

**Executive Summary – Enforcement Matter – Case No. 58280**  
**Tokai Carbon CB Ltd.**  
**RN100222413**  
**Docket No. 2019-1288-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Borger Carbon Black Plant, 9455 Farm-to-Market Road 1559 near, Borger, Hutchinson County

**Type of Operation:**

Carbon black manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 29, 2020

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,962

**Amount Deferred for Expedited Settlement:** \$4,192

**Total Paid to General Revenue:** \$16,770

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** July 9, 2019 through July 10, 2019 and December 10, 2019

**Date(s) of NOE(s):** August 30, 2019 and January 22, 2020

**Executive Summary – Enforcement Matter – Case No. 58280**  
**Tokai Carbon CB Ltd.**  
**RN100222413**  
**Docket No. 2019-1288-AIR-E**

***Violation Information***

1. Failed to submit a complete application for a federal operating permit ("FOP") renewal to include any information that has not been previously submitted. Specifically, the Respondent did not include the New Source Review ("NSR") authorizations for the carbon black and tailgas fugitive emissions in the renewal application for FOP No. O1414 dated January 31, 2018 [30 TEX. ADMIN. CODE §§ 122.132(d)(9), 122.134(b)(2), and 122.241(b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions. Specifically, the Respondent released 6,325.18 pounds ("lbs") of carbon monoxide ("CO"), 708.45 lbs of volatile organic compounds ("VOC"), 74.53 lbs of hydrogen sulfide ("H<sub>2</sub>S"), 29.55 lbs of nitrogen oxides ("NO<sub>x</sub>"), 4.62 lbs of particulate matter ("PM"), and 292.28 lbs of sulfur dioxide ("SO<sub>2</sub>") from the Plant 1 Unit 1 Primary Bag Filter Flare, Emissions Point Number ("EPN") Flare-1, released 566.13 lbs of CO, 62.50 lbs of VOC, 6.33 lbs of H<sub>2</sub>S, 2.64 lbs of NO<sub>x</sub>, 0.41 lb of PM, and 24.83 lbs of SO<sub>2</sub> from the Plant 1 Unit 2 Primary Bag Filter Flare, EPN Flare-2, and released 2,736.58 lbs of CO, 324.15 lbs of VOC, 38.86 lbs of H<sub>2</sub>S, 12.78 lbs of NO<sub>x</sub>, 2.00 lbs of PM, and 152.41 lbs of SO<sub>2</sub> from the Plant 2 Unit 4 Primary Bag Filter Flare, EPN Flare-4, during an emissions event (Incident No. 250980) that began on January 23, 2017 and lasted 47 minutes. The emissions event occurred due to an air compressor failure that caused the off gas fan discharge valves to close, resulting in flaring. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032, Special Conditions No. 1.A, FOP No. O1414, General Terms and Conditions and Special Terms and Conditions No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On December 10, 2019, the Respondent submitted an amendment application for NSR Permit Nos. 1867A and PSDTX1032M1 to authorize the carbon black and tailgas fugitive emissions.

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:



**Executive Summary – Enforcement Matter – Case No. 58280**  
**Tokai Carbon CB Ltd.**  
**RN100222413**  
**Docket No. 2019-1288-AIR-E**

- i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 250980; and
  - ii. Submit an administratively complete application to revise FOP No. O1414 to include NSR Permit Nos. 1867A and PSDTX1032M1 that authorizes the carbon black and tailgas fugitive emissions and to incorporate the applicable requirements for the carbon black and tailgas fugitive emissions.
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the amendment application for NSR Permit Nos. 1867A and PSDTX1032M1 and the revision application for FOP No. O1414 within 30 days after the date of such requests, or by any other deadline specified in writing.
- c. Within 45 days, submit written certification demonstrating compliance with a.
- d. Within 180 days, submit written certification that the amendment for NSR Permit Nos. 1867A and PSDTX1032M1 has been obtained or that operations have ceased until such time that the appropriate authorization is obtained.
- e. Within 360 days, submit written certification that the revision for FOP No. O1414 has been obtained or that operations have ceased until such time that appropriate authorization is obtained to demonstrate compliance.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Johnnie Wu, Enforcement Division, Enforcement Team 5, MC 219, (512) 239-2524; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Wesley Wampler, Vice President – Research and Environmental Affairs, Tokai Carbon CB Ltd., 301 Commerce Street, Suite 500, Fort Worth, Texas 76102-4178  
Paul C. Pittman, Plant Manager, Tokai Carbon CB Ltd., P.O. Drawer 3118, Borger, Texas 79008-3118

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-Sep-2019	<b>Screening</b>	10-Sep-2019	<b>EPA Due</b>	
	<b>PCW</b>	1-Apr-2020				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Tokai Carbon CB Ltd.		
<b>Reg. Ent. Ref. No.</b>	RN100222413		
<b>Facility/Site Region</b>	1-Amarillo	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58280	<b>No. of Violations</b>	1
<b>Docket No.</b>	2019-1288-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Johnnie Wu
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,750**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **85.0%** **Adjustment** **Subtotals 2, 3, & 7** **\$3,187**

**Notes** Enhancement for three orders containing a denial of liability and one order without a denial of liability.

**Culpability** **No** **0.0%** **Enhancement** **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** **Enhancement\*** **Subtotal 6** **\$0**

Total EB Amounts **\$1,084**  
Estimated Cost of Compliance **\$5,900**

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$6,937**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$6,937**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,937**

**DEFERRAL** **20.0%** **Reduction** **Adjustment** **-\$1,387**

Reduces the Final Assessed Penalty by the indicated percentage.

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$5,550**



Screening Date 10-Sep-2019

Docket No. 2019-1288-AIR-E

PCW

Respondent Tokai Carbon CB Ltd.

Policy Revision 4 (April 2014)

Case ID No. 58280

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100222413

Media Air

Enf. Coordinator Johnnie Wu

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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) 85%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for three orders containing a denial of liability and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 85%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 85%

Screening Date 10-Sep-2019  
Respondent Tokai Carbon CB Ltd.  
Case ID No. 58280

Docket No. 2019-1288-AIR-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100222413

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.132(d)(9), 122.134(b)(2), and 122.241(b) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a complete application for a federal operating permit ("FOP") renewal to include any information that has not been previously submitted. Specifically, the Respondent did not include the New Source Review ("NSR") authorizations for the carbon black and tailgas fugitive emissions in the renewal application for FOP No. O1414 dated January 31, 2018.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	X		

Percent 15.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

587 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,084

Violation Final Penalty Total \$6,938

This violation Final Assessed Penalty (adjusted for limits) \$6,938



# Economic Benefit Worksheet

**Respondent** Tokai Carbon CB Ltd.

**Case ID No.** 58280

**Reg. Ent. Reference No.** RN100222413

**Media** Air

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$900	31-Jan-2018	1-May-2021	3.25	\$146	n/a	\$146
Permit Costs	\$5,000	31-Jan-2018	1-Nov-2021	3.75	\$938	n/a	\$938

**Notes for DELAYED costs**

Actual cost to obtain an amendment for NSR Permit Nos. 1867A and PSDTX1032M1 to authorize the carbon black and tailgas fugitive emissions (\$900) and estimated cost to obtain a revision for FOP No. O1414 to include NSR Permit Nos. 1867A and PSDTX1032M1 that authorizes the carbon black and tailgas fugitive emissions and to incorporate the applicable requirements for the carbon black and tailgas fugitive emissions (\$5,000). The Dates Required are the date of non-compliance and the Final Dates are the estimated dates of compliance.

## Avoided Costs

### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$5,900

**TOTAL**

\$1,084



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	27-Jan-2020	<b>Screening</b>	4-Feb-2020	<b>EPA Due</b>	
	<b>PCW</b>	1-Apr-2020				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Tokai Carbon CB Ltd.		
<b>Reg. Ent. Ref. No.</b>	RN100222413		
<b>Facility/Site Region</b>	1-Amarillo	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58280	<b>No. of Violations</b>	1
<b>Docket No.</b>	2019-1288-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Johnnie Wu
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>EC's Team</b>	Enforcement Team 5
<b>Maximum</b>	\$25,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	87.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$6,525
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Notes: Enhancement for one NOV with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,888  
Estimated Cost of Compliance: \$10,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$14,025
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## OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

0.0%	<b>Adjustment</b>	\$0
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Notes:

<b>Final Penalty Amount</b>	\$14,025
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## STATUTORY LIMIT ADJUSTMENT

<b>Final Assessed Penalty</b>	\$14,025
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## DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage.

20.0%	<b>Reduction</b>	<b>Adjustment</b>	-\$2,805
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Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$11,220
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Screening Date 4-Feb-2020

Docket No. 2019-1288-AIR-E

PCW

Respondent Tokai Carbon CB Ltd.

Policy Revision 4 (April 2014)

Case ID No. 58280

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100222413

Media Air

Enf. Coordinator Johnnie Wu

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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) 87%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for one NOV with dissimilar violations, three orders containing a denial of liability, and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 87%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 87%

Screening Date 4-Feb-2020  
Respondent Tokai Carbon CB Ltd.  
Case ID No. 58280  
Reg. Ent. Reference No. RN100222413  
Media Air

Docket No. 2019-1288-AIR-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Enf. Coordinator Johnnie Wu

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Nos. 1867A and PSDTX1032, Special Conditions No. 1.A, Federal Operating Permit No. 01414, General Terms and Conditions and Special Terms and Conditions No. 6, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent unauthorized emissions. Specifically, the Respondent released 6,325.18 pounds ("lbs") of carbon monoxide ("CO"), 708.45 lbs of volatile organic compounds ("VOC"), 74.53 lbs of hydrogen sulfide ("H2S"), 29.55 lbs of nitrogen oxides ("NOx"), 4.62 lbs of particulate matter ("PM"), and 292.28 lbs of sulfur dioxide ("SO2") from the Plant 1 Unit 1 Primary Bag Filter Flare, Emissions Point Number ("EPN") Flare-1, released 566.13 lbs of CO, 62.50 lbs of VOC, 6.33 lbs of H2S, 2.64 lbs of NOx, 0.41 lb of PM, and 24.83 lbs of SO2 from the Plant 1 Unit 2 Primary Bag Filter Flare, EPN Flare-2, and released 2,736.58 lbs of CO, 324.15 lbs of VOC, 38.86 lbs of H2S, 12.78 lbs of NOx, 2.00 lbs of PM, and 152.41 lbs of SO2 from the Plant 2 Unit 4 Primary Bag Filter Flare, EPN Flare-4, during an emissions event (Incident No. 250980) that began on January 23, 2017 and lasted 47 minutes. The emissions event occurred due to an air compressor failure that caused the off gas fan discharge valves to close, resulting in flaring. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		30.0%
	Potential				

>>Programmatic Matrix

Matrix Notes	Falsification				Percent
		Major	Moderate	Minor	
					0.0%
Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.					
Adjustment					\$17,500

\$7,500

Violation Events

Number of Violation Events	1	1	Number of violation days
daily			
weekly			
monthly	x		
quarterly			
semiannual			
annual			
single event			

Violation Base Penalty \$7,500

One monthly event is recommended.

Good Faith Efforts to Comply

	0.0%	Reduction
Before NOE/NOV		
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$1,888

Statutory Limit Test

Violation Final Penalty Total \$14,025

This violation Final Assessed Penalty (adjusted for limits) \$14,025



# Economic Benefit Worksheet

Respondent Tokai Carbon CB Ltd.  
Case ID No. 58280  
Reg. Ent. Reference No. RN100222413  
Media Air  
Violation No. 1

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Costs Saved EB Amount

Item Description

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	23-Jan-2017	1-Nov-2020	3.78	\$1,888	n/a	\$1,888

Notes for DELAYED costs

Estimated delayed cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 250980. The Date Required is the date the emissions event occurred and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,888

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN600131171, RN100222413, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN600131171, Tokai Carbon CB Ltd.

**Classification:** SATISFACTORY

**Rating:** 6.06

**Regulated Entity:** RN100222413, BORGER CARBON BLACK PLANT

**Classification:** SATISFACTORY

**Rating:** 7.88

**Complexity Points:** 20

**Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 9455 FM 1559 NEAR BORGER, HUTCHINSON COUNTY, TX

**TCEQ Region:** REGION 01 - AMARILLO

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER HW0017R

**AIR OPERATING PERMITS** PERMIT 1414

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 37420

**POLLUTION PREVENTION PLANNING** ID NUMBER P06699

**WASTEWATER** PERMIT WQG100013

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HW0017R

**AIR NEW SOURCE PERMITS** PERMIT 1867A

**AIR NEW SOURCE PERMITS** AFS NUM 4823300002

**AIR NEW SOURCE PERMITS** REGISTRATION 45755

**AIR NEW SOURCE PERMITS** REGISTRATION 23162

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1032

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1032M1

**AIR NEW SOURCE PERMITS** REGISTRATION 157178

**STORMWATER** PERMIT TXR05CU90

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HW0017R

**Compliance History Period:** September 01, 2014 to August 31, 2019

**Rating Year:** 2019

**Rating Date:** 09/01/2019

**Date Compliance History Report Prepared:** November 22, 2019

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 22, 2014 to November 22, 2019

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Carol McGrath

**Phone:** (210) 403-4063

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

1 Effective Date: 06/12/2015 ADMINORDER 2014-1460-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC(2)(F) OP

Description: Failed to submit a final record no later than 14 days after the end of the emissions event

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1(A) PERMIT

SC 6 OP

Description: Failure to prevent the release of unauthorized emissions to the atmosphere during an emissions event.



- 2      Effective Date: 01/21/2016      ADMINORDER 2015-0522-AIR-E (Findings Order-Agreed Order Without Denial)  
     Classification: Moderate  
     Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
               30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
               30 TAC Chapter 116, SubChapter B 116.115(c)  
               30 TAC Chapter 122, SubChapter B 122.143(4)  
               5C THSC Chapter 382 382.085(b)  
     Rqmt Prov: SC 1(A) PERMIT  
               SC 6 OP  
               Special Conditions No. 1 PERMIT  
     Description: Failure to prevent unauthorized emissions. The Respondent released 558,792.25 lbs of carbon monoxide, 11,630.60 lbs of carbon disulfide, 3,876.87 lbs of carbonyl sulfide, 11,630.60 lbs of hydrogen sulfide, 41,121.74 lbs of nitrogen oxides, 55,063.47 lbs of particulate matter, 2,280,509.66 lbs of sulfur dioxide, and 22,514.84 lbs of other pollutants from the Plant 2 Unit 4 Primary Bag Filter Flare, EPN Flare-4, during an emissions event (Incident No. 186750) that began on August 13, 2013 and las  
     Classification: Minor  
     Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)  
               30 TAC Chapter 122, SubChapter B 122.143(4)  
               5C THSC Chapter 382 382.085(b)  
     Rqmt Prov: SC 2(F) OP  
     Description: Failed to submit a complete and accurate initial notification within 24 hours after discovery of the emissions event. The Respondent failed to report the compound descriptive type of all individually listed compounds or mixtures of air contaminants released during an emissions event (Incident No. 206623) that equaled or exceeded the reportable quantity.  
     Classification: Minor  
     Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
               30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
               30 TAC Chapter 116, SubChapter B 116.115(c)  
               30 TAC Chapter 122, SubChapter B 122.143(4)  
               5C THSC Chapter 382 382.085(b)  
     Rqmt Prov: MAERT PERMIT  
               SC 6 OP  
               Special conditions No. 1 PERMIT  
     Description: Failure to prevent unauthorized emissions. the Respondent released 220.27 pounds ("lbs") of carbon monoxide, 4.55 lbs of carbon disulfide, 1.52 lbs of carbonyl sulfide, 4.55 lbs of hydrogen sulfide, 16.21 lbs of nitrogen oxides, 21.71 lbs of particulate matter, 892.05 lbs of sulfur dioxide, and 8.88 lbs of other pollutants from the Plant 2 Unit 4 Primary Bag Filter Flare, Emission Point Number ("EPN") Flare-4, during an emissions event (Incident No. 206623) that began on November 11, 2014 and la

- 3      Effective Date: 11/16/2016      ADMINORDER 2015-1179-AIR-E (1660 Order-Agreed Order With Denial)  
     Classification: Moderate  
     Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
               30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
               30 TAC Chapter 116, SubChapter B 116.115(c)  
               30 TAC Chapter 122, SubChapter B 122.143(4)  
               5C THSC Chapter 382 382.085(b)  
     Rqmt Prov: SC 1 PERMIT  
               Special Terms and Conditions No. 6 OP  
     Description: Failed to comply with the allowable hourly emissions rate. Specifically, during stack tests conducted on March 10-12, 2015, the Respondent exceeded the maximum allowable emissions rate of 14.25 pounds per hour ("lbs/hr") for particulate matter less than or equal to 10 microns in diameter ("PM10") for the Plant 1 & 2 Dryer Stack, Emission Point Number ("EPN") 121 & 122, by 4.98 lbs/hr and 6.09 lbs/hr, respectively, resulting in the unauthorized released of approximately 37,726.59 lbs of PM10.

See addendum for information regarding federal actions.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1      January 26, 2015      (1221922)

Item 2	May 13, 2015	(1247933)
Item 3	May 27, 2015	(1252754)
Item 4	June 02, 2015	(1252911)
Item 5	June 11, 2015	(1253271)
Item 6	June 29, 2015	(1260629)
Item 7	August 11, 2015	(1268498)
Item 8	October 06, 2015	(1280912)
Item 9	October 08, 2015	(1282856)
Item 10	November 12, 2015	(1289826)
Item 11	February 15, 2016	(1311984)
Item 12	April 20, 2016	(1324423)
Item 13	June 06, 2016	(1337233)
Item 14	December 09, 2016	(1378241)
Item 15	March 07, 2018	(1473669)
Item 16	March 19, 2018	(1474407)
Item 17	June 20, 2018	(1497760)
Item 18	August 29, 2018	(1321657)
Item 19	June 18, 2019	(1576077)
Item 20	August 14, 2019	(1576403)
Item 21	August 15, 2019	(1576471)
Item 22	August 31, 2019	(1590537)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**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





# Compliance History Report

Compliance History Report for CN600131171, RN100222413, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN600131171, Tokai Carbon Cb Ltd.

**Classification:** SATISFACTORY

**Rating:** 6.06

**Regulated Entity:** RN100222413, BORGER CARBON BLACK PLANT

**Classification:** SATISFACTORY

**Rating:** 7.88

**Complexity Points:** 20

**Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 9455 FM 1559 NEAR BORGER, TX 79007, HUTCHINSON COUNTY

**TCEQ Region:** REGION 01 - AMARILLO

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER HW0017R

**AIR OPERATING PERMITS** PERMIT 1414

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 37420

**POLLUTION PREVENTION PLANNING** ID NUMBER P06699

**WASTEWATER** PERMIT WQG100013

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HW0017R

**AIR NEW SOURCE PERMITS** PERMIT 1867A

**AIR NEW SOURCE PERMITS** AFS NUM 4823300002

**AIR NEW SOURCE PERMITS** REGISTRATION 45755

**AIR NEW SOURCE PERMITS** REGISTRATION 23162

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1032

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX1032M1

**AIR NEW SOURCE PERMITS** REGISTRATION 157178

**STORMWATER** PERMIT TXR05CU90

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HW0017R

**Compliance History Period:** September 01, 2014 to August 31, 2019

**Rating Year:** 2019

**Rating Date:** 09/01/2019

**Date Compliance History Report Prepared:** February 04, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 04, 2015 to February 04, 2020

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Johnnie Wu

**Phone:** (512) 239-2524

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

- |   |  |  |
|---|--|--|
| 1 | Effective Date: 06/12/2015   | ADMINORDER 2014-1460-AIR-E (1660 Order-Agreed Order With Denial) |
|   | Classification: Moderate   |  |
|   | Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)  |  |
|   | 30 TAC Chapter 122, SubChapter B 122.143(4)  |  |
|   | 5C THSC Chapter 382 382.085(b)   |  |
|   | Rqmt Prov: SC(2)(F) OP   |  |
|   | Description: Failed to submit a final record no later than 14 days after the end of the emissions event            |  |
|   | Classification: Moderate   |  |
|   | Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  |  |
|   | 30 TAC Chapter 122, SubChapter B 122.143(4)  |  |
|   | 5C THSC Chapter 382 382.085(b)   |  |
|   | Rqmt Prov: SC 1(A) PERMIT  |  |
|   | SC 6 OP  |  |
|   | Description: Failure to prevent the release of unauthorized emissions to the atmosphere during an emissions event. |  |

- 2      Effective Date: 01/21/2016      ADMINORDER 2015-0522-AIR-E (Findings Order-Agreed Order Without Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: SC 1(A) PERMIT  
SC 6 OP  
Special Conditions No. 1 PERMIT  
Description: Failure to prevent unauthorized emissions. The Respondent released 558,792.25 lbs of carbon monoxide, 11,630.60 lbs of carbon disulfide, 3,876.87 lbs of carbonyl sulfide, 11,630.60 lbs of hydrogen sulfide, 41,121.74 lbs of nitrogen oxides, 55,063.47 lbs of particulate matter, 2,280,509.66 lbs of sulfur dioxide, and 22,514.84 lbs of other pollutants from the Plant 2 Unit 4 Primary Bag Filter Flare, EPN Flare-4, during an emissions event (Incident No. 186750) that began on August 13, 2013 and las
- Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: SC 2(F) OP  
Description: Failed to submit a complete and accurate initial notification within 24 hours after discovery of the emissions event. The Respondent failed to report the compound descriptive type of all individually listed compounds or mixtures of air contaminants released during an emissions event (Incident No. 206623) that equaled or exceeded the reportable quantity.
- Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: MAERT PERMIT  
SC 6 OP  
Special conditions No. 1 PERMIT  
Description: Failure to prevent unauthorized emissions. the Respondent released 220.27 pounds ("lbs") of carbon monoxide, 4.55 lbs of carbon disulfide, 1.52 lbs of carbonyl sulfide, 4.55 lbs of hydrogen sulfide, 16.21 lbs of nitrogen oxides, 21.71 lbs of particulate matter, 892.05 lbs of sulfur dioxide, and 8.88 lbs of other pollutants from the Plant 2 Unit 4 Primary Bag Filter Flare, Emission Point Number ("EPN") Flare-4, during an emissions event (Incident No. 206623) that began on November 11, 2014 and la
- 3      Effective Date: 11/16/2016      ADMINORDER 2015-1179-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: SC 1 PERMIT  
Special Terms and Conditions No. 6 OP  
Description: Failed to comply with the allowable hourly emissions rate. Specifically, during stack tests conducted on March 10-12, 2015, the Respondent exceeded the maximum allowable emissions rate of 14.25 pounds per hour ("lbs/hr") for particulate matter less than or equal to 10 microns in diameter ("PM10") for the Plant 1 & 2 Dryer Stack, Emission Point Number ("EPN") 121 & 122, by 4.98 lbs/hr and 6.09 lbs/hr, respectively, resulting in the unauthorized released of approximately 37,726.59 lbs of PM10.

See addendum for information regarding federal actions.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1      May 13, 2015      (1247933)

*Compliance History Report for CN600131171, RN100222413, Rating Year 2019 which includes Compliance History (CH) components from February 04, 2015, through February 04, 2020.*



Item 2	May 27, 2015	(1252754)
Item 3	June 02, 2015	(1252911)
Item 4	June 11, 2015	(1253271)
Item 5	June 29, 2015	(1260629)
Item 6	August 11, 2015	(1268498)
Item 7	October 06, 2015	(1280912)
Item 8	October 08, 2015	(1282856)
Item 9	November 12, 2015	(1289826)
Item 10	February 15, 2016	(1311984)
Item 11	April 20, 2016	(1324423)
Item 12	June 06, 2016	(1337233)
Item 13	December 09, 2016	(1378241)
Item 14	March 07, 2018	(1473669)
Item 15	March 19, 2018	(1474407)
Item 16	June 20, 2018	(1497760)
Item 17	August 29, 2018	(1321657)
Item 18	June 18, 2019	(1576077)
Item 19	August 14, 2019	(1576403)
Item 20	August 15, 2019	(1576471)
Item 21	August 31, 2019	(1590537)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1      Date:      11/26/2019      (1576467)  
          Self Report?      NO      Classification:      Minor  
          Citation:      30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)  
                               5C THSC Chapter 382 382.085(b)  
          Description:      Failure to individually list all compounds in the final emissions event report.

**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

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## ***Addendum to Compliance History Federal Enforcement Actions***

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***Reg Entity Name:*** SID RICHARDSON CARBON BORGER PLA

***Reg Entity Add:*** 9455 FM 1559

***Reg Entity City:*** BORGER

***Reg Entity No:*** RN100222413

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***EPA Case No:*** 06-2012-3404

***Order Issue Date (yyyymmdd):*** 20180605

***Case Result:*** Final Order With Penalty

***Statute:*** CAA

***Sect of Statute:*** 110

***Classification:*** Moderate

***Program:*** National Emission Stand

***Citation:***

***Violation Type:*** New Source Review

***Cite Sect:***

***Cite Part:***

***Enforcement Action:*** Consent Decree or Court Order Resolving a Civil

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TOKAI CARBON CB LTD.  
RN100222413**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2019-1288-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tokai Carbon CB Ltd. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a carbon black manufacturing plant located at 9455 Farm-to-Market Road 1559 near Borger, Hutchinson County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$20,962 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$16,770 of the penalty and \$4,192 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.

6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that on December 10, 2019, the Respondent submitted an amendment application for New Source Review ("NSR") Permit Nos. 1867A and PSDTX1032M1 to authorize the carbon black and tailgas fugitive emissions.

## **II. ALLEGATIONS**

1. During an investigation conducted from July 9, 2019 through July 10, 2019, an investigator documented that the Respondent failed to submit a complete application for a federal operating permit ("FOP") renewal to include any information that has not been previously submitted, in violation of 30 TEX. ADMIN. CODE §§ 122.132(d)(9), 122.134(b)(2), and 122.241(b) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent did not include the NSR authorizations for the carbon black and tailgas fugitive emissions in the renewal application for FOP No. 01414 dated January 31, 2018.
2. During a record review conducted on December 10, 2019, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 1867A and PSDTX1032, Special Conditions No. 1.A, FOP No. 01414, General Terms and Conditions and Special Terms and Conditions No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 6,325.18 pounds ("lbs") of carbon monoxide ("CO"), 708.45 lbs of volatile organic compounds ("VOC"), 74.53 lbs of hydrogen sulfide ("H<sub>2</sub>S"), 29.55 lbs of nitrogen oxides ("NO<sub>x</sub>"), 4.62 lbs of particulate matter ("PM"), and 292.28 lbs of sulfur dioxide ("SO<sub>2</sub>") from the Plant 1 Unit 1 Primary Bag Filter Flare, Emissions Point Number ("EPN") Flare-1, released 566.13 lbs of CO, 62.50 lbs of VOC, 6.33 lbs of H<sub>2</sub>S, 2.64 lbs of NO<sub>x</sub>, 0.41 lb of PM, and 24.83 lbs of SO<sub>2</sub> from the Plant 1 Unit 2 Primary Bag Filter Flare, EPN Flare-2, and released 2,736.58 lbs of CO, 324.15 lbs of VOC, 38.86 lbs of H<sub>2</sub>S, 12.78 lbs of NO<sub>x</sub>, 2.00 lbs of PM, and 152.41 lbs of SO<sub>2</sub> from the Plant 2 Unit 4 Primary Bag Filter Flare, EPN Flare-4, during an emissions event (Incident No. 250980) that began on January 23, 2017 and lasted 47 minutes. The emissions event occurred due to an air compressor failure that caused the off gas fan discharge valves to close, resulting in flaring. Since the emissions event could have been avoided by better design and/or better operational and maintenance practices, the



Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Tokai Carbon CB Ltd., Docket No. 2019-1288-AIR-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order:
  - i. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 250980; and
  - ii. Submit an administratively complete application to revise FOP No. 01414 to include NSR Permit Nos. 1867A and PSDTX1032M1 that authorizes the carbon black and tailgas fugitive emissions and to incorporate the applicable requirements for the carbon black and tailgas fugitive emissions, in accordance with 30 TEX. ADMIN. CODE § 122.216, to:

Air Permits Division, MC 163  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the amendment application for NSR Permit Nos. 1867A and PSDTX1032M1 and the revision application for FOP No. 01414 within 30 days after the date of such requests, or by any other deadline specified in writing;

- c. Within 45 days after the effective date of this Order, submit written certification demonstrating compliance with Ordering Provision No. 2.a, as described in Ordering Provision No. 2.e;
- d. Within 180 days after the effective date of this Order, submit written certification that the amendment for NSR Permit Nos. 1867A and PSDTX1032M1 has been obtained or that operations have ceased until such time that the appropriate authorization is obtained, as described in Ordering Provision No. 2.e; and
- e. Within 360 days after the effective date of this Order, submit written certification that the revision for FOP No. O1414 has been obtained or that operations have ceased until such time that appropriate authorization is obtained and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall 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:

Air Section Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

- 3. All relief not expressly granted in this Order is denied.
- 4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
- 5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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 Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

Date

6/29/2020

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

Signature



Date

04/15/2020

Wesley Wampler  
Name (Printed or typed)  
Authorized Representative of  
Tokai Carbon CB Ltd.

V.P. of Research and Environmental Affairs  
Title

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.