

**NEW YORK STATE
BLASTER EXAMINING BOARD
FINDINGS and RECOMMENDATIONS**

TO: Commissioner of Labor, State of New York

FROM: Blaster Examining Board

RE: Administrative Hearing of December 21, 2011
Held in Albany, NY regarding the Denial of Application
for Reinstatement for a Blaster's Certificate of Competence for
Robert J. Shue, Jr.

DATE: **January 13, 2012**

I am writing you on behalf of the New York State Blaster Examining Board (The Board or Board) to apprise you of its findings and recommendations.

On Wednesday, December 21, 2011, the full Board met to participate in a scheduled hearing regarding The State of New York, Department of Labor's denial of application for the renewal of a New York State Blaster Certificate of Competence, Class B, No. 94-4412 (Certificate), to Mr. Robert J. Shue, Jr. (Mr. Shue)

After hearing the evidence and cross-examinations of both counsels, and having the opportunity to cross-examine all sworn witnesses, The Board acting in accordance with Industrial Code Rule 39, Section 5, Paragraph (f), unanimously recommends to the Commissioner of Labor (Commissioner) to renew Mr. Shue's application for his Certificate. The Board also recommends to the Commissioner that Mr. Shue should not be required to retake any Blasting test to receive his Certificate.

The recommendation of The Board is based on its findings that Mr. Shue possesses reasonably good judgment, and a level of competence necessary to be in charge of blasting operations in the State of New York.

On the other hand, The Board suggests that the Commissioner advise Mr. Shue to:

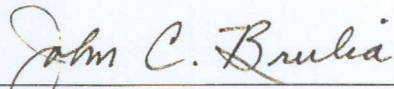
1. review, select and implement a safety measure to augment currently used hand signals communications which rely on physical line-of-sight between Blaster-in-Charge and guard(s) with another method, for example and where appropriate hand-held radios or mobile phones, for

Blaster-in-Charge and guard(s) may be temporarily or for any other reason obstructed,

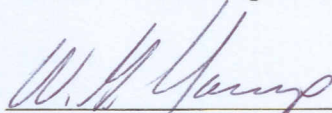
2. review, select and implement improved safety measures to mark the physical blast site to warn the public of the danger present, other than using a large sign that states "*Blasting Zone 1,000-ft*" observed in one of the photos shown to The Board that was inappropriate for use, although the intention was admirable.
3. review and implement safety measures to always physically protect himself as Blaster-in-Charge, or other individuals in his company serving as Blaster-in-Charge from the potential of flyrock that may result during the detonation of a blast, and
4. review and implement changes to his current blasting record that are in accordance with the newly enacted provisions of Code Rule 61 regarding the required information.

For the holder of a current New York State Blaster Certificate of Competence who works as a Blaster-in-Charge, there comes a responsibility and authority to always conduct the blasting operation in a safe and compliant manner. Nothing else is acceptable to the State of New York or The Board. The Blaster-in-Charge's responsibility and authority is never transferable, nor should any Blaster-in-Charge ever assume for any reason that another individual could assume this responsibility and authority. When anyone does not comply with the Blaster-in-Charge's orders regarding blasting safety, especially blast area security, all blasting operations must immediately cease until such time as the situation is resolved before resuming any blasting activities. The Board believes that Mr. Shue fully understands this responsibility and authority.

Very Respectfully,



John C. Brulia
Blaster Examining Board Member



William G. Youngs
Blaster Examining Board Member

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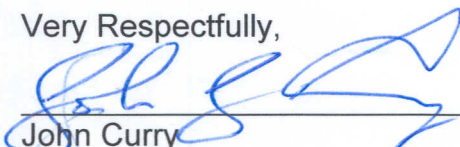
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John Curry
Blaster Examining Board Member