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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 13, 2008

Mr. Larry Starfield
Deputy Regional Administrator
United States Environmental
Protection Agency Region 6
1445 Ross Avenue Suite 1200
Dallas, Texas 75202

Re: Best Available Control Technology

Dear Mr. Starfield:

I'm writing in response to the letters from the U. S. Environmental Protection Agency (EPA) Region 6 and our ongoing discussions between EPA and the Texas Commission on Environmental Quality (TCEQ) staff regarding Texas' flexible permit program. This is to confirm our understanding of the agreements regarding three issues discussed in the June 3, 2008 conference call.

First, it is our understanding that the TCEQ's current 3-Tiered best available control technology (BACT) approach, including review of the Reasonable Available Control Technology/BACT/Lowest Achievable Emission Rate Clearinghouse and recently issued permits in Texas and other states is an acceptable and approved approach by the EPA. The TCEQ will work to ensure that the BACT review is adequately and correctly addressed within the Preliminary Determination Summary related to the specific major New Source Review (NSR) action under evaluation. We commit to maintain an open line of communication and dialogue with the EPA and will address any additional specific concerns EPA identifies with a pending major NSR permitting action.

Second, for amendments to flexible permits, the BACT review will be limited to those facilities which are being modified by that particular action. A BACT review is not required for facilities already authorized by that permit which are not the subject of that particular permit action.

Finally, we also understand that no separate permit amendment will be required concerning variations from permit terms and conditions related to changes in throughput and/or a change in feedstock as long as those changes are identified and included in the permit that is issued.

Mr. Larry Starfield

Page 2

June 13, 2008

The concerns raised in your letters may have consequences for other parts of the NSR permitting programs in Texas and have the potential to affect both major NSR and minor NSR permit reviews. Therefore, we are submitting this letter to clarify and document our understanding of the issues discussed above.

We appreciate the opportunity to discuss and verify these concerns and look forward to reaching a position of clarity on the remaining issues related to flexible permits and TCEQ's NSR permitting program.

Sincerely,



Glenn Shankle, Executive Director
Texas Commission on Environmental Quality

cc: Mr. Dan Eden, Deputy Director, Office of Permitting, Remediation and Registration
Ms. Stephanie Bergeron Perdue, Deputy Director, Office of Legal Services
Mr. John Sadlier, Deputy Director, Office of Compliance and Enforcement
Mr. Richard A. Hyde, P. E., Director, Air Permits Division