

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*



Blas J. Coy, Jr., *Public Interest Counsel*

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 4, 2009

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

Re: **SARTOMER INC.**  
**TCEQ DOCKET NOS. 2009-1679-MIS-U and 2009-1680-MIS-U**

Dear Ms. Castañuela:

Enclosed for filing is the Office of Public Interest Counsel's Response to Appeal of Use Determination in the above-entitled matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Eli Martinez".

Eli Martinez, Attorney  
Assistant Public Interest Counsel

cc: Mailing List

Enclosure

REPLY TO: PUBLIC INTEREST COUNSEL, MC 103 P.O. BOX 13087 AUSTIN, TEXAS 78711-3087 512-239-6363

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**TCEQ DOCKET NOS. 2009-1679-MIS-U, 2009-1680-MIS-U**

<b>APPEAL OF EXECUTIVE DIRECTOR'S</b>	<b>§</b>	<b>BEFORE THE</b>
<b>NEGATIVE USE DETERMINATION</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>REGARDING SARTOMER INC.'S</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>APPLICATIONS NOS. 13805, 13806</b>	<b>§</b>	

**OFFICE OF PUBLIC INTEREST COUNSEL'S  
RESPONSE TO APPEALS OF USE DETERMINATIONS**

**To the honorable members of the Texas Commission on Environmental Quality:**

The Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (TCEQ or the "Commission") files this response to the appeals of the Executive Director's (ED) negative use determinations regarding Application Nos. 13805 and 13806 submitted by Sartomer Inc. ("Sartomer" or "Applicant").

**I. Introduction**

Sometime after May 15, 2009, Sartomer filed two Tier I applications for use determinations concerning a single new, above-ground bio treatment facility for a plastic resin manufacturing plant in Channelview, Texas. On September 22, 2009, the ED issued negative use determinations on both applications for this project because it has not been demonstrated that Sartomer owns the equipment. Sartomer filed an appeal on October 12, 2009, stating 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...filed with the local Appraisal District." For the reasons stated herein, OPIC recommends that the appeals by Sartomer be denied.

## **II. Discussion**

Section 11.31(a) of the Texas Tax Code (TTC) reads: “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.” Sartomer has not supported its application by producing the relevant tax rolls from the appraisal district evidencing ownership of the equipment, nor have they submitted a contract indicating they will be responsible for the taxes associated with the equipment at issue. 30 TAC §17.10(d) states that “all use determination applications shall contain...any information that the executive director deems reasonably necessary to determine the eligibility of the application.” The ED found that documentation of ownership was lacking in Sartomer’s original applications and continues to be absent in its appeals. OPIC agrees. Without such evidence it is impossible for the executive director to establish tax exemption eligibility under TTC §11.31(a), and OPIC therefore finds Sartomer’s applications fatally deficient.

## **IV. Conclusion**

Based on our review of the appeal, the Chief Clerk’s file, the applications, and TTC 11.31(a), OPIC finds that the ED has correctly analyzed Sartomer’s applications and supports the ED’s negative use determinations. Therefore, OPIC respectfully recommends the Commission deny Sartomer’s appeals.

Respectfully submitted,

Blas J. Coy, Jr.  
Public Interest Counsel

By   
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### CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2009, the original and seven true and correct copies of the foregoing document were filed with the TCEQ Chief Clerk, and copies were served to all parties listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.

  
Eli Martinez

**SARTOMER INC.**  
**TCEQ DOCKET NOs. 2009-1679-MIS-U and 2009-1680-MIS-U**

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