EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1922-AIR-E **TCEQ ID:** RN100211242 **CASE NO.:** 31600

RESPONDENT NAME: E. R. Carpenter, L.P.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: E. R. Carpenter, L.P. Temple Division, 2611 North General Bruce Drive, Temple, Bell County

TYPE OF OPERATION: Industrial facility that manufactures foam materials for furniture and carpet padding

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 19, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Daniel Siringi, Enforcement Division, Enforcement Section III, MC R-10, (409) 899-8799; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Mr. Jack Bailey, Jr., Waco Regional Office, MC R-09, (254) 751-0335

Respondent: Ms. Shannon Marburger, Environmental Manager, E. R. Carpenter, L.P., P.O. Box 1007, Temple, Texas 76503
Mr. Herbert A. Claiborne, Secretary, E. R. Carpenter, L.P., P.O. Box 1007, Temple, Texas 76503

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** October 2, 2006 **Date of NOE Relating to this Case:** October 25, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **AIR** Failed to submit an application to renew Federal Operating Permit ("FOP") No. O-01341 in a timely manner and continued to operate after its expiration on June 20, 2006 [30 TEX. ADMIN. CODE § 122.241(b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $2,600 **Total Deferred:** $520 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,080 **Site Compliance History Classification:** __ High __X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Carpenter submitted an application to the TCEQ on July 19, 2006 for Federal Operating Permit ("FOP") No. O-2903 to replace expired FOP No. O-01341. **Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, which ever is earlier, comply with the provisions in expired FOP No. O-01341; b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application for FOP No. O-2903 within 30 days after the date of such requests, or by any other deadline specified in writing; and c. Within 180 days after the effective date of this Agreed Order, submit written certification that the application for FOP No. O-2903 has been approved.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

TCEQ

DATES					
Assigned	30-Oct-2006				
PCW	07-Nov-2006	Screening	31-Oct-2006	EPA Due	27-Jul-2007

RESPONDENT/FACILITY INFORMATION

Respondent	E. R. Carpenter, L.P.		
Reg. Ent. Ref. No.	RN100211242		
Facility/Site Region	9-Waco	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31600	No. of Violations	1
Docket No.	2006-1922-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Daniel Siringi
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 4% Enhancement *Subtotals 2, 3, & 7* $100

Notes: Enhancement for two (2) NOVs without same or similar violations in the past five years at this plant.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The Respondent does not meet the good faith effort criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$109
Approx. Cost of Compliance	$2,550

SUM OF SUBTOTALS 1-7 Final Subtotal $2,600

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $2,600

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $2,600

DEFERRAL 20% Reduction Adjustment -$520

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $2,080

Screening Date 31-Oct-2006 **Docket No.** 2006-1922-AIR-E **PCW**
Respondent E. R. Carpenter, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 31600 *PCW Revision April 25, 2006*
Reg. Ent. Reference No. RN100211242
Media [Statute] Air Quality
Enf. Coordinator Daniel Siringl

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	2	4%
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 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*	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%
		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) **4%**

>> **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 Enhancement for two (2) NOVs without same or similar violations in the past five years at this plant.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **4%**

Screening Date 31-Oct-2006 **Docket No.** 2006-1922-AIR-E **PCW**

Respondent E. R. Carpenter, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 31600 *PCW Revision April 25, 2006*

Reg. Ent. Reference No. RN100211242

Media [Statute] Air Quality

Enf. Coordinator Daniel Siringi

Violation Number 1

Primary Rule Cite(s)	30 Tex. Admin. Code § 122.241(b)
Secondary Rule Cite(s)	Texas Health & Safety Code § 382.085(b)
Violation Description	Failed to submit an application to renew Federal Operating Permit (FOP) No. O-01341 in a timely manner and continued to operate after its expiration on June 20, 2006.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

113 Number of violation days

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $109

Statutory Limit Test

Violation Final Penalty Total $2,600

This violation Final Assessed Penalty (adjusted for limits) $2,600

Economic Benefit Worksheet

Respondent E. R. Carpenter, L.P.
Case ID No. 31600
Reg. Ent. Reference No. RN100211242
Media [Statute] Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	$2,550	20-Jun-2006	28-Apr-2007	0.9	$109	n/a	$109
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Cost is estimated based on administrative costs and labor associated with a permit application. Date required is the expiration date of the permit and final date is the date compliance is expected to be achieved.						
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 $2,550

TOTAL $109

Compliance History

Customer/Respondent/Owner-Operator:	CN600125058	E. R. Carpenter, L.P.	Classification: AVERAGE	Rating: 1.93
Regulated Entity:	RN100211242	E R CARPENTER LP TEMPLE DIVISION	Classification: AVERAGE	Site Rating: 1.36

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	BF0012H
AIR OPERATING PERMITS	PERMIT	1341
AIR OPERATING PERMITS	PERMIT	2903
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	21087
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD027133172
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30903
AIR NEW SOURCE PERMITS	PERMIT	20625
AIR NEW SOURCE PERMITS	PERMIT	25087
AIR NEW SOURCE PERMITS	PERMIT	25522
AIR NEW SOURCE PERMITS	PERMIT	30507
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BF0012H
AIR NEW SOURCE PERMITS	REGISTRATION	72119
AIR NEW SOURCE PERMITS	AFS NUM	0019
AIR NEW SOURCE PERMITS	REGISTRATION	77555
STORMWATER	PERMIT	TXR05M883

Location: 2611 N GENERAL BRUCE DR, TEMPLE, TX, 76501 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: November 07, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 30, 2001 to October 30, 2006

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

Name: Daniel Siringi Phone: (409) 899-8799

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

1	12/04/2002	(17433)
2	07/17/2002	(5400)
3	06/09/2004	(274979)
4	02/02/2006	(403590)
5	10/25/2006	(514783)
6	01/07/2004	(258787)
7	10/02/2003	(250664)
8	04/17/2003	(22533)
9	03/21/2006	(459406)
10	03/23/2005	(374977)
11	06/22/2004	(276289)

12 04/17/2003 (24440)
13 01/28/2005 (348916)
14 05/23/2003 (60607)

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

Date: 02/02/2006 (403590)

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to meet the 60lb/4.5hr amine usage limit on February 11, 2005, November 4, 2005, and December 3, 2005, which is set forth in Special Condition No. 4 of Permit No. 20625.

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT IA

Description: Failure to meet the ABA emission limit of 414.1 lb/hr set in the "Maximum Allowable Emission Rates Table" of Permit No. 20625. This emission limit was exceeded on December 3, 2005.

Date: 12/05/2002 (17433)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)[G]

Description: Exceeded an emission limit contained in the MAERT of Permit No. 20625.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)[G]

Description: Exceeded emission limit contained in MAERT of Permit No. 20625.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)(C)

Description: A violation of 30 TAC 116.116(b)(1) cited as records indicate facility varied from a representation contained in the permit application dated Sept. 23, 1999 (submitted to amend Permit No. 20625)...the 19,306.4 lb/hr maximum usage rate of toluene diisocyanate (TDI) in the "Prime Foam Process" was exceeded.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)(C)

Description: Records indicate facility varied from a representation contained in the Sept. 23, 1999 permit application.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: Partial failure to report an Emisisons Event. Although no EE notification was submitted at time of event, region would not have known of this incidnet had Carpenter representative not informed TCEQ personnel of it.

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 E. R. CARPENTER, L.P. RN100211242	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1922-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 E. R. Carpenter, L.P. ("Carpenter") 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 Carpenter appear before the Commission and together stipulate that:

1. Carpenter owns and operates an industrial facility that manufactures foam materials for furniture and carpet padding at 2611 North General Bruce Drive in Temple, Bell 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 Carpenter agree that the Commission has jurisdiction to enter this Agreed Order, and that Carpenter is subject to the Commission's jurisdiction.

4. Carpenter received notice of the violations alleged in Section II ("Allegations") on or about November 1, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Carpenter of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Six Hundred Dollars ($2,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Carpenter has paid Two Thousand Eighty Dollars ($2,080) of the administrative penalty and Five Hundred Twenty Dollars ($520) is deferred contingent upon Carpenter'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 Carpenter fails to timely and satisfactorily comply with all

requirements of this Agreed Order, the Executive Director may require Carpenter 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 Carpenter 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 Carpenter submitted an application to the TCEQ on July 19, 2006 for Federal Operating Permit ("FOP") No. O-2903 to replace expired FOP No. O-01341.

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 Carpenter 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, Carpenter is alleged to have failed to submit an application to renew FOP No. O-01341 in a timely manner and continued to operate after its expiration on June 20, 2006, in violation of 30 TEX. ADMIN. CODE § 122.241(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on October 2, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Carpenter pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Carpenter'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: E. R. Carpenter, L.P., Docket No. 2006-1922-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 Carpenter shall undertake the following technical requirements:

a. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, which ever is earlier, comply with the provisions in expired FOP No. O-01341;

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application for FOP No. O-2903 within 30 days after the date of such requests, or by any other deadline specified in writing; and

c. Within 180 days after the effective date of this Agreed Order, submit written certification that the application for FOP No. O-2903 has been approved.

The certification shall be notarized by a State of Texas 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 fine and imprisonment for knowing violations."

All correspondence, reports, and documentation required by these Ordering Provisions 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:

Manager, Air Section
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue
Waco, Texas 76710

3. The provisions of this Agreed Order shall apply to and be binding upon Carpenter. Carpenter 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 Carpenter 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, Carpenter's failure to comply is not a violation of this Agreed Order. Carpenter shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Carpenter shall notify the Executive Director within seven days after Carpenter 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 Carpenter shall be made in writing to the Executive Director. Extensions are not effective until Carpenter 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 Carpenter 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 Carpenter, or three days after the date on which the Commission mails notice of the Order to Carpenter, 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

For the Executive Director

4/12/07
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Herbert A. Claiborne III
Signature

12/15/06
Date

HERBERT A. CLAIBORNE III
Name (Printed or typed)
Authorized Representative of
E. R. Carpenter, L.P.

SECRETARY
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.