

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1526-AIR-E **TCEQ ID:** RN103857504 **CASE NO.:** 34650

RESPONDENT NAME: Double B Foods, Inc.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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: Double B Foods, 109 East Morgan Street, Meridian, Bosque County</p> <p>TYPE OF OPERATION: Food manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received August 20, 2007, concerning a release of anhydrous ammonia into the surrounding area of their food processing plant, resulting in several individuals requiring medical attention. 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 a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Alejandro Araujo, Operations Manager, Double B Foods, Inc., 109 East Morgan Street, Meridan, Texas 76665 Mr. Rick Borden, Director of Human Resources and Safety, Double B Foods, Inc., 109 East Morgan Street, Meridan, Texas 76665 Respondent's Attorney: Not represented by counsel on this enforcement matter</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(s) of Complaints Relating to this Case: August 20, 2007</p> <p>Date of Investigation Relating to this Case: August 20, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 10, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. During an investigation on August 20, 2007, TCEQ staff documented that the Respondent experienced a pressure relief valve failure on their refrigeration system resulting in the public being exposed to ammonia gas. Specifically, on August 20, 21, and 22, 2007, a total of 799.5 pounds of ammonia gas was released and was allowed to escape beyond the boundaries of the Respondent's property, resulting in the evacuations of the neighboring court house and businesses, and the closing of Highway 22. In addition, due to exposure, several people required medical attention.</p> <p>AIR</p> <p>Failed to ensure the Plant's refrigeration system was maintained in good working order and failed to prevent a nuisance odor [30 TEX. ADMIN. CODE §§ 106.373(3)(B) and 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].</p>	<p>Total Assessed: \$16,050</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$8,025</p> <p>Total Paid (Due) to General Revenue: \$8,025</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>Findings Orders Justification: Human health has been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On August 21, 2007, performed routine maintenance on a large booster compressor in engineering room No. 2;</p> <p>b. On August 22, 2007, replaced all eight of the pressure relief valves in engineering room No. 2, and shipped the one faulty pressure relief valve to an independent source for failure analysis; and</p> <p>c. On August 24, 2007, performed testing on the refrigeration system in engineering room No. 2.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement a corrective action plan for the purpose of maintaining the Plant's refrigeration system in good working order to prevent the reoccurrence of emissions events due to the same causes as that of the August 20, 2007, August 21, 2007, and August 22, 2007 emission events; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. Include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): N/A

Attachment A
Docket Number: 2007-1526-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Double B Foods, Inc.
Payable Penalty Amount: Sixteen Thousand Fifty Dollars (\$16,050)
SEP Amount: Eight Thousand Twenty-Five Dollars (\$8,025)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP: Bosque County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	17-Sep-2007	Screening	18-Sep-2007	EPA Due	8-Jun-2008
	PCW	19-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Double B Foods, Inc.
Reg. Ent. Ref. No.	RN103857504
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34650	No. of Violations	1	
Docket No.	2007-1526-AIR-E	Order Type	Findings	
Media Program(s)	Air	Enf. Coordinator	Libby Hogue	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes: A 7% enhancement is recommended for having one NOV for same or similar violations and one NOV for non-similar violations within the past five years.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **Subtotal 5**

	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.

Total EB Amounts **Subtotal 6**
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Screening Date 18-Sep-2007

Docket No. 2007-1526-AIR-E

PCW

Respondent Double B Foods, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34650

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103857504

Media [Statute] Air

Enf. Coordinator Libby Hogue

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)	1	5%
	Other written NOVs	1	2%
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) 7%

>> **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

A 7% enhancement is recommended for having one NOV for same or similar violations and one NOV for non-similar violations within the past five years.

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

Screening Date 18-Sep-2007	Docket No. 2007-1526-AIR-E	PCW		
Respondent Double B Foods, Inc.	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 34650	<small>PCW Revision June 26, 2007</small>			
Reg. Ent. Reference No. RN103857504				
Media [Statute] Air				
Enf. Coordinator Libby Hogue				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin Code §§ 106.373(3)(B) and 101.4, and Tex. Health & Safety Code § 382.085(a) and (b)			
Violation Description	Failed to ensure the Plant's refrigeration system was maintained in good working order and failed to prevent the public from being exposed to ammonia gas. Specifically, on August 20, 21, and 22, 2007, a total of 799.5 pounds of ammonia gas was released and was allowed to escape beyond the boundaries of the Double B Foods property, resulting in the evacuations of the neighboring court house and businesses, and the closing of Highway 22. In addition, due to ammonia gas exposure, several people required medical attention.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="50%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels protective of human health as a result of the violation.			
		Adjustment	<input type="text" value="\$5,000"/>	
			<input type="text" value="\$5,000"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="3"/>	Number of violation days	
		<input type="text" value="3"/>		
<small>mark only one with an x</small>	daily	<input type="text" value="x"/>	Violation Base Penalty <input type="text" value="\$15,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Three daily events are recommended.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$16,050"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$16,050"/>	

Economic Benefit Worksheet

Respondent Double B Foods, Inc.
Case ID No. 34650
Reg. Ent. Reference No. RN103857504
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	20-Aug-2007	24-Aug-2007	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement a corrective action plan for the purpose of maintaining the Plant's refrigeration system in good working order. Date required is the date of the first release of ammonia gas and the final date is the date the equipment was restored to good working order.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN601084825 Double B Foods, Inc.	Classification: AVERAGE	Rating: 2.67
Regulated Entity:	RN103857504 DOUBLE B FOODS	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	STORMWATER	PERMIT	TXR05L924
Location:	109 E MORGAN ST, MERIDIAN, TX, 76665		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	September 19, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 17, 2002 to September 17, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Libby Hogue</u>	Phone:	<u>512-239-1165</u>

Site Compliance History Components

- | | |
|----------------------------------------------------------------------------------------------|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
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.)
- | | | | |
|---|------------|----------|--|
| 1 | 03/13/2006 | (456166) | |
| 2 | 04/19/2006 | (461901) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|------------------|-----------------------------------------------------------------------------------------------------------|-----------------|--------------------------|
| Date: 07/04/2005 | (396935) | Self Report? NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 281, SubChapter A 281.25(a)(4) | | |
| Rqmt Prov: | PERMIT MSGP, Part III, Section A | | |
| Description: | Failure to make the facility's storm water pollution prevention plan (SWP3) readily available for review. | | |
| Date: 02/23/2006 | (455120) | Self Report? NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 101, SubChapter A 101.4 | | |
| Description: | Double B Foods failed to prevent an off property nuisance odor conditions from occurring. | | |
- 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
DOUBLE B FOODS, INC.
RN103857504

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1526-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Double B Foods, Inc. ("Double B Foods") 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 Double B Foods presented this agreement to the Commission.

Double B Foods understands that it 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, Double B Foods agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Double B Foods.

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

I. FINDINGS OF FACT

1. Double B Foods owns and operates a food manufacturing plant at 109 East Morgan Street in Meridian, Bosque County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During an investigation on August 20, 2007, TCEQ staff documented that Double B Foods experienced a pressure relief valve failure on their refrigeration system resulting in the public being exposed to ammonia gas. Specifically, on August 20, 21, and 22, 2007, a total of 799.5 pounds of ammonia gas was released and was allowed to escape beyond the boundaries of the Double B Foods property, resulting in the evacuations of the neighboring court house and businesses, and the closing of Highway 22. In addition, due to exposure, several people required medical attention.
4. Double B Foods received notice of the violations on or about September 15, 2007.
5. The Executive Director recognizes that Double B Foods has implemented the following corrective measures at the Plant:
 - a. On August 21, 2007, performed routine maintenance on a large booster compressor in engineering room No. 2;
 - b. On August 22, 2007, replaced all eight of the pressure relief valves ("prvs") in engineering room No. 2, and shipped the one faulty pressure relief valve to an independent source for failure analysis; and
 - c. On August 24, 2007, performed testing on the refrigeration system in engineering room No. 2.

II. CONCLUSIONS OF LAW

1. Double B Foods is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Double B Foods failed to ensure the Plant's refrigeration system was maintained in good working order and failed to prevent a nuisance odor, in violation of 30 TEX. ADMIN. CODE §§ 106.373(3)(B) and 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Double B Foods for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Sixteen Thousand Fifty Dollars (\$16,050) 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. Double B Foods has paid an Eight Thousand Twenty-Five Dollar (\$8,025) administrative penalty to the TCEQ and Eight Thousand Twenty-Five Dollars (\$8,025) shall be conditionally offset by the completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

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

1. Double B Foods is assessed an administrative penalty in the amount of Sixteen Thousand Fifty Dollars (\$16,050) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Double B Foods' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Double B Foods, Inc., Docket No. 2007-1526-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. Double B Foods shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. ADMIN. CODE § 7.067. As set forth in Section II, Paragraph 4, Eight Thousand Twenty-Five Dollars (\$8,025) of the assessed administrative penalty shall be offset with the condition that Double B Foods implement the SEP defined in Attachment A, incorporated herein by reference. Double B Foods' obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that Double B Foods shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement a corrective action plan for the purpose of maintaining the Plant's refrigeration system in good working order to prevent the reoccurrence of emissions events due to the same causes as that of the August 20, 2007, August 21, 2007, and August 22, 2007 emission events; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a. Include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 fine 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon Double B Foods. Double B Foods is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If Double B Foods 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, Double B Foods' failure to comply is not a violation of this Agreed Order. Double B Foods shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Double B Foods shall notify the Executive Director within seven days after Double B Foods 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 Double B Foods shall be made in writing to the Executive Director. Extensions are not effective until Double B Foods receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Double B Foods if the Executive Director determines that Double B Foods has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against Double B Foods 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.

10. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/25/2008
Date

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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12/10/2007
Date

RICK BORDEN
Name (Printed or typed)
Authorized Representative of
Double B Foods, Inc.

DIRECTOR of Human Resources & Safety
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.

Attachment A
Docket Number: 2007-1526-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Double B Foods, Inc.
Payable Penalty Amount:	Sixteen Thousand Fifty Dollars (\$16,050)
SEP Amount:	Eight Thousand Twenty-Five Dollars (\$8,025)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Bosque County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

Double B Foods, Inc.
Agreed Order – Attachment A

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

