



February 7, 2020

Texas Commission on Environmental Quality ("TCEQ")  
Water Availability Division, MC-160  
Building F, Ste. 3101  
12100 Park 35 Circle  
Austin, Texas 78753

via hand delivery

RE: TCEQ Water Rights Permit Application, Administrative Information Checklist and  
Technical Information Report  
Vopak Moda Houston LLC, CN604309617  
Vopak Terminal Deer Park South, RN106449788  
Harris County, Texas

Water Availability Division:

On behalf of Vopak Moda Houston, LLC ("VMH"), Spirit Environmental, LLC ("Spirit"), is submitting the enclosed Surface Water Rights Permit application to obtain a new appropriation of State Water in Texas, administered by the Texas Commission on Environmental Quality ("TCEQ").

The enclosed application includes the Administrative Information Checklist (TCEQ-10214B), the Technical Information Report (TCEQ-10214C), and supplemental documents in support of this application. The application is organized as follows:

**Administrative and Technical Documents:**

- Cover letter
- Administrative Information Report
- Technical Information Report:
  - Worksheets 1.0-8.0
- Supplemental Information: Text, Maps, Plot Plans, Photographs, Property Special Warranty Deed, Water Conservation Plan

OFFICE: 281-664-2490  
FAX: 281-664-2491

20465 State Highway 249, Suite 300  
Houston, TX 77070

spiritenv.com

RECEIVED

FEB 07 2020

Water Availability Division



One (1) original and six (6) copies of the entire application (both forms and all worksheets required) are included with this submittal to the TCEQ Water Availability Division.

If you have any questions or require additional information, please contact me at 512-879-3127 or by email at [ccampbell@spiritenv.com](mailto:ccampbell@spiritenv.com).

Sincerely,

Chase Campbell  
Project Consultant  
Spirit Environmental

Brittany Tones  
Senior Project Manager  
Spirit Environmental

Enclosures

cc: Mr. Clayton Curtis, Vice President of Regulatory Affairs, Vopak Moda Houston, LLC.  
Via email: [Clayton.Curtis@modamidstream.com](mailto:Clayton.Curtis@modamidstream.com)

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## TCEQ WATER RIGHTS PERMITTING APPLICATION

### ADMINISTRATIVE INFORMATION CHECKLIST

Complete and submit this checklist for each application. See Instructions Page. 5.

APPLICANT(S): Vopak Moda Houston, LLC

Indicate whether the following items are included in your application by writing either Y (for yes) or N (for no) next to each item (all items are not required for every application).

Y/N		Y/N	
<input checked="" type="checkbox"/>	<b>Administrative Information Report</b>	<input checked="" type="checkbox"/>	<b>Worksheet 3.0</b>
<input type="checkbox"/>	Additional Co-Applicant Information	<input type="checkbox"/>	Additional W.S 3.0 for each Point
<input type="checkbox"/>	Additional Co-Applicant Signature Pages	<input type="checkbox"/>	Recorded Deeds for Diversion Points
<input checked="" type="checkbox"/>	Written Evidence of Signature Authority	<input type="checkbox"/>	Consent For Diversion Access
<input checked="" type="checkbox"/>	<b>Technical Information Report</b>	<input type="checkbox"/>	<b>Worksheet 4.0</b>
<input checked="" type="checkbox"/>	USGS Map (or equivalent)	<input type="checkbox"/>	TPDES Permit(s)
<input checked="" type="checkbox"/>	Map Showing Project Details	<input type="checkbox"/>	WWTP Discharge Data
<input checked="" type="checkbox"/>	Original Photographs	<input type="checkbox"/>	24-hour Pump Test
<input type="checkbox"/>	Water Availability Analysis	<input type="checkbox"/>	Groundwater Well Permit
<input checked="" type="checkbox"/>	<b>Worksheet 1.0</b>	<input type="checkbox"/>	Signed Water Supply Contract
<input type="checkbox"/>	Recorded Deeds for Irrigated Land	<input type="checkbox"/>	<b>Worksheet 4.1</b>
<input type="checkbox"/>	Consent For Irrigation Land	<input type="checkbox"/>	<b>Worksheet 5.0</b>
<input type="checkbox"/>	<b>Worksheet 1.1</b>	<input type="checkbox"/>	Addendum to Worksheet 5.0
<input type="checkbox"/>	Addendum to Worksheet 1.1	<input type="checkbox"/>	<b>Worksheet 6.0</b>
<input type="checkbox"/>	<b>Worksheet 1.2</b>	<input type="checkbox"/>	Water Conservation Plan(s)
<input type="checkbox"/>	Addendum to Worksheet 1.2	<input type="checkbox"/>	Drought Contingency Plan(s)
<input type="checkbox"/>	<b>Worksheet 2.0</b>	<input type="checkbox"/>	Documentation of Adoption
<input type="checkbox"/>	Additional W.S 2.0 for Each Reservoir	<input type="checkbox"/>	<b>Worksheet 7.0</b>
<input type="checkbox"/>	Dam Safety Documents	<input type="checkbox"/>	Accounting Plan
<input type="checkbox"/>	Notice(s) to Governing Bodies	<input type="checkbox"/>	<b>Worksheet 8.0</b>
<input type="checkbox"/>	Recorded Deeds for Inundated Land	<input type="checkbox"/>	Fees
<input type="checkbox"/>	Consent For Inundation Land		

**For Commission Use Only:**

Proposed/Current Water Right Number: \_\_\_\_\_

Basin: \_\_\_\_\_ Watermaster area Y/N: \_\_\_\_\_

# ADMINISTRATIVE INFORMATION REPORT

The following information is required for all new applications and amendments.

**\*\*\* Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Staff to discuss Applicant's needs prior to submitting an application. Call the Water Rights Permitting Team to schedule a meeting at (512) 239-4691.**

## 1. TYPE OF APPLICATION (Instructions, Page. 6)

Indicate, by marking X, next to the following authorizations you are seeking.

- New Appropriation of State Water
- Amendment to a Water Right \*
- Bed and Banks

***\*If you are seeking an amendment to an existing water rights authorization, you must be the owner of record of the authorization. If the name of the Applicant in Section 2, does not match the name of the current owner(s) of record for the permit or certificate or if any of the co-owners is not included as an applicant in this amendment request, your application could be returned. If you or a co-applicant are a new owner, but ownership is not reflected in the records of the TCEQ, submit a change of ownership request (Form TCEQ-10204) prior to submitting the application for an amendment. See Instructions page. 6. Please note that an amendment application may be returned, and the Applicant may resubmit once the change of ownership is complete.***

Please summarize the authorizations or amendments you are seeking in the space below or attach a narrative description entitled "Summary of Request."

See Supplemental Text Section 2.1 "Summary of Request"

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## 2. APPLICANT INFORMATION (Instructions, Page. 6 )

### a. Applicant

Indicate the number of Applicants/Co-Applicants 1  
(Include a copy of this section for each Co-Applicant, if any)

What is the Full Legal Name of the individual or entity (applicant) applying for this permit?

Vopak Moda Houston, LLC

*(If the Applicant is an entity, the legal name must be spelled exactly as filed with the Texas Secretary of State, County, or in the legal documents forming the entity.)*

If the applicant is currently a customer with the TCEQ, what is the Customer Number (CN)?

You may search for your CN on the TCEQ website at

<http://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=cust.CustSearch>

CN : CN604309617 ( leave blank if you do not yet have a CN).

What is the name and title of the person or persons signing the application? Unless an application is signed by an individual applicant, the person or persons must submit written evidence that they meet the signatory requirements in 30 TAC § 295.14.

First/Last Name: Jonathan Ackerman

Title: Vice President

Have you provided written evidence meeting the signatory requirements in 30 TAC § 295.14, as an attachment to this application? Yes, see Section 2.2 of text

What is the applicant's mailing address as recognized by the US Postal Service (USPS)? You may verify the address on the USPS website at

<https://tools.usps.com/go/ZipLookupAction!input.action>.

Name: Vopak Moda

Mailing Address: PO Box 897

City: Deer Park

State: Texas

ZIP Code: 77536-0897

Indicate an X next to the type of Applicant:

Individual  Sole Proprietorship-D.B.A.

Partnership  Corporation

Trust  Estate

Federal Government  State Government

County Government  City Government

Other Government  Other \_\_\_\_\_

For Corporations or Limited Partnerships, provide:

State Franchise Tax ID Number: 32050740433 SOS Charter (filing) Number: 0801769523

### 3. APPLICATION CONTACT INFORMATION (Instructions, Page. 9)

If the TCEQ needs additional information during the review of the application, who should be contacted? Applicant may submit their own contact information if Applicant wishes to be the point of contact.

First and Last Name: Chase Campbell

Title: Project Consultant

Organization Name: Spirit Environmental, LLC

Mailing Address: 3307 Northland Dr. Ste 215

City: Austin

State: TX

ZIP Code: 78731

Phone No.: 512-879-3127

Extension:

Fax No.:

E-mail Address: [ccampbell@spiritenv.com](mailto:ccampbell@spiritenv.com)

#### **4. WATER RIGHT CONSOLIDATED CONTACT INFORMATION (Instructions, Page. 9)**

This section applies only if there are multiple Owners of the same authorization. Unless otherwise requested, Co-Owners will each receive future correspondence from the Commission regarding this water right (after a permit has been issued), such as notices and water use reports. Multiple copies will be sent to the same address if Co-Owners share the same address. Complete this section if there will be multiple owners and all owners agree to let one owner receive correspondence from the Commission. Leave this section blank if you would like all future notices to be sent to the address of each of the applicants listed in section 2 above.

I/We authorize all future notices be received on my/our behalf at the following:

First and Last Name:

Title:

Organization Name:

Mailing Address:

City:

State:

ZIP Code:

Phone No.:

Extension:

Fax No.:

E-mail Address:

**5. MISCELLANEOUS INFORMATION (Instructions, Page. 9)**

a. The application will not be processed unless all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol by all applicants/co-applicants. If you need assistance determining whether you owe delinquent penalties or fees, please call the Water Rights Permitting Team at (512) 239-4691, prior to submitting your application.

1. Does Applicant or Co-Applicant owe any fees to the TCEQ? **Yes / No No**

If **yes**, provide the following information:

Account number:

Amount past due:

2. Does Applicant or Co-Applicant owe any penalties to the TCEQ? **Yes / No No**

If **yes**, please provide the following information:

Enforcement order number:

Amount past due:

b. If the Applicant is a taxable entity (corporation or limited partnership), the Applicant must be in good standing with the Comptroller or the right of the entity to transact business in the State may be forfeited. See Texas Tax Code, Subchapter F. Applicant's may check their status with the Comptroller at <https://mycpa.cpa.state.tx.us/coa/>

Is the Applicant or Co-Applicant in good standing with the Comptroller? **Yes / No Yes**

c. The commission will not grant an application for a water right unless the applicant has submitted all Texas Water Development Board (TWDB) surveys of groundwater and surface water use - if required. See TWC §16.012(m) and 30 TAC § 297.41(a)(5).

Applicant has submitted all required TWDB surveys of groundwater and surface water? **Yes / No Yes**

6. SIGNATURE PAGE (Instructions, Page. 11)

Applicant:

I, JONATHAN ACKERMAN VICE PRESIDENT  
(Typed or printed name) (Title)

certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I further certify that I am authorized under Title 30 Texas Administrative Code §295.14 to sign and submit this document and I have submitted written evidence of my signature authority.

Signature: [Signature] Date: 2/3/2020  
(Use blue ink)

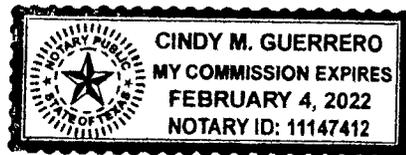
Subscribed and Sworn to before me by the said

on this 3rd day of February, 20 20.

My commission expires on the 4th day of February, 20 22.

[Signature]  
Cindy M. Guerrero  
Notary Public

[SEAL]



Harris  
County, Texas

**If the Application includes Co-Applicants, each Applicant and Co-Applicant must submit an original, separate signature page**

# TECHNICAL INFORMATION REPORT

## WATER RIGHTS PERMITTING

This Report is required for applications for new or amended water rights. Based on the Applicant's responses below, Applicants are directed to submit additional Worksheets (provided herein). A completed Administrative Information Report is also required for each application.

**Applicants are strongly encouraged to schedule a pre-application meeting with TCEQ Permitting Staff to discuss Applicant's needs and to confirm information necessary for an application prior to submitting such application. Please call Water Availability Division at (512) 239-4691 to schedule a meeting.** Applicant attended a pre-application meeting with TCEQ Staff for this Application?  Y / N (If yes, date : 1/8/2020).

### 1. New or Additional Appropriations of State Water. Texas Water Code (TWC) § 11.121 (Instructions, Page. 12)

**State Water is:** *The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state. TWC § 11.021.*

- a. Applicant requests a new appropriation (diversion or impoundment) of State Water?  Y / N
- b. Applicant requests an amendment to an existing water right requesting an increase in the appropriation of State Water or an increase of the overall or maximum combined diversion rate? Y /  N (If yes, indicate the Certificate or Permit number: \_\_\_\_\_)

*If Applicant answered yes to (a) or (b) above, does Applicant also wish to be considered for a term permit pursuant to TWC § 11.1381?* Y /  N

- c. Applicant requests to extend an existing Term authorization or to make the right permanent? Y /  N (If yes, indicate the Term Certificate or Permit number: \_\_\_\_\_)

*If Applicant answered yes to (a), (b) or (c), the following worksheets and documents are required:*

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir requested in the application)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for each diversion point and/or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach requested in the application)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees**
- **Fees calculated on Worksheet 8.0 – see instructions Page. 34.**
- **Maps – See instructions Page. 15.**
- **Photographs – See instructions Page. 30.**

*Additionally, if Applicant wishes to submit an alternate source of water for the project/authorization, see Section 3, Page 3 for Bed and Banks Authorizations (Alternate sources may include groundwater, imported water, contract water or other sources).*

**Additional Documents and Worksheets may be required (see within).**

## 2. Amendments to Water Rights. TWC § 11.122 (Instructions, Page. 12)

This section should be completed if Applicant owns an existing water right and Applicant requests to amend the water right. *If Applicant is not currently the Owner of Record in the TCEQ Records, Applicant must submit a Change of Ownership Application (TCEQ-10204) prior to submitting the amendment Application or provide consent from the current owner to make the requested amendment. See instructions page. 6.*

Water Right (Certificate or Permit) number you are requesting to amend: \_\_\_\_\_

Applicant requests to sever and combine existing water rights from one or more Permits or Certificates into another Permit or Certificate? Y / N (if yes, complete chart below):

List of water rights to sever	Combine into this ONE water right

a. Applicant requests an amendment to an existing water right to increase the amount of the appropriation of State Water (diversion and/or impoundment)? Y / N

*If yes, application is a new appropriation for the increased amount, complete Section 1 of this Report (PAGE. 1) regarding New or Additional Appropriations of State Water.*

b. Applicant requests to amend existing Term authorization to extend the term or make the water right permanent (remove conditions restricting water right to a term of years)? Y / N

*If yes, application is a new appropriation for the entire amount, complete Section 1 of this Report (PAGE. 1) regarding New or Additional Appropriations of State Water.*

c. Applicant requests an amendment to change the purpose or place of use or to add an additional purpose or place of use to an existing Permit or Certificate? Y / N

*If yes, submit:*

- **Worksheet 1.0 - Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 1.2 - Notice: "Marshall Criteria"**

d. Applicant requests to change: diversion point(s); or reach(es); or diversion rate? Y / N

*If yes, submit: Worksheet 3.0 - Diversion Point Information Worksheet (submit one worksheet for each diversion point or one worksheet for the upstream limit and one worksheet for the downstream limit of each diversion reach)*

e. Applicant requests amendment to add or modify an impoundment, reservoir, or dam? Y / N

*If yes, submit: Worksheet 2.0 - Impoundment/Dam Information Worksheet (submit one worksheet for each impoundment or reservoir)*

f. Other - Applicant requests to change any provision of an authorization not mentioned above? Y / N *If yes, call the Water Availability Division at (512) 239-4691 to discuss.*

**Additionally, all amendments require:**

- **Worksheet 8.0 - Calculation of Fees; and Fees calculated - see instructions Page.34**
- **Maps - See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

### 3. Bed and Banks. TWC § 11.042 (Instructions, Page 13)

- a. Pursuant to contract, Applicant requests authorization to convey, stored or conserved water to the place of use or diversion point of purchaser(s) using the bed and banks of a watercourse? TWC § 11.042(a). Y/N

*If yes, submit a signed copy of the Water Supply Contract pursuant to 30 TAC §§ 295.101 and 297.101. Further, if the underlying Permit or Authorization upon which the Contract is based does not authorize Purchaser's requested Quantity, Purpose or Place of Use, or Purchaser's diversion point(s), then either:*

1. *Purchaser must submit the worksheets required under Section 1 above with the Contract Water identified as an alternate source; or*
2. *Seller must amend its underlying water right under Section 2.*

- b. Applicant requests to convey water imported into the state from a source located wholly outside the state using the bed and banks of a watercourse? TWC § 11.042(a-1). Y / N

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps and fees from the list below.*

- c. Applicant requests to convey Applicant's own return flows derived from privately owned groundwater using the bed and banks of a watercourse? TWC § 11.042(b). Y / N

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps, and fees from the list below.*

- d. Applicant requests to convey Applicant's own return flows derived from surface water using the bed and banks of a watercourse? TWC § 11.042(c). Y / N

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0, Maps, and fees from the list below.*

***\*Please note, if Applicant requests the reuse of return flows belonging to others, the Applicant will need to submit the worksheets and documents under Section 1 above, as the application will be treated as a new appropriation subject to termination upon direct or indirect reuse by the return flow discharger/owner.***

- e. Applicant requests to convey water from any other source, other than (a)-(d) above, using the bed and banks of a watercourse? TWC § 11.042(c). Y / N

*If yes, submit: worksheets 1.0, 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, Maps, and fees from the list below.*

*Worksheets and information:*

- **Worksheet 1.0 – Quantity, Purpose, and Place of Use Information Worksheet**
- **Worksheet 2.0 - Impoundment/Dam Information Worksheet** (submit one worksheet for each impoundment or reservoir owned by the applicant through which water will be conveyed or diverted)
- **Worksheet 3.0 - Diversion Point Information Worksheet** (submit one worksheet for the downstream limit of each diversion reach for the proposed conveyances)
- **Worksheet 4.0 – Discharge Information Worksheet** (for each discharge point)
- **Worksheet 5.0 – Environmental Information Worksheet**
- **Worksheet 6.0 – Water Conservation Information Worksheet**
- **Worksheet 7.0 – Accounting Plan Information Worksheet**
- **Worksheet 8.0 – Calculation of Fees; and Fees calculated – see instructions Page. 34**
- **Maps – See instructions Page. 15.**
- **Additional Documents and Worksheets may be required (see within).**

**4. General Information, Response Required for all Water Right Applications (Instructions, Page 15)**

- a. Provide information describing how this application addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement (*not required for applications to use groundwater-based return flows*). Include citations or page numbers for the State and Regional Water Plans, if applicable. Provide the information in the space below or submit a supplemental sheet entitled "Addendum Regarding the State and Regional Water Plans":

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See Supplemental Text Section 3.1 "Addendum Regarding the State and Regional Water Plans"

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- b. Did the Applicant perform its own Water Availability Analysis? Y /  N

*If the Applicant performed its own Water Availability Analysis, provide electronic copies of any modeling files and reports.*

- c. Does the application include required Maps? (Instructions Page. 15)  Y / N

# WORKSHEET 1.0

## Quantity, Purpose and Place of Use

### 1. New Authorizations (Instructions, Page. 16)

Submit the following information regarding quantity, purpose and place of use for requests for new or additional appropriations of State Water or Bed and Banks authorizations:

Quantity (acre- feet) <i>(Include losses for Bed and Banks)</i>	State Water Source (River Basin) or Alternate Source <i>*each alternate source (and new appropriation based on return flows of others) also requires completion of Worksheet 4.0</i>	Purpose(s) of Use	Place(s) of Use <i>*requests to move state water out of basin also require completion of Worksheet 1.1 Interbasin Transfer</i>
300	San Jacinto River Basin - Buffalo Bayou	Industrial Use	Harris County in San Jacinto River Basin

300 Total amount of water (in acre-feet) to be used annually (*include losses for Bed and Banks applications*)

If the Purpose of Use is Agricultural/Irrigation for any amount of water, provide:

1. Location Information Regarding the Lands to be Irrigated N/A - No Lands to be Irrigated

i) Applicant proposes to irrigate a total of \_\_\_\_\_ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of \_\_\_\_\_ acres in \_\_\_\_\_ County, TX.

ii) Location of land to be irrigated: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_.

***A copy of the deed(s) or other acceptable instrument describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds.***

***If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.***

***Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***

**2. Amendments - Purpose or Place of Use (Instructions, Page. 12)**

- a. Complete this section for each requested amendment changing, adding, or removing Purpose(s) or Place(s) of Use, complete the following:

Quantity (acre-feet)	Existing Purpose(s) of Use	Proposed Purpose(s) of Use*	Existing Place(s) of Use	Proposed Place(s) of Use**

*\*If the request is to add additional purpose(s) of use, include the existing and new purposes of use under "Proposed Purpose(s) of Use."*

*\*\*If the request is to add additional place(s) of use, include the existing and new places of use under "Proposed Place(s) of Use."*

*Changes to the purpose of use in the Rio Grande Basin may require conversion. 30 TAC § 303.43.*

- b. For any request which adds Agricultural purpose of use or changes the place of use for Agricultural rights, provide the following location information regarding the lands to be irrigated:

i) Applicant proposes to irrigate a total of \_\_\_\_\_ acres in any one year. This acreage is all of or part of a larger tract(s) which is described in a supplement attached to this application and contains a total of \_\_\_\_\_ acres in \_\_\_\_\_ County, TX.

ii) Location of land to be irrigated: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_.

***A copy of the deed(s) describing the overall tract(s) with the recording information from the county records must be submitted. Applicant's name must match deeds. If the Applicant is not currently the sole owner of the lands to be irrigated, Applicant must submit documentation evidencing consent or other legal right for Applicant to use the land described.***

***Water Rights for Irrigation may be appurtenant to the land irrigated and convey with the land unless reserved in the conveyance. 30 TAC § 297.81.***

- c. Submit Worksheet 1.1, Interbasin Transfers, for any request to change the place of use which moves State Water to another river basin.
- d. See Worksheet 1.2, Marshall Criteria, and submit if required.
- e. See Worksheet 6.0, Water Conservation/Drought Contingency, and submit if required.

## WORKSHEET 1.1 INTERBASIN TRANSFERS, TWC § 11.085

Submit this worksheet for an application for a new or amended water right which requests to transfer State Water from its river basin of origin to use in a different river basin. A river basin is defined and designated by the Texas Water Development Board by rule pursuant to TWC § 16.051.

Applicant requests to transfer State Water to another river basin within the State? Y / N

### 1. Interbasin Transfer Request (Instructions, Page. 20)

- a. Provide the Basin of Origin. \_\_\_\_\_
- b. Provide the quantity of water to be transferred (acre-feet). \_\_\_\_\_
- c. Provide the Basin(s) and count(y/ies) where use will occur in the space below:  
\_\_\_\_\_

### 2. Exemptions (Instructions, Page. 20), TWC § 11.085(v)

Certain interbasin transfers are exempt from further requirements. Answer the following:

- a. The proposed transfer, which in combination with any existing transfers, totals less than 3,000 acre-feet of water per annum from the same water right. Y/N
- b. The proposed transfer is from a basin to an adjoining coastal basin? Y/N
- c. The proposed transfer from the part of the geographic area of a county or municipality, or the part of the retail service area of a retail public utility as defined by Section 13.002, that is within the basin of origin for use in that part of the geographic area of the county or municipality, or that contiguous part of the retail service area of the utility, not within the basin of origin? Y/N
- d. The proposed transfer is for water that is imported from a source located wholly outside the boundaries of Texas, except water that is imported from a source located in the United Mexican States? Y/N

### 3. Interbasin Transfer Requirements (Instructions, Page. 20)

For each Interbasin Transfer request that is not exempt under any of the exemptions listed above Section 2, provide the following information in a supplemental attachment titled "Addendum to Worksheet 1.1, Interbasin Transfer":

- a. the contract price of the water to be transferred (if applicable) (also include a copy of the contract or adopted rate for contract water);
- b. a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;
- c. the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users (example - expert plans and/or reports documents may be provided to show the cost);

- d. describe the need for the water in the basin of origin and in the proposed receiving basin based on the period for which the water supply is requested, but not to exceed 50 years (the need can be identified in the most recently approved regional water plans. The state and regional water plans are available for download at this website: (<http://www.twdb.texas.gov/waterplanning/swp/index.asp>);
- e. address the factors identified in the applicable most recently approved regional water plans which address the following:
  - (i) the availability of feasible and practicable alternative supplies in the receiving basin to the water proposed for transfer;
  - (ii) the amount and purposes of use in the receiving basin for which water is needed;
  - (iii) proposed methods and efforts by the receiving basin to avoid waste and implement water conservation and drought contingency measures;
  - (iv) proposed methods and efforts by the receiving basin to put the water proposed for transfer to beneficial use;
  - (v) the projected economic impact that is reasonably expected to occur in each basin as a result of the transfer; and
  - (vi) the projected impacts of the proposed transfer that are reasonably expected to occur on existing water rights, instream uses, water quality, aquatic and riparian habitat, and bays and estuaries that must be assessed under Sections 11.147, 11.150, and 11.152 in each basin (*if applicable*). If the water sought to be transferred is currently authorized to be used under an existing permit, certified filing, or certificate of adjudication, such impacts shall only be considered in relation to that portion of the permit, certified filing, or certificate of adjudication proposed for transfer and shall be based on historical uses of the permit, certified filing, or certificate of adjudication for which amendment is sought;
- (f) proposed mitigation or compensation, if any, to the basin of origin by the applicant; and
- (g) the continued need to use the water for the purposes authorized under the existing Permit, Certified Filing, or Certificate of Adjudication, if an amendment to an existing water right is sought.

## WORKSHEET 1.2

### NOTICE. “THE MARSHALL CRITERIA”

This worksheet assists the Commission in determining notice required for certain **amendments** that do not already have a specific notice requirement in a rule for that type of amendment, and *that do not change the amount of water to be taken or the diversion rate*. The worksheet provides information that Applicant **is required** to submit for such amendments which include changes in use, changes in place of use, or other non-substantive changes in a water right (such as certain amendments to special conditions or changes to off-channel storage). These criteria address whether the proposed amendment will impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

*This worksheet is **not required for Applications in the Rio Grande Basin** requesting changes in the purpose of use, rate of diversion, point of diversion, and place of use for water rights held in and transferred within and between the mainstems of the Lower Rio Grande, Middle Rio Grande, and Amistad Reservoir. See 30 TAC § 303.42.*

*This worksheet is **not required for amendments which are only changing or adding diversion points, or request only a bed and banks authorization or an IBT authorization**. However, Applicants may wish to submit the Marshall Criteria to ensure that the administrative record includes information supporting each of these criteria*

#### 1. The “Marshall Criteria” (Instructions, Page. 21)

Submit responses on a supplemental attachment titled “Marshall Criteria” in a manner that conforms to the paragraphs (a) - (g) below:

- a. Administrative Requirements and Fees. Confirm whether application meets the administrative requirements for an amendment to a water use permit pursuant to TWC Chapter 11 and Title 30 Texas Administrative Code (TAC) Chapters 281, 295, and 297. An amendment application should include, but is not limited to, a sworn application, maps, completed conservation plan, fees, etc.
- b. Beneficial Use. Discuss how proposed amendment is a beneficial use of the water as defined in TWC § 11.002 and listed in TWC § 11.023. Identify the specific proposed use of the water (e.g., road construction, hydrostatic testing, etc.) for which the amendment is requested.
- c. Public Welfare. Explain how proposed amendment is not detrimental to the public welfare. Consider any public welfare matters that might be relevant to a decision on the application. Examples could include concerns related to the well-being of humans and the environment.
- d. Groundwater Effects. Discuss effects of proposed amendment on groundwater or groundwater recharge.

- e. State Water Plan. Describe how proposed amendment addresses a water supply need in a manner that is consistent with the state water plan or the applicable approved regional water plan for any area in which the proposed appropriation is located or, in the alternative, describe conditions that warrant a waiver of this requirement. The state and regional water plans are available for download at:  
<http://www.twdb.texas.gov/waterplanning/swp/index.asp>.
- f. Waste Avoidance. Provide evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined in TWC § 11.002. Examples of evidence could include, but are not limited to, a water conservation plan or, if required, a drought contingency plan, meeting the requirements of 30 TAC Chapter 288.
- g. Impacts on Water Rights or On-stream Environment. Explain how proposed amendment will not impact other water right holders or the on-stream environment beyond and irrespective of the fact that the water right can be used to its full authorized amount.

## WORKSHEET 2.0

### Impoundment/Dam Information

This worksheet **is required** for any impoundment, reservoir and/or dam. Submit an additional Worksheet 2.0 for each impoundment or reservoir requested in this application.

*If there is more than one structure, the numbering/naming of structures should be consistent throughout the application and on any supplemental documents (e.g. maps).*

#### 1. Storage Information (Instructions, Page. 21)

- a. Official USGS name of reservoir, if applicable: \_\_\_\_\_
- b. Provide amount of water (in acre-feet) impounded by structure at normal maximum operating level: \_\_\_\_\_.
- c. The impoundment is on-channel \_\_\_\_\_ or off-channel \_\_\_\_\_ (mark one)
  1. Applicant has verified on-channel or off-channel determination by contacting Surface Water Availability Team at (512) 239-4691? Y / N
  2. If on-channel, will the structure have the ability to pass all State Water inflows that Applicant does not have authorization to impound? Y / N
- d. Is the impoundment structure already constructed? Y / N
  - i. For already constructed **on-channel** structures:
    1. Date of Construction: \_\_\_\_\_
    2. Was it constructed to be an exempt structure under TWC § 11.142? Y / N
      - a. If Yes, is Applicant requesting to proceed under TWC § 11.143? Y / N
      - b. If No, has the structure been issued a notice of violation by TCEQ? Y / N
    3. Is it a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation Service (SCS)) floodwater-retarding structure? Y / N
      - a. If yes, provide the Site No. \_\_\_\_\_ and watershed project name \_\_\_\_\_;
      - b. Authorization to close "ports" in the service spillway requested? Y / N
  - ii. For **any** proposed new structures or modifications to structures:
    1. Applicant **must** contact TCEQ Dam Safety Section at (512) 239-0326, *prior to submitting an Application*. Applicant has contacted the TCEQ Dam Safety Section regarding the submission requirements of 30 TAC, Ch. 299? Y / N  
Provide the date and the name of the Staff Person \_\_\_\_\_
    2. As a result of Applicant's consultation with the TCEQ Dam Safety Section, TCEQ has confirmed that:
      - a. No additional dam safety documents required with the Application. Y / N
      - b. Plans (with engineer's seal) for the structure required. Y / N
      - c. Engineer's signed and sealed hazard classification required. Y / N
      - d. Engineer's statement that structure complies with 30 TAC, Ch. 299 Rules required. Y / N

3. Applicants **shall** give notice by certified mail to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir to be constructed, will be located. (30 TAC § 295.42). Applicant must submit a copy of all the notices and certified mailing cards with this Application. Notices and cards are included? **Y / N**

iii. Additional information required for **on-channel** storage:

1. Surface area (in acres) of on-channel reservoir at normal maximum operating level: \_\_\_\_\_.
2. Based on the Application information provided, Staff will calculate the drainage area above the on-channel dam or reservoir. If Applicant wishes to also calculate the drainage area they may do so at their option.  
Applicant has calculated the drainage area. **Y/N**  
If yes, the drainage area is \_\_\_\_\_ sq. miles.  
(If assistance is needed, call the Surface Water Availability Team prior to submitting the application, (512) 239-4691).

## 2. Structure Location (Instructions, Page. 23)

- a. On Watercourse (if on-channel) (USGS name): \_\_\_\_\_
- b. Zip Code: \_\_\_\_\_
- c. In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, \_\_\_\_\_ County, Texas.

***\* A copy of the deed(s) with the recording information from the county records must be submitted describing the tract(s) that include the structure and all lands to be inundated.***

***\*\*If the Applicant is not currently the sole owner of the land on which the structure is or will be built and sole owner of all lands to be inundated, Applicant must submit documentation evidencing consent or other documentation supporting Applicant's right to use the land described.***

- d. A point on the centerline of the dam (on-channel) or anywhere within the impoundment (off-channel) is:

Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.

***\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***

- di. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): \_\_\_\_\_
- dii. Map submitted which clearly identifies the Impoundment, dam (where applicable), and the lands to be inundated. See instructions Page. 15. **Y / N**

## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

*The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps).*

### 1. Diversion Information (Instructions, Page. 24)

- a. This Worksheet is to add new (select 1 of 3 below):
1. FP-1 Diversion Point No.
  2. \_\_\_\_\_ Upstream Limit of Diversion Reach No.
  3. \_\_\_\_\_ Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** \_\_\_\_\_ cfs (cubic feet per second) or 15,000 gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? Y /  (N)  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches \_\_\_\_\_ cfs or \_\_\_\_\_ gpm*
- d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N

*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

- e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

Check one		Write: Existing or Proposed
	Directly from stream	
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
X	Other method (explain fully, use additional sheets if necessary)	Proposed - see Supplemental Text Section 3.6.1

- f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y /  (N)

If yes, the drainage area is \_\_\_\_\_ sq. miles.

*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)*

## 2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Buffalo Bayou
- b. Zip Code: 77571
- c. Location of point: In the George Ross Original Survey No. \_\_\_\_\_, Abstract No. 646, Harris County, Texas.

***A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure. For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.***

- d. Point is at:  
Latitude 29.741959 °N, Longitude -95.103410 °W.  
***Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google Earth Pro
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See the attached Supplemental Information Section 3.6.1

## WORKSHEET 3.0 DIVERSION POINT (OR DIVERSION REACH) INFORMATION

This worksheet is **required** for each diversion point or diversion reach. Submit one Worksheet 3.0 for **each** diversion point and two Worksheets for **each** diversion reach (one for the upstream limit and one for the downstream limit of each diversion reach).

*The numbering of any points or reach limits should be consistent throughout the application and on supplemental documents (e.g. maps).*

### 1. Diversion Information (Instructions, Page. 24)

- a. This Worksheet is to add new (select 1 of 3 below):
1. FP-2 Diversion Point No.
  2. \_\_\_\_\_ Upstream Limit of Diversion Reach No.
  3. \_\_\_\_\_ Downstream Limit of Diversion Reach No.
- b. Maximum Rate of Diversion for **this new point** \_\_\_\_\_ cfs (cubic feet per second) or 15,000 gpm (gallons per minute)
- c. Does this point share a diversion rate with other points? Y / **(N)**  
*If yes, submit Maximum **Combined** Rate of Diversion for all points/reaches \_\_\_\_\_ cfs or \_\_\_\_\_ gpm*
- d. For amendments, is Applicant seeking to increase combined diversion rate? Y / N

*\*\* An increase in diversion rate is considered a new appropriation and would require completion of Section 1, New or Additional Appropriation of State Water.*

- e. Check (✓) the appropriate box to indicate diversion location and indicate whether the diversion location is existing or proposed:

Check one		Write: Existing or Proposed
	Directly from stream	
	From an on-channel reservoir	
	From a stream to an on-channel reservoir	
X	Other method (explain fully, use additional sheets if necessary)	Proposed - see Supplemental Text Section 3.6.2

- f. Based on the Application information provided, Staff will calculate the drainage area above the diversion point (or reach limit). If Applicant wishes to also calculate the drainage area, you may do so at their option.

Applicant has calculated the drainage area. Y / **(N)**

If yes, the drainage area is \_\_\_\_\_ sq. miles.

*(If assistance is needed, call the Surface Water Availability Team at (512) 239-4691, prior to submitting application)*

## 2. Diversion Location (Instructions, Page 25)

- a. On watercourse (USGS name): Buffalo Bayou
- b. Zip Code: 77571
- c. Location of point: In the George Ross Original Survey No. \_\_\_\_\_, Abstract No. 646, Harris County, Texas.

***A copy of the deed(s) with the recording information from the county records must be submitted describing tract(s) that include the diversion structure. For diversion reaches, the Commission cannot grant an Applicant access to property that the Applicant does not own or have consent or a legal right to access, the Applicant will be required to provide deeds, or consent, or other documents supporting a legal right to use the specific points when specific diversion points within the reach are utilized. Other documents may include, but are not limited to: a recorded easement, a land lease, a contract, or a citation to the Applicant's right to exercise eminent domain to acquire access.***

- d. Point is at:  
Latitude 29.741909 °N, Longitude -95.103353 °W.  
***Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places***
- e. Indicate the method used to calculate the location (examples: Handheld GPS Device, GIS, Mapping Program): Google Earth Pro
- f. Map submitted must clearly identify each diversion point and/or reach. See instructions Page. 38.
- g. If the Plan of Diversion is complicated and not readily discernable from looking at the map, attach additional sheets that fully explain the plan of diversion.

See the attached Supplemental Information Section 3.6.2

## WORKSHEET 4.0 DISCHARGE INFORMATION

This worksheet required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. Worksheet 4.1 is also required for each Discharge point location requested. **Instructions Page. 26. Applicant is responsible for obtaining any separate water quality authorizations which may be required and for insuring compliance with TWC, Chapter 26 or any other applicable law.**

- a. The purpose of use for the water being discharged will be \_\_\_\_\_.
- b. Provide the amount of water that will be lost to transportation, evaporation, seepage, channel or other associated carriage losses \_\_\_\_\_% and explain the method of calculation:\_\_\_\_\_

Is the source of the discharged water return flows? Y / N      If yes, provide the following information:

- 1. The TPDES Permit Number(s).\_\_\_\_\_ (attach a copy of the **current** TPDES permit(s))
- 2. Applicant is the owner/holder of each TPDES permit listed above? Y / N

*PLEASE NOTE: If Applicant is not the discharger of the return flows, the application should be submitted under Section 1, New or Additional Appropriation of State Water, as a request for a new appropriation of state water. If Applicant is the discharger, then the application should be submitted under Section 3, Bed and Banks.*

- 3. Monthly WWTP discharge data for the past 5 years in electronic format. (Attach and label as "Supplement to Worksheet 4.0").
- 4. The percentage of return flows from groundwater\_\_\_\_\_, surface water\_\_\_\_\_?
- 5. If any percentage is surface water, provide the base water right number(s) \_\_\_\_\_.
- c. Is the source of the water being discharged groundwater? Y / N      If yes, provide the following information:
  - 1. Source aquifer(s) from which water will be pumped:\_\_\_\_\_
  - 2. Any 24 hour pump test for the well if one has been conducted. If the well has not been constructed, provide production information for wells in the same aquifer in the area of the application. See <http://www.twdb.texas.gov/groundwater/data/gwdbbrpt.asp>. Additionally, provide well numbers or identifiers\_\_\_\_\_.
  - 3. Indicate how the groundwater will be conveyed to the stream or reservoir.
  - 4. A copy of the groundwater well permit if it is located in a Groundwater Conservation District (GCD) or evidence that a groundwater well permit is not required.
- ci. Is the source of the water being discharged a surface water supply contract? Y / N  
If yes, provide the signed contract(s).
- cii. Identify any other source of the water\_\_\_\_\_

## WORKSHEET 4.1 DISCHARGE POINT INFORMATION

This worksheet is required for **each** discharge point. Submit one Worksheet 4.1 for each discharge point. If there is more than one discharge point, the numbering of the points should be consistent throughout the application and on any supplemental documents (e.g. maps).  
**Instructions, Page 27.**

**For water discharged at this location provide:**

- a. The amount of water that will be discharged at this point is \_\_\_\_\_ acre-feet per year. The discharged amount should include the amount needed for use and to compensate for any losses.
- b. Water will be discharged at this point at a maximum rate of \_\_\_\_\_ cfs or \_\_\_\_\_ gpm.
- c. Name of Watercourse as shown on Official USGS maps: \_\_\_\_\_
- d. Zip Code: \_\_\_\_\_
- f. Location of point: In the \_\_\_\_\_ Original Survey No. \_\_\_\_\_, Abstract No. \_\_\_\_\_, \_\_\_\_\_ County, Texas.
- g. Point is at:  
Latitude \_\_\_\_\_°N, Longitude \_\_\_\_\_°W.  
*\*Provide Latitude and Longitude coordinates in decimal degrees to at least six decimal places*
- h. Indicate the method used to calculate the discharge point location (examples: Handheld GPS Device, GIS, Mapping Program): \_\_\_\_\_

**Map submitted must clearly identify each discharge point. See instructions Page. 15.**

## WORKSHEET 5.0 ENVIRONMENTAL INFORMATION

This worksheet is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins. The worksheet is also required in all basins for: requests to change a diversion point, applications using an alternate source of water, and bed and banks applications. **Instructions, Page 28.**

### 1. New Appropriations of Water (Canadian, Red, Sulphur, and Cypress Creek Basins only) and Changes in Diversion Point(s)

Description of the Water Body at each Diversion Point or Dam Location. (Provide an Environmental Information Sheet for each location),

a. Identify the appropriate description of the water body.

Stream

Reservoir

Average depth of the entire water body, in feet: \_\_\_\_\_

Other, specify: \_\_\_\_\_

b. Flow characteristics

If a stream, was checked above, provide the following. For new diversion locations, check one of the following that best characterize the area downstream of the diversion (check one).

Intermittent - dry for at least one week during most years

Intermittent with Perennial Pools - enduring pools

Perennial - normally flowing

Check the method used to characterize the area downstream of the new diversion location.

USGS flow records

Historical observation by adjacent landowners

Personal observation

Other, specify: \_\_\_\_\_

c. Waterbody aesthetics

Check one of the following that best describes the aesthetics of the stream segments affected by the application and the area surrounding those stream segments.

- Wilderness: outstanding natural beauty; usually wooded or unpastured area; water clarity exceptional
- Natural Area: trees and/or native vegetation common; some development evident (from fields, pastures, dwellings); water clarity discolored
- Common Setting: not offensive; developed but uncluttered; water may be colored or turbid
- Offensive: stream does not enhance aesthetics; cluttered; highly developed; dumping areas; water discolored

d. Waterbody Recreational Uses

Are there any known recreational uses of the stream segments affected by the application?

- Primary contact recreation (swimming or direct contact with water)
- Secondary contact recreation (fishing, canoeing, or limited contact with water)
- Non-contact recreation

Submit the following information in a Supplemental Attachment, labeled Addendum to Worksheet 5.0:

1. Photographs of the stream at the diversion point or dam location. Photographs should be in color and show the proposed point or reservoir and upstream and downstream views of the stream, including riparian vegetation along the banks. Include a description of each photograph and reference the photograph to the map submitted with the application indicating the location of the photograph and the direction of the shot.
2. Measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure).
3. If the application includes a proposed reservoir, also include:
  - i. A brief description of the area that will be inundated by the reservoir.
  - ii. If a United States Army Corps of Engineers (USACE) 404 permit is required, provide the project number and USACE project manager.
  - iii. A description of how any impacts to wetland habitat, if any, will be mitigated if the reservoir is greater than 5,000 acre-feet.

**2. Alternate Sources of Water and/or Bed and Banks Applications**

For all bed and banks applications:

- a. Indicate the measures the applicant will take to avoid impingement and entrainment of aquatic organisms (ex. Screens on the new diversion structure).

- b. An assessment of the adequacy of the quantity and quality of flows remaining after the proposed diversion to meet instream uses and bay and estuary freshwater inflow requirements.

If the alternate source is treated return flows, provide the TPDES permit number \_\_\_\_\_

If groundwater is the alternate source, or groundwater or other surface water will be discharged into a watercourse provide:

- a. Reasonably current water chemistry information including but not limited to the following parameters in the table below. Additional parameters may be requested if there is a specific water quality concern associated with the aquifer from which water is withdrawn. If data for onsite wells are unavailable; historical data collected from similar sized wells drawing water from the same aquifer may be provided. However, onsite data may still be required when it becomes available. Provide the well number or well identifier. Complete the information below for each well and provide the Well Number or identifier.

Parameter	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Sulfate, mg/L					
Chloride, mg/L					
Total Dissolved Solids, mg/L					
pH, standard units					
Temperature*, degrees Celsius					

\* Temperature must be measured onsite at the time the groundwater sample is collected.

- b. If groundwater will be used, provide the depth of the well \_\_\_\_\_ and the name of the aquifer from which water is withdrawn \_\_\_\_\_.

# WORKSHEET 6.0

## Water Conservation/Drought Contingency Plans

This form is intended to assist applicants in determining whether a Water Conservation Plan and/or Drought Contingency Plans is required and to specify the requirements for plans. **Instructions, Page 31.**

*The TCEQ has developed guidance and model plans to help applicants prepare plans. Applicants may use the model plan with pertinent information filled in. For assistance submitting a plan call the Resource Protection Team (Water Conservation staff) at 512-239-4691, or e-mail [wras@tceq.texas.gov](mailto:wras@tceq.texas.gov). The model plans can also be downloaded from the TCEQ webpage. Please use the most up-to-date plan documents available on the webpage.*

### 1. Water Conservation Plans

- a. The following applications must include a completed Water Conservation Plan (30 TAC § 295.9) for each use specified in 30 TAC, Chapter 288 (municipal, industrial or mining, agriculture - including irrigation, wholesale):

1. Request for a new appropriation or use of State Water.
2. Request to amend water right to increase appropriation of State Water.
3. Request to amend water right to extend a term.
4. Request to amend water right to change a place of use.  
*\*does not apply to a request to expand irrigation acreage to adjacent tracts.*
5. Request to amend water right to change the purpose of use.  
*\*applicant need only address new uses.*
6. Request for bed and banks under TWC § 11.042(c), when the source water is State Water  
*\*including return flows, contract water, or other State Water.*

- b. If Applicant is requesting any authorization in section (1)(a) above, indicate each use for which Applicant is submitting a Water Conservation Plan as an attachment:

1. \_\_\_\_Municipal Use. See 30 TAC § 288.2. \*\*
2.  Industrial or Mining Use. See 30 TAC § 288.3.
3. \_\_\_\_Agricultural Use, including irrigation. See 30 TAC § 288.4.
4. \_\_\_\_Wholesale Water Suppliers. See 30 TAC § 288.5. \*\*

\*\*If Applicant is a water supplier, Applicant must also submit documentation of adoption of the plan. Documentation may include an ordinance, resolution, or tariff, etc. See 30 TAC §§ 288.2(a)(1)(J)(i) and 288.5(1)(H). Applicant has submitted such documentation with each water conservation plan? Y / N

- c. Water conservation plans submitted with an application must also include data and information which: supports applicant's proposed use with consideration of the plan's water conservation goals; evaluates conservation as an alternative to the proposed

appropriation; and evaluates any other feasible alternative to new water development. See 30 TAC § 288.7.

Applicant has included this information in each applicable plan? (Y) / N

See Supplemental Text Section 3.9.1 and 4.0, Attachment 3

## 2. Drought Contingency Plans

- a. A drought contingency plan is also required for the following entities if Applicant is requesting any of the authorizations in section (1) (a) above - indicate each that applies:
1. \_\_\_\_ Municipal Uses by public water suppliers. See 30 TAC § 288.20.
  2. \_\_\_\_ Irrigation Use/ Irrigation water suppliers. See 30 TAC § 288.21.
  3. \_\_\_\_ Wholesale Water Suppliers. See 30 TAC § 288.22.
- b. If Applicant must submit a plan under section 2(a) above, Applicant has also submitted documentation of adoption of drought contingency plan (*ordinance, resolution, or tariff, etc.* See 30 TAC § 288.30) Y / N

N/A - Drought Contingency Plan not required, see Supplemental Text Section 3.9.2

## WORKSHEET 7.0

### ACCOUNTING PLAN INFORMATION WORKSHEET

The following information provides guidance on when an Accounting Plan may be required for certain applications and if so, what information should be provided. An accounting plan can either be very simple such as keeping records of gage flows, discharges, and diversions; or, more complex depending on the requests in the application. Contact the Surface Water Availability Team at 512-239-4691 for information about accounting plan requirements, if any, for your application. **Instructions, Page 34.**

#### 1. Is Accounting Plan Required

Accounting Plans are generally required:

- For applications that request authorization to divert large amounts of water from a single point where multiple diversion rates, priority dates, and water rights can also divert from that point;
- For applications for new major water supply reservoirs;
- For applications that amend a water right where an accounting plan is already required, if the amendment would require changes to the accounting plan;
- For applications with complex environmental flow requirements;
- For applications with an alternate source of water where the water is conveyed and diverted; and
- For reuse applications.

#### 2. Accounting Plan Requirements

- a. A **text file** that includes:
  1. an introduction explaining the water rights and what they authorize;
  2. an explanation of the fields in the accounting plan spreadsheet including how they are calculated and the source of the data;
  3. for accounting plans that include multiple priority dates and authorizations, a section that discusses how water is accounted for by priority date and which water is subject to a priority call by whom; and
  4. Should provide a summary of all sources of water.
  
- b. A **spreadsheet** that includes:
  1. Basic daily data such as diversions, deliveries, compliance with any instream flow requirements, return flows discharged and diverted and reservoir content;
  2. Method for accounting for inflows if needed;
  3. Reporting of all water use from all authorizations, both existing and proposed;
  4. An accounting for all sources of water;
  5. An accounting of water by priority date;
  6. For bed and banks applications, the accounting plan must track the discharged water from the point of delivery to the final point of diversion;
  7. Accounting for conveyance losses;
  8. Evaporation losses if the water will be stored in or transported through a reservoir. Include changes in evaporation losses and a method for measuring reservoir content resulting from the discharge of additional water into the reservoir;
  9. An accounting for spills of other water added to the reservoir; and
  10. Calculation of the amount of drawdown resulting from diversion by junior rights or diversions of other water discharged into and then stored in the reservoir.

## WORKSHEET 8.0 CALCULATION OF FEES

This worksheet is for calculating required application fees. Applications are not Administratively Complete until all required fees are received. **Instructions, Page. 34**

### 1. NEW APPROPRIATION

	Description	Amount (\$)
<b>Filing Fee</b>	Circle fee correlating to the total amount of water* requested for any new appropriation and/or impoundment. Amount should match total on Worksheet 1, Section 1. Enter corresponding fee under <b>Amount (\$)</b> .	\$250.00
	<u>In Acre-Feet</u>	
	a. Less than 100	\$100.00
	b. 100 - 5,000	\$250.00
	c. 5,001 - 10,000	\$500.00
	d. 10,001 - 250,000	\$1,000.00
	e. More than 250,000	\$2,000.00
<b>Recording Fee</b>		\$25.00
<b>Agriculture Use Fee</b>	<i>Only for those with an Irrigation Use.</i> Multiply 50¢ x _____ Number of acres that will be irrigated with State Water. **	\$0
<b>Use Fee</b>	<i>Required for all Use Types, excluding Irrigation Use.</i> Multiply \$1.00 x <u>500</u> Maximum annual diversion of State Water in acre-feet. **	\$300.00
<b>Recreational Storage Fee</b>	<i>Only for those with Recreational Storage.</i> Multiply \$1.00 x _____ acre-feet of in-place Recreational Use State Water to be stored at normal max operating level.	\$0
<b>Storage Fee</b>	<i>Only for those with Storage, excluding Recreational Storage.</i> Multiply 50¢ x _____ acre-feet of State Water to be stored at normal max operating level.	\$0
<b>Mailed Notice</b>	Cost of mailed notice to all water rights in the basin. Contact Staff to determine the amount (512) 239-4691.	\$113.74
<b>TOTAL</b>		<b>\$688.74</b>

### 2. AMENDMENT OR SEVER AND COMBINE

	Description	Amount (\$)
<b>Filing Fee</b>	Amendment: \$100	
	<b>OR</b> Sever and Combine: \$100 x ___ of water rights to combine	
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$ 0</b>

### 3. BED AND BANKS

	Description	Amount (\$)
<b>Filing Fee</b>		\$100.00
<b>Recording Fee</b>		\$12.50
<b>Mailed Notice</b>	Additional notice fee to be determined once application is submitted.	
<b>TOTAL INCLUDED</b>		<b>\$ 0</b>



# Surface Water Rights Permit Application – Supplemental Information

## Vopak Terminal Deer Park South

Harris County, Texas

February 2020

PREPARED FOR:

**Vopak Moda Houston, L.L.C.**

Houston, Texas

TCEQ PROJECT: TBD

SPIRIT PROJECT: 19400.00A

---

FOR SPIRIT ENVIRONMENTAL:

Handwritten signature of Chase Campbell.

Chase Campbell

Handwritten signature of Brittany Tones.

Brittany Tones

OFFICE: 281-664-2490

FAX: 281-664-2491

20465 State Highway 249, Suite 300  
Houston, TX 77070

spiritenv.com

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## 1.0 Introduction

Vopak Moda Houston, L.L.C. (“VMH”) is building the Vopak Terminal Deer Park South Facility (“the site”) located in Harris County, Texas. The site will store anhydrous ammonia in two (2) 15,000-ton refrigerated, double-walled storage tanks. The tanks will receive liquid anhydrous ammonia from refrigerated ocean vessels and send the ammonia offsite via an underground pipeline.

The purpose of this document is to provide the necessary information to obtain a surface water rights permit from the TCEQ to provide the site with adequate firewater in case of an emergency. Additionally, the water would be used to test the firewater pump system for mechanical integrity and leaks.

Sections 2.0 through 4.0 of this document contain supporting information for this application. Section 2.0 provides supplemental information in support of the Administrative Information Report (Form: TCEQ-10214B). Section 3.0 provides supplemental information in support of the Technical Information Report (Form: TCEQ-10214C) and its accompanying worksheets. Section 4.0 contains attachments, which includes maps detailing application features (i.e., diversion points, property boundaries, river basins, water bodies, etc.), photographs of proposed diversion points and pump locations, a Water Conservation Plan, and a site property deed.

## 2.0 Administrative Information Checklist

The Administrative Information Checklist is required to be submitted for each application. This section provides supplemental information in support of the Administrative Information Checklist submitted with this application package.

### 2.1 Summary of Request

The site will be constructed to store and transfer anhydrous ammonia. Additionally, VMH will construct and install firewater pumps to be used in case of an emergency. As such, VMH is applying for a new appropriation of State Water to provide the site with adequate firewater in case of an emergency and for periodic mechanical integrity and leak testing of the firewater pump system.

The site will have two (2) firewater pumps that will be used to divert a quantity not to exceed 300 Acre-Feet (“AF”) of water per year from Buffalo Bayou (Segment Identification Number: 1006) located in the San Jacinto River Basin. The pumps will divert water at a rate not to exceed 15,000 gallons per minute (“gpm”) per pump. Since the use of water will be on an “as needed” basis, usage will fluctuate year over year based on emergency occurrences. VMH will take every precautionary measure to ensure that emergency situations do not occur; however, VMH wishes to permit the site with enough water in case it is needed for an emergency. VMH must test the firewater pump system based on manufacturer specifications for mechanical integrity and leaks. As such, the site will need to run the pumps for approximately 30 minutes per week equating to approximately 12 AF per month (144 AF per year). With this application, VMH is requesting 300 AF per year to ensure sufficient water is permitted to account for testing of pump system and emergency situations. The site will not be storing water; the appropriated water will be released directly back to Buffalo Bayou.

Section 3.2 provides further information regarding the quantity, purpose, and place of use of the new appropriation of State Water. Section 3.6 provides detailed information regarding the diversion points.

## **2.2 Applicant Information – Signatory Requirements 30 Texas Administrative Code §295.14**

Title 30 Texas Administrative Code (“TAC”) §295.14 states that if the application is by a partnership, the application shall be signed by one (1) of the general partners, or if the applicant is a partnership doing business under an assumed name, it shall attach to the application an assumed name certificate from the county clerk of the county in which the principal place of business is located. This application has been signed by Jonathan Ackerman, a general partner of Vopak Moda Houston, LLC; therefore, meets the signatory requirements of 30 TAC §295.14.

## 3.0 Technical Information Report

The Technical Information Report is required for applications for new or amended water rights. This section provides supplemental information in support of the Technical Information Report submitted with this application package.

### 3.1 Addendum Regarding the State and Regional Water Plans

The state and regional water plans generally do not address every possible use in individual water rights. This application is consistent with the 2016 Region H Water Plan and the 2017 State Water Plan because the proposed water use in this application (industry/safety) does not conflict with any of the provisions of these Plans.

### 3.2 Worksheet 1.0: Quantity, Purpose, and Place of Use

This worksheet provides information regarding quantity, purpose, and place of use for new or additional appropriations of State Water or Bed and Banks authorizations. As stated in Worksheet 1.0 of the Technical Information Report, VMH is seeking authorization for a new appropriation of State Water in the amount of and not to exceed 300 AF of water per year. The water will be diverted from and returned to Buffalo Bayou located in the San Jacinto River Basin. The purpose and place of use for the water is detailed below:

#### **Purpose of Use:**

The new appropriation of State Water requested with this application will be for emergency firewater, Industrial Use. VMH will use the water for the following two (2) reasons:

- **Firewater:** Water will be used in case of an emergency at the site.
- **Firewater pump system flow tests:** The firewater pump system will be periodically tested for mechanical integrity and leaks.

#### **Place of Use:**

The water will be used on-site at the site located in Harris County, Texas. Scaled area maps and photographs that show the location of the site and proposed diversion points are provided in Section 3.12, Attachments 1 and 2.

### **3.3 Worksheet 1.1: Interbasin Transfers**

Worksheet 1.1 applies to new or amended water rights which request to transfer State Water from its river basin of origin to use in a different river basin. A river basin is defined and designated by the Texas Water Development Board (“TWDB”) by rule pursuant to Texas Water Code (“TWC”) §16.051. With this application, VMH is not requesting to transfer State Water between river basins; therefore, this worksheet is not required.

### **3.4 Worksheet 1.2: Notice. “The Marshall Criteria”**

Worksheet 1.2 is intended to assist the TCEQ in determining notice required for certain amendments to existing water rights permits. This application is for a new appropriation of State Water; therefore, this worksheet is not required.

### **3.5 Worksheet 2.0: Impoundment/Dam Information**

Worksheet 2.0 is required for an impoundment, reservoir, and/or dam. With this application, VMH is not intending to use or construct an impoundment or dam; therefore, this worksheet is not required.

### **3.6 Worksheet 3.0: Diversion Point (Or Diversion Reach) Information**

Worksheet 3.0 is required for each diversion point requested. VMH is seeking to divert water from two (2) proposed diversion points. Table 3-1 provides a summary of the proposed diversion points and diversion rates. The following subsections provide supplemental information in support of Worksheet 3.0 for all proposed diversion points. According to Worksheet 3.0, TCEQ staff will calculate the drainage area at each diversion point. VMH will provide any additional information necessary for TCEQ staff to complete the drainage calculations.

**Table 3-1 Summary of Proposed Diversion Point Locations and Diversion Rates**

<b>Diversion Point No.</b>	<b>Diversion Method</b>	<b>Latitude/Longitude</b>	<b>Watercourse</b>	<b>Maximum Rate of Diversion (gpm)</b>	<b>Plan of Diversion</b>
FP-1	Firewater Pump	29.741959 / -95.103410	Buffalo Bayou	15,000	See Section 3.6.1
FP-2	Firewater Pump	29.741909 / -95.103353	Buffalo Bayou	15,000	See Section 3.6.2



### **3.6.1 Diversion Point: FP-1**

Firewater Pump 1 (“FWPUMP1”) is equipped with a suction line that will extend out into Buffalo Bayou (Proposed Diversion Point No.: FP-1) and will divert water on an “as needed” basis at a rate not to exceed 15,000 gallons per minute (“gpm”). The plan of diversion for Diversion Point No. FP-1 is reflected in the site maps located in Section 3.12, Attachment 1.

### **3.6.2 Diversion Point: FP-2**

Firewater Pump 2 (“FWPUMP2”) is equipped with a suction line that will extend out into Buffalo Bayou (Proposed Diversion Point No.: FP-2) and will divert water on an “as needed” basis at a rate not to exceed 15,000 gallons per minute (“gpm”). The plan of diversion for Diversion Point No. FP-2 is reflected in the site maps located in Section 3.12, Attachment 1.

## **3.7 Worksheet 4.0: Discharge Information**

Worksheet 4.0 is required for any requested authorization to discharge water into a State Watercourse for conveyance and later withdrawal or in-place use. VMH plans to release the appropriated water directly back to Buffalo Bayou out of the site’s future Texas Pollutant Discharge Elimination System (“TPDES”) permitted outfall; therefore, this worksheet is not required. There are currently no TPDES permitted outfalls at this site since construction has not begun; therefore, no outfall is indicated on the site map or plot plans. Locations of outfalls will be subject to change based on the construction process. VMH will follow permit requirements when they become applicable to control the potential for illicit discharges at this site.

## **3.8 Worksheet 5.0: Environmental Information**

Worksheet 5.0 is required for new appropriations of water in the Canadian, Red, Sulphur, and Cypress Creek Basins. The worksheet is also required in all basins for requests to change a diversion point, applications using an alternate source of water, and bed and banks applications. VMH is not requesting a new appropriation of water in the aforementioned basins. Additionally, VMH is not requesting to change a diversion point, apply for an alternate source of water, or apply for a bed and banks application; therefore, this worksheet is not required.

## **3.9 Worksheet 6.0: Water Conservation/Drought Contingency Plans**

Worksheet 6.0 is intended to assist applicants in determining whether a Water Conservation Plan and/or Drought Contingency Plan is required and to specify the requirements for the plans. The following subsections detail the requirements pertaining to VMH.

### **3.9.1 Water Conservation Plan**

A Water Conservation Plan must be completed for a request for a new appropriation or use of State Water.

Part III of the Water Conservation Plan must include information which supports the applicant's proposed use of water with consideration of water conservation goals and evaluates conservation as an alternative to the proposed appropriation. It is the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists. VMH is requesting to divert 300 AF of water, of which, 98% will be returned directly to the water body it was diverted from. VMH has taken conservation into account through development of efficient use and reuse practices stated within the Water Conservation Plan. Due to the amount of water needed for emergency firewater pump system testing, no feasible alternatives exist to the proposed appropriation and the requested amount of appropriation is necessary and reasonable to ensure the facility has adequate water for testing and emergency situations.

A full completed Water Conservation Plan can be found in Section 3.12, Attachment 3 of this application.

### **3.9.2 Drought Contingency Plan**

A Drought Contingency Plan is required for entities that are requesting any authorization in section (1)(a) of Worksheet 6.0. VMH is seeking authorization in section (1)(a); however, the requested authorization is for industrial use, which does not fall under the municipal, irrigation, or wholesale categories listed on the Drought Contingency Plan requirements. Therefore, a Drought Contingency Plan is not required for this application.

### **3.10 Worksheet 7.0: Accounting Plan Information Worksheet**

Accounting Plans are generally required for applications that request authorization to divert large amounts of water from a single point where multiple diversion rates, priority dates, and water rights can also divert from that point. With this application, VMH is requesting 300 AF per year and will be diverting the water from Buffalo Bayou; therefore, this project does not require an accounting plan.

### **3.11 Worksheet 8.0: Calculation of Fees**

Worksheet 8.0 is used for calculating required application fees. Below is a list of the applicable application fees for this requested authorization:

- Filing Fee: \$250.00
- Recording Fee: \$25.00
- Use Fee: \$300.00 (\$1.00 x 300 AF requested)
- Mailed Notice: \$113.74
- Total: \$688.74

The requested appropriation of State Water will not be used for irrigation and will not be stored onsite; therefore, the Agriculture Use Fee, Storage Fee, and Recreational Storage Fee are not included in the calculation of fees above.

### **3.12 Certificate of Conversion and Property Special Warranty Deeds**

The title ownership of all tracts of land for the facility in this proposed application are held by Vopak Moda Houston LLC. A copy of the Certificate of Conversion that changes the name of “Vopak Terminal Deer Park West Inc.” to “Vopak Moda Houston LLC” can be found in Section 4.0, Attachment 4. Additionally, the Property Special Warranty Deeds for all tracts of land can also be found in Section 4.0, Attachment 4. No letter of consent for use of land is necessary with this application since all tracts of land are owned by the applicant.

## 4.0 Attachments

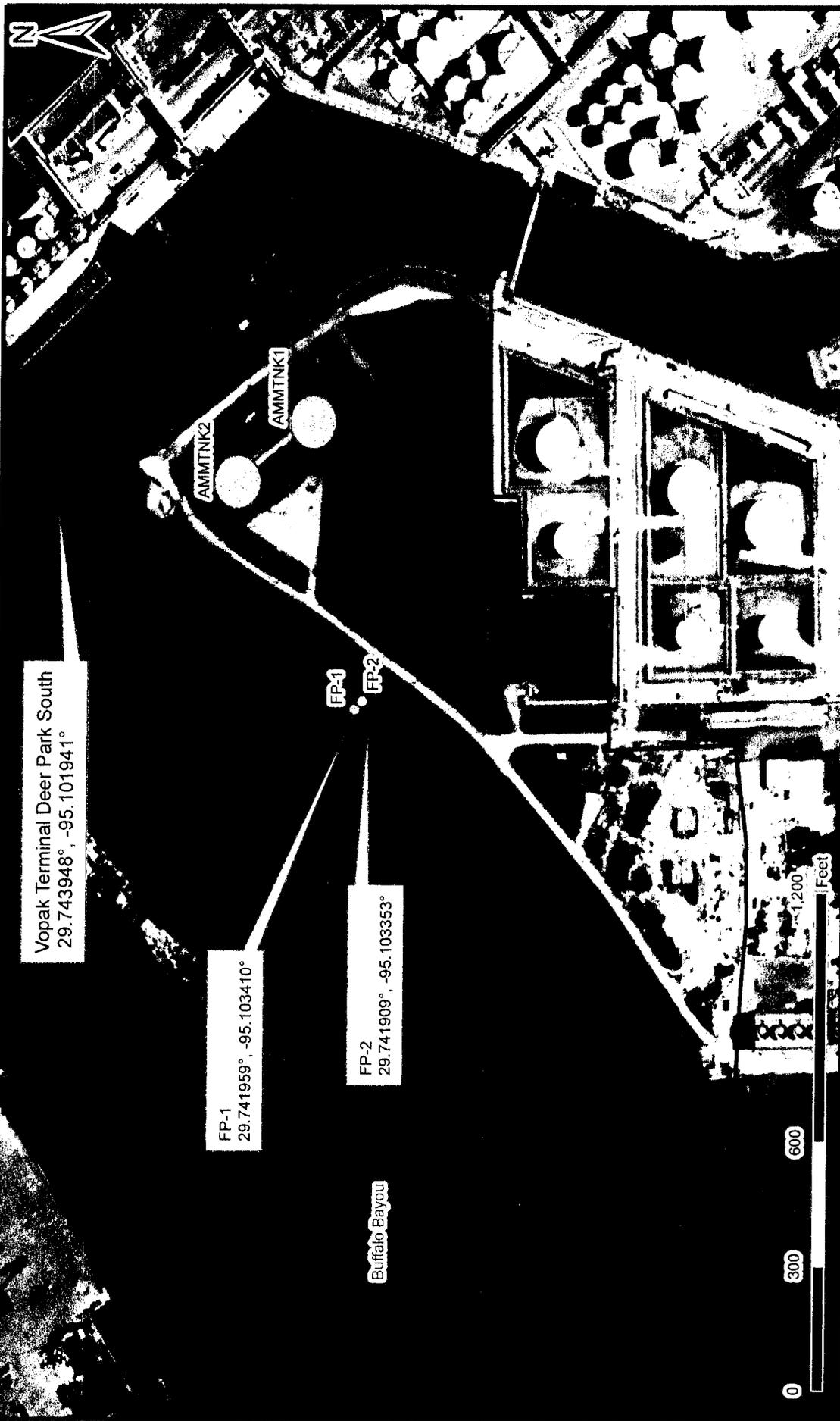
The following information is included in this section:

1. Maps and Plot Plans
2. Photo Log
3. Water Conservation Plan (Form TCEQ-10213)
4. Certificate of Conversion and Property Special Warranty Deed
5. Corporate Authorization for Duly Authorized Representative

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## **Attachment 1 – Maps and Plot Plans**





Vopak Terminal Deer Park South  
 29.743948°, -95.101941°

FP-1  
 29.741959°, -95.103410°

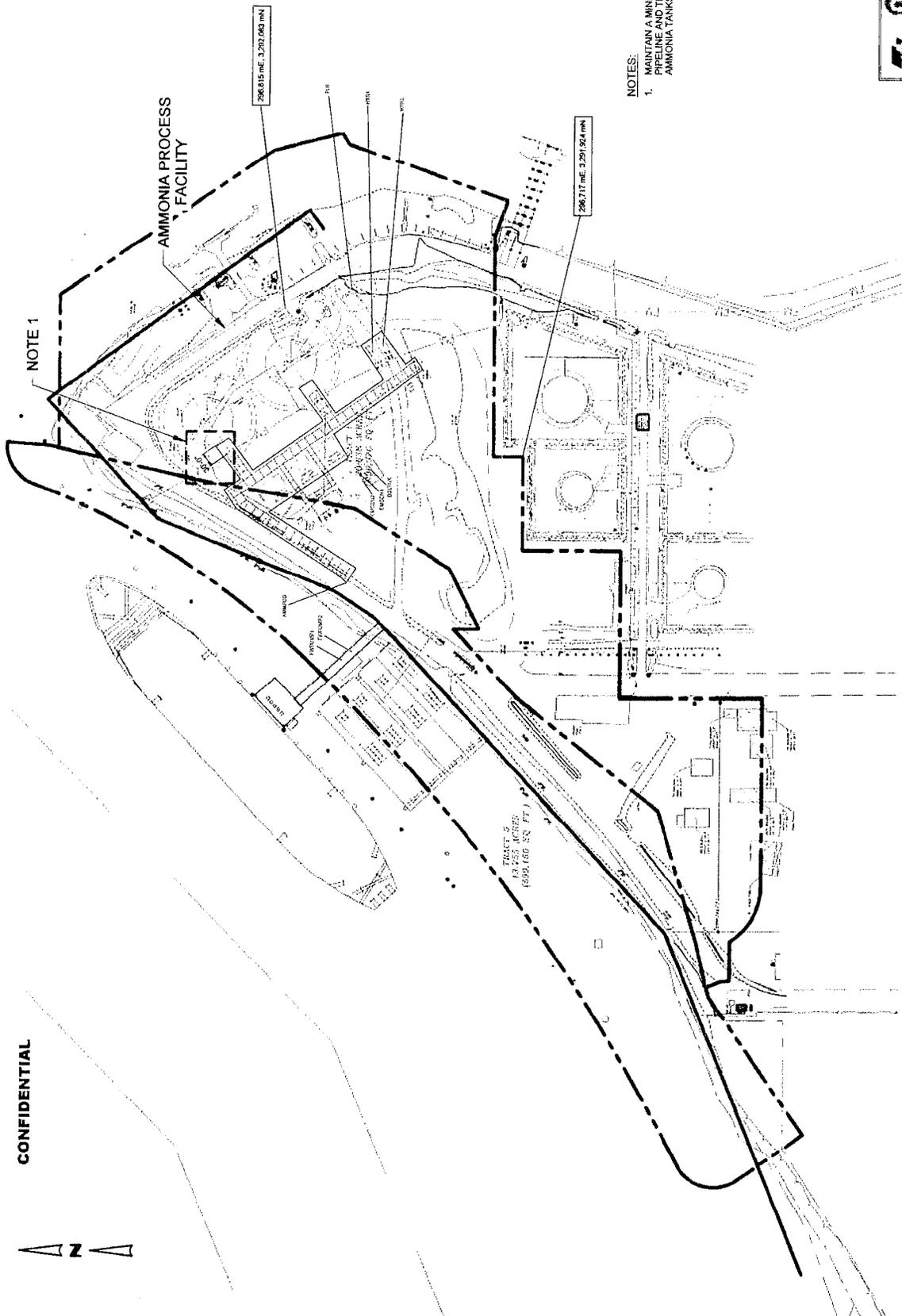
FP-2  
 29.741909°, -95.103353°

Buffalo Bayou



<p>Figure No.: 1</p>	<p>VOPAK TERMINAL DEER PARK SOUTH          AERIAL OVERVIEW MAP</p>	<p><b>Legend</b></p> <ul style="list-style-type: none"> <li> Site Boundary</li> <li> Ammonia Tanks</li> <li> Proposed Diversion Points</li> </ul>
<p>Date: 10/1/2019</p>	<p>VOPAK MODA HOUSTON LLC          HARRIS COUNTY, DEER PARK</p>	<p></p>
<p>Project No.: 19400.00A</p>	<p></p>	<p>20465 State Highway 249, Suite 300          Houston, TX 77070</p>
<p>Drawn By: AHasse</p>	<p><b>Note:</b> This is not a          Property Boundary Survey</p>	<p>20465 State Highway 249, Suite 300          Houston, TX 77070</p>

CONFIDENTIAL



05/17/18  
**PRELIMINARY**

**NOTES:**

- 1. MAINTAIN A MINIMUM OF 30 FEET FROM CENTERLINE PIPELINE AND THE FOUNDATION AND/OR SHELL OF AMMONIA TANKS.



**VOPAK MODA HOUSTON, LLC  
AMMONIA AND AMMONIA FACILITY**

DATE	DESCRIPTION	BY	SCALE	DATE	BY	SCALE	DATE	BY	SCALE
	ISSUE FOR CONSTRUCTION	A	1/4" = 1'-0"	05/17/18	JV	1/4" = 1'-0"	05/17/18	JV	1/4" = 1'-0"
	ISSUE FOR PERMITS	B	1/4" = 1'-0"	04/11/18	JV	1/4" = 1'-0"	04/11/18	JV	1/4" = 1'-0"
	ISSUE FOR AMMONIA TANKS, KNOX TOWER, AND AMMONIA FACILITY	C	1/4" = 1'-0"	03/12/18	JV	1/4" = 1'-0"	03/12/18	JV	1/4" = 1'-0"
	ISSUE FOR DRINKING WATER	D	1/4" = 1'-0"	02/27/18	JV	1/4" = 1'-0"	02/27/18	JV	1/4" = 1'-0"

102-2-10 D

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## **Attachment 2 – Photo Log**



Photo 1: View facing west to Buffalo Bayou at the proposed diversion points



Photo 2: View facing southwest to Buffalo Bayou at the proposed diversion points



Photo 3: View facing northwest to Buffalo Bayou at the proposed diversion points



Photo 4: View of road traveling from north to diversion point locations



Photo 5: View of road traveling from south to diversion point locations



Photo 6: View of proposed general location of tanks northeast of diversion point locations



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## **Attachment 3 – Water Conservation Plan**





# Texas Commission on Environmental Quality

Water Availability Division

MC-160, P.O. Box 13087 Austin, Texas 78711-3087

Telephone (512) 239-4691, FAX (512) 239-2214

## Industrial Water Conservation Plan

This form is provided to assist entities in developing a water conservation plan for industrial water use. If you need assistance in completing this form or in developing your plan, please contact the Conservation staff of the Resource Protection Team in the Water Availability Division at (512) 239-4691.

*Additional resources such as best management practices (BMPs) are available on the Texas Water Development Board's website <http://www.twdb.texas.gov/conservation/BMPs/index.asp>. The practices are broken out into sectors such as Agriculture, Commercial and Institutional, Industrial, Municipal and Wholesale. BMPs are voluntary measures that water users use to develop the required components of Title 30, Texas Administrative Code, Chapter 288. BMPs can also be implemented in addition to the rule requirements to achieve water conservation goals.*

### Contact Information

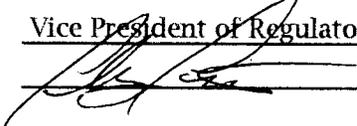
Name: Vopak Moda Houston, LLC

Address: 6103 State Highway 225, Deer Park, TX 77536

Telephone Number: (832) 930-4838 Fax: ( )

Form Completed By: Clayton Curtis

Title: Vice President of Regulatory Affairs /Moda Midstream, LLC

Signature:  Date: 1/31/2020

A water conservation plan for industrial use must include the following requirements (as detailed in 30 TAC Section 288.3). If the plan does not provide information for each requirement, you must include in the plan an explanation of why the requirement is not applicable.

### I. BACKGROUND DATA

#### A. Water Use

1. Annual diversion appropriated or requested (in acre-feet):

300

2. Maximum diversion rate (cfs):

66.84

#### B. Water Sources

1. Please indicate the maximum or average annual amounts of water currently used and anticipated to be used (in acre-feet) for industrial purposes:

<i>Source</i>	<i>Water Right No.(s)</i>	<i>Current Use</i>	<i>Anticipated Use</i>
Surface Water	_____	_____	300
Groundwater	_____	_____	_____
Purchased	_____	_____	_____
<b>Total</b>	_____	_____	300

2. How was the surface water data and/or groundwater data provided in B(1) obtained?

Master meter \_\_\_\_\_ ; Customer meter \_\_\_\_\_ ; Estimated ; Other \_\_\_\_\_

3. Was purchased water raw or treated? N/A - Non-purchased raw water

If both, % raw \_\_\_\_\_ ; % treated \_\_\_\_\_ ; and Supplier(s) \_\_\_\_\_

*C. Industrial Information*

1. Major product(s) or service(s) produced by applicant:

VMH will receive, store, and ship anhydrous ammonia.

2. North American Industry Classification System (NAICS):

488210 493110

**II. WATER USE AND CONSERVATION PRACTICES**

*A. Water Use in Industrial Processes*

<i>Production Use</i>	<i>% Groundwater</i>	<i>% Surface Water</i>	<i>% Saline Water</i>	<i>% Treated Water</i>	<i>Water Use (in acre-ft)</i>
Cooling, condensing, & refrigeration	_____	_____	_____	_____	_____
Processing, washing, transport	_____	_____	_____	_____	_____
Boiler feed	_____	_____	_____	_____	_____
Incorporated into product	_____	_____	_____	_____	_____
Other	_____	100%	_____	_____	150-300 AF

<i>Facility Use</i>	<i>% Groundwater</i>	<i>% Surface Water</i>	<i>% Saline Water</i>	<i>% Treated Water</i>	<i>Water Use (in acre-ft)</i>
Cooling tower(s)	_____	_____	_____	_____	_____
Pond(s)	_____	_____	_____	_____	_____
Once through	_____	_____	_____	_____	_____
Sanitary & drinking water	_____	_____	_____	_____	_____
Irrigation & dust control	_____	_____	_____	_____	_____

1. Was fresh water recirculated at this facility?  Yes  No

2. Provide a detailed description of how the water will be utilized in the industrial process.

The water will be used to test the firewater pump system for mechanical integrity and leaks. The water will be pulled from Buffalo Bayou (Sement Identification Number: 1006). Once testing is complete, the water will be returned directly to the bay. Additionally, the water will be used for emergency situations.

3. Estimate the quantity of water consumed in production processes and is therefore unavailable for reuse, discharge, or other means of disposal.

An estimated 2% of water pulled is anticipated to be lost due to evaporation. 98% of water will be returned to bay.

4. Monthly water consumption for previous year (in acre-feet).

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	_____	_____	_____
February	_____	_____	_____
March	_____	_____	_____
April	_____	_____	_____
May	_____	_____	_____
June	_____	_____	_____

July			
August			
September			
October			
November			
December			
<b>Totals</b>			

5. Projected monthly water consumption for next year (in acre-feet).

<i>Month</i>	<i>Diversion Amount</i>	<i>% of Water Returned (If Any)</i>	<i>Monthly Consumption</i>
January	12.5	98%	0.25
February	12.5	98%	0.25
March	12.5	98%	0.25
April	12.5	98%	0.25
May	33.2	98%	0.25
June	12.5	98%	0.25
July	12.5	98%	0.25
August	12.5	98%	0.25
September	12.5	98%	0.25
October	12.5	98%	0.25
November	12.5	98%	0.25
December	12.5	98%	0.25
<b>Totals</b>	150	98%	3

*B. Specific and Quantified Conservation Goal*

Water conservation goals for the industrial sector are generally established either for (1) the amount of water recycled, (2) the amount of water reused, or (3) the amount of water not lost or consumed, and therefore is available for return flow.

1. Water conservation goal (water use efficiency measure)

Type of goal(s):

% reused water

98 % of water not consumed and therefore returned

1% by using the least amount of time and water as required per manufacturer specification for testing the firewater pump system and repairing leaks in a timely manner. Additionally, VMH will take necessary precautions to avoid emergency situations where water might be required. Other (specify)

2. Provide specific, quantified 5-year and 10-year targets for water savings and the basis for development of such goals for this water use/facility.

VMH will ensure that water used for mechanical integrity and leak testing of the firewater pump system will only be conducted using the least amount of time and water as required by manufacturer specification. This will ensure that the tests are not pulling more water than necessary. Additionally, VMH will monitor the pump system for potential leaks and will repair discovered leaks in a timely manner.

The percentage of surface water savings proposed by limiting water use and fixing leaks for the five (5) year goal is a water savings of 5%; ten (10) year goal is a water savings of 10%.

Quantified 5-year and 10-year targets for water savings:

- a. 5-year goal: 5%
- b. 10-year goal: 10%

3. Describe the practice(s) and/or device(s) within an accuracy of plus or minus 5% used to measure and account for the amount of water diverted from the supply source.

VMH will monitor pumping capacity rates and keep a log of water being diverted. This practice will measure the amount of water diverted from the supply source within an accuracy of plus or minus 5%.

4. Provide a description of the leak-detection and repair, and water-loss accounting measures used.

Periodic visual inspection of firewater pump system lines will be made while water is being diverted. Should leaks be discovered, repairs will be made promptly to reduce water loss.

5. Describe the application of state-of-the-art equipment and/or process modifications used to improve water use efficiency.

Water used for firewater pump mechanical and leak testing will be conducted using the least amount of time and water as required by manufacturer specification.

Leaks will be repaired promptly to reduce water loss.

6. Describe any other water conservation practice, method, or technique which the user shows to be appropriate for achieving the stated goal or goals of the water conservation plan:

Periodic monitoring of pump system for leaks will ensure that the maximum amount of water diverted will be returned.

### **III. Water Conservation Plans submitted with a Water Right Application for New or Additional State Water**

Water Conservation Plans submitted with a water right application for New or Additional State Water must include data and information which:

1. support the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;
2. evaluates conservation as an alternative to the proposed appropriation; and
3. evaluates any other feasible alternative to new water development including, but not limited to, waste prevention, recycling and reuse, water transfer and marketing, regionalization, and optimum water management practices and procedures.

Additionally, it shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

See Supplemental Text Section 3.9.1

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## **Attachment 4 – Certificate of Conversion and Property Special Warranty Deeds**



# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE CORPORATION UNDER THE NAME OF "VOPAK TERMINAL DEER PARK WEST INC." TO A DELAWARE LIMITED LIABILITY COMPANY, CHANGING ITS NAME FROM "VOPAK TERMINAL DEER PARK WEST INC." TO "VOPAK MODA HOUSTON LLC", FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF FEBRUARY, A.D. 2016, AT 3:52 O`CLOCK P.M.



  
Jeffrey W. Bullock, Secretary of State

5318266 8100V  
SR# 20161238502

Authentication: 201897246  
Date: 02-26-16

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

**STATE OF DELAWARE  
CERTIFICATE OF CONVERSION  
FROM A CORPORATION TO A  
LIMITED LIABILITY COMPANY**

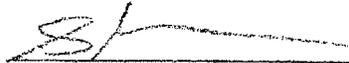
Pursuant to the provisions of Section 18-214 of the Delaware Limited Liability Company Act ("DLLCA"), Vopak Terminal Deer Park West Inc., a Delaware corporation (the "Company"), hereby executes this Certificate of Conversion (this "Certificate") for the purpose of converting the Company from a Delaware corporation to a Delaware limited liability company under the laws of Delaware and, in connection therewith, certifies as follows:

1. The date the Company was first formed is April 12, 2013.
2. The jurisdiction where the Company was first formed is Delaware.
3. The jurisdiction of the Company immediately prior to the filing of this Certificate was Delaware.
4. The name of the Company immediately prior to filing this Certificate was "Vopak Terminal Deer Park West Inc."
5. The type of entity of the Company immediately prior to the filing of this Certificate was a corporation.
6. The name of the limited liability company as set forth in the certificate of formation to be filed simultaneously herewith in accordance with Section 18-214(b) of the DLLCA is "Vopak Moda Houston LLC".

IN WITNESS WHEREOF, the undersigned has executed this Certificate on  
February 24, 2016.

**VOPAK TERMINAL DEER PARK WEST INC.**

By:

  
\_\_\_\_\_

Name: Scott B. Grossman

Title: Authorized Person

[Signature Page to Certificate of Conversion]

# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "VOPAK MODA HOUSTON LLC" FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF FEBRUARY, A.D. 2016, AT 3:52 O'CLOCK P.M.



  
Jeffrey W. Bullock, Secretary of State

5318266 8100V  
SR# 20161238502

Authentication: 201897246  
Date: 02-26-16

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 03:52 PM 02/26/2016  
FILED 03:52 PM 02/26/2016  
SR 20161238502 - File Number 5318266

**STATE OF DELAWARE  
LIMITED LIABILITY COMPANY  
CERTIFICATE OF FORMATION  
OF  
VOPAK MODA HOUSTON LLC**

This Certificate of Formation of Vopak Moda Houston LLC is executed by the undersigned for the purpose of forming a limited liability company pursuant to Section 18-201 of the Limited Liability Company Act of the State of Delaware.

1. The name of the limited liability company formed hereby is Vopak Moda Houston LLC.
2. The address of its registered office in the State of Delaware is 1675 South State Street, Suite B, Dover, DE 19901, Kent County. The name of its registered agent for service of process at such address is Capitol Services, Inc.

IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Formation on February 26, 2016.

**VOPAK MODA HOUSTON LLC**

By:   
Name: Scott B. Grossman  
Title: Authorized Person

Accommodation Recording Only  
No Title Insurance Policies Issued  
No Title Examination Performed

**SPECIAL WARRANTY DEED**

**DATE:** April 12, 2013

**GRANTOR:** Vopak Terminal Deer Park Inc.

**GRANTOR'S MAILING ADDRESS:** 2759 Independence Parkway, Deer Park, Texas 77536, County of Harris

**GRANTEE:** Vopak Terminal Deer Park West Inc.

1EE

**GRANTEE'S MAILING ADDRESS:** 2000 West Loop South, Suite 2200, Houston, Texas 77027, County of Harris

**CONSIDERATION:** sum of Ten Dollars (\$10.00) and other valuable considerations

**PROPERTY:** See attached Exhibits A and B

**EXCEPTIONS TO CONVEYANCE AND WARRANTY:**

This conveyance is made and accepted subject to (i) any and all restrictions, covenants, conditions, easements, rights of way, prescriptive rights, whether of record or not, outstanding mineral and royalty interests, reservations, and maintenance charges not now due and the liens securing said charges, if any, affecting the Property and now of record in the office of the County Clerk of Harris County, to the extent, but only to the extent, the same are now in full force and effect and relate to said Property, (ii) rights of adjoining owners in any walls and fences situated on a common boundary, any encroachments or overlapping improvements; and (iii) any and all laws, ordinances and governmental regulations now applicable to and enforceable against said Property.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim in by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

VD  
X

R 045 - 07 - 1248

ER 045 - 07 - 1249

When the context requires, singular nouns and pronouns include the plural.

IN WITNESS WHEREAS, this instrument is executed this 24<sup>th</sup> day of May, 2013.

VOPAK TERMINAL DEER PARK INC.

10R

By: *Clinton Roeder*

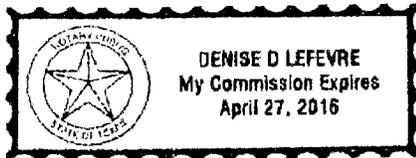
Name: Clinton Roeder

Title: Vice President of Finance and Control

STATE OF TEXAS  
COUNTY OF HARRIS

This instrument was acknowledged before me on the 24<sup>th</sup> day of May, 2013 by Clinton Roeder, Vice President of Finance and Control of VOPAK TERMINAL DEER PARK INC., a Delaware corporation, on behalf of said corporation.

*Denise D. Lefevre*  
Notary Public in and for the State of Texas



After filing please return to:

Vopak North America Inc.  
Legal Department  
2000 West Loop South, Suite 1550  
Houston, Texas 77027

TR 045 - 07 - 1250

EXHIBIT A

ER 045 - 07 - 1251

EXHIBIT A-1  
DESCRIPTION OF WATERFRONT TRACT

TRACT 1

**DESCRIPTION OF A 20.638-ACRE  
(898,976 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
AND THE GEORGE M. PATRICK SURVEY, A-624  
HARRIS COUNTY, TEXAS**

D

Being a 20.638-acre (898,976 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, and the George M. Patrick Survey, Abstract No. 624, Harris County, Texas. Said 20.638-acre tract being a portion of the residue of a called 378.295-acre tract of land and 535.009-acre tract of land, as shown on a boundary survey prepared by Charles M. Amos, Jr. Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas. Said 20.638-acre tract being more particularly described by metes and bounds as follows:

**COMMENCING FOR REFERENCE** at a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set at the southeast corner of the residue of said called 378.295-acre tract and the southwest corner of a 96.6698 acre tract conveyed to Mitsui and CO. (U.S.A.) Inc. by deed recorded under Harris County Clerk's File No. H826946, Film Code No. 038-95-2086 of the Official Public Records of Real Property, Harris County, Texas, being located in Tuckers Bayou and being located in the northwest right-of-way line of Tidal Road (60 feet wide);

THENCE North 03° 26' 22" West with an east line of the residue of said called 378.295-acre tract, with a west line said 96.6698 acre tract and with Tuckers Bayou, a distance of 777.03 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE North 31° 20' 35" West with a northeast line of the residue of said called 378.295-acre tract, with a southwest line said 96.6698 acre tract and with Tuckers Bayou, a distance of 656.14 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE North 15° 44' 34" West with a northeast line of the residue of said called 378.295-acre tract, with a southwest line said 96.6698 acre tract and with Tuckers Bayou, a distance of 1198.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE North 19° 32' 25" East with a southeast line of the residue of said called 378.295-acre tract, with a northwest line said 96.6698 acre tract and with Tuckers Bayou, a distance of 606.53 feet to a southeast corner and the **POINT OF BEGINNING** of said tract herein described;

THENCE North 70° 27' 35" West with a southwest line of said tract herein described, a distance of 80.88 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior angle of said tract herein described;

THENCE West with a south line of said tract herein described, a distance of 479.70 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior angle of said tract herein described;

THENCE South with an east line of said tract herein described, a distance of 63.46 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southeast corner of said tract herein described;

THENCE West with a south line of said tract herein described, a distance of 203.86 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior angle of said tract herein described;

THENCE South with an east line of said tract herein described, a distance of 214.51 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southeast corner of said tract herein described;

THENCE West with a south line of said tract herein described, a distance of 321.74 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior angle of said tract herein described;

THENCE South with an east line of said tract herein described, a distance of 309.50 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southeast corner of said tract herein described;

THENCE West with a south line of said tract herein described, a distance of 409.03 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set the beginning of a curve to the right;

THENCE in a northwesterly direction and with the line of a curve to the right having an arc length of 143.12 feet, a radius of 140.00 feet, a central angle of  $58^{\circ} 34' 19''$ , a chord bearing of North  $60^{\circ} 42' 51''$  West and a chord distance of 136.97 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set the non-tangent end of said curve;

THENCE West with a south line of said tract herein described, a distance of 85.48 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North with a west line of said tract herein described, a distance of 17.34 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior angle of said tract herein described;

THENCE North  $22^{\circ} 17' 08''$  West with a southwest line of said tract herein described, a distance of 35.19 feet to the northwest corner of said tract herein described, located in the north line of the residue of said called 535.009-acre tract;

THENCE North  $76^{\circ} 33' 00''$  East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 535.009-acre tract, a distance of 98.30 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North  $73^{\circ} 41' 00''$  East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 535.009-acre tract, a distance of 300.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

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THENCE North 38° 20' 00" East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 535.009-acre tract, a distance of 394.90 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 47° 02' 00" East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 535.009-acre tract, a distance of 205.10 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the east line of said residue of a 535.009-acre tract, in the west line of said residue of a 378.295-acre tract and for an angle point of said tract herein described;

THENCE South with an east line of said tract herein described, with the east line of said residue of a 535.009-acre tract, a distance of 57.49 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX for an angle point of said tract herein described;

THENCE North 63° 06' 49" East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 378.295-acre tract, a distance of 146.67 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 32° 24' 33" East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 378.295-acre tract, a distance of 243.66 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 10° 31' 45" East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 378.295-acre tract, a distance of 384.95 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 12° 52' 57" East with a northwesterly line of said tract herein described and with a northwest line of said residue of a 378.295-acre tract, a distance of 271.68 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE East with the north line of said residue of a called 378.295-acre tract, with said Tuckers Bayou and with the north line of said tract herein described, a distance of 333.84 feet a northeast corner of said tract herein described;

THENCE South 34° 09' 34" East with a southwest line of said 96.6698-acre tract of land, with a northeast line of said residue of a called 378.295-acre tract, with said Tuckers Bayou and with the northeast line of said tract herein described, a distance of 559.15 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set, for an angle point of said tract herein described;

THENCE South 14° 09' 34" East with a west line of said 96.6698-acre tract of land, with an east line of said residue of a called 378.295-acre tract, with said Tuckers Bayou and with an east line of said tract herein described, a distance of 152.44 feet to an angle point of said tract herein described;

THENCE South 59° 40' 17" West with a northwest line of said 96.6698-acre tract of land, with a southeast line of said residue of a called 378.295-acre tract, with said Tuckers Bayou and with an southeast line of said tract herein described, a distance of 28.00 feet to an angle point of said tract herein described;

THENCE South 19° 32' 25" West with a northwest line of said 96.6698-acre tract, with the northwest line of a called 10.77936-acre tract of land conveyed to C.F. Braun & Company as recorded under Harris

County Clerk's File No. D034865, Film Code No. 112-25-1492 of the Official Public Records of Real Property, Harris County, Texas with a southwest line of the residue of said 378.295-acre tract and with a southeast line of said tract herein described, a distance of 367.58 feet to the southeast corner and POINT OF BEGINNING and containing 20.638 acres (898,976 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CI377 (1113-077)  
Date: 12/19/11

**TOGETHER WITH:**

**TRACT 3**

**DESCRIPTION OF A 9.290-ACRE  
(404,687 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
HARRIS COUNTY, TEXAS**

Being a 9.290-acre (404,687 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, Harris County, Texas. Said 9.290-acre tract being a portion of the residue of a called 378.295-acre tract of land, as shown on a boundary survey prepared by Charles M. Amos, Jr. Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas. Said 9.290-acre tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set at a southeast corner of the residue of said called 378.295-acre tract and the southwest corner of a 96.6698 acre tract conveyed to Mitsui and CO. (U.S.A.) Inc. by deed recorded under Harris County Clerk's File No. H826946, Film Code No. 038-95-2086 of the Official Public Records of Real Property, Harris County, Texas, being located in Tuckers Bayou and being located in the northwest right-of-way line of Tidal Road (60 feet wide);

**THENCE** South 65° 38' 34" West with the northwest right-of-way line of said Tidal Road, with a southeast line of said residue of a called 378.295-acre tract and with a southeast line of said tract herein described, a distance of 382.86 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southwest corner of said tract herein described;

**THENCE** North 01° 55' 01" East with a west line of said tract herein described, a distance of 200.74 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a northwest of said tract herein described;

**THENCE** North 89° 01' 41" East with a north line of said tract herein described, a distance of 241.87 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a non-tangent curve to the left;

THENCE in a northeasterly direction with the northwest line of said tract herein described and with the line of a curve to the left having a central angle of  $49^{\circ} 49' 14''$ , radius of 80.00 feet chord bearing of North  $26^{\circ} 07' 09''$  East, chord distance of 67.39 feet for a curve length of 69.56 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

THENCE North  $03^{\circ} 26' 22''$  West with a west line of said tract herein described, a distance of 624.11 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North  $31^{\circ} 20' 35''$  West with a southwest line of said tract herein described, a distance of 628.69 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North  $15^{\circ} 44' 34''$  West with a southwest line of said tract herein described, a distance of 630.81 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the left;

THENCE in a northwesterly direction with a southwest line of said tract herein described and with the line of a curve to the left having a central angle of  $90^{\circ} 55' 43''$ , radius of 50.00 feet chord bearing of North  $61^{\circ} 12' 25''$  West, chord distance of 71.28 feet for a curve length of 79.35 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

THENCE South  $73^{\circ} 19' 43''$  West with a southeast line of said tract herein described, a distance of 59.81 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South  $89^{\circ} 55' 50''$  West with a south line of said tract herein described, a distance of 180.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southwest of said tract herein described;

THENCE North  $00^{\circ} 04' 10''$  West with a west line of said tract herein described, a distance of 351.71 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North  $19^{\circ} 32' 25''$  East with a northwest line of said tract herein described, a distance of 517.12 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the left;

THENCE in a northerly direction with a west line of said tract herein described and with the line of a curve to the left having a central angle of  $12^{\circ} 38' 04''$ , radius of 180.00 feet chord bearing of North  $13^{\circ} 13' 23''$  East, chord distance of 39.61 feet for a curve length of 39.69 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

THENCE North  $06^{\circ} 54' 21''$  East with a west line of said tract herein described, a distance of 187.82 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the right;

THENCE in a northerly direction with a west line of said tract herein described and with the line of a curve to the right having a central angle of  $13^{\circ} 33' 35''$ , radius of 200.00 feet chord bearing of North  $13^{\circ} 41' 08''$  East, chord distance of 47.22 feet for a curve length of 47.33 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

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THENCE North 20° 27' 55" East with a northwest line of said tract herein described, a distance of 92.22 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE East with a north line of said tract herein described, a distance of 72.04 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South 70° 27' 35" East with a northeast line of said tract herein described, a distance of 80.88 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the northeast corner of said tract herein described;

THENCE South 19° 32' 25" West with a southeast line of the residue of said called 378.295-acre tract, with a northwest line said 96.6698 acre tract and with Tuckers Bayou and with a southeast line of said tract herein described, a distance of 606.53 feet to an angle point of said tract herein described;

THENCE South 15° 44' 34" East with a northeast line of the residue of said called 378.295-acre tract, with a southwest line said 96.6698 acre tract and with Tuckers Bayou and with the northeast line of said tract herein described, a distance of 1198.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE South 31° 20' 35" East with a northeast line of the residue of said called 378.295-acre tract, with a southwest line said 96.6698 acre tract and with Tuckers Bayou and with a northeast line of said tract herein described, a distance of 656.14 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE South 03° 26' 22" East with an east line of the residue of said called 378.295-acre tract, with a west line said 96.6698 acre tract and with Tuckers Bayou and with an east line of said tract herein described, a distance of 777.03 feet to a southeast corner and the **POINT OF BEGINNING** and containing 9.290 acres (404,687 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CL377 (1113-077)  
Date: 12/19/11

[Ex. A-1 to Special Warranty Deed (Waterfront Site)]

Doc. 17943218

EXHIBIT A-2  
DESCRIPTION OF WATERFRONT SITE FEE PIPELINE TRACT

TRACT 6-A

**DESCRIPTION OF A 1.998-ACRE  
(87,037 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
HARRIS COUNTY, TEXAS**

Being a 1.998-acre (87,037 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, Harris County, Texas. Said 1.998-acre tract being a portion of the residue of a called 378.295-acre tract as shown on a boundary survey prepared by Charles M. Amos, Jr., Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, being a tract of land conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas. Said 1.998-acre tract being more particularly described by metes and bounds as follows:

**BEGINNING** at a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the southeast right-of-way line of Tidal Road (60 foot wide), for the northwest corner of a 18.3052-acre tract of land conveyed to Mitsui & Company by deed recorded under Harris County Clerk's File No E892213, Film Code No. 149-04-2271 of the Official Public Records of Real Property Harris, County Texas, for the northeast corner of said residue of a called 378.295-acre tract and for the northeast corner of said tract herein described;

THENCE South 03° 26' 23" East with a west line of said 18.3052-acre tract, with an east line of said residue of a called 378.295-acre tract and with an east line of said tract herein described, a distance of 146.83 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South 30° 37' 55" East with a northeast line of said residue of a called 378.295-acre tract, with a southwest line of said 18.3052-acre tract, with the southwest line of a 48.5721-acre tract conveyed to Clean Harbors Deer Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas and with a northeast line of said tract herein described, a distance of 1,337.86 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South 00° 08' 22" West with the east line of said residue of a called 378.295-acre tract, with a west line of said 48.5721-acre tract, with a west line of a 7.1641-acre tract of land conveyed to Clean Harbors Deer Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas, with the west line of a 30.0000-acre tract of land conveyed to Clean Harbors Deed Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas, with the west line of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2678, Page 581 of the Deed Records of Harris County, Texas and with an east line of said tract herein described, a distance of 2,871.73 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the west line of said Harris County Houston Ship Channel Navigation District tract, for the northeast corner of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2679, Page 495 of the Deed Records of Harris County, Texas, for the southeast corner of said residue of a called 378.295-acre tract and for the southeast corner of said tract herein described;

THENCE North 89° 27' 00" West with the north line of said Harris County Houston Ship Channel Navigation District tract, with the south line of said residue of a called 378.295-acre tract and with the south line of said tract herein described, a distance of 20.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the north line of said Harris County Houston Ship Channel Navigation District tract, in the south line of said residue of a called 378.295-acre tract and for the southwest corner of said tract herein described;

THENCE North 00° 08' 22" East with a west line of said tract herein described, a distance of 2,866.08 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 30° 37' 55" West with a southwest line of said tract herein described, a distance of 1,337.19 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 03° 26' 23" West with a west line of said tract herein described, a distance of 144.03 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the south right-of-way line of said Tidal Road, in the northwest line of said residue of a called 378.295-acre tract and for the northwest corner of said tract herein described;

THENCE North 65° 38' 34" East with the southwest right-of-way line of said Tidal Road, with the northwest line of said residue of a called 378.295-acre tract and with the northwest line of said tract herein described, a distance of 21.41 feet to the POINT OF BEGINNING and containing 1.998 acres (87,037 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CI377 (1113-077)  
Date: 12/19/11

**TOGETHER WITH:**

**TRACT 6-B**

**DESCRIPTION OF A 0.009-ACRE  
(403 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
HARRIS COUNTY, TEXAS**

Being a 0.009-acre (403 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, Harris County, Texas. Said 0.009-acre tract being a portion of the residue of a called 378.295-acre tract as shown on a boundary survey prepared by Charles M. Amos, Jr., Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, being a tract of land conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official

[Ex. A-2 to Special Warranty Deed (Waterfront Site)]

Public Records of Real Property, Harris County, Texas. Said 0.009-acre tract being more particularly described by metes and bounds as follows:

**COMMENCING** at a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set, in the southeast right-of-way line of Tidal Road (60 foot wide), for the northwest corner of a 18.3052-acre tract of land conveyed to Mitsui & Company by deed recorded under Harris County Clerk's File No E892213, Film Code No. 149-04-2271 of the Official Public Records of Real Property Harris, County Texas, for the northeast corner of the residue of a called 378.295-acre tract of land conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas;

THENCE South 03° 26' 23" East with a west line of said 18.3052-acre tract, with an east line of said residue of a called 378.295-acre tract and with an east line of said tract herein described, a distance of 146.83 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE South 30° 37' 55" East with a northeast line of said residue of a called 378.295-acre tract, with a southwest line of said 18.3052-acre tract, with the southwest line of a 48.5721-acre tract conveyed to Clean Harbors Deer Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas and with a northeast line of said tract herein described, a distance of 1,337.86 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE South 00° 08' 22" West with the east line of said residue of a called 378.295-acre tract, with a west line of said 48.5721-acre tract, with a west line of a 7.1641-acre tract of land conveyed to Clean Harbors Deed Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas, with the west line of a 30.0000-acre tract of land conveyed to Clean Harbors Deer Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas, with the west line of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2678, Page 581 of the Deed Records of Harris County, Texas, with the east line of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2679, Page 495 of the Deed Records of Harris County, Texas and with an east line of said tract herein described, a distance of 2,931.73 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the POINT OF BEGINNING and for the northeast corner of said tract herein described, in the west line of said Harris County Houston Ship Channel Navigation District tract, for the southeast corner of a tract of said Harris County Houston Ship Channel Navigation District and for the northeast corner of said residue of a called 378.295-acre tract;

THENCE South 00° 08' 32" West with the west line of said Harris County Houston Ship Channel Navigation District tract, with the east line of said residue of a called 378.295-acre tract and with the east line of said tract herein described, a distance of 20.13 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the northeast corner of a tract of land conveyed to Houston Lighting and Power Company recorded by deed in Volume 2379, Page 374 of the Deed Records of Harris County, Texas, in the southwest corner of said Harris County Houston Ship Channel Navigation District tract and for the southeast corner of said tract herein described;

THENCE North 89° 27' 00" West with the south line of said residue of a called 378.295-acre tract, with the north line of said Houston Lighting and Power Company tract and with the south line of said tract herein described, a distance of 20.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the south line of said residue of a called 378.295-acre tract, in the north line of said

Houston Lighting and Power Company and the south line of said tract herein described;

THENCE North  $00^{\circ} 08' 32''$  West with the west line of said tract herein described, a distance of 20.13 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the north line of said residue of a called 378.295-acre tract, in the south line of said Harris County Houston Ship Channel Navigation District tract and for the northwest corner of said tract herein described;

THENCE South  $89^{\circ} 27' 00''$  East with the south line of said Harris County Houston Ship Channel Navigation District tract, with the north line of said residue of a called 378.295-acre tract and with the north line of said tract herein described, a distance of 20.00 feet to the **POINT-OF-BEGINNING** and containing 0.009 acres (403 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CI377 (1113-077)  
Date: 12/19/11

[Ex. A-2 to Special Warranty Deed (Waterfront Site)]

Dde: 17943218

R 045 - 07 - 1260

ER 045 - 07 - 1261

EXHIBIT B

EXHIBIT A-1  
DESCRIPTION OF RAIL TRACT

TRACT 2

**DESCRIPTION OF A 107.725-ACRE  
(4,692,499 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
HARRIS COUNTY, TEXAS**

Being a 107.725-acre (4,692,499 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, Harris County, Texas. Said 107.725-acre tract being a portion of the residue of a called 535.009-acre tract of land and 131.0-acre tract of land, as shown on a boundary survey prepared by Charles M. Amos, Jr. Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas. Said 107.725-acre tract being more particularly described by metes and bounds as follows:

**COMMENCING FOR REFERENCE** at a TxDOT marker found for the northeast corner of a right-of-way extension for Rohm and Haas Road (Private) of State Highway 225 and being an interior corner of the residue of said 131.0-acre tract;

THENCE North  $89^{\circ} 56' 13''$  West with the north right-of-way line of said State Highway 225, a distance of 8.51 feet to the west line of said George Ross Survey, A-646;

THENCE North with the west line of said George Ross Survey, A-646, a distance of 3430.56 feet to an angle point;

THENCE East across the residue of said 378.295-acre tract, a distance of 46.88 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the northwest corner and the **POINT OF BEGINNING** of said tract herein described;

THENCE East with a north line of said tract herein described, a distance of 623.21 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set, for a northeast corner of said tract herein described;

THENCE South with an east line of said tract herein described, a distance of 490.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the left;

THENCE in a southeasterly direction with a northeast line of said tract herein described and with the line of a curve to the left having a central angle =  $90^{\circ} 00' 00''$ , radius = 65.00 feet, chord bearing = South  $45^{\circ} 00' 00''$  East, chord distance = 91.92 feet for a curve length of 102.10 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set the end of said curve;

THENCE East with a north line of said tract herein described, a distance of 374.82 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a northeast corner of said tract herein described;

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THENCE South with an east line of said tract herein described, a distance of 699.41 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior corner of said tract herein described;

THENCE East with a north line of said tract herein described, a distance of 258.25 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South 55° 00' 00" East with a northeast line of said tract herein described, a distance of 97.47 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South with an east line of said tract herein described, a distance of 50.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior corner of said tract herein described;

THENCE East with a north line of said tract herein described, a distance of 587.09 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE South with an east line of said tract herein described, a distance of 589.77 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a northeast corner of said tract herein described;

THENCE South 37° 06' 05" West with the southeast line of said tract herein described, a distance of 2,330.95 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the southeast corner of said tract herein described;

THENCE North 61° 32' 45" West with the southwest line of said tract herein described, a distance of 556.19 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southwest corner of said tract herein described;

THENCE North with a west line of said tract herein described, a distance of 175.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior corner of said tract herein described;

THENCE West with a south line of said tract herein described, a distance of 93.12 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a southwest corner of said tract herein described;

THENCE North with a west line of said tract herein described, a distance of 3,369.18 feet to the **POINT-OF-BEGINNING** and containing 107.725 acres (4,692,499 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CI377 (1113-077)  
Date: 12/19/11

[Ex. A-1 to Special Warranty Deed (Rail Site)]

EXHIBIT A-2  
DESCRIPTION OF RAIL SITE FEE ACCESS TRACT

TRACT 4

**DESCRIPTION OF A 1.617-ACRE  
(70,429 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
HARRIS COUNTY, TEXAS**

Being a 1.617-acre (70,429 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, Harris County, Texas. Said 1.617-acre tract being a portion of the residue of a called 131.0-acre tract of land, as shown on a boundary survey prepared by Charles M. Amos, Jr. Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas. Said 1.617-acre tract being more particularly described by metes and bounds as follows:

**COMMENCING FOR REFERENCE** at a TxDOT marker found for the northeast corner of a right-of-way extension for Rohm and Haas Road (Private) of State Highway 225 and being an interior corner of the residue of said 131.0-acre tract;

THENCE North 89° 56' 13" West with the north right-of-way line of said State Highway 225, a distance of 8.51 feet to the west line of said George Ross Survey, A-646;

THENCE North with the west line of said George Ross Survey, A-646, a distance of 61.38 feet to an angle point;

THENCE East across the residue of said 131.0-acre tract, a distance of 46.88 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE East across the residue of said 131.0-acre tract, a distance of 93.12 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE South across the residue of said 131.0-acre tract, a distance of 175.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE South 61° 32' 45" East across the residue of said 131.0-acre tract, a distance of 556.19 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

THENCE North 37° 06' 05" East across the residue of said 131.0-acre tract, a distance of 693.86 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the northwest corner and the **POINT OF BEGINNING** of said tract herein described;

THENCE North 37° 06' 05" East, with a northwest line of said tract herein described, a distance of 151.65 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set, for the northeast corner of said tract herein described and the beginning of a non-tangent curve to the left;

THENCE in a southwesterly direction with a southeast line of said tract herein described, having an arc length of 132.31 feet, a radius of 200.00 feet, a central angle of 37° 54' 11", a chord bearing of South 18°

17° 53" West and a chord distance of 129.91 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set the end of said curve;

THENCE South 07° 09' 14" East with an east line of said tract herein described, a distance of 206.11 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the right;

THENCE in a southerly direction, with an east line of said tract herein described and with the line of a curve to the right having an arc length of 193.24 feet, a radius of 250.00 feet, a central angle of 44° 17' 14", a chord bearing of South 14° 59' 23" West and a chord distance of 188.46 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set the end of said curve;

THENCE South 37° 08' 00" West with a southeast line of said tract herein described, a distance of 480.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the left;

THENCE in a southwesterly direction with a southeast line of said tract herein described and with the line of a curve to the left having an arc length of 59.35 feet, a radius of 200.00 feet, a central angle of 17° 00' 06", a chord bearing of South 28° 37' 57" West and a chord distance of 59.13 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

THENCE South 20° 07' 54" West with a southeast line of said tract herein described, a distance of 436.07 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the northeast right-of-way line of State Highway No. 225 (Width Varies) for the southeast corner of said tract herein described;

THENCE North 55° 18' 00" West with the northeast right-of-way line of said State Highway No. 225, a southwest line of the residue of said called 131.0-acre tract and with a southwest line of said tract herein described, a distance of 14.99 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point of said tract herein described;

THENCE North 69° 47' 47" West with the northeast right-of-way line of said State Highway No. 225, a southwest line of said residue of a called 131.0-acre tract and with a southwest line of said tract herein described, a distance of 35.49 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the southwest corner of said tract herein described;

THENCE North 20° 07' 54" East with a northwest line of said tract herein described, a distance of 432.25 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the right;

THENCE in a northeasterly direction with the northwest line of said tract herein described and with the line of a curve to the right having an arc length of 74.18 feet, a radius of 250.00 feet, a central angle of 17° 00' 06", a chord bearing of North 28° 37' 57" East and a chord distance of 73.91 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

THENCE North 37° 08' 00" East with a northwest line of said tract herein described, a distance of 480.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the beginning of a curve to the left;

THENCE in a northerly direction with a west line of said tract herein described and with the line of a curve to the left having an arc length of 154.59 feet, a radius of 200.00 feet, a central angle of 44° 17'

14", a chord bearing of North 14° 59' 23" East and a chord distance of 150.77 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the end of said curve;

THENCE North 07° 09' 14" West with a west line of said tract herein described, a distance of 214.79 feet to the POINT OF BEGINNING and containing 1.617 acres (70,429 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CI377 (1113-077)  
Date: 12/19/81

TR 045 - 07 - 1266

**EXHIBIT A-3**  
**DESCRIPTION OF RAIL SITE FEE PIPELINE TRACT**

**TRACT 6-C**

**DESCRIPTION OF A 0.758-ACRE  
(33,022 SQ. FT.) TRACT SITUATED  
IN THE GEORGE ROSS SURVEY, A- 646,  
HARRIS COUNTY, TEXAS**

Being a 0.758-acre (33,022 square foot) tract of land situated in the George Ross Survey, Abstract No. 646, Harris County, Texas. Said 0.758-acre tract being a portion of the residue of a called 378.295-acre tract as shown on a boundary survey prepared by Charles M. Amos, Jr., Registered Public Land Surveyor No. 590, on October 26, 1979 and on a survey prepared by H.A. Pierce, Registered Public Land Surveyor on plat issued on December 9, 1966, being a tract of land conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas. Said 0.758-acre tract being more particularly described by metes and bounds as follows:

**COMMENCING** at a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set, in the southeast right-of-way line of Tidal Road (60 foot wide), for the northwest corner of a 18.3052-acre tract of land conveyed to Mitsui & Company by deed recorded under Harris County Clerk's File No E892213, Film Code No. 149-04-2271 of the Official Public Records of Real Property Harris, County Texas, for the northeast corner of the residue of a called 378.295-acre tract of land conveyed to Rohm and Haas Texas Incorporated, as recorded under Harris County Clerk's File No. D560866, Film Code No. 142-32-1524 of the Official Public Records of Real Property, Harris County, Texas;

**THENCE** South 03° 26' 23" East with a west line of said 18.3052-acre tract, with an east line of said residue of a called 378.295-acre tract and with an east line of said tract herein described, a distance of 146.83 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

**THENCE** South 30° 37' 55" East with a northeast line of said residue of a called 378.295-acre tract, with a southwest line of said 18.3052-acre tract, with the southwest line of a 48.5721-acre tract conveyed to Clean Harbors Deer Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas and with a northeast line of said tract herein described, a distance of 1,337.86 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an angle point;

**THENCE** South 00° 08' 22" West with the east line of said residue of a called 378.295-acre tract, with a west line of said 48.5721-acre tract, with a west line of a 7.1641-acre tract of land conveyed to Clean Harbors Deed Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas, with the west line of a 30.0000-acre tract of land conveyed to Clean Harbors Deer Park L.P. by deed recorded under Harris County Clerk's File No. W099876, Film Code No. 556-85-3122 of the Official Public Records of Real Property Harris County, Texas, with the west line of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2678, Page 581 of the Deed Records of Harris County, Texas, with the east line of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2679, Page 495 of the Deed Records of Harris County, Texas, with the west line of a tract of land conveyed to Houston Lighting and Power Company recorded by deed in Volume 2413, Page 619 of the Deed Records of Harris County, Texas, with the east

TR 045 - 07 - 1268

line of a tract of land conveyed to Houston Lighting and Power Company recorded by deed in Volume 2379, Page 374 of the Deed Records of Harris County, Texas with the west line of a tract of land conveyed to Harris County Houston Ship Channel Navigation District recorded by deed in Volume 2678, Page 581 of the Deed Records of Harris County, Texas and with an east line of said tract herein described, a distance of 3054.10 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the **POINT OF BEGINNING** and for the northeast corner of said tract herein described, with the northwest corner of a tract of land conveyed to Humble Pipeline Company by deed recorded under Harris County Clerk's File No. C556588, Film Code No. 179-24-0643 of the Official Public Records of Real Property Harris County, Texas and for the southeast corner of said Houston Lighting and Power Company;

THENCE South 00° 06' 21" West with the west line of said Humble Pipeline Company tract, with the west line of a tract of land conveyed to Hampshire Chemical Corporation by deed recorded under Harris County Clerk's File No. P023001, Film Code No. 117-43-0633 of the Official Public Records of Real Property Harris County, Texas, with the east line of said residue of a called 378.295-acre tract and with the east line of said tract herein described, a distance of 1,581.62 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the west line of said Hampshire Chemical Corporation tract, with the east line of said residue of a called 378.295-acre tract and for the southeast corner of said tract herein described;

THENCE West with the south line of said tract herein described, a distance of 89.35 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for the southwest line of said tract herein described;

THENCE North with a west line of said tract herein described, a distance of 20.00 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for a northwest corner of said tract herein described;

THENCE East with a north line of said tract herein described, a distance of 69.39 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set for an interior corner of said tract herein described;

THENCE North 00° 06' 21" East with a west line of said tract herein described, a distance of 1,561.82 feet to a 5/8-inch iron rod with cap stamped WEISSER ENG. HOUSTON, TX set in the north line of said residue of a called 378.295-acre tract, in the south line of said Harris Houston Lighting and Power Company tract and for the northwest corner of said tract herein described;

THENCE South 89° 27' 00" East with the south line of said Houston Lighting and Power Company tract, with a north line of said residue of a called 378.295-acre tract and with the north line of said tract herein described, a distance of 20.00 feet to the **POINT OF BEGINNING** and containing 0.758 acres (33,022 square feet) of land.

WEISSER ENGINEERING COMPANY  
19500 Park Row, Suite 100  
Houston, Texas 77084

Job No.: CI377 (1113-077)  
Date: 12/19/11

[Ex. A-3 to Special Warranty Deed (Rail Site)]

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# Pages 22  
05/28/2013 06:29:27 AM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
STAN STANART  
COUNTY CLERK  
Fees 96.00

**RECORDERS MEMORANDUM**

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Stan Stanart*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

**SPECIAL WARRANTY DEED**

(New Pipeline Fee Strip RoH/Dow to VMH)

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

THE STATE OF TEXAS                    §  
  §           KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF HARRIS                   §

THAT **ROHM AND HAAS TEXAS INCORPORATED**, a Texas corporation ("**Grantor**"), for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto **VOPAK MODA HOUSTON, LLC**, a Delaware limited liability company (f/n/a Vopak Terminal Deer Park West Inc., as evidenced in the Secretary of State filings and certificates attached hereto as Exhibit A) ("**Grantee**"), the following tracts of land located in Harris County, Texas:

- (1) those certain three parcels or tracts of land (collectively, the "**Pipeline Fee Strip**") more particularly described by metes and bounds on Exhibit B and as shown or depicted on Exhibit C, being both attached hereto and incorporated herein by this reference for all purposes;

TOGETHER WITH all improvements and fixtures located thereon and all of the rights, benefits, privileges, easements, rights of way, tenements, hereditaments and appurtenances thereon or in any way appertaining to such real property, including, but not limited to all riparian water rights, all wastewater and other utility rights relating to such real property and any and all easements, rights-of- way and other appurtenances used in connection with the beneficial use and enjoyment of such real property and all right, title and interest of Grantor in and to all strips and gores and any land lying in the bed of any street, road or alley, open or proposed, adjoining such real property (collectively, the "**Property**"),

SUBJECT TO THE FOLLOWING:

- 1. Grantor hereby reserves all of the oil, gas and other minerals in, under and that may be produced from the Property; provided, however, that Grantor on behalf of itself and its successors and assigns, as to its mineral ownership expressly releases and waives all rights to use all or any part of the surface of the Property or the subsurface of the Property above a depth of five hundred (500) feet,

RP-2019-50226

including, without limitation, the right to enter upon the surface of the Property or the subsurface of the Property above a depth of five hundred (500) feet for purposes of exploring for, developing, drilling, producing, transporting, mining, treating, storing or any other purposes incident to the development or production of the oil, gas and other minerals in and under the property or for any horizontal drilling or hydraulic drilling without the prior written consent of Purchaser in its sole and absolute discretion (the “**Mineral Reservation and Waiver**”).

2. This Special Warranty Deed is also subject to the following prohibition and restrictive covenant, which shall run with the land in perpetuity for the benefit of Grantor and The Dow Chemical Company, jointly and severally: the extraction of the groundwater and the use of the Property for residential, school, pre-school, playground, day care, playing field, recreation, hotel, leisure, hospital, nursing home or rehabilitation facility is forever prohibited (the “**Restrictions**”).
3. Grantor hereby reserves for itself, its successors and assigns, the right to cross under that portion of the Pipeline Fee Strip of the Property as more particularly described by metes and bounds in **Exhibit D**, attached hereto (the “**Easement**”), for the sole purpose of crossing with underground pipelines, or permit others to cross with underground pipelines so long as such use by Grantor or others does not unreasonably interfere with the rights of Grantee herein or any of Grantees facilities located within and adjacent to the Easement. Grantor reserves the right to assign the Easement to other third parties upon proving written notice of such assignment to Grantee. Grantor is expressly authorized to use the area within the Easement for the following purposes and in the following manner: access to directional and horizontal drilling underneath all existing pipelines and facilities of Grantee. Notwithstanding any other provision herein to the contrary, Grantor shall conduct its operations as to the Easement, exercise its rights hereunder and maintain the Easement and conduct all pipeline crossing in a responsible and prudent manner consistent with applicable safety standards and best industry practices and in full compliance with applicable state and federal laws, rules and regulations (collectively, the “**Standards**”), whether in effect presently or in the future. Specifically, but not by way of limitation, if Standards are revised in the future to require greater cleaner or cover, Grantor shall provide such additional cover to the extent so required. Notwithstanding anything to the contrary contained herein, Grantor shall allow no leak or discharge from the its or other’s pipelines onto the Property. As to the Easement, Grantor is fully responsible for any damages or injuries caused by its, and any one acting by, through or under Grantor for all purposes, and Grantor indemnifies, defends, and agrees to hold Grantee harmless as to any damages, death or injuries caused by Grantor, or any anyone acting by, through or under Grantor as to any activities within the Easement.

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantee subject only to the Mineral Reservation and Waiver, the Restrictions and the matters set forth on **Exhibit E** attached hereto, to the extent the same are validly existing and applicable to the Property (collectively, the “**Permitted Exceptions**”).

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER or under Grantor, but not otherwise, subject only to the Permitted Exceptions, the Mineral Reservation and Waiver and the Restrictions.

By acceptance of this Special Warranty Deed, Grantee assumes payment of all property taxes on the Property for the year 2017 and subsequent years.

Grantee’s address is:

Vopak Moda Houston, LLC  
1000 Louisiana Street, Suite 7100  
Houston, Texas 77002

Executed as of August 24, 2018

[Signatures on next page]

Signature Page  
to the  
Special Warranty Deed  
Executed as of: August 24 2018

Rohm and Haas Texas Incorporated,  
a Texas corporation

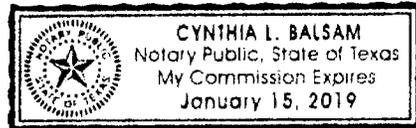
By: [Signature]  
Jeffrey J. Garry, President

THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on August 24, 2018, by Jeffrey J. Garry, as President of Rohm and Haas Texas Incorporated, a Texas corporation, on behalf of said corporation.

Cynthia L. Balsam  
Notary Public, State of Texas

My Commission Expires: Jan 15, 2019



**AFTER RECORDING RETURN TO:**

Jason L. Davis  
Crain, Caton & James, PC  
1401 McKinney Street, 17<sup>th</sup> Floor  
Houston, Texas 77010-4035

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Exhibit A  
to the  
**Special Warranty Deed**  
(New Pipeline Fee Strip RoH/Dow to VMH)

Vopak Moda Houston - Company Name Change Certificates

Delaware  
The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE CORPORATION UNDER THE NAME OF "VOPAK TERMINAL DEER PARK WEST INC." TO A DELAWARE LIMITED LIABILITY COMPANY, CHANGING ITS NAME FROM "VOPAK TERMINAL DEER PARK WEST INC." TO "VOPAK MODA HOUSTON LLC", FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF FEBRUARY, A. D. 2016, AT 3:52 O'CLOCK P.M.

State of Delaware  
Secretary of State  
Division of Corporations  
Dated: 03:52 PM 02 26 2016  
FILED: 03:52 PM 02 26 2016  
SE 20191238502 - File Number 539255

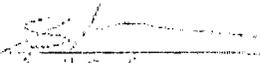
**STATE OF DELAWARE  
CERTIFICATE OF CONVERSION  
FROM A CORPORATION TO A  
LIMITED LIABILITY COMPANY**

Pursuant to the provisions of Section 18-214 of the Delaware Limited Liability Company Act ("D.L.L.C.A."), Vopak Terminal Deer Park West Inc., a Delaware corporation (the "Company"), hereby executes this Certificate of Conversion (this "Certificate") for the purpose of converting the Company from a Delaware corporation to a Delaware limited liability company under the laws of Delaware and, in connection therewith, certifies as follows:

1. The date the Company was first formed is April 12, 2013.
2. The jurisdiction where the Company was first formed is Delaware.
3. The jurisdiction of the Company immediately prior to the filing of this Certificate was Delaware.
4. The name of the Company immediately prior to filing this Certificate was "Vopak Terminal Deer Park West Inc."
5. The type of entity of the Company immediately prior to the filing of this Certificate was a corporation.
6. The name of the limited liability company as set forth in the certificate of formation to be filed simultaneously herewith in accordance with Section 18-214(b) of the D.L.L.C.A. is "Vopak Moda Houston LLC".

IN WITNESS WHEREOF, the undersigned has executed this Certificate on February 26, 2016, 2016

VOPAK TERMINAL DEER PARK WEST INC.

By:   
Name: Michael B. Long  
Title: Authorized Person

# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "VOPAK MODA HOUSTON LLC" FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF FEBRUARY, A.D. 2016, AT 3:52 O'CLOCK P.M.

RP-2019-50226

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered: 03:52 PM 02/25/2016  
FILED: 03:52 PM 02/25/2016  
SR: 20161338502 - File Number: 3318266

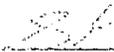
STATE OF DELAWARE  
LIMITED LIABILITY COMPANY  
CERTIFICATE OF FORMATION  
OF  
VOFAK MODA HOUSTON LLC

This Certificate of Formation of Vopak Moda Houston LLC is executed by the undersigned for the purpose of forming a limited liability company pursuant to Sections 18-201 of the Limited Liability Company Act of the State of Delaware.

1. The name of the limited liability company formed hereby is Vopak Moda Houston, LLC.
2. The address of its registered office in the State of Delaware is 1675 South State Street, Suite B, Dover, DE 19901, Kent County. The name of its registered agent for service of process at such address is Capital Services, Inc.

IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Formation on February 25, 2016.

VOFAK MODA HOUSTON LLC

By:   
Name: Sarah S. Cunningham  
Title: Secretary of State

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**Exhibit B**  
**to the**  
**Special Warranty Deed**  
(New Pipeline Fee Strip RoH/Dow to VMH)

**Pipeline Fee Strip – Legal Descriptions**

May 10, 2018

STATE OF TEXAS

HARRIS COUNTY

**EXHIBIT "B"**

**METES AND BOUNDS DESCRIPTION FOR A  
PROPOSED 3.0489 ACRE BOUNDARY,  
A PROPOSED 0.0135 ACRE BOUNDARY,  
A PROPOSED 0.1341 ACRE BOUNDARY  
AND A PROPOSED 0.1501 ACRE BOUNDARY  
ACROSS ROHM & HAAS TEXAS, INC.**

Metes and bounds description for a proposed 3.0489 acre boundary, a proposed 0.0135 acre boundary, a proposed 0.1341 acre boundary and a proposed 0.1501 acre boundary extending over, through, along and across a called 378.295 acre tract of land as recorded in File Number D560866, Film Code 142-32-1533, Official Public Records of Real Property Harris County, Texas, said metes and bounds being more particularly described as follows;

All bearings and coordinates are based on the "Texas Coordinate System", South Central Zone, (NAD 83, in feet).

**(1) PROPOSED 3.0489 ACRE BOUNDARY  
PARCEL I**

**BEGINNING** at a point in the North property line of said 378.295 acre tract, said "POINT OF BEGINNING" also being on the South right-of-way of Tidal Road, said "POINT OF BEGINNING" being on an iron rod found at the Northeast corner of said 378.295 acre tract, said "POINT OF BEGINNING" having coordinates N=13,834,512.11, E=3,206,482.14;

THENCE, South 06°24'09" East, a distance of 417.93 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 21°50'18" East, a distance of 337.88 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 38°30'48" East, a distance of 12.31 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 74°30'42" East, a distance of 286.47 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 33°28'17" East, a distance of 385.21 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 02°40'00" East, a distance of 394.05 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 00°39'56" East, a distance of 88.81 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 02°59'18" East, a distance of 2,360.09 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°28'56" West, a distance of 50.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°31'04" West, a distance of 16.28 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°28'56" West, a distance of 1,319.22 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 02°31'04" East, a distance of 26.28 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°28'56" West, a distance of 10.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 02°31'04" East, a distance of 145.27 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°32'40" West, a distance of 30.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°31'04" West, a distance of 145.24 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°28'56" West, a distance of 10.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°31'04" West, a distance of 50.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 87°28'56" East, a distance of 50.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 02°31'04" East, a distance of 3.72 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 87°28'56" East, a distance of 1,319.22 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°31'04" West, a distance of 13.72 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 87°28'56" East, a distance of 28.59 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°59'18" West, a distance of 2,310.33 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 00°39'56" West, a distance of 88.87 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°40'00" West, at a distance of 211.89 feet to a Stake "A" set at the **POINT OF BEGINNING of Parcel IV**, continuing for a total distance of 310.43 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°20'00" West, a distance of 10.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°40'00" West, a distance of 75.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 33°28'17" West, a distance of 365.71 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 74°30'42" West, a distance of 308.57 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 09°37'17" West, a distance of 100.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 21°50'18" West, a distance of 295.86 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 06°24'09" West, a distance of 373.03 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 62°48'12" East, a distance of 32.09 feet to the **POINT OF BEGINNING** and containing 132,808 square feet or 3.0489 acres of land.

**(2) PROPOSED 0.0135 ACRE BOUNDARY  
PARCEL II**

**BEGINNING** at a point in the South property line of a called 2.931 acre tract, Harris County Navigation Ship Channel Navigation District, as recorded in Volume 2679, Page 495, Harris County Deed Records, said "POINT OF BEGINNING" being South 02°31'04" East, a distance of

60.00 feet from a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC.", said "POINT OF BEGINNING" having coordinates N=13,830,260.75, E=3,205,924.58;

THENCE, South 02°31'04" East, a distance of 19.56 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°33'39" West, a distance of 30.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°31'04" West, a distance of 19.64 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 87°32'40" East, a distance of 30.00 feet to the **POINT OF BEGINNING** and containing 589 square feet or 0.0135 acres of land.

**(3) PROPOSED 0.1341 ACRE BOUNDARY  
PARCEL III**

**BEGINNING** at a point in the South property line of a called 4.994 acre tract, CenterPoint Energy, as recorded in Volume 2379, Page 374, Harris County Deed Records, said "POINT OF BEGINNING" being South 02°31'04" East, a distance of 122.30 feet from a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC.", said "POINT OF BEGINNING" having coordinates N=13,834,512.84, E=3,206,482.06;

THENCE, South 02°31'04" East, a distance of 194.58 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 87°02'54" West, a distance of 30.00 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 02°31'04" West, a distance of 194.85 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 87°33'59" East, a distance of 30.00 feet to the **POINT OF BEGINNING** and containing 5,841 square feet or 0.1341 acres of land.

**(4) PROPOSED 0.1501 ACRE BOUNDARY  
PARCEL IV**

**BEGINNING** at said set Stake "A", said "POINT OF BEGINNING" having coordinates N=13,833,193.17, E=3,207,139.09;

THENCE, North 39°42'02" West, a distance of 218.01 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 33°55'31" West, a distance of 372.81 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 84°49'52" West, a distance of 55.24 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 38°30'48" West, a distance of 92.55 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 74°30'42" East, a distance of 15.31 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 38°30'48" East, a distance of 75.31 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, North 84°49'52" East, a distance of 55.71 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 33°55'31" East, a distance of 377.68 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

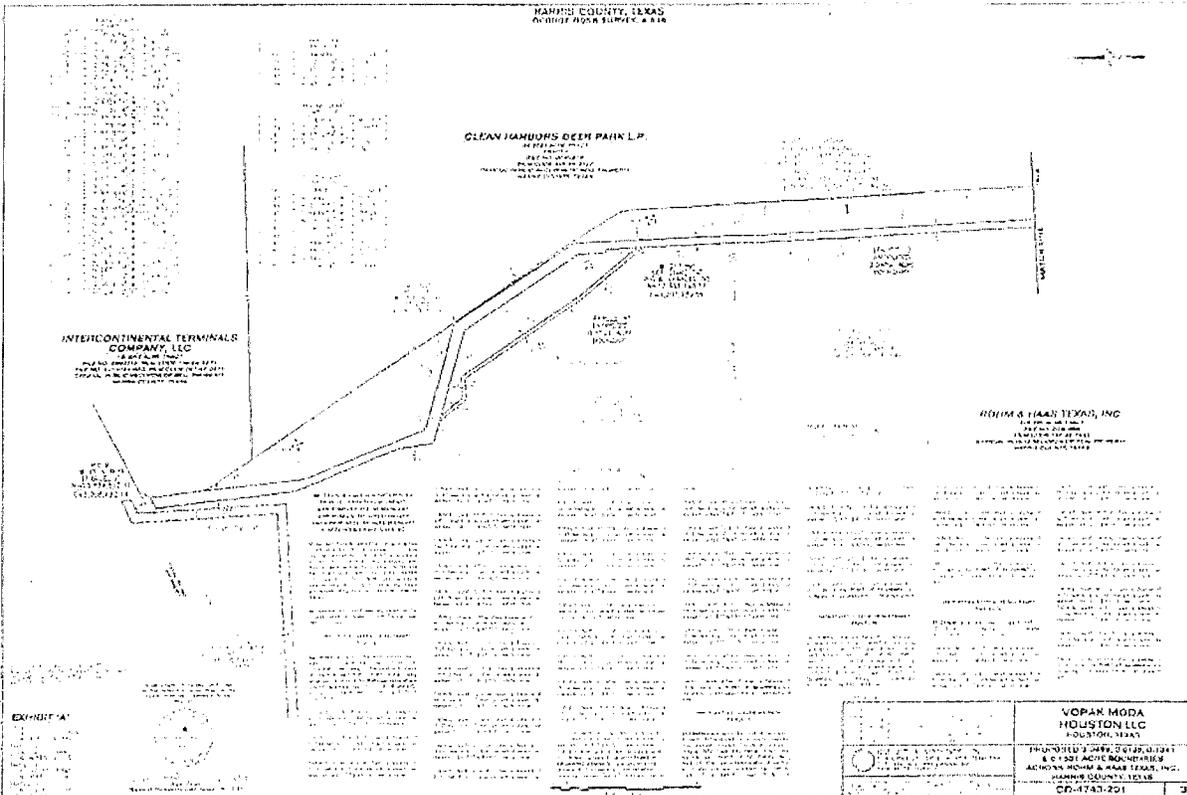
THENCE, South 39°42'02" East, a distance of 205.62 feet to a ½" iron rod with a plastic cap stamped "GULLETT & ASSOC." set for corner;

THENCE, South 02°40'00" East, a distance of 14.94 feet to the **POINT OF BEGINNING** and containing 6,538 square feet or 0.1501 acres of land.

**END OF EXHIBIT "B"**

**Exhibit C**  
**to the**  
**Special Warranty Deed**  
**(New Pipeline Fee Strip RoH/Dow to VMH)**

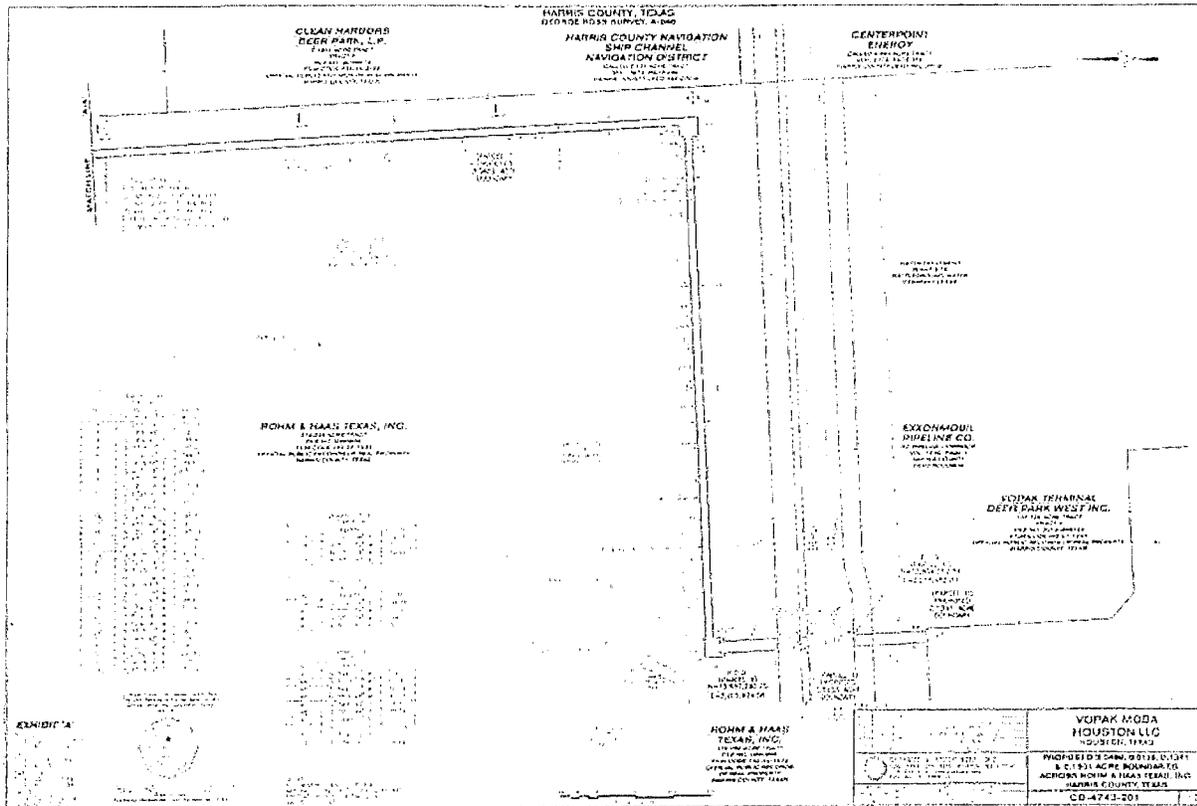
**Survey Plat of Pipeline Fee Strip**



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**Exhibit C – continued**  
**to the**  
**Special Warranty Deed**  
 (New Pipeline Fee Strip RoH/Dow to VMH)

**Survey Plat of Pipeline Fee Strip**



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**Exhibit D**  
**to the**  
**Special Warranty Deed**  
(New Pipeline Fee Strip RoH/Dow to VMH)

**Easement Crossing Right Reserved by Grantor**

(See Attached Metes & Bounds Legal Description and Survey Plat)

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**METES AND BOUNDS DESCRIPTION OF A 0.542 ACRE EASEMENT**

Metes and bounds description of a 0.542 acre easement over and across a called 378.295 acre tract as recorded in Clerk's File No. D560866, Official Public Records of Real Property of Harris County, Texas, and also over and across a called 1.998 acre tract, Tract 6-A, as recorded in Clerk's File No. 20130255159, Official Public Records of Real Property of Harris County, Texas. Said 0.542 acre easement being located in the George Ross Survey, A-646, Harris County, Texas and being more particularly described by metes and bounds as follows:

All bearings and coordinates are based on the Texas Coordinate System, South Central Zone (4204), NAD-83, U.S. survey feet.

**BEGINNING** at a 5/8-inch iron rod and cap set for the most Northern corner of said easement, which bears South 09° 50' 23" East, a distance of 475.07 feet from a 1/2-inch iron rod found for the Northwest corner of a called 48.5721 acre tract, as recorded in Clerk's File No. W099876, Official Public Records of Real Property of Harris County, Texas. Said POINT OF BEGINNING having coordinates N = 13833773.53, E = 3,206,662.10;

THENCE South 74° 30' 42" East, a distance of 286.47 feet to a 5/8-inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE South 33° 28' 17" East, a distance of 385.21 feet to a 5/8-inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE South 02° 40' 00" East, a distance of 193.37 feet to a 5/8 inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE North 39° 42' 02" West, a distance of 33.21 feet to a 5/8-inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE North 02° 40' 00" West, a distance of 83.60 feet to a 5/8-inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE South 87° 20' 00" West, a distance of 10.00 feet to a 5/8-inch iron rod & cap stamped GULLETT & ASSOC. for corner;

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THENCE North 02° 40'00" West, a distance of 75.00 feet to a 5/8 inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE North 33° 28'17" West, a distance of 365.71 feet to a 5/8 inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE North 74° 30'42" West, a distance of 249.26 feet to a 5/8 inch iron rod & cap stamped GULLETT & ASSOC. for corner;

THENCE North 25° 24'22" West, a distance of 39.69 feet to the POINT OF BEGINNING and containing 0.542 acres of land;

EXHIBIT "B", survey plat attached

*Richard Charitat*

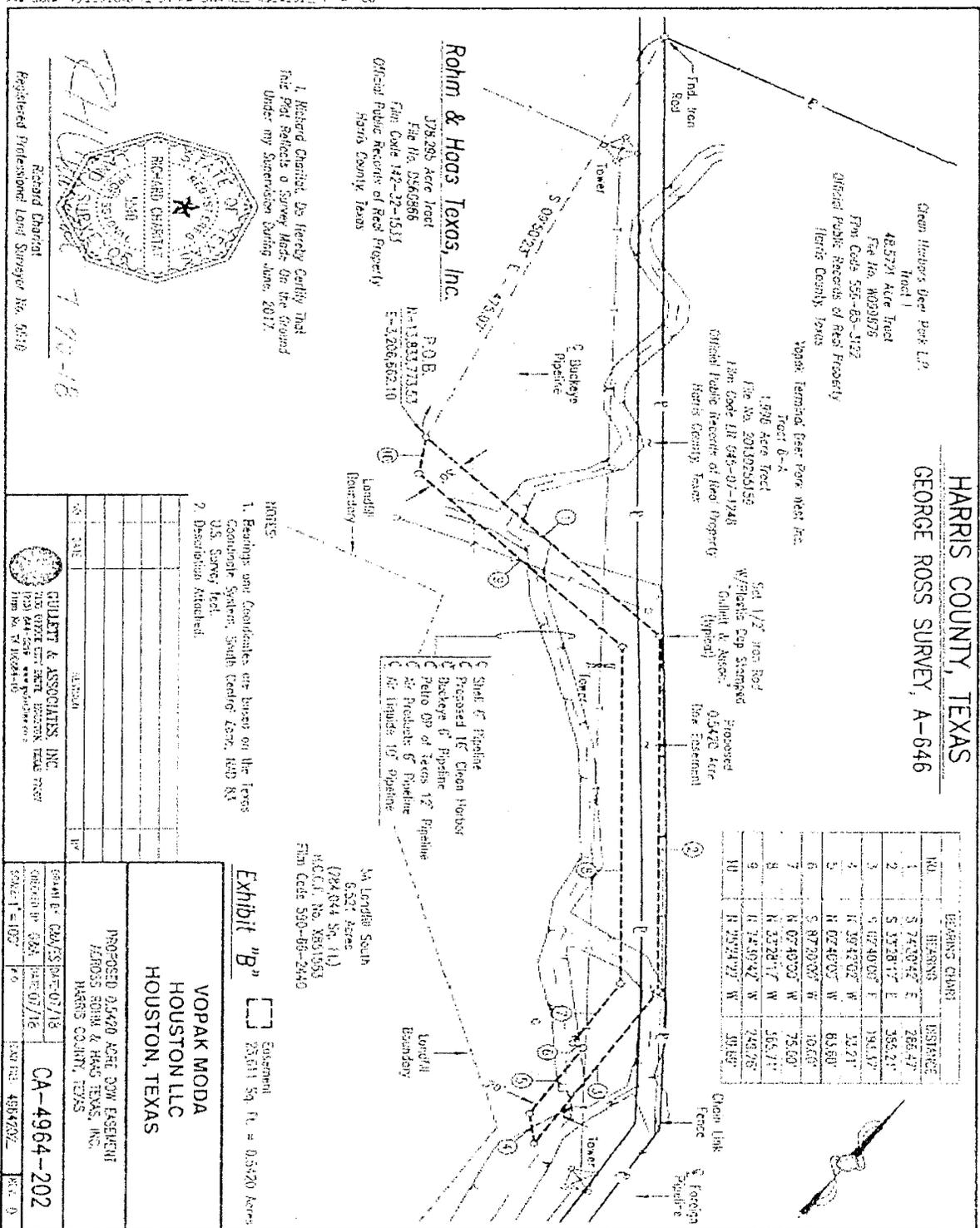
Richard Charitat

RPLS 5510

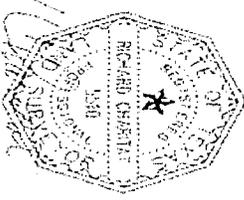


**HARRIS COUNTY, TEXAS**  
**GEORGE ROSS SURVEY, A-646**

NO.	BEARING	DISTANCE
1	S 74°30'42" E	286.47'
2	S 17°28'17" E	356.21'
3	S 07°40'07" E	194.37'
4	N 20°43'02" W	11.21'
5	N 07°40'07" W	63.80'
6	S 87°20'07" W	10.00'
7	N 07°40'07" W	75.60'
8	N 33°28'17" W	565.71'
9	N 74°39'42" W	748.28'
10	N 25°24'22" W	39.69'



1. Richard Chantel De Freedy Certifies that  
This Plat Reflects a Survey Made On the Grounds  
Under my Supervision During June, 2017.



Richard Chantel  
Registered Professional Land Surveyor No. 65318

**Rohm & Haas Texas, Inc.**  
J78295 Acire Tract  
File No. D560966  
File Code 142-22-1533  
Official Public Records of Reed Property  
Harris County, Texas  
P.O.B.  
H-11333171333  
E-11268502.10

Clean Harbors West Park LP  
Tract 1  
48,5791 Acire Tract  
File No. H020875  
Plan Code 550-89-3127  
Official Public Records of Reed Property  
Harris County, Texas

1:896 Acire Tract  
File No. 20110255156  
Plan Code LN 643-07-1748  
Official Public Records of Reed Property  
Harris County, Texas

Set 1/2" non Red  
W/Plastic Cup Stamped  
Culler & Assoc.  
(Hypoc.)  
Proposed  
0.5420 Acire  
Tract Easement

- C 3" Steel 6" Pipeline
- C 3" Prepacked 16" Crown Hubbs
- C Buckeye 6" Pipeline
- C Petro 09" of Texas 12" Pipeline
- C 2" Prepacked 6" Pipeline
- C 12" Impulse 10" Pipeline

- NOTES:**
1. Bearings and Coordinates are based on the Texas Coordinate System, South Central Zone, NAD 83 U.S. Survey feet.
  2. Description Attached.

NO.	DATE	REVISION	BY

**GULETTI & ASSOCIATES, INC.**  
10300 WESTCOTE DRIVE, SUITE 100  
HOUSTON, TEXAS 77036  
TEL: 281-416-1100  
FAX: 281-416-1101

3A Landline South  
6324 Acres  
(284,684 Sq. Ft.)  
M.C.C.T. No. X861953  
Plan Code 590-88-2440

Exhibit "B"  Government  
25,611 Sq. Ft. = 0.5420 Acres

**VOPAK MODA HOUSTON LLC HOUSTON, TEXAS**

PROPOSED 0.5420 ACRES ACIRE TRACT EASEMENT  
HARRIS COUNTY, TEXAS

Scale: 1" = 100'

CA-4964-202

**Exhibit E**  
**to the**  
**Special Warranty Deed**  
(New Pipeline Fee Strip RoH/Dow to VMH)

**Permitted Exceptions**

- I. All matters of record to the extent valid and subsisting against the Property.

RP-2019-50226  
# Pages 21  
02/06/2019 12:15 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
DIANE TRAUTMAN  
COUNTY CLERK  
Fees \$92.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



*Diane Trautman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2019-50226

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# **Attachment 5 – Corporate Authorization for Duly Authorized Representative**



**VOPAK MODA HOUSTON LLC**

**WRITTEN CONSENT OF THE SOLE MEMBER  
IN LIEU OF MEETING**

The undersigned, being the sole member of Vopak Moda Houston LLC, a Delaware limited liability company (the "Company"), pursuant to Section 18-404 of the Delaware Limited Liability Company Act, upon execution hereof, does hereby adopt and approve by written consent the resolutions attached hereto as Exhibit A, effective as of March 18, 2016.

**VOPAK MODA HOUSTON HOLDCO LLC**

By: 

Name: Scott B. Grossman

Title: Authorized Person

**Officers**

WHEREAS, in accordance with Section 4.3 of the Limited Liability Company Agreement of Vopak Moda Houston LLC, a Delaware limited liability company (the “Company”), the sole member of the Company desires to appoint officers of the Company.

NOW, THEREFORE, BE IT RESOLVED, that, effective as of the date hereof, the following person be, and hereby is, elected to the respective office set forth opposite his name to serve as an officer of the Company until the earlier of (a) his death, resignation or removal or (b) his successor is duly elected and qualified:

<b><u>Name</u></b>	<b><u>Office</u></b>
Jon Ackerman	Vice President

**Railcar Agreement**

WHEREAS, the sole member of the Company deems it to be in the best interests of the Company to enter into that certain Railcar Storage Agreement by and between the Company and Vopak Terminal Deer Park Inc., a Delaware corporation (“VTDP”), substantially in the form attached hereto as Annex I (the “Railcar Agreement”), pursuant to which the Company will provide to VTDP certain storage and related services for VTDP designated railcars.

NOW, THEREFORE, BE IT RESOLVED, that the form, terms and provisions of the Railcar Agreement, including all exhibits and schedules attached thereto, be, and hereby are, approved; and further

RESOLVED, that the transactions contemplated by the Railcar Agreement be, and hereby are, approved; and further

RESOLVED, that Jon Ackerman (the “Authorized Person”) be, and hereby is, authorized and empowered to execute and deliver the Railcar Agreement, including all exhibits and schedules attached thereto, in the name and on behalf of the Company with such additions, deletions or changes therein (including, without limitation, any additions, deletions or changes to any schedules or exhibits thereto) as the Authorized Person executing the same shall approve (the execution and delivery thereof by the Authorized Person to be conclusive evidence of his approval of any such additions, deletions or changes); and further

**Miscellaneous**

RESOLVED, that the Authorized Person be, and he hereby is, in accordance with the foregoing resolutions, authorized, in the name and on behalf of the Company, to prepare, execute and deliver any and all certificates, agreements, instruments, reports, schedules, statements, consents, documents and information and to incur all such fees and expenses as in such person’s judgment shall be necessary, appropriate or advisable with respect to the transactions contemplated by the foregoing resolutions, and to take all other actions that such person deems necessary, appropriate or advisable in order to comply with the applicable laws and regulations of any jurisdiction, or otherwise to effectuate and carry out the purposes of the foregoing

resolutions and to permit the transactions contemplated by the foregoing resolutions to be lawfully consummated, the taking of any such actions and the execution of any such agreements or other documents conclusively to evidence the due authorization thereof by the Company; and further

RESOLVED, that all lawful actions previously taken by any member, officer, manager, representative or agent of the Company, by or on behalf of the Company in connection with the acts, transactions and agreements contemplated by the foregoing resolutions be, and each of the same hereby is, adopted, ratified, confirmed and approved in all respects as the act and deed of the Company; and further

RESOLVED, that this written consent may be executed in any number of counterparts, all of which when taken together shall constitute one original written consent, and in the event that any signature is delivered by facsimile transmission or an attachment to an electronic message via “.pdf” or similar format, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or .pdf signature page were an original thereof.

**Railcar Agreement**

See attached.

## RAILCAR STORAGE AGREEMENT

**THIS AGREEMENT** is made as of this 18th day of March, 2016 (the “Effective Date”), by and between Vopak Terminal Deer Park Inc., a Delaware corporation (“VTDP”) and Vopak Moda Houston LLC, a Delaware limited liability company (“VMH”), each individually a “Party” and collectively the “Parties.”

### RECITALS:

- (a) VMH owns railroad trackage (the “VMH Trackage”) located on certain real property owned by VMH in Deer Park, Texas (the “Premises”) that is capable of storing Railcars (as defined below);
- (b) VTDP owns and operates a bulk liquid storage and handling facility located near the Premises (the “VTDP Property”); and
- (c) VTDP desires that VMH provide to VTDP, and VMH desires to provide to VTDP, certain storage and related services for VTDP at the Premises for VTDP designated railcars which are either empty or contain products handled by VTDP (“Railcars”) on the terms and subject to the conditions set forth in this Agreement (the “Services”).

### AGREEMENT:

**NOW, THEREFORE**, for and in consideration of the premises and mutual covenants herein contained, the Parties agree as follows:

#### **SECTION 1 – TERM OF AGREEMENT**

1.1 Term. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated as provided in Section 4 of this Agreement, shall expire on the date occurring four (4) years following the Effective Date (the “Initial Term”). This Agreement will be automatically extended for consecutive one (1) year terms after the Initial Term (each, a “Renewal Term” and, together with the Initial Term, the “Term”) unless either Party gives written notice to the Other Party of its election not to extend the then current Term, said notice to be delivered not less than 180 days before the expiration of the then current Term.

#### **SECTION 2 – STORAGE SERVICES**

##### 2.1 Storage Space.

(a) Except as set forth in Section 2.1(b), VMH shall provide to VTDP on a contractual and non-exclusive basis storage space for up to one hundred twenty (120) Railcars (the “Guaranteed Storage Space”), either empty or loaded with product handled by VTDP, on the VMH Trackage at any given time. In addition, VMH shall also allow the VMH Trackage to be utilized by VTDP to break up unit and manifest trains destined for VTDP. All switching and handling of rail equipment to and from VMH Trackage shall be done by VTDP at VTDP’s sole cost and expense. For avoidance of doubt, VTDP will be responsible for all product handled on the VMH Trackage, including all necessary personnel costs, security, and safety procedures required (even if such procedures extend to the VMH facility and personnel).

(b) Notwithstanding the foregoing, after the date on which VMH begins construction of bulk liquid storage and handling assets on the Premises (the “VMH Construction Date”), in the event that VMH develops a need to utilize the VMH Trackage for the storage and handling of railcars designated by customers of VMH that are storing and handling products on the Premises or for the purposes of advancing construction efforts on the Premises, then VMH may provide less than the Guaranteed Storage Space to the extent necessary to accommodate VMH’s requirements. However, subject to the previous sentence VMH shall at all times use commercially reasonable efforts to provide VTDP with the Guaranteed Storage Space.

## 2.2 Storage Charges.

(a) During the period from the Effective Date until the occurrence of the VMH Construction Date, VTDP shall pay to VMH a monthly railcar charge of \$10,000.00 (the “Monthly Base Amount”) which shall include two hundred (200) Car Storage Days (as defined below) per month. A Car Storage Day is calculated as twenty four (24) hours of storage for one Railcar. If a Railcar uses less than a full Car Storage Day, then the usage will be prorated (rounded to the nearest hour) based on the fraction of a Car Storage Day actually used. If VTDP exceeds the number of included Car Storage Days, then VTDP shall pay to VMH an amount of \$45.00 per Car Storage Day used (or fraction thereof).

(b) After the occurrence of the VMH Construction Date, VTDP shall pay to VMH a Monthly Base Amount equal to \$9,000.00 which shall include two hundred (200) Car Storage Days per month. If VTDP exceeds the number of included Car Storage Days during any month, then VTDP shall pay an amount of \$40.00 per Car Storage Day used (or fraction thereof). In the event that (i) VTDP timely nominates Railcars to utilize its two hundred (200) Car Storage Days during any month as provided in Section 2.3 , and (ii) in the further event that VMH restricts VTDP from using the full amount of its Car Storage Days during such month, then VMH shall provide a credit to VTDP of \$40 for each unused Car Storage Day, which credit shall be used to reduce the Monthly Base Amount for the next month following the month in which such credit was earned.

(c) All storage charges, including the Monthly Base Amount shall be escalated beginning on January 1, 2017 and every year thereafter based on the percentage increase in the Consumer Price Index—All Urban Consumers, as published by the Bureau of Labor Statistics. The base index shall be the Consumer Price Index—All Urban Consumers as of the Effective Date.

## 2.3 Scheduling Procedures.

(a) VTDP shall submit to VMH a nomination for Railcars to be handled on the VMH Trackage. Prior to the VMH Construction Date VTDP shall submit such nomination with at least three (3) days prior notice. After the occurrence of the VHM Construction Date, VTDP shall submit such nomination with at least fourteen (14) days prior notice. Each nomination shall include the number of Railcars to be delivered, the type of product contained in each Railcar, and the proposed arrival date of each train. Prior to the VMH Construction Date, VMH will honor all VTDP nominations. After the occurrence of the VMH Construction Date, VMH will not unreasonably reject a VTDP nomination and will use best efforts to accommodate each VTDP nomination subject to VHM’s rights under Section 2.1(b).

(b) Changes to the delivery schedule requested by VTDP after the month begins may be accommodated by VMH provided the proposed changes do not conflict with VMH operations or construction activities. In the event a change to the delivery schedule is desired by VTDP, VTDP shall submit a revised nomination to VMH.

(c) At all times, VTDP shall not obstruct vehicular ingress or egress to the VMH Premises, including but not limited to construction machinery, personnel, etc.

### **SECTION 3 – ADDITIONAL VMH COVENANTS**

3.1 **Track Maintenance.** VMH shall be responsible for all operating costs for the VMH Trackage as well as all costs reasonably necessary to ensure that the VMH Trackage is maintained in good and safe operating condition (“Maintenance & Operating Costs”). In the event that VMH needs to perform inspections or maintenance on the VMH Trackage, VMH shall provide VTDP with at least 15 days written notice and, during such maintenance, VMH shall not be financially responsible for any delays caused to VTDP’s operations. For the avoidance of doubt, VTDP shall be responsible at all times for costs related to security services that must be employed while Railcars are being stored on the VMH Trackage. VTDP may enter the premises to observe the maintenance and to conduct inspections.

3.2 **Compliance.** VTDP shall tender all empty Railcars to VMH fully inspected, properly resealed and in material compliance with all applicable laws and regulations, including all FRA requirements to transport on a FRA governed railroad a railcar having contained hazardous materials. In the event VTDP has not complied with the preceding sentence, VMH shall have the right, at VMH’s option, and at VTDP’s reasonable cost and expense, to fulfill such obligations on VTDP’s behalf. VTDP shall be the hazmat response party in respect to the Railcars and their contents.

3.3 **Insurance.** Each Party shall, at its own expense, carry and maintain the following insurance:

- (i) workers’ compensation coverage on such Party’s employees in accordance with the laws of the state of Texas;
- (ii) commercial general liability coverage, with bodily injury and property damage limits of not less than *Two Million Dollars* (\$2,000,000) per occurrence;
- (iii) pollution insurance with limits of Ten Million Dollars (\$10,000,000) per occurrence; and
- (iv) commercial umbrella insurance in an amount equal to Five Million Dollars (\$5,000,000).

### **SECTION 4 – TERMINATION**

4.1 Notwithstanding the Term as set forth in Section 1, VMH may terminate this Agreement at any time upon a breach by VTDP of its payment obligations hereunder or upon a breach of any other material breach of this Agreement (in the latter case, following written notice to VTDP and a 30-day cure period).

4.2 Notwithstanding the Term as set forth in Section 1 after the occurrence of the VMH Construction Date, either Party may terminate this Agreement upon one hundred eighty (180) days written notice to the other Party.

4.3 Termination or expiration of this Agreement for any reason shall not release either Party from any obligation that may have accrued before such termination or expiration, nor shall it preclude either Party from exercising any remedies it might have in law or equity to enforce such obligations.

4.4 Upon the termination or expiration of this Agreement, VTDP shall remove all Railcars from the VMH Trackage within fourteen (14) days following such termination or expiration. All cars remaining on the VMH Trackage after the aforesaid fourteen (14) day period shall be assessed a charge of \$200 per car per day.

**SECTION 5 – NOTICES**

Except as otherwise provided in this Agreement, any notices given by either Party under this Agreement shall be in writing, and shall be effective upon receipt by the applicable Party by hand, electronic mail, or by U.S. Certified Mail, Return Receipt Requested, addressed as follows:

**To: VTDP: Vopak Terminal Deer Park Inc.**  
2759 Independence Parkway South  
Deer Park, Texas 77536  
Attention: Commercial Manager  
Email: [guy.keymolen@vopak.com](mailto:guy.keymolen@vopak.com)

**With a copy to**

**Vopak North America Inc.**  
2000 West Loop South, Suite 1550  
Houston, Texas 77027  
Attention: General Counsel  
Email: [scott.grossman@vopak.com](mailto:scott.grossman@vopak.com)

**To: VMH: Vopak Moda Houston LLC**  
1000 Louisiana, Suite 7100  
Houston, Texas 77002  
Attention: General Manager

**With a copy to**

**Vopak Moda Houston LLC**  
1000 Louisiana, Suite 7100  
Houston, Texas 77002  
Attention: Jonathan Ackerman  
Email: [jon.ackerman@modamidstream.com](mailto:jon.ackerman@modamidstream.com)

**SECTION 6 – RELATIONSHIP BETWEEN VTDP AND VMH**

VMH’S relationship to VTDP in the performance of this Agreement is and shall in all respects be that of independent contractor. This Agreement does not create a landlord/tenant relationship between VMH and VTDP. Each of VMH and VTDP shall hire, fire, supervise, control and direct its own employees and contractors and shall be solely responsible for its own labor relations, policies and enforcement thereof. Each of VMH and VTDP shall be solely responsible for all wages and expenses of its employees and any Federal, State, City or County taxes upon such wages.

**SECTION 7 - LIABILITY AND INDEMNIFICATION**

7.1 VTDP assumes, and releases and waives any right to ask for or demand damages for or on account of, and agrees to protect, indemnify, defend and save harmless VMH and its affiliates from and against, any and all Maintenance and Operating Costs, expenses, fines, liabilities, claims, losses, costs, damages, including claims for punitive, exemplary or special damages, and expenses (including reasonable attorneys’ fees) caused by, arising out of, relating to, or resulting in any manner from the performance of any and all Services and other obligations under this Agreement, except to the extent caused by the gross negligence or willful misconduct of VMH, any of its affiliates or any of their respective officers, employees, contractors or agents.

7.2 Without limitation to the above, and notwithstanding any other provision herein, VTDP assumes, and releases and waives any right to ask for or demand damages for or on account of, and agrees to indemnify, defend and hold VMH and its affiliates harmless from and against, any and all liabilities, claims, losses, costs, damages, including claims for punitive, exemplary or special damages, and expenses (including reasonable attorneys' fees):

- (i) caused by, arising out of, relating to, or resulting in any manner from any condition or incident resulting in the pollution of air, water, land and/or ground water arising from or in connection with this Agreement or the Services, including any claim or liability arising under federal or state law dealing with the pollution of air, water, land and/or ground water or the remedy thereof;
- (ii) caused by, arising out of, relating to, or resulting in any manner from any loss, damage or casualty to any asset or property of VTDP, VMH or any other person, including all Railcars and the contents thereof, placed, stored or handled upon the VMH Trackage in connection with this Agreement; and
- (iii) caused by, arising out of, relating to, or resulting in any manner from any injury to or death of any person in connection with this Agreement or the Services,

in each case, except to the extent caused by the gross negligence or willful misconduct of VMH or any of its affiliates or any of their respective officers, employees, contractors or agents.

7.3 VTDP shall keep VMH promptly and fully informed of any matters for which indemnification has been sought by VMH hereunder, and shall permit VMH to participate, with counsel of its choice (at VMH's sole cost and expense), in any proceedings relating thereto.

7.4 VTDP's indemnification obligations under this Agreement shall survive the termination or expiration of this Agreement.

#### **SECTION 8 – LIMITATION OF LIABILITY**

Except as provided in Section 7 above, in no event shall either Party be liable for indirect, special, punitive or exemplary damages for any claim or dispute related to or arising under this Agreement nor shall either Party be liable to the other for lost profits.

#### **SECTION 9 – GOVERNING LAW; WAIVER OF JURY TRIAL**

9.1 This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas without regard to its conflicts of laws rules.

9.2 EACH PARTY WAIVES ITS RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE OR PROCEEDING RELATED TO THIS AGREEMENT.

#### **SECTION 10 - ASSIGNMENT; SUCCESSORS AND ASSIGNS**

Neither Party hereto may assign this Agreement, in whole or in part, or any rights granted herein, or delegate to another Party, except a subsidiary, or an affiliate (meaning an entity of which such Party owns 50% or more of the equity interests), any duties hereunder, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.