

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0582-AIR-E **TCEQ ID:** RN104320023 **CASE NO.:** 35697
RESPONDENT NAME: Brownfield Farmers, L.L.C.

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: Brownfield Farmers, located at the intersection of Railroad Avenue and 7th Street, Seagraves, Gaines County</p> <p>TYPE OF OPERATION: Portable fertilizer blending 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 October 20, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2134; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Donald Richins, Manager, Brownfield Farmers, L.L.C., P.O. Box 388, Brownfield, Texas 79316 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: February 12, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 27, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to adhere to the permitted annual fertilizer production rate of the portable pipe reactor for 2006 and 2007. Specifically, the actual annual fertilizer production rate for 2006 was 19,001.19 tons, and the actual rate for 2007 was 18,977.77 tons, and the permitted annual fertilizer production rate is limited to 10,000 tons per year [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition No. 4, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to adhere to the operational time limits of the portable pipe reactor. Specifically, the permit allows the operation of the reactor only between the months of July 1st and December 31st of any calendar year regardless of the location of the reactor, and not for more than a total of any 30 days during that time period. It operated 63 days in February, April, May, and June of 2006, January through June of 2007, and January and February of 2008 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to perform stack testing at the portable pipe reactor stack [Emission Point No. ("EPN") No. 1]. Specifically, the testing should have occurred within 180</p>	<p>Total Assessed: \$9,000</p> <p>Total Deferred: \$1,800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$7,200</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and begin implementing operational procedures to ensure that the proper notifications are submitted, and that proper authorization is obtained in the future prior to operating or moving the portable pipe reactor;</p> <p>b. Within 30 days after the effective date of this Agreed Order, develop and begin implementing operational procedures to ensure compliance with the permitted annual production rate, and the permitted operational time limits of Permit No. 72361L002;</p> <p>c. Within 90 days after the effective date of this Agreed Order, complete stack testing on EPN No. 1 in order to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere; and</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>

<p>days after initial start-up (February 15, 2006), and the test should have been conducted no later than August 14, 2006 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to submit letters requesting TCEQ approval prior to moving the portable pipe reactor to Brownfield, Texas, and then back to Seagraves, Texas. Specifically, the unit was moved 24 times between February 15, 2006 and February 12, 2008, and the Midland and Lubbock Regional Offices never received written requests for the relocations, which is required each time it is moved [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition Nos. 11, 12, and 13, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

TCEQ

DATES
 Assigned
 PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No.	<input type="text" value="35697"/>	No. of Violations	<input type="text" value="4"/>
Docket No.	<input type="text" value="2008-0582-AIR-E"/>	Order Type	<input type="text" value="1660"/>
Media Program(s)	<input type="text" value="Air"/>	Enf. Coordinator	<input type="text" value="Suzanne Walrath"/>
Multi-Media		EC's Team	<input type="text" value="3"/>
Admin. Penalty \$ Limit Minimum	<input type="text" value="\$0"/>	Maximum	<input type="text" value="\$10,000"/>

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 9-Apr-2008

Docket No. 2008-0582-AIR-E

PCW

Respondent Brownfield Farmers, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35697

PCW Revision March 6, 2008

Reg. Ent. Reference No. RN104320023

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent has not received any enforcement actions within the last five years.

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

Screening Date 9-Apr-2008 **Docket No.** 2008-0582-AIR-E **PCW**
Respondent Brownfield Farmers, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 35697 *PCW Revision March 8, 2008*
Reg. Ent. Reference No. RN104320023
Media [Statute] Air
Enf. Coordinator Suzanne Walrath
Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 72361L002, Special Condition No. 4, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to adhere to the permitted annual fertilizer production rate of the portable pipe reactor for 2006 and 2007. Specifically, the actual annual fertilizer production rate for 2006 was 19,001.19 tons, and the actual rate for 2007 was 18,977.77 tons, and the permitted annual fertilizer production rate is limited to 10,000 tons per year.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Human health or the environment will or could be exposed to pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

daily	<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

Two single events are recommended, one each for 2006 and 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brownfield Farmers, L.L.C.
Case ID No. 35697
Reg. Ent. Reference No. RN104320023
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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$3,500	31-Dec-2006	15-Nov-2008	1.9	\$328	n/a	\$328

Notes for DELAYED costs
 These are estimated costs to develop and begin implementing procedures to ensure compliance with the permitted annual production rate of Permit No. 72361L002, beginning on the date the violation was first documented, and ending on the projected date of compliance.

ANNUALIZE [1] avoided costs before entering item. (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$3,500	TOTAL	\$328
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Screening Date 9-Apr-2008 Docket No. 2008-0582-AIR-E PCW
 Respondent Brownfield Farmers, L.L.C. Policy Revision 2 (September 2002)
 Case ID No. 35697 PCW Revision March 8, 2008

Reg. Ent. Reference No. RN104320023

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 72361L002, Special Condition No. 5, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to adhere to the operational time limits of the portable pipe reactor. Specifically, the permit allows the operation of the reactor only between the months of July 1st and December 31st of any calendar year regardless of the location of the reactor, and not for more than a total of any 30 days during that time period. It operated 63 days in February, April, May, and June of 2006, January through June of 2007, and January and February of 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	10%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 63 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Five quarterly events events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$133

Violation Final Penalty Total \$1,452

This violation Final Assessed Penalty (adjusted for limits) \$1,452

Economic Benefit Worksheet

Respondent Brownfield Farmers, L.L.C.
Case ID No. 35697
Reg. Ent. Reference No. RN104320023
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
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$3,500	12-Feb-2008	15-Nov-2008	0.8	\$133	n/a	\$133

Notes for DELAYED costs

These are estimated costs to develop and begin implementing operational procedures to ensure compliance with the permitted annual production rate and the permitted operational time limits of Permit No. 72361L002, beginning on the date of the investigation, and ending on the projected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,500

TOTAL

\$133

Screening Date 9-Apr-2008

Docket No. 2008-0582-AIR-E

PCW

Respondent Brownfield Farmers, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35697

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN104320023

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 72361L002, Special Condition No. 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to perform stack testing at the portable pipe reactor ("EPN No. 1"). Specifically, the testing should have occurred within 180 days after initial start-up (February 15, 2006), and the test should have been conducted no later than August 14, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brownfield Farmers, L.L.C.
Case ID No. 35697
Reg. Ent. Reference No. RN104320023
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
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Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$6,500	14-Aug-2006	1-Feb-2009	2.5	\$803	n/a	\$803
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

These are estimated costs to perform stack testing for EPN No. 1, beginning on the date the testing should have occurred (8/14/06), and ending on the projected 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,500

TOTAL

\$803

Screening Date 9-Apr-2008
 Respondent Brownfield Farmers, L.L.C.
 Case ID No. 35697

Docket No. 2008-0582-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN104320023

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Air Permit No. 72361L002, Special Condition Nos. 11, 12, and 13, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit letters requesting TCEQ approval prior to moving the portable pipe reactor to Brownfield, Texas, and then back to Seagraves, Texas. Specifically, the unit was moved 24 times between August 8, 2006 and February 12, 2008, and the Midland and Lubbock Regional Offices never received written requests for the relocations, which is required each time it is moved.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<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

24 single events are recommended for the 24 missing notifications for the period of August 8, 2006 through February 12, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brownfield Farmers, L.L.C.
Case ID No. 35697
Reg. Ent. Reference No. RN104320023
Media Air
Violation No. 4

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	15-Feb-2006	15-Nov-2008	2.8	\$206	n/a	\$206

Notes for DELAYED costs: These are estimated costs to develop and begin implementing operational procedures to ensure that the proper notifications are submitted, and the proper authorization is obtained in the future prior to moving the portable pipe reactor, beginning on the date the unit was first moved without obtaining proper authorization, and ending on the projected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$206

Compliance History

Customer/Respondent/Owner-Operator: CN602655961 Brownfield Farmers, L.L.C. Classification: AVERAGE Rating: 2.58
Regulated Entity: RN104320023 BROWNFIELD FARMERS Classification: AVERAGE BY Site Rating: 3.01
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 72361L002
AIR NEW SOURCE PERMITS PERMIT 72361L001
Location: Located at the intersection of Railroad Ave. and 7th Street, Seagraves, TX 79359 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 07 - MIDLAND
Date Compliance History Prepared: April 09, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 09, 2003 to April 09, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Suzanne Walrath Phone: 512/239-2134

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BROWNFIELD FARMERS, L.L.C.
RN104320023

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0582-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 Brownfield Farmers, L.L.C. ("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 portable fertilizer blending plant located at the intersection of Railroad Avenue and 7th Street in Seagraves, Gaines 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 April 1, 2008.
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 Dollars (\$9,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Two Hundred Dollars (\$7,200) of the administrative penalty and One

Thousand Eight Hundred Dollars (\$1,800) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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.
10. 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.
11. 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 adhere to the permitted annual fertilizer production rate of the portable pipe reactor for 2006 and 2007, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition No. 4, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 12, 2008. Specifically, the actual annual fertilizer production rate for 2006 was 19,001.19 tons, and the actual rate for 2007 was 18,977.77 tons, and the permitted annual fertilizer production rate is limited to 10,000 tons per year.
2. Failed to adhere to the operational time limits of the portable pipe reactor, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 12, 2008. Specifically, the permit allows the operation of the reactor only between the months of July 1st and December 31st of any calendar year regardless of the location of the reactor, and not for more than a total of any 30 days during that time period. It operated 63 days in February, April, May, and June of 2006, January through June of 2007, and January and February of 2008.
3. Failed to perform stack testing at the portable pipe reactor stack [Emission Point No. ("EPN") No. 1], in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 12, 2008. Specifically, the testing should have occurred

within 180 days after initial start-up (February 15, 2006), and the test should have been conducted no later than August 14, 2006.

4. Failed to submit letters requesting TCEQ approval prior to moving the portable pipe reactor to Brownfield, Texas, and then back to Seagraves, Texas, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 72361L002, Special Condition Nos. 11, 12, and 13, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 12, 2008. Specifically, the unit was moved 24 times between February 15, 2006 and February 12, 2008, and the Midland and Lubbock Regional Offices never received written requests for the relocations, which is required each time it is moved.

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: Brownfield Farmers, L.L.C., Docket No. 2008-0582-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, develop and begin implementing operational procedures to ensure that the proper notifications are submitted, and that proper authorization is obtained in the future prior to operating or moving the portable pipe reactor;
 - b. Within 30 days after the effective date of this Agreed Order, develop and begin implementing operational procedures to ensure compliance with the permitted annual production rate, and the permitted operational time limits of Permit No. 72361L002;
 - c. Within 90 days after the effective date of this Agreed Order, complete stack testing on EPN No. 1 in order to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere; and

- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

3. 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.
4. 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.
5. 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.

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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
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 S. [Signature]
For the Executive Director

9/26/2008
Date

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

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

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

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

Donald W. Richens
Signature

7-21-08
Date

Donald W. Richens
Name (Printed or typed)
Authorized Representative of
Brownfield Farmers, L.L.C.

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.

