

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1054-AIR-E **TCEQ ID:** RN104916424 **CASE NO.:** 31739

**RESPONDENT NAME:** Bobby Johnson dba Blastmasters

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> Blastmasters, 241 Cargill Road, Kilgore, Gregg County</p> <p><b>TYPE OF OPERATION:</b> Painting and sand blasting plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 18, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2134;                  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Bobby Johnson, Owner, Blastmasters, 241 Cargill Road, Kilgore, Texas 75662  <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 Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 28, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 14, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to obtain air permit authorization. Specifically, the Respondent did not obtain an air permit authorization by December 26, 2007, which was 180 days after the effective date of the order adopted on June 29, 2007 [30 TEX. ADMIN. CODE § 116.110(a), Agreed Order No. 2006-1971-AIR-E, Ordering Provision No. 2.c., and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p><b>Total Assessed:</b> \$16,200</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is able to pay the full assessed penalty.</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$450 (remaining \$15,750 due in 35 monthly payments of \$450 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>Findings Orders Justification:</b> This case is a Findings Order because the Respondent exhibited an indifference to legal duty.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on September 12, 2008, the Respondent permanently ceased painting and sand blasting operations at 241-Cargill Road in Kilgore.</p>

Additional ID No(s): 80293



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

DATES	Assigned	17-Jun-2008	Screening	28-Jun-2008	EPA Due	
	PCW	2-Sep-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Bobby 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	1
Docket No.	2008-1054-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
Admin. Penalty \$	Limit Minimum \$0	EC's Team	Enforcement Team 3
	Maximum \$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 Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

Total EB Amounts	\$411
Approx. Cost of Compliance	\$3,000

\*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.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 28-Jun-2008

**Docket No.** 2008-1054-AIR-E

**PCW**

**Respondent** Bobby Johnson dba Blastmasters

Policy Revision 2 (September 2002)

**Case ID No.** 31739

PCW Revision June 12, 2008

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

**Media [Statute]** Air

**Enf. Coordinator** Suzanne Walrath

### 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>	1	20%
	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)** 25%

>> Repeat Violator (Subtotal 3)

No

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

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

**Adjustment Percentage (Subtotal 7)** 10%

>> Compliance History Summary

**Compliance History Notes**

The Respondent has received one Notice of Violation for the same violation, and has been issued one Agreed Order containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 35%

<b>Screening Date</b> 28-Jun-2008	<b>Docket No.</b> 2008-1054-AIR-E	<b>PCW</b>			
<b>Respondent</b> Bobby Johnson dba Blastmasters	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 31739	<i>PCW Revision June 12, 2008</i>				
<b>Reg. Ent. Reference No.</b> RN104916424					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> Suzanne Walrath					
<b>Violation Number</b> <input type="text" value="1"/>					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 116.110(a), Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b), and Agreed Order No. 2006-1971-AIR-E, Ordering Provision 2.c."/>				
<b>Violation Description</b>	<input type="text" value="Failed to comply with Ordering Provision No. 2.c. of Agreed Order, Docket No. 2006-1971-AIR-E. Specifically, the Respondent did not obtain an air permit authorization by December 26, 2007, which was 180 days after the effective date of the order adopted on June 29, 2007."/>				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="10%"/>
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>				
<b>Adjustment</b>				<input type="text" value="\$9,000"/>	
<input type="text" value="\$1,000"/>					
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	<input type="text" value="12"/>	<input type="text" value="365"/>	<b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>			<b>Violation Base Penalty</b> <input type="text" value="\$12,000"/>
	monthly	<input type="text" value="x"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
<input type="text" value="Twelve monthly events are recommended, from the effective date of the agreed order (June 29, 2007), to the case screening date (June 28, 2008)."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	x		(mark with x)		
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
<b>Violation Subtotal</b>				<input type="text" value="\$12,000"/>	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$411"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$16,200"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$16,200"/>		

## Economic Benefit Worksheet

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

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$3,000	5-Oct-2006	1-Jul-2009	2.74	\$411	n/a	\$411
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

These are estimated costs for obtaining an air permit beginning on the date of the investigation of the prior case, and ending on the projected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$411

# Compliance History

Customer/Respondent/Owner-Operator: CN602999617 JOHNSON, BOBBY Classification: POOR Rating: 96.00  
Regulated Entity: RN104916424 BLASTMASTERS Classification: POOR Site Rating: 96.00  
ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 80293  
Location: 241 CARGILL RD, KILGORE, TX, 75662 Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 05 - TYLER  
Date Compliance History Prepared: June 28, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 28, 2003 to June 28, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Suzanne Walrath Phone: 512/239-2134

## 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.

Effective Date: 06/29/2007 ADMINORDER 2006-1971-AIR-E  
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 D 382.085(b)  
Description: Failure to obtain a permit prior to construction and operation of a dry abrasive cleaning operation.

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 D 382.085(b)  
Description: Failure to obtain a permit prior to construction and operation of an unenclosed surface coating operation.

- 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 06/13/2008 (683000)

- 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  
ENFORCEMENT ACTION  
CONCERNING  
BOBBY JOHNSON DBA  
BLASTMASTERS  
RN104916424

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER  
DOCKET NO. 2008-1054-AIR-E**

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 Johnson dba Blastmasters ("the Respondent") 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 the Respondent, presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent formerly owned and operated a painting and sand blasting plant at 241 Cargill Road in Kilgore, 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. During an investigation on May 28, 2008, TCEQ staff documented that the Respondent did not obtain an air permit authorization by December 26, 2007, which was 180 days after the effective date of the order adopted on June 29, 2007 (Docket No. 2006-1971-AIR-E).
4. The Respondent received notice of the violations on June 19, 2008.
5. The Executive Director recognizes that on September 12, 2008, the Respondent permanently ceased painting and sand blasting operations at 241 Cargill Road in Kilgore.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to obtain air permit authorization, in violation of 30 TEX. ADMIN. CODE § 116.110(a), Agreed Order No. 2006-1971-AIR-E, Ordering Provision No. 2.c., and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Sixteen Thousand Two Hundred Dollars (\$16,200) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Four Hundred Fifty Dollars (\$450) of the administrative penalty. The remaining amount of Fifteen Thousand Seven Hundred Fifty Dollars (\$15,750) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Fifty Dollars (\$450) 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 the Respondent 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Sixteen Thousand Two Hundred Dollars (\$16,200) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bobby Johnson dba Blastmasters, Docket No. 2008-1054-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

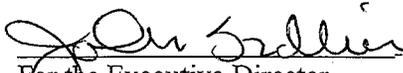
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 4/17/2009

I, the undersigned, have read and understand the attached Agreed Order in the matter of Bobby Johnson dba Blastmasters. I am authorized to agree to the attached Agreed Order on behalf of Bobby Johnson dba Blastmasters, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Bobby Johnson dba Blastmasters waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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 3-17-09

Bobby Johnson  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Bobby Johnson dba Blastmasters

\_\_\_\_\_  
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.

