

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0461-AIR-E TCEQ ID: RN104188784 CASE NO.: 37400

RESPONDENT NAME: B & B Ready Mix, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Batch Plant, 4240 South Belt Line Road, Seagoville, Dallas County</p> <p>TYPE OF OPERATION: Concrete batch plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Scotty Brown, Plant Manager, B & B Ready Mix, Inc., 4240 South Belt Line Road, Seagoville, Texas 75159 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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 11, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 19, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to maintain air pollution emission capture and abatement equipment in good working order and working properly during normal operations, and failure to meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period from the batch drop point. Specifically, it was noted that the central baghouse inlet was not connected to the batch drop point shroud, the shroud had three sides missing, and during batch loading operations the dust emissions from the batch drop point exceeded 30 consecutive seconds [30 TEX. ADMIN. CODE §§ 116.115(b) and (c), and 116.615(9), Standard Permit No. 50248, General Requirements, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$970</p> <p>Total Deferred: \$194 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$776</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On December 11, 2008, reconnected the baghouse inlet to the batch drop point shroud; and</p> <p>b. On February 21, 2009, replaced and installed a new rubber batch drop point shroud.</p>

Additional ID No(s): 0



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	30-Mar-2009	Screening	30-Mar-2009	EPA Due	
	PCW	28-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	B & B Ready Mix, Inc.
Reg. Ent. Ref. No.	RN104188784
Facility/Site Region	4 - Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37400	No. of Violations	1
Docket No.	2009-0461-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		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	\$1,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7 \$70
Notes	The Respondent received one Notice of Violation ("NOV") for same or similar violations, and one NOV for a dissimilar violation.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$100
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$12	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$850	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$970
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$970
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$970
DEFERRAL	20.0% Reduction	Adjustment -\$194
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$776

Screening Date 30-Mar-2009

Docket No. 2009-0461-AIR-E

PCW

Respondent B & B Ready Mix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37400

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104188784

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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%

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

The Respondent received one Notice of Violation ("NOV") for same or similar violations, and one NOV for a dissimilar violation.

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

Screening Date 30-Mar-2009	Docket No. 2009-0461-AIR-E	PCW
Respondent B & B Ready Mix, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37400	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN104188784		
Media [Statute] Air		
Enf. Coordinator Suzanne Walrath		
Violation Number	1	

Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(b) and (c), 116.615(9), Standard Permit No. 50248, General Requirements and Tex. Health & Safety Code § 382.085(b)
Violation Description	Failed to maintain air pollution emission capture and abatement equipment in good working order and working properly during normal operations, and failed to meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period from the batch drop point. Specifically, it was noted that the central baghouse inlet was not connected to the batch drop point shroud, the shroud had three sides missing, and during batch loading operations the dust emissions from the batch drop point exceeded 30 consecutive seconds.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate	Minor	
	Actual			x	
Potential				Percent 10%	

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.				Percent 0%
Adjustment	\$9,000				

Adjustment \$9,000

Violation Events \$1,000

Number of Violation Events	1		72	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty \$1,000
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

One quarterly event is recommended from the investigation date of December 11, 2008 to the date of compliance, February 21, 2009.

Good Faith Efforts to Comply	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)
Notes	The Respondent achieved compliance for this violation on February 21, 2009.	
Violation Subtotal	\$900	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$12
Violation Final Penalty Total	\$970
This violation Final Assessed Penalty (adjusted for limits)	\$970

Economic Benefit Worksheet

Respondent: B & B Ready Mix, Inc.
Case ID No.: 37400
Reg. Ent. Reference No.: RN104188784
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
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$700	11-Dec-2008	21-Feb-2009	0.20	\$0	\$9	\$10
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$150	11-Dec-2008	21-Feb-2009	0.20	\$0	\$2	\$2
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

These are actual costs for the reconnection of the baghouse inlet to the batch drop point shroud, and for the replacement and installation of the new rubber batch drop point shroud, beginning on the date of the investigation, and ending on the date compliance was achieved.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$850

TOTAL

\$12

Compliance History Report

Customer/Respondent/Owner-Operator: CN602580383 B & B Ready Mix, Inc. Classification: AVERAGE Rating: 0.65
Regulated Entity: RN104188784 BATCH PLANT Classification: AVERAGE Site Rating: 0.65
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB5347R
AIR NEW SOURCE PERMITS PERMIT 50248
WASTE WATER GENERAL PERMIT PERMIT TXG110558
PETROLEUM STORAGE TANK REGISTRATION 76479
REGISTRATION
Location: 4240 S BELT LINE RD, SEAGOVILLE, TX, 75159
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: April 16, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 16, 2004 to April 16, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Suzanne Walrath Phone: 239 - 2134

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 12/15/2004 (370495)
 - 2 12/15/2004 (370496)
 - 3 12/15/2004 (370497)
 - 4 11/10/2005 (449435)
 - 5 05/15/2006 (508238)
 - 6 05/15/2006 (508239)
 - 7 05/15/2006 (508240)
 - 8 05/15/2006 (508241)
 - 9 05/15/2006 (508242)
 - 10 05/15/2006 (508243)
 - 11 05/15/2006 (508244)
 - 12 05/15/2006 (508245)
 - 13 05/15/2006 (508246)
 - 14 05/15/2006 (508247)
 - 15 05/15/2006 (508248)
 - 16 05/15/2006 (508249)

17 05/15/2006 (508250)
 18 05/15/2006 (508251)
 19 05/15/2006 (508252)
 20 05/15/2006 (508253)
 21 05/15/2006 (508254)
 22 05/15/2006 (508255)
 23 05/15/2006 (508256)
 24 05/15/2006 (508257)
 25 05/15/2006 (508258)
 26 05/15/2006 (508259)
 27 05/15/2006 (508260)
 28 05/15/2006 (508261)
 29 05/15/2006 (508262)
 30 05/15/2006 (508263)
 31 05/15/2006 (508264)
 32 05/15/2006 (508265)
 33 02/16/2007 (592158)
 34 04/16/2007 (592159)
 35 11/14/2007 (635329)
 36 12/03/2007 (635332)
 37 12/03/2007 (635333)
 38 12/03/2007 (635334)
 39 12/03/2007 (635335)
 40 12/03/2007 (635336)
 41 12/13/2007 (635330)
 42 12/13/2007 (635331)
 43 01/29/2008 (678753)
 44 02/18/2008 (678750)
 45 03/18/2008 (678751)
 46 04/18/2008 (678752)
 47 05/20/2008 (698032)
 48 06/19/2008 (698033)
 49 07/29/2008 (719609)
 50 08/26/2008 (719610)
 51 09/15/2008 (719611)
 52 10/17/2008 (719612)
 53 11/25/2008 (734687)
 54 01/16/2009 (734688)
 55 01/26/2009 (734686)
 56 01/26/2009 (734689)
 57 02/18/2009 (721907)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/24/2005 (372748) CN602580383
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)
 30 TAC Chapter 116, SubChapter F 116.615(9)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to maintain air pollution emission capture and abatement equipment in good working order and operating properly during normal facility operations as required by 30 TAC § 116.615(9). Failure to correct the Category B violation within the time frame specified in the NOV dated May 24, 2005. The Category B violation warrants formal enforcement under Item No. 2 of Category B Violations of the TCEQ EIC document dated July 1, 2008.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Std Permit CBP, Condition 3(B)(iii) PERMIT
 Description: Failure to meet a performance standard of no visible emissions exceeding 30

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
B & B READY MIX, INC.
RN104188784**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0461-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding B & B Ready Mix, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a concrete batch plant at 4240 South Belt Line Road in Seagoville, Dallas County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 24, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Hundred Seventy Dollars (\$970) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Seventy-Six Dollars (\$776) of the administrative penalty and One Hundred Ninety-Four Dollars (\$194) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be

waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On December 11, 2008, reconnected the baghouse inlet to the batch drop point shroud; and
 - b. On February 21, 2009, replaced and installed a new rubber batch drop point shroud.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to maintain air pollution emission capture and abatement equipment in good working order and working properly during normal operations, and failed to meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period from the batch drop point, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and (c), 116.615(9), Standard Permit No. 50248, General Requirements and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 11, 2008. Specifically, it was noted that the central baghouse inlet was not connected to the batch drop point shroud, the shroud had three sides missing, and during batch loading operations the dust emissions from the batch drop point exceeded 30 consecutive seconds.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: B & B Ready Mix, Inc., Docket No. 2009-0461-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdin
For the Executive Director

7/13/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Scotty Brown
Signature

5-25-09
Date

Scotty Brown
Name (Printed or typed)
Authorized Representative of
B & B Ready Mix, Inc.

MANAGER
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.