

**TCEQ DOCKET NOS. 2009-1679-MIS-U & 2009-1680-MIS-U
USE DETERMINATION NOS. 13805 & 13806**

APPEAL OF	§	BEFORE THE
THE EXECUTIVE DIRECTOR'S	§	
NEGATIVE USE DETERMINATIONS	§	TEXAS COMMISSION ON
ISSUED TO SARTOMER INC.	§	
APPLICATION NOS. 13805 & 13806	§	ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR'S RESPONSE TO SARTOMER INC.'S APPEAL OF
THE EXECUTIVE DIRECTOR'S NEGATIVE USE DETERMINATIONS**

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this response to Sartomer Inc.'s (Sartomer or Appellant) appeal of the Executive Director's negative use determinations issued for the wastewater treatment system that services its Sheldon Road Plant WCV2 facility. The appeal was submitted by Associated Tax Appraisers on Sartomer's behalf.

For the reasons described below, the Executive Director respectfully requests that the Commission deny Sartomer's appeals and affirm the Executive Director's Tier I negative use determinations for the wastewater treatment system that services its Sheldon Road Plant WCV2 facility.

PROGRAM BACKGROUND

This appeal of the Executive Director's negative use determination is filed pursuant to H.B. 3121 (77th Tex. Legislature, 2001) establishing an appeals process for use determinations and the Commission rules implementing the legislation. *See* Tex. Tax Code § 11.31 and 30 Tex. Admin. Code (30 TAC) § 17.25.

In 1993, the citizens of Texas voted to adopt a tax measure called Proposition 2. Proposition 2 was implemented when Article VIII, § 1-1 was added to the Texas Constitution on November 2, 1993. The amendment allowed the legislature to "exempt from ad valorem taxation all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution."

The Texas Legislature codified the constitutional amendment in 1993 as Tex. Tax Code § 11.31 (effective January 1, 1994). The statutory language in the codified version mirrored the language of Article VIII, § 1-1. In 2001, the legislature amended Section 11.31 when it passed H.B. 3121 (effective September 1, 2001). This bill added several new procedural requirements to § 11.31, including a provision requiring the establishment and implementation of a process to appeal use determinations. *See* Tex. Tax Code § 11.31(e) and 30 TAC § 17.25. The amendment also required the

Commission to adopt new rules establishing specific standards for the Executive Director to follow in making use determinations for property that qualified for either full or partial pollution control use determinations. See Tex. Tax Code § 11.31(g). Appeals under Section 17.25 of the Commission rules may be filed by either the applicant seeking the determination, or by the chief appraiser of the tax appraisal district affected by the determination. Tex. Tax Code § 11.31(e) and 30 TAC § 17.25(a)(2). The Appellant is required to explain the basis for the appeal. 30 TEX. ADMIN. CODE § 17.25(b)(5).

PROCEDURAL BACKGROUND

On or about May 15, 2009, Associated Tax Appraisers filed two Tier I applications on behalf of Sartomer requesting 100% positive use determinations equal to the amount of Sartomer's financial contribution towards a wastewater treatment system that services their Sheldon Road Plant WCV2 facility.¹ Sartomer Inc. cited Title 40 of the Code of Federal Regulations (40 CFR) Part 61, Subpart FF (regarding National Emission Standards for Benzene Waste Operations) and 40 CFR Part 268, Subpart C (regarding Prohibitions on Land Disposal) as the environmental laws, rules or regulations that were being met or exceeded by the installation of the wastewater treatment system.² Sartomer cited Item W-57 on Part A of the Equipment and Categories List (ECL) as the applicable listing for the wastewater treatment system.³ On June 9, 2009, the Executive Director issued administrative Notices of Deficiency (NODs) on both applications, stating:

“The property description in your application is not adequate to communicate the nature and purpose of the item. It is not clear what type of facility has been installed, who owns it, what relation exists between Sartomer and LyondellBasell, where it is located, what the acronyms used mean, etc. Please provide a clear description of exactly what is covered in the application, whether Sartomer owns part of the facility (and if not, what their contribution covers), and any other relevant information, as well as a process flow diagram showing all components of the system, whom owns each or the portion of each owned by Sartomer, and the relation of this system to the rest of the facility.”⁴

On July 14, 2009, Sartomer responded to the June 9, 2009 NODs, stating:

“[P]lease be advised that the Sartomer Company owns two manufacturing units within LyondellBasell Industries (LBI) Channelview Texas Operations

¹ Use Determination Application No. 13805 describes the property at issue as “Sartomer’s SMA contribution towards a new, above-ground bio treatment facility.” Use Determination Application 13806 describes the property at issue as “Sartomer’s Polybd contribution towards a new, above-ground bio treatment facility.” Both property descriptions included the statement, “The project was managed and installed by LyondellBasell.” See Use Determination Application Nos. 13805 & 13806.

² See Use Determination Application Nos. 13805 & 13806.

³ *Id.*

⁴ See Administrative Notices of Deficiency (NOD), dated June 9, 2009 (Attached as **ED’s Exh. #1**).

North Facility. Sartomer contracts LyondellBasell Industries to operate and maintain their two units on Sartomer's behalf. LyondellBasell Industries provides utility services to Sartomer's units within Channelview Texas Operation North Facility. *LyondellBasell Industries owns and operates the on-site ECU. Sartomer does not own or operate the aforementioned ECU...*Sartomer's contribution of \$2,750,000 to the ECU Upgrade Project was based on 7% of total wastewater streams loading from SMA & PolyBd (Sartomer's on-site processing units) and processed through *LyondellBasell Industries' Environmental Control Unit.*" (emphasis added).⁵

On July 17, 2009, the applications were declared administratively complete. On July 22, 2009, ED staff issued technical NODs, asking "Who owns the wastewater treatment plant? Who has responsibility for the property taxes related to the wastewater treatment plant? Does Sartomer pay LyondellBasell a fee for operating the wastewater treatment plant?"⁶ On August 22, 2009, Sartomer responded via email, and attached a chart which stated "LyondellBasell owns and operates the wastewater treatment plant, Sartomer pays a usage fee. LyondellBasell is responsible for the property tax."⁷ On September 22, 2009, the applications were declared technically complete and the Executive Director issued negative use determinations.⁸ On October 12, 2009, Associated Tax Appraisers timely filed use determination appeal letters with the TCEQ's Office of the Chief Clerk on Sartomer's behalf.⁹

APPELLANT'S CLAIM

Sartomer's appeal letters provide:

"The basis for the negative use determination is that Sartomer does not own the pollution control property at issue. Please be advised that the cost associated with this application is Sartomer's contribution towards a wastewater treatment plant and that Sartomer has included this portion of the wastewater treatment plant on the rendition they filed with the local Appraisal District."¹⁰

LEGAL ANALYSIS

1. SARTOMER IS NOT ELIGIBLE FOR A POSITIVE USE DETERMINATION BECAUSE THEY DO NOT HAVE AN

⁵ See Sartomer's Responses to June 9, 2009 Administrative NODs, dated July 14, 2009 (Attached as ED's Exh. #2).

⁶ See Technical NODs, dated July 22, 2009 (Attached as ED's Exh. #3).

⁷ See Sartomer's Response to July 22, 2009 Technical NODs (Attached as ED's Exh. #4).

⁸ See Use Determination Nos. 13805 & 13806.

⁹ See Use Determination No. 13805 Appeal Letter, dated October 8, 2009 & Use Determination No. 13806 Appeal Letter, dated October 8, 2009.

¹⁰ Id.

OWNERSHIP INTEREST IN THE WASTEWATER TREATMENT SYSTEM AT ISSUE.

Section 11.31(a) of the Texas Tax Code provides that, “A person is entitled to an exemption from taxation of all or part of real and personal property *that the person owns* and that is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution.” (emphasis added). 30 TAC § 17.1, which sets out the scope and purpose of TCEQ’s Tax Relief for Pollution Control Property regulations, states that “This chapter is to establish the procedure and mechanism *for an owner of pollution control property*, to apply to the commission for a determination of pollution control use.” (emphasis added).

Sartomer’s responses to the administrative and technical NODs issued by Executive Director staff expressly state that the wastewater treatment system at issue is owned by LyondellBasell.¹¹ As such, Sartomer is not eligible to receive a positive use determination under Section 11.31 of the Texas Tax Code or 30 TAC Chapter 17.¹² Sartomer has not presented any evidence that it received an ownership interest in LyondellBasell’s wastewater treatment system in exchange for its contribution to the system upgrade. Similarly, filing a property rendition with the local tax appraisal district that lists a portion of LyondellBaell’s wastewater treatment system does not evidence an ownership interest in that system. Texas Tax Code § 22.01 sets out the general rules that apply to property renditions. Texas Tax Code Section 22.01 reads as follows:

“(a) ...[A] person shall render for taxation all tangible personal property used for the production of income that the person owns *or that the person manages and controls as a fiduciary* on January 1. A rendition statement shall contain:

- (1) *the name and address of the property owner;*
- (2) a description of the property by type or category;
- (3) if the property is inventory, a description of each type of inventory and a general estimate of the quantity of each type of inventory;
- (4) the physical location or taxable situs of the property; and
- (5) the property owner's good faith estimate of the market value of the property or, at the option of the property owner, the historical cost when new and the year of acquisition of the property.

(b) When required by the chief appraiser, a person shall render for taxation any other taxable property that he owns *or that he manages and controls as a fiduciary* on January 1.

(c) A person may render for taxation any property that he owns *or that he manages and controls as a fiduciary* on January 1, although he is not required to render it by Subsection (a) or (b) of this section.

¹¹ See Sartomer’s Responses to June 9, 2009 Administrative NODs, dated July 14, 2009 (Attached as ED’s Exh. #2) & Sartomer’s Responses to July 22, 2009 Technical NODs, dated August 22, 2009 (Attached as ED’s Exh. #4).

¹² Tex. Tax Code § 11.31(a) & 30 TAC § 17.1.

(d) A fiduciary who renders property shall indicate his fiduciary capacity and shall state the name and address of the owner.” (emphasis added).¹³

A company that lists a piece of property on a property rendition could manage or control that property pursuant to a bailment, lease, consignment, or other contractual arrangement. Sartomer’s statement that it has listed the wastewater treatment system on its property rendition does not evidence an ownership interest in that system. As such, Sartomer has not presented the Executive Director with any documentation indicating that it has an ownership interest in the wastewater treatment system at issue. Based on the information provided in the applications and Sartomer’s responses to the administrative and technical NODs, the Executive Director has determined that Sartomer does not have an ownership interest in the wastewater treatment system at issue; and therefore, is not eligible to receive a positive use determination.

CONCLUSION

After careful consideration of the appeals filed by Associated Tax Appraisers on Sartomer’s behalf on Use Determination Application Numbers 13805 and 13806, the Executive Director concludes that its original Tier I negative use determinations were not issued in error. The Appellant has failed to provide any legal basis upon which the Commission should reverse the Executive Director’s use determinations in this case. The Executive Director’s use determinations are consistent with the terms and mandates set forth in the relevant statutes and rules. The assertions of the Appellant do not alter the findings and the final negative use determinations issued by the Executive Director in this case.

Accordingly, the Executive Director respectfully requests that the Commission deny the instant appeals and affirm the Executive Director’s Tier I negative use determinations.

Respectfully submitted,
Texas Commission on Environmental
Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

¹³ See Tex. Tax Code § 22.01.

By Tim Reidy
Timothy J. Reidy, Staff Attorney
Environmental Law Division
State Bar No. 24058069
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0969

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on December 4, 2009 an original and seven copies of the "Executive Director's Response to Sartomer Inc.'s Appeal of the Executive Director's Negative Use Determinations" was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was transmitted by mail, facsimile, electronic mail or hand-delivery to all persons on the attached mailing list.

Tim Reidy
Timothy J. Reidy, Staff Attorney
Environmental Law Division
State Bar No. 24058069

Mailing List

Executive Director's Response to Sartomer Inc.'s Appeal of the Executive Director's
Negative Use Determinations

TCEQ Docket Nos. 2009-1679-MIS-U & 2009-1680-MIS-U
Use Determination Application Nos. 13805 & 13806

Associated Tax Appraisers
Attn: Ronald P. Little
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Fax: 713/627-8485

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Houston, Texas 77256-6561

Docket Clerk
TCEQ Office of Chief Clerk, MC 105
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Austin, Texas 78711-3087
Tel: 512/239-3300
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**ED's Exhibit #1 –
Administrative Notices of
Deficiency (NODs)**

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 09, 2009

ASSOCIATED TAX APPRAISERS
RONALD P LITTLE
4543 POST OAK PLACE #232
HOUSTON TX 77027-

This letter is to inform you that during the administrative review of Use Determination Application, 13805, the reviewer has determined that additional information is required. This application was filed for the following facility:

8280 SHELDON RD PLANT WCV2
8280 SHELDON RD
CHANNELVIEW TX 77049

The additional information required is:

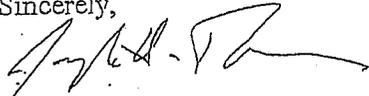
Issue 1: The property description in your application is not adequate to communicate the nature and purpose of the item. It is not clear what type of facility has been installed, who owns it, what relation exists between Sartomer and LyondellBasell, where it is located, what the acronyms used mean, etc. Please provide a clear description of exactly what is covered in the application, whether Sartomer owns part of the facility (and if not, what their contribution covers), and any other relevant information, as well as a process flow diagram showing all components of the system, whom owns each or the portion of each owned by Sartomer, and the relation of this system to the rest of the facility. Please note that in your attachment the first description block uses the term wastewater along with three unexplained acronyms, the second description block mentions a bio treatment facility, a group of federal air regulations and another group of federal solid waste regulation are cited, and the ECL number is for a wastewater treatment plant; please verify that these entries are correct.

Issue 2: For item 10 on page 4 of 5 in the application, an incorrect entry appears to have been made for the decision flow chart (DFC) box that the item reached. Please note that under the current DFC box 7 is for Tier IV items which is inconsistent with this application.

Issue 3: Only an original application was submitted, although 30 TAC 17.10(a)(1) requires both an original and a copy. Please submit both an original and a copy of the revised application.

Please provide the missing and/or incomplete information as soon as possible. As per 30 TAC 17.12(2)(A) the applicant must respond to a notice of deficiency (NOD) by providing the additional information required within 30 days of receipt of the NOD or the application will be returned. Once the additional information has been received the administrative review of this application will resume. If you have any questions or require any assistance in developing the additional required information please contact the Tax Relief for Pollution Control Property Program at (512) 239-0012. Your response may be faxed to 512/239-5768, electronically mailed to txrelief@tceq.state.tx.us, or sent by U.S. Mail.

Sincerely,



Joseph Thomas

Tax Relief for Pollution Control Property Program

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 09, 2009

ASSOCIATED TAX APPRAISERS
RONALD P LITTLE
4543 POST OAK PLACE #232
HOUSTON TX 77027-

This letter is to inform you that during the administrative review of Use Determination Application, 13806, the reviewer has determined that additional information is required. This application was filed for the following facility:

8280 SHELDON RD PLANT WCV2
8280 SHELDON RD
CHANNELVIEW TX 77049

The additional information required is:

Issue 1: The property description in your application is not adequate to communicate the nature and purpose of the item. It is not clear what type of facility has been installed, who owns it, what relation exists between Sartomer and LyondellBasell, where it is located, what the acronyms used mean, etc. Please provide a clear description of exactly what is covered in the application, whether Sartomer owns part of the facility (and if not, what their contribution covers), and any other relevant information, as well as a process flow diagram showing all components of the system, whom owns each or the portion of each owned by Sartomer, and the relation of this system to the rest of the facility. Please note that in your attachment the first description block uses the term wastewater along with three unexplained acronyms, the second description block mentions a bio treatment facility, a group of federal air regulations and another group of federal solid waste regulation are cited, and the ECL number is for a wastewater treatment plant; please verify that these entries are correct.

Issue 2: For item 10 on page 4 of 5 in the application, an incorrect entry appears to have been made for the decision flow chart (DFC) box that the item reached. Please note that under the current DFC, box 7 is for Tier IV items, which is inconsistent with this application.

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Please provide the missing and/or incomplete information as soon as possible. As per 30 TAC 17.12(2)(A) the applicant must respond to a notice of deficiency (NOD) by providing the additional information required within 30 days of receipt of the NOD or the application will be returned. Once the additional information has been received the administrative review of this application will resume. If you have any questions or require any assistance in developing the additional required information please contact the Tax Relief for Pollution Control Property Program at (512) 239-0012. Your response may be faxed to 512/239-5768, electronically mailed to txrelief@tceq.state.tx.us, or sent by U.S. Mail.

Sincerely,



Joseph Thomas
Tax Relief for Pollution Control Property Program

**ED's Exhibit #2 –
Sartomer's Responses to
Administrative Notices of
Deficiency (NODs)**

ASSOCIATED TAX APPRAISERS

AD VALOREM TAX CONSULTANTS

July 14, 2009

VIA FedEX TRK# 7967 7554 4175

Mr. Joseph Thomas
Texas Commission on Environmental Quality
Tax Relief for Pollution Control Property Program
12100 Park 35 Circle, Bldg F MC110
Austin, Texas 78753-1808

Re: **Application No(s): 13805**
Company Name: 8280 Sheldon Rd Plant WCV2
Street Address: 8280 Sheldon Rd
Channelview, TX 77049

Dear Mr. Thomas:

Pursuant to 30 Texas Administrative Code 17.12(2)(A), please allow this correspondence to serve as our formal response to your Notice of Deficiency, which was received on June 15, 2009, regarding Use Determination Application No. 13805. In that regard, enclosed please find an original and one (1) copy of the revised Application for Tax Relief for Pollution Control Property.

Further in response to your for information regarding the pollution control property, please be advised that Sartomer Company owns two manufacturing units within LyondellBasell Industries (LBI) Channelview Texas Operations North Facility. Sartomer contracts LyondellBasell Industries to operate and maintain their two units on Sartomer's behalf. LyondellBasell Industries provides utility services to Sartomer's units within Channelview Texas Operations North Facility. LyondellBasell Industries owns and operates the on-site ECU. Sartomer does not own nor operate the aforementioned ECU.

Land Disposal Restrictions were the driver for the upgrade. The Environmental Control Unit (ECU) currently processes all process wastewater through three aeration basins. These aeration basins are surface impoundments. The Resource Conservation and Recovery Act (RCRA), the Land Disposal Restrictions (LDR) and a wastewater discharge permit prohibit hazardous materials from entering surface impoundments. This project's scope includes, but is not limited to, the installation of vapor controlled equalization tankage for process wastewater, above grade aeration equipment, and sumps, pumps and piping for stormwater containment.

Sartomer's contribution of \$ 2,750,000 to the ECU Upgrade Project was based on 7% of total wastewater streams loading from SMA & PolyBd (Sartomer's on-site processing units) and processed through LyondellBasell Industries' Environmental

ASSOCIATED TAX APPRAISERS

AD VALOREM TAX CONSULTANTS

Control Unit. A process flow sheet and process description can not be provided due to confidentiality, the ECU is owned by LyondellBasell Industries, not Sartomer.

In addition to Sartomer's contribution to the ECU Upgrade Project, the Stormwater Project initiated separation between rain water and waste water in the process areas. The purpose of this project is to comply with Texas storm water regulations. The referenced regulation is:

- ♦ TPDES Discharge Permit - direct discharge of process wastewater through stormwater outfall is prohibited.

Storm water in both the Poly Bd (Poly-Butadiene) and SMA (Styrene Maleic Anhydride) units have losses of containment during large storm events and can potentially contaminate run off water. This resulted in future violations of the regulations.

LyondellBasell Industries, in a site wide effort originally conceived this project after an audit by the regulatory agencies. Sartomer had decided to participate by contributing to the effort financially. Improvements were made to ensure all stormwater within the process area is collected and sent to wastewater treatment ECU and that all stormwater non-contaminated by process run into city stormwater stream.

The design criterion was to contain a 10 year 24 hour storm event. Instantaneous downpours are very significant in the Channelview area. The designs were very conservative in the amount of water to be contained in the operating area at any one time. To manage wastewater/stormwater in the Sartomer units, a project was developed to install significant curb containment, pumping and piping systems required to remove large volumes of water very quickly.

We hope this response satisfies any and all requirements of the Texas Commission on Environmental Quality in regard to the enclosed applications for the use determination of pollution control property. If there are any addition materials or information that the TCEQ may need, please do not hesitate to contact us.

We appreciate your cooperation in this regard, and look forward to hearing from you.

Sincerely yours,

Associated Tax Appraisers

ASSOCIATED TAX APPRAISERS

AD VALOREM TAX CONSULTANTS

July 14, 2009

VIA FedEx TRK# 7967 7554 4175

Mr. Joseph Thomas
Texas Commission on Environmental Quality
Tax Relief for Pollution Control Property Program
12100 Park 35 Circle, Bldg F MC110
Austin, Texas 78753-1808

Re: **Application No(s): 13806**
Company Name: 8280 Sheldon Rd Plant WCV2
Street Address: 8280 Sheldon Rd
Channelview, TX 77049

Dear Mr. Thomas:

Pursuant to 30 Texas Administrative Code 17.12(2)(A), please allow this correspondence to serve as our formal response to your Notice of Deficiency, which was received on June 15, 2009, regarding Use Determination Application No. 13806. In that regard, enclosed please find an original and one (1) copy of the revised Application for Tax Relief for Pollution Control Property.

Further in response to your for information regarding the pollution control property, please be advised that Sartomer Company owns two manufacturing units within LyondellBasell Industries (LBI) Channelview Texas Operations North Facility. Sartomer contracts LyondellBasell Industries to operate and maintain their two units on Sartomer's behalf. LyondellBasell Industries provides utility services to Sartomer's units within Channelview Texas Operations North Facility. LyondellBasell Industries owns and operates the on-site ECU. Sartomer does not own nor operate the aforementioned ECU.

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ASSOCIATED TAX APPRAISERS

AD VALOREM TAX CONSULTANTS

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The design criterion was to contain a 10 year 24 hour storm event. Instantaneous downpours are very significant in the Channelview area. The designs were very conservative in the amount of water to be contained in the operating area at any one time. To manage wastewater/stormwater in the Sartomer units, a project was developed to install significant curb containment, pumping and piping systems required to remove large volumes of water very quickly.

We hope this response satisfies any and all requirements of the Texas Commission on Environmental Quality in regard to the enclosed applications for the use determination of pollution control property. If there are any addition materials or information that the TCEQ may need, please do not hesitate to contact us.

We appreciate your cooperation in this regard, and look forward to hearing from you.

Sincerely yours,

Associated Tax Appraisers

**ED's Exhibit #3 – Technical
Notices of Deficiency
(NODs)**

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 22, 2009

ASSOCIATED TAX APPRAISERS
RONALD P LITTLE
4543 POST OAK PLACE #232
HOUSTON TX 77027

This letter is to inform you of issues noted during the technical review of Use Determination Application 13805 for:

8280 SHELDON RD
PLANT WCV2
8280 SHELDON RD
CHANNELVIEW TX 77049

The reviewer has determined that the following information is missing and/or incomplete:

Who owns the wastewater treatment plant? Who has responsibility for the property taxes related to the wastewater treatment plant? Does Sartomer pay LyondellBasell a fee for operating the wastewater treatment plant?

Please provide the missing and/or incomplete information as soon as possible. As per 30 TAC 17.12(2)(A), the applicant must respond to a notice of deficiency (NOD) by providing the additional information required within 30 days of receipt of the NOD or the application will be returned. Once the additional information has been received, the technical review of this application will resume. If you have any questions or require any assistance in developing the additional required information, please contact the Tax Relief for Pollution Control Property Program at (512) 239-6348. Your response may be faxed to 512/239-5678, electronically mailed to rhatlett@tceq.state.tx.us, or sent by U.S. Mail to:

Tax Relief for Pollution MC110, PO Box 13087, Austin TX 78711 - 3087

Sincerely,

Ronald Hatlett
Tax Relief for Pollution Control Property Program

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 22, 2009

ASSOCIATED TAX APPRAISERS
RONALD P LITTLE
4543 POST OAK PLACE #232
HOUSTON TX 77027

This letter is to inform you that during the technical review of Use Determination Application, 13806, for:

8280 SHELDON RD PLANT WCV2
8280 SHELDON RD
CHANNELVIEW TX 77049

the reviewer has determined that the following information is missing and/or incomplete:

Who owns the wastewater treatment plant? Who has responsibility for the property taxes related to the wastewater treatment plant? Does Sartomer pay LyondellBasell a fee for operating the wastewater treatment plant?

Please provide this additional information as soon as possible. As per 30 TAC 17.12(2) the applicant must respond to a notice of deficiency (NOD) by providing the additional information required within 30 days of receipt of the NOD or the application will be returned. Once the additional information has been received the technical review of this application will resume. If you have any questions or require assistance in developing the additional required information please contact the Tax Relief for Pollution Control Property Program at (512) 239-6348. Your response may be faxed to 512/239-5678, electronically mailed to rhatlett@tceq.state.tx.us, or sent by U.S. Mail to:

Tax Relief for Pollution MC110
PO Box 13087
Austin TX 78711-3087

Sincerely,

A handwritten signature in black ink that appears to read "R. Hatlett".

Ronald Hatlett
Tax Relief for Pollution Control Property Program

**ED's Exhibit #4 –
Sartomer's Response to
Technical Notices of
Deficiency (NODs)**

13804	What are 'maintenance cleaning activities'? What is being cleaned? What is being maintained?	Install piping to allow butadiene and HRVOC containing equipment to be cleared and recovered back to the process or sent to the flare. This project provided piping that has been strategically placed in the process to allow steaming of equipment to the flare rather than directly to the atmosphere. Justification: To control VOC emissions from clearing of equipment (i.e., pumps, filters, exchangers) for maintenance activity while the unit is operational.
13805	Who owns the wastewater treatment plant? Who has responsibility for the property taxes related to the wastewater treatment plant? Does Sartomer pay LyondellBasell a fee for operating the wastewater treatment plant?	LyondellBasell owns and operates the wastewater treatment plant, Sartomer pays a usage fee. LyondellBasell is responsible for the property tax.
13806	Who owns the wastewater treatment plant? Who has responsibility for the property taxes related to the wastewater treatment plant? Does Sartomer pay LyondellBasell a fee for operating the wastewater treatment plant?	LyondellBasell owns and operates the wastewater treatment plant, Sartomer pays a usage fee. LyondellBasell is responsible for the property tax.
13807	8/12 ECLA-A-62	
13808	This appears to be a project to improve the efficiency of a piece of process equipment. Process improvements, which provide an environmental benefit, are eligible for a partial determination. In order to request a partial determination a Tier III application must be filed. Provide additional information showing that this is not a process improvement project or provide the information necessary to convert the application into a Tier III application.	Azeotrope Column Bottoms Cooler Project installed to increase efficiency of cooling azeo column bottoms flow to reduce environmental emissions due to vapor loss at elevated temperatures. The primary objective of this cooler is to assure that the partial pressure of organics, primarily isopropanol, from the azeotrope column, does not exceed 0.5 psia at the process waste collection basin. Without the cooler in place, Volatile Organic Compounds (VOC) exceeds environmental regulatory requirements of Highly Reactive Volatile Organic Compounds (HRVOC).
13809		

