



# FLORIDA DEPARTMENT OF Environmental Protection

Southwest District Office  
13051 North Telecom Parkway #101  
Temple Terrace, Florida 33637-0926

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

July 19, 2022

Marc Cooper  
HAS Metal, LLC.  
3040 E Main St.  
Lakeland, FL 33801  
[marccooper@rstmetals.com](mailto:marccooper@rstmetals.com)

Re: Executed Consent Order OGC File No. 22-0132  
HAS Metal LLC  
Facility ID No. FLR05H530  
Polk County

Dear Mr. Cooper:

Enclosed please find the executed Consent Order OGC No. 22-0132, regarding the above referenced facility. The effective date of the Consent Order is the filing date entered by the designated Department Clerk on the signature page.

For inquiries, you may contact Preston Graves at (813) 470-5941, or by email at [Preston.Graves@FloridaDEP.gov](mailto:Preston.Graves@FloridaDEP.gov).

Sincerely yours,

A handwritten signature in blue ink that reads "Kelley M. Boatwright".

Kelley M. Boatwright  
District Director  
Southwest District

Cc: Stephen Cohen, BCA Law, [scohen@bcalaw.com](mailto:scohen@bcalaw.com)  
Pamala Vazquez, FDEP, [Pamala.Vazquez@floridaDEP.gov](mailto:Pamala.Vazquez@floridaDEP.gov)  
Preston Graves, FDEP, [Preston.Graves@FloridaDEP.gov](mailto:Preston.Graves@FloridaDEP.gov)  
Steven Tafuni, FDEP, [Steven.Tafuni@FloridaDEP.gov](mailto:Steven.Tafuni@FloridaDEP.gov)  
Lea Crandall, FDEP - OGC, [lea.crandall@dep.state.fl.us](mailto:lea.crandall@dep.state.fl.us)

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT	)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION	)	SOUTHWEST DISTRICT
	)	
v.	)	OGC FILE NO. 22-0132
	)	
HAS METAL, LLC.	)	
_____	)	

**CONSENT ORDER**

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and HAS Metal, LLC (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the owner, and is responsible for the operation of HAS Metal, a metal salvaging and recovery facility (“Facility”). The Facility is located at 3040 East Main Street Lakeland, FL 33801 in Polk County, Florida. (“Property”). Respondent owns the Property on which the Facility is located. Respondent operates the Facility under a Condition No Exposure Exclusion, Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity (“MSGP” or “Multisector Generic Permit”) identified as Permit No. FLR05H530, (“Permit”), which was issued on June 29, 2013, expired on June 28, 2018 (“Expired Permit”) and was renewed on October 8, 2021.

4. The Facility was inspected on May 5, 2021 for compliance with its' MSGP. Based on information provided during and after the inspection the Department finds that the following violation(s) occurred:

- a) The Facility was in operation and conducting regulated industrial activities without the benefit of effective MSGP coverage at time of Department's inspection. The foregoing is a violation of Florida Administrative Code Rule 62-621.300(5)(a), F.A.C. and Federal Register, Vol. 60, Number 189, pages 50804-51319, published on September 29, 1995, Part XI.N.
- b) Best management practices were not sufficient to protect surface waters. Specifically, notable quantity of accumulated metal was rusting from exposure, petroleum stained soil was observed, and past analytical monitoring data from Year-2 (2014) revealed exceedances of benchmark concentration of Chemical Oxygen Demand, Total Suspended Solids, Aluminum, Iron and Zinc. This is a violation of Florida Administrative Code Rule 62-621.300(5)(a), F.A.C. and Federal Register, Vol. 60, Number 189, pages 50804-51319, published on September 29, 1995, and Part XI.N.3.
- c) Respondent failed to amend the Facility's Stormwater Pollution Prevention Plan (SWPPP) in response to the benchmark exceedances reported in the previous permit cycle's Discharge Monitoring Reports (DMRs), as outlined in paragraph (4)(b) of this Order. The foregoing is a violation of Florida Administrative Code Rule 62-621.300(5)(a) and Federal Register, Vol. 60, Number 189, pages 50804-51319, published on September 29, 1995, Part IV and Part IV.C..
- d) Respondent was unable to provide records of Quarterly Visual Monitoring (QVMs) for the Facility. The foregoing is a violation of Florida Administrative Code Rule 62-621.300(5)(a). F.A.C. and Federal Register, Vol. 60, Number 189, pages 50804-51319, published on September 29, 1995, Part XI.N.5.(3).c.

- e) Respondent did not submit DMRs for the Facility for Year-4 (2016) of the Expired Permit. The foregoing is a violation of Florida Administrative Code Rule 62-621.300(5)(a), F.A.C. and Federal Register, Vol. 60, Number 189, pages 50804-51319, published on September 29, 1995, Part XI.N.5.a.
- f) The majority of the recovered materials were not being sold, used or reused within a year. Accumulation beyond this timeframe is not permissible without Departmental authorization. The foregoing is a violation of Florida Administrative Code Rule 62-701.220 (c).

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

**ORDERED:**

5. Respondent shall comply with the following corrective actions within the stated time periods:

- a) Within 15 days of the effective date of this Order, the Respondent shall revise its SWPPP and best management practices to address the benchmark exceedances reported in its DMRs. Respondent shall ensure that all best management practices are implemented and maintained as detailed in the SWPPP.
- b) Within 30 days of the effective date of this Order, Respondent shall remove all visible stained soil and dispose of it properly at a facility permitted to accept this type of waste. Upon completion, receipts and/or shipping manifests shall be provided to the Department.
- c) On a quarterly basis for four consecutive calendar quarters after the effective date of this Order, Respondent shall submit to the Department records of the quarterly inspections, quarterly visual monitoring, and annual assessments as required by the MSGP.
- d) Within 30 days of the effective date of this Order, Respondent shall develop a plan to manage and achieve a reduction in the volume of material on-site. Upon completion this plan shall be submitted to the Department for approval.

e) Within a year of the effective date of this Order, Respondent shall submit to the Department site photographs as well as a written report of the amount of materials processed & received over the past year to demonstrate that the majority, at least 51%, of the recovered materials have been sold, reused, or otherwise removed from the site as specified in the plan referenced in subpart 5(d) of this Consent Order.

6. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraph 5a - d within 90 days of the effective date of this Order and be in full compliance with Rule 62-621.300(5)(a), F.A.C. and Federal Register, Vol. 60, Number 189, pages 50804-51319, published on September 29, 1995, Part XI.N regardless of any intervening events or alternative time frames imposed in this Order

7. Within 30 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$11,969.74 in settlement of the regulatory matters addressed in this Order. This amount includes \$11,250.00 for civil penalties, \$219.74 in economic benefit assessment, and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 5)a - d and 6 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 10, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any

stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 8 of this Order.

10. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at:

<http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

11. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Preston Graves, Environmental Specialist, Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Suite 101 Temple Terrace, FL 33637. Electronic submittals may be sent to [Preston.Graves@Floridadep.gov](mailto:Preston.Graves@Floridadep.gov).

12. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

13. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

14. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving

the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

15. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

16. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this

Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

17. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

18. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

19. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

20. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

21. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

22. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.



STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF CONSENT ORDER

The Department of Environmental Protection (“Department”) gives notice of agency action of entering into a Consent Order with HAS METAL LLC pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the non-compliance with NPDES and Solid Waste rules at Has Metal facility located at 3040 East Main Street Lakeland, FL 33801. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, , Southwest District, 13051 N. Telecom Parkway #101, Temple Terrace, 33637 .

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department’s final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The name and address of each agency affected and each agency’s file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner’s substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency’s proposed action;

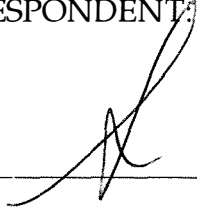
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency\_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at 13051 N. Telecom Parkway #101, Temple Terrace, 33637 . Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

25. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

FOR THE RESPONDENT:

Signature



07/15/2022  
Date

Print Name

MARC ALLEN COOPER

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DONE AND ORDERED this 19th day of July, 2022, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Kelley M. Boatwright  
District Director  
Southwest District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,  
receipt of which is hereby acknowledged.



July 19, 2022

Clerk

Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35