the Denver Post and in other local papers, updated web material, materials/hand outs/take-homes for guests of all programs.

Exhibit A
ATTACHMENT A

Denver Post Advertising	\$9,000		Denver Museum Lectures: Public Advertising. Ads will run in April of 2009 and in August/September of 2009.	Denver Museum Lectures: Public Advertising
5% of TNC's Science and Conservation Program team's time (total of <u>7 individuals</u> from these teams will be working on these outreach projects approx. 5% of their time each)	\$28,000	\$28,000	Creation of Bluff Lake Curriculum, Preparing and Delivering Bluff Lake Talks, Trainings and Restoration Projects, Preparing and Delivering the Denver Museum Lectures, Consultation on Design of Interpretive Signage. Budget reflects the entire 2009 calendar year.	Successful partnerships and programming with Bluff Lakes and Denver Museum of Nature and Science. Both partnerships will serve approximately 1500 individuals in 2009.
Bluff Lake Interpretive Signage	\$100,000	\$38,400	Design and creation of educational signage to be used in the new environmental education center. The sign designers have already been contracted. They will work with TNC & Bluff Lake in the first part of '09 on design and will begin creating them in the 2 nd half of the year. The building is not expected to be complete until mid 2010, so, the signs are not needed until then.	Interpretive signs in the new education center, completion date is estimated in mid 2010.
TOTAL	\$181,000	\$81,600		

Project Reporting:

Project reports will provide sufficient information for the department and respondent to monitor the project implementation status, to verify and document the proper expenditure of SEP funds, and to evaluate the effectiveness and benefits of the SEP.

A draft "SEP Completion Report" will be submitted to Iron and Metals by September 30, 2009. If more time is needed for outcome measurements or project evaluation, a deadline extension will be requested in writing to the department. At a minimum, the SEP Completion Report will include:

- (1) A detailed description of the project as implemented;
- (2) A description of any operating problems encountered and the solutions thereto;
- (3) Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
- (4) Certification and demonstration that the SEP has been fully implemented pursuant to the provisions of the Consent Order; and
- (5) A description of the environmental and public health benefits resulting from implementation of the SEP along with quantification of the outcomes and benefits when possible. The number of individuals served will be provided.

