

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1423-AIR-E **TCEQ ID:** RN105477863 **CASE NO.:** 36482

**RESPONDENT NAME:** Hyman Farm Service, LLC

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Wilbur-Ellis Company Hearne Facility, 1100 West Brown Street, Hearne, Robertson County</p> <p><b>TYPE OF OPERATION:</b> Fertilizer manufacturing</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on July 25, 2008 alleging that the complainants were exposed to ammonia fumes on July 21, 2008. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Harold Hyman, Owner, Hyman Farm Service, LLC, P.O. Box 277, Dimmit, Texas 79027  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> July 25, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> July 29, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 29, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation. On July 21, 2008, two persons, stopped in their vehicle at a railroad crossing adjacent to the Plant, were exposed to ammonia fumes. A call to 911 was made for assistance, and one of the passengers was transported to St. Joseph's emergency room in Bryan. Both the passenger and driver were treated there for breathing difficulty and then released.</p> <p><b>AIR</b></p> <p>1) Failure to prevent ammonia emissions that resulted in the hospitalization of two persons. Specifically, two persons were exposed to ammonia fumes while stopped in their vehicles at a railroad crossing adjacent to the Plant [TEX. HEALTH &amp; SAFETY CODE § 382.085(a) and (b)].</p> <p>2) Failure to have authorization to operate a source of air emissions [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p><b>Total Assessed:</b> \$6,150</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$6,150</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Human health has been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>a. On July 25, 2008, ceased operations and moved the pipe reactor off-site; and</p> <p>b. By September 8, 2008, provided increased oversight of pipe reactor relocations in order to ensure those operations receive proper permitting review and approval before putting into service.</p>

Additional ID No(s): No Air Acct. No. 84267



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

<b>DATES</b>	<b>Assigned</b>	2-Sep-2008			
	<b>PCW</b>	13-Oct-2008	<b>Screening</b>	5-Sep-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Hyman Farm Service, LLC				
<b>Reg. Ent. Ref. No.</b>	RN105477863				
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36482	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2008-1423-AIR-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Terry Murphy		
		<b>EC's Team</b>	Enforcement Team 4		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No change due to average performer classification.

<b>Culpability</b>	Yes	25.0% Enhancement	<b>Subtotal 4</b>	\$1,500
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Notes: On July 30, 2008, the Respondent stated to TCEQ staff that authorization to operate at the site had not been sought, because the Respondent knew that the distance requirement could not be met.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,350
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$14  
 Approx. Cost of Compliance: \$3,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,150
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$6,150
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,150
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders and due to culpability.

<b>PAYABLE PENALTY</b>	\$6,150
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<b>Screening Date</b> 5-Sep-2008	<b>Docket No.</b> 2008-1423-AIR-E	<b>PCW</b>
<b>Respondent</b> Hyman Farm Service, LLC	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36482	<i>PCW Revision June 12, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN105477863		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Terry Murphy		

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

*Please Enter Yes or No*

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

**>> Repeat Violator (Subtotal 3)**

No	<b>Adjustment Percentage (Subtotal 3)</b> 0%
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**>> Compliance History Person Classification (Subtotal 7)**

Average Performer	<b>Adjustment Percentage (Subtotal 7)</b> 0%
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	No change due to average performer classification.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b> 5-Sep-2008	<b>Docket No.</b> 2008-1423-AIR-E	<b>PCW</b>		
<b>Respondent</b> Hyman Farm Service, LLC	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36482	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN105477863				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Terry Murphy				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Health & Safety Code § 382.085(a) and (b)			
<b>Violation Description</b>	Failed to prevent ammonia emissions that resulted in the hospitalization of two persons. Specifically, on July 21, 2008, two persons, stopped in their vehicle at a railroad crossing adjacent to the Plant, were exposed to ammonia fumes. A call to 911 was made for assistance, and one of the passengers was transported to St. Joseph's emergency room in Bryan. Both the passenger and driver were treated there for breathing difficulty and then released, as documented during an investigation conducted on July 29, 2008.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	x		
	Potential			
<b>Percent</b>		50%		
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
<b>Percent</b>		0%		
<b>Matrix Notes</b>	Human health or the environment were exposed to significant amounts of pollutants exceeding levels protective of human health or environmental receptors as a result of this violation.			
<b>Adjustment</b>		\$5,000		
		\$5,000		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1		
		<b>Number of violation days</b>		
		1		
<i>mark only one with an x</i>	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event		x	
<b>Violation Base Penalty</b>		\$5,000		
One single event is recommended.				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction		
		\$1,250		
	Extraordinary	Before NOV	NOV to EDRP/Settlement Offer	
	Ordinary	x		
	N/A		(mark with x)	
<b>Notes</b>	The Respondent ceased operations and removed the equipment from the site on July 25, 2008. The NOE was issued August 29, 2008.			
<b>Violation Subtotal</b>		\$3,750		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$1		
		<b>Violation Final Penalty Total</b>		
		\$5,000		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$5,000		

## Economic Benefit Worksheet

**Respondent** Hyman Farm Service, LLC  
**Case ID No.** 36482  
**Reg. Ent. Reference No.** RN105477863  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	21-Jul-2008	25-Jul-2008	0.01	\$1	n/a	\$1

Notes for DELAYED costs

Estimated costs to provide additional equipment operations oversight. The Date Required is the date the pipe reactor was operating and resulted in people requiring medical care, and the Final Date is the date the pipe reactor was removed from the site.

### 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

\$1

<p><b>Screening Date</b> 5-Sep-2008</p> <p><b>Respondent</b> Hyman Farm Service, LLC</p> <p><b>Case ID No.</b> 36482</p> <p><b>Reg. Ent. Reference No.</b> RN105477863</p> <p><b>Media [Statute]</b> Air</p> <p><b>Enf. Coordinator</b> Terry Murphy</p> <p><b>Violation Number</b> <input type="text" value="2"/></p> <p><b>Rule Cite(s)</b> 30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)</p> <p><b>Violation Description</b></p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>Failed to have authorization to operate a source of air emissions. Specifically, the Respondent operated a portable pipe reactor at the Wilbur-Ellis Company, 1100 West Brown Street in Hearne, Robertson County, on July 21, 2008, without authorization, as documented during an investigation conducted on July 29, 2008.</p> </div>	<p style="text-align: right;"><b>Docket No.</b> 2008-1423-AIR-E</p> <p style="text-align: right;"><b>PCW</b></p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision June 12, 2008</p>																
<p><b>Base Penalty</b> <input style="width: 100px;" type="text" value="\$10,000"/></p>																	
<p><b>&gt;&gt; Environmental, Property and Human Health Matrix</b></p>																	
<p>OR</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td colspan="4" style="text-align: center; font-weight: bold;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table> <p style="text-align: right; margin-top: 5px;"><b>Percent</b> <input style="width: 50px;" type="text" value="0%"/></p>	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"/>	
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"/>														
<p><b>&gt;&gt; Programmatic Matrix</b></p>																	
<table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td colspan="4" style="text-align: center; font-weight: bold;">Falsification</td> </tr> <tr> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table> <p style="text-align: right; margin-top: 5px;"><b>Percent</b> <input style="width: 50px;" type="text" value="10%"/></p> <p style="margin-top: 10px;"><b>Matrix Notes</b></p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>The Respondent failed to comply with 100% of the rule.</p> </div>	Falsification				Major	Moderate	Minor		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<p><b>Adjustment</b> <input style="width: 100px;" type="text" value="\$9,000"/></p>				
Falsification																	
Major	Moderate	Minor															
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>														
<p><b>\$1,000</b></p>																	
<p><b>Violation Events</b></p>																	
<p><b>Number of Violation Events</b> <input style="width: 50px;" type="text" value="1"/></p> <p><b>Number of violation days</b> <input style="width: 50px;" type="text" value="4"/></p> <p style="margin-top: 10px;"><i>mark only one with an x</i></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input checked="" type="text" value="x"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input checked="" type="text" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<p><b>Violation Base Penalty</b> <input style="width: 100px;" type="text" value="\$1,000"/></p>				
daily	<input type="text"/>																
monthly	<input checked="" type="text" value="x"/>																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	<input type="text"/>																
<p>One monthly event is recommended from the date of the emissions incident, July 21, 2008, to the date the equipment was removed from the site, July 25, 2008.</p>																	
<p><b>Good Faith Efforts to Comply</b></p>																	
<p style="text-align: center;"><b>10.0%</b> Reduction</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td colspan="2" style="text-align: center;">(mark with x)</td> </tr> </table> <p style="margin-top: 10px;"><b>Notes</b></p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>By September 8, 2008, the Respondent initiated procedures to ensure the equipment would be properly authorized to operate at future sites. The NOE was issued August 29, 2008.</p> </div>		Before NOV	NOV to EDRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>	N/A	(mark with x)		<p><b>Violation Subtotal</b> <input style="width: 100px;" type="text" value="\$900"/></p>				
	Before NOV	NOV to EDRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>															
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>															
N/A	(mark with x)																
<p><b>Economic Benefit (EB) for this violation</b></p>																	
<p><b>Estimated EB Amount</b> <input style="width: 100px;" type="text" value="\$13"/></p>	<p><b>Statutory Limit Test</b></p> <p><b>Violation Final Penalty Total</b> <input style="width: 100px;" type="text" value="\$1,150"/></p> <p><b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 100px;" type="text" value="\$1,150"/></p>																

### Economic Benefit Worksheet

**Respondent** Hyman Farm Service, LLC  
**Case ID No.** 36482  
**Reg. Ent. Reference No.** RN105477863  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$2,000	21-Jul-2008	8-Sep-2008	0.13	\$13	n/a	\$13

Notes for DELAYED costs

Estimated costs to provide additional permitting functions' oversight. The Date Required is the date the pipe reactor was found to be operating without authorization, and the Final Date is the date the Respondent completed procedures designed to ensure proper future permitting.

**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

\$2,000

**TOTAL**

\$13

# Compliance History

Customer/Respondent/Owner-Operator: CN600948533 Hyman Farm Service, LLC Classification: AVERAGE Rating: 1.55  
Regulated Entity: RN105477863 WILBUR-ELLIS COMPANY HEARNE FACILITY Classification: AVERAGE BY DEFAULT Site Rating: 3.01  
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 84267  
Location: 1100 W BROWN ST, HEARNE, TX, 77859 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: September 25, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 25, 2003 to September 25, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Terry Murphy Phone: (512) 239-5025

## 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  
HYMAN FARM SERVICE, LLC  
RN105477863

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1423-AIR-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Hyman Farm Service, LLC ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

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

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

### I. FINDINGS OF FACT

1. The Respondent owns and operates a portable pipe reactor used for fertilizer manufacturing that was located at 1100 West Brown Street in Hearne, Robertson County, Texas (the "Plant").



2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on July 29, 2008, TCEQ staff documented that the Respondent failed to prevent ammonia emissions that resulted in the hospitalization of two persons. Specifically, on July 21, 2008, two persons were exposed to ammonia fumes while stopped in their vehicle at a railroad crossing adjacent to the Plant.
4. During an investigation on July 29, 2008, TCEQ staff documented that the Respondent failed to have authorization to operate a source of air emissions. Specifically, the Respondent operated a portable pipe reactor at the Wilbur-Ellis Company, 1100 West Brown Street in Hearne, Robertson County, on July 21, 2008, without authorization.
5. The Respondent received notice of the violations on September 3, 2008.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On July 25, 2008, ceased operations and moved the pipe reactor off-site; and
  - b. By September 8, 2008, provided increased oversight of pipe reactor relocations in order to ensure those operations receive proper permitting review and approval before putting into service.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent ammonia emissions that resulted in the hospitalization of two persons, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to have authorization to operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Six Thousand One Hundred Fifty Dollars (\$6,150) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Six Thousand One Hundred Fifty Dollar (\$6,150) administrative penalty.



### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand One Hundred Fifty Dollars (\$6,150) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Hyman Farm Service, LLC, Docket No. 2008-1423-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John S. Sullivan  
For the Executive Director

2/3/2009  
Date

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

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

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

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

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

Harold Hyman  
Signature

12-11-08  
Date

Harold Hyman  
Name (Printed or typed)  
Authorized Representative of  
Hyman Farm Service, LLC

OWNER  
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.

