

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-1394-AIR-E **TCEQ ID:** RN100238492 **CASE NO.:** 38257
RESPONDENT NAME: GB Biosciences Corporation

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: GB Biosciences Greens Bayou Plant, 2239 Haden Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 January 25, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. David R. Terrace, Plant Manager, GB Biosciences Corporation, 2239 Haden Road, Houston, Texas 77015 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: July 13, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 14, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to submit a Permit Compliance Certification ("PCC") for the Isophthalonitrile ("IPN") Unit within 30 days of the end of the certification period. Specifically, the PCC period from January 27, 2008 through January 26, 2009 was due February 25, 2009, but was not submitted until July 17, 2009 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. 2266, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to report all instances of deviations for the IPN Unit for the period of July 27, 2007 through January 26, 2008. Specifically, a deviation discovered on December 18, 2007 was not reported until August 26, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2)(A), Federal Operating Permit No. 2266, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to submit the first semi-annual deviation report within 30 days of the end of the deviation reporting period. Specifically, the first semi-annual deviation report for the reporting period of January 27, 2008 through July 26, 2008 was due on August 25, 2008, but was not postmarked until August 26, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4),</p>	<p>Total Assessed: \$9,843</p> <p>Total Deferred: \$1,968 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,937</p> <p>Total Paid to General Revenue: \$3,938</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 checked="" type="checkbox"/> Yes <input 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. Submitted the PCC on July 17, 2009; and</p> <p>b. Submitted the semi-annual deviation report for the reporting period of January 27, 2008 through July 26, 2008 on August 26, 2008, which included the missing deviations from the July 27, 2007 through January 26, 2008 period.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p>

122.145(2)(C) and 122.146, Federal Operating Permit No. 2266, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): HG0195U

Attachment A
Docket Number: 2009-1394-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: GB Biosciences Corporation
Payable Penalty Amount: Seven Thousand Eight Hundred Seventy-Five Dollars (\$7,875)
SEP Amount: Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937)
Type of SEP: Pre-approved
Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP: Texas Air Quality Control Region 216 – Houston-Galveston

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 will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

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 reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

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:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

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:

GB Biosciences Corporation
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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 October 30, 2008

ICEQ	DATES	Assigned 17-Aug-2009	PCW 2-Sep-2009	Screening 26-Aug-2009	EPA Due 11-May-2010
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RESPONDENT/FACILITY INFORMATION	
Respondent	GB Biosciences Corporation
Reg. Ent. Ref. No.	RN100238492
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38257	No. of Violations	3
Docket No.	2009-1394-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Roshondra Lowe
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$5,100
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	118.0% Enhancement Subtotals 2, 3, & 7 \$6,018
Notes	Penalty enhanced due to seven NOVs for same or similar violations, 32 NOVs for unrelated violations, and one agreed order containing a denial of liability. Penalty reduction due to one notice of audit.
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 \$1,275
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
<small>Total EB Amounts</small> \$45	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$3,000	
SUM OF SUBTOTALS 1-7	Final Subtotal \$9,843
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	Final Penalty Amount \$9,843
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$9,843
DEFERRAL	20.0% Reduction Adjustment -\$1,968
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$7,875

Screening Date 26-Aug-2009

Docket No. 2009-1394-AIR-E

PCW

Respondent GB Biosciences Corporation

Policy Revision 2 (September 2002)

Case ID No. 38257

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100238492

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

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)	7	35%
	Other written NOVs	32	64%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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)	1	-1%
	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) 118%

>> **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

Penalty enhanced due to seven NOVs for same or similar violations, 32 NOVs for unrelated violations, and one agreed order containing a denial of liability. Penalty reduction due to one notice of audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 118%

Screening Date: 26-Aug-2009	Docket No.: 2009-1394-AIR-E	PCW				
Respondent: GB Biosciences Corporation	<i>Policy Revision 2 (September 2002)</i>					
Case ID No.: 38257	<i>PCW Revision October 30, 2008</i>					
Reg. Ent. Reference No.: RN100238492						
Media [Statute]: Air						
Enf. Coordinator: Roshondra Lowe						
Violation Number: 1						
Rule Cite(s):	30 Tex. Admin. Code §§ 122.143(4) and 122.146(2); Federal Operating Permit No. 2266, General Terms and Conditions and Tex. Health & Safety Code § 362.085(b)					
Violation Description:	Failed to submit a Permit Compliance Certification ("PCG") for the Isophthalonitrile ("IPN") Unit within 30 days of the end of the certification period. Specifically, the PCG period from January 27, 2008 through January 28, 2009 was due February 25, 2009, but was not submitted until July 17, 2009.					
Base Penalty		\$10,000				
>> Environmental, Property and Human Health Matrix						
OR	Harm			Percent	0%	
	Release	Major	Moderate			Minor
	Actual					
	Potential					
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor	Percent	25%
		X				
Matrix Notes	100% of the rule requirement was not met.					
Adjustment					\$7,500	
					\$2,500	
Violation Events						
	Number of Violation Events	1	Number of violation days	142		
mark only one with an x	daily		Violation Base Penalty	\$2,500		
	weekly					
	monthly					
	quarterly					
	semiannual					
	annual					
	single event	X				
One single event is recommended based upon the one late report.						
Good Faith Efforts to Comply			25.0% Reduction		\$625	
		Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary						
Ordinary	X					
N/A			(mark with x)			
Notes	Corrective actions were completed on July 17, 2009 before the August 14, 2009 NOE.					
Violation Subtotal					\$1,875	
Economic Benefit (EB) for this violation			Statutory Limit Test			
	Estimated EB Amount	\$19	Violation Final Penalty Total	\$4,825		
This violation Final Assessed Penalty (adjusted for limits)					\$4,825	

Economic Benefit Worksheet

Respondent GB Biosciences Corporation
Case ID No. 38257
Reg. Ent. Reference No. RN100238492
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				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	25-Feb-2009	17-Jul-2009	0.39	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to submit a PCC within the required timeframe. The date required is the date the PCC was due. The final date is based on the date of compliance.

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

\$1,000

TOTAL

\$19

Screening Date	26-Aug-2009	Docket No.	2009-1394-AIR-E	PCW
Respondent	GB Biosciences Corporation	Policy Revision 2 (September 2002)		
Case ID No.	38257	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN100238492			
Media [Statute]	Air			
Enf. Coordinator	Roshondra Lowe			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.146(2)(A), Federal Operating Permit No. 2266, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to report all instances of deviations for the IPN Unit for the period of July 27, 2007 through January 26, 2008. Specifically, a deviation discovered on December 18, 2007 was not reported until August 26, 2008.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent
				0%
>> Programmatic Matrix				
Falsification				
Major				
Moderate				
Minor				
<input type="text"/>				
<input type="text"/>				
<input type="text"/>				
<input checked="" type="checkbox"/>				
				Percent
				1%
Matrix Notes	At least 70% of the rule requirement was met.			
Adjustment				\$9,900
				\$100
Violation Events				
Number of Violation Events		1	Number of violation days	
		183		
mark only one with an x	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
				Violation Base Penalty
				\$100
One single event is recommended based upon the one deviation not reported timely.				
Good Faith Efforts to Comply				
		25.0%	Reduction	\$25
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>			
Ordinary	<input checked="" type="checkbox"/>			
N/A	<input type="text"/>	(mark with x)		
Notes	Corrective actions were completed on August 26, 2008 before the August 14, 2009 NOE.			
Violation Subtotal				\$75
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$25	Violation Final Penalty Total	
			\$193	
This violation Final Assessed Penalty (adjusted for limits)				\$193

Economic Benefit Worksheet

Respondent: GB Biosciences Corporation
Case ID No.: 38257
Reg. Ent. Reference No.: RN100238492
Media: Air
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	25-Feb-2008	26-Aug-2008	0.50	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to report all instances of deviations within the required timeframe. The date required is the date all instances of deviations were due. The final date is the date of compliance.

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

\$1,000

TOTAL

\$25

Screening Date	26-Aug-2009	Docket No.	2009-1394-AIR-E	PCW	
Respondent	GB Biosciences Corporation	Policy Revision 2 (September 2002)			
Case ID No.	38257	PCW Revision October 30, 2008			
Reg. Ent. Reference No.	RN100238492				
Media [Statute]	Air				
Enf. Coordinator	Roshondra Lowe				
Violation Number	3				
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(C) and 122.146, Federal Operating Permit No. 2266, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to submit the first semi-annual deviation report within 30 days of the end of the deviation reporting period. Specifically, the first semi-annual deviation report for the reporting period of January 27, 2008 through July 26, 2008 was due on August 25, 2008, but was not postmarked until August 26, 2008.				
Base Penalty				\$10,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent	0%
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent	25%
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$7,600	
				\$2,500	
Violation Events					
Number of Violation Events		1	Number of violation days		
		1			
mark only one with an x	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input checked="" type="checkbox"/>			
Violation Base Penalty				\$2,500	
One single event is recommended based upon the one late report.					
Good Faith Efforts to Comply		25.0% Reduction			
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>				
Ordinary	<input checked="" type="checkbox"/>				
N/A	<input type="checkbox"/>	(mark with x)			
Notes	Corrective actions were completed on August 26, 2008 before the August 14, 2009 NOE.				
Violation Subtotal				\$1,875	
Economic Benefit (EB) for this violation					
Statutory Limit Test					
Estimated EB Amount		\$0	Violation Final Penalty Total		
			\$4,825		
This violation Final Assessed Penalty (adjusted for limits)				\$4,825	

Economic Benefit Worksheet

Respondent: GB Biosciences Corporation
Case ID No.: 38257
Reg. Ent. Reference No.: RN100238492
Media: Air
Violation No.: 3

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,000	25-Aug-2008	26-Aug-2008	0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to submit the first semi-annual deviation report within the required timeframe. The date required is the date the report was due. The final date is the date of compliance.

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: \$1,000 **TOTAL:** \$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600132831 GB Biosciences Corporation	Classification: AVERAGE	Rating: 2.44
Regulated Entity:	RN100238492 GB BIOSCIENCES GREENS BAYOU PLANT	Classification: AVERAGE	Site Rating: 1.87

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0195U
	AIR OPERATING PERMITS	PERMIT	2264
	AIR OPERATING PERMITS	PERMIT	2265
	AIR OPERATING PERMITS	PERMIT	2266
	AIR OPERATING PERMITS	PERMIT	2267
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000836486
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30552
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50205
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50205
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50205
	UTILITIES	REGISTRATION	20846
	WASTEWATER	PERMIT	WQ0000749000
	WASTEWATER	PERMIT	TX0007439000
	WASTEWATER	PERMIT	TX0007439
	AIR NEW SOURCE PERMITS	PERMIT	53291
	AIR NEW SOURCE PERMITS	PERMIT	234B
	AIR NEW SOURCE PERMITS	REGISTRATION	75886
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0195U
	AIR NEW SOURCE PERMITS	AFS NUM	4820100178
	AIR NEW SOURCE PERMITS	PERMIT	329A
	AIR NEW SOURCE PERMITS	PERMIT	3475A
	AIR NEW SOURCE PERMITS	PERMIT	4893A
	AIR NEW SOURCE PERMITS	PERMIT	10998
	AIR NEW SOURCE PERMITS	PERMIT	10999
	AIR NEW SOURCE PERMITS	PERMIT	11974
	AIR NEW SOURCE PERMITS	PERMIT	19694
	AIR NEW SOURCE PERMITS	PERMIT	20353
	AIR NEW SOURCE PERMITS	PERMIT	31043
	AIR NEW SOURCE PERMITS	PERMIT	32348
	AIR NEW SOURCE PERMITS	REGISTRATION	70328
	AIR NEW SOURCE PERMITS	REGISTRATION	70879
	AIR NEW SOURCE PERMITS	REGISTRATION	72330

AIR NEW SOURCE PERMITS	PERMIT	56638
AIR NEW SOURCE PERMITS	PERMIT	55640
AIR NEW SOURCE PERMITS	REGISTRATION	73744
AIR NEW SOURCE PERMITS	REGISTRATION	74233
AIR NEW SOURCE PERMITS	REGISTRATION	74245
AIR NEW SOURCE PERMITS	REGISTRATION	74243
AIR NEW SOURCE PERMITS	REGISTRATION	74401
AIR NEW SOURCE PERMITS	REGISTRATION	76529
AIR NEW SOURCE PERMITS	REGISTRATION	76929
AIR NEW SOURCE PERMITS	REGISTRATION	76871
AIR NEW SOURCE PERMITS	REGISTRATION	77283
AIR NEW SOURCE PERMITS	REGISTRATION	78869
AIR NEW SOURCE PERMITS	REGISTRATION	79652
AIR NEW SOURCE PERMITS	REGISTRATION	79764
STORMWATER	PERMIT	TXR05T717
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30552
INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50205
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50205

Location: 2239 HADEN RD, HOUSTON, TX, 77015

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 26, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 25, 2004 to August 25, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Roshondra Lowe Phone: 767-3553

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.

Effective Date: 05/22/2008

ADMINORDER 2007-1449-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-02264, SC 2F OP

Description: Failed to notify the commission of a reportable emission event no later than 24 hours after the discovery of the event

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failed to comply with permitted emission limits.

Classification: Moderate

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: Emitted unauthorized emissions of R-22

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	08/31/2004	(251123)
2	08/31/2004	(275101)
3	08/31/2004	(293139)
4	09/28/2004	(352573)
5	10/20/2004	(337330)
6	10/20/2004	(337332)
7	10/29/2004	(352575)
8	11/17/2004	(352571)
9	11/23/2004	(352577)
10	12/17/2004	(382041)
11	01/27/2005	(382042)
12	03/30/2005	(374368)
13	03/31/2005	(382040)
14	04/04/2005	(372772)
15	04/26/2005	(382039)
16	04/29/2005	(430090)
17	05/19/2005	(350373)
18	05/31/2005	(430091)
19	07/01/2005	(430092)
20	07/20/2005	(399528)
21	07/22/2005	(401498)
22	07/27/2005	(402095)
23	07/29/2005	(402166)
24	07/29/2005	(402512)
25	07/31/2005	(430093)
26	08/05/2005	(403526)
27	08/12/2005	(403025)
28	08/15/2005	(404708)
29	08/15/2005	(405159)
30	08/17/2005	(405266)
31	08/17/2005	(405553)
32	08/20/2005	(441006)
33	08/22/2005	(406432)

34	08/25/2005	(405395)
35	08/26/2005	(406609)
36	08/29/2005	(418272)
37	08/31/2005	(402774)
38	08/31/2005	(402793)
39	08/31/2005	(402813)
40	08/31/2005	(402815)
41	08/31/2005	(402816)
42	08/31/2005	(403022)
43	08/31/2005	(403069)
44	09/08/2005	(406741)
45	09/08/2005	(418477)
46	10/03/2005	(441007)
47	10/31/2005	(435384)
48	10/31/2005	(441008)
49	10/31/2005	(468742)
50	10/31/2005	(468743)
51	12/09/2005	(438814)
52	12/22/2005	(468744)
53	01/17/2006	(437964)
54	01/30/2006	(468745)
55	02/03/2006	(439429)
56	02/28/2006	(468740)
57	03/30/2006	(468741)
58	04/18/2006	(457515)
59	05/02/2006	(498417)
60	05/11/2006	(508617)
61	05/31/2006	(462939)
62	06/01/2006	(498418)
63	07/05/2006	(498419)
64	07/28/2006	(520421)
65	08/18/2006	(530971)
66	08/28/2006	(510079)
67	08/29/2006	(520422)
68	10/03/2006	(575742)
69	10/12/2006	(512488)
70	10/20/2006	(512619)
71	10/26/2006	(513836)
72	11/02/2006	(575743)
73	11/29/2006	(519696)
74	11/30/2006	(575744)
75	12/05/2006	(512461)
76	12/08/2006	(519510)
77	12/13/2006	(532415)
78	01/03/2007	(575746)
79	01/23/2007	(575747)
80	01/25/2007	(534799)
81	02/05/2007	(593185)
82	02/08/2007	(534179)
83	02/15/2007	(539383)
84	03/05/2007	(575736)
85	03/28/2007	(575737)
86	04/02/2007	(575745)
87	04/19/2007	(557180)
88	04/27/2007	(575738)
89	05/11/2007	(556658)
90	05/11/2007	(557189)
91	05/29/2007	(575739)
92	06/20/2007	(575740)

93 06/29/2007 (593186)
 94 07/18/2007 (563511)
 95 07/18/2007 (575741)
 96 08/06/2007 (568504)
 97 08/13/2007 (566666)
 98 08/20/2007 (607609)
 99 08/22/2007 (532550)
 100 08/22/2007 (571189)
 101 09/13/2007 (607613)
 102 09/17/2007 (607610)
 103 10/04/2007 (595674)
 104 10/05/2007 (574474)
 105 10/15/2007 (607611)
 106 10/17/2007 (607612)
 107 11/30/2007 (595561)
 108 12/18/2007 (619675)
 109 01/24/2008 (619674)
 110 02/05/2008 (672196)
 111 03/14/2008 (672193)
 112 04/15/2008 (672194)
 113 04/15/2008 (672195)
 114 05/28/2008 (657164)
 115 06/17/2008 (683439)
 116 06/18/2008 (690109)
 117 07/16/2008 (690110)
 118 07/17/2008 (685712)
 119 08/15/2008 (686708)
 120 08/19/2008 (681435)
 121 08/22/2008 (610534)
 122 08/22/2008 (688400)
 123 10/20/2008 (710896)
 124 10/20/2008 (710897)
 125 10/20/2008 (710898)
 126 10/20/2008 (710899)
 127 12/19/2008 (727601)
 128 01/16/2009 (709674)
 129 01/20/2009 (727600)
 130 02/17/2009 (689519)
 131 03/19/2009 (750408)

 132 03/19/2009 (750410)
 133 03/19/2009 (750411)
 134 04/02/2009 (703402)
 135 04/07/2009 (740827)
 136 04/14/2009 (735968)
 137 04/17/2009 (750409)
 138 04/21/2009 (721075)
 139 08/14/2009 (747437)

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

Date: 08/31/2004 (352573) CN600132831
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (251123) CN600132831
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter C 122.222(c)

Description: failure to submit notification of Off-Permit Changes seven days in advance of the proposed changes.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter C 122.222(k)(2)
Description: failure to submit notification of Off-Permit changes effecting Title V Permit No. O-02266 on the date concurrent with the changes

Date: 08/31/2004 (293139) CN600132831
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter C 122.222(c)
Description: failure to submit notification of Operational Flexibility Changes effecting Title V Permit No. O-02264 7 days in advance of the proposed change.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter C 122.222(k)(2)
Description: failure to submit notification of Operational Flexibility Permit changes that effect Title V Permit No. O-02264 on the date concurrent with the changes.

Date: 09/30/2004 (352575) CN600132831
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (352577) CN600132831
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (382042) CN600132831
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (382039) CN600132831
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (382040) CN600132831
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (430090) CN600132831
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (374368) CN600132831
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter C 122.222(c)
Description: failure to notify the TCEQ of operational flexibility changes seven (7) days in advance of the date of the proposed changes.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter C 122.222(k)(2)

Description: failure to submit Title V Off-Permit changes on the date concurrent with the date of the change.

Date: 04/04/2005 (372772)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.203(a)

Description: Failure to operate engine F3-E5592 at or less than 100 hours annually for testing and maintenance.

Date: 04/30/2005 (430091) CN600132831

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/19/2005 (350373) CN600132831

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
II.C.1.h. PERMIT

Description: Failure to maintain an up-to-date Notice of Registration.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(7)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.174
III.D. PERMIT

Description: Failure to inspect the Central Container Storage Area (NOR 017, Permit No. 001) at least weekly.

Self Report? NO Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.75
II.B.7. PERMIT

Description: Failure to submit the Biennial Report.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(3)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT D 264.53(b)
II.C.1.k. PERMIT

Description: Failure to have documentation showing the contingency plan was distributed.

Date: 05/31/2005 (430092) CN600132831

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (430093) CN600132831

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (441006) CN600132831

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 08/15/2005 (403025) CN600132831

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. 4893A, GC 8 PERMIT
No. O-02266, SC 9A OP

Description: failure to operate within the CO, NOx, PM10, and VOC limits specified in the Maximum Allowable Emission Rate Table to NSR Permit No. 4893A

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)

30 TAC Chapter 122, SubChapter B 122.143(4)
No. 4893A, GC 8 PERMIT
No. O-0-2266, SC 9A OP

Description: failure to operate within the NH3 and VOC limits specified in the Maximum Allowable Emission Rate Table of NSR Permit No. 4893A.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 117, SubChapter B 117.213(a)(1)(A)(I)(II)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-02266, 1D OP

Description: failure to operate and maintain a totalizing fuel flow meter to a process heater

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-02266, SC 1D OP

Description: failure to maintain records of fuel usage to process heater BA201S.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.10(d)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-02266, SC 2E OP

Description: failure to submit a certifying statement with the 2003 emission inventory.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. 4893A, SC10B(3) PERMIT
No. O-02266, SC 9A OP

Description: failure to maintain all the required records of audio, visual and olfactory monitoring of NH3.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(10)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-02266, SC 1D OP

Description: failure to keep records of the start and end times of the testing and maintenance running of two stationary diesel engines.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT MMM 63.1362(f)
No 4893A, SC 5 PERMIT
No. O-02266, SC 9A OP

Description: failure to monitor the heat exchange system to the IPN Unit for HAP emissions.

Date: 08/23/2005 (405395) CN600132831

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with permitted effluent limits for cyanide daily max and cyanide daily average.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to analyze volatile organic aromatics (VOAs) within hold time.

Date: 02/03/2006 (439429) CN600132831

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.10(d)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-02267, Special Condition 2E OP

Description: Failure to include a certifying statement with the 2003 Annual Emission Inventory.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
No. O-02267, SC 9 OP

Description: failed to operate the Supplemental Carbon Adsorption System as represented in the permit application for Standard Permit No. 72159.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(10)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 No. O-02267, SC 5D OP
Description: failed to keep records of the run times of the diesel engines that drive the

 Industrial Water Emergency Generator and the Dacthal Unit Emergency
 Generator.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 No. O-02267, SC 9 OP
Description: failed to keep records of hours of operation and paint usage to the paint yard as
 required by Standard Exemption # 75.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 122, SubChapter C 122.217(a)(2)
Description: failed to submit notification of the West Cooling Tower becoming subject to the
 requirements of 40 CFR Part 63, Subpart MMM by the required deadline.

Date: 03/31/2006 (498417) **CN600132831**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/19/2006 (457515) **CN600132831**
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4893A, SC10A PERMIT
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-02266, SC 1A and 9 OP
Description: Failure to record audio, visual, and olfactory checks for ammonia every four
 hours.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 4893A, SC 2 PERMIT
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-02266, SC 1A and 9 OP
Description: Failure to operate IPN incinerator with more than 2% excess oxygen in the
 combustion chamber.

Date: 05/11/2006 (508617) **CN600132831**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/18/2006 (530971) **CN600132831**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 10/20/2006 (512619) **CN600132831**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-02265, SC 3(B)(iii) OP
Description: Failure to perform annual visible emissions monitoring for three stationary vent
 stacks, during the permit compliance certification period,

Date: 12/11/2006 (519510) Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
TCEQ Air Permit No. 234B, SC No. 1 PA
Description: Failed to prevent a leak on the plug valve on the Chlorine/HCL. Spiltter distillation column.

Date: 12/13/2006 (532415) Classification: Moderate
Self Report? NO
Citation: 234B PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: GBB failed to prevent the emissions event.

Date: 01/16/2007 (534179) Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(7)(A)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: GBB failed to prevent the opacity event.

Date: 01/25/2007 (534799) Classification: Moderate
Self Report? NO
Citation: 234B, Special Condition No. 1 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: GBB failed to prevent the emissions event.

Date: 02/05/2007 (593185) CN600132831 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 04/30/2007 (575739) CN600132831 Classification: Moderate
Self Report? YES
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/29/2007 (593186) CN600132831 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/30/2007 (595561) CN600132831 Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR 234B, SC#11 PERMIT
O-02264, SC#8 OP
Description: Failure to maintain vent gas incinerator operations at 99.9% destruction efficiency for HCL and Chlorine.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR 234B SC#14 PERMIT
O-02264, SC#8 OP

Description: Failure to do continuous monitoring for the CTL I and II Environmental Vent Scrubbers.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR 234B SC#13 PERMIT
O-02264, SC#8 OP

Description: Failure to recharge EVS caustic when the caustic strength drops below 10%.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR 234B, SC#15 PERMIT
O-02264, SC#8 OP

Description: Failure to operate the Inclinator with no less than 2.0% oxygen.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter D 382.085(b)
NSR 234B, SC5 PERMIT
O-02264, SC#8 OP

Description: Failure to conduct audio/visual/olfactory leak checks in the chlorine unloading area.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter D 382.085(b)
O-02264, General Term & Conditions OP

Description: Failure to report a deviation.

Date: 05/31/2008 (690109) CN600132831

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (672196) CN600132831

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 08/20/2008 (681435) CN600132831

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
4893A, SC 9E PA
5C THSC Chapter 382 382.085(b)
O-02266, SC 10 OP

Description: Failure to plug/cap all open ended lines.

Date: 01/16/2009 (709674)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions PERMIT

Description: Failure to prevent frost build-up on a chlorine line causing the line to fail.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

5C THSC Chapter 382 382.085(b)
Description: Failure to include permit number on the final report on August 26, 2008.

Date: 02/17/2009 (689519) CN600132831
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter D 115.354(2)(C)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
NSR, Special Condition 3F PERMIT
O-02267 Special Condition 9 OP

Description: Failure to conduct fugitive monitoring of valve in VOC service during 2nd quarter of 2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-02267, Special Condition 9 OP
NSR, Special Condition 11C PERMIT

Description: Failure to conduct quarterly opacity observations of coating operations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)(2)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-02267, Special Condition 9 OP
NSR, Special Condition 3C PERMIT

Description: Failure to comply with the recordkeeping requirements of authorized maintenance activities.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)
NSR, Special Condition 6 PERMIT
O-02267 Special Condition 9 OP
Description: Failure to sample, monitor and record the mixed liquid total suspended solids (MLSS) concentration.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, Special Condition 9 OP
NSR, Special Condition 11 PERMIT

Description: Failure to conduct and maintain continuous emission monitoring of the primary and secondary beds.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP, Special Condition 9 OP
NSR, Special Condition 12 PERMIT

Description: Failure to perform monthly monitoring of the Wastewater Treatment System (WTS) supplemental carbon canisters.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 117, SubChapter B 117.219(f)(6)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
FOP O-02267, Special Condition 9 OP

Description: Failure to document the start and end operation time of the Dacthal Emergency Generator (EPN GBD076).

Date: 04/02/2009 (703402) CN600132831
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 1 PERMIT
Special Condition 7 OP
Description: Failure to maintain emissions below the Maximum Allowable Emission Rate listed in NSR Permit 3475A for unit GBM027. (Category B13)

Date: 08/14/2009 (747437) CN600132831
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 9 OP
Special Condition 9E PA
Description: Failure to seal open-ended lines for IPN Unit fugitives: EPN FGBP01 (Category C10 violation).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 10A PA
Special Condition 1A OP
Special Condition 9 OP
Description: Failure to document AVO inspections for ammonia for FGBP01 (fugitives in the IPN unit) (Category C1 violation).

F. Environmental audits.

Notice of Intent Date: 08/06/2007 (574295)

No DOV Associated

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
GB BIOSCIENCES CORPORATION
RN100238492**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1394-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 GB Biosciences Corporation ("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 chemical manufacturing plant at 2239 Haden Road in Houston, Harris 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 August 19, 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 Thousand Eight Hundred Forty-Three Dollars (\$9,843) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Nine Hundred Thirty-Eight Dollars (\$3,938) of the administrative penalty and One Thousand Nine Hundred Sixty-Eight Dollars

- (\$1,968) 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. Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937) shall be offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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. Submitted the Permit Compliance Certification ("PCC") on July 17, 2009; and
 - b. Submitted the semi-annual deviation report for the reporting period of January 27, 2008 through July 26, 2008 on August 26, 2008, which included the missing deviations from the July 27, 2007 through January 26, 2008 period.
 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:

1. Failed to submit a PCC for the Isophthalonitrile ("IPN") Unit within 30 days of the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), Federal Operating Permit No. 2266, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the PCC period from January 27, 2008 through January 26, 2009 was due February 25, 2009, but was not submitted until July 17, 2009, as documented during an investigation conducted on July 13, 2009.
2. Failed to report all instances of deviations for the IPN Unit for the period of July 27, 2007 through January 26, 2008, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2)(A), Federal Operating Permit No. 2266, General Terms and Conditions and TEX. HEALTH & SAFETY

CODE § 382.085(b). Specifically, a deviation discovered on December 18, 2007 was not reported until August 26, 2008, as documented during an investigation conducted on July 13, 2009.

3. Failed to submit the first semi-annual deviation report within 30 days of the end of the deviation reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(C) and 122.146, Federal Operating Permit No. 2266, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the first semi-annual deviation report for the reporting period of January 27, 2008 through July 26, 2008 was due on August 25, 2008, but was not postmarked until August 26, 2008, as documented during an investigation conducted on July 13, 2009.

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: GB Biosciences Corporation, Docket No. 2009-1394-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.
6. 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.
7. 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.
8. 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 J. Quinn
For the Executive Director

Date 12/23/2009

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.

DSerran
Signature

Date 11/04/09

DAVID T. TERRACE
Name (Printed or typed)
Authorized Representative of
GB Biosciences Corporation

PLANT 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.

Attachment A
Docket Number: 2009-1394-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: GB Biosciences Corporation
Payable Penalty Amount: Seven Thousand Eight Hundred Seventy-Five Dollars (\$7,875)
SEP Amount: Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937)
Type of SEP: Pre-approved
Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP: Texas Air Quality Control Region 216 – Houston-Galveston

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 will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

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 reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

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:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

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:

GB Biosciences Corporation
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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.

