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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 10, 2020

Colonel Timothy Vail  
Commander and District Engineer  
USACE Galveston District  
P.O. Box 1229  
Galveston, TX 77553-1229

Via Email

Subject: General Conformity Concurrence for the Bayport Terminal Project, Department of the Army Permit SWG 1998-01818

Dear Colonel Vail:

The Texas Commission on Environmental Quality (TCEQ) completed its review of the General Conformity Determination for the Bayport Terminal Project received July 28, 2020. The TCEQ reviewed the action in accordance with the general conformity requirements established in Title 40 Code of Federal Regulations (CFR) Part 93 Subpart B and concurs with the determination submitted by the United States Army Corp of Engineers (USACE) that the project conforms to the Texas State Implementation Plan (SIP).

The proposed action is located in the Houston-Galveston-Brazoria ozone nonattainment area, which is currently classified by the United States Environmental Protection Agency (EPA) as serious for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS) and marginal for the 2015 eight-hour ozone NAAQS. General conformity requirements apply according to the serious classification. The USACE presented data demonstrating that the proposed action would result in nitrogen oxides (NO<sub>x</sub>) emissions of 54.09 tons per year (tpy) in 2021, which is above the 50 tpy *de minimis* threshold for general conformity.

The general conformity demonstration for this action relies on 40 CFR §93.158(a)(5)(i)(a), which requires that the state determine and document that the total direct and indirect emissions from the proposed action will not exceed the emissions budget specified in the applicable SIP. The general conformity emissions budget used for this determination was allocated from the *Reasonable Further Progress SIP Revision for the HGB 2008 Eight-Hour Ozone Nonattainment Area*, adopted December 15, 2016 and approved by the EPA February 13, 2019 (84 FR 3708). Based on the allocated general conformity emissions budget, the TCEQ concurs with the USACE's determination.

Although the USACE sufficiently demonstrated conformity for this project, the TCEQ suggests adoption of pollution prevention and/or reduction measures, such as those listed below, in conjunction with this and future projects:

- Encourage construction contractors to apply for Texas Emissions Reduction Plan grants;
- Establish bidding conditions that give preference to contractors who proactively limit air pollutant emissions and idling of construction vehicles;

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- Direct construction contractors to exercise air quality best management practices such as fueling vehicles late in the day during ozone season;
- Direct contractors and operators to use newer, lower emissions vehicles and equipment whenever possible;
- Select equipment based on lowest NO<sub>x</sub> emissions instead of lowest price; and
- Purchase and permanently retire surplus NO<sub>x</sub> offsets prior to commencement of operations.

Thank you for providing the information necessary to evaluate the proposed action. We will appreciate any appropriate updates as this project progresses, and we look forward to working with you on any upcoming projects affecting air quality in Texas. If you require further assistance on this matter, please contact Jamie Zech of the Air Quality Division at 512-239-3935 or [jamie.zech@tceq.texas.gov](mailto:jamie.zech@tceq.texas.gov).

Sincerely,



Donna F. Huff, Director  
Air Quality Division

cc: David Garcia, Air and Radiation Division Director, EPA Region 6