

BEFORE THE NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

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| STATE OF NORTH CAROLINA |) | |
| |) | |
| COUNTY OF IREDELL |) | SPECIAL ORDER BY CONSENT |
| |) | |
| IN THE MATTER OF: |) | SOC 2010- |
| ODOR VIOLATIONS BY TYSON |) | |
| FARMS, INC. –HARMONY RENDERING |) | |
| PLANT |) | |
| |) | |

This SPECIAL ORDER BY CONSENT (hereinafter referred to as the “ORDER”) is made and entered into pursuant to North Carolina General Statute 143-215.110 by and between TYSON FARMS, INC. – HARMONY RENDERING PLANT (hereinafter referred to as the “COMPANY”) and the ENVIRONMENTAL MANAGEMENT COMMISSION, an agency of the State of North Carolina (hereinafter referred to as the “COMMISSION”).

WITNESSETH:

- I. The COMPANY and the COMMISSION do hereby stipulate and agree to the following:
 - A. The COMPANY has operated and is now operating an inedible-type rendering plant in Harmony, Iredell County, North Carolina (the “Facility”), subject to the requirements of Air Permit No. 03378T29 (the “Permit”).
 - B. The COMPANY currently operates or is permitted to operate the following emission sources or air cleaning devices and appurtenances:
 - 1. One continuous hydrolyzer (30,000 pounds per hour process rate, ID No. 28) controlled by one air-cooled steam condenser (ID No. CD-01E) in series with one fixed throat venturi scrubber (pressure range of 0.5 to 3.0 inches of water, ID No. CD-25) utilizing water as the scrubbing medium in series with one packed tower

wet scrubber (pressure range of 4.4 to 6.5 inches of water, ID No. 16C) utilizing a scrubbing medium as approved by the DAQ.

2. One continuous meat cooker (ID No. 24R) controlled by three air cooled steam condensers (ID Nos. CD-01B, CD-01C and CD-01D) in series with a venturi scrubber (ID No. VS1) in series with a high intensity scrubber (ID No. HIS1).

3. One continuous meat cooker (ID No. 23R) controlled by one air cooled steam condenser (ID No. CD-01A) in series with a venturi scrubber (ID No. VS1) in series with a high intensity scrubber (ID No. HIS1).

4. One feather meal dryer (ID No. 6) controlled by one simple cyclone (ID No. 6CN1) in series with one air cooled steam condenser (ID No. CD-01E) in series with one venturi scrubber (ID No. CD-25) and one packed bed scrubber (pressure range of 4.4 to 6.5 inches of water, ID No. 16C) utilizing a scrubbing medium as approved by the DAQ.

5. One feather meal dryer (ID No. 7) controlled by one simple cyclone (ID No. 7CN1) in series with one air cooled steam condenser (ID No. CD-01E) in series with one venturi scrubber (ID No. CD-25) and one packed bed scrubber (pressure range of 4.4 to 6.5 inches of water, ID No. 16C) utilizing a scrubbing medium as approved by the DAQ.

6. One meat building (room air) odor control system (ID No. 17) controlled by one crossflow scrubber (pressure range of 4.5 to 6.5 inches of water, ID No. 17C) utilizing a scrubbing medium as approved by the DAQ.

7. Two fat centrifuges (ID Nos. 30A and 30B), and the fat centrifuge holding tank (ID No. 31), three (3) expeller presses (ID Nos. 34A, 34B, and 34C), the drain H₂O tank (ID No. 33), condensate junction box (ID No. 35), wash down tank (ID No. 36), raw blood tank (ID No. 37), four fat storage tanks (ID Nos. 38A,

38B, 38C, and 38D) controlled in series with a venturi scrubber (ID No. VS1) in series with a high intensity scrubber (ID No. HIS1).

8. One blood storage tank (ID No. 40; 25,000 gallon capacity,) controlled by one packed tower wet scrubber (pressure range of 4.4 to 6.5 inches of water, ID No. 16C) utilizing a scrubbing medium as approved by the DAQ.

- C. The Permit contains odor provisions, including the following: “The permittee shall comply with applicable Environmental Management Commission regulations, including ...15A NCAC 2D .0539...” (Permit Condition 2.2.A.1.a.), “The Permittee shall not allow, cause, or permit the operation of any device, machine, equipment, or other contrivance unless all gases, vapors, and gas-entrained effluents from these processes are passed through condensers to remove all steam and other condensible materials. All noncondensable gases passing through the condensers shall be incinerated at 1200 degrees Fahrenheit for a period of not less than 0.3 seconds, or treated in an equally effective manner.”
- D. On September 24, 2009, the DAQ documented odors off of the COMPANY’s property, indicating that the COMPANY did not employ suitable measures to control odorous emissions in violation of 15A NCAC 2D .0539, “Odor Control of Feed Ingredient Manufacturing Plants.”
- E. On December 2, 2009, the Director, Division of Air Quality (DAQ), assessed the COMPANY \$10,182 in civil penalties and investigative costs for the odor violations occurring on September 24, 2009.
- F. On January 7, 2010, Tyson Foods filed a petition for a contested case hearing for the December 2, 2009 civil penalty assessments. On March 1, 2010, Tyson Foods, Inc. withdrew their petition and accepted a penalty of \$8,000.00 plus \$182.00 in investigative costs.

- G. On March 19, 2010 and April 13, 2010, the DAQ documented additional odors off of the COMPANY's property, indicating that COMPANY did not employ suitable measures to control odorous emissions in violation of 15A NCAC 2D .0539, "Odor Control of Feed Ingredient Manufacturing Plants."
- H. The COMPANY allegedly discharged and continues to have the potential to discharge odorous emissions to the ambient atmosphere in violation of 15A NCAC 2D .0539, "Odor Control of Feed Ingredient Manufacturing Plants."
- I. The COMPANY neither admits nor denies the legal and factual allegations contained in Paragraphs I.D, I.E, I.F, I.G and I.H.

THEREFORE, the COMMISSION and the COMPANY, desiring to resolve and settle the compliance issues between them, have agreed to enter into this ORDER with the following terms and conditions:

- II. The COMPANY, desiring to operate in a safe and environmentally sound manner in accordance with the rules and regulations of the COMMISSION does hereby agree to perform the following activities:
 - A. The COMPANY submitted a permit application on March 8, 2010 for construction and installation of a feed auger system on the poultry meal storage bins. The COMPANY will complete construction and installation of the feed auger system within 180 days of the effective date of this ORDER.
 - B. The COMPANY will complete an engineering review to identify measures and controls to minimize odors and submit the review to the Mooresville Regional Office within seven (7) days of the effective date of this ORDER.
 - C. The COMPANY will submit a permit application to the DAQ within twenty-one (21) days of the effective date of this ORDER to implement recommendations in the engineering review. The COMPANY shall complete construction within 270 days of the effective date of this ORDER.
 - D. The COMPANY shall submit a compliance monitoring and odorous emissions abatement plan (hereinafter referred to as the PLAN) for the sources and

associated control devices outlined in Paragraph I.B.1-8 within twenty-one (21) days of the effective date of this ORDER. Paragraphs II. E-H list the main sections of the Plan.

- E. The COMPANY shall perform odor observations in accordance with DAQ procedures, down-wind from the plant twice a day when the plant is in operation. The first observation will be between the hours of 4:00 a.m. and 9:00 a.m. and the second between the hours of 4:00 p.m. and 9:00 p.m. and/or any time that the plant receives an odor complaint. The odor survey log will have the time, date, type of complaint if a complaint is made, weather conditions, and wind direction. If an odor is detected, the following information will also be collected: the observations, equipment checks and findings, and the corrective actions taken.
- F. If no odors are detected down-wind of the plant, the team member making the observations will complete the odor survey log noting the absence of findings. No additional actions will be required.
- G. If odors are detected down wind of the plant, the team member making the observations will complete the odor survey log and check the following and log all findings and corrective actions.
1. Check all scrubber controls to insure that all scrubber fans and scrubber pumps are running.
 2. Check chemicals to ensure sufficient available supply and check chemical pumps for proper operation.
 3. Check all doors to insure that all are closed and or only open while equipment is going in or out of the building (dumping trailers).
 4. Check the controls on the cooker to make sure the cooker temperature is within range and not over heating the product.
 5. Check the controls on the Hydrolizer to make sure that the D-port valve is set at its correct location.

6. Check the roof for leaks and/or damaged duct work.
 7. Check the park log to verify that no load is being stored on the yard in such manner and length of time as to exceed the allowable limits for onsite storage.
 8. Make all repairs or corrections as soon as possible and complete the log with any findings.
 9. Logs will be turned in daily for management review and logged in the main office until the SOC is completed.
- H. The odor logs will be maintained at the location and available for DAQ inspectors upon request.
- I. The Company will take reasonable steps, while recognizing best practices and business necessity, to prevent the receipt of feathers mixed with blood. Conditions and circumstances outside the control of the Company, however, may dictate situations where feathers and blood mixing occur. The Company will work with raw product suppliers to communicate the importance of blood and feather separation and require all raw product suppliers to have the ability of separating blood by June 1, 2011. Accordingly, it is recognized not all occurrences of mixing can be prevented.
- J. The COMPANY shall pay a penalty of \$20,000 for the odor violations documented on March 19, 2010 and April 13, 2010. This sum is due and payable within thirty (30) days of the effective date of this ORDER.
- III. The COMPANY shall submit no later than fourteen (14) days after the deadline for completing each increment required in Paragraph II written certification to the Air Quality Regional Supervisor, Mooresville Regional Office, Division of Air Quality, whether such increment has been performed.

IV. In the event that the COMPANY fails to comply with any deadline as set out in this ORDER or fails to achieve final compliance with any applicable requirement in this ORDER, the COMPANY agrees that, unless excused under Paragraph V, the COMPANY will pay the COMMISSION according to the following schedule:

| <u>Deadlines and Requirements</u> | <u>Stipulated Penalties</u> |
|---|--|
| Failure to comply with requirements set forth in Paragraphs II. A -J. | \$500 per day for the first 5 days and \$1000 per calendar day thereafter. |
| Failure to submit a report as required in Paragraph III. | \$100 per day for the first 5 days and \$500 per calendar day thereafter. |

Stipulated Penalty:

Failure within thirty (30) days of receipt of the Director's written demand to pay the penalties will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. By entering into this Order, the COMPANY waives any and all defenses and agrees that the sole issue in such an action will be whether thirty (30) days has elapsed. The COMPANY shall pay all costs, including agency and attorney fees, associated with the collection of a delinquent stipulated penalty.

V. The COMPANY's obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed, may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, as determined by the Division of Air Quality Director (hereinafter referred to as the "DIRECTOR"). If any such delaying event occurs, the COMPANY shall notify the Division of Air Quality (hereinafter referred to as "DAQ") in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay, the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented. If the Director determines that non-compliance with this ORDER was caused by circumstances beyond the control of the COMPANY, the COMMISSION and the COMPANY jointly may stipulate and agree to a written

modification of this ORDER. Extension of any compliance date pursuant to this Paragraph shall not extend any subsequent deadlines established in the ORDER unless the subsequent deadline necessarily is dependent upon completion of the earlier deadline.

- VI. This ORDER shall pertain only to that equipment, sources, and operations described in Paragraph I of this ORDER. Any violation of Air Quality Standards resulting from these emission units or any other sources or equipment for which the COMPANY is responsible, shall subject the COMPANY to appropriate enforcement action pursuant to North Carolina General Statute 143-215.114A.
- VII. The COMPANY agrees to waive any rights it may have to seek judicial review to challenge this ORDER or to seek a stay of enforcement of this ORDER in connection with any judicial review of the State Implementation Plan. The COMMISSION acknowledges that this waiver does not prohibit the COMPANY from seeking modification of this ORDER if any regulatory standards upon which this ORDER is based are changed subsequent to its execution. In such cases, the COMPANY may petition that the ORDER be modified to reflect those regulatory changes.
- VIII. In the event the COMMISSION or the DAQ find that reports, plans, specifications, or permit applications required by Paragraph II are in any respect deficient or if additional information is necessary to comply with the requirements of North Carolina General Statutes 143-215.107 *et seq.*, any regulations promulgated thereunder, or any other applicable laws or regulations, the COMPANY shall be notified by the DAQ as soon as possible. The COMPANY shall be afforded an opportunity to modify, amend or supplement its submissions to make such submissions complete and appropriate.

- IX. All notices and reports required from the COMPANY by this ORDER shall be mailed, first class postage prepaid, to:

Ron Slack, Regional Air Quality Supervisor
N.C. Dept. of Environment and Natural Resources
610 E. Center St., Suite 301
Mooresville, NC 28115

All payments required from the COMPANY by this ORDER shall be mailed, first class postage prepaid to the following address:

Enforcement Group - Payments
NCDENR – DAQ
Mail Service Center 1641
Raleigh, North Carolina 27699-1641

- X. This ORDER constitutes full and final settlement and satisfaction of all matters addressed herein and any and all claims or prospective claims that the COMMISSION has or may have for violations of regulations described in Paragraph I. hereof, as of the date this ORDER is approved by the COMMISSION. This ORDER shall not affect the COMPANY's obligation to comply with any Federal, State, or local laws or regulations.
- XI. Final approval and entry into this ORDER are subject to the requirements that the COMMISSION give notice of proposed consent decrees to the public, and that the public have at least thirty (30) days within which to comment on the ORDER.
- XII. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.
- XIII. Any modifications of this ORDER must be agreed to in writing signed by both parties.

XIV. Except as otherwise set forth herein, this ORDER is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the future with any permit.

XV. This Special Order by Consent shall expire on completion of the undertakings described herein but no later than December 31, 2011.

This the _____ day of _____, 2010.

ATTESTED:

Tyson Farms, Inc. – Harmony Rendering Plant

BY: _____

Mr. Dan Crowe
PO Box 158
Harmony, NC 28634

APPROVED AND ACCEPTED:

BY: _____
Environmental Management Commission

DATE: _____