

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



December 11, 2014

Dr. Rodney Cavness  
Superintendent  
Port Neches-Groves Independent School District  
620 Ave. C  
Port Neches, Texas 77651

Dear Superintendent Cavness:

On Sept. 26, 2014, the Comptroller issued written notice that Total Petrochemicals & Refining USA, Inc. and TOTAL PAR LLC (the applicant) submitted a completed application (Application #1029) for a limitation on appraised value under the provisions of Tax Code Chapter 313<sup>1</sup>. This application was originally submitted on Sept. 8, 2014, to the Port Neches-Groves School District (the school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

- |                   |  |
|-------------------|--|
| Sec. 313.024(a)   | Applicant is subject to tax imposed by Chapter 171.  |
| Sec. 313.024(b)   | Applicant is proposing to use the property for an eligible project.  |
| Sec. 313.024(d)   | Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located. |
| Sec. 313.024(d-2) | Not applicable to Application #1029.   |

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

**Certificate decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem

<sup>1</sup> All statutory references are to the Texas Tax Code, unless otherwise noted.

tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period. See Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state. See Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-286) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement within a year from the date of this letter.

Note that any building or improvement existing as of the application review start date of Sept. 26, 2014, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Robert Wood, director of Economic Development & Analysis Division, by email at [robert.wood@cpa.state.tx.us](mailto:robert.wood@cpa.state.tx.us) or by phone at 1-800-531-5441, ext. 3-3973, or direct in Austin at 512-463-3973.

Sincerely,



Martin A. Hubert  
Deputy Comptroller

Enclosure

cc: Robert Wood

## Attachment A – Economic Impact Analysis

This following tables summarizes the Comptroller’s economic impact analysis of Cominco Fertilizer Partnership (the project) applying to Port Neches-Groves Independent School District (the district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

**Table 1** is a summary of investment, employment and tax impact of Total Petrochemicals & Refining USA, Inc. and TOTAL PAR LLC.

Applicant	Total Petrochemicals & Refining USA, Inc. and TOTAL PAR LLC
Tax Code, 313.024 Eligibility Category	Manufacturing
School District	Port Neches-Groves ISD
2012-13 Enrollment in School District	4706
County	Jefferson
Proposed Total Investment in District	\$1,603,000,000
Proposed Qualified Investment	\$1,091,000,000
Limitation Amount	\$30,000,000
Number of new qualifying jobs committed to by applicant	10
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$1,280
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)	\$1,280
Minimum annual wage committed to by applicant for qualified jobs	\$66,551
Minimum weekly wage required for non-qualifying jobs	
Minimum annual wage required for non-qualifying jobs	
Investment per Qualifying Job	\$160,300,000
Estimated M&O levy without any limit (15 years)	\$183,424,283
Estimated M&O levy with Limitation (15 years)	\$55,220,636
Estimated gross M&O tax benefit (15 years)	\$128,203,647





**Attachment B – Tax Revenue over 25 Years**

This represents the Comptroller’s determination that Total Petrochemicals & Refining USA, Inc. and TOTAL PAR LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2017	\$1,675,440	\$1,675,440	\$0	\$0
	2018	\$4,792,320	\$6,467,760	\$0	\$0
	2019	\$12,111,840	\$18,579,600	\$0	\$0
<b>Limitation Period (10 Years)</b>	2020	\$312,000	\$18,891,600	\$14,692,080	\$14,692,080
	2021	\$312,000	\$19,203,600	\$14,241,958	\$28,934,038
	2022	\$312,000	\$19,515,600	\$13,805,339	\$42,739,376
	2023	\$312,000	\$19,827,600	\$13,381,819	\$56,121,195
	2024	\$312,000	\$20,139,600	\$12,971,004	\$69,092,199
	2025	\$312,000	\$20,451,600	\$12,572,514	\$81,664,713
	2026	\$312,000	\$20,763,600	\$12,185,979	\$93,850,692
	2027	\$312,000	\$21,075,600	\$11,811,039	\$105,661,731
	2028	\$312,000	\$21,387,600	\$11,447,348	\$117,109,079
	2029	\$312,000	\$21,699,600	\$11,094,568	\$128,203,647
<b>Maintain Viable Presence (5 Years)</b>	2030	\$11,064,371	\$32,763,971	\$0	\$128,203,647
	2031	\$10,732,439	\$43,496,410	\$0	\$128,203,647
	2032	\$10,410,466	\$53,906,876	\$0	\$128,203,647
	2033	\$10,098,152	\$64,005,029	\$0	\$128,203,647
	2034	\$9,795,208	\$73,800,236	\$0	\$128,203,647
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2035	\$9,501,352	\$83,301,588	\$0	\$128,203,647
	2036	\$9,216,311	\$92,517,899	\$0	\$128,203,647
	2037	\$8,939,822	\$101,457,720	\$0	\$128,203,647
	2038	\$8,671,627	\$110,129,347	\$0	\$128,203,647
	2039	\$8,411,478	\$118,540,826	\$0	\$128,203,647
	2040	\$8,159,134	\$126,699,959	\$0	\$128,203,647
	2041	\$7,914,360	\$134,614,319	\$0	\$128,203,647
	2042	\$7,676,929	\$142,291,248	\$0	\$128,203,647
	2043	\$7,446,621	\$149,737,869	\$0	\$128,203,647
	2044	\$7,223,223	\$156,961,092	\$0	\$128,203,647

<b>\$156,961,092</b>	is greater than	<b>\$128,203,647</b>
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<b>Analysis Summary</b>	
Is the project reasonably likely to generate M&O tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?	Yes

Source: CPA, Total Petrochemicals & Refining USA, Inc. and TOTAL PAR LLC

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

## **Attachment C – Limitation as a Determining Factor**

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

### **Methodology**

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

### **Determination**

The Comptroller has determined that the limitation on appraised value is a determining factor in the Total Petrochemicals & Refining USA, Inc. and TOTAL PAR LLC’s decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per the applicants, the applicants are “wholly-owned indirect subsidiaries of Total S.A., one of the largest integrated international oil and gas companies in the world with operations in more than 130 countries.” It is apparent that the parent company has the ability to build the new project outside of Texas.
- Per the applicants, the applicants have related facilities in a neighboring state and have received an incentive offer from it.
- Per the applicants, no construction has commenced at the project site and the construction timeline is not in the near future.

### **Supporting Information**

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

# **Supporting Information**

**Section 8 of the Application for  
a Limitation on Appraised Value**

## Application for Appraised Value Limitation on Qualified Property

### SECTION 6: Eligibility Under Tax Code Chapter 313.024

1. Are you an entity subject to the tax under Tax Code, Chapter 171?  Yes  No
2. The property will be used for one of the following activities:
  - (1) manufacturing  Yes  No
  - (2) research and development  Yes  No
  - (3) a clean coal project, as defined by Section 5.001, Water Code  Yes  No
  - (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code  Yes  No
  - (5) renewable energy electric generation  Yes  No
  - (6) electric power generation using integrated gasification combined cycle technology  Yes  No
  - (7) nuclear electric power generation  Yes  No
  - (8) a computer center that is used as an integral part or as a necessary auxiliary part for the activity conducted by applicant in one or more activities described by Subdivisions (1) through (7)  Yes  No
  - (9) a Texas Priority Project, as defined by 313.024(e)(7) and TAC 9.1051  Yes  No
3. Are you requesting that any of the land be classified as qualified investment?  Yes  No
4. Will any of the proposed qualified investment be leased under a capitalized lease?  Yes  No
5. Will any of the proposed qualified investment be leased under an operating lease?  Yes  No
6. Are you including property that is owned by a person other than the applicant?  Yes  No
7. Will any property be pooled or proposed to be pooled with property owned by the applicant in determining the amount of your qualified investment?  Yes  No

### SECTION 7: Project Description

1. In **Tab 4**, attach a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.
2. Check the project characteristics that apply to the proposed project:
 

<input type="checkbox"/> Land has no existing improvements	<input checked="" type="checkbox"/> Land has existing improvements ( <i>complete Section 13</i> )
<input type="checkbox"/> Expansion of existing operation on the land ( <i>complete Section 13</i> )	<input type="checkbox"/> Relocation within Texas

### SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur?  Yes  No
2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project?  Yes  No
3. Does the applicant have current business activities at the location where the proposed project will occur?  Yes  No
4. Has the applicant made public statements in SEC filings or other documents regarding its intentions regarding the proposed project location?  Yes  No
5. Has the applicant received any local or state permits for activities on the proposed project site?  Yes  No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site?  Yes  No
7. Is the applicant evaluating other locations not in Texas for the proposed project?  Yes  No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities?  Yes  No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project?  Yes  No
10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?  Yes  No

**Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.**

# **Supporting Information**

Attachments provided in Tab 5  
of the Application for a  
Limitation on Appraised Value

*Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.*

The Applicants are wholly-owned indirect subsidiaries of Total S.A., one of the largest integrated international oil and gas companies in the world with operations in more than 130 countries. As such, the Applicants compete with other members of the Total S.A. group for approval of a portion of the group's capital investment budget to fund the capital investment necessary to construct the Project. Moreover, the Total S.A. group has the ability to invest, locate and develop new projects, such as the one that is the subject of this application, in numerous locations throughout the world.

The Applicants own and operate the Port Arthur Refinery where the Project would be sited if the Port Arthur Refinery location were chosen as the site for the Project.

One of the Applicants, Total Petrochemicals & Refining USA, Inc. ("TPRI"), also owns and operates the Carville Styrenics Complex located in Iberville Parish, Louisiana. This facility is one of the largest styrene and polystyrene complex in the world. At the same time that the Applicants are evaluating the Port Arthur Refinery location as the site for the Project, TPRI is also evaluating the Carville Styrenics Complex location as the site for the Project.

In connection with TPRI's evaluation of the Carville Styrenics Complex location, Louisiana Economic Development ("LED"), a Department of the State of Louisiana, has submitted a proposal to TPRI (the "LED Carville Proposal") outlining in detail, among other things, the State of Louisiana's incentive package offered to TPRI if the Project is located at the Carville Styrenics Complex location. Those incentives include a 100% property tax exemption for 10 years.

The property tax incentives available for the Project if located at each of the Port Arthur Refinery location and the Carville Styrenics Complex location are a critical factor in the Applicants' site selection evaluation and decision, as well as in obtaining approval for the Project internally within the Total S.A. group. For the tax year 2013, Port Neches-Groves ISD's maintenance and operations (M&O) tax rate represents over 50% of the total property tax burden imposed on taxable property located at the Port Arthur Refinery location. Consequently, a limitation on appraised value under Chapter 313 of the Texas Tax Code is a determining factor in the Applicant's decision to invest capital and construct the Project in the State of Texas.

**The LED Carville Proposal will be provided to the Texas Comptroller of Public Accounts under separate cover.**