

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 37492
Bob King's Truck Beds, LLC d/b/a King's Truck Beds
RN104311055
Docket No. 2011-2252-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1667 East Highway 114, Boyd, Wise County

Type of Operation:

fabricated metals products plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: March 1, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$30,420

Total Paid to General Revenue: \$845

Total Due to General Revenue: \$29,575

Payment Plan: 35 payments of \$845 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Poor

Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September 20, 2011
Date(s) of NOV(s): September 26, 2007; December 4, 2010
Date(s) of NOE(s): October 12, 2011

Violation Information

1. Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations at the Plant [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 116.110(a), and Agreed Order Docket No. 2009-0562-AIR-E Ordering Provision Nos. 2.a., 2.b., and 2.c.].
2. Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations at the Plant [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 116.110(a), and Agreed Order Docket No. 2009-0562-AIR-E Ordering Provision Nos. 2.a., 2.b., and 2.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days, submit administratively complete permit applications or Form PI-7s requesting authorization to operate under Permits By Rule for dry abrasive blasting operations and surface coating operations; and
2. Within 180 days, submit written certification that either authorization to operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: May 25, 2012
Date Answer(s) Filed: N/A
Settlement Date: February 4, 2013

Contact Information

TCEQ Attorneys: Anna M. Treadwell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
James Murphy, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Rajesh Acharya, Enforcement Division, (512) 239-2545

TCEQ Regional Contact: Alyssa Taylor, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent Contact: Bob King, Bob King's Truck Beds, LLC, P.O. Box 125, Boyd, Texas 76023

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-Oct-2011	Screening	6-Dec-2011	EPA Due	
	PCW	6-Dec-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	Bob King's Truck Beds, LLC dba Kings Truck Beds					
Reg. Ent. Ref. No.	RN104311055					
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	37492	No. of Violations	2			
Docket No.	2011-2252-AIR-E	Order Type	Findings			
Media Program(s)	Air	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	James Nolan			
		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	\$18,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	69.0% Enhancement	Subtotals 2, 3, & 7	\$12,420
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Notes: Enhancement for two NOVs with the same violations, two NOVs with dissimilar violations, one agreed order with a denial of liability, repeat violator status, and poor performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$760
 Approx. Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$30,420
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$30,420
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$30,420
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$30,420
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Screening Date 6-Dec-2011

Docket No. 2011-2252-AIR-E

PCW

Respondent Bob King's Truck Beds, LLC dba Kings Truck Beds

Policy Revision 2 (September 2002)

Case ID No. 37492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104311055

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	2	4%
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 judgements 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) 34%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with the same violations, two NOVs with dissimilar violations, one agreed order with a denial of liability, repeat violator status, and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 69%

Screening Date 6-Dec-2011

Docket No. 2011-2252-AIR-E

PCW

Respondent Bob King's Truck Beds, LLC dba Kings Truck Beds

Policy Revision 2 (September 2002)

Case ID No. 37492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104311055

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) Agreed Order Docket No. 2009-0562-AIR-E Ordering Provision Nos. 2.a., 2.b., and 2.c., 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 9 Number of violation days 779

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

Violation Base Penalty \$9,000

Nine quarterly events are recommended from the effective date of the Agreed Order (October 18, 2009) through the screening date (December 6, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$760

Violation Final Penalty Total \$15,210

This violation Final Assessed Penalty (adjusted for limits) \$15,210

Economic Benefit Worksheet

Respondent Bob King's Truck Beds, LLC dba Kings Truck Beds
Case ID No. 37492
Reg. Ent. Reference No. RN104311055
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
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	\$5,000	18-Oct-2009	31-Oct-2012	3.04	\$760	n/a	\$760
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of obtaining permit authorization. The Date Required is effective date of the Agreed Order, and the Final Date is the estimated compliance date.

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

\$5,000

TOTAL

\$760

Screening Date 6-Dec-2011

Docket No. 2011-2252-AIR-E

PCW

Respondent Bob King's Truck Beds, LLC dba Kings Truck Beds

Policy Revision 2 (September 2002)

Case ID No. 37492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104311055

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s) Agreed Order Docket No. 2009-0562-AIR-E Ordering Provision Nos. 2.a., 2.b., and 2.c., 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 9 Number of violation days 779

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$9,000

Nine quarterly events are recommended from the effective date of the Agreed Order (October 18, 2009) through the screening date (December 6, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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 \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$15,210

This violation Final Assessed Penalty (adjusted for limits) \$15,210

Economic Benefit Worksheet

Respondent Bob King's Truck Beds, LLC dba Kings Truck Beds
Case ID No. 37492
Reg. Ent. Reference No. RN104311055
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

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

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN602660433 Bob King's Truck Beds, LLC Classification: POOR Rating: 106.63
Regulated Entity: RN104311055 KINGS TRUCK BEDS Classification: POOR Site Rating: 114.83
ID Number(s):
Location: 1667 E HIGHWAY 114, BOYD, TX, 76023
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 17, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 06, 2006 to December 06, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Miriam Hall Phone: (512) 239-1044

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: YES

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
Effective Date: 10/18/2009 ADMINORDER 2009-0562-AIR-E
Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations.
Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations
- 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 | 06/20/2007 | (564373) |
| 2 | 09/19/2007 | (571917) |
| 3 | 02/26/2009 | (736819) |
| 4 | 03/18/2009 | (736905) |
| 5 | 05/05/2010 | (782030) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 09/26/2007 (571917)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations
Date: 06/30/2008 (684709)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR050000 PERMIT
Description: Failure to obtain permit coverage prior to beginning industrial activity. TXR050000 Part II Section A(1)
Date: 01/12/2009 (653442)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.4
TWC Chapter 26 26.121
Description: Failure to prevent discharges of paint and sand-blasting media to surface soils a at the site.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)
Description: Failure to properly dispose of hazardous waste within generator time limits.

Date: 05/04/2010 (782030)

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations

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
BOB KING'S TRUCK BEDS, LLC
D/B/A KINGS TRUCK BEDS;
RN104311055**

§
§
§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-2252-AIR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Bob King's Truck Beds, LLC d/b/a Kings Truck Beds ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a fabricated metals products plant located at 1667 East Highway 114 in Boyd, Wise County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During a record review conducted on September 20, 2011, a TCEQ Central Office Staff documented that Respondent:
 - a. Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations at the Plant; and
 - b. Failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations at the Plant.
3. Respondent received notice of the violations on or about October 17, 2011.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting surface coating operations at the Plant, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 116.110(a), and Agreed Order Docket No. 2009-0562-AIR-E Ordering Provision Nos. 2.a., 2.b., and 2.c.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to obtain a permit or satisfy the conditions for a Permit by Rule before conducting dry abrasive cleaning operations at the Plant, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), 30 TEX. ADMIN. CODE § 116.110(a), and Agreed Order Docket No. 2009-0562-AIR-E Ordering Provision Nos. 2.a., 2.b., and 2.c.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of thirty thousand four hundred twenty dollars (\$30,420.00) 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. Respondent paid eight hundred forty-five dollars (\$845.00) of the administrative penalty. The remaining amount of twenty-nine thousand five hundred seventy-five dollars (\$29,575.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of eight hundred forty-five dollars (\$845.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Bob King's Truck Beds, LLC d/b/a Kings Truck Beds, Docket No. 2011-2252-AIR-E" to:

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

2. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Respondent shall submit an administratively complete permit application or Form PI-7s requesting authorization to operate under Permits By Rule for dry abrasive blasting operations 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. Respondent shall respond completely and adequately, as determined by the TCEO, to all requests for information concerning the permit application or registrations within 30 days after the date of such requests, or by any other deadline specified in writing.

- c. Within 180 days after the effective date of this Agreed Order, Respondent shall submit written certification that either authorization to operate a source of air emissions has been obtained or that operation has ceased until such time that appropriate authorization is obtained to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Alyssa Taylor, Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.

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

5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

C. D. Swamy
For the Executive Director

March 14, 2013
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Bob King's Truck Beds, LLC d/b/a King's Truck Beds, 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Bob King
Signature - Bob King, President
Bob King's Truck Beds, LLC d/b/a King's Truck Beds

2-4-13
Date