UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAY 25 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7009 2820 0001 8284 0869

Mr. Richard Harris
Vice President and Manufacturing Manager
Flint Hills Resources, L.P.
P.O. Box 2608
Corpus Christi, Texas 78403-2608

RE: Notification to Submit 40 Code of Federal Regulations (CFR) Part 71 Air Permit Application to U.S. Environmental Protection Agency (EPA) Flint Hills Corpus Christi East Refinery Number (RN102534138) Operating Permit O1445, Nueces County, Texas

Dear Mr. Harris:

On December 4, 2009, EPA objected to the issuance of the above-referenced Title V Operating Permit. Since the Texas Commission on Environmental Quality (TCEQ) failed to revise and submit a proposed permit in response to the objections raised within 90 days after the date of the objection letter, EPA is required to issue or deny a Title V Operating Permit. EPA Region 6 is issuing this request under 40 CFR Part 70.8(c)(4), 40 CFR Part 71.4(e)(1), and 40 CFR Part 71.5.

If you wish to continue operations, you must apply to EPA for your permit by September 15, 2010. Please complete and submit to EPA one original and one copy of the enclosed permit application (Enclosure 1) and the information identified in Enclosures 2, 3, 4, and 5. The application (Enclosure 1) may also be found at the following web address: http://www.epa.gov/oar/oaqps/permits/p71forms.html.

The application and any additional information or correspondence submitted by Flint Hills Corpus Christi East Refinery to EPA Region 6 in response to this request shall be addressed to Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R) at the above address. Instead of submitting hard copies of the application, you may submit a searchable copy of the application electronically in either Microsoft Word for text, Excel for spreadsheets, or a searchable Adobe Acrobat (pdf) file format on a readable compact disk (CD), DVD, or flash memory device. Additional application updates should be submitted either in hard copy or to EPA in an electronic searchable format at R6AirPermits@EPA.gov.

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In addition to the items identified in the application, we are requiring very detailed information to be submitted to EPA as prescribed in Enclosure 2. This information concerns the need for crosswalking all emission points at the stationary source with their applicable requirements (including permits issued under the approved Texas State Implementation Plan (SIP)). The requested information will allow EPA to identify each federally-enforceable and applicable requirement that pertains to each emission point covered by your state-issued flexible permit and any other underlying authorizations issued by TCEQ as identified in the New Source Review Authorization References Table. Federally enforceable permits are defined as permits issued in accordance with the EPA approved Texas SIP. Specifically, permits issued by TCEQ under the Flexible Permit and New Source Review Reform rule packages approved by Texas on October 11, 1994, and January 11, 2006, respectively, are not SIP approved permits.

Be advised that EPA must determine, in accordance with Section 7 of the Endangered Species Act and implementing regulations at 50 CFR Part 402, whether its permitting action may affect federally listed endangered or threatened species or designated critical habitat. If the action may affect such species or critical habitat, EPA must consult with the United States Fish and Wildlife Service. In addition, pursuant to Section 106 of the National Historic Preservation Act and implementing regulations at 36 CFR Part 800, EPA must also determine whether the action may affect historic or cultural properties eligible for inclusion on the National Register of Historic Places. Such effects may require consultations with the Texas Historical Commission, affected Indian tribes, and the Advisory Council on Historic Preservation. We will provide you guidance to address the information requirements necessary to fulfill these obligations in the future.

Under 40 CFR Part 2, Subpart B, you may assert a claim of business confidentiality for any portion of the submitted information, except for emissions data. You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Enclosure 3 specifies the assertion and substantiation requirements for business confidentiality claims. You must submit all requested information under an authorized signature with the following certification:

> I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the Act, and 18 U.S.C. §§ 1001 and 1341.

If you fail to submit a timely and complete application, you will be considered to be operating without a valid Title V permit, per 40 CFR § 71.5(b), and you could be subject to enforcement action. In addition, in accordance with 40 CFR § 71.5(a)(2) and 71.7(b), if EPA determines that your permit application does not contain the information requested in this letter

and you fail to promptly submit any relevant facts or corrected information by a date specified in the request, your application will be declared incomplete and your permit will not be administratively continued resulting in the loss of your permit application shield. The EPA will not consider the application complete until we are assured that we have all the information needed to prepare a draft permit. Future enforcement actions could include administrative compliance orders, administrative penalty orders, and/or referral to the United States Department of Justice for judicial action with monetary fines. This will be the only notice you will receive from the Agency advising you of the need to apply for your part 71 permit.

Please note that per 40 CFR § 71.9(g), sources issued part 71 permits following an EPA objection are required to pay fees that shall be determined in accordance with 40 CFR § 71.9(c)(1). Initial fee calculation work sheets for such sources and full payment of the initial fee shall be due three months after the date on which the part 71 permit is issued. Subsequently, the source shall comply with the annual emission report deadline and fee payment requirements established at 40 CFR § 71.9(h).

Finally, upon receipt of this letter, we strongly encourage you to schedule a meeting with EPA Region 6 to discuss our application request. If you have questions or wish to discuss this further, please contact Ms. Stephanie Kordzi, Texas Permit Coordinator at (214) 665-7520. Thank you for your cooperation.

Sincerely yours,

Carl E. Edlund, P.E.
Director
Multimedia Planning and
Permitting Division

Enclosures

cc: Ms. Jan Golden
Environmental Manager
Flint Hills Resources, L.P.

Mr. Richard Hyde
Deputy Director
Office of Permitting
and Registration (MC 122)
Texas Commission on
Environmental Quality

ENCLOSURE 1

TITLE V Permit Application

http://www.epa.gov/oar/oaqps/permits/p71forms.html

Enclosure 2

DEFINITIONS

All terms used in this information request will have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C. § 7401, 40 CFR Part 52 (which incorporates the Federally-approved State Implementation Plan), 40 CFR Part 71, and other CAA implementing regulations, or otherwise defined herein.

1. The term "Flint Hills Corpus Christi East Refinery" includes any officer, director, agent, or employee of Flint Hills Corpus Christi East Refinery, including any merged, consolidated, or acquired predecessor or parent, subsidiary, division, or affiliate thereof.

2. The term "Air Pollution Control Equipment" or "APCE" shall mean any control device and/or equipment used to reduce the release of particulate matter and other pollutants to the atmosphere.

3. The term "CEMS" shall mean continuous emission monitoring system.

4. The term "COMS" shall mean continuous opacity monitoring system.

5. The terms "Document" and "Documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including documentation solely in electronic form, including by way of illustration and not by way of imitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, email, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

6. The term "Emission Point" refers to each emission source listed in the maximum allowable emission rate table (MAERT) of an air permit or other emission source listed in an air permit or authorization, as the term "source" is defined in 30 Texas Administrative Code (TAC) 116.10 (17) of the Texas State Implementation Plan, found at the following website: http://yosemite1.epa.gov/r6/Sip0304.nsf/dc994a1edbcf32c08625651c00552ed8/ebe595fa1af0a9f98625737f0072cadc!OpenDocument&Highlight=0,emission,point

7. The term "Emissions Unit" shall have the same meaning as defined at 40 CFR §52.21(b)(7).

8. The term "Facility" shall mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control).

9. The term "Federally Enforceable" is defined in 40 CFR 52.21(b)(17) as well as 40 CFR 63.2.

10. In accordance with that definition provided in item 9, above, the term "Federally Enforceable Permit" means either

    a. a permit or other air emissions authorization issued to your Facility under 30 TAC Chapters 106 or 116 (or its predecessor regulation) as approved into the federally approved Texas SIP; or
    b. a permit or authorization issued to your Facility by EPA Region 6 under regulations found at 40 CFR Part 52.

11. The term "Flexible Permit" or "Texas Flexible Permit" means a permit issued under 30 TAC Chapter 116, Subchapter G. A copy of this state regulation may be found at: http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=30&pt=1&ch=116&sch=G&rl=Y

12. The term "NSPS" shall mean the Standards of Performance for New Stationary Sources promulgated at 40 CFR Part 60.

13. The term "Process Unit" shall mean any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or completed product. A single stationary source may contain more than one process unit, and a process unit may contain more than one emission unit.

14. The term "PSD/NNSR" shall mean the Prevention of Significant Deterioration and the Nonattainment New Source Review preconstruction permitting programs established at Clean Air Act subparts C and D and further defined at 40 CFR Parts 51 and 52 and any respective program established under a SIP.

15. The term "Stationary Source" shall mean building, structure, facility, or installation which emits or may emit any regulated or any pollutant listed under section 112(b) of the Clean Air Act (the Act). "Building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties and are under common ownership or control.

16. The term "TCEQ" shall mean the Texas Commission on Environmental Quality or any of its predecessor agencies.

17. The term "Texas State Implementation Plan" or "Texas SIP" means those regulations submitted by the State of Texas and approved by the U.S. Environmental Protection Agency (EPA) at 40 CFR Part 52, Subpart SS. A useful reference to approved provisions of the Texas SIP may be found at: http://yosemite1.epa.gov/r6/Sip0304.nsf/home?Openview&Start=1&Count=30&Expand=6

INFORMATION REQUEST

The Facility contains emission units and emission points that emit or have the potential to emit pollutants subject to the requirements of the PSD/NNSR, and/or Minor NSR programs of the Clean Air Act. In providing the following information, please apply the version of PSD/NNSR regulations that was federally approved and therefore included in the Texas SIP at the time that a particular modification or change in the method of operation was being reviewed. In addition, the current attainment status of the area in which the Facility is located shall be used to determine whether PSD or NNSR rules are applied and to determine major modification thresholds and appropriate controls in the application. Therefore, in addition to the enclosed Title V application, please submit the following information.

1. A certification of compliance by a responsible official in accordance with 40 CFR 71.5(c)(9)(i) through (iv).

2. Map of the Facility and the area immediately surrounding it.

3. Maps identifying all process units which further specify each emission unit and emission point within each process unit at the Facility.

4. Up-to-date process flow diagrams of the Facility for all emission units and their emission point(s) identified in your response to item 3. On the diagrams, using a key for clarity purposes, identify all emissions points, CEMS, COMS, and emission control equipment.

5. A detailed narrative description of the processes located at the Facility, from introduction of raw material sequentially through disposition of products. Describe each process unit which produces air emissions and all APCE for each process unit, in relation to the overall operations at the Facility. In the narrative, describe the function of each process unit and describe the chemical or physical process occurring at each stage of the production process. Provide an overall schematic with a detailed legend of each process area including transfer points to other process areas within the Facility and/or off the Facility.

6. For all of the processes identified in item 3, provide in electronic spreadsheet form, a list of all specific emission units and all their respective emission point(s) (including grandfathered units or emission points added or built under the auspices of a flexible permit or other permit authorization issued by TCEQ. Please provide the following data or information organized by each process. See Enclosures 4 and 5.

   a. Enclosure 4 – List all Federal Rules or Texas SIP approved rules identified as applicable for each emission unit and its emission point(s), (Indicate the dates of commencement of construction, construction completion, and start-up of each emission unit, and where appropriate, indicate the date of any change including major and minor modifications, alterations, reconstruction, or permanent shutdown). Emission points covered by Permit by Rules and Standard Permits must also be included.

   b. Enclosure 4 – Provide a brief description of how and why any emission factors (EF) have changed between permits for each emission unit and its respective emission point(s). Any supporting documentation to the EF changes shall be provided with Hyperlinks to supporting documents.

   c. Enclosure 5 - List all emission limitations for each emission point including the units of measurement and authority of the permit limitation (e.g., minimum or maximum limit, rolling average on annual, monthly, hourly basis, Best Available Control Technology emission rate, permit application representations, etc.), specific monitoring requirement and frequency of monitoring required for each emission point pursuant to an underlying permit (e.g., stack

test each year, daily CEMS, parametric monitoring, etc.), record-keeping requirements (including retention schedules), and reporting requirements. To clarify, please ensure that the table lists each emission point with a hyperlink to all emission limitations/calculations that were submitted as permit application representations and utilized by TCEQ to determine any pollutant specific emission cap in TCEQ's flexible permit program. Also, as an attachment to the Enclosure 5 table, include emission calculations, with supporting formulas and assumptions that are currently used to demonstrate ongoing compliance. All supporting information shall be available by Hyperlinks to the appropriate underlying permit or background documents (historical and contemporaneous - these should include past emission limitations) in your submittal to EPA.

d. Identify any emission point(s) listed in your response to item 5 that were not contained in a federally enforceable permit in existence prior to issuance of your Texas flexible permit, and provide a copy of any and all state permit(s) or authorization(s) for such identified emission point(s).

7. A copy of all underlying permits that are currently incorporated by reference into the Title V permit.

8. Submit copy(ies) of all previously-issued federally enforceable construction permits (issued under Title I of the Clean Air Act) where their terms and conditions were administratively moved into a non-SIP approved permit, (e.g., flexible or state issued permit(s)) for all emission points and/or emissions units listed in your flexible or other state permit(s)).

9. Provide a copy of any state-issued flexible permit(s). Include the original flexible permit(s) and any subsequent flexible permit that is a result of a modification, amendment, and/or alteration. Identify in a table any emission point and/or emissions unit that is not in any permit in items 7 or 8 above.

10. Identify and describe, in a chronologically organized table, all changes and construction at the Facility since the date that the flexible permit was issued. This should include, but not be limited to alterations, modifications to the equipment or in the method of operation, and additions or changes in fuel type (including any alternative fuel types, such as Waste Derived Fuel), fuel feed operations, raw material feed rates, production rates, emission rates, and/or APCE. In the table,

include the date each project commenced, the date each project was completed (implemented), a brief description of each project, vendor name, work order number, and the fixed capital cost of each project in nominal dollars.

11. For each change and construction made at the Facility identified in item 10 (indexed to that change on the table), provide:

    a. An analysis and quantification of the effect of the change on the production and/or emissions from each unit;

    b. Whether the Facility considered it a major modification for PSD and/or NNSR purposes;

    c. All assumptions, emission factors, and calculations utilized in making the determination that the modification or construction was or was not a major modification or major stationary source including a description and full analysis of netting emission calculations since 1990 for all individual permit actions taking place at the Facility;

    d. Any and all correspondence, studies, or reports related to such analyses;

    e. The basis for the Facility's determination that the change was or was not a major modification for each pollutant or the construction was or was not a major stationary source for each pollutant;

    f. Copies of all PSD BACT, LAER, and Minor NSR BACT analyses (performed by the Facility, any State/federal agency (such as TCEQ), or any consultant or contractor) related to any emission unit at the Facility for any of the changes in the table; and

    g. Copies of all correspondence, studies, or reports related to such PSD BACT, NNSR LAER or Minor NSR BACT determinations.

12. Please provide a description of how Start Up, Shut Down, and Malfunction emissions are currently permitted at the stationary source.

Enclosure 3

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under Section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414, and 40 CFR Part 2, subpart B. Under Section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 CFR Part 2, subpart B, business confidentiality means "the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information." See 40 CFR § 2.201(e).

The criteria EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 CFR §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 CFR § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business's competitive edge. See 40 CFR § 2.208 (a)-(d). Emission data, as defined at 40 CFR § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 CFR Part 2, subpart B. See 42 U.S.C. § 7414(c); 40 CFR § 2.301(e).

Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Act and 40 CFR Part 2, subpart B. The EPA will construe your failure to furnish a business confidentiality claim with your response to this information request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential" at the time you submit your response to this information request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

In addition, EPA is providing you notice that if you assert a claim of business confidentiality for information you provide in response to this information request, EPA will

determine whether such information is entitled to confidential treatment, pursuant to 40 CFR Part 2, subpart B. Accordingly, after EPA's receipt of your business confidentiality claim, you will receive a letter inviting your comments on the following questions:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.

2. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you've specified.

3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

See 40 CFR § 2.204(e)(4). When you receive such a letter, you must provide EPA with a written response within the number of days set forth in the letter. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 CFR § 2.204(e)(1).

ENCLOSURE 4
PERMITTING HISTORY

Permit Nos. (Include whether PSD/NSR/NNSR)	Emission Point Number	Constr-uction Start Date	Opera-tion Start Date	Modifications – (major/minor/alterations/ amendments List Chronologically**				Shut-Down Date	Emission Factor Changes –		Applicable Federal Rules
				Type	Description	Netting (Y or N)	Date		Change	Date	

* Include emission points permitted through Permit by Rules and Standard Permits.

** Define permit action - alterations, minor modifications, amendments, or major modifications.

ENCLOSURE 5

Federally Enforceable Unit Specific Emission Limitations For Individual Emission Units - Crosswalk

Emission Point Number	Permit Nos. (Include whether PSD/NSR /NNSR)*	Pollutant	Emission Limits (NAAQS) *Indicate if Compliance is Required Through a Permit Application Representation by placing Value in [Brackets]***			BACT /LAER Emission Rate (Indicate measurable units)	Special Conditions		Emission Limits (Indicate Pollutant Based on NSPS, NESHAP, MACT)		Monitoring ***		Record-keeping ***		Reporting ***	
			Lbs/ Hour (24-hour)	Lbs/ Hour (30-day)	Tons/ Year (annual)		Page	Condition No.	Lbs /Hour	Tons/ Year (annual)	Page	Condition No.	Page	Condition No.	Page	Condition No.
		NOx														
		VOC														
		CO														
		PM10														
		PM2.5														
		Pb														
		Fl														
		H2SO4														
		SO2														
		NOx														
		VOC														
		CO														
		PM10														
		PM2.5														
		Pb														
		Fl														
		H2SO4														
		SO2														
		NOx														
		VOC														
		CO														

Emission Point Number	Permit Nos. (Include whether PSD/NSR /NNSR)*	Pollutant	Emission Limits (NAAQS) *Indicate if Compliance is Required Through a Permit Application Representation by placing Value in [Brackets]***			BACT /LAER Emission Rate (Indicate measurable units)	Special Conditions		Emission Limits (Indicate Pollutant Based on NSPS, NESHAP, MACT)		Monitoring ***		Record-keeping ***		Reporting ***	
			Lbs/ Hour (24-hour)	Lbs/ Hour (30-day)	Tons/ Year (annual)		Page	Condition No.	Lbs /Hour	Tons/ Year (annual)	Page	Condition No.	Page	Condition No.	Page	Condition No.
		PM10														
		PM2.5														
		Pb														
		Fl														
		H2SO4														
		SO2														
		NOx														
		VOC														
		CO														
		PM10														
		PM2.5														
		Pb														
		Fl														
		H2SO4														
		SO2														

Footnotes:

* **Federal Permits include all permits issued under the Texas approved State Implementation Plan (SIP). This includes PSD/NSR/NNSR as well as Permit by Rules and Standard Permits.**

** **Indicate If Compliance is Required Through a Permit Application Representation Instead of a Permitted Emission Limitation by placing value in [Brackets].**

*** **Permit conditions from the underlying Federal New Source Review Permit Issued Under the Texas SIP.**