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February 15, 2010

Via FedEx Standard Overnight (Tracking No. 5665566023)

LaDonna Castañuela
Office of the Chief Clerk
Texas Commission on Environmental Quality (TCEQ)
ATTN: Agenda Docket Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

RE: HOUSTON REFINING, L.P.; AIR QUALITY PERMIT NO. 2167; TCEQ DOCKET NO. 2009-0179-AIR:

THE CITY OF HOUSTON'S RESPONSE TO THE EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS AND HEARING REQUESTS, THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO HEARING REQUEST AND THE APPLICANT HOUSTON REFINING'S RESPONSE TO REQUESTS FOR CONTESTED CASE HEARING OF THE CITY OF HOUSTON AND ENVIRONMENTAL INTEGRITY PROJECT

Dear Ms. Castanuela:

On Friday, February 12, the City of Houston filed its response to the above noted submissions. It has just come to my attention that the copy emailed to you may not have been successfully transmitted. The original and one copy were mailed and you were also sent a copy by facsimile. To ensure prompt delivery, and because today is a federal holiday with no mail service, I am also sending 7 additional copies of the City's Response by overnight mail.

Sincerely,

Paulette S. Wolfson
Senior Assistant City Attorney

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 FEB 16 PM 2:55
CHIEF CLERKS OFFICE

Enclosures



CITY OF HOUSTON

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February 12, 2010

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And FIRST CLASS U.S. MAIL

LaDonna Castanuela
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Austin, Texas 78711-3087

RE: HOUSTON REFINING, L.P.; AIR QUALITY PERMIT NO. 2167; TCEQ DOCKET NO. 2009-0179-AIR: THE CITY OF HOUSTON'S RESPONSE TO THE EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS AND HEARING REQUESTS, THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO HEARING REQUEST AND THE APPLICANT HOUSTON REFINING'S RESPONSE TO REQUESTS FOR CONTESTED CASE HEARING OF THE CITY OF HOUSTON AND ENVIRONMENTAL INTEGRITY PROJECT

Dear Ms. Castanuela:

Enclosed for filing is the City of Houston's Response to the above noted submissions.

Sincerely,

Paulette S. Wolfson
Senior Assistant City Attorney

Cc: Mailing list

Enclosure

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 FEB 16 PM 2:57
CHIEF CLERKS OFFICE

MAILING LIST
HOUSTON REFINING, L.P.
DOCKET NO. 2009-0179-AIR; PERMIT NO. 2167

FEB 16 PM 2:57
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DOCKET NO. 2009-0179-AIR; PERMIT NO. 2167

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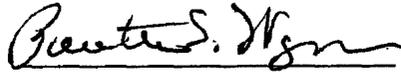
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TEXAS
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ON ENVIRONMENTAL
QUALITY

FEB 16 PM 2:57
CHIEF CLERKS OFFICE

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2010, the foregoing document was filed with the TCEQ Chief Clerk, and copies were served to all parties listed on the attached mailing list via facsimile, electronic mail, or by deposit in the U.S. Mail.



Paulette S. Wolfson
Senior Assistant City Attorney

NOV 16 PM 2:57
CHIEF CLERKS OFFICE

TCEQ DOCKET NO. 2009-0179-AIR

APPLICATION BY
HOUSTON REFINING, L.P.
AIR PERMIT NO. 2167

§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**THE CITY OF HOUSTON'S RESPONSE TO THE EXECUTIVE DIRECTOR'S
RESPONSE TO PUBLIC COMMENTS AND HEARING REQUESTS,
THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO HEARING
REQUEST AND THE APPLICANT HOUSTON REFINING'S RESPONSE TO
REQUESTS FOR CONTESTED CASE HEARING OF THE CITY OF HOUSTON
AND ENVIRONMENTAL INTEGRITY PROJECT**

To the Members of the Texas Commission on Environmental Quality:

The City of Houston files this reply in support of its comment letter and in response to the Executive Director's Response to Public Comments and Hearing Requests, the Office of Public Interest Counsel's Response to Hearing Request and the Applicant Houston Refining's Response to Requests for Contested Case Hearing of the City of Houston and Environmental Integrity Project in the above-referenced matter.

I. INTRODUCTION

The City of Houston (City) maintains its request for a contested case hearing on the application and proposed flexible permit revision¹ and renewal for Houston Refining, LP, a refinery located within the City limits. Sixteen months after the City made its request – after this

¹ The flexible permit was first issued in 1999 and has been amended, altered, modified or revised numerous times, usually through permits by rules, and other processes that provide little or no opportunity for public comment. In fact in this case, although this is a technically complicated, detailed permit, involving controls on hundreds, if not thousands of emission points, and calculations of those emissions, much of which is not available to the public, only 15 days was provided for public comment (later extended to 26 days due to landfall of hurricane Ike and its effects on the City). Others have provided comments on the inadequacy of the comment period. Therefore, the City does not address that issue again in detail here. The City does note, because of the many changes to the permit, this permit "renewal" should have been considered an amendment, thus triggering a longer comment period and more extensive review of the permit application.

permit had been under review for more than two years² -- the Executive Director recommended that the City's request be denied. Executive Director's Response to Hearing Requests (ED Hearing Response) at 8. The Executive Director's refusal to recommend a contested case hearing in this matter is based on inadequate and erroneous responses to important comments raised by the City and others, and a failure to apply the proper legal standards to the City's request for a hearing.

First, the Executive Director's responses fail to adequately address significant failures in Houston Refining's application. The responses do not adequately address the fact that Houston Refining, one of the largest contributors of Benzene emissions of all refineries in the nation, has not provided verifiable data to support the claims in its application. The responses do not account for the fact that there is a school within 3000 feet of the refinery (although Houston Refining represented there was not) and that there is currently no adequate way to tell what the effects of this facility are on the school. Further, despite admitting that other accurate methods for measuring emissions based on ambient monitoring data are "not possible," the Executive Director refuses to consider the very fence line monitors that would make this possible for the sake of better understanding effects on the public -- such as the nearby school children. As one of the nations leading emitters of Benzene, a known Class A human carcinogen, comments to Houston Refining's application deserved more consideration and detailed responses from the Executive Director. This is particularly true in light of the statutory mandate that the City's

² This delay in responding to the City's hearing request is unexplained by the record, although the City is unaware of any complaints from the applicant for the delay. The Executive Director himself noted more than fourteen months ago, "the Executive Director has made no changes to the draft permit in response to public comment." Executive Director's Response to Public Comment (ED Response) at p. 21. However, the City did receive a draft permit from the TCEQ staff in July, 2009. Noting that few changes had been made in the draft, the City reiterated its earlier comments.

recommendations for a transparent evidentiary contested case hearing be given "maximum consideration." TEX. HEALTH & SAFETY CODE § 382.112.

The instant permit "renewal" process is the public's (and the TCEQ's) best opportunity to take a look at a permit that has been on the books for over 10 years and been through eighteen prior changes. How has the permit worked? Is air quality in the area acceptable from a health quality perspective? Has Houston Refining complied with the existing permit and other relevant regulations? No such comprehensive review has taken place in the public eye in more than nine years, and if the City's hearing request is denied it will be another decade before there is any meaningful opportunity for the TCEQ to review the permit's impact on the public health. The City asks serious questions on behalf of the public interest that deserve real answers before the permit "renewal" is issued. A contested case hearing should be granted both because the application is fairly characterized as an amendment, and thus a hearing is required, *and* because – despite the Executive Director's failure to consider it – the public interest requires it.

II. ARGUMENT

A. The Executive Director's Response to Comments is Inadequate and in Error

The City of Houston lodged multiple comments to the renewal of Flexible Air Quality Permit number 2167 in September 2008.³ The Executive Director's Response to many of these comments was inadequate and/or in error. The City's comments included, among others:

- Houston Refining fails to provide verifiable data and information sufficient to justify its projected emissions, but nevertheless seeks a permit to support its operations for the next ten years – a period in which no further public comment is reasonably anticipated.⁴

³ Rather than restate its comments and justifications for its request for contested hearing in their entirety, the City incorporates by reference herein the September 29, 2008 letter and its attachments sent by the Office of the Mayor of the City of Houston on behalf of the City of Houston. ("City Letter").

⁴ See City Letter at 12; see also Executive Director's Response to Public Comment (Dec. 16, 2008) ("ED Response") at Comment 16.

- Houston Refining claimed in its application that there was no school within 3000 feet of the facility, but Richey Elementary School is within that proximity to the facility. Because the existence of the school was omitted from the application, Houston Refining has not provided any of the research necessary to enable the TCEQ to determine the health impacts of the facility on the elementary-school children. In short, because of Houston Refining's omission, it is not possible that these effects have been tested by the TCEQ.⁵
- Houston Refining's application included significant errors and omissions regarding multiple sources, including: heaters and boilers, flares, delayed coker units, storage tanks, cooling towers, wastewater system, fugitives, and a fluidized catalytic cracking unit that lead to significant under-reporting of emissions. With respect to heaters and boilers in particular, Houston Refinery used a method to calculate emissions for natural gas, even though the refinery's heaters and boilers actually use refinery fuel gas. This incorrect method of calculation results in a significant under-calculation of potential Benzene and other emissions by as much as 2860%.⁶
- Houston Refining's seven flares are known sources of Benzene and other emissions, but because the TCEQ does not require any valid method of testing or monitoring for these emissions, it is impossible to quantify the Benzene and other emissions caused by the flares.⁷
- Houston Refining's application fails to propose verification via direct observation or monitoring of Benzene emissions, rendering the permit virtually unenforceable. The TCEQ should exercise its discretion to require fence line monitoring in light of the facility's location near multiple facilities and point sources to enable accurate monitoring and enforcement.⁸
- As one of the nation's leading emitters of Benzene, a known Class A human carcinogen, a full evidentiary contested case hearing concerning the harmful effects of Houston Refining's Benzene emissions on Houstonians, the assumptions underlying the permit application, and the compliance history of this facility is in the public interest.⁹

Set forth below are just a few examples of the Executive Director's failure to meet these important public comments in his Response.

1. Houston Refining's Failure to Provide Underlying Verifiable Data and Information to Support Its Ten Year Permit "Renewal" (Response #16)

⁵ See City Letter at 11-12; see also ED Response at Comment 15.

⁶ See City Letter at 12; see also ED Response at Comment 17.

⁷ See City Letter at 12-13; see also ED Response at Comment 18.

⁸ See City Letter at 10-11; see also ED Response at Comment 13.

⁹ See e.g., City Letter at 1-9, ED Response at Comments 11-12, 25, 31, 33, 35, 36-37.

The City provided detailed comments regarding the significant errors and omissions in Houston Refining's calculations of emissions from various units. See City Letter at 12-14 & attachments. The Executive Director admitted that not all sources covered by the permit disclosed "actual data," but concluded: "The changes in calculation methodology presented by Houston Refining are acceptable to TCEQ." ED Response 16. The Executive Director's response begs the question. Although it's true that the *methodology* used by Houston Refining in making its calculations may be widely known, the underlying *data* used in its application has been kept from the City and the public generally. As the City noted, Houston Refinery "fail[ed] to include the level of information and underlying data sufficient to justify the projected emissions." City Letter at 12. And the TCEQ failed to obtain this data and disclose it to the public for comment. Based on the application, it is impossible for the City (or the TCEQ) to determine if Houston Refining's representations regarding emissions or emission reductions are correct. Houston Refining also relies on these unsupported emission reduction claims in its response.

2. Houston Refining's Failure to Note It Was Within 3000 feet of an Elementary School (Response #15)

The City pointed out in its comments that Houston Refining claimed in its application that there was no school within 3000 feet of the facility; but that Richey Elementary School is within that proximity to the facility and a second elementary school is merely 3010 feet away. City Letter at 11-12. No data has been presented by Houston Refining, or evaluated by the TCEQ, regarding the health impacts of the facility on these two elementary schools. *Id.* In response, the Executive Director agrees that Houston Refining failed to disclose its proximity to a school, but responds in *general*: "When performing an impacts analysis, all sensitive receptors

including schools are evaluated regardless of location.” ED Response 15. What the Executive Director fails to note is what analysis *if any* was done with respect to *these two elementary schools* – not “regardless of location” – but rather, *in light of their proximity to this facility*. On this record, the public has no ability to determine the extent of any impact on nearby schools, and the Executive Director’s Response provides none.¹⁰

3. Houston Refining’s Significant Under-Calculation of Emissions from Heaters and Boilers (Response #17)

The City also commented that Houston Refining’s application included significant errors and omissions regarding multiple sources, including: heaters and boilers. City Letter at 10-14. The City noted that even though the facility’s heaters and boilers use refinery fuel gas, it used a calculation method (AP-42) appropriate for *natural gas* – an error that results in an under-calculation of potential Benzene emissions by as much as 2860% because of the use of incorrect emission factors. *Id.* at 10-11. In response, the Executive Director mischaracterizes Houston Refining’s representation about its Benzene emissions from heaters and boilers, finding “Houston Refining has stated that there is no Benzene present in their fuel for heaters and boilers.” *See* ED Response 17. Nowhere in the public record has Houston Refining said that there was no Benzene associated with these sources – only that there is less Benzene than it had previously thought. Because TCEQ will not require any valid method testing or monitoring of heaters and boilers, it is impossible to know how much Benzene there is. The limits stated in the application are not only inaccurate, they are wholly unenforceable.

4. Houston Refining’s Failure to Calculate of Emissions from Flares (Response #18)

¹⁰ *Instead*, the Executive Director notes, as discussed in more detail *infra*, that the current monitors at Clinton, Cesar Chavez, and Milby Park are *insufficient* to determine the specific source of emissions at those locations, ED Response 37, but that, nevertheless, the TCEQ refuses to require the fence line monitors that would enable such monitoring for this facility, ED Response 13.

The City also commented that Houston Refining's seven flares are known sources of Benzene and other emissions, but because the TCEQ does not require any valid method of testing or monitoring for these emissions, it is impossible to quantify the Benzene and other emissions from the flares. City Letter at 12-13. The City noted that flares do not achieve 98% destruction efficiency, and indeed, the TCEQ has raised these same issues in its Flare Task Force. The TCEQ's own DIAL study measured the destruction efficiency of flares at less than 85% -- thus, the City's comment that the TCEQ should require documents to support representations regarding destruction efficiency are entirely consistent with the TCEQ's own information. Nevertheless, the Executive Director responded that Houston Refining's HRVOC monitoring has detected no Benzene emissions from Houston Refining's flares. ED Response 18. But as the TCEQ is aware, HRVOC monitoring does not cover Benzene. The Executive Director's response, like many of his responses, fails to address the central issue raised by the City's comments. Put simply, without the background information requested in the City's comments, it is impossible to know how sensitive the flare monitors are for detection and quantification of Benzene. The TCEQ is responsible for a critical evaluation of an applicant's representations and no such evaluation has been done here.

5. Fence Line Monitoring Should Be Required (Response #13)

The City also commented that Houston Refining's application fails to propose verification via direct observation or monitoring of Benzene emissions, rendering the permit virtually unenforceable. City Letter at 10-11. As the City noted, lack of data, Houston Refining's compliance record, its location in a Benzene Air Pollution Watch List Area, and its significant Benzene emissions, among other reasons, all support the TCEQ requiring Houston

Refining to implement fence line monitoring. The Executive Director's response is circular. First, the Executive Director dismisses outright the City's detailed comments on Houston Refining's significant contribution of Benzene within the City *because there are no fence line monitors to prove it*. The Executive Director notes specifically: "[b]ecause the Clinton, Cesar Chavez, and Milby Park monitors are not located at Houston Refining's property boundary, **it is not possible to determine** the specific source and/or contribution of the emissions purely based on ambient monitoring data." ED Response 37 (emphasis added). Nevertheless, the Executive Director concludes although "fence line monitoring *can* be included as a permit condition," on a case by case basis, it will not be required as part of this one. *Id.*

Although the City demonstrated in its comments that there are many good reasons why fence line monitoring should be required in this case, there is no need to resort to the City's (verifiable) data. Instead, it is sufficient that *without it* the TCEQ itself admits it cannot answer the question: How much Benzene – a known Class A carcinogen admittedly emitted by a facility located directly in a Benzene Air Pollution Watch List Area and very near at least two elementary schools – is being emitted by this facility? *See e.g.*, ED Responses 37 & 15. In yet another dismissal of the City's comments, the Executive Director notes, that *every single monitor in Texas* exceeded the EPA's one-in-a-million cancer risk value. ED Response 36. This is hardly a reason to *reject* fence line monitoring for one of the largest emitters of Benzene in the country. *See also* Houston Refining's Response to Requests for Contested Case Hearing at 7 (noting with emphasis, that according to recent numbers it cites – calculated without fence line monitoring – it is the "*seventeenth*" largest Benzene emitter of all refineries in the nation). That the TCEQ faces a state-wide problem (ED Response 36) and cannot differentiate between the *many* sources of Benzene emissions in the area surrounding the facility (ED Response 37) certainly is evidence of

the need for fence line monitoring at this facility, which Houston Refining itself admits is (even based on what data is available) one of the four largest refinery-contributors of Benzene in the tri-county area (Houston Refinery Response at 7).¹¹

As the City noted in its comments, many of Houston Refining's representations as well as the draft permit limits are based on emission factors and other assumptions that notoriously underestimate emissions. Fence line monitoring and other monitoring would provide real numbers based on the actual emissions from the facility. There is no better way to validate the Refinery's emissions and potential impact. The public should be given an opportunity to weigh in on the TCEQ's purported justifications for denying this important request.

6. Benzene Emissions (E.g., Responses # 11-12, 25, 31, 33, 35, 36-37)

Finally, the Executive Director's responses to the City's detailed comments regarding Houston Refining's Benzene emissions are wholly inadequate. The City provided extensive data raising many questions about the public health impacts of Houston Refining's Benzene emissions. See City Letter at 1-9 and attachments. It is in the public interest to have the City's questions answered in a contested case hearing *before* Houston Refining is granted a permit to operate inside the City limits for an additional ten years. Despite the City's important questions, the Executive Director dismisses them all, going so far as to quibble with the *types* of cancer caused by Benzene emissions. ED Response at 35 (admitting a link between Benzene and cancer, but disputing the City's assertion regarding what *types* of cancer are caused by Benzene).

¹¹ Houston Refining assumes that "the referral of a contested case hearing directed at just one source's permit would do little to support this area-wide effort." Houston Refining Response at 10. But Houston Refining is incorrect. As detailed in the City's comments, and as admitted by Houston Refining itself, Houston Refining is a significant source of Benzene emissions in the area, the state, and the nation. A contested case hearing to address the important issues of public health before this facility is permitted for the next decade may in fact go a long way to achieve area-wide emissions reductions.

The Executive Director concedes that “the most important goal of regulating emissions of toxic substances is to protect human health.” ED Response 33. But ultimately he finds no reason to allow the City or its citizens access to the information necessary to evaluate the effects of Houston Refinery’s Benzene emissions on their own health. The Executive Director admits “[b]enzene has been classified as a Class A carcinogen by the USEPA due to the extent of human occupational worker and animal data indicating a link between exposure and the development of cancer.” ED Response at 35. Nevertheless, rather than evaluate that risk in light of the Benzene exposure to residents (and school children) in *this Benzene Air Pollution Watch List area*¹² he dismisses the City’s data by reference to, among other irrelevant conditions, the “environmental levels encountered by the *general* population.” ED Response 35 (emphasis added). The Executive Director admits the EPA has not approved the TCEQ flexible permit rules he is applying here, but even though “it is not clear” to him what EPA requirements have not been met in this instance,¹³ he finds no bar to proceeding with the permit. ED Response 25. Although he states “TCEQ supports and encourages reductions of air contaminants by all permittees,” (ED Response 31) and that the information provided by the City regarding Houston Refining’s Benzene emissions is “informative” (ED Response 32), in the end he finds no reason to credit the City’s comments because, he says, the TCEQ is “limit[ed]” to imposing requirements it “determines to be economically reasonable and technically practicable considering the age of the facility and the effect of its emissions on the surrounding area” (*id.*).

¹² In an Air Pollution Watch List area like the one at issue here, it is the *sources of pollution* – not community concerns – that are supposed to receive special scrutiny. By contrast, the *City’s recommendations* are to be given “**maximum consideration**.” TEX. HEALTH & SAFETY CODE § 382.112. From a review of the ED Response, it appears the standards in this instance have been swapped.

¹³ The unmet EPA requirements are delineated in the City Letter at 14-15.

But without the data and information requested by the City's comments,¹⁴ and without an opportunity to vet it in a contested case hearing, how can the City or its citizens, or the TCEQ for that matter, assure itself that it has properly balanced the economic concerns¹⁵ – on which he has not elaborated – against the effect of the Benzene emissions on the surrounding area? The City has detailed the inaccuracies of the Benzene emission information inherent in Houston Refining's permit application. Houston's citizens deserve answers to the questions raised by the City. A contested case hearing to determine if the TCEQ has adequately reviewed the permit application, if it has appropriately controlled emissions of Benzene and other toxic pollutants, and if it has evaluated, with an eye toward protecting the public health, the impact of Benzene and other pollutants on the health of the citizens in this area is warranted.

B. The City's Request for a Contested Case Hearing Should Be Granted

1. The City is an Affected Person

The Executive Director does not dispute that the City is statutorily defined as an "affected person" that may request a contested case hearing. 30 TEX. ADMIN. CODE §§ 55.203(b) & (c)(6). Further, there can be no doubt that the City of Houston in particular is affected by Houston Refining's application. Houston Refining is located inside the City limits of Houston. The City has statutory authority over the facility to inspect the air, conduct facility inspections, determine if emissions from the facility's sources meet the level of air contamination set by the TCEQ, and to determine if the facility is complying with the TCEQ's rules. TEX. HEALTH & SAFETY CODE §

¹⁴ For example, for some units or emission points, the permit only requires a generic limit for VOC's (volatile organic compounds). Thus, despite the fact that the facility is "located in an industrial area" with "up to 15" Benzene emitting facilities (ED Response 37), the Benzene emissions for some of the facility's units and emissions points are not even specifically controlled.

¹⁵ The Executive Director appears to interpret his role in evaluating economic concerns to relate only to those economic issues facing Houston Refinery. ED Response 32. As the City has noted, however, the City itself has an economic interest in the reduction and accurate measurement of Benzene emissions. City Letter at 16.

382.111. In addition, the City has home rule authority to enforce its own ordinances (including its own air quality control ordinances) at the facility.

To protect public health, the City also has a significant interest in ensuring that any permit renewal, amendment or alteration applied to Houston Refining complies with all applicable statutory and regulatory requirements. Any authorized pollutants in the proposed permit "renewal" necessarily affect the air quality of Houston's citizens. The City seeks to protect the public health and environment of its citizens through participation in a contested case hearing.

Finally, the City's interest is also economic. Houston Refining's emissions of volatile organic compounds (VOCs) impact the City's achievement of ozone standards. Non-attainment of ozone standards costs the City, among other things, by financial penalties, reduced federal funding, and loss of business.

2. Pursuant to the Texas Water Code, a Contested Case Hearing Should Be Granted

As described more fully in the City's comments, Houston Refining's permit application cannot fairly be construed as a "no-increase" renewal. In addition to the changes to the current permit Houston Refining has requested as highlighted in the City's comments, Houston Refining also concurrently filed another application concerning MSS (Maintenance, Start-Up and Shutdown) emissions. Houston Refining reports these MSS emissions will contribute more than twelve tons of Benzene per year. Although the TCEQ apparently incorporated MSS requirements into this permit "renewal," none of the City's comments regarding MSS emissions have been included in this proposed draft permit.

In light of the many changes in this permit and the incorporation of the MSS requirements, the permit "renewal" under review should properly be characterized as an

amendment. To the extent there is any doubt about *whether* the current request is truly for an amendment, those doubts cannot be resolved without a hearing on the disputed facts raised during the comment period. Pursuant to the Texas Water Code, this application should be referred to the State Office of Administrative Hearings for a contested case hearing because of the multiple disputed questions of fact, the troubling issues raised during the public comment period, and the relevance and materiality of these issues to any decision on the permit application. TEXAS WATER CODE § 6.566 (d).

3. A Contested Case Hearing Is in the Public Interest

Regardless of how the permit application is characterized, the TCEQ has discretion to submit this application to a contested case hearing if it is in the public interest to do so. TEX. WATER CODE § 5.556(f). There is no suggestion by the Executive Director or anyone else – other than Houston Refining – that it would *not* be in the public interest to hold a contested case hearing in this matter.

Despite the *statutory mandate* that the City's recommendations be given "maximum consideration," TEX. HEALTH & SAFETY CODE § 382.112,¹⁶ the Executive Director has provided no substantive analysis of the *public's interest* in a contested case hearing at all. ED Hearing Response at 6. The Executive Director stated he "did not find the facts in this case to be so unique as to provide a basis for holding a hearing in the public interest" and thus found the City's arguments "unpersuasive." *Id.* The Executive Director did not indicate what facts would be "so

¹⁶ The Executive Director, without citation to any authority, refused to acknowledge this statutory mandate applies to permit applications despite the statute's clear language that it applies to the City's recommendations concerning "*any ... determination*" by the TCEQ. The Executive Director then goes on to add a somewhat unusual footnote regarding prior versions of the statute that did *not* contain the "maximum consideration" language of the present day law. ED Hearing Response at 6 n.16. Regardless that the Executive Director found "no court cases directly ruling" on what is meant by "maximum consideration" (*id.*), the language is hardly ambiguous. The change from "due consideration" to "maximum consideration" cannot mean that the City should receive only "due" consideration, or -- as in this case -- "no consideration," but rather, must mean that the City's recommendations must receive maximum consideration.

unique.”¹⁷ He did not provide any explanation of how “maximum consideration” to the City means the City must provide such “unique” facts. And, most importantly, while disputing the “uniqueness” of the facts, with respect to the need for a public hearing, he did not analyze the public’s interest itself. *Id.*; see also ED Response 1 (failing to even mention the public interest exception). The Executive Director’s failure to give “maximum” (or any) consideration to the City’s recommendation is troubling, but his refusal to consider (whether at the City’s recommendation or not) the public’s interest in the hearing at all is indefensible.

There is no dispute Houston Refining, situated in the City of Houston, is a significant contributor of Benzene emissions. There is no dispute that Benzene is a known Class A human carcinogen that is in fact linked to cancer. There is no dispute that there has been no public participation in Houston Refining’s seventeen previous permit changes over the course of more than nine years. There is no dispute, that if this application is granted, it may be another decade – or a total of *nineteen years* –before there is an opportunity for any public participation with respect to this facility’s emissions at all.

There are, however, significant disputes raised in the parties’ submissions. To name just a few:

- Critically, important data underlying Houston Refining’s permit application is wholly *undisclosed*. The TCEQ has failed to obtain the data needed for any genuine determination of public health impacts of the facility to occur at all.
- As noted by the City’s and EIP’s submissions, there are serious concerns raised by the systemic errors and omissions in Houston Refining’s application.

¹⁷ The City has provided comments on the “unique” nature of this application, including, among others, that it concerns one of the largest refinery-emitters of Benzene, that Houston Refining has an extensive compliance history showing non-compliance, that Houston Refining is located within the City limits of one of the largest cities in America, near a grade school, and inside what is *already* a Benzene Air Pollution Watch List area. Further, as described herein, the EPA has recently flagged Houston Refining as a potential problem, and delays and further rulings from the federal agency are likely to change the regulatory landscape in any event.

- There are serious concerns raised by the fact that there are at least two elementary schools in the vicinity and, the ED admits, because there are no fence line monitors the TCEQ has no way to accurately measure the impacts *this* facility has at its borders and thus, on these nearby sensitive receptors.
- There are serious concerns about the severity and proper measures of impacts and emissions of Benzene.
- There are important public health issues raised by the TCEQ's failure to require appropriate emissions factors or to obtain or disclose the appropriate data needed to make any such determination.
- As noted by the Office of Public Interest Counsel (OPIC), there remains an open question of whether Houston Refining's compliance history with the three agencies that have regulatory authority over the facility exhibits systemic, egregious conduct demonstrating its disregard for the regulatory process that "is an appropriate issue for a public interest hearing." OPIC Response at 6.¹⁸

Rather than answer these public interest concerns as is his mandate, the Executive Director dismissed them. *See supra* Part II.A. As noted by OPIC, in the interest of the public, the TCEQ should grant a contested case hearing in this matter to address the following issues:

- Whether Houston Refining's Benzene air emissions pose an unreasonable health risk to the public.
- Whether concentrations of Benzene in Houston neighborhoods downwind of Houston Refining are too high.
- Whether Houston Refining's Benzene emissions contribute significantly to elevated Benzene levels in Houston neighborhoods.
- Whether the permitting process has accounted for the cumulative risk imposed on the public by Houston Refining.
- Whether Houston Refining's compliance history warrants denial of the application.

¹⁸ Indeed, as noted in the OPIC response, following the TCEQ's incredibly lax compliance history standards, a refinery that has 28 Agreed Orders between 2002 and 2009, resulting in approximately one million dollars of fines, penalties and supplemental environmental projects is considered "average." But status as a "poor" performer is not required. When violations remain unresolved, as here, and demonstrate a pattern of egregious conduct, a contested case hearing is in the public interest. That is the case here. Not only has Houston Refining entered into numerous agreed orders with the TCEQ, but as noted on Exhibit 1, five additional enforcement actions are unresolved.

- Whether the Benzene reductions claimed in the permit are supported by actions that will result in reductions.
- Whether the permit should require verification of Benzene emissions via direct observation or monitoring including fence line monitoring.
- Whether dispersion modeling should be required to support the application.
- Whether the application and permit account for the presence of a school within 3,000 feet of the refinery.
- Whether the application contains errors and omissions regarding emissions from heaters and boilers, flares, delayed coker units, storage tanks, cooling towers, wastewater system, fugitives, and fluidized catalytic cracking unit.
- Whether the permit complies with EPA requirements regarding Benzene emissions.¹⁹
- Whether Houston Refining's emissions are contributing to Houston's ozone nonattainment status.

See OPIC Response at 7-8.

C. The EPA Agrees with the City; and Its Concerns Have Not Been Addressed

Finally, the United States Environmental Protection Agency has raised questions similar to those raised by the City here. After the City filed its comments, the EPA raised its own significant concerns about this permit "renewal." See EPA Comment Letter, December 18, 2009. The EPA noted it has not approved flexible permits as part of the State Implementation Plan (SIP), *id.*, and in fact, it has proposed to disapprove that part of the SIP. (74 Fed. Reg. 48480, Sept. 23, 2009). The EPA stated that, on that basis, it is unlikely to approve the federal operating permit for Houston Refining when it is requested. The EPA also asked the TCEQ to clarify its conclusions that this flexible permit "renewal" is not subject to PSD (prevention of significant deterioration) applicability requirements.

¹⁹ See also EPA Comment Letter, Exhibit 2.

The EPA, like the City, concluded that there is a lack of data underlying the conclusions that TCEQ has reached regarding Houston Refining's emissions and found "[t]here is no analysis regarding whether the changes identified (at Houston Refining) would result in increases of actual emissions above non-attainment new source review thresholds". Providing further support for the City's contention that this is *not* a renewal, the EPA also found that certain changes regarding Houston Refining's heaters would potentially be a change in the method of operation, triggering further review. The EPA asked that the requested analysis be provided before the issuance of the permit "renewal" and that the analysis be placed in the public record. To date, the City has not been provided this information and is not aware that any response has been provided to the EPA. *See* EPA Comment Letter, Exhibit 2.

Certainly, if the EPA is not satisfied that the public interest has been adequately protected in this process, there should be no hesitation to allow for a transparent process, including an evidentiary contested case hearing as permitted by the TCEQ rules, to ensure in this important (indeed, "unique") instance, the public's interest has been adequately protected.

III. CONCLUSION

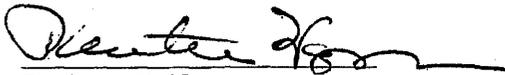
The Executive Director has not adequately responded to the City's comments regarding the serious public health issues raised by the "renewal" application including its errors and omissions, and the significant contribution of this permit to Benzene air emissions in the City, County, and State. Further, after the Executive Director – without explanation – waited more than sixteen months to respond to the City's request for a contested case hearing, the EPA has now recently raised issues of its own that will have to be addressed in the near term. In short, there is no reasonable justification for denying the City's request for a contested case hearing. And the Executive Director has provided none.

As noted in the City's comments, and echoed by the EPA's recent comments, this "renewal" application is properly characterized as an amendment. As such, regardless whether the TCEQ considers the important public interests served by a contested case hearing, a SOAH hearing should be granted pursuant to the Texas Water Code. Even if the application is treated as a "renewal", as OPIC recommends, because of Houston Refinery's significant benzene emissions, checkered compliance history, and the lack of opportunity for public participation over the course of nearly a decade, a contested case hearing should be granted in the public interest.

Respectfully Submitted,



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**Houston Refining
EXHIBIT 1
Compliance Record**

Agreed Orders

1. 2002-1040
2. 2003-1418
3. 2004-0866
4. 2004-2002
5. 2005-1172
6. 2005-1714
7. 2005-0754
8. 2005-0359
9. 2005-1985
10. 2005-2073
11. 2005-0179
12. 2006-0811
13. 2006-1948
14. 2007-0137
15. 2007-0440
16. 2007-0713
17. 2007-1954
18. 2007-0169
19. 2007-0473-MLM-E combined file
20. 2007-0473
21. 2007-1069
22. 2007-1836
23. 2007-0780
24. 2008-0674-MLM-E combined file
25. 2008-0790
26. 2008-0894
27. 2009-0181
28. 2009-1738

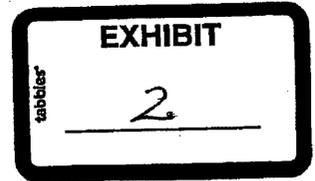
Unresolved Matters

1. 2008-1454
2. 2009-0779
3. 2009-1158
4. 2010-0121
5. 2010-0028

This information was obtained from the TCEQ website.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733



DEC 18 2009

Mr. Steve Hagle, Director
Air Permits Division
Office of Permitting, Remediation, and Registration
Texas Commission on
Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

RE: Houston Refining, LP, Harris County, Texas – Proposed Permit Renewal Application,
State of Texas Flexible Permit No. 2167

Dear Mr. Hagle:

The United States Environmental Protection Agency, Region 6 (EPA) has reviewed the Houston Refining, LP permit renewal application for State of Texas flexible permit No. 2167, which was submitted for public notice and comment on September 2, 2008. Flexible permit No. 2167, which expired on February 3, 2009, and Prevention of Significant Deterioration (PSD) Permit No. PSD-TX-985 are incorporated by reference into Federal Operating Permit (FOP or Title V) Permit No. O1372, which expires on March 13, 2010. We understand that Houston Refining, LP submitted a permit renewal application to the Texas Commission on Environmental Quality (TCEQ) for FOP No. O1372 on September 11, 2009. Enclosed are our concerns regarding both the flexible and PSD permits that are incorporated by reference into the FOP. We note that this facility is one of the larger benzene emission sources in Harris County, Texas.

We look forward to discussing our concerns identified in our letter. If you have any questions or would like to discuss further, please call me or Mr. Jeff Robinson of my staff at (214) 665-6435. Thank you for your assistance in this matter.

Sincerely yours,

Thomas H. Diggs
Associate Director for Air

Enclosure

cc: Mr. John Barrientez (MC-163)
Texas Commission on Environmental Quality

Enclosure

1. Flexible permits are issued pursuant to 30 TAC Chapter 116, Subchapter G; however, those provisions have not been approved, pursuant to Section 110 of the federal Clean Air Act (CAA), 42 U.S.C. § 7410, as part of the applicable implementation plan for the State of Texas (Texas SIP). Therefore, when the FOP renewal permit is proposed, and if it incorporates by reference the flexible permit, EPA may object to its issuance because the terms and conditions of the incorporated flexible permit do not comply with the applicable requirements of the Texas SIP. The terms and conditions of flexible permits based upon the requirements of 30 TAC Chapter 116, Subchapter G must be identified as State-only terms and conditions, pursuant to 40 CFR §70.6(b)(2).
2. EPA recognizes that PSD Permit No. PSD-TX-985 is not currently subject to public notice and comment. Nonetheless, the appropriate underlying terms and conditions from PSD permits, including unit-specific emissions limitations and standards (as necessary to assure compliance with all applicability requirements) must be included directly into the FOP permit. During the FOP renewal period, EPA will review the proposed FOP permit and may object to its issuance if the requisite portions of PSD Permit No. PSD-TX-985 are not present in the FOP permit. EPA may object to the renewed Title V permit when it is proposed if it does not include (as conditions of the Title V permit) all the emission limitations and standards of PSD-TX-985 necessary to ensure compliance with all applicable requirements. Alternatively, TCEQ could add conditions to the Title V permit that specify those provisions of PSD-TX-985 necessary to ensure such compliance with all applicable requirements and physically attach a copy of PSD-TX-985 to the Title V permit. EPA has approved the use of incorporation by reference (IBR) in Texas' program minor NSR permits and Permits by Rule in Texas. EPA did not approve (and does not approve of) TCEQ's use of incorporation by reference of emissions limitations for other requirements. See *In the Matter of Premcor Refining Group, Inc.*, Petition No. VI-2007-02 at 5 and *In the Matter of CITGO Refining and Chemicals Co.*, Petition No. VI-2007-01 at 11.
3. The TCEQ should clarify the record with respect to its conclusion that the renewal of flexible permit No. 2167 is not subject to PSD applicability requirements. The Technical Review sheet prepared by TCEQ indicates the flexible caps (based on allowable emissions) will be reduced. However, there is no analysis regarding whether the changes identified would result in increases of actual emissions above non-attainment new source review thresholds. We would like to see TCEQ's analysis and any supporting analysis of potential changes to actual emissions as a result of these revisions. Page 18 of the Permit Application, dated August 2008 indicates that instead of building several individual heaters, only heater 637F001 was constructed as a result of a prior project. Houston Refining, LP is requesting that the heater be permitted at its maximum as-built firing rate and the heaters that were permitted but never constructed be removed. This appears to potentially be a change in the method of operation. Please provide TCEQ's analysis of

changes to actual emissions as a result of these revisions. In addition, please provide us your analysis detailing why this is not a change in the method of operation and ensure that this is in the public record. We request to review TCEQ's analysis prior to the issuance of the permit.



CITY OF HOUSTON

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February 12, 2010

VIA EMAIL LCastanuela@tceq.state.tx.us
VIA FAX (512) 239-3311
And FIRST CLASS U.S. MAIL

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 FEB 12 PM 2:58
CHIEF CLERKS OFFICE

LaDonna Castanuela
Office of the Chief Clerk
Texas Commission on Environmental Quality (TCEQ)
ATTN: Agenda Docket Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

RE: HOUSTON REFINING, L.P.; AIR QUALITY PERMIT NO. 2167; TCEQ DOCKET NO. 2009-0179-AIR: THE CITY OF HOUSTON'S RESPONSE TO THE EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS AND HEARING REQUESTS, THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO HEARING REQUEST AND THE APPLICANT HOUSTON REFINING'S RESPONSE TO REQUESTS FOR CONTESTED CASE HEARING OF THE CITY OF HOUSTON AND ENVIRONMENTAL INTEGRITY PROJECT

Dear Ms. Castanuela:

Enclosed for filing is the City of Houston's Response to the above noted submissions.

Sincerely,

Paulette S. Wolfson
Senior Assistant City Attorney

Cc: Mailing list

Enclosure

Council Members: Brenda Stardig Jarvis Johnson Anne Clutterbuck Wanda Adams Mike Sullivan Al Hoang Oliver Pennington Edward Gonzalez James G. Rodriguez Stephen C. Costello Sue Lovell Melissa Noriega C.O. "Brad" Bradford Jolanda "Jo" Jones Controller: Ronald C. Green

COMMISSION
ON ENVIRONMENTAL
QUALITY

TCEQ DOCKET NO. 2009-0179-AIR

2010 FEB 12 PM 2:59

APPLICATION BY
HOUSTON REFINING, L.P.
AIR PERMIT NO. 2167

§
§
§

CHIEF CLERKS OFFICE
BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**THE CITY OF HOUSTON'S RESPONSE TO THE EXECUTIVE DIRECTOR'S
RESPONSE TO PUBLIC COMMENTS AND HEARING REQUESTS,
THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO HEARING
REQUEST AND THE APPLICANT HOUSTON REFINING'S RESPONSE TO
REQUESTS FOR CONTESTED CASE HEARING OF THE CITY OF HOUSTON
AND ENVIRONMENTAL INTEGRITY PROJECT**

To the Members of the Texas Commission on Environmental Quality:

The City of Houston files this reply in support of its comment letter and in response to the Executive Director's Response to Public Comments and Hearing Requests, the Office of Public Interest Counsel's Response to Hearing Request and the Applicant Houston Refining's Response to Requests for Contested Case Hearing of the City of Houston and Environmental Integrity Project in the above-referenced matter.

I. INTRODUCTION

The City of Houston (City) maintains its request for a contested case hearing on the application and proposed flexible permit revision¹ and renewal for Houston Refining, LP, a refinery located within the City limits. Sixteen months after the City made its request – after this

¹ The flexible permit was first issued in 1999 and has been amended, altered, modified or revised numerous times, usually through permits by rules, and other processes that provide little or no opportunity for public comment. In fact in this case, although this is a technically complicated, detailed permit, involving controls on hundreds, if not thousands of emission points, and calculations of those emissions, much of which is not available to the public, only 15 days was provided for public comment (later extended to 26 days due to landfall of hurricane Ike and its effects on the City). Others have provided comments on the inadequacy of the comment period. Therefore, the City does not address that issue again in detail here. The City does note, because of the many changes to the permit, this permit "renewal" should have been considered an amendment, thus triggering a longer comment period and more extensive review of the permit application.

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permit had been under review for more than two years² -- the Executive Director recommended that the City's request be denied. Executive Director's Response to Hearing Requests (ED Hearing Response) at 8. The Executive Director's refusal to recommend a contested case hearing in this matter is based on inadequate and erroneous responses to important comments raised by the City and others, and a failure to apply the proper legal standards to the City's request for a hearing.

First, the Executive Director's responses fail to adequately address significant failures in Houston Refining's application. The responses do not adequately address the fact that Houston Refining, one of the largest contributors of Benzene emissions of all refineries in the nation, has not provided verifiable data to support the claims in its application. The responses do not account for the fact that there is a school within 3000 feet of the refinery (although Houston Refining represented there was not) and that there is currently no adequate way to tell what the effects of this facility are on the school. Further, despite admitting that other accurate methods for measuring emissions based on ambient monitoring data are "not possible," the Executive Director refuses to consider the very fence line monitors that would make this possible for the sake of better understanding effects on the public -- such as the nearby school children. As one of the nations leading emitters of Benzene, a known Class A human carcinogen, comments to Houston Refining's application deserved more consideration and detailed responses from the Executive Director. This is particularly true in light of the statutory mandate that the City's

² This delay in responding to the City's hearing request is unexplained by the record, although the City is unaware of any complaints from the applicant for the delay. The Executive Director himself noted more than fourteen months ago, "the Executive Director has made no changes to the draft permit in response to public comment." Executive Director's Response to Public Comment (ED Response) at p. 21. However, the City did receive a draft permit from the TCEQ staff in July, 2009. Noting that few changes had been made in the draft, the City reiterated its earlier comments.

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recommendations for a transparent evidentiary contested case hearing be given "maximum consideration." TEX. HEALTH & SAFETY CODE § 382.112.

The instant permit "renewal" process is the public's (and the TCEQ's) best opportunity to take a look at a permit that has been on the books for over 10 years and been through eighteen prior changes. How has the permit worked? Is air quality in the area acceptable from a health quality perspective? Has Houston Refining complied with the existing permit and other relevant regulations? No such comprehensive review has taken place in the public eye in more than nine years, and if the City's hearing request is denied it will be another decade before there is any meaningful opportunity for the TCEQ to review the permit's impact on the public health. The City asks serious questions on behalf of the public interest that deserve real answers before the permit "renewal" is issued. A contested case hearing should be granted both because the application is fairly characterized as an amendment, and thus a hearing is required, *and* because – despite the Executive Director's failure to consider it – the public interest requires it.

II. ARGUMENT

A. The Executive Director's Response to Comments is Inadequate and in Error

The City of Houston lodged multiple comments to the renewal of Flexible Air Quality Permit number 2167 in September 2008.³ The Executive Director's Response to many of these comments was inadequate and/or in error. The City's comments included, among others:

- Houston Refining fails to provide verifiable data and information sufficient to justify its projected emissions, but nevertheless seeks a permit to support its operations for the next ten years – a period in which no further public comment is reasonably anticipated.⁴

³ Rather than restate its comments and justifications for its request for contested hearing in their entirety, the City incorporates by reference herein the September 29, 2008 letter and its attachments sent by the Office of the Mayor of the City of Houston on behalf of the City of Houston. ("City Letter").

⁴ See City Letter at 12; see also Executive Director's Response to Public Comment (Dec. 16, 2008) ("ED Response") at Comment 16.

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- Houston Refining claimed in its application that there was no school within 3000 feet of the facility, but Richey Elementary School is within that proximity to the facility. Because the existence of the school was omitted from the application, Houston Refining has not provided any of the research necessary to enable the TCEQ to determine the health impacts of the facility on the elementary-school children. In short, because of Houston Refining's omission, it is not possible that these effects have been tested by the TCEQ.⁵
- Houston Refining's application included significant errors and omissions regarding multiple sources, including: heaters and boilers, flares, delayed coker units, storage tanks, cooling towers, wastewater system, fugitives, and a fluidized catalytic cracking unit that lead to significant under-reporting of emissions. With respect to heaters and boilers in particular, Houston Refinery used a method to calculate emissions for natural gas, even though the refinery's heaters and boilers actually use refinery fuel gas. This incorrect method of calculation results in a significant under-calculation of potential Benzene and other emissions by as much as 2860%.⁶
- Houston Refining's seven flares are known sources of Benzene and other emissions, but because the TCEQ does not require any valid method of testing or monitoring for these emissions, it is impossible to quantify the Benzene and other emissions caused by the flares.⁷
- Houston Refining's application fails to propose verification via direct observation or monitoring of Benzene emissions, rendering the permit virtually unenforceable. The TCEQ should exercise its discretion to require fence line monitoring in light of the facility's location near multiple facilities and point sources to enable accurate monitoring and enforcement.⁸
- As one of the nation's leading emitters of Benzene, a known Class A human carcinogen, a full evidentiary contested case hearing concerning the harmful effects of Houston Refining's Benzene emissions on Houstonians, the assumptions underlying the permit application, and the compliance history of this facility is in the public interest.⁹

Set forth below are just a few examples of the Executive Director's failure to meet these important public comments in his Response.

1. Houston Refining's Failure to Provide Underlying Verifiable Data and Information to Support Its Ten Year Permit "Renewal" (Response #16)

⁵ See City Letter at 11-12; see also ED Response at Comment 15.

⁶ See City Letter at 12; see also ED Response at Comment 17.

⁷ See City Letter at 12-13; see also ED Response at Comment 18.

⁸ See City Letter at 10-11; see also ED Response at Comment 13.

⁹ See e.g., City Letter at 1-9, ED Response at Comments 11-12, 25, 31, 33, 35, 36-37.

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The City provided detailed comments regarding the significant errors and omissions in Houston Refining's calculations of emissions from various units. See City Letter at 12-14 & attachments. The Executive Director admitted that not all sources covered by the permit disclosed "actual data," but concluded: "The changes in calculation methodology presented by Houston Refining are acceptable to TCEQ." ED Response 16. The Executive Director's response begs the question. Although it's true that the *methodology* used by Houston Refining in making its calculations may be widely known, the underlying *data* used in its application has been kept from the City and the public generally. As the City noted, Houston Refinery "fail[ed] to include the level of information and underlying data sufficient to justify the projected emissions." City Letter at 12. And the TCEQ failed to obtain this data and disclose it to the public for comment. Based on the application, it is impossible for the City (or the TCEQ) to determine if Houston Refining's representations regarding emissions or emission reductions are correct. Houston Refining also relies on these unsupported emission reduction claims in its response.

2. Houston Refining's Failure to Note It Was Within 3000 feet of an Elementary School (Response #15)

The City pointed out in its comments that Houston Refining claimed in its application that there was no school within 3000 feet of the facility; but that Richey Elementary School is within that proximity to the facility and a second elementary school is merely 3010 feet away. City Letter at 11-12. No data has been presented by Houston Refining, or evaluated by the TCEQ, regarding the health impacts of the facility on these two elementary schools. *Id.* In response, the Executive Director agrees that Houston Refining failed to disclose its proximity to a school, but responds in *general*: "When performing an impacts analysis, all sensitive receptors

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including schools are evaluated regardless of location.” ED Response 15. What the Executive Director fails to note is what analysis *if any* was done with respect to *these two elementary schools* – not “regardless of location” – but rather, *in light of their proximity to this facility*. On this record, the public has no ability to determine the extent of any impact on nearby schools, and the Executive Director's Response provides none.¹⁰

3. Houston Refining's Significant Under-Calculation of Emissions from Heaters and Boilers (Response #17)

The City also commented that Houston Refining's application included significant errors and omissions regarding multiple sources, including: heaters and boilers. City Letter at 10-14. The City noted that even though the facility's heaters and boilers use refinery fuel gas, it used a calculation method (AP-42) appropriate for *natural gas* – an error that results in an under-calculation of potential Benzene emissions by as much as 2860% because of the use of incorrect emission factors. *Id.* at 10-11. In response, the Executive Director mischaracterizes Houston Refining's representation about its Benzene emissions from heaters and boilers, finding “Houston Refining has stated that there is no Benzene present in their fuel for heaters and boilers.” *See* ED Response 17. Nowhere in the public record has Houston Refining said that there was no Benzene associated with these sources – only that there is less Benzene than it had previously thought. Because TCEQ will not require any valid method testing or monitoring of heaters and boilers, it is impossible to know how much Benzene there is. The limits stated in the application are not only inaccurate, they are wholly unenforceable.

4. Houston Refining's Failure to Calculate of Emissions from Flares (Response #18)

¹⁰ *Instead*, the Executive Director notes, as discussed in more detail *infra*, that the current monitors at Clinton, Cesar Chavez, and Milby Park are *insufficient* to determine the specific source of emissions at those locations, ED Response 37, but that, nevertheless, the TCEQ refuses to require the fence line monitors that would enable such monitoring for this facility, ED Response 13.

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The City also commented that Houston Refining's seven flares are known sources of Benzene and other emissions, but because the TCEQ does not require any valid method of testing or monitoring for these emissions, it is impossible to quantify the Benzene and other emissions from the flares. City Letter at 12-13. The City noted that flares do not achieve 98% destruction efficiency, and indeed, the TCEQ has raised these same issues in its Flare Task Force. The TCEQ's own DIAL study measured the destruction efficiency of flares at less than 85% -- thus, the City's comment that the TCEQ should require documents to support representations regarding destruction efficiency are entirely consistent with the TCEQ's own information. Nevertheless, the Executive Director responded that Houston Refining's HRVOC monitoring has detected no Benzene emissions from Houston Refining's flares. ED Response 18. But as the TCEQ is aware, HRVOC monitoring does not cover Benzene. The Executive Director's response, like many of his responses, fails to address the central issue raised by the City's comments. Put simply, without the background information requested in the City's comments, it is impossible to know how sensitive the flare monitors are for detection and quantification of Benzene. The TCEQ is responsible for a critical evaluation of an applicant's representations and no such evaluation has been done here.

5. Fence Line Monitoring Should Be Required (Response #13)

The City also commented that Houston Refining's application fails to propose verification via direct observation or monitoring of Benzene emissions, rendering the permit virtually unenforceable. City Letter at 10-11. As the City noted, lack of data, Houston Refining's compliance record, its location in a Benzene Air Pollution Watch List Area, and its significant Benzene emissions, among other reasons, all support the TCEQ requiring Houston

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Refining to implement fence line monitoring. The Executive Director's response is circular. First, the Executive Director dismisses outright the City's detailed comments on Houston Refining's significant contribution of Benzene within the City *because there are no fence line monitors to prove it*. The Executive Director notes specifically: "[b]ecause the Clinton, Cesar Chavez, and Milby Park monitors are not located at Houston Refining's property boundary, it is **not possible to determine** the specific source and/or contribution of the emissions purely based on ambient monitoring data." ED Response 37 (emphasis added). Nevertheless, the Executive Director concludes although "fence line monitoring *can* be included as a permit condition," on a case by case basis, it will not be required as part of this one. *Id.*

Although the City demonstrated in its comments that there are many good reasons why fence line monitoring should be required in this case, there is no need to resort to the City's (verifiable) data. Instead, it is sufficient that *without it* the TCEQ itself admits it cannot answer the question: How much Benzene – a known Class A carcinogen admittedly emitted by a facility located directly in a Benzene Air Pollution Watch List Area and very near at least two elementary schools – is being emitted by this facility? *See e.g.*, ED Responses 37 & 15. In yet another dismissal of the City's comments, the Executive Director notes, that *every single monitor in Texas* exceeded the EPA's one-in-a-million cancer risk value. ED Response 36. This is hardly a reason to *reject* fence line monitoring for one of the largest emitters of Benzene in the country. *See also* Houston Refining's Response to Requests for Contested Case Hearing at 7 (noting with emphasis, that according to recent numbers it cites – calculated without fence line monitoring – it is the "seventeenth" largest Benzene emitter of all refineries in the nation). That the TCEQ faces a state-wide problem (ED Response 36) and cannot differentiate between the *many* sources of Benzene emissions in the area surrounding the facility (ED Response 37) certainly is evidence of

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the need for fence line monitoring at this facility, which Houston Refining itself admits is (even based on what data is available) one of the four largest refinery-contributors of Benzene in the tri-county area (Houston Refinery Response at 7).¹¹

As the City noted in its comments, many of Houston Refining's representations as well as the draft permit limits are based on emission factors and other assumptions that notoriously underestimate emissions. Fence line monitoring and other monitoring would provide real numbers based on the actual emissions from the facility. There is no better way to validate the Refinery's emissions and potential impact. The public should be given an opportunity to weigh in on the TCEQ's purported justifications for denying this important request.

6. Benzene Emissions (E.g., Responses # 11-12, 25, 31, 33, 35, 36-37)

Finally, the Executive Director's responses to the City's detailed comments regarding Houston Refining's Benzene emissions are wholly inadequate. The City provided extensive data raising many questions about the public health impacts of Houston Refining's Benzene emissions. *See* City Letter at 1-9 and attachments. It is in the public interest to have the City's questions answered in a contested case hearing *before* Houston Refining is granted a permit to operate inside the City limits for an additional ten years. Despite the City's important questions, the Executive Director dismisses them all, going so far as to quibble with the *types* of cancer caused by Benzene emissions. ED Response at 35 (admitting a link between Benzene and cancer, but disputing the City's assertion regarding what *types* of cancer are caused by Benzene).

¹¹ Houston Refining assumes that "the referral of a contested case hearing directed at just one source's permit would do little to support this area-wide effort." Houston Refining Response at 10. But Houston Refining is incorrect. As detailed in the City's comments, and as admitted by Houston Refining itself, Houston Refining is a significant source of Benzene emissions in the area, the state, and the nation. A contested case hearing to address the important issues of public health before this facility is permitted for the next decade may in fact go a long way to achieve area-wide emissions reductions.

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The Executive Director concedes that “the most important goal of regulating emissions of toxic substances is to protect human health.” ED Response 33. But ultimately he finds no reason to allow the City or its citizens access to the information necessary to evaluate the effects of Houston Refinery’s Benzene emissions on their own health. The Executive Director admits “[b]enzene has been classified as a Class A carcinogen by the USEPA due to the extent of human occupational worker and animal data indicating a link between exposure and the development of cancer.” ED Response at 35. Nevertheless, rather than evaluate that risk in light of the Benzene exposure to residents (and school children) in *this Benzene Air Pollution Watch List area*¹² he dismisses the City’s data by reference to, among other irrelevant conditions, the “environmental levels encountered by the *general* population.” ED Response 35 (emphasis added). The Executive Director admits the EPA has not approved the TCEQ flexible permit rules he is applying here, but even though “it is not clear” to him what EPA requirements have not been met in this instance,¹³ he finds no bar to proceeding with the permit. ED Response 25. Although he states “TCEQ supports and encourages reductions of air contaminants by all permittees,” (ED Response 31) and that the information provided by the City regarding Houston Refining’s Benzene emissions is “informative” (ED Response 32), in the end he finds no reason to credit the City’s comments because, he says, the TCEQ is “limit[ed]” to imposing requirements it “determines to be economically reasonable and technically practicable considering the age of the facility and the effect of its emissions on the surrounding area” (*id.*).

¹² In an Air Pollution Watch List area like the one at issue here, it is the *sources of pollution* not community concerns – that are supposed to receive special scrutiny. By contrast, the *City’s recommendations* are to be given “**maximum consideration.**” TEX. HEALTH & SAFETY CODE § 382.112. From a review of the ED Response, it appears the standards in this instance have been swapped.

¹³ The unmet EPA requirements are delineated in the City Letter at 14-15.

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But without the data and information requested by the City's comments,¹⁴ and without an opportunity to vet it in a contested case hearing, how can the City or its citizens, or the TCEQ for that matter, assure itself that it has properly balanced the economic concerns¹⁵ - on which he has not elaborated - against the effect of the Benzene emissions on the surrounding area? The City has detailed the inaccuracies of the Benzene emission information inherent in Houston Refining's permit application. Houston's citizens deserve answers to the questions raised by the City. A contested case hearing to determine if the TCEQ has adequately reviewed the permit application, if it has appropriately controlled emissions of Benzene and other toxic pollutants, and if it has evaluated, with an eye toward protecting the public health, the impact of Benzene and other pollutants on the health of the citizens in this area is warranted.

B. The City's Request for a Contested Case Hearing Should Be Granted

1. The City is an Affected Person

The Executive Director does not dispute that the City is statutorily defined as an "affected person" that may request a contested case hearing. 30 TEX. ADMIN. CODE §§ 55.203(b) & (c)(6). Further, there can be no doubt that the City of Houston in particular is affected by Houston Refining's application. Houston Refining is located inside the City limits of Houston. The City has statutory authority over the facility to inspect the air, conduct facility inspections, determine if emissions from the facility's sources meet the level of air contamination set by the TCEQ, and to determine if the facility is complying with the TCEQ's rules. TEX. HEALTH & SAFETY CODE §

¹⁴ For example, for some units or emission points, the permit only requires a generic limit for VOC's (volatile organic compounds). Thus, despite the fact that the facility is "located in an industrial area" with "up to 15" Benzene emitting facilities (ED Response 37), the Benzene emissions for some of the facility's units and emissions points are not even specifically controlled.

¹⁵ The Executive Director appears to interpret his role in evaluating economic concerns to relate only to those economic issues facing Houston Refinery. ED Response 32. As the City has noted, however, the City itself has an economic interest in the reduction and accurate measurement of Benzene emissions. City Letter at 16.

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382.111. In addition, the City has home rule authority to enforce its own ordinances (including its own air quality control ordinances) at the facility.

To protect public health, the City also has a significant interest in ensuring that any permit renewal, amendment or alteration applied to Houston Refining complies with all applicable statutory and regulatory requirements. Any authorized pollutants in the proposed permit "renewal" necessarily affect the air quality of Houston's citizens. The City seeks to protect the public health and environment of its citizens through participation in a contested case hearing.

Finally, the City's interest is also economic. Houston Refining's emissions of volatile organic compounds (VOCs) impact the City's achievement of ozone standards. Non-attainment of ozone standards costs the City, among other things, by financial penalties, reduced federal funding, and loss of business.

2. Pursuant to the Texas Water Code, a Contested Case Hearing Should Be Granted

As described more fully in the City's comments, Houston Refining's permit application cannot fairly be construed as a "no-increase" renewal. In addition to the changes to the current permit Houston Refining has requested as highlighted in the City's comments, Houston Refining also concurrently filed another application concerning MSS (Maintenance, Start-Up and Shutdown) emissions. Houston Refining reports these MSS emissions will contribute more than twelve tons of Benzene per year. Although the TCEQ apparently incorporated MSS requirements into this permit "renewal," none of the City's comments regarding MSS emissions have been included in this proposed draft permit.

In light of the many changes in this permit and the incorporation of the MSS requirements, the permit "renewal" under review should properly be characterized as an

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amendment. To the extent there is any doubt about *whether* the current request is truly for an amendment, those doubts cannot be resolved without a hearing on the disputed facts raised during the comment period. Pursuant to the Texas Water Code, this application should be referred to the State Office of Administrative Hearings for a contested case hearing because of the multiple disputed questions of fact, the troubling issues raised during the public comment period, and the relevance and materiality of these issues to any decision on the permit application. TEXAS WATER CODE § 6.566 (d).

3. A Contested Case Hearing Is in the Public Interest

Regardless of how the permit application is characterized, the TCEQ has discretion to submit this application to a contested case hearing if it is in the public interest to do so. TEX. WATER CODE § 5.556(f). There is no suggestion by the Executive Director or anyone else – other than Houston Refining – that it would *not* be in the public interest to hold a contested case hearing in this matter.

Despite the *statutory mandate* that the City's recommendations be given "maximum consideration," TEX. HEALTH & SAFETY CODE § 382.112,¹⁶ the Executive Director has provided no substantive analysis of the *public's interest* in a contested case hearing at all. ED Hearing Response at 6. The Executive Director stated he "did not find the facts in this case to be so unique as to provide a basis for holding a hearing in the public interest" and thus found the City's arguments "unpersuasive." *Id.* The Executive Director did not indicate what facts would be "so

¹⁶ The Executive Director, without citation to any authority, refused to acknowledge this statutory mandate applies to permit applications despite the statute's clear language that it applies to the City's recommendations concerning "*any ... determination*" by the TCEQ. The Executive Director then goes on to add a somewhat unusual footnote regarding prior versions of the statute that did *not* contain the "maximum consideration" language of the present day law. ED Hearing Response at 6 n.16. Regardless that the Executive Director found "no court cases directly ruling" on what is meant by "maximum consideration" (*id.*), the language is hardly ambiguous. The change from "due consideration" to "maximum consideration" cannot mean that the City should receive only "due" consideration, or -- as in this case -- "no consideration," but rather, must mean that the City's recommendations must receive maximum consideration.

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unique.”¹⁷ He did not provide any explanation of how “maximum consideration” to the City means the City must provide such “unique” facts. And, most importantly, while disputing the “uniqueness” of the facts, with respect to the need for a public hearing, he did not analyze the public's interest itself. *Id.*; see also ED Response 1 (failing to even mention the public interest exception). The Executive Director's failure to give “maximum” (or any) consideration to the City's recommendation is troubling, but his refusal to consider (whether at the City's recommendation or not) the public's interest in the hearing at all is indefensible.

There is no dispute Houston Refining, situated in the City of Houston, is a significant contributor of Benzene emissions. There is no dispute that Benzene is a known Class A human carcinogen that is in fact linked to cancer. There is no dispute that there has been no public participation in Houston Refining's seventeen previous permit changes over the course of more than nine years. There is no dispute, that if this application is granted, it may be another decade – or a total of *nineteen years* – before there is an opportunity for any public participation with respect to this facility's emissions at all.

There are, however, significant disputes raised in the parties' submissions. To name just a few:

- Critically, important data underlying Houston Refining's permit application is wholly *undisclosed*. The TCEQ has failed to obtain the data needed for any genuine determination of public health impacts of the facility to occur at all.
- As noted by the City's and EIP's submissions, there are serious concerns raised by the systemic errors and omissions in Houston Refining's application.

¹⁷ The City has provided comments on the “unique” nature of this application, including, among others, that it concerns one of the largest refinery-emitters of Benzene, that Houston Refining has an extensive compliance history showing non-compliance, that Houston Refining is located within the City limits of one of the largest cities in America, near a grade school, and inside what is *already* a Benzene Air Pollution Watch List area. Further, as described herein, the EPA has recently flagged Houston Refining as a potential problem, and delays and further rulings from the federal agency are likely to change the regulatory landscape in any event.

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- There are serious concerns raised by the fact that there are at least two elementary schools in the vicinity and, the ED admits, because there are no fence line monitors the TCEQ has no way to accurately measure the impacts *this* facility has at its borders and thus, on these nearby sensitive receptors.
- There are serious concerns about the severity and proper measures of impacts and emissions of Benzene.
- There are important public health issues raised by the TCEQ's failure to require appropriate emissions factors or to obtain or disclose the appropriate data needed to make any such determination.
- As noted by the Office of Public Interest Counsel (OPIC), there remains an open question of whether Houston Refining's compliance history with the three agencies that have regulatory authority over the facility exhibits systemic, egregious conduct demonstrating its disregard for the regulatory process that "is an appropriate issue for a public interest hearing." OPIC Response at 6.¹⁸

Rather than answer these public interest concerns as is his mandate, the Executive Director dismissed them. *See supra* Part II.A. As noted by OPIC, in the interest of the public, the TCEQ should grant a contested case hearing in this matter to address the following issues:

- Whether Houston Refining's Benzene air emissions pose an unreasonable health risk to the public.
- Whether concentrations of Benzene in Houston neighborhoods downwind of Houston Refining are too high.
- Whether Houston Refining's Benzene emissions contribute significantly to elevated Benzene levels in Houston neighborhoods.
- Whether the permitting process has accounted for the cumulative risk imposed on the public by Houston Refining.
- Whether Houston Refining's compliance history warrants denial of the application.

¹⁸ Indeed, as noted in the OPIC response, following the TCEQ's incredibly lax compliance history standards, a refinery that has 28 Agreed Orders between 2002 and 2009, resulting in approximately one million dollars of fines, penalties and supplemental environmental projects is considered "average." But status as a "poor" performer is not required. When violations remain unresolved, as here, and demonstrate a pattern of egregious conduct, a contested case hearing is in the public interest. That is the case here. Not only has Houston Refining entered into numerous agreed orders with the TCEQ, but as noted on Exhibit 1, five additional enforcement actions are unresolved.

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- Whether the Benzene reductions claimed in the permit are supported by actions that will result in reductions.
- Whether the permit should require verification of Benzene emissions via direct observation or monitoring including fence line monitoring.
- Whether dispersion modeling should be required to support the application.
- Whether the application and permit account for the presence of a school within 3,000 feet of the refinery.
- Whether the application contains errors and omissions regarding emissions from heaters and boilers, flares, delayed coker units, storage tanks, cooling towers, wastewater system, fugitives, and fluidized catalytic cracking unit.
- Whether the permit complies with EPA requirements regarding Benzene emissions.¹⁹
- Whether Houston Refining's emissions are contributing to Houston's ozone nonattainment status.

See OPIC Response at 7-8.

C. The EPA Agrees with the City; and Its Concerns Have Not Been Addressed

Finally, the United States Environmental Protection Agency has raised questions similar to those raised by the City here. After the City filed its comments, the EPA raised its own significant concerns about this permit "renewal." See EPA Comment Letter, December 18, 2009. The EPA noted it has not approved flexible permits as part of the State Implementation Plan (SIP), *id.*, and in fact, it has proposed to disapprove that part of the SIP. (74 Fed. Reg. 48480, Sept. 23, 2009). The EPA stated that, on that basis, it is unlikely to approve the federal operating permit for Houston Refining when it is requested. The EPA also asked the TCEQ to clarify its conclusions that this flexible permit "renewal" is not subject to PSD (prevention of significant deterioration) applicability requirements.

¹⁹ See also EPA Comment Letter, Exhibit 2.

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The EPA, like the City, concluded that there is a lack of data underlying the conclusions that TCEQ has reached regarding Houston Refining's emissions and found "[t]here is no analysis regarding whether the changes identified (at Houston Refining) would result in increases of actual emissions above non-attainment new source review thresholds". Providing further support for the City's contention that this is *not* a renewal, the EPA also found that certain changes regarding Houston Refining's heaters would potentially be a change in the method of operation, triggering further review. The EPA asked that the requested analysis be provided before the issuance of the permit "renewal" and that the analysis be placed in the public record. To date, the City has not been provided this information and is not aware that any response has been provided to the EPA. *See* EPA Comment Letter, Exhibit 2.

Certainly, if the EPA is not satisfied that the public interest has been adequately protected in this process, there should be no hesitation to allow for a transparent process, including an evidentiary contested case hearing as permitted by the TCEQ rules, to ensure in this important (indeed, "unique") instance, the public's interest has been adequately protected.

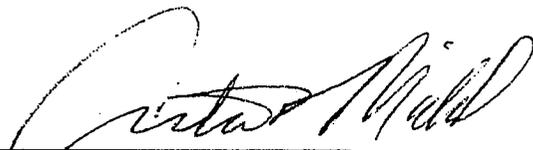
III. CONCLUSION

The Executive Director has not adequately responded to the City's comments regarding the serious public health issues raised by the "renewal" application including its errors and omissions, and the significant contribution of this permit to Benzene air emissions in the City, County, and State. Further, after the Executive Director – without explanation – waited more than sixteen months to respond to the City's request for a contested case hearing, the EPA has now recently raised issues of its own that will have to be addressed in the near term. In short, there is no reasonable justification for denying the City's request for a contested case hearing. And the Executive Director has provided none.

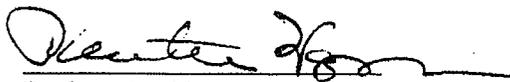
Houston Refining
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As noted in the City's comments, and echoed by the EPA's recent comments, this "renewal" application is properly characterized as an amendment. As such, regardless whether the TCEQ considers the important public interests served by a contested case hearing, a SOAH hearing should be granted pursuant to the Texas Water Code. Even if the application is treated as a "renewal", as OPIC recommends, because of Houston Refinery's significant benzene emissions, checkered compliance history, and the lack of opportunity for public participation over the course of nearly a decade, a contested case hearing should be granted in the public interest.

Respectfully Submitted,



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2010 FEB 12 PM 3:00

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MAILING LIST
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DOCKET NO. 2009-0179-AIR; PERMIT NO. 2167

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**Houston Refining
EXHIBIT 1
Compliance Record**

Agreed Orders

1. 2002-1040
2. 2003-1418
3. 2004-0866
4. 2004-2002
5. 2005-1172
6. 2005-1714
7. 2005-0754
8. 2005-0359
9. 2005-1985
10. 2005-2073
11. 2005-0179
12. 2006-0811
13. 2006-1948
14. 2007-0137
15. 2007-0440
16. 2007-0713
17. 2007-1954
18. 2007-0169
19. 2007-0473-MLM-E combined file
20. 2007-0473
21. 2007-1069
22. 2007-1836
23. 2007-0780
24. 2008-0674-MLM-E combined file
25. 2008-0790
26. 2008-0894
27. 2009-0181
28. 2009-1738

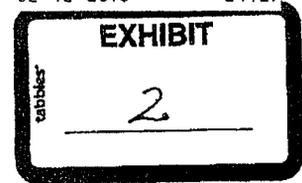
Unresolved Matters

1. 2008-1454
2. 2009-0779
3. 2009-1158
4. 2010-0121
5. 2010-0028

This information was obtained from the TCEQ website.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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DEC 18 2009

Mr. Steve Hagle, Director
Air Permits Division
Office of Permitting, Remediation, and Registration
Texas Commission on
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P.O. Box 13087
Austin, TX 78711-3087

RE: Houston Refining, LP, Harris County, Texas -- Proposed Permit Renewal Application,
State of Texas Flexible Permit No. 2167

Dear Mr. Hagle:

The United States Environmental Protection Agency, Region 6 (EPA) has reviewed the Houston Refining, LP permit renewal application for State of Texas flexible permit No. 2167, which was submitted for public notice and comment on September 2, 2008. Flexible permit No. 2167, which expired on February 3, 2009; and Prevention of Significant Deterioration (PSD) Permit No. PSD-TX-985 are incorporated by reference into Federal Operating Permit (FOP or Title V) Permit No. O1372, which expires on March 13, 2010. We understand that Houston Refining, LP submitted a permit renewal application to the Texas Commission on Environmental Quality (TCEQ) for FOP No. O1372 on September 11, 2009. Enclosed are our concerns regarding both the flexible and PSD permits that are incorporated by reference into the FOP. We note that this facility is one of the larger benzene emission sources in Harris County, Texas.

We look forward to discussing our concerns identified in our letter. If you have any questions or would like to discuss further, please call me or Mr. Jeff Robinson of my staff at (214) 665-6435. Thank you for your assistance in this matter.

Sincerely yours,

A handwritten signature in blue ink that reads "Thomas H. Diggs".

Thomas H. Diggs
Associate Director for Air

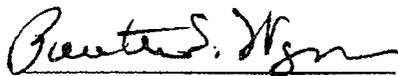
Enclosure

cc: Mr. John Barrientez (MC-163)
Texas Commission on Environmental Quality

changes to actual emissions as a result of these revisions. In addition, please provide us your analysis detailing why this is not a change in the method of operation and ensure that this is in the public record. We request to review TCEQ's analysis prior to the issuance of the permit.

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2010, the foregoing document was filed with the TCEQ Chief Clerk, and copies were served to all parties listed on the attached mailing list via facsimile, electronic mail, or by deposit in the U.S. Mail.



Paulette S. Wolfson
Senior Assistant City Attorney



CITY OF HOUSTON

Legal Department
Post Office Box 368 Houston, Texas 77001-0368 832-393-3000

Annise D. Parker,
Mayor

Arturo G. Michel
City Attorney

FAX COVER SHEET

Date: February 12, 2010

To: L.Donna Castanuela
Office of Chief Clerk (MC-105)

Company: Texas Commission on Environmental Quality (TCEQ)

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Page#: 25(incl. cover page)

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

COMMENTS:

HOUSTON REFINING, L.P.; AIR QUALITY PERMIT NO. 2167; TCEQ DOCKET NO. 2009-0179-AIR: *The City of Houston's Response to the Executive Director's Response to Public Comments and Hearing Requests, OPIC's Response to Hearing Request and the Applicant's HR's Response to Requests for Contested Case Hearing of the City of Houston's and EIP.*

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