

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA**

UNITED STATES OF AMERICA, )  
and PINELLAS COUNTY, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MI METALS, Inc., )  
 )  
Defendant. )  
\_\_\_\_\_ )

Civil Action No.

**CONSENT DECREE**

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WHEREAS, Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), simultaneously with the lodging of this Consent Decree, has filed a complaint in this action alleging that MI Metals, Inc. (“Defendant”) is and has been in violation of Section 112 of the Clean Air Act (the “Act”), 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Secondary Aluminum Production, codified at 40 C.F.R. Part 63, Subparts A and RRR, at its secondary aluminum production facility located at 301 Commerce Boulevard, Oldsmar, Pinellas County, Florida (the “Facility”);

WHEREAS, Pinellas County (the County), Florida intends to file a Motion, with the consent of the United States and Defendant, to file a Complaint in intervention asserting the claims against Defendant alleged in the United States’ Complaint;

WHEREAS, the Complaint alleges that Defendant has failed to demonstrate compliance with the emission standards of Subparts A and RRR through valid performance testing; to correctly establish and monitor operating parameters as required by Subparts A and RRR; and to comply with the recordkeeping and reporting requirements of Subparts A and RRR at the Facility;

WHEREAS, on February 22, 2007, EPA issued a Notice of Violation (“NOV”) finding violations of 40 C.F.R. Part 63, Subparts A and RRR at the Facility;

WHEREAS, Defendant does not admit any liability arising out of the violations alleged in the Complaint or the NOV;

WHEREAS, the United States, the County, and Defendant (the “Parties”) recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Decree

is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

**I. JURISDICTION, VENUE, AND NOTICE**

1. This Court has jurisdiction over the subject matter of this action and over the Parties pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1367, and Section 113 of the Act, 42 U.S.C. § 7413. Venue lies in this District pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because violations alleged in the Complaint are alleged to have occurred in, and Defendant conducts business in, this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree and any such action and over Defendant and consents to venue in this judicial district.

2. For the purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Section 113(b) of the Act, 42 U.S.C. §§ 7413(b), for violations of Section 112 of the Act, 42 U.S.C. § 7412, and its implementing regulations at 40 C.F.R. Part 63, Subparts A and RRR.

3. Notice of the commencement of this action has been given to the State as required by Section 113(b) of the Act, 42 U.S.C. § 7413(b).

**II. APPLICABILITY**

4. The obligations of this Consent Decree apply to and are binding upon the United States and the County, and upon Defendant and its successors, assigns, or other entities or persons otherwise bound by law.

5. No transfer of ownership or operation of the Facility, whether in compliance with this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Decree are implemented. At least 30 days prior to any transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer to the United States and the County, in accordance with Section XIII of this Decree (Notices). In addition, no later than the closing date of the transfer, Defendant shall provide a copy of those portions of the transfer agreement relating to environmental matters to the United States, in accordance with Section XIII of this Decree. Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Decree.

6. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

7. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

### **III. DEFENDANT**

8. Defendant MI Metals, Inc., a Florida corporation with corporate headquarters in Clearwater, Florida, is a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

9. Defendant owns and operates the Facility. The Facility is a “secondary aluminum production facility” as defined in 40 C.F.R. § 63.1503. The requirements of 40 C.F.R. Part 63, Subparts A and RRR apply to the owner and operator of each secondary aluminum production facility.

10. The Facility processes aluminum scrap to produce secondary aluminum products. The secondary aluminum production process results in emissions of regulated air pollutants, including dioxins and furans (“D/F”), hydrogen chloride (“HCl”), particulate matter (“PM”), and hydrocarbons. D/F and HCl are hazardous air pollutants.

#### **IV. DEFINITIONS**

11. Terms used in this Consent Decree that are defined in the Act or in regulations promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. “Applicable Emissions Standard” shall mean the emissions limits for affected sources located at secondary aluminum production facilities, as set forth in 40 C.F.R. § 63.1505.

b. “Applicable DF Emissions Standard” shall mean the emissions limits for dioxins and furans, as set forth in 40 C.F.R. § 63.1505(i)(3) and (k)(3).

c. “Authorized Charge” shall mean a charge to an emissions unit that contains any mixture of the types of charge materials listed in Appendix E, provided that no individual charge shall contain Institute of Scrap Recycling Industries, Inc. (“ISRI”) Code tutu or toto charge in a combined percentage greater than the percentage of tutu charge used during a successful performance test pursuant to Paragraphs 17-20.

- d. "Complaint" shall mean the complaint filed by the United States in this action;
- e. "Consent Decree" or "Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXII);
- f. "County" shall mean Pinellas County, Florida;
- g. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business the next business day;
- h. "Defendant" shall mean MI Metals, Inc. and its successors and assigns;
- i. "Department" or "DEP" shall mean the State of Florida Department of Environmental Protection.
- j. "EPA" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;
- k. "Effective Date" shall have the definition provided in Section XIV;
- l. "Facility" shall mean Defendant's secondary aluminum production facility located at 301 Commerce Boulevard, Oldsmar, Pinellas County, Florida;
- m. "Furnace 1" shall mean the Facility's reverberatory furnace identified as Emissions Unit ID 1030114 001;
- n. "OM&M Plan" shall mean the Operation, Maintenance, and Monitoring Plan set forth at 40 C.F.R. § 63.1510(b);
- o. "Paragraph" shall mean a portion of this Decree identified by an Arabic numeral;



- p. "Parties" shall mean the United States, the County, and Defendant;
- q. "Plaintiffs" shall mean the United States and the County;
- r. "Section" shall mean a portion of this Decree identified by a roman numeral;
- s. "State" shall mean the State of Florida;
- t. "United States" shall mean the United States of America, acting on behalf of EPA.

## **V. COMPLIANCE REQUIREMENTS**

### **A. CAPTURE AND COLLECTION SYSTEM**

12. Defendant has applied for a DEP air pollution source construction permit, a copy of which is attached as Appendix A ("Application"). The Application seeks authority to make certain modifications to the capture and collection system at Furnace 1.

13. Not later than 90 days following issuance of the construction permit, Defendant shall complete construction of the modifications to the capture and collection system at Furnace 1 in accordance with the design criteria and pursuant to the schedule set forth in the construction permit.

14. Within 30 days after Defendant completes all modifications to the capture and collection system at Furnace 1 as set forth in Paragraph 13, Defendant shall simultaneously (a) perform a visual emissions evaluation, to demonstrate that the capture and collection system at Furnace 1 effectively captures emissions and transports them into the hood, and (b) measure flow rates, in accordance with the flow rate verification protocol included in Appendix A. No later than 15 days prior to the date of the visual emissions evaluation and flow rate verification test, Defendant shall notify DEP and the County of the date on which Defendant completed

construction of the modifications to the capture and collection system at Furnace 1, and the date on which Defendant plans to conduct the evaluation and test. EPA, DEP, and the County may be present at this demonstration.

15. Within 30 days of completion of the testing required by Paragraph 14 of this Consent Decree, Defendant shall submit to EPA, DEP and the County a certification that the modifications made to the capture and collection system are as described in the DEP air pollution source construction permit, a diagram indicating the location in which each actual volumetric flow rate measurement was taken, and the results of actual volumetric flow rate measurements taken in accordance with the methodologies prescribed in EPA Reference Methods 1 and 2 (and EPA Reference Methods 3 and 4 if needed) contained in 40 C.F.R. Part 60, Appendix A, that demonstrate that the actual volumetric flow rate meets or exceeds the calculated minimum exhaust rate.

16. EPA, after consulting with the County, shall issue a determination as to whether Defendant has demonstrated the capture and collection system's compliance with 40 C.F.R. § 63.1506(c). If EPA determines that Defendant has demonstrated compliance with 40 C.F.R. § 63.1506(c), Defendant shall conduct a performance test pursuant to the timetable and requirements set forth in Subsection V. B. ("Performance Testing"). If EPA determines that Defendant has not demonstrated compliance, within 60 days after the date of notification by EPA under this Paragraph that Defendant has not demonstrated compliance, Defendant shall submit revised design information and analysis, with supporting documentation, demonstrating the capture and collection system's compliance with 40 C.F.R. § 63.1506(c), in accordance with the requirements of the previous paragraph. EPA, after consultation with the County, shall notify Defendant of any remaining deficiency in Defendant's attempted demonstration of

compliance with 40 C.F.R. § 63.1506(c), which Defendant shall address in accordance with this Paragraph.

B. PERFORMANCE TESTING

17. Appendix A includes a performance test protocol and plan designed in accordance with 40 C.F.R. §§ 63.7(c)(2), 63.1511 and 63.1512 to demonstrate compliance with the Applicable DF Emission Standard, and each equipment, work practice, and operational standard. No later than 60 days after EPA's approval of the capture and collection system at Furnace 1 pursuant to Paragraph 16, Defendant shall conduct a performance test of Furnace 1 in accordance with the attached performance test protocol.

18. Notification of Testing. No later than 30 days prior to the first day of the performance test, Defendant shall submit a notification of intention to conduct the performance test to EPA, DEP and the County. The notification shall identify the time and date of the test and the persons conducting the test, and shall include a copy of the proposed site-specific test plan attached hereto in Appendix A.

19. Performance Test Report. No later than 45 days after the completion of the performance test, Defendant shall submit a Performance Test Report to EPA, DEP and the County. The Performance Test Report shall meet the requirements set forth in 40 C.F.R. § 63.7(g), and include all data, associated measurements, and calculations (including visible emission and opacity tests) from the Performance Test. The Performance Test Report shall also include the percentage of each type of scrap charged during the performance test. EPA, after consulting with the County, shall notify Defendant of any deficiency in Defendant's performance test or its Performance Test Report. No later than 60 days after the date of notification by EPA under this Paragraph, Defendant shall correct each deficiency (except the retesting of Furnace 1)

and submit a revised Performance Test Report to EPA, DEP and the County describing the actions taken to correct each deficiency. If it is necessary to retest Furnace 1 as a result of deficiencies noted by EPA under this Paragraph, no later than 90 days after such notification by EPA, Defendant shall submit a new notification of intention to conduct a performance test with a revised test plan, as set forth in Appendix A, which addresses actions Defendant will take prior to retesting Furnace 1 to correct deficiencies noted by EPA. EPA, after consultation with the County, shall notify Defendant of any remaining deficiency in Defendant's performance test, revised Performance Test Report, or revised test plan, which Defendant shall address in accordance with this Paragraph.

20. Failure to Demonstrate Compliance. If Furnace 1 exceeds the Applicable DF Emission Standard set forth in 40 C.F.R. § 63.1505 during the performance test, Defendant shall take the following measures:

a. No later than 90 days after the date of the failed performance test, Defendant shall submit a Corrective Action Plan to EPA, DEP, and the County. The Corrective Action Plan shall include a description of all actions taken or to be taken to achieve and maintain compliance at Furnace 1 and, with respect to actions not already completed, the schedule for their implementation, including proposed commencement and completion dates.

b. No later than 90 days after the date of submission of the Corrective Action Plan to EPA and the County, Defendant shall complete all corrective action specified in its Corrective Action Plan and retest Furnace 1 in accordance with the requirements of this subsection, unless EPA, after consultation with the County, agrees in writing to an extension of time.

c. No later than 45 days after the completion of retesting, Defendant shall submit a Performance Test Report to EPA, DEP, and the County in accordance with Paragraph 19.

d. If EPA, after consulting with the County, notifies Defendant of any deficiency in Defendant's retesting or its corresponding Performance Test Report, Defendant shall correct each deficiency and submit a revised Performance Test Report as provided in Paragraph 19.

e. Defendant shall only process clean charge in Furnace 1 between completion of a failed performance test and the beginning of a new performance test in which Defendant demonstrates compliance with the applicable emissions standards set forth in 40 C.F.R. § 63.1505.

21. Notification of Compliance Status Report. No later than 30 days after the submission of a performance test report in which Defendant has demonstrated compliance, Defendant shall submit to EPA and the County a revised Notification of Compliance Status Report ("NOCSR") that meets the requirements of 40 C.F.R. § 63.1515(b).

22. New Emission Units. No later than 90 days after the date of startup of any new emission unit brought online after the date of lodging of this Consent Decree, Defendant shall conduct a performance test of the new emission unit in accordance with 40 C.F.R. §§ 63.1511 and 63.1512 to demonstrate compliance with each applicable emission, equipment, work practice, and operational standard. The procedures for the testing of Furnace 1, set forth in Paragraphs 17 through 21, shall apply to the testing of the new emission unit, except that other Applicable Emissions Standards may be found to apply with the addition of the new emission unit.

C. OPERATING, MONITORING, AND RECORDKEEPING

23. OM&M Plan. Defendant shall maintain an OM&M Plan for the Facility that meets the requirements of 40 C.F.R. § 63.1510(b). The OM&M Plan for the Facility, dated February 20, 2004, shall remain in effect until the post-test NOCSR, which shall contain a revised OM&M Plan, is submitted as set forth in Paragraph 21, provided, however, that Defendant shall use the forms referred to in Paragraphs 24(b), 25, 26, and 27 of this Consent Decree by no later than the Effective Date.

24. Annual Inspection of Capture and Collection System. Defendant shall inspect each capture and collection system within 180 days of the Effective Date, and thereafter at least once each calendar year, pursuant to 40 C.F.R. § 63.1510(d)(2).

a. As part of the annual inspection, Defendant shall take actual volumetric flow rate measurements at each capture and collection system in accordance with the flow rate verification protocol referred to in Paragraph 14 to demonstrate that the actual volumetric flow rate meets or exceeds the calculated minimum exhaust rate for the capture and collection system.

b. Defendant shall record the results of its inspection of each capture and collection system, including the results of its actual volumetric flow rate measurements, on the Emission Capture/Collection & Closed Vent System Annual Inspection form attached as Appendix B and incorporated into the OM&M Plan submitted under Paragraphs 21 and 23.

25. Furnace Charge Log. Defendant shall use the Furnace Charge Log attached as Appendix C and incorporated into the OM&M Plan submitted under Paragraphs 21 and 23 to record the total weight of feed/charge to Furnace 1 or any new emission unit, and percentage of toto and tutu charged, for each operating cycle as required by 40 C.F.R. § 1510(e). Defendant

shall retain its Furnace Charge Logs in accordance with the requirements of 40 C.F.R. §§ 63.10 and 63.1517.

26. Daily Operation Log. During each day on which Furnace 1 or any new emission unit is operating, Defendant shall complete the Daily Operation Log attached as Appendix D and incorporated into the OM&M Plan submitted under Paragraphs 21 and 23 to record the times each charge begins, each cast begins, fluxing begins and ends, and the flux rate. Defendant shall retain its Daily Operation Logs in accordance with the requirements of 40 C.F.R. §§ 63.10 and 63.1517.

27. Verification of Lime Injection Rate. Defendant shall verify the lime injection rate during normal operations by completing the Feed Inspection/Maintenance Completion Log attached as Appendix E to record the number of bags of lime used each day, the feed rate setting, and confirmation of free flow (based on inspection of the hopper).

D. REPORTING

28. Statement of Compliance. Within 30 days after the Effective Date of this Consent Decree, Defendant shall re-submit a Statement of Compliance (SOC) for calendar year 2006 to EPA and the County using DEP Form No. 62-213.900(7), F.A.C. The SOC shall properly identify all violations for that year.

29. Quarterly Reports. Within 30 days after the end of each calendar-year quarter (*i.e.*, by April 30, July 30, October 30, and January 30) after the Effective Date until termination of this Decree pursuant to Section XVII, Defendant shall submit a quarterly report for the preceding quarter that shall include:

a. The status of any actions taken to make improvement to the capture and collection system at Furnace 1 pursuant to Paragraphs 12-21 of this Consent Decree;

b. A certification that Defendant processed only Authorized Charge during the previous quarter except as provided in Paragraph 29(c).

c. If applicable, a certification of the type of charge that Defendant processed in Furnace 1 between the completion of a failed performance test and the beginning of a new performance test in which it demonstrates compliance with the applicable emission standards set forth in 40 C.F. R. § 63.1505.

d. A certification that Defendant is using the Furnace Charge Log as required in Paragraph 25, and a copy of one furnace charge log completed during the previous three (3) months.

e. A certification that Defendant is using the Daily Operation Log as required in Paragraph 26, and a copy of one daily operation log completed during the previous three (3) months.

f. A description of all calibration of monitoring devices at the Facility that occurred during the reporting period;

g. A description of any failure to maintain an established monitoring parameter under 40 C.F.R. § 63.1510 and an explanation of the failure's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such failure; and

h. A description of any noncompliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation.

30. If the cause of a violation cannot be fully explained at the time the report is due, Defendant shall so state in the report. Defendant shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the



violation, within 30 days of the day Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the notice required by Section VIII of this Consent Decree (Force Majeure).

31. Whenever any violation of this Consent Decree or any other event affecting Defendant's performance under this Decree, or the performance of its Facility, may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA, DEP, and the County orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

32. All reports shall be submitted to EPA, DEP, and the County in accordance with Section XIII of this Decree (Notices).

33. Each report submitted by Defendant under this Section shall be signed by a responsible official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

34. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the Clean Air Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

35. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

E. PERMITS

36. Where any compliance obligation under this Section requires Defendant to obtain a federal, state, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section VIII of this Consent Decree (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

37. By no later than the Effective Date, Defendant shall submit an application to the State (with a copy to EPA and the County) for a federally enforceable state operating permit which application shall include a proposed OM&M Plan identical to that included in Appendix A.

38. Defendant shall provide EPA, in accordance with Section XIII (Notices) of this Consent Decree, with a copy of the transmittal letter sent with any application (including any application submitted in compliance with this Consent Decree) for the issuance or modification of any federal, state, or local permit relating to air emissions from the Facility, at the same time such letter and application are submitted to the permitting authority.

## VI. CIVIL PENALTY

39. Within 30 days after the Effective Date of this Consent Decree, Defendant shall pay the sum of \$210,000 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging.

40. Of the civil penalty, 50 percent (\$105,000), plus 50 percent of interest accrued, shall be paid to the United States Department of Justice by FedWire Electronic Funds Transfer (“EFT”) in accordance with written instructions to be provided to Defendant, following lodging of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney’s Office for the Middle District of Florida. At the time of payment, Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States et al. v. MI Metals, Inc., and shall reference the civil action number and DOJ Case Number 90-5-2-1-08988, to the United States in accordance with Section XIII of this Decree (Notices); by email to [acctsreceivable.CINWD@epa.gov](mailto:acctsreceivable.CINWD@epa.gov); and by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, OH 45268

41. Of the civil penalty, 50 percent (\$105,000), plus 50 percent of interest accrued, shall be paid to the County by certified or cashier’s check. The payment shall be sent to the Air Quality Division within 30 days of the Effective Date of this Consent Decree. The payment shall be made out to “Pinellas County Board of Commissioners” and shall include the notation “Pinellas County Air Pollution Recovery Fund.” The payment shall be sent to:

Pinellas County  
Air Quality Division  
300 South Garden Avenue  
Clearwater, Florida 33756

42. Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section VII (Stipulated Penalties) in calculating its federal, state, or local income tax.

**VII. STIPULATED PENALTIES**

43. Defendant shall be liable for stipulated penalties for violations of this Consent Decree as specified below, unless excused under Paragraph 36 or Section VIII (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

44. Payment of Civil Penalty. If Defendant fails to pay the civil penalty required to be paid under Section VI of this Consent Decree (Civil Penalty) when due, a stipulated penalty of \$ 5,000 per day for each day that the payment is late shall accrue against Defendant.

45. Capture and Collection System Requirements. For each violation of the requirements of Section V, subsection A of this Consent Decree, the following stipulated penalties shall accrue per violation per day:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 2,000	1st through 15th day
\$ 4,000	16th through 30th day
\$ 6,000	31st day and beyond

46. Performance Testing. For each violation of the requirements of Section V, subsection B of this Consent Decree, the following stipulated penalties shall accrue per violation per day:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 2,500	1st through 15th day
\$ 5,000	16th through 30th day
\$ 7,500	31st day and beyond

47. Emission Standards. If Furnace 1 or any new emission unit exceeds an applicable emission standard for dioxins and furans as set forth in 40 C.F.R. § 63.1505(i)(3) & (k)(3) during a performance test, the following stipulated penalties shall accrue for each day of operation using other than clean charge after a failed performance test until Defendant demonstrates compliance through a new performance test:

<u>Penalty Per Day</u>	<u>Percent Above Standard</u>
\$ 3,000	0.01 - 10%
\$ 6,000	10.01 - 50%
\$ 9,000	50.01 - 100%
\$ 12,000	> 100%

48. Charge Material. For the processing of any charge material in an emission unit following a successful Performance Test that is not Authorized Charge, the following stipulated penalties shall accrue per violation per day:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 2,000	1st through 15th day
\$ 4,000	16th through 30th day
\$ 6,000	31st day and beyond

49. Recordkeeping. For each violation of the recordkeeping requirements of Section V, subsection C of this Consent Decree, the following stipulated penalties shall accrue per violation per day:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 15th day
\$ 1,000	16th through 30th day
\$ 1,500	31st day and beyond

50. Monitoring Parameters. For each failure to maintain an established monitoring parameter under 40 C.F.R. § 63.1510 occurring after Defendant's submission of a revised NOCSR pursuant to Paragraph 21, the following stipulated penalties shall accrue per violation per day:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 2,500	1st through 15th day
\$ 5,000	16th through 30th day
\$ 7,500	31st day and beyond

51. Quarterly Reports. For failure to timely submit a Quarterly Report as required by Section V, subsection D of this Consent Decree, or for submitting a Quarterly Report that does not substantially conform to the requirements of subsection D, the following stipulated penalties shall accrue per report per day:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 500	1st through 15th day
\$ 1000	16th through 30th day
\$ 1500	31st day and beyond

52. Stipulated penalties under this Section shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue separately for separate violations of this Consent Decree.

53. Defendant shall pay any stipulated penalty within 30 days of receiving the United States' written demand. Defendant shall pay 50 percent of the total stipulated penalty amount demanded to the United States and 50 percent to the County.

54. Either Plaintiff may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise accrued it under this Consent Decree.

55. Stipulated penalties shall continue to accrue as provided in Paragraph 52 during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, within 30 days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 days of receiving the Court's decision or order, except as provided in subparagraph (c), below.

c. If any Party appeals the Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 15 days of receiving the final appellate court decision.

56. Defendant shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 84 except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid. Defendant shall pay stipulated penalties owing to the County by certified or cashier's check according to the instructions set forth in Paragraph 41.

57. If Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States or the County from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

58. Subject to the provisions of Section XI of this Consent Decree (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the Plaintiffs for Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the Act or of federal, state, or local regulations implementing the Act, Defendant shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

#### **VIII. FORCE MAJEURE**

59. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of



Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include Defendant's financial inability to perform any obligation under this Consent Decree.

60. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendant shall provide notice orally or by electronic or facsimile transmission to EPA and the County, within 72 hours of when Defendant first knew that the event might cause a delay. Within seven days thereafter, Defendant shall provide in writing to EPA and the County an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant's rationale for attributing such a delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any

circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known.

61. If EPA, after consultation with the County, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after consultation with the County, for such time as is necessary to complete those obligations. An extension of time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

62. If EPA, after consultation with the County, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendant in writing of its decision.

63. If Defendant elects to invoke the dispute resolution procedures set forth in Section IX (Dispute Resolution), it shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendant complied with the requirements of Paragraphs 59 and 60. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree identified to EPA and the Court.

## **IX. DISPUTE RESOLUTION**

64. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendant arising under this Decree.

65. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends the United States and the County a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States, after consultation with the County, shall be considered binding unless, within 15 days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

66. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States and the County a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

67. The United States, after consultation with the County, shall serve the Plaintiffs' Statement of Position within 45 days of receipt of Defendant's Statement of Position. The Plaintiffs' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The Plaintiffs' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

68. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States and the County, in accordance with Section XIII of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 10 days of receipt of the Plaintiffs' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

69. The United States, after consultation with the County, shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

70. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 66 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules

or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 66, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objectives of the Consent Decree.

71. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 55. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

#### **X. INFORMATION COLLECTION AND RETENTION**

72. The United States, the County, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry into the Facility at all reasonable times, upon presentation of credentials, to:

- a. observe any performance testing conducted pursuant to this Decree;
- b. monitor the progress of activities required under this Decree;
- c. verify any data or information submitted to the United States or the County in accordance with the terms of this Decree;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Decree.

73. Until five years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. This information-retention requirement shall also be the sole provision surviving termination of this Consent Decree. At any time during this information-retention period, upon request by the United States or the County, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

74. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the United States and the County at least 90 days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or the County, Defendant shall deliver any such documents, records, or other information to EPA or the County. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client

privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Defendant. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

75. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2 and Confidential Records under sec. 403.111, Florida Statutes. As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2 and sec. 403.111 Florida Statutes, respectively.

76. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the County pursuant to applicable federal, state, or local laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal, state, or local laws, regulations, or permits.

#### **XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

77. This Consent Decree resolves the civil and administrative liability of Defendant for any violations of 40 C.F.R. Part 63, Subparts A and RRR promulgated pursuant to Section 112(d) of the Clean Air Act, 42 U.S.C. § 7412(d), at the Facility that occurred prior to the date of lodging of this Decree, including the civil claims of the United States and the County for the violations alleged in the Complaint and occurring through the date of lodging of this Decree.

78. The United States and the County reserve all legal and equitable remedies available to enforce the provisions of this Decree, except as expressly stated in Paragraph 77. This Consent Decree shall not be construed to limit the rights of the United States or the County to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal, state, or local laws, regulations, or permit conditions, except as expressly specified in Paragraph 77. The United States and the County further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant's Facility, whether related to the violations addressed in this Consent Decree or otherwise.

79. In any subsequent administrative or judicial proceeding initiated by the United States or the County for injunctive relief, civil penalties, or other appropriate relief relating to the Facility, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the County in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 77.

80. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the County do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent



Decree will result in compliance with provisions of the Act, 42 U.S.C. §§ 7401 *et seq.*, or with any other provisions of federal, state, or local laws, regulations, or permits.

81. This Consent Decree does not limit or affect the rights of Defendant or of the United States or of the County against any third parties not party to this Consent Decree, nor does it limit the rights of third parties not party to this Consent Decree against Defendant, except as otherwise provided by law.

82. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

## **XII. COSTS**

83. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the County shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

## **XIII. NOTICES**

84. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

### **To the United States:**

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611 Ben Franklin Station  
Washington, DC 20044-7611  
Re: DOJ No. 90-5-2-1-08988

and

Todd Russo  
EPA Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-3104

**To EPA:**

Todd Russo  
EPA Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-3104

**To DEP:**

Cindy Zhang-Torres  
13051 N. Telecom Parkway  
Temple Terrace, Florida 33637

**To the County:**

Peter Hessling  
Pinellas County  
Air Quality Division  
300 South Garden Avenue  
Clearwater, Florida 33756

**To Defendant:**

Elizabeth P. Francis, Esq.  
Corporate General Counsel  
861 N. Hercules Ave.  
Clearwater, FL 33765

85. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

86. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

#### **XIV. EFFECTIVE DATE**

87. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

#### **XV. RETENTION OF JURISDICTION**

88. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections X and XVI, or effectuating or enforcing compliance with the terms of this Decree.

#### **XVI. MODIFICATION**

89. Except as otherwise set forth in Paragraph 88, the terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where a modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

90. Any disputes concerning modification of this Decree shall be resolved pursuant to Section IX of this Decree (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 68, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

#### **XVII. TERMINATION**

91. After Defendant has completed the requirements of Section V (Compliance Requirements) of this Decree, has thereafter maintained satisfactory compliance with this Consent Decree for a period of one (1) year, and has paid the civil penalty and any accrued

stipulated penalties not waived or reduced by the United States as required by this Consent Decree, Defendant may serve upon the United States and the County a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

92. Following receipt by the United States and the County of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States, after consultation with the County, agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

93. If the United States, after consultation with the County, does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section IX of this Decree. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination, under Paragraph 66 of Section IX, until 90 days after service of its Request for Termination.

#### **XVIII. PUBLIC PARTICIPATION**

94. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant and the County consent to entry of this Consent Decree without further notice and agree not to withdraw from or oppose entry of this Consent Decree by

the Court or to challenge any provision of the Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

**XIX. SIGNATORIES/SERVICE**

95. Each undersigned representative of Defendant and of the County and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

96. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

97. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

**XX. INTEGRATION**

98. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

**XXI. FINAL JUDGMENT**

99. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the County, and Defendant.

**XXII. APPENDICES**

The following appendices are attached to and part of this Consent Decree:

Appendix A: DEP Construction Permit Application

Appendix B: Emission Capture/Collection & Closed Vent System Annual Inspection

Appendix C: Furnace Charge Log

Appendix D: Daily Operation Log/Reactive Flux Feed Rate

Appendix E: Lime Feed Inspection/Maintenance Completion Log

Appendix F: Description of Charge Materials

Dated and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE  
Middle District of Florida

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States and Pinellas County v. MI Metals, Inc. (M.D. Fla.):

FOR PLAINTIFF UNITED STATES OF AMERICA:

~~ELLEN MAHAN~~  
Deputy Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division

~~KATHERINE KONSCHNIK~~  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
(202) 305-0312

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States and Pinellas County v. MI Metals, Inc. (M.D. Fla.):

FOR PLAINTIFF UNITED STATES OF AMERICA:

A. BRIAN ALBRITTON  
United States Attorney

By: \_\_\_\_\_

E. Kenneth Stegeby  
Assistant United States Attorney  
USAO No. 112  
400 North Tampa Street, Suite 3200  
Tampa, FL 33602  
Phone: 813.274.6303  
Fax: 813.274.6200



UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States and Pinellas County v. MI Metals, Inc. (M.D. Fla.):

FOR PLAINTIFF UNITED STATES OF AMERICA:

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MARY J. WILKES  
Regional Counsel and Director  
Office of Environmental Accountability  
United States Environmental Protection Agency  
Region 4

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States and Pinellas County v. MI Metals, Inc. (M.D. Fla.):

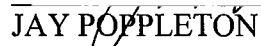
FOR PLAINTIFF PINELLAS COUNTY:

ROBERT S. CASALA /  
County Administrator  
Pinellas County  
ew


JEWEL WHITE COLE  
Managing Assistant County Attorney  
Pinellas County

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States and Pinellas County v. MI Metals, Inc. (M.D. Fla.):

FOR DEFENDANT MI METALS, INC.:

  
\_\_\_\_\_  
JAY POPPLETON  
Treasurer/Assistant Secretary  
MI Metals, Inc.  
P.O. Box 4490  
Clearwater, FL 33758-4490

Agent authorized to accept service on behalf of above-signed party:

  
\_\_\_\_\_  
ELIZABETH P. FRANCIS, ESQ.  
Corporate General Counsel  
861 N. Hercules Ave.  
Clearwater, FL 33765