

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1140-AIR-E TCEQ ID: RN105758478 CASE NO.: 38160

RESPONDENT NAME: Strike Construction, LLC

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Strike Construction Baytown, 10919 Interstate Highway 10 East, Baytown, Chambers County</p> <p>TYPE OF OPERATION: Pipeline construction site</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on June 12, 2009, alleging dust nuisance conditions. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Stephen V. Pate, Chief Executive Officer, Strike Construction, LLC, 831 Crossbridge Drive, Spring, Texas 77373-3501 Respondent's Attorney: Magnus Rayos, Corporate Counsel, 831 Crossbridge Drive, Spring, Texas 77373-3501</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: June 12, 2009</p> <p>Date of Investigation Relating to this Case: June 24, 2009</p> <p>Date of NOE Relating to this Case: July 8, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failure to obtain permit authorization. Specifically, the Respondent was conducting outdoor abrasive blasting without authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p> <p>2) Failure to prevent nuisance dust conditions. Specifically, during an investigation on June 24, 2009, it was documented that dust emissions from sandblasting operations and truck traffic on the unpaved roads at the Site were impacting the neighborhood to the north [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].</p>	<p>Total Assessed: \$1,750</p> <p>Total Deferred: \$350 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,400</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that by June 25, 2009, the Respondent has implemented the following corrective measures at the Site:</p> <p>a) Terminated all sandblasting operations until authorization can be obtained; and</p> <p>b) Constructed a water boom and has implemented watering of the unpaved roadways to minimize dust conditions.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application or demonstrate that the Site can satisfy the conditions for a Permit by Rule;</p> <p>b) If a permit application is submitted, then 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</p> <p>c) Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate the Site's sandblasting operations has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained.</p>

Additional ID No(s): None



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	13-Jul-2009	Screening	24-Jul-2009	EPA Due	
	PCW	10-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Strike Construction, LLC		
Reg. Ent. Ref. No.	RN105758478		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38160	No. of Violations	2
Docket No.	2009-1140-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Terry Murphy
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7 \$0
Notes	No adjustment for compliance history.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
<small>Total EB Amounts \$25 Approx. Cost of Compliance \$2,250</small>	<small>*Capped at the Total EB \$ Amount</small>	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,750
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes		
	Final Penalty Amount	\$1,750
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,750
DEFERRAL	20.0% Reduction	Adjustment -\$350
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$1,400

Screening Date: 24-Jul-2009

Docket No.: 2009-1140-AIR-E

PGW

Respondent: Strike Construction, LLC

Policy Revision 2 (September 2002)

Case ID No.: 38160

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN105758478

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 (number of NOVs meeting criteria)	0	0%
	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) 0%

>> 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

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 24-Jul-2009 **Docket No.** 2009-1140-AIR-E **PCW**
Respondent Strike Construction, LLC *Policy Revision 2 (September 2002)*
Case ID No. 38160 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105758478
Media [Statute] Air
Enf. Coordinator Terry Murphy

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)
Violation Description Failed to obtain permit authorization. Specifically, the Respondent was conducting outdoor abrasive blasting without authorization.
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				<input type="text" value="0%"/>
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			<input type="text" value="10%"/>

Matrix Notes Failed to meet 100% of the rule requirement.
Adjustment

Violation Events

Number of Violation Events **Number of violation days**
mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty
 One quarterly event is recommended from the date of the investigation conducted on June 24, 2009 to the date of screening, July 24, 2009.

Good Faith Efforts to Comply

	Before NOV	NOV to EDFRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.
Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Strike Construction, LLC
Case ID No: 38160
Reg. Ent. Reference No: RN105758478
Media: Air
Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$750	24-Jun-2009	24-Feb-2010	0.67	\$25	n/a	\$25
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to obtain a permit to conduct sandblasting operations. The date required is the date of the investigation. The final date is the date of the expected 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

\$750

TOTAL

\$25

Screening Date: 24-Jul-2009	Docket No.: 2009-1140-AIR-E	PCW
Respondent: Strike Construction, LLC	Policy Revision 2 (September 2002)	
Case ID No.: 38160	PCW Revision October 30, 2008	
Reg. Ent. Reference No.: RN105758478		
Media [Statute]: Air		
Enf. Coordinator: Terry Murphy		
Violation Number: 2		
Rule Cite(s):	30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.065(a) and (b)	
Violation Description:	Failed to prevent nuisance dust conditions. Specifically, during the investigation on June 24, 2009, it was documented that dust emissions from sandblasting operations and truck traffic on the unpaved roads at the Site were impacting the neighborhood to the north.	
Base Penalty:	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				x
	Potential			10%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: Number of violation days:

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty: \$1,000

One single event is recommended based on the investigation date of June 24, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes: The Respondent achieved compliance on June 25, 2009 and the NOE is dated July 8, 2009.

Violation Subtotal: \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$0

Violation Final Penalty Total: \$750

This violation Final Assessed Penalty (adjusted for limits): \$750

Economic Benefit Worksheet

Respondent Strike Construction, LLC
Case ID No. 38160
Reg. Ent. Reference No. RN105758478
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,500	24-Jun-2009	25-Jun-2009	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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Cost to construct and operate a water boom to minimize dust conditions onsite. Date required is the date of the investigation. Final date is the 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

\$1,500

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603441494 Strike Construction, LLC Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105758478 STRIKE CONSTRUCTION BAYTOWN Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s):
Location: 10919 IH 10 E, BAYTOWN, TX 77523

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 17, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 24, 2004 to June 24, 2009

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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
STRIKE CONSTRUCTION, LLC
RN105758478

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1140-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 Strike Construction, LLC ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a pipeline construction site at 10919 IH-10 East in Baytown, Chambers County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 13, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Dollars (\$1,400) of the

administrative penalty and Three Hundred Fifty Dollars (\$350) is deferred contingent upon the Respondent's 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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 by June 25, 2009, the Respondent has implemented the following corrective measures at the Site:
 - a. Terminated all sandblasting operations until authorization can be obtained; and
 - b. Constructed a water boom and has implemented watering of the unpaved roadways to minimize dust conditions.
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 the Respondent 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 Site, the Respondent is alleged to have:

1. Failed to obtain permit authorization, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on June 24, 2009. Specifically, the Respondent was conducting outdoor abrasive blasting without authorization.
2. Failed to prevent nuisance dust conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation conducted on June 24, 2009. Specifically, during an investigation on June 24, 2009, it was documented that dust emissions from sandblasting operations and truck traffic on the unpaved roads at the Site were impacting the neighborhood to the north.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Strike Construction, LLC, Docket No. 2009-1140-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 the Respondent 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 demonstrate that the Site can satisfy the conditions for a Permit By Rule 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. If a permit application is submitted, then 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 the Site's sandblasting operations has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall 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 fines 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 Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

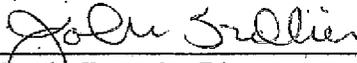
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of 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.
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 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.
6. 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

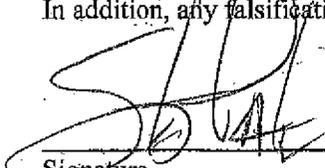
Date 1/8/2010

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 11/19/2009

Steve Pate
Name (Printed or typed)
Authorized Representative of
Strike Construction, LLC

Chief Executive Officer
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.