

Bryan W. Shaw, Ph.D., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 6, 2014

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

**RE: EXXONMOBILE CORPORATION
SOAH DOCKET NO. 582-13-4611
TCEQ DOCKET NO. 2013-0657-AIR**

Dear Ms. Bohac:

Enclosed for filing is the Office of Public Interest Counsel's Exceptions to the Proposal for Decision and Order in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Eli Martinez".

Eli Martinez, Attorney
Assistant Public Interest Counsel

cc: Mailing List

Enclosure

SOAH DOCKET NO. 582-13-4611
TCEQ DOCKET NO. 2013-0657-AIR

IN RE: APPLICATION	§	
OF AIR QUALITY	§	
PERMIT NO. 102892	§	BEFORE THE STATE
FOR THE	§	
CONSTRUCTION OF A	§	OFFICE OF
NEW ETHYLENE	§	
PRODUCTION UNIT AT	§	ADMINISTRATIVE
EXXONMOBIL'S	§	
BAYTOWN OLEFINS	§	HEARINGS
PLANT, LOCATED IN	§	
HARRIS COUNTY,	§	
TEXAS	§	

**THE OFFICE OF PUBLIC INTEREST COUNSEL'S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION AND ORDER**

A. Introduction

The Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (Commission or TCEQ) does not find error in the Proposal for Decision (PFD) and Order recommended by the Administrative Law Judges (ALJs) in the above styled matter. The PFD issued by ALJs Richard R. Wilfong and Sharon Cloninger on December 19, 2013 correctly determine that the Applicant showed by a preponderance of the evidence that all applicable requirements have been met.

B. Analysis

I. Major New Source Review (NSR) -30 Texas Administrative Code

§115.111(a)(2)(H)(I)

OPIC agrees that the application was correctly filed as a New Source Review permit because emissions from the proposed EPU and emissions from the existing BOP

will be managed such that they will stay below the limits in the PALs contained in Applicant's PAL6 permit—major NSR review is therefore not required.

The contention that Applicant's AEIU reports show emissions from BOP have already exceeded the PM PAL Limit in PAL6 was credibly refuted by Applicant's arguments at trial that Applicant's SARS have demonstrated compliance with PM requirements since PAL6 was issued and the Executive Director has never found an instance of violation. Further, there is no evidence demonstrating that the addition of cooling tower PM emissions to the SARS, based on monitoring and calculation methods used to determine PM emissions for SAR purposes, would result in exceeding the PM PAL limit in PAL6.

II. PM, PM₁₀, and PM_{2.5}

OPIC also agrees with the PFD's finding that PAL6 includes PALs for PM, PM₁₀, and PM_{2.5}. As Applicant argued at hearing, at the time the PAL was issued PM included PM₁₀—which is noted on the PAL6 MAERT. As to PM_{2.5}, EPA's surrogate policy was in effect at the time in 2005 at the time PAL6 was issued, so that the PM PAL calculation included both PM₁₀ and PM_{2.5} emissions from the then-existing facilities at the BOP. As noted in the PFD, when PM_{2.5} permitting standards were established in 2008, EPA implemented a grandfather policy for pending applications and did not retroactively invalidate or Surrogate Policy permit actions already completed and issued prior to the 2008 Pm_{2.5} rules.

III. Nonattainment PSD Reviews and PAL6

Lastly, OPIC concurs with the PFD's conclusion that Applicant has a valid PAL because TCEQ had authority to issue PAL6 as a federal PAL in 2005. The PFD

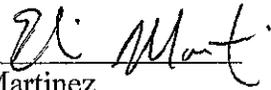
properly notes that PAL permits issued before PAL-specific rules were SIP-approved are valid so long as the existing regulations under which the PAL was issued were at least as stringent as the federal 2002 PAL rules.

C. Conclusion

For the foregoing reasons, OPIC concurs with the PFD and does not except to its analysis or findings.

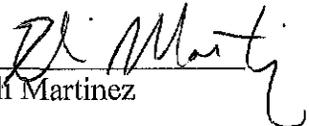
Respectfully submitted,

Blas J. Coy, Jr.
Public Interest Counsel

By 
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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2014, seven true and correct copies of the Office of the Public Interest Counsel's Exceptions to the Proposal for Decision (PFD) and Order were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, Inter-Agency Mail or by deposit in the U.S. Mail.


Eli Martinez

MAILING LIST
EXXONMOBILE CORPORATION
SOAH DOCKET NO. 582-13-4611
TCEQ DOCKET NO. 2013-0657-AIR

The Honorable Sharon Cloninger
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