

APPENDIX B

AGREED BOARD ORDERS 92-09(k) AND 93-12

AND BOARD ORDER 93-10

TEXAS AIR CONTROL BOARD
12124 Park 33 Circle
Austin, Texas 78753

AGREED BOARD ORDER

GNE, INCORPORATED
Account Number CP-0029-G

NO. 92-09(k)

The Texas Air Control Board (the Board) hereby resolves the matter of enforcement action regarding GNE Incorporated (the company) in the form of an Agreed Board Order pursuant to Sections 382.023(a) and (b), 382.082(c) and (d), and 382.088 of the Texas Clean Air Act (the Act), Texas Health and Safety Code, Chapter 382. The staff of the Board and the company have agreed on a settlement of the matters involved in this enforcement action, subject to the approval of the Board.

In settlement of this enforcement action and solely for the purpose of this Agreed Board Order, the parties have agreed and stipulated as follows:

1. That the company owns and operates a secondary lead smelter located at 7471 South Fifth Street, Frisco, Collin County, Texas.
2. That the above plant consists of one or more sources as defined in Section 382.003(12) of the Act.
3. That the company, as owner and operator of the above plant, is alleged to have violated Board Rule 116.4 and Section 382.085(b) of the Act by allegedly violating Special Provision No. 2(a) of TACB Permit Nos. R-1147A and R-5466 which provides that emissions from the facility shall not cause or contribute to an exceedance of the National Ambient Air Quality Standard (NAAQS) for lead at air monitors 1020001, 1020002, 1020003 or at air monitors operated by the company pursuant to Special Provision 17a. During the fourth quarter of 1990, emissions from the plant described in paragraph 1 caused or contributed to ambient lead concentrations of 1.6 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) which exceeded the NAAQS of 1.5 $\mu\text{g}/\text{m}^3$.
4. That notice of the apparent violations of the above rule was received by the company on or about March 18, 1991.

5. That the company and the staff agree that the allegations set forth in the Board's file regarding this enforcement action, concerning violations of Board Rule 116.4, are hereby settled and compromised. It is understood that the entry of this Agreed Board Order shall not constitute an admission by the company of any violations alleged in paragraph 3.

6. That administrative penalties in the amount of Eighty-Three Thousand Dollars (\$83,000.00) should be recovered by the Board for the violations alleged in paragraph 3.

7. That the company has placed in the possession of the Board the sum of Eighty-Three Thousand Dollars (\$83,000.00) for deposit in the General Revenue Fund of the State Treasury, as payment of administrative penalties assessed.

8. That to prevent recurrence of the violations described in paragraph 3, the company has or will institute the following measures:

a) The public shooting range located on the south side of the plant was closed to the public in April 1991 and covered with vegetation.

b) A 100,000 cubic feet per minute (cfm) baghouse ventilation system was installed March, 1991, to recover fugitives from the reverbatory and blast furnaces. Stack sampling of this system was conducted on May 9, 1991. The sampling results indicated the baghouse ventilation system was functioning properly.

c) Plastic strip curtains were installed in June 1991 on all doorways of the material storage building to reduce fugitive emissions.

d) Velocity measurements of the capture hoods and ducts of the reverbatory and blast furnaces were conducted. Based on these results, the company modified the existing capture equipment and installed new ductwork and hoods; these upgrades were completed in February 1992.

e) Smokes bomb testing required by the Special Provisions of Permit Nos. R-1147 and R-5466 will be completed by the end of October 1992.

f) During July 1991, the roof and north wall of the battery breaking building was extended to the west to reduce cross wind flow.

g) To reduce the level of fugitive emissions from the driveway between the blast furnace building and the battery breaker, the following modifications were made or will be made to enclose the north side of the area:

i) The present railroad track on the north side of the blast furnace building was removed.

ii) The north wall and north roof of the blast furnace building will be extended to the north and west to cover a storage bin area. This will allow for a wider driveway and easier maintenance of the paved surface. This work is scheduled for completion for the end of December 1992.

h) Vacuum sweeping of the operating plant yard area has been increased to twice daily. Yard surfaces will be repaired and a smooth surface maintained to facilitate cleaning.

i) The company will conduct a soil sampling program using a sampling and analytical procedure that the TACB and the company mutually agree to be acceptable. Sampling will be performed at locations indicated on Attachment 1. The company will meet with the TACB to discuss sampling program results within thirty (30) days of receiving analytical results. Within sixty (60) days of the aforementioned meeting to discuss sampling results, the company will submit a remediation plan for the sampled areas that show soil lead levels in excess of 500 parts per million, if those lead levels are in any way related to the GNE Incorporated, Frisco plant.

The company will conduct annual soil sampling at a minimum of ten (10) locations as shown on Attachment 1. The company will notify the TACB Regional Office not less than forty-five (45) days prior to sampling to schedule a pre-sampling meeting. The purpose of these pre-sampling meetings will be to review the necessary sampling and analytical procedures, to provide the proper data forms for recording pertinent data and to review the format procedures for

submitting the test reports. Soil samples will be taken on GNE Incorporated property at the boundary between the GNE Incorporated property and non-GNE Incorporated property. TACS will specify the location of steel markers and the company will take soil samples within a circle, ten (10) feet in diameter, centered on the aforementioned steel markers. The analytical results will be compared to the Bench Mark Samples taken in October 1992.

j) In order to place the raw material storage building under negative pressure by May 31, 1993, the company is authorized pursuant to the terms of this Agreed Board Order to install a baghouse to control emissions from the raw material storage building. Further, the company is authorized to install a reverbatory furnace feed drier in order to eliminate steam explosions in the furnace that cause fugitive puffs that escape the fugitive ventilation system. The Company is authorized to install a baghouse to control emissions from the feed drier. The feed drier is to be installed by May 31, 1993. After the date of entry of this Agreed Board Order, the company agrees to the following:

i) Within 60 days submit an application to amend Permit No. R-5466 requesting authorization to install the above-referenced baghouse and feed drier, as discussed in paragraph 8(j) above.

ii) The company shall submit additional information concerning the application to amend Permit No. R-5466 within thirty (30) days of the date of a written notification from the staff of the Texas Air Control Board that such information is necessary for complete review of the application.

iii) If the company operates the baghouse or feed drier before final action is taken on the application to amend Permit No. R-5466, the company shall maintain compliance with all Rules of the Board, except that the company will not be alleged or found to be in violation of TACS Regulation VI requirements for operating the baghouse or feed drier prior to final action on Permit No. R-5466.

iv) That from and after the date that the Executive Director (or the Board if the Executive Director calls a contested case hearing to consider the application to amend Permit No. R-5466) issues or denies the application to amend Permit No. R-5466, the company shall comply with Board Rule 116.4.

v) That the staff has not determined, based on the evidence presented and subject to the Board's concurrence by execution of this Order, that either the baghouse represents the Best Available Control Technology (BACT) for the purpose of placing the raw material storage building under negative pressure or that the reverberatory furnace feed drier represents BACT in the secondary lead industry for the purpose of preventing steam explosions in the furnace that cause fugitive puffs that escape the fugitive ventilation system. Supplemental or different control measures may be imposed in granting the amendment to Permit R-5466.

vi) The company shall be granted a reasonable additional amount of time to install the device(s) without further sanction(s), if the Executive Director or Board, as appropriate, grants the application to amend Permit No. R-5466 but requires control measures other than the baghouse or the feed drier.

Records sufficient to document compliance with this provision shall be kept at the plant and shall be available during normal working hours for inspection by TACS personnel or any local health official.

9. That all air pollution abatement equipment shall be maintained in good working order and operated properly during normal operations.

10. That any procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

For purposes of this Agreed Board Order only and based on the stipulations and agreements of the parties, the Texas Air Control Board hereby finds that the

violations described in paragraph 3 have occurred and that administrative penalties are warranted in the amount of Eighty-Three Thousand Dollars (\$83,000.00).

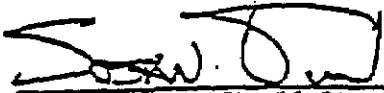
It is, therefore, ordered by the Texas Air Control Board that GNE, Incorporated pay administrative penalties in the amount of Eighty-Three Thousand Dollars (\$83,000.00).

It is further ordered that GNE, Incorporated shall from and after the date of entry of this agreed board order:

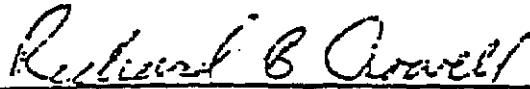
- (1) Implement and/or continue to implement all requirements set forth in paragraph 8;
- (2) Maintain all air pollution abatement equipment in good working order and operate said equipment properly during normal operations; and
- (3) Maintain compliance with TACS Rule 116.4 as to all units except the baghouse and feed drier described in paragraph 8(j).

The provisions of this Agreed Board Order shall apply to and be binding upon GNE, Incorporated, its successors, assigns and upon those persons in active concert or participation with them who receive actual notice of this Agreed Board Order by personal service or otherwise. GNE, Incorporated is hereby ordered to give notice of this Agreed Board Order to any successor in interest prior to transfer of ownership of all or any part of its plant, located at 7471 South Fifth Street, Frisco, Collin County and within 10 (ten) days of any such transfer, provide the Texas Air Control Board with written certification that such notice has been given.

APPROVED AS TO FORM AND SUBSTANCE:


Susan Owen, Staff Attorney

September 3, 1992
Date


Richard S. Crowell for the company

Sept. 1, 1992
Date

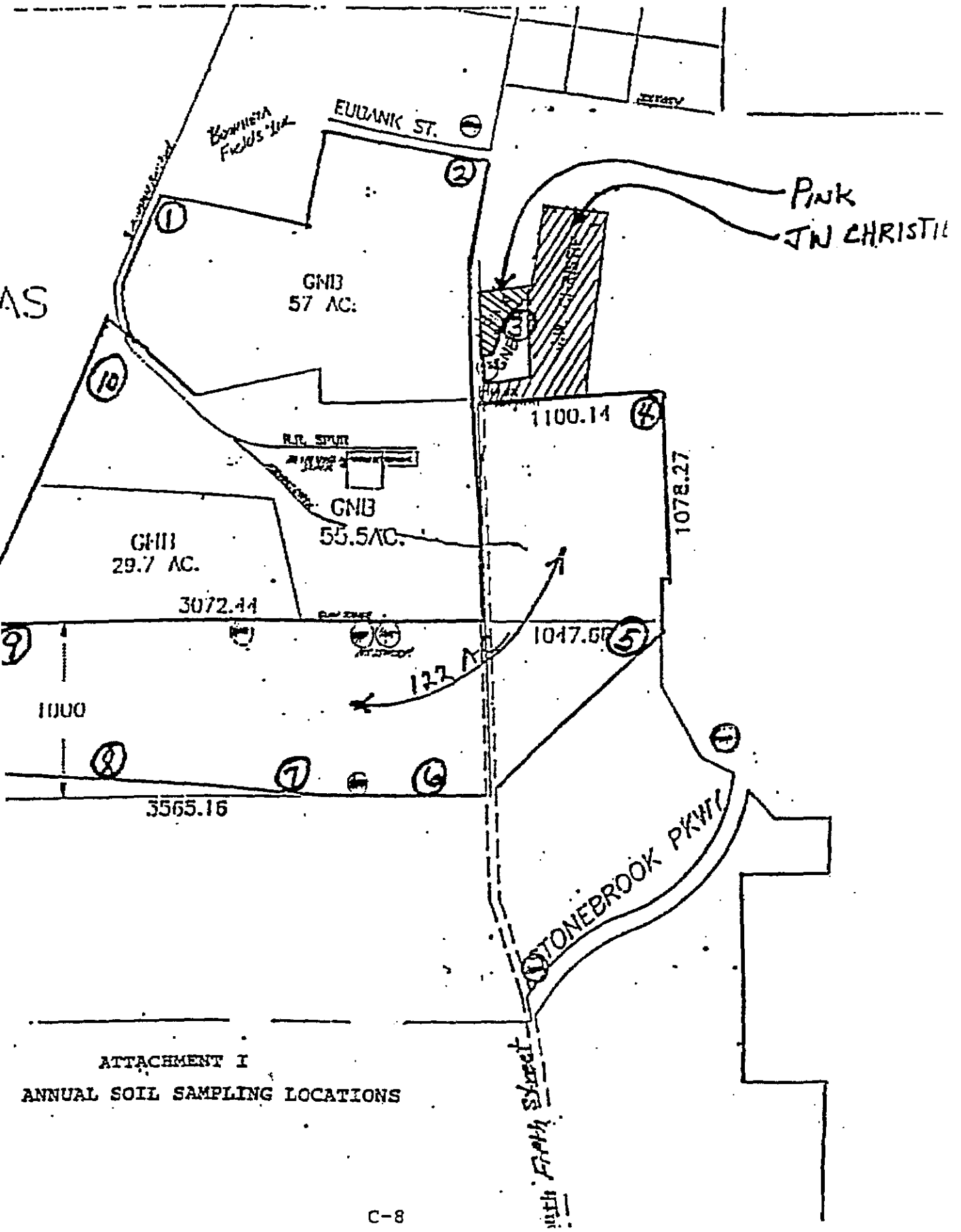
PASSED AND APPROVED at the regular meeting of the Texas Air Control Board
on this the _____ day of _____, 1992.

TEXAS AIR CONTROL BOARD

By: Kirk P. Watson, Chairman Calvin E. Parnell, Jr., Ph.D., P.E., Member
Edo G. Bailey, Vice-Chairman William H. Quortrup, Member
Suzanne I. Ahn, M.D., Member C. H. Rivers, Member
Jack V. Matson, Ph.D., P.E., Member Harlan H. Roberts, Member
Mary Anne Wyatt, Member

ATTEST:

Steve Spaw, P.E.
Executive Director



ATTACHMENT I
ANNUAL SOIL SAMPLING LOCATIONS

TEXAS AIR CONTROL BOARD
12124 Park 35 Circle
Austin, Texas 78753

AGREED BOARD ORDER

NO. 92-09

On this the 16th day of October, 1992, the Texas Air Control Board considered the matter of enforcement actions pertaining to the following persons:

Audubon Cleaners, Dallas County
Austin Bridge and Road, Inc., Dallas County
Bill Miller Bar-B-Q Enterprises, Inc., Bexar County
Braxos Engineering, McLennan County
Duck Creek Cleaners, Dallas County
Enserch Processing Partners, Ltd., Henderson County
Exxon Chemical Co., Harris County
Forstravel, Inc., Nacogdoches County
Fountainview-Wescheimer Joint Venture, Harris County
General Dynamics Corporation, Fort Worth Division,
Tarrant County
GNB, Incorporated, Collin County
Lone Star Contracting Corporation, Tarrant County
Mazda Motor of America, Inc., Ellis County
Mike Nunnery, Williamson County
Peak Cleaners, Dallas County
Phillips Petroleum Company, Harris County
Pioneer Concrete of Texas, Inc., Harris County
Premier Lumber Products, Inc., Hidalgo County
S.T.G. Leasing Co. d/b/a Tip-O-Tex Elevator, Cameron County
Shell Oil Company, Ector County
Southwestern Bell Telephone Company, Parker County
Super Car Sales, Incorporated, Harris County
Towne Cleaners, Dallas County
Union Pacific Railroad Company, Brazos County

The terms and conditions under which these matters are resolved are contained in attachments 92-09(a) through 92-09(y) which are attached to this order and incorporated as is fully set forth herein.

PASSED AND APPROVED at the regular meeting of the Texas Air Control Board in Austin, Texas, on this the 16th day of October, 1992.

TEXAS AIR CONTROL BOARD

By: Kirk P. Watson
Kirk P. Watson, Chairman

Calvin B. Parrish, Jr.
Calvin B. Parrish, Jr., Ph.D., P.E.,
Member

Bob G. Bailey
Bob G. Bailey, Vice-Chairman

William F. Quattrup
William F. Quattrup, Member

ABSENT

Suzanne I. Ahn, M.D., Member

ABSENT

Jack V. Matson, Ph.D., P.E.,
Member

C. E. Givard

C. E. Givard, Member

Warren E. Roberts

Warren E. Roberts, Member

Mary Anne Wyatt

Mary Anne Wyatt, Member

ABSENT:

William R. Campbell

William R. Campbell,
Executive Director

(Seal)

TEXAS AIR CONTROL BOARD
12124 Park 35 Circle
Austin, Texas 78753

AGREED BOARD ORDER

GNE INCORPORATED
(Account No. CP-0029-G)

NO. 93-12

The Texas Air Control Board (the Board), in the form of an Agreed Board Order, hereby establishes Contingency Measures relating to GNE Incorporated (the company) and the 1993 Lead State Implementation Plan for Collin County, Texas, pursuant to Sections 191(a) and 172(c)(9) of the Federal Clean Air Act, 42 United States Code sections 7401 -7842, and Section 382.023(a) of the Texas Clean Air Act, Texas Health and Safety Code, Chapter 382.

I. STIPULATIONS

The staff of the Board and the company have agreed, for the purposes of this Agreed Board Order, to the following:

(1) Definitions:

A. For the purposes of this Agreed Board Order only, a Condition is defined as:

i) an exceedance of the national ambient air quality standard for lead for any individual monitoring quarter in the Collin County nonattainment area; or

ii) a failure to attain the national primary ambient air quality standard for lead by January 6, 1997 in the Collin County nonattainment area.

B) For the purposes of this Agreed Board Order only, the term Contingency Measures is defined to include the following actions:

i) Increase from three to four the number of baghouse cells on oxide reactors 1, 2, 3, and 4;

ii) Place a collection hood over the entire reverberatory furnace to collect any fugitive emissions escaping the collection hoods at the furnace openings and install a baghouse of sufficient size to control the collected emissions;

- iii) Install a venturi wet scrubber at the battery breaker hammer mill;
- iv) Install emission monitors on all baghouse stacks that would alarm if there were a breach in filter integrity; and
- v) Perform semi-annual blacklight leak testing of all non-product baghouses.

(2) The company agrees to implement all of the above Contingency Measures at its Lead Oxide Manufacturing Facility located at 7471 South Fifth Street, Frisco, Collin County, Texas without further action by the Board or by the U.S. Environmental Protection Agency if, after the date of this Agreed Board Order, the company is notified by the Executive Director that either of the Conditions has occurred.

The company may, pursuant to the terms of this Agreed Board Order, construct, operate, or implement, the Contingency Measures. In the event that the Contingency Measures must be implemented, the company shall submit an application for a permit or permit amendment or shall qualify for a standard exemption for the contingency measures within sixty days of notification by the Executive Director that either of the Conditions has occurred.

The company shall submit additional information concerning any permit application, application for an amendment or any standard exemption for which registration or TACB Form PI-7 is required, within thirty days of the date of written notification from the staff of the TACB that such information is necessary for complete review of the application or standard exemption documentation.

If the company operates the equipment required by the Contingency Measures before final action is taken on the permit application, application for amendment, or standard exemption, the company shall maintain compliance with all Rules of the Board, except that the company will not be alleged or found to be

in violation of TACE Regulation VI requirements for operating the equipment related to the Contingency Measures prior to final action on the application.

Except for Item 5, the company would complete the implementation of the Contingency Measures within one year of being notified by the Executive Director of the Board that either of the Conditions had occurred. The company would implement Item 5 immediately upon notification from the Executive Director of the Board that either of the Conditions had occurred.

II. FINDINGS

For purposes of this Agreed Board Order only and based on the stipulations and agreements of the parties, the Texas Air Control Board hereby finds that should either of the Conditions described in paragraph 1 occur, implementation of the Contingency Measures described in paragraph 1 is necessary.

III. ORDER

It is therefore ordered by the Texas Air Control Board that GNB Incorporated shall complete implementation of the above described Contingency Measures, with the exception of Contingency Measure No. 5, which shall be immediately implemented, within one year of notification by the Executive Director that either of the Conditions, as defined herein, have occurred.

It is further ordered that GNB Incorporated shall apply for and obtain either a permit or permit amendment or shall qualify for a standard exemption within one year of notification by the Executive Director that either of the Conditions, as defined herein, have occurred.

The provisions of this Agreed Board Order shall apply to and be binding upon the company, its successors and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreed Board Order by personal service or otherwise. The company is hereby ordered to give notice of this Agreed Board Order to any successor in interest prior to transfer of ownership of all or any part of its plant, located at 7471 South Fifth Street,

AGREED BOARD ORDER NO.
ONE FRISCO INCORPORATED
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Frisco, Collin County, Texas, and within ten (10) days of any such transfer,
provide the Board with written certification that such notice has been given.

APPROVED AS TO FORM AND SUBSTANCE

Susan Owen
Susan Owen, Staff Attorney

6/2/93
Date

John Tuttle, attorney
for the company

6/2/93
Date

PASSED AND APPROVED at the regular meeting of the Texas Air Control Board
on this the _____ day of _____, 1993.

TEXAS AIR CONTROL BOARD

By: Kirk P. Watson, Chairman

Calvin B. Parnell, Jr., Ph.D., P.E., Member

Bob G. Bailey, Vice-Chairman

William H. Quortrup, Member

Elaine M. Barron, M.D., Member

C. H. Rivers, Member

Jack V. Matson, Ph.D., P.E., Member

Warren E. Roberts, Member

Mary Anne Wyatt, Member

ATTEST:

William R. Campbell
Executive Director

(Seal)

TEXAS AIR CONTROL BOARD
12124 PARK 35 CIRCLE
AUSTIN, TEXAS

BOARD ORDER
NO. 93-10

WHEREAS, pursuant to Section 382.017 of the Texas Clean Air Act (TCAA), Section 5 of the Administrative Procedure and Texas Register Act, and Section 1.102 of Title 40 of the Code of Federal Regulations, the Texas Air Control Board (TACB or Board), after proper notice, conducted a public hearing on April 21, 1993 to consider a proposed revision to the State Implementation Plan (SIP) for the control of lead emissions from the Gould National Battery, Incorporated facility in Frisco, Texas; and

WHEREAS, the Board duly circulated to interested persons, the Regional Administrator of the U.S. Environmental Protection Agency (EPA), and all applicable local air pollution control agencies hearing notices of its intended action; and

WHEREAS, interested persons were invited to submit data, views, and recommendations on the proposed amendment, either orally or in writing, at the hearing; and

WHEREAS, copies of the proposed amendment were available for public inspection at the Board's Central Office and Regional Office prior to the scheduled hearing; and

WHEREAS, data, views, and recommendations of interested persons were submitted to the Board at the hearing and were considered by the Board as reflected in the attached Hearing Record, which is hereby incorporated and made a part of this Order; and

WHEREAS, the Board finds that said Hearing Record includes the names of all interested groups or associations offering comment on the revision and their position concerning the proposed revision; and

WHEREAS, Section 382.017 of the TCAA gives the Board authority to make rules and regulations consistent with the policies and purposes of the TCAA; and

WHEREAS, the Board finds that the reasoned justification and factual bases for the amendment are fully set out in the section titled Evaluation in the attached Hearing Record; and

WHEREAS, the Board hereby certifies that the revision, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Board's legal authority;

NOW, THEREFORE, BE IT ORDERED BY THE TACB THAT:

1. The revisions to the SIP appended to this Order is hereby adopted and promulgated; and
2. The Executive Director is instructed to transmit a certified copy of this Order, together with the adopted revision, to the Governor of Texas for submittal to the Regional Administrator of the EPA as a proposed revision to the SIP pursuant to Section 110 of the Federal Clean Air Act, as amended.

PASSED AND APPROVED at the regular meeting of the TACB in El Paso, Texas, on this the 18th day of June, 1993.

TEXAS AIR CONTROL BOARD

BY:

Kirk P. Watson, Chairman

William H. Quortrup, Member

Bob G. Bailey, Vice Chairman

C. H. Rivers, Member

Elaine M. Barron, M.D., Member

Warren H. Roberts, Member

Jack V. Matson, Ph.D., P.E., Member

Mary Anne Wyatt, Member

Calvin B. Parnell, Jr., Ph.D., P.E.,
Member

ATTEST:

William R. Campbell
Executive Director

(SEAL)