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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

June 30, 2010

MR CARL E EDLUND PE
DIRECTOR MULTIMEDIA PLANNING AND PERMITTING DIVISION
US ENVIRONMENTAL PROTECTION AGENCY REGION 6
1445 ROSS AVE STE 1200
DALLAS TX 75202-5766

Re: Executive Director's Response to EPA Objection
Minor Revision
Permit Number: O1445
Flint Hills Resources, LP
Flint Hills Resources East Refinery
Corpus Christi, Nueces County
Regulated Entity Number: RN102534138
Customer Reference Number: CN600879712
Account Number: NE-0120-H

Dear Mr. Edlund:

On December 4, 2009, the U.S. Environmental Protection Agency (EPA) Region 6 Office signed a letter identifying objections to the issuance of the proposed federal operating permit for the above referenced site. In accordance with Title 30 Texas Administrative Code § 122.350 (30 TAC § 122.350), the Texas Commission on Environmental Quality (TCEQ) may not issue the permit until the objections are resolved. In addition, the letter identifies certain additional concerns. The TCEQ understands that the additional concerns are provided for information only, and do not need to be resolved in order to issue the permit.

The TCEQ has completed the technical review of your objections and offers the enclosed responses to facilitate resolution of the objections. In addition, the attached responses to the objections describe the changes, if applicable, that have been made to the revised proposed permit and supporting statement of basis (SOB). The revised proposed permit and SOB are attached for your review.

Mr. Carl E. Edlund, P.E.
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Consistent with Title 30 TAC §122.350, please provide an indication of your acceptance or assessment of the responses and resolutions to the objections as soon as possible. After receipt of your acceptance to the responses and resolutions to the objections, TCEQ will issue the proposed permit. Thank you for your cooperation in this matter. Please contact Mr. Alfredo Mendoza, P.E., at (512) 239-1335 if you have any questions concerning this matter.

Sincerely,



Steve Hagle, P.E., Director
Air Permits Division
Office of Permitting and Registration
Texas Commission on Environmental Quality

SH/AM/bb

cc: Mr. Curtis Taylor, Senior Environmental Engineer, Flint Hills Resources, LP,
Corpus Christi
Air Section Manager, Region 14 - Corpus Christi

Enclosures: TCEQ Executive Director's Response to EPA Objection
Proposed Permit
Statement of Basis

Project Number: 14111

EXECUTIVE DIRECTOR'S RESPONSE TO EPA OBJECTION

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The Texas Commission on Environmental Quality (TCEQ) Executive Director (ED) provides this Response to EPA's Objection to the minor revision of the Federal Operating Permit (FOP) for Flint Hills Resources, LP, Flint Hills Resources East Refinery, Permit No. O1445, Nueces County, Texas.

BACKGROUND

Procedural Background

The Texas Operating Permit Program requires that owners and operators of sites subject to 30 Tex. Admin. Code (TAC) Chapter 122 obtain a FOP that contains all applicable requirements to facilitate compliance and improve enforcement. The FOP does not authorize construction or modifications to facilities, and it does not authorize emission increases. To construct or modify a facility, the responsible party must have the appropriate new source review authorization. If the site is subject to 30 TAC Chapter 122, the owner or operator must submit a timely FOP application for the site and ultimately must obtain the FOP to operate. Flint Hills Resources, LP applied to the TCEQ for a minor revision of the FOP for the Flint Hills Resources East Refinery located in Corpus Christi, Nueces County on August 25, 2009. The public announcement period commenced on October 20, 2009 and ended on November 19, 2009. During the concurrent EPA review period, TCEQ received an objection to the permit from EPA on December 4, 2009.

In accordance with state and federal rules, the permit minor revision may not be issued until TCEQ resolves EPA's objections.

Description of Site

Flint Hills Resources, L.P. owns and operates the Flint Hills Resources East Refinery, located at 1607 Nueces Bay Blvd in Corpus Christi, Nueces Texas 78407.

The Flint Hills Resources East Refinery consists of those process units ordinarily used in the refining of crude oil for the purpose of producing fuels and other petroleum products. Major processes involved in this purpose include distillation and fractionation, water separation, cracking large chain molecule fractions, or combining smaller molecule fractions to maximize gasoline production, the production of related feedstocks and additives for fuels, and cleaning and purification, such as acid gas and sulfur removal and recovery. This refinery plant makes use of "refinery gas" (by-products or waste streams) to fuel a number of combustion sources across the plant. The plant also contains a number of environmental systems, such as scrubbers, flares, fuel gas recovery, and closed vent systems and control devices. Process heaters, boilers, and cooling towers provide thermal utility service to the many processes throughout the plant.

The following responses follow the references used in EPA's objection letter.

EPA OBJECTION 1: The *New Source Review (NSR) Authorization References* table in the draft Title V permit incorporates by reference Flexible Permit No. 6308, most recently amended on July 27, 2009. 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

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SIP). Therefore, pursuant to 40 CFR § 70.8(c)(1), EPA must object to the issuance of this Title V permit because the terms and conditions of the incorporated flexible permit cannot be determined to be in compliance with the applicable requirements of the Texas SIP. The failure to have submitted information necessary to make this determination constitutes an additional basis for this objection, pursuant to 40 CFR §70.8(c)(3)(ii). In order to respond to this objection, additional information must be provided by the applicant showing how the emissions authorized by the flexible permit meet the air permitting requirements of the federally-approved provisions of the Texas SIP. Furthermore, the Title V permit must include an additional condition specifically requiring the source to prepare and submit to TCEQ a written analysis of any future change/modification to ensure that minor and/or major new source review requirements under the federally-approved Texas SIP have not been triggered. Finally, 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).

TCEQ RESPONSE: As a preliminary matter, the ED believes that resolution of EPA concerns regarding flexible permits is a common objective for both TCEQ and the EPA. The concerns discussed below regarding the use of the Title V permitting process to challenge independent flexible permits on a case-by-case basis does not diminish the importance of reaching an expeditious resolution to the NSR flexible permit issue. The ED recognizes the flexible permit rules, located in 30 TAC Chapter 116, Subchapter G, and submitted to EPA in 1994, have not been approved into the Texas SIP. However, the Texas federal operating permit (FOP) program is EPA-approved. TCEQ reviews applications and issues FOPs according to EPA-approved program rules found in 30 Texas Administrative Code (TAC), Chapter 122. The Texas Operating Permit Program was granted full approval on December 6, 2001 (66 FR 63318), and subsequent rule changes were approved on March 30, 2005 (70 FR 161634). The application procedures, found in 30 TAC § 122.132(a) require an applicant to provide any information required by the ED to determine applicability of, or to codify any “applicable requirement.” In order for the ED to issue an FOP, the permit must contain all applicable requirements for each emission unit (30 TAC § 122.142). “Applicable requirement” is specifically defined in 30 TAC § 122.10(2)(h) to include all requirements of 30 TAC Chapter 116 and any term and condition of any preconstruction permit. As a Chapter 116 preconstruction authorization, flexible permits are applicable requirements, and shall be included in applications and Texas issued FOPs, in compliance with Texas’s approved program. According to the EPA review procedures of Chapter 122, EPA may only object to issuance of any proposed permit which is not in compliance with the applicable requirements or requirements of this chapter. Therefore, this objection is not valid under the program EPA has approved in Texas because the applicant provided information as to the applicable Chapter 116 requirements, including flexible permits, and the ED has included these requirements in the draft FOP. EPA objections to individual permits issued under an EPA approved operating permit program are not appropriate for concerns that relate to programmatic elements.

The ED disagrees with the allegation that the failure of the applicant to have submitted information necessary to make a determination of whether they were in compliance with the SIP constitutes an additional basis for this objection, pursuant to 40 CFR §70.8(c)(3)(ii). Section 70.8(c)(3)(ii) is premised on the *permitting authority* not “submitting any information necessary [for EPA] to review adequately the proposed permit.” The ED has provided all information requested by EPA, when

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asked, including NSR permits and other supporting information. The flexible permit applications, technical reviews, and flexible permits clearly do not allow sources to utilize the flexible permit authorization mechanism to circumvent major NSR permitting requirements. Specifically, 30 TAC Chapter 116 requires that all new major sources or major modifications be authorized through nonattainment or PSD permitting under Subchapter B, Divisions 5 and 6.

The ED also disagrees that additional information must be provided by the applicant showing how the emissions authorized by the flexible permit meet the air permitting requirements of the federally-approved provisions of the Texas SIP. The flexible permit application, technical review, and flexible permit documentation demonstrates that the emissions authorized by the flexible permits meet the air permitting requirements of the federally approved provisions of the SIP regarding requirements for impacts review, emission measurement, BACT, NSPS, NESHAP, MACT, performance demonstration, modeling or ambient monitoring if required, MECT applicability, and nonattainment or PSD permitting if applicable. Texas submitted the initial flexible permit rule for EPA review and action in 1994. EPA's delay in acting on the flexible permit rules, the approval of the state's federal operating permit program and confusion regarding whether the approved federal operating permit program provided federal enforceability for flexible permits, resulted in a very long period of detrimental reliance on this permit mechanism by regulated entities and TCEQ.

Notwithstanding the pending final disapproval of the flexible permit rules in 30 TAC Chapter 116, Subchapter G, the flexible permit review requirements are parallel to the SIP-approved 30 TAC Chapter 116, Subchapter B permit review and no substantive differences in significant permit elements exist. Indeed, the technical review of the flexible permit No. 6308 application provides information regarding how Subchapter B requirements in § 116.111 are met, including: compliance with the SIP approved Subchapter B rules and review requirements, unit-specific limits based on BACT review at the time of the permit issuance, demonstrations that each emission unit and the facility covered by Permit No. 6308 meets all applicable NSPS, NESHAP requirements, and air dispersion modeling conducted by applicant. The flexible permit and technical review are enclosed with this response. Flint Hills Resources may separately submit to EPA additional information showing compliance with the Subchapter B requirements. Additionally, the ED does not agree that it is appropriate, necessary or legally required under either 40 CFR Part 70 or the EPA approved federal operating permit program in Texas to require a condition in the operating permit to require a source to prepare and submit a written analysis of any future change/modification to ensure that minor and/or major NSR requirements under the SIP have not been triggered. The federally approved SIP already requires this analysis as part of any future NSR review. See 30 TAC Chapter 116, Subchapter B, Divisions 5 and 6. Minor NSR applicability requirements are adequately specified in the permit and commission rules governing NSR permits; thus, the applicant is currently subject to the requirements to demonstrate, upon any future change, when minor or major NSR requirements will apply.

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However, the ED recognizes that some companies are in negotiations with EPA to include a special term and condition in the draft FOP requiring that they submit an application to reissue a permit, through the SIP-approved amendment, alteration, or renewal process, with a deadline for application submittal, and specific information to EPA and TCEQ for review prior to public notice. If Flint Hills Resources agrees to such a process, the TCEQ will work with Flint Hills Resources to change the draft permit appropriately.

Finally, the flexible permit terms and conditions are not appropriate to be identified as state-only in the FOP. The EPA approved definition of a "state-only requirement" in 30 TAC § 122.10(28) is "any requirement governing the emission of air pollutants from stationary sources that may be codified in the permit at the discretion of the ED. State-only requirements shall not include any requirement required under the Federal Clean Air Act or under any applicable requirement." Therefore, the EPA approved program provides the ED with discretion to determine which requirements must be identified as "state-only" and explicitly prohibits anything defined as an "applicable requirement" from being "state-only." Since flexible permits issued in 30 TAC Chapter 116 are "applicable requirements," they may not be included as "state-only" requirements. Instead, they are applicable requirements which are subject to public notice, affected state review, notice and comment hearings, EPA review, public petition, recordkeeping requirements, compliance demonstration and certification requirements, and appropriate periodic or compliance assurance monitoring requirements. "State-only" requirements are specifically not required to meet requirements that are specific to 40 CFR Part 70. See 122.143(18). As stated previously, the flexible permit terms and conditions comply with SIP approved permit rules and assure compliance with future applicable NSR requirements. Again, with regard to flexible permits, the TCEQ will continue its dialogue with EPA to achieve the mutual goal of NSR permits issued under SIP approved rules.

EPA OBJECTION 2: The *New Source Review Authorization References* table of the draft Title V permit incorporates PSDTX137M2, amended on July 27, 2009, by reference. EPA has discussed the issue of incorporation by reference in *White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program* (March 5, 1996) (*White Paper 2*). As EPA explained in *White Paper 2*, incorporation by reference may be useful in many instances, though it is important to exercise care to balance the use of incorporation by reference with the obligation to issue permits that are clear and meaningful to all affected parties, including those who must comply with or enforce their conditions. *Id.* at 34-38. See also *In the Matter of Tesoro Refining and Marketing*, Petition No. IX-2004-6 at 8 (March 15, 2005) (*Tesoro Order*). As EPA noted in the *Tesoro Order*, EPA's expectations for what requirements may be referenced and for the necessary level of detail are guided by Sections 504(a) and (c) of the CAA and corresponding provisions at 40 CFR § 70.6(a)(1) and 3. *Id.* Generally, EPA expects that Title V permits will explicitly state all emission limitations and operational requirements for all applicable emission units at a facility. *Id.* We note that TCEQ's use of incorporation by reference for emissions limitations from minor NSR permits and Permits by Rule is currently acceptable. See Fed. Reg. 63318, 63324 (Dec. 6, 2001); see also, *Public Citizen v. EPA*, 343 F.3d 449, at 460-61 (5th Cir. 2003) (upholding EPA's approval of TCEQ's use of incorporation by reference for emissions limitations from minor NSR permits and Permits by Rule). In approving Texas' limited use of incorporation by reference of emissions limitations from minor NSR permits and Permits by Rule, EPA balanced the streamlining benefits of incorporation by reference against the value of a more detailed Title V permit and found Texas' approach for minor NSR permits and

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Permits and Rule acceptable. See *Public Citizen*, 343 F.3d at 460-61. EPA's decision approving this use of IBR in Texas' program was limited to, and specific to, minor NSR permits and Permits by Rule in Texas. EPA noted the unique challenge Texas faced in integrating requirements from these permits into Title V permits. See 66 Fed. Reg. at 63,326; 60 Fed. Reg. at 30,039; 59 Fed. Reg. 44572, 44574. 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, 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. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit because it incorporates by reference the major New Source Review permit PSDTX137M2 and fails to include emission limitations and standards as necessary to assure compliance with all applicable requirements. See 40 CFR § 70.6(a)(1). In response to this objection, TCEQ must include (as conditions of the Title V permit) all the emission limitations and standards of PSDTX137M2 necessary to ensure compliance with all applicable requirements. Alternatively, TCEQ could add conditions to the Title V permit that specify those provisions of the PSD permit necessary to ensure such compliance with all applicable requirements and physically attach a copy of the PSD permit to the Title V permit.

TCEQ RESPONSE: In response to EPA's objection, the ED has revised FOP No. O1445 to include, in a new Appendix C of the permit, a copy of NSR permit 6308/PSDTX137M2 and its corresponding terms and conditions, and emission limitations. With regard to IBR of major NSR, the ED respectfully disagrees with EPA's interpretation of its approval of Texas's operating permit program on this issue. The ED recognizes that respective agency staff are actively involved in continuing, extensive discussions on how to resolve this issue; namely, how much detail of the underlying major NSR authorization should be reiterated in the face of the Title V permit. The federally approved operating permit program for Texas has allowed for applicable requirements to be incorporated by reference into the FOP since 1996. See Final Interim Approval, 61 Fed. Reg. 32693, June 25, 1996; Final Full Approval, 66 Fed. Reg. 63318, December 6, 2001; and Final Approval of Resolution of Deficiency, 70 Fed. Reg. 16134, March 30, 2005. Title 30 TAC § 122.142 states that the operating permit shall contain the specific regulatory citations in each applicable requirement identifying the emission limitations and standards. Additionally, EPA discussed the use of incorporation by reference in the preamble to the final Part 70 rule, discussing the requirements of § 70.6, Permit Content, stating:

Section 70.6(a)(1)(i) requires that the permit reference the authority for each term and condition of the permit. Including in the permit legal citations to provisions of the Act is critical in defining the scope of the permit shield, since the permit shield, if granted, extends to the provisions of the Act included in the permit. Including the legal citations in the permit will also ensure that the permittee, the permitting authority, EPA, and the public all have a common understanding of the applicable requirements included in the permit. *This requirement is satisfied by citation to the State regulations or statutes which make up the SIP or implement a delegated program.* See 57 Fed. Reg. 32250, 32275 July 21, 1992, emphasis added.

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In comments on the proposed final interim approval of the operating permit program, in 1995, the commission (then-TNRCC) proposed to include a standardized permit provision that incorporated by reference all preconstruction authorizations, both major and minor, to resolve the EPA identified deficiency of Texas' failure to include minor NSR as an applicable requirement. In the June 25, 1996 Final Interim Approval, EPA directed, "the State must be quite clear in any standardized permit provision that all of its *major 'preconstruction authorizations* including permits, standard permits, flexible permit, special permits, or special exemptions' are incorporated by reference into the operating permit *as if fully set forth therein* and therefore enforceable under regulation XII (the Texas Operating Permit Regulation) as well as regulation VI (the Texas preconstruction permit regulation)." (61 Fed. Reg. at 32695, emphasis added.) Given this explicit direction in EPA's 1996 final interim approval of the Texas program, TCEQ understood that the standardized permit provision for preconstruction authorizations incorporated all NSR authorizations by reference, including major NSR.

As a result of Texas' initial exclusion of minor NSR as an applicable requirement of the Texas Operating Permit program, and EPA's final interim approval of a program that provided for a phase-in of minor NSR requirements using incorporation by reference, EPA was sued by various environmental groups. See *Public Citizen, Inc. v. U.S. E.P.A.*, 343 F.3d 449 (5th Cir. 2003). The petitioner's brief raised several issues, including the use of incorporation by reference of minor NSR, because the exclusion of minor NSR as an applicable requirement was a program deficiency identified by EPA. The petitioner's brief acknowledges that Texas' Operating Permit program incorporates all preconstruction authorizations by reference, through use of a table entitled "Preconstruction Authorization References". The Petitioner's brief includes an example of this table, which clearly contains sections for Prevention of Significant Deterioration (PSD), nonattainment (NA), 30 TAC Chapter 116 Permits, Special Permits and Other Authorizations, and Permits by Rule under 30 TAC Chapter 106. See Brief of Petitioners, p. 30. The brief goes on to discuss the sample permit, Permit No. O-00108, which documents "six different minor NSR authorizations and one PSD permit" requiring one to look at each of the underlying permits in addition to the Title V permit. The Department of Justice (DOJ), in its reply brief for EPA, responded to this allegation of improper use of IBR in the context of the specific allegation - whether "EPA reasonably determined that Texas corrected the interim deficiency related to minor new source review", answering unequivocally "yes". "Nothing in the statute or regulations prohibits incorporation of applicable requirements by reference. The Title V and Part 70 provisions addressing the content of Title V permits specify what Title V permits 'shall include,' but do not speak to how the enumerated items must be included." See, Brief of Respondents, pp. 25-26. The Court did not distinguish between minor and major NSR when concluding that IBR is permissible under both the CAA and Part 70.

Thus, it is the ED's position that incorporation by reference of both major and minor NSR permits is acceptable and was fully approved by EPA. However, given EPA's differing opinion, as reflected in the Premcor and CITGO orders, this objection, and the June 10, 2010 letter from EPA Region VI regarding this issue, the ED has revised FOP No. O1445 to include, in a new Appendix C of the permit, a copy of NSR permit 6308/PSDTX137M2 and its corresponding terms and conditions, and emission limitations, which was initially suggested by EPA as adequate to resolve this objection. Inclusion of the major NSR permits as an appendix should address EPA's objection and ensure that

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the Title V permit is clear and meaningful to all affected parties. The ED will continue efforts with EPA on how to resolve IBR of major NSR on a broader, programmatic basis.

EPA OBJECTION 3: Under the General Terms and Conditions provision of the draft Title V permit, reference is made to 30 TAC § 122.144 of the Texas Title V permit program which requires records to be kept for 5 years; however, Special Condition 24 and 74(D) of Flexible Permit No. 6308 and PSDTX137M2 only requires records be kept for two years and 1 year, respectively. This condition is inconsistent with the 5 year recordkeeping requirements of 40 CFR § 70.6(a)(3)(ii)(B) and cannot be carried forward into the Title V permit. Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since the recordkeeping requirements of PSDTX137M2 are not in compliance with the requirements of 40 CFR § 70.6(a)(3)(ii)(B). In response to this objection, TCEQ must revised the Title V permit to include a condition that states that records of monitoring data and supporting information must be maintained for a minimum of five years from the date of monitoring, notwithstanding the requirements of any other permit conditions or applicable requirements.

TCEQ RESPONSE: The TCEQ requires five year recordkeeping for all FOPs. Pursuant to 30 TAC §122.144(1), all records of required monitoring data and other permit support information must be kept for a period of five years from the date of the monitoring report, sample, or application unless a longer data retention period is specified in an applicable requirement. This is consistent with the recordkeeping requirements of 40 CFR § 70.6(a)(3)(ii)(B). The requirements of 30 TAC § 122.144(1) have been and will continue to be incorporated for all FOPs through the general terms and conditions of the FOP, which specifically require "The permit holder shall comply with all terms and conditions contained in 30 TAC § 122.143 (General Terms and Conditions), 30 TAC § 122.144 (Recordkeeping Terms and Conditions), and 30 TAC § 122.146 (Compliance Certification Terms and Conditions)." These requirements were (and still are) also reiterated on the cover page of the FOP.

As all terms and conditions of preconstruction authorizations issued under 30 TAC Chapter 106, Permits by Rule (PBR) and 30 TAC Chapter 116, New Source Review (NSR) are applicable requirements and enforceable under the FOP, the five year record retention requirement of 30 TAC § 122.144(1) supersedes any less stringent data retention schedule that may be specified in a particular PBR or NSR permit. To further clarify the five year recordkeeping retention schedule for the FOP, the following text will be added to the General Terms and Conditions of the FOP.

"In accordance with 30 TAC § 122.144(1), records of required monitoring data and support information required by this permit, or any applicable requirement codified in this permit, are required to be maintained for a period of five years from the date of the monitoring report, sample, or application unless a longer data retention period is specified in an applicable requirement. The five year record retention period supersedes any less stringent retention requirement that may be specified in a condition of a permit identified in the New Source Review Authorization attachment."

EPA OBJECTION 4: Under the Special Terms and Conditions provisions of the draft Title V permit, Condition 3 requires stationary vents with certain flow rates comply with identified provisions of 30 TAC Chapter 111 of the Texas SIP. However, there is no identification of the

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specific stationary vents that are subject to those requirements. As such, this condition fails to meet the requirement of 40 CFR § 70.6(a)(1), in that the condition lacks the specificity to ensure the compliance with the applicable requirements associated with those unidentified emission units. In addition, the Statement of Basis document for the draft Title V permit does not provide the legal and factual basis for Condition 3, as required by 40 CFR § 70.7(a)(5). Pursuant to 40 CFR § 70.8(c)(1), EPA objects to the issuance of the Title V permit since Condition 3 is not in compliance with the requirements of 40 CFR § 70.6(a)(1) and 70.7(a)(5). In response to this objection, TCEQ must revise Condition 3 of the draft Title V permit to list the specific stationary vents that are subject to the specified requirements of 30 TAC Chapter 111 and provide an explanation in the Statement of Basis for the legal and factual basis for Condition 3.

TCEQ RESPONSE: The ED respectfully notes that the proposed draft permit, Special Term and Condition 3 does not refer to stationary vents subject to 30 TAC Chapter 111. All stationary vents subject to 30 TAC § 111.111(a)(1)(A) and (a)(1)(B) were identified by emission point number (EPN) in the permit's Applicable Requirements Summary table. Flint Hills Resources grouped the stationary vents subject to 30 TAC Chapter 111 into two major groups, GRP100-72- for vents subject to § 111.111(a)(1)(A) and GRP100-72+ for vents subject to 30 TAC §111.111(a)(1)(B). The individual stationary vents that belong to each group were identified in the permits' Unit Summary table in the Group/Inclusive Units column.

The ED respectfully notes that EPA was mistaken in making this objection, therefore, no changes to the proposed draft permit are necessary.

The legal and factual basis for the 30 TAC Chapter 111 requirements and the rationale for the periodic monitoring for the stationary vents is contained in the Statement of Basis document under the following sections: Special Terms and Conditions, Determination of Applicable Requirements and Rationale for Periodic Monitoring Methods Selected, respectively.

ADDITIONAL CONCERNS: TCEQ acknowledges the additional concerns EPA has with the Flint Hills Resources East Refinery FOP and will address these issues as appropriate.