

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-2000-AIR-E **TCEQ ID:** RN104320023 **CASE NO.:** 38827  
**RESPONDENT NAME:** Brownfield Farmers, L.L.C.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Brownfield Farmers Portable Pipe Reactor, 102 West Avenue, Levelland, Hockley County</p> <p><b>TYPE OF OPERATION:</b> Portable fertilizer manufacturing plant</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 October 20, 2009, alleging nuisance odors. 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 August 30, 2010. 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. Todd Huddleson, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2541; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Donald Richins, General Manager, Brownfield Farmers, L.L.C., P.O. Box 388, Brownfield, Texas 79316  <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> October 20, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> October 20, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 4, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>AIR</b></p> <p>Failed to operate the portable pipe reactor in compliance with Permit By Rule Registration No. 72949L008. Specifically, the Respondent exceeded the allowable operating time of 72 hours within a four month period by 50 hours beginning on October 14, 2009 and ending October 20, 2009 [30 TEX. ADMIN. CODE § 106.302(5) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,160</p> <p><b>Total Deferred:</b> \$232  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$928</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Site 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on December 10, 2009, the Respondent implemented new written tracking measures to document portable pipe reactor usage hours, and also obtained new reports from the railroad that allow for better tracking of shipments and arrival times for railcars, thus allowing the ability to plan ahead for the hours needed to handle shipments that are inbound.</p>

Additional ID No(s): 82949L008



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	7-Dec-2009	Screening	8-Dec-2009	EPA Due	
	PCW	3-Feb-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Brownfield Farmers, L.L.C.		
Reg. Ent. Ref. No.	RN104320023		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38827	No. of Violations	1
Docket No.	2009-2000-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

### 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 Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
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 8-Dec-2009

Docket No. 2009-2000-AIR-E

PCW

Respondent Brownfield Farmers, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 38827

PCW Revision October 30, 2003

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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	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) 26%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received three Notices of Violation with dissimilar violations, and received an Agreed Order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 26%

Screening Date 8-Dec-2009

Docket No. 2009-2000-AIR-E

PCW

Respondent Brownfield Farmers, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 38827

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104320023

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 106.302(5) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to operate the portable pipe reactor in compliance with Permit By Rule Registration No. 72949L008. Specifically, the Respondent exceeded the allowable operating time of 72 hours within a four month period by 50 hours beginning on October 14, 2009 and ending October 20, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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 1 Number of violation days 6

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

Violation Base Penalty \$1,000

One quarterly event is recommended for the period of October 14, 2009 until October 20, 2009.

Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes: The Respondent achieved compliance for this violation on December 10, 2009, and the Notice of Enforcement was issued on December 4, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Estimated EB Amount \$8

Statutory Limit Test

Violation Final Penalty Total \$1,160

This violation Final Assessed Penalty (adjusted for limits) \$1,160

## Economic Benefit Worksheet

**Respondent** Brownfield Farmers, L.L.C.  
**Case ID No.** 38827  
**Reg. Ent. Reference No.** RN104320023  
**Media** Air  
**Violation No.** 1

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description: 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	\$500	14-Oct-2009	10-Dec-2009	0.16	\$4	n/a	\$4
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)	\$500	14-Oct-2009	10-Dec-2009	0.16	\$4	n/a	\$4

Notes for DELAYED costs

These are estimated costs to implement and begin using new tracking measures to document portable pipe reactor usage hours, and also to obtain new reports from the railroad that allow better tracking of shipments and arrival times for railcars. The Date Required is the beginning date of the violation, and the Final Date is the date that the new tracking measures and the use of the railroad forms were implemented.

**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

\$8

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602655961 Brownfield Farmers, L.L.C. Classification: AVERAGE Rating: 14.40  
Regulated Entity: RN104320023 BROWNFIELD FARMERS PORTABLE PIPE REACTOR Classification: POOR Site Rating: 63.00

ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	72949L007
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L006
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L008
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L005
	AIR NEW SOURCE PERMITS	REGISTRATION	73401L004
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L002
	AIR NEW SOURCE PERMITS	PERMIT	72361L001
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L004
	AIR NEW SOURCE PERMITS	REGISTRATION	73401L001
	AIR NEW SOURCE PERMITS	REGISTRATION	73401L003
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L001
	AIR NEW SOURCE PERMITS	REGISTRATION	72949L003
	AIR NEW SOURCE PERMITS	REGISTRATION	73401L002

Location: 102 West Avenue, Levelland, Hockley County, Texas

TCEQ Region: REGION 02 - LUBBOCK

Date Compliance History Prepared: January 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 22, 2005 to January 22, 2010

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

Name: Suzanne Walrath Phone: 239 - 2134

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/17/2008

ADMINORDER 2008-0582-AIR-E

Classification: Moderate

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

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC No. 4 PERMIT

Description: Failed to adhere to the permitted annual fertilizer production rate of the portable pipe reactor for 2006 and 2007.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC No. 5 PERMIT

Description: Failed to adhere to the operational time limits of the portable pipe reactor.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC No. 7 PERMIT

Description: Failed to perform stack testing at the portable pipe reactor stack [Emission Point No. ("EPN") No. 1].

Classification: Moderate

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

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC Nos. 11, 12, & 13 PERMIT

Description: Failed to submit letters requesting TCEQ approval prior to moving the portable pipe reactor to Brownfield, Texas, and then back to Seagraves, Texas.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 04/25/2008 (654111)  
2 05/07/2009 (742657)  
3 11/10/2009 (781471)  
4 01/12/2010 (787172)

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

Date: 05/07/2009 (742657)

CN602655961

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 5.G. Permit 72361L002 PERMIT

Description: Failed to ensure that the Reactor Stack, Emission Point ("EPN") No. 1, is at least 70 feet in height above ground level. Specifically, the Reactor Stack was approximately 20 feet above ground level.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Permit 72361L002, SC 1 PERMIT  
Special Condition 5.H. Permit 72361L002 PERMIT

Description: Failed to keep the acid/water wash system on the portable pipe reactor operable, in order to achieve a minimum of 60 percent reduction of ammonia emissions.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THSC Chapter 382 382.085(b)  
Special Condition 1, Permit 72361L002 PERMIT

Description: Failed to comply with the NH3, Fluoride and PM10 (lbs/hr) permit limits

Date: 11/04/2009 (781471)

CN602655961

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
72361L002 PERMIT

Description: Failure to limit the Particulate Matter mass emission rate (MER) to 0.67 lb/hr, Ammonia MER to 11.77 lbs/hr, and the Fluorides MER to 0.02 lb/hr during a performance stack test.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
72361L002 PERMIT

Description: Failure to operate EPN 1 with a stack that is equal to or greater than 70 feet above ground during a performance stack test.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
72361L002 PERMIT

Description: Failure to submit copies of the final sampling report to the TCEQ Lubbock Region office within 30 days after sampling was complete.

Date: 01/12/2010 (787172) CN602655961

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
72361L002 PERMIT

Description: Failure to limit the Particulate Matter mass emission rate (MER) to 0.67 lb/hr,

Ammonia MER to 11.77 lbs/hr, and the Fluorides MER to 0.02 lb/hr during a performance stack test.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
72361L002 PERMIT

Description: Failure to operate EPN 1 with a stack that is equal to or greater than 70 feet above ground during a performance stack test.

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. 2009-2000-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 manufacturing plant that was located at 102 West Avenue in Levelland, Hockley 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 December 12, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand One Hundred Sixty Dollars (\$1,160) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Twenty-Eight Dollars (\$928) of the administrative penalty and Two Hundred Thirty-Two Dollars (\$232) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The

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

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on December 10, 2009, the Respondent implemented new written tracking measures to document portable pipe reactor usage hours, and also obtained new reports from the railroad that allow for better tracking of shipments and arrival times for railcars, thus allowing the ability to plan ahead for the hours needed to handle shipments that are inbound.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have failed to operate the portable pipe reactor in compliance with Permit By Rule Registration No. 72949L008, in violation of 30 TEX. ADMIN. CODE § 106.302(5) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 20, 2009. Specifically, the Respondent exceeded the allowable operating time of 72 hours within a four month period by 50 hours beginning on October 14, 2009 and ending October 20, 2009.

## **III. DENIALS**

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

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brownfield Farmers, L.L.C., Docket No. 2009-2000-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Siddle  
\_\_\_\_\_  
For the Executive Director

8/13/2010  
\_\_\_\_\_  
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 Richins  
\_\_\_\_\_  
Signature

3/3/10  
\_\_\_\_\_  
Date

Donald Richins  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Brownfield Farmers, L.L.C.

General 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.