# EXECUTIVE SUMMARY - ENFORCEMENT MATTER
## DOCKET NO.: 2006-1971-AIR-E TCEQ ID: RN104916424 CASE NO.: 31739
## RESPONDENT NAME: Bobby Sonny Johnson dba Blastmasters

**ORDER TYPE:**

| | | | |
|---|---|---|---|
| _X_1660 AGREED ORDER | __FINDINGS AGREED ORDER | __AMENDED ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __SHUTDOWN ORDER | __FINDINGS DEFAULT ORDER | __EMERGENCY ORDER | |

**CASE TYPE:**

| | | | |
|---|---|---|---|
| __AGRICULTURE | _X_AIR | __INDUSTRIAL AND HAZARDOUS WASTE | __MUNICIPAL SOLID WASTE |
| __OCCUPATIONAL CERTIFICATION | __PETROLEUM STORAGE TANKS | __PUBLIC WATER SUPPLY | __RADIOACTIVE WASTE |
| __MULTI-MEDIA (check all that apply) | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL | __USED OIL |
| __USED OIL FILTER | __WATERQUALITY | | |

**SITE WHERE VIOLATION(S) OCCURRED:** Blastmasters, 241 Cargill Road, Gregg County

**TYPE OF OPERATION:** Sandblasting and painting operation

**SMALL BUSINESS:** _X_Yes ___No

**OTHER SIGNIFICANT MATTERS:** Complaints were received on March 13, 2006, September 28, 2006, and October 4, 2006, alleging that the overspray was getting onto their property and vehicles. There is no record of additional pending enforcement actions regarding this facility location.

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on April 2, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None
**TCEQ Enforcement Coordinator:** Mr. Daniel Siringi, Enforcement Division, Enforcement Section III, MC R-10, (409) 899-8799; Mr. Steven Lopez, Enforcement Division, Enforcement Section I, (512) 239-1896
**Respondent:** Mr. Bobby Sonny Johnson, Owner, Blastmasters, PO Box 1940, Kilgore, Texas 75663
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**RESPONDENT'S NAME:** Bobby Sonny Johnson
**DOCKET NO.:** 2006-1971-AIR-E

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:** _X_Complaint ___Routine ___Enforcement Follow-up ___Records Review<br><br>**Date of Complaints Relating to this Case:** March 13, 2006, September 28, 2006, and October 4, 2006<br><br>**Date of Investigation Relating to this Case:** October 5, 2006<br><br>**Date of NOE Relating to this Case:** November 9, 2006 (NOE)<br><br>**Background Facts:** This was a complaint investigation for compliance with the air program. Two significant program violations were observed.<br><br>**AIR**<br><br>1) Failure to obtain a permit or meet the conditions of a Permit-by-Rule ("PBR") prior to construction and operation of an abrasive cleaning operation [30 TEX. ADMIN. CODE §§ 106.452(2)(D), 116.110(a)(4) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].<br><br>2) Failure to obtain a permit or meet the conditions of a PBR prior to construction and operation of an unenclosed surface coating operation [30 TEX. ADMIN. CODE §§ 106.433(9) and 116.110(a)(4), and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)]. | **Total assessed:** $4,200<br><br>**Total Deferred:** $840<br>__Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid (Due) to General Revenue:** $360 (remaining $3,000 due in Six monthly payments of $500 each)<br><br>**Site Compliance History Classification:** __High _X_Average __Poor<br><br>**Person Compliance History Classification:** __High _X_Average __Poor<br><br>**Major Source:** __Yes _X_No<br><br>**Applicable Penalty Policy:** September 2002 | **Ordering Provisions**<br><br>The Order will require the Respondent to:<br><br>a) Within 30 days after the effective of this Agreed Order, submit an administratively complete permit application or Form PI-7 for the abrasive cleaning and surface coating operations;<br><br>b) Respond completely and adequately, as determined by the TCEQ, to all requests for information regarding the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and<br><br>c) Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that the operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance. |

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision February 15, 2005*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 12-Nov-2006 | | | | |
| PCW | 27-Nov-2006 | Screening | 14-Nov-2006 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Bobby Sonny Johnson dba Blastmasters | | |
| Reg. Ent. Ref. No. | RN104916424 | | |
| Facility/Site Region | 5-Tyler | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 31739 | No. of Violations | 2 |
| Docket No. | 2006-1971-AIR-E | Order Type | 1660 |
| Media Program(s) | Air Quality | Enf. Coordinator | Daniel Siringi |
| Multi-Media | | EC's Team | EnforcementTeam 6 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1* $4,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** — 5% Enhancement — *Subtotals 2, 3, & 7* $200

Notes: The Respondent received a penalty enhancement due to one NOV for the same violation in the past five years.

**Culpability** — No — 0% Enhancement — *Subtotal 4* $0

Notes: Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** — 0% Reduction — *Subtotal 5* $0

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

Notes: Respondent is not yet in compliance.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $79 |
| Approx. Cost of Compliance | $3,200 |

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $4,200

**OTHER FACTORS AS JUSTICE MAY REQUIRE** — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

*Final Penalty Amount* $4,200

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $4,200

**DEFERRAL** — 20% Reduction — *Adjustment* -$840

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** $3,360

| | | | |
|---|---|---|---|
| **Screening Date** | 14-Nov-2006 | **Docket No.** 2006-1971-AIR-E | **PCW** |
| **Respondent** | Bobby Sonny Johnson dba Blastmasters | | *Policy Revision 2 (September 2002)* |
| **Case ID No.** | 31739 | | *PCW Revision February 15, 2005* |
| **Reg. Ent. Reference No.** | RN104916424 | | |
| **Media [Statute]** | Air Quality | | |
| **Enf. Coordinator** | Daniel Siringi | | |

## Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|---|---|---|---|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (*number of counts*) | 0 | 0% |
| Emissions | Chronic excessive emissions events (*number of events*) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*) | 0 | 0% |

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

***Adjustment Percentage (Subtotal 2)*** 5%

>> Repeat Violator (Subtotal 3)

No

***Adjustment Percentage (Subtotal 3)*** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

***Adjustment Percentage (Subtotal 7)*** 0%

>> Compliance History Summary

**Compliance History Notes**

The Respondent received a penalty enhancement due to one NOV for the same violation in the past five years.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 5%

| | | | |
|---|---|---|---|
| **Screening Date** | 14-Nov-2006 | **Docket No.** 2006-1971-AIR-E | **PCW** |
| **Respondent** | Bobby Sonny Johnson dba Blastmasters | | *Policy Revision 2 (September 2002)* |
| **Case ID No.** | 31739 | | *PCW Revision February 15, 2005* |
| **Reg. Ent. Reference No.** | RN104916424 | | |
| **Media [Statute]** | Air Quality | | |
| **Enf. Coordinator** | Daniel Siringi | | |

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 106.452(2)(D), 116.110(a)(4), and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

**Violation Description** Failed to obtain a permit or meet the conditions of a Permit-by-Rule ("PBR") prior to construction and operation of an abrasive cleaning operation.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 10%

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

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events 2

40 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $2,000

Two monthly events are recommended from the October 5, 2006 investigation through the November 14, 2006 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $79

## Statutory Limit Test

**Violation Final Penalty Total** $2,100

**This violation Final Assessed Penalty (adjusted for limits)** $2,100

# Economic Benefit Worksheet

**Respondent** Bobby Sonny Johnson dba Blastmasters
**Case ID No.** 31739
**Reg. Ent. Reference No.** RN104916424
**Media** Air Quality
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| Item Description | No commas or $ | | | | | | |
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | $3,200 | 5-Oct-2006 | 3-Apr-2007 | 0.5 | $79 | n/a | $79 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

**Notes for DELAYED costs**: Cost is estimated based on administrative costs and labor associated with a permit application. Date required is the date of investigation and the final date is the date compliance is expected to be achieved.

| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|---|---|---|---|---|---|---|---|
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| | | | | 0.0 | $0 | $0 | $0 |

**Notes for AVOIDED costs**:

**Approx. Cost of Compliance** $3,200

**TOTAL** $79

**Screening Date** 14-Nov-2006 **Docket No.** 2006-1971-AIR-E **PCW**

**Respondent** Bobby Sonny Johnson dba Blastmasters *Policy Revision 2 (September 2002)*

**Case ID No.** 31739 *PCW Revision February 15, 2005*

**Reg. Ent. Reference No.** RN104916424

**Media [Statute]** Air Quality

**Enf. Coordinator** Daniel Siringi

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 106.433(9), 116.110(a)(4), Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

**Violation Description** Failed to obtain a permit or meet the conditions of a PBR prior to construction and operation of an unenclosed surface coating operation.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 10%

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

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events 2 | 40 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $2,000

Two monthly events are recommended from the October 5, 2006 investigation through the November 14, 2006 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $0

## Statutory Limit Test

**Violation Final Penalty Total** $2,100

**This violation Final Assessed Penalty (adjusted for limits)** $2,100

# Economic Benefit Worksheet

**Respondent** Bobby Sonny Johnson dba Blastmasters
**Case ID No.** 31739
**Reg. Ent. Reference No.** RN104916424
**Media** Air Quality
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| Item Description | No commas or $ | | | | | | |
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |
| Notes for DELAYED costs | The economic benefit for this violation is included in that for No. 1. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |
| Approx. Cost of Compliance | $0 | | | | TOTAL | | $0 |

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN602999617 | JOHNSON, BOBBY SONNY | Classification: AVERAGE | Rating: 6.00 |
| Regulated Entity: | RN104916424 | BLASTMASTERS | Classification: AVERAGE | Site Rating: 6.00 |

| | | | |
|---|---|---|---|
| ID Number(s): | AIR NEW SOURCE PERMITS | REGISTRATION | 80293 |
| Location: | 241 CARGILL RD, KILGORE, TX, 75662 | Rating Date: September 01 06 | Repeat Violator: NO |
| TCEQ Region: | REGION 05 - TYLER | | |
| Date Compliance History Prepared: | November 13, 2006 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | November 13, 2001 to November 13, 2006 | | |

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

Name: Daniel Siringi Phone: (409) 899-8799

### Site Compliance History Components

| | |
|---|---|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. if Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

**Components (Multimedia) for the Site :**

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

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

Date: 04/11/2006 (461954)

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 106, SubChapter T 106.452(2)(D)
30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain the proper permit prior to operating their dry abrasive cleaning operation.

Self Report? NO Classification: Moderate

Citation:
30 TAC Chapter 106, SubChapter S 106.433(9)
30 TAC Chapter 116, SubChapter B 116.110(a)(4)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain the proper permit prior to operating their unenclosed surface coating operation.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **BOBBY SONNY JOHNSON DBA** | § | |
| **BLASTMASTERS** | § | **ENVIRONMENTAL QUALITY** |
| **RN104916424** | | |

**AGREED ORDER**
**DOCKET NO. 2006-1971-AIR-E**

## I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bobby Sonny Johnson dba Blastmasters ("Mr. Johnson") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Johnson appear before the Commission and together stipulate that:

1. Mr. Johnson owns and operates a sandblasting and painting operation at 241 Cargill Road in Gregg County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Mr. Johnson agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Johnson is subject to the Commission's jurisdiction.

4. Mr. Johnson received notice of the violations alleged in Section II ("Allegations") on or about November 14, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Johnson of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Two Hundred Dollars ($4,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Johnson has paid Three Hundred Sixty Dollars ($360) of the administrative penalty and Eight Hundred Forty Dollars ($840) is deferred contingent upon Mr. Johnson's timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Johnson fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Johnson to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Dollars ($3,000) of the administrative penalty shall be payable in Six (6) monthly payments of Five Hundred Dollars ($500) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Johnson fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Johnson to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Johnson to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Mr. Johnson have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

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

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, Mr. Johnson is alleged to have:

1. Failed to obtain a permit or meet the conditions of a Permit-by-Rule ("PBR") prior to construction and operation of an abrasive cleaning operation, in violation of 30 TEX. ADMIN. CODE §§ 106.452(2)(D), 116.110(a)(4), and TEXAS HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on October 5, 2006.

2. Failed to obtain a permit or meet the conditions of a PBR prior to construction and operation of an unenclosed surface coating operation, in violation of 30 TEX. ADMIN. CODE §§ 106.433(9), 116.110(a)(4), and TEXAS HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on October 5, 2006.

## III. DENIALS

Mr. Johnson generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Johnson pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Johnson's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bobby Sonny Johnson dba Blastmasters, Docket No. 2006-1971-AIR-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. It is further ordered that Mr. Johnson shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application or Form PI-7 for the abrasive cleaning and surface coating operations, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

      Air Permits Division, MC 162
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

   b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and

   c. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that the operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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."

      The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Quality Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Johnson. Mr. Johnson is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

4. If Mr. Johnson fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Johnson's failure to comply is not a violation of this Agreed Order. Mr. Johnson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Johnson shall notify the Executive Director within seven days after Mr. Johnson becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Johnson shall be made in writing to the Executive Director. Extensions are not effective until Mr. Johnson receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Johnson in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Johnson, or three days after the date on which the Commission mails notice of the Order to Mr. Johnson, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/7/07
For the Executive Director Date

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

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

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

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

_____ 1-27-09
Signature Date

Bobby Ray Johnson _____ owner
Name (Printed or typed) Title
Authorized Representative of
Bobby Sonny Johnson dba Blastmasters

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