EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-2019-IWD-E **TCEQ ID:** RN100213727 **CASE NO.:** 35104

RESPONDENT NAME: Carotex, Inc.

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Carotex, 1500 Intracoastal Drive, approximately one mile downstream and southeast of the Rainbow/Veterans Bridge, Port Arthur, Jefferson County

TYPE OF OPERATION: Wastewater treatment facility

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 June 23, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Clyde C. Adams, Vice President, Carotex, Inc., 1500 Intracoastal Drive, Port Arthur, Texas 77643
Respondent's Attorney: Mr. Paul Sarahan, Fulbright & Jaworski, LLP, 1301 McKinney, Suite 5100, Houston, Texas 77010

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** October 11, 2007 **Date of NOV/NOE Relating to this Case:** November 29, 2007 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failure to maintain operating logs in accordance with its permit. Specifically, the operator did not document waste volume moved from the vacuum system to the wastewater treatment plant, the barge identification number, or a description of the material removed from the barge [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001674000, Other Requirements No. 5]. 2) Failure to report effluent exceedances that deviate by more than 40% from the permitted effluent limitation. Specifically, the Respondent did not report exceeding the 25.6 milligrams per liter ("mg/L"), daily average limitation for total suspended solids during April 2005 (50 mg/L), and exceeding the 15.0 mg/L single grab limitation for ammonia nitrogen during May 2005 (79 mg/L) [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 7.c.]. 3) Failure to properly ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, pitting and delamination of the metal was observed in the effluent underflow weir, sawtooth weir and unit sidewalls, some of the sawtooth weir teeth were missing, and	**Total Assessed:** $9,800 **Total Deferred:** $1,960 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $3,920 **Total Paid to General Revenue:** $3,920 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Begin recording a description of the material cleaned from barges and each barge's respective identification number; ii. Develop and implement reporting procedures for noncompliance reporting for effluent violations that deviate by more than 40% from the permitted effluent limitations, and for unauthorized discharges. The reports shall be submitted within the time frames established by TPDES Permit No. WQ0001674000; iii. Submit a notice to the TCEQ Industrial Permits Team to obtain authorization to discharge boiler blowdown to the wastewater treatment plant; and iv. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the permit application within 30 days after the date of such letters, or by any other deadline specified in writing. b. Within 45 days after the effective date of this Agreed Order: i. Either repair or replace severely corroded components of equipment; ii. Initiate a preventative maintenance plan which includes periodic evaluation of the integrity of the coatings on the clarifier, aeration basins, and all other units of treatment; and iii. Remove and cleanup as necessary all unauthorized discharges of industrial wastes from boiler blowdown observed on October 11, 2007.

minor corrosion was observed on the aeration basins [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0001674000, Operational Requirements No. 1]. 4) Failure to prevent unauthorized discharge of industrial waste. Specifically, boiler blowdown was observed at the small boiler to be discharging to the ground and ponding in a large area adjacent to the small boiler [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0001674000, Permit Conditions No. 2.g.]. 5) Failure to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the discharge monitor report ("DMR") for November 2005 [30 TEX. ADMIN. CODE § 319.1 and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 1]. 6) Failure to submit the noncompliance notification for the unauthorized discharge that was observed during the October 11, 2007 investigation. Specifically, the Respondent failed to submit noncompliance notification for an unauthorized discharge within the time frame established by the permit [30 TEX. ADMIN CODE § 305.125(9), TEX. WATER CODE § 26.039(b), and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirement No. 7.a.].		c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to discharge blowdown water from the boiler to the wastewater treatment plant has been obtained or that operation has ceased until such time that the authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

Additional ID No(s).: WQ0001674000

Attachment A
Docket Number: 2007-2019-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Carotex, Inc.**
Payable Penalty Amount:	**Seven Thousand Eight Hundred Forty Dollars ($7,840)**
SEP Amount:	**Three Thousand Nine Hundred Twenty Dollars ($3,920)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Jefferson County-Pleasure Island Stabilization**
Location of SEP:	**Jefferson County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to stabilize the shoreline by placing vinyl sheets of piling and erosion control blankets along a stretch of waterway along Pleasure Island. Continued erosion from wave action caused by passing ships is compromising the integrity of the shoreline along Pleasure Island. The embankment will be reclaimed and sloped to stabilize approximately 5 miles of shoreline.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by correcting erosion problems and will result in less silt and turbidity in the water. Improving the waterway will promote bird and aquatic life, and make the area safer for recreational uses.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The Honorable Carl R. Griffith, Jr.
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision November 6, 2007*

DATES					
Assigned	29-Nov-2007				
PCW	29-Jan-2008	Screening	13-Dec-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Carotex, Inc.		
Reg. Ent. Ref. No.	RN100213727		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35104	No. of Violations	6
Docket No.	2007-2019-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $5,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 75% Enhancement — *Subtotals 2, 3, & 7* $4,200

Notes: An enhancement is recommended because the Respondent has one agreed order containing a denial of liability, and eleven NOVs for same/similar violations in the past five years.

Culpability — No — 0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the 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 x)

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

0% Enhancement* — *Subtotal 6* $0

Total EB Amounts	$393
Approx. Cost of Compliance	$7,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $9,800

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $9,800

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $9,800

DEFERRAL — 20% Reduction — *Adjustment* -$1,960

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 $7,840

Screening Date 13-Dec-2007 **Docket No.** 2007-2019-IWD-E

PCW

Respondent Carotex, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35104

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100213727

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

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*)	11	55%
	Other written NOVs	0	0%
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%

		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) 75%

>> **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

An enhancement is recommended because the Respondent has one agreed order containing a denial of liability, and eleven NOVs for same/similar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

Screening Date 13-Dec-2007 **Docket No.** 2007-2019-IWD-E **PCW**

Respondent Carotex, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35104

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100213727

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0001674000, Other Requirements No. 5

Violation Description Failed to maintain operating logs in accordance with its permit. Specifically, the operator did not document waste volume moved from the vacuum system to the wastewater treatment plant, the barge identification number, or a description of the material removed from the barge.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Most, (at least 70 percent) of the rule and permit requirements were met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $10

Statutory Limit Test

Violation Final Penalty Total $175

This violation Final Assessed Penalty (adjusted for limits) $175

Economic Benefit Worksheet

Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$250	11-Oct-2007	1-Aug-2008	0.8	$10	n/a	$10
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to establish procedures to record and maintain the Facility records. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance: $250

TOTAL: $10

Screening Date 13-Dec-2007 **Docket No.** 2007-2019-IWD-E **PCW**

Respondent Carotex, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 35104 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN100213727

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9), and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 7.c.

Violation Description Failed to report effluent exceedances that deviate by more than 40% from the permitted effluent limitation. Specifically, the Respondent did not report exceeding the 25.6 milligrams per liter ("mg/L") daily average limitation for total suspended solids ("TSS") during April 2005 (50 mg/L), and exceeding the 15.0 mg/L single grab limitation for ammonia nitrogen during May 2005 (79 mg/L).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100 percent of the permit requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2 | 61 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two monthly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $14

Statutory Limit Test

Violation Final Penalty Total $3,500

This violation Final Assessed Penalty (adjusted for limits) $3,500

Economic Benefit Worksheet

Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$350	11-Oct-2007	1-Aug-2008	0.8	$14	n/a	$14
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to establish improved reporting procedures to ensure that the monthly exceedances above 40% are reported to the TCEQ. Date Required was the date of the investigation. The Final Date is the expected date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance $350 — **TOTAL** $14

Screening Date 13-Dec-2007 **Docket No.** 2007-2019-IWD-E **PCW**

Respondent Carotex, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 35104 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN100213727

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5), and TPDES Permit No. WQ0001674000, Operational Requirements No. 1

Violation Description Failed to properly ensure that the Faciity and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, pitting and delamination of the metal was observed in the effluent underflow weir, sawtooth weir and unit sidewalls, some of the sawtooth weir teeth were missing, and minor corrosion was observed on the aeration basins.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

OR

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $9,500

$500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $283

Statutory Limit Test

Violation Final Penalty Total $875

This violation Final Assessed Penalty (adjusted for limits) $875

Economic Benefit Worksheet

Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment	$5,000	11-Oct-2007	1-Aug-2008	0.8	$13	$269	$283
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to repair and maintain the equipment. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	NA						

Approx. Cost of Compliance: $5,000

TOTAL: $283

Screening Date 13-Dec-2007
Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media [Statute] Water Quality
Enf. Coordinator J. Craig Fleming

Docket No. 2007-2019-IWD-E

PCW
Policy Revision 2 (September 2002)
PCW Revision November 6, 2007

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0001674000, Permit Conditions, No. 2.g.

Violation Description Failed to prevent unauthorized discharge of industrial waste. Specifically, boiler blowdown was observed at the small boiler to be discharging to the ground and ponding in a large area adjacent to the small boiler at the time of the October 11, 2007 investigation.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>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 as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

35 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the investigation date of October 11, 2007 to the screening date of December 13, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $66

Statutory Limit Test

Violation Final Penalty Total $1,750

This violation Final Assessed Penalty (adjusted for limits) $1,750

Economic Benefit Worksheet

Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$1,000	11-Oct-2007	1-Feb-2009	1.3	$66	n/a	$66
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to submit an amendment to the existing permit to discharge boiler blowdown water to the wastewater treatment plant. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance: $1,000

TOTAL: $66

Screening Date 13-Dec-2007 **Docket No.** 2007-2019-IWD-E **PCW**

Respondent Carotex, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 35104 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN100213727

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 319.1, and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") for November 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 30 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One monthly event is recommended.

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $7 **Violation Final Penalty Total** $1,750

This violation Final Assessed Penalty (adjusted for limits) $1,750

Economic Benefit Worksheet

Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$50	20-Dec-2005	1-Aug-2008	2.6	$7	n/a	$7
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to establish procedures to submit the DMR properly. The Date Required was the date the DMR was due for the reporting period. The Final Date is the expected date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance $50

TOTAL $7

Screening Date 13-Dec-2007 **Docket No.** 2007-2019-IWD-E **PCW**

Respondent Carotex, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 35104 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN100213727

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9), Tex. Water Code § 26.039(b), and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 7.a.

Violation Description Failed to submit the noncompliance notification for the unauthorized discharge that was observed during the October 11, 2007 investigation.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100 percent of the permit requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended for not reporting the unauthorized discharge.

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $14 **Violation Final Penalty Total** $1,750

This violation Final Assessed Penalty (adjusted for limits) $1,750

Economic Benefit Worksheet

Respondent Carotex, Inc.
Case ID No. 35104
Reg. Ent. Reference No. RN100213727
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$100	11-Oct-2007	1-Aug-2008	0.8	$4	n/a	$4
Training/Sampling	$250	11-Oct-2007	1-Aug-2008	0.8	$10	n/a	$10
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The estimated cost to establish procedures and training to record and report unauthorized discharges. Date Required was the date of the investigation. The Final Date is the expected date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance $350

TOTAL $14

Compliance History

Customer/Respondent/Owner-Operator:	CN600126999	Carotex, Inc.	Classification: AVERAGE	Rating: 1.60
Regulated Entity:	RN100213727	CAROTEX	Classification: AVERAGE	Site Rating: 1.60

ID Number(s):	WASTEWATER	PERMIT	WQ0001674000
	WASTEWATER	PERMIT	TPDES0064718
	WASTEWATER	PERMIT	TX0064718
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD087721197
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31682
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0079B
	AIR NEW SOURCE PERMITS	AFS NUM	4824500077
	AIR NEW SOURCE PERMITS	PERMIT	36562
Location:	1500 INTRACOASTAL DRIVE, APPROXIMATELY ONE (1) MILE DOWNSTREAM AND SOUTHEAST OF THE RAINBOW/VETERANS BRIDGE, IN THE CITY OF PORT ARTHUR, JEFFERSON COUNTY, TEXAS	Rating Date: 9/1/2007	Repeat Violator: NO

TCEQ Region:	REGION 10 - BEAUMONT
Date Compliance History Prepared:	December 13, 2007
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	December 13, 2002 to December 13, 2007

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

Name: J. Craig Fleming Phone: (512) 239-5806

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.

Effective Date: 05/12/2006 ADMINORDER 2005-1662-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT
Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

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 12/18/2002 (193053)
2 01/17/2003 (193055)

3	02/12/2003	(21948)
4	02/14/2003	(193030)
5	03/07/2003	(193033)
6	04/08/2003	(193036)
7	05/09/2003	(193039)
8	06/04/2003	(31740)
9	06/12/2003	(310199)
10	07/07/2003	(310200)
11	08/11/2003	(126090)
12	08/15/2003	(310201)
13	09/11/2003	(248409)
14	09/26/2003	(310202)
15	10/13/2003	(310203)
16	11/07/2003	(310204)
17	12/11/2003	(310205)
18	01/16/2004	(310206)
19	02/23/2004	(310196)
20	03/12/2004	(310197)
21	03/24/2004	(262280)
22	04/02/2004	(310198)
23	05/10/2004	(358073)
24	06/07/2004	(358074)
25	07/12/2004	(358075)
26	08/16/2004	(358076)
27	09/17/2004	(358077)
28	11/08/2004	(385147)
29	11/08/2004	(385148)
30	12/20/2004	(385149)
31	01/14/2005	(385150)
32	02/14/2005	(423157)
33	03/25/2005	(385146)
34	04/18/2005	(423158)
35	05/10/2005	(423159)
36	05/31/2005	(392776)
37	06/21/2005	(423160)
38	07/11/2005	(444027)
39	08/18/2005	(444028)
40	09/12/2005	(377926)
41	09/19/2005	(444029)
42	10/20/2005	(474322)
43	11/28/2005	(474323)
44	12/15/2005	(435792)
45	02/08/2006	(474324)
46	02/28/2006	(474321)
47	04/03/2006	(502189)
48	05/08/2006	(502190)
49	05/08/2006	(502191)
50	07/12/2006	(524535)
51	08/16/2006	(524536)
52	08/16/2006	(524537)
53	08/16/2006	(524538)
54	10/16/2006	(549494)
55	11/16/2006	(549495)
56	12/15/2006	(549496)
57	01/22/2007	(583286)
58	02/16/2007	(583281)
59	03/19/2007	(583282)
60	04/16/2007	(583283)
61	06/04/2007	(583284)
62	06/15/2007	(583285)
63	07/23/2007	(603872)
64	08/06/2007	(603873)
65	08/07/2007	(350997)

66 11/29/2007 (609320)

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

Date 02/12/2003 (21948)

Self Report? NO Class Minor

Rqmt Prov: OP WQ 1674

Description: The clarifier stairwell and walkway railing was loose and in poor condition, due to corrosion.

Self Report? NO Class Moderate

Rqmt Prov: OP WQ 001674

Description: The permittee developed a closure plan to provide notification to the Action Section of the Industrial and Hazardous Waste Division for demolition of the aeration basin unit.

Self Report? NO Class Moderate

Rqmt Prov: OP WQ 001674

Description: The permittee eliminated the unauthorized discharge at the Lakeside

Date 01/31/2004 (310196)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2004 (358075)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2004 (385147)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2004 (385148)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 11/30/2004 (385149)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2004 (385150)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2005 (385146)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2005 (423159)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 05/31/2005 (423160)

Self Report? YES Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 06/01/2005 (392776)

Self Report? NO Class Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT OT 5 a-e
Description: Failure by Carotex, Inc. to maintain all records required by WQ Permit 1674, Other Requirements, No. 5 (a) through (e).
Self Report? NO Class Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Rqmt Prov: PERMIT M&RR 7c
Description: Failure by Carotex to report effluent results that deviate from the permitted limitation by greater than 40%.
Self Report? NO Class Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
Rqmt Prov: PERMIT M&RR 7
Description: Failure by Carotex, Inc. to submit noncompliance notification for an unauthorized discharge within the time frames established by the
Self Report? NO Class Minor

Rqmt Prov: PERMIT M&RR 1

Description: Failure by Carotex, Inc. to submit complete DMRs for 01/2004 and
Self Report? NO Class Moderate

Rqmt Prov: PERMIT EL&MR 1
Description: Carotex reported TSS excursions for daily average concentrations during the months of 06/2004 (26 mg/l), 09/2004 (40 mg/l), 10/2004 (40 mg/l), 11/2004, (44 mg/l) and 12/2004 (32 mg/l).
Self Report? NO Class Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT O&M 1
Description: Failure by Carotex, Inc. to properly maintain units of treatment.
Self Report? NO Class Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.4
Rqmt Prov: PERMIT O&M 11a
Description: Failure by Carotex, Inc. to properly manage industrial wastes.
Self Report? NO Class Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.4
Rqmt Prov: PERMIT O&M 11a
Description: Failure by Carotex, Inc. to properly manage industrial wastes.
Self Report? NO Class Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.4
Rqmt Prov: PERMIT O&M 11a
Description: Failure by Carotex, Inc. to properly manage industrial wastes.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CAROTEX, INC.	§	
RN100213727	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-2019-IWD-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 Carotex, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Paul Sarahan of the law firm of Fulbright & Jaworski, LLP, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility authorized to treat and discharge wastes from a barge cleaning and repair operation at 1500 Intracoastal Drive, approximately one (1) mile downstream and southeast of the Rainbow/Veterans Bridge, in Port Arthur, Jefferson County, Texas (the "Facility").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

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 4, 2007.

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

6. An administrative penalty in the amount of Nine Thousand Eight Hundred Dollars ($9,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Nine Hundred Twenty Dollars ($3,920) of the administrative penalty and One Thousand Nine Hundred Sixty Dollars ($1,960) 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. Three Thousand Nine Hundred Twenty Dollars ($3,920) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain operating logs in accordance with its permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001674000, Other Requirements No. 5, as documented during an investigation conducted on October 11, 2007. Specifically, the operator did not document waste volume moved from the vacuum system to the wastewater treatment plant, the barge identification number, or a description of the material removed from the barge.

2. Failed to report effluent exceedances that deviate by more than 40% from the permitted effluent limitation, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 7.c., as documented during an investigation conducted on October 11, 2007. Specifically, the Respondent did not report exceeding the 25.6 milligrams per liter ("mg/L"), daily average limitation for total suspended solids during April 2005 (50 mg/L), and exceeding the 15.0 mg/L single grab limitation for ammonia nitrogen during May 2005 (79 mg/L).

3. Failed to properly ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5), and TPDES Permit No. WQ0001674000, Operational Requirements No. 1, as documented during an investigation conducted on October 11, 2007. Specifically, pitting and delamination of the metal was observed in the effluent underflow weir, sawtooth weir and unit sidewalls, some of the sawtooth weir teeth were missing, and minor corrosion was observed on the aeration basins.

4. Failed to prevent unauthorized discharge of industrial waste, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0001674000, Permit Conditions No. 2.g., as documented during an investigation conducted on October 11, 2007. Specifically, boiler blowdown was observed at the small boiler to be discharging to the ground and ponding in a large area adjacent to the small boiler at the time of the October 11, 2007 investigation.

5. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 319.1, and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on October 11, 2007. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") for November 2005.

6. Failed to submit the noncompliance notification for the unauthorized discharge that was observed during the October 11, 2007 investigation, in violation of 30 TEX. ADMIN CODE § 305.125(9), TEX. WATER CODE § 26.039(b), and TPDES Permit No. WQ0001674000, Monitoring and Reporting Requirement No. 7.a. Specifically, the Respondent failed to submit noncompliance notification for an unauthorized discharge within the time frame established by the permit.

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: Carotex, Inc., Docket No. 2007-2019-IWD-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 Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Nine Hundred Twenty Dollars ($3,920) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order:

i. Begin recording a description of the material cleaned from barges and each barge's respective identification number, as required by TPDES Permit No. WQ0001674000;

ii. Develop and implement reporting procedures for noncompliance reporting for effluent violations that deviate by more than 40% from the permitted effluent limitations, and for unauthorized discharges. The reports shall be submitted within the time frames established by TPDES Permit No. WQ0001674000;

iii. Submit a notice to the TCEQ Industrial Permits Team to obtain authorization to discharge boiler blowdown to the wastewater treatment plant to:

Industrial Permits Team
Wastewater Permitting Section, MC-148
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

iv. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the permit application within 30 days after the date of such letters, or by any other deadline specified in writing.

b. Within 45 days after the effective date of this Agreed Order:

i. Either repair or replace severely corroded components of equipment;

ii. Initiate a preventative maintenance plan which includes periodic evaluation of the integrity of the coatings on the clarifier, aeration basins, and all other units of treatment; and

iii. Remove and cleanup as necessary all unauthorized discharges of industrial wastes from boiler blowdown observed on October 11, 2007.

c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.

d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to discharge blowdown water from the boiler to the wastewater treatment plant has been obtained or that operation has ceased until such time that the authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. 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 Facility operations referenced in this Agreed Order.

5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. 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.

8. 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.

9. 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

_____ _____
For the Executive Director Date 1/23/2009

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.

_____ 4 April 2008
Signature Date

Clyde C. Adams V.P.
Name (Printed or typed) Title
Authorized Representative of
Carotex, Inc.

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.

Attachment A
Docket Number: 2007-2019-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Carotex, Inc.**
Payable Penalty Amount:	**Seven Thousand Eight Hundred Forty Dollars ($7,840)**
SEP Amount:	**Three Thousand Nine Hundred Twenty Dollars ($3,920)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Jefferson County-Pleasure Island Stabilization**
Location of SEP:	**Jefferson County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to stabilize the shoreline by placing vinyl sheets of piling and erosion control blankets along a stretch of waterway along Pleasure Island. Continued erosion from wave action caused by passing ships is compromising the integrity of the shoreline along Pleasure Island. The embankment will be reclaimed and sloped to stabilize approximately 5 miles of shoreline.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by correcting erosion problems and will result in less silt and turbidity in the water. Improving the waterway will promote bird and aquatic life, and make the area safer for recreational uses.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The Honorable Carl R. Griffith, Jr.
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.