

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0922-AIR-E **TCEQ ID:** RN104916457 **CASE NO.:** 33787  
**RESPONDENT NAME:** Destructors, Inc.

|   |   |  |
|---|---|--|
| <b>ORDER TYPE:</b>  |   |  |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER   | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER   | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER  | <input type="checkbox"/> EMERGENCY ORDER                    |  |
| <b>CASE TYPE:</b>   |   |  |
| <input checked="" type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY  | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input type="checkbox"/> WATER QUALITY  | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE  | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Rock Crusher DES1, 1115 Conveyor Lane, Dallas, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Rock crusher</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received March 1, 2007 for dust nuisance conditions. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 29, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Paul Baker, Registered Agent, Destructors, Inc., P.O. Box 296, Sulphur Springs, Texas 75483<br/> Mr. Lee Souder, President, Destructors, Inc., P.O. Box 296, Sulphur Springs, Texas 75483<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
|---|---|---|
| <p><b>Type of Investigations:</b><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input checked="" type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> March 1, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> March 20 and April 25, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 24, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a follow-up investigation. Initially, the City of Dallas Local Program conducted a complaint investigation on March 5, 2007, but documented no dust nuisance conditions at the site. However, an NOV was issued to the Respondent because the stockpile height exceeded the permit limit, and the Respondent was given until April 22, 2007 to correct the situation. A follow-up investigation on April 25, 2007 revealed that the situation had not been corrected, and a notice of enforcement was issued on May 24, 2007. One violation was documented.</p> <p><b>AIR</b></p> <p>Failed to comply with permitted maximum stockpile heights. Specifically, the permit limits materials stockpile heights to 20 feet, but the average heights of these piles were documented at 28 feet [New Source Review ("NSR") Permit No. 78322L001, Special Condition 6.G., 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> | <p><b>Total Assessed:</b> \$950</p> <p><b>Total Deferred:</b> \$190<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$760</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent, on May 31, 2007, received authorization to alter NSR Permit No. 78322L001 in order to permit stockpiles of up to 40 feet in height.</p> |

Additional ID No(s): Permit No. 78322L001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

**TCEQ**

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 29-May-2007 | <b>Screening</b> | 12-Jun-2007 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 28-Jun-2007 |                  |             |                |  |

|  |                     |                           |       |
|--|---------------------|---------------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                     |                           |       |
| <b>Respondent</b>                      | Destructors, Inc.   |                           |       |
| <b>Reg. Ent. Ref. No.</b>              | RN104916457         |                           |       |
| <b>Facility/Site Region</b>            | 4-Dallas/Fort Worth | <b>Major/Minor Source</b> | Minor |

|                          |                      |                          |                   |
|--------------------------|----------------------|--------------------------|-------------------|
| <b>CASE INFORMATION</b>  |                      |                          |                   |
| <b>Enf./Case ID No.</b>  | 33787                | <b>No. of Violations</b> | 1                 |
| <b>Docket No.</b>        | 2007-0922-AIR-E      | <b>Order Type</b>        | 1660              |
| <b>Media Program(s)</b>  | Air                  | <b>Enf. Coordinator</b>  | Terry Murphy      |
| <b>Multi-Media</b>       |                      | <b>EC's Team</b>         | EnforcementTeam 4 |
| <b>Admin. Penalty \$</b> | <b>Limit Minimum</b> | \$0                      | <b>Maximum</b>    |
|                          |                      |                          | \$10,000          |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

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

**Notes**

**Approx. Cost of Compliance** **Subtotal 6**

|                            |         |
|----------------------------|---------|
| Total EB Amounts           | \$20    |
| Approx. Cost of Compliance | \$2,000 |

0% Enhancement\*  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

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

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 12-Jun-2007

Docket No. 2007-0922-AIR-E

PCW

Respondent Destructors, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33787

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN104916457

Media [Statute] Air

Enf. Coordinator Terry Murphy

### 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 ( <i>number of NOVs meeting criteria</i> )   | 1                 | 5%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 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 ( <i>number of judgments or consent decrees meeting criteria</i> )                               | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| 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 penalty was enhanced by one same or similar NOV.

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

**Screening Date** 12-Jun-2007 **Docket No.** 2007-0922-AIR-E **PCW**

**Respondent** Destructors, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 33787 *PCW Revision May 25, 2007*

**Reg. Ent. Reference No.** RN104916457

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 1

**Rule Cite(s)** New Source Review Permit No. 78322L001, Special Condition 6.G., 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to comply with the permitted maximum stockpile heights, as documented during investigations conducted March 20, 2007 and April 25, 2007. Specifically, the permit limits materials stockpile heights to 20 feet, but the average heights of these piles were documented at 28 feet.

**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 5%      |
| Potential |       |          | x     |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

**Matrix Notes** Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations.

**Adjustment** \$9,500

\$500

Violation Events

Number of Violation Events 2 72 Number of violation days

|                                |              |   |
|--------------------------------|--------------|---|
| <i>mark only one with an x</i> | daily        |   |
|                                | monthly      |   |
|                                | quarterly    |   |
|                                | semiannual   |   |
|                                | annual       |   |
|                                | single event | x |

**Violation Base Penalty** \$1,000

Two single events are recommended.

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$20 **Violation Final Penalty Total** \$950

**This violation Final Assessed Penalty (adjusted for limits)** \$950

## Economic Benefit Worksheet

**Respondent** Destructors, Inc.  
**Case ID No.** 33787  
**Reg. Ent. Reference No.** RN104916457  
**Media** Air  
**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost<br><small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|

**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             | \$2,000 | 20-Mar-2007 | 31-May-2007 | 0.2 | \$20 | n/a | \$20 |
| Other (as needed)        |         |             |             | 0.0 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Estimated costs to alter the permit. The Date Required is the date of the first documented violation, and the Final Date is the date the alteration was authorized.

**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 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$20

# Compliance History

|   |   |                   |                                    |                   |
|---|---|-------------------|------------------------------------|-------------------|
| Customer/Respondent/Owner-Operator:           | CN602838294                               | Destructors, Inc. | Classification: AVERAGE            | Rating: 3.01      |
| Regulated Entity:                             | RN104916457                               | ROCK CRUSHER DES1 | Classification: AVERAGE BY DEFAULT | Site Rating: 3.01 |
| ID Number(s):                                 | AIR NEW SOURCE PERMITS                    | PERMIT            |                                    | 78322L002         |
|   | AIR NEW SOURCE PERMITS                    | PERMIT            |                                    | 78322L001         |
| Location:                                     | 1115 Conveyor Lane, Dallas, Dallas County |                   |                                    |                   |
| TCEQ Region:                                  | REGION 04 - DFW METROPLEX                 |                   |                                    |                   |
| Date Compliance History Prepared:             | June 15, 2007                             |                   |                                    |                   |
| Agency Decision Requiring Compliance History: | Enforcement                               |                   |                                    |                   |
| Compliance Period:                            | June 15, 2002 to June 15, 2007            |                   |                                    |                   |

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

Name: Terry Murphy Phone: (512) 239-5025

### 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.)
    - 1 10/24/2006 (515832)
    - 2 05/23/2007 (561509)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
    - Date: 03/22/2007 (554443)
    - Self Report? NO Classification: Moderate
    - Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)
    - Rqmt Prov: PERMIT Special Condition 6G
    - Description: 30 TAC 116.115(c)-Failure to comply with all of the Special Conditions contained in the permit document.
  - 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

# Introduction

The purpose of this document is to provide a comprehensive overview of the project's objectives, scope, and the methodology used to achieve the desired outcomes.

The project was initiated in response to the need for a more efficient and cost-effective solution to the existing problem. The primary goal is to develop a system that can handle the increasing volume of data and provide accurate results within a specified timeframe.

The scope of the project includes the design, development, testing, and deployment of the system. It also encompasses the documentation of the process and the results of the project.

The methodology used in this project is a combination of agile development and traditional waterfall models. This approach allows for flexibility in the development process while ensuring that the project remains on track and within budget.

The project is organized into several phases, each with its own set of tasks and deliverables. The phases are: Requirements Gathering, System Design, Development, Testing, and Deployment.

## Project Objectives

The main objective of the project is to create a system that can process and analyze large amounts of data efficiently. The system should be able to handle data from various sources and provide accurate results in a timely manner.

Other objectives include ensuring the system is secure, scalable, and easy to use. The system should also be able to integrate with existing systems and provide a user-friendly interface.

The project is expected to be completed within a budget of \$100,000 and a timeline of 12 months. The project team consists of a project manager, a system analyst, a developer, and a tester.

The project is currently in the Requirements Gathering phase. The next phase is System Design, which will involve creating a detailed architecture for the system.

The project is expected to be completed by the end of the year. The project team is committed to delivering a high-quality system that meets the needs of the organization.

The project is a critical part of the organization's strategy to improve its data processing capabilities. The system will be used to analyze data from various sources and provide insights into the organization's performance.

The project is expected to result in a significant increase in the organization's efficiency and productivity. The system will be able to handle a much larger volume of data than the current system.

The project is a key initiative for the organization and is expected to have a major impact on its operations. The system will be a valuable tool for the organization's data analysts.

The project is a complex task that requires a high level of expertise and coordination. The project team is well-equipped to handle the challenges of the project.

The project is a high-priority initiative for the organization and is expected to be completed on time and within budget. The project team is confident in their ability to deliver a high-quality system.

The project is a key part of the organization's strategy to improve its data processing capabilities. The system will be used to analyze data from various sources and provide insights into the organization's performance.

The project is expected to result in a significant increase in the organization's efficiency and productivity. The system will be able to handle a much larger volume of data than the current system.

The project is a complex task that requires a high level of expertise and coordination. The project team is well-equipped to handle the challenges of the project.

The project is a high-priority initiative for the organization and is expected to be completed on time and within budget. The project team is confident in their ability to deliver a high-quality system.

The project is a key part of the organization's strategy to improve its data processing capabilities. The system will be used to analyze data from various sources and provide insights into the organization's performance.



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DESTRUCTORS, INC.  
RN104916457

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-0922-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 Destructors, Inc. ("Destructors") 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 Destructors appear before the Commission and together stipulate that:

1. Destructors owns and operates a rock crusher at 1115 Conveyor Lane in Dallas, Dallas 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 Destructors agree that the Commission has jurisdiction to enter this Agreed Order, and that Destructors is subject to the Commission's jurisdiction.
4. Destructors received notice of the violations alleged in Section II ("Allegations") on or about May 29, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Destructors of any violation alleged in the Allegations, nor of any statute or rule.
6. An administrative penalty in the amount of Nine Hundred Fifty Dollars (\$950) is assessed by the Commission in settlement of the violations alleged in the Allegations. Destructors has paid Seven Hundred Sixty Dollars (\$760) of the administrative penalty and One Hundred Ninety Dollars (\$190) is deferred contingent upon Destructors' timely and satisfactory compliance with



all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Destructors fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Destructors to pay all or part of the deferred penalty.

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 Destructors have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Destructors, on May 31, 2007, received authorization to alter New Source Review Permit No. 78322L001 in order to permit stockpiles of up to 40 feet in height.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Destructors has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, Destructors is alleged to have failed to comply with permitted maximum stockpile heights, in violation of New Source Review Permit No. 78322L001, Special Condition 6.G., 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during investigations conducted March 20, 2007 and April 25, 2007. Specifically, the permit limits materials stockpile heights to 20 feet, but the average heights of these piles were documented at 28 feet.

## **III. DENIALS**

Destructors generally denies each allegation in the Allegations.

## **IV. ORDERING PROVISIONS**



1. It is, therefore, ordered by the TCEQ that Destructors pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Destructors' 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: Destructors, Inc., Docket No. 2007-0922-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. The provisions of this Agreed Order shall apply to and be binding upon Destructors. Destructors 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Destructors 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Destructors, or three days after the date on which the Commission mails notice of the Order to Destructors, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

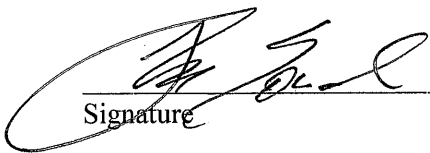
\_\_\_\_\_  
Date 11/13/2007

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 8/16/07

\_\_\_\_\_  
LEE SANDER  
Name (Printed or typed)  
Authorized Representative of  
Destructors, Inc.

\_\_\_\_\_  
PRESIDENT  
Title

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

