

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 37492
BOB KING'S TRUCK BEDS, LLC D/B/A KINGS TRUCK BEDS
RN104311055
Docket No. 2011-2252-AIR-E

Order Type:

Default Order

Findings Order Justification:

N/A

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: October 12, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$30,420

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$30,420

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; May 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 [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. Immediately, submit an administratively complete permit application or TCEQ Form PI-7 requesting authorization to operate the Plant under Permits By Rule for dry abrasive cleaning operations and surface coating operations.
2. Respond completely and adequately, as determined by the TCEQ, 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.
3. Within 180 days, submit written certification that either authorization to operate a source of air emissions at the Plant 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 Green Card(s) Signed: June 8, 2012
Date Answer(s) Filed: N/A

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 Enforcement Coordinator: James Nolan, Enforcement Division, (512) 239- 6634

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

Respondent: Bob King, President, 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	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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 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
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**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-2252-AIR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Bob King's Truck Beds, LLC d/b/a Kings Truck Beds ("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 an investigation conducted on September 20, 2011, a TCEQ Central Office investigator 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.
3. Respondent received notice of the violations on or about October 17, 2011.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bob King's Truck Beds, LLC d/b/a Kings Truck Beds" (the "EDPRP") in the TCEQ Chief Clerk's office on May 25, 2012.
5. By letter dated May 25, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on June 8, 2012, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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, 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. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. 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.
7. An administrative penalty in the amount of thirty thousand four hundred twenty dollars (\$30,420.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of thirty thousand four hundred twenty dollars (\$30,420.00) 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 Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out 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

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall submit an administratively complete permit application or TCEQ Form PI-7 requesting authorization to operate the Plant under Permits By Rule for dry abrasive cleaning 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 TCEQ, 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; and
 - c. Within 180 days after the effective date of this Order, Respondent shall submit written certification that either authorization to operate a source of air emissions at the Plant has been obtained or that operation has ceased until such time that appropriate authorization is obtained. 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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ANNA M. TREADWELL

STATE OF TEXAS

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§

COUNTY OF TRAVIS

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"My name is Anna M. Treadwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bob King's Truck Beds, LLC d/b/a Kings Truck Beds" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 25, 2012.

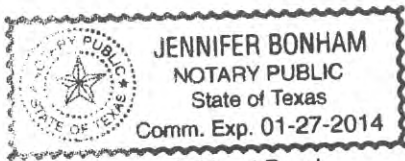
The EDPRP was mailed to Respondent's last known address on May 25, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on June 8, 2012, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

Anna M. Treadwell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Treadwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11 day of September, A.D. 2012.



Notary Without Bond

Notary Signature