

**FINDINGS OF THE BORGER  
INDEPENDENT SCHOOL DISTRICT  
BOARD OF TRUSTEES  
UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE  
APPLICATION SUBMITTED  
BY  
COMINCO FERTILIZER PARTNERSHIP**



December 30, 2013

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OF THE  
BORGER INDEPENDENT  
SCHOOL DISTRICT BOARD OF TRUSTEES  
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**DECEMBER 30, 2013**



Board Findings of the Borger Independent School District

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DISTRICT BOARD OF TRUSTEES UNDER THE  
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ON THE APPLICATION SUBMITTED BY  
COMINCO FERTILIZER PARTNERSHIP

STATE OF TEXAS

§

COUNTY OF HUTCHINSON

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On the 30<sup>th</sup> day of December, 2013, a public meeting of the Board of Trustees of the Borger Independent School District was held. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board of Trustees took up and considered the application of Cominco Fertilizer Partnership (Cominco) for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations on the Application from interested parties within the District. After hearing presentations from the District's administrative staff, and from consultants retained by the District to advise the Board in this matter, the Board of Trustees of the Borger Independent School District makes the following findings with respect to the application of Cominco, and the economic impact of that application:

On April 11, 2013, the Superintendent of Schools of the Borger Independent School District, acting as agent of the Board of Trustees, and the Texas Comptroller of Public Accounts received an Application from Cominco for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. A copy of the Application is attached as **Attachment A**.

The Applicant, Cominco (Texas Taxpayer Id. 19115994501), is an entity subject to Chapter 171, Texas Tax Code, and is certified to be in good standing with the Texas Comptroller of Public Accounts. See **Attachment B**.

The Board of Trustees has acknowledged receipt of the Application, along with the requisite application fee, as established pursuant to Texas Tax Code § 313.025(a)(1) and Local District Policy.

Board Findings of the Borger Independent School District

The Application was delivered to the Texas Comptroller's Office for review pursuant to Texas Tax Code § 313.025(d). A copy of the Application was delivered to the Borger Appraisal District for review pursuant to 34 Tex. Admin. Code § 9.1054.

The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code § 313.026, and a favorable recommendation was issued on November 8, 2013. A copy of the Comptroller's letter is attached to the findings as **Attachment C**.

After receipt of the Application, the Texas Comptroller of Public Accounts caused to be conducted an economic impact evaluation pursuant to Texas Tax Code § 313.026 and the Board of Trustees has carefully considered such evaluation. A copy of the economic impact evaluation is attached to these findings as **Attachment D**.

The Board of Trustees also directed that a specific financial analysis be conducted of the impact of the proposed value limitation on the finances of the Borger Independent School District. A copy of a report prepared by Moak, Casey & Associates, Inc. is attached to these findings as **Attachment E**.

The Board of Trustees has confirmed that the taxable value of property in the Borger Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403, Government Code, is as stated in **Attachment F**.

After receipt of the Application, the District entered into negotiations with Cominco over the specific language to be included in the Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, including appropriate revenue protection provisions for the District. The proposed Agreement is attached to these findings as **Attachment G**.

Board Findings of the Borger Independent School District

After review of the Comptroller's recommendation, and in consideration of its own economic impact study the Board finds:

**Board Finding Number 1.**

**There is a strong relationship between the Applicant's industry and the types of qualifying jobs to be created by the Applicant and the long-term economic growth plan of this State as described in the strategic plan for economic development (ED Plan) submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Texas Government Code.**

The Texas Economic Development Plan focuses on attracting and developing industries using technology. It also identifies opportunities for existing Texas industries. The plan centers on promoting economic prosperity throughout Texas and the skilled workers that the Cominco Fertilizer Partnership project requires appear to be in line with the focus and themes of the plan. Texas identified manufacturing as one of six target clusters in the Texas Cluster Initiative. The plan stresses the importance of technology in all sectors of the manufacturing industry.

**Board Finding Number 2.**

**The economic condition of Borger, Texas is in need of long-term improvement, based on the state's analysis of Hutchinson County data.**

Based on information provided by the Comptroller's Office that focused on the county level, Hutchinson County is the 110<sup>th</sup> largest county in the state in terms of population. Population growth in Hutchinson County is down, based on these data. The population of Hutchinson County decreased by 0.5 percent between 2009 and 2010, whereas the state population increased 1.8 percent during the same period.

September 2011 employment for Hutchinson County was up 0.6 percent from September 2010, slightly below the state's 0.9 percent increase in total employment during the same period. The unemployment rate in Hutchinson County was to 7.0 percent in September 2011, below than the state average of 8.5 percent.



Board Findings of the Borger Independent School District

Hutchinson County continues to have a lower per capita personal income than the state as a whole. In terms of per capita income, Hutchinson City's \$36,491 in 2009 ranked 73<sup>rd</sup> among the 254 counties in Texas, while the Texas average was \$38,609 for the same period.

The local economy in Hutchinson County will benefit from economic activity like that associated with the Cominco project. Major capital investments like this project are beneficial to the community on a number of fronts, including direct and indirect employment, expanded opportunities for existing businesses and increased local tax bases.

**Board Finding Number 3.**

The average salary level of qualifying jobs is expected to be at least \$46,035 per year. The review of the application by the State Comptroller's Office indicated that this amount—based on Texas Workforce Commission data—complies with the requirement that qualifying jobs must pay 110 percent of the regional average manufacturing wage. Cominco indicates that total employment will be approximately 20 new jobs, 19 of which will be qualifying jobs.

In support of Finding 3, the economic impact evaluation states:

After construction, the project will create 20 new jobs when fully operational. Of these jobs, 19 will meet the criteria for qualifying jobs as specified in Tax Code Section 313.021(3). According to the Texas Workforce Commission (TWC), the regional manufacturing wage for the Panhandle Regional Planning Commission, where Hutchinson County is located was \$41,850 in 2012. The annual average manufacturing wage for 2012-2013 for Hutchinson County is \$86,086. That same year, the county annual average wage for all industries was \$58,994. In addition to a salary of \$46,035, each qualifying position will receive benefits such as health insurance, life insurance, 401(k), paid vacation and sick leave, wellness, and at least 80% employer coverage of health benefits premiums.

**Board Finding Number 4.**

**The level of the applicant's average investment per qualifying job over the term of the Agreement is estimated to be approximately \$31.6 million, on the basis of the goal of 19 new qualifying positions for the entire Cominco project.**

In support of Finding 4, the economic impact evaluation states:

The project's total investment is \$600 million, resulting in a relative level of investment per qualifying job of \$31.6 million.

**Board Finding Number 5.**

**Subsequent economic effects on the local and regional tax bases will be significant. In addition, the impact of the added infrastructure will be significant to the region.**

Table 1 depicts Cominco Fertilizer Partnership's estimated economic impact to Texas. It depicts the direct, indirect and induced effects to employment and personal income within the state. The Comptroller's office calculated the economic impact based on 16 years of annual investment and employment levels using software from Regional Economic Models, Inc. (REMI). The impact includes the construction period and the operating period of the project.

Board Findings of the Borger Independent School District

**Table 1: Estimated Statewide Economic Impact of Investment and Employment in Cominco Fertilizer Partnership**

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2013	9	26	35	\$414,315	\$1,585,685	\$2,000,000
2014	388	496	884	\$28,741,408	\$31,258,592	\$60,000,000
2015	670	853	1523	\$49,717,940	\$59,282,060	\$109,000,000
2016	20	105	125	\$996,980	\$16,003,020	\$17,000,000
2017	20	80	100	\$1,026,880	\$12,973,120	\$14,000,000
2018	20	58	78	\$1,057,700	\$10,942,300	\$12,000,000
2019	20	52	72	\$1,089,420	\$8,910,580	\$10,000,000
2020	20	54	74	\$1,122,100	\$8,877,900	\$10,000,000
2021	20	64	84	\$1,155,780	\$7,844,220	\$9,000,000
2022	20	72	92	\$1,190,440	\$8,809,560	\$10,000,000
2023	20	84	104	\$1,226,160	\$9,773,840	\$11,000,000
2024	20	70	90	\$1,262,940	\$8,737,060	\$10,000,000
2025	20	72	92	\$1,300,840	\$8,699,160	\$10,000,000
2026	20	72	92	\$1,339,860	\$8,660,140	\$10,000,000
2027	20	74	94	\$1,380,060	\$9,619,940	\$11,000,000
2028	20	74	94	\$1,421,460	\$9,578,540	\$11,000,000

Source: CPA, REMI, Cominco Fertilizer Partnership

The statewide average ad valorem tax base for school districts in Texas was \$1.65 billion in 2011. Borger ISD's ad valorem tax base in 2011 was \$545 million. The statewide average wealth per WADA was estimated at \$343,155 for fiscal 2012-2013. During that same year, Borger ISD's estimated wealth per WADA was \$159,292. The impact on the facilities and finances of the district are presented in Attachment 2.

Table 2 examines the estimated direct impact on ad valorem taxes to the school district, Hutchinson County, Hutchinson County Hospital District, and Frank Phillips College District, with all property tax incentives sought being granted using estimated market value from Cominco Fertilizer Partnership's application. Cominco Fertilizer Partnership has applied for both a value limitation under Chapter 313, Tax Code and a tax abatement with the county. Table 3 illustrates the estimated tax impact of the Cominco Fertilizer Partnership project on the region if all taxes are assessed.



# Board Findings of the Borger Independent School District

**Table 2 Estimated Direct Ad Valorem Taxes with all property tax incentives sought**

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Borger ISD I&S Levy	Borger ISD M&O Levy	Borger ISD M&O and I&S Tax Levies (Before Credit Credited)	Borger ISD M&O and I&S Tax Levies (After Credit Credited)	Hutchinson County Tax Levy	Hutchinson County Hospital District Tax Levy	Frank Phillips College District Tax Levy	Estimated Total Property Taxes
				0.293900	1.040000			0.446570	0.093923	0.220000	
						\$268,394	\$268,394	\$89,854	\$18,898	\$44,266	\$421,413
2014	\$20,121,000	\$20,121,000		\$59,136	\$209,258	\$268,394	\$268,394	\$89,854	\$18,898	\$44,266	\$7,138,655
2015	\$340,846,000	\$340,846,000		\$1,001,746	\$3,544,798	\$4,546,545	\$4,546,545	\$1,522,116	\$320,133	\$749,861	\$2,864,328
2016	\$407,112,580	\$20,000,000		\$1,196,504	\$208,000	\$1,404,504	\$1,404,504	\$181,804	\$382,372	\$895,648	\$2,575,525
2017	\$408,010,160	\$20,000,000		\$1,199,142	\$208,000	\$1,407,142	\$930,277	\$364,410	\$383,215	\$897,622	\$2,791,023
2018	\$412,498,421	\$20,000,000		\$1,212,333	\$208,000	\$1,420,333	\$943,468	\$552,628	\$387,431	\$907,497	\$2,968,331
2019	\$411,620,801	\$20,000,000		\$1,209,754	\$208,000	\$1,417,754	\$940,888	\$735,270	\$386,607	\$905,566	\$3,138,638
2020	\$409,995,184	\$20,000,000		\$1,204,976	\$208,000	\$1,412,976	\$936,111	\$915,458	\$385,080	\$901,989	\$3,301,324
2021	\$407,665,218	\$20,000,000		\$1,198,128	\$208,000	\$1,406,128	\$929,263	\$1,092,306	\$382,891	\$896,863	\$3,455,791
2022	\$404,668,338	\$20,000,000		\$1,189,320	\$208,000	\$1,397,320	\$920,455	\$1,264,989	\$380,077	\$890,270	\$3,959,597
2023	\$401,032,856	\$20,000,000		\$1,178,636	\$208,000	\$1,386,636	\$909,770	\$1,790,892	\$376,662	\$882,272	\$8,310,022
2024	\$396,774,734	\$396,774,734		\$1,166,121	\$4,126,457	\$5,292,578	\$5,292,578	\$1,771,877	\$372,663	\$872,904	\$8,093,814
2025	\$386,451,539	\$386,451,539		\$1,135,781	\$4,019,096	\$5,154,877	\$5,154,877	\$1,725,777	\$362,967	\$850,193	\$7,980,182
2026	\$381,026,026	\$381,026,026		\$1,119,835	\$3,962,671	\$5,082,506	\$5,082,506	\$1,701,548	\$357,871	\$838,257	\$7,730,571
2027	\$369,107,925	\$369,107,925		\$1,084,808	\$3,838,722	\$4,923,531	\$4,923,531	\$1,648,325	\$346,677	\$812,037	\$7,461,708
2028	\$356,270,689	\$356,270,689		\$1,047,080	\$3,705,215	\$4,752,295	\$4,752,295	\$1,590,998	\$334,620	\$783,796	
						<b>Total</b>	<b>\$37,935,461</b>	<b>\$16,948,254</b>	<b>\$5,178,164</b>	<b>\$12,129,043</b>	<b>\$72,190,922</b>

Assumes School Value Limitation and Tax Abatement with the County.

Source: CPA, Cominco Fertilizer Partnership

<sup>1</sup>Tax Rate per \$100 Valuation

**Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives**

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Borger ISD I&S Levy	Borger ISD M&O Levy	Borger ISD M&O and I&S Tax Levies	Hutchinson County Tax Levy	Hutchinson County Hospital District Tax Levy	Frank Phillips College District Tax Levy	Estimated Total Property Taxes
				0.293900	1.040000		0.446570	0.093923	0.220000	
						\$268,394	\$89,854	\$18,898	\$44,266	\$421,413
2014	\$20,121,000	\$20,121,000		\$59,136	\$209,258	\$4,546,545	\$1,522,116	\$320,133	\$749,861	\$7,138,655
2015	\$340,846,000	\$340,846,000		\$1,001,746	\$3,544,798	\$5,430,475	\$1,818,043	\$382,372	\$895,648	\$8,526,537
2016	\$407,112,580	\$407,112,580		\$1,196,504	\$4,233,971	\$5,442,448	\$1,822,051	\$383,215	\$897,622	\$8,545,336
2017	\$408,010,160	\$408,010,160		\$1,199,142	\$4,243,306	\$5,502,316	\$1,842,094	\$387,431	\$907,497	\$8,639,338
2018	\$412,498,421	\$412,498,421		\$1,212,333	\$4,289,984	\$5,502,316	\$1,842,094	\$387,431	\$907,497	\$8,639,338
2019	\$411,620,801	\$411,620,801		\$1,209,754	\$4,280,856	\$5,490,610	\$1,838,175	\$386,607	\$905,566	\$8,620,957
2020	\$409,995,184	\$409,995,184		\$1,204,976	\$4,263,950	\$5,468,926	\$1,830,915	\$385,080	\$901,989	\$8,586,910
2021	\$407,665,218	\$407,665,218		\$1,198,128	\$4,239,718	\$5,437,846	\$1,820,511	\$382,891	\$896,863	\$8,538,112
2022	\$404,668,338	\$404,668,338		\$1,189,320	\$4,208,551	\$5,397,871	\$1,807,127	\$380,077	\$890,270	\$8,475,345
2023	\$401,032,856	\$401,032,856		\$1,178,636	\$4,170,742	\$5,349,377	\$1,790,892	\$376,662	\$882,272	\$8,399,204
2024	\$396,774,734	\$396,774,734		\$1,166,121	\$4,126,457	\$5,292,578	\$1,771,877	\$372,663	\$872,904	\$8,310,022
2025	\$386,451,539	\$386,451,539		\$1,135,781	\$4,019,096	\$5,154,877	\$1,725,777	\$362,967	\$850,193	\$8,093,814
2026	\$381,026,026	\$381,026,026		\$1,119,835	\$3,962,671	\$5,082,506	\$1,701,548	\$357,871	\$838,257	\$7,980,182
2027	\$369,107,925	\$369,107,925		\$1,084,808	\$3,838,722	\$4,923,531	\$1,648,325	\$346,677	\$812,037	\$7,730,571
2028	\$356,270,689	\$356,270,689		\$1,047,080	\$3,705,215	\$4,752,295	\$1,590,998	\$334,620	\$783,796	\$7,461,708
						<b>Total</b>	<b>\$73,540,594</b>	<b>\$24,620,304</b>	<b>\$5,178,164</b>	<b>\$115,468,106</b>

Source: CPA, Cominco Fertilizer Partnership

<sup>1</sup>Tax Rate per \$100 Valuation

Board Findings of the Borger Independent School District

**Board Finding Number 6.**

**The revenue gains that will be realized by the school district if the Application is approved will be significant in the long-term, with special reference to revenues used for supporting school district debt.**

In support of this finding, the analysis prepared by Moak, Casey & Associates projects that the project would initially add \$413 million to the tax base for debt service purposes at the peak investment level for the 2018-19 school year. The Cominco project remains fully taxable for debt services taxes, with Borger ISD levying a \$0.2939 per \$100 I&S rate. While the value of the Cominco project is expected to depreciate over the life of the agreement and beyond, full access to the additional value will add to the District's I&S tax base, particularly in the early years of the project.

**Board Finding Number 7.**

**The effect of the applicant's proposal, if approved, on the number or size of needed school district instructional facilities is not expected to increase the District's facility needs, with current trends suggest little underlying enrollment growth based on the impact of the Cominco project.**

The summary of financial impact prepared by Moak, Casey & Associates, Inc., indicates that there will be little to no impact on school facilities created by the new manufacturing project. This finding is confirmed by the TEA evaluation of this project's impact on the number and size of school facilities in Borger ISD as stated in **Attachment D**.

**Board Finding Number 8.**

**The ability of the applicant to locate the proposed facility in another state or another region of this state is substantial, as a result of the highly competitive marketplace for economic development.**

In support of Finding 8, the economic impact evaluation states:

According to Cominco Fertilizer Partnership's application, "Cominco Fertilizer Partnership, as part of the larger Agrium US, Inc. and by extension Agrium, Inc., has production facilities in several US states including Texas, Washington, Ohio, California and Idaho as well as facilities in Alberta,



Board Findings of the Borger Independent School District

Canada and South America. Our Board of Directors looks at all of these existing facilities for expansion opportunities as well as the potential to invest in new "Greenfield" projects in North America. At this time, the company is evaluating whether to invest in expanding production in the Texas Panhandle region of the state at our Borger, Texas facility. However, expansion opportunities at our other North American facilities in lieu of, or in addition to, the Borger, Texas project are also being evaluated. Agrium's Board of Directors are expected to make decisions on which projects to approve later this year. At this stage of the Board's investment plans for the future, the Chapter 313 economic incentive is a critical factor driving the Board of Director's decision as to whether to invest in Texas."

**Board Finding Number 9.**

**During the past two years, 18 projects in the Panhandle Regional Planning Commission applied for value limitation agreements under Tax Code, Chapter 313.**

**Board Finding Number 10.**

**The Board of Trustees hired consultants to review and verify the information in the Application from Cominco. Based upon the consultants' review, the Board has determined that the information provided by the Applicant is true and correct.**

**Board Finding Number 11.**

**The Board of Trustees has determined that the Tax Limitation Amount requested by Applicant is currently Twenty Million Dollars, which is consistent with the minimum values currently set out by Tax Code, § 313.054(a).**

According to the Texas Comptroller of Public Accounts' School and Appraisal Districts' Property Value Study 2012 Final Findings made under Subchapter M, Chapter 403, Government Code for the preceding tax year, Attachment F, the total 2012 industrial value for Borger ISD is \$141.8 million. Borger ISD is categorized as Subchapter C, which applies only to a school district that has territory in a strategic investment area, as defined under Subchapter O, Chapter 171, Tax Code or in a county: (1) that has a population of less than 50,000 and (2) in which, from 1990 to 2000, according to the federal decennial census, the



Board Findings of the Borger Independent School District

population: (A) remained the same; (B) decreased; or (C) increased, but at a rate of not more than three percent per annum. Borger ISD is classified as a "rural" district due to its population characteristics. Given that the value of industrial property in Borger ISD is more than \$90 million but less than \$200 million, it is classified as a Category II district which can offer a minimum value limitation of \$20 million.

**Board Finding Number 12.**

**The Applicant (Taxpayer Id. 19115994501) is eligible for the limitation on appraised value of qualified property as specified in the Agreement based on its "good standing" certification as a franchise-tax paying entity.**

**Board Finding Number 13.**

**The Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment G, includes adequate and appropriate revenue protection provisions for the District.**

In support of this finding, the report of Moak, Casey & Associates, Inc. shows that the District will incur a revenue loss in the first and subsequent years that the value limitation is in effect without the proposed Agreement. However, with this Agreement, the negative consequences of granting the value limitation are offset through the revenue protection provisions agreed to by the Applicant and the District. Revenue protection measures are in place for the duration of the Agreement.

**Board Finding Number 14.**

**Considering the purpose and effect of the law and the terms of the Agreement, that it is in the best interest of the District and the State to enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.**

It is therefore ORDERED that the Agreement attached hereto as **Attachment G** is approved and hereby authorized to be executed and delivered by and on behalf of the Borger Independent School District. It is further ORDERED that these findings and the Attachments referred to herein be attached to the Official Minutes of this meeting, and

Board Findings of the Borger Independent School District

maintained in the permanent records of the Board of Trustees of the Borger Independent School District.

Dated the 30<sup>th</sup> day of December 2013.

BORGER INDEPENDENT SCHOOL DISTRICT

By: Robert Bradley  
Robert Bradley, President, Board of Trustees

ATTEST:

By: Todd Harris  
Todd Harris, Secretary, Board of Trustees

Attachment A  
Application



**KIRKWOOD AND DARBY, INC.**  
**PROPERTY TAX MANAGEMENT & CONSULTING**

307 W. 7<sup>TH</sup> STREET, SUITE 1110  
FORT WORTH, TEXAS 76102  
(817) 831-3594  
kirkwoodanddarby.com

FOUNDED 1936

FAX (817) 831-3598

October 3, 2013

Mr. Robert Wood  
Director of Economic Development and Analysis  
Texas Comptroller of Public Accounts  
P.O. Box 3528  
Austin, TX 78711-3528

Re: Response – App #317 Borger ISD-Cominco Fertilizer Partnership Deficiency Letter

Dear Mr. Wood,

This letter is in response to the deficiency letter from your office dated September 11, 2013. More specifically, item 1 on Attachment A to the letter states:

“The application lacks ‘a specific and detailed description of the property .... to clearly distinguish the subject property from property to which the limitation does not apply and to establish that the property meets the criteria of qualified property pursuant to Tax Code, 313.021(2)’ as required by TAC 9.1053(1)(i).

Note that refurbishment, upgrading, rebuilding or restoration of existing facilities does not meet the statutory definition of new buildings or new improvements in Tax Code 313.021(2). Please provide a detailed description (with detailed location maps and/or surveys) of the new buildings and new improvements the applicant to erect or build after the application review start date—that are not renovations of an existing facility.”

Following receipt of the deficiency letter, an in-person meeting was held with representatives from Cominco Fertilizer Partnership, the office of the Comptroller, Moak Casey & Associates, O’Hanlon, McCollom & Demerath and Kirkwood and Darby, Inc. The result of that meeting was a better understanding of the Comptroller’s concerns over the usage of the words modify and/or modification on various documents in the application. It was agreed that the intent of the 313 program is to eventually place new value on the appraisal rolls which would not otherwise come to be, not take value off the appraisal rolls by including in the meaning of the phrase “qualified property” existing property which was simply modified or renovated, but not new. Doing so could have the unintended consequence of pulling value of existing improvements off the appraisal roll as well as abating the value of new improvements being integrated into them. Allowing for the “modification” of existing improvements could at the very least remove value of old, existing equipment, which would necessarily be removed or abandoned in place, in addition to deeply abating the value of the new improvements installed in the



old improvement's place. In order to make sure this does not occur, but also provide for the abatement of new improvement value which appears in the form of modifications to the existing ammonia plant, we are suggesting the following process for accommodating the retention of value on the roll while abating new value on the same improvements.

The appraisal district will have as a baseline point of reference four values to take notice of which will be allocated to various existing and to be created account numbers:

- 1) **Value 1 - \$45,705,250** – This value represents the January 1, 2013 value of the land and all existing improvements. No value loss will occur due to modifications being made to these improvements. This value can be broken up into two sub-values:
  - a. **\$38,426,021** – This is the value of all existing/unqualified property which will not have any modifications made to it whatsoever. This value exists wholly or partly on 19 separate appraisal district accounts;
  - b. **\$7,279,229** – This is the value of all existing/unqualified property on the ammonia process account (*Hutchinson CAD account number 0003563-0-9900160 appraised at \$19,084,350*) which will be modified by the affixing to them of new improvements necessary to create the capacity necessary to make the new urea plant functional.
- 2) **Value 2 - \$35,833,681** – This is the value of all new improvements (qualified property) being affixed to the improvements referenced at 1)b above. This value represents new property which replaces old equipment, but for which there is no value loss. These are new improvements via modification necessary to allow for the functioning of the new urea plant. This value will exist on one or more new, yet to be created appraisal district accounts;
- 3) **Value 3 - \$407,166,319** – This is the value of all other new improvements (qualified property), but primarily those associated with the new urea plant and may be placed on any number of new, yet to be created account numbers as described in the Appraisal Plan.

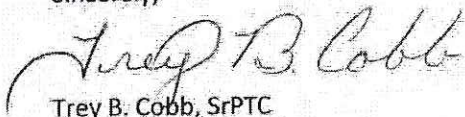
For clarification on items 1)b and 2) above, we are attaching a spreadsheet showing the total installed cost of \$43,112,910. Of that amount, \$7,279,229 (item 1.b above) is the present day value of the property to be modified and for which no value will be lost even though the correlating improvements will either be removed or abandoned in place. \$35,833,681 (item 2. Above) is the total installed cost of the improvements minus the present day value (item 1.b) which are new improvements and will be replacing portions of the modified improvements in item 1)b. Because the total reported qualified property value at items 2) and 3) has not changed from what was reported as the basis for application Schedule B calculations, no further revision of Schedule B is necessary. In addition, applicant is supplying the Appraisal Plan approved and signed by the Hutchinson County Appraisal District. The Appraisal Plan's purpose is to satisfy the chief appraiser's requirement that both qualified and unqualified property can be reliably identified and valued for the purpose of ad valorem tax assessment.



The applicant has submitted a large number of property maps, images, color-coded slides and corresponding lists of equipment in order to differentiate between existing, unqualified property and new, qualified property.

In regard to Item 2 of the deficiency letter, we have revised page 5 of the original application to indicate that Cominco Fertilizer Partnership is *not* registered to do business in Texas with the Texas Secretary of State's office. Cominco Fertilizer Partnership does pay taxes under Chapter 171 of the Texas Tax Code as a member of a combined group.

Sincerely,

A handwritten signature in cursive script that reads "Trey B. Cobb". The signature is written in dark ink and is positioned above the printed name and title.

Trey B. Cobb, SrPTC  
Kirkwood and Darby, Inc.

# **Cominco Fertilizer Partnership**

## **Chapter 313 Application to**

### **Borger Independent**

### **School District**

**Projected Qualified Investment - \$443,000,000**

**Requested Value Limitation - \$20,000,000**

**Submitted by:  
Trey B. Cobb, SrPTC  
Kirkwood and Darby, Inc.  
307 W 7<sup>th</sup> St Suite 1110  
Fort Worth, TX 76102**



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# Application for Appraised Value Limitation on Qualified Property (Tax Code, Chapter 313, Subchapter B or C)

Form 50-296  
(Revised May 2010)

**INSTRUCTIONS:** This application must be completed and filed with the school district. In order for an application to be processed, the governing body (school board) must elect to consider an application, but — by Comptroller rule — the school board may elect to consider the application only after the school district has received a completed application. Texas Tax Code, Section 313.025 requires that any completed application and any supplemental materials received by the school district must be forwarded within seven days to the Comptroller of Public Accounts.

If the school board elects to consider the application, the school district must:

- notify the Comptroller that the school board has elected to consider the application.

This notice must include:

- the date on which the school district received the application;
- the date the school district determined that the application was complete;
- the date the school board decided to consider the application; and
- a request that the comptroller prepare an economic impact analysis of the application;
- provide a copy of the notice to the appraisal district;
- must complete the sections of the application reserved for the school district and provide information required in the Comptroller rules located at 34 Texas Administrative Code (TAC) Section 9.1054; and
- forward the original completed application to the Comptroller in a three-ring binder with tabs separating each section of the documents, in addition to an electronic copy on CD. See 34 TAC Chapter 9, Subchapter F.

The governing body may, at its discretion, allow the applicant to supplement or amend the application after the filing date, subject to the restrictions in 34 TAC Chapter 9, Subchapter F.

When the Comptroller receives the notice and required information from the school district, the Comptroller will publish all submitted application materials on its Web site. The Comptroller is authorized to treat some application information as confidential and withhold it from publication on the Internet. To do so, however, the information must be segregated and comply with the other requirements set out in the Comptroller rules as explained in the Confidentiality Notice below.

The Comptroller will independently determine whether the application has been completed according to the Comptroller's rules (34 TAC Chapter 9, Subchapter F). If the Comptroller finds the application is not complete, the Comptroller will request additional materials from the school district. When the Comptroller determines that the application is complete, it will send the school district a notice indicating so. The Comptroller will determine the eligibility of the project, make a recommendation to the school board regarding the application and prepare an economic impact evaluation by the 90th day after the Comptroller receives a complete application—as determined by the Comptroller.

The school board must approve or disapprove the application before the 151st day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to complete the recommendation, economic impact evaluation or consider the application at any time during the application review period.

Please visit the Comptroller's Web site to find out more about the program at <http://www.window.state.tx.us/taxinfo/proptax/hb1200/index.html>. There are links on this Web page to the Chapter 313 statute, rules and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

## SCHOOL DISTRICT INFORMATION - CERTIFICATION OF APPLICATION

Date application received by district

Authorized School District Representative

April 11, 2013

First Name

Chance

Last Name

Welch

Title

Borger ISD Superintendent

School District Name

Borger Independent School District

Street Address

200 E Ninth St

Mailing Address

P.O. Box 1177

City

Borger

Phone Number

(806) 273-6481

Mobile Number (optional)

State

TX

ZIP

79008-1177

Fax Number

(806) 273-1066

E-mail Address

chance.welch@borgerisd.net

I authorize the consultant to provide and obtain information related to this application. ☒ Yes ☐ No

Will consultant be primary contact? ☒ Yes ☐ No





## Application for Appraised Value Limitation on Qualified Property

## SCHOOL DISTRICT INFORMATION - CERTIFICATION OF APPLICATION (CONTINUED)

## Authorized School District Consultant (If Applicable)

First Name  
KevinLast Name  
O'HanlonTitle  
AttorneyFirm Name  
Moak, Casey & AssociatesStreet Address  
400 W 15<sup>th</sup> St Suite 1410Mailing Address  
400 W 15<sup>th</sup> St Suite 1410City  
AustinState  
TXZIP  
78701Phone Number  
(512) 485-7878Fax Number  
(512) 485-7888

Mobile Number (Optional)

E-mail Address

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

Signature (Authorized School District Representative)

Date

July 9, 2013

Has the district determined this application complete? ☒ Yes ☐ No

If yes, date determined complete. July 19, 2013 redetermined complete 10/3/13

Have you completed the school finance documents required by TAC 9.1054(c)(3)? ☐ Yes ☒ No  
will supplement

## SCHOOL DISTRICT CHECKLIST AND REQUESTED ATTACHMENTS

Checklist	Page X of 16	Check Completed
1 Date application received by the ISD	1 of 16	✓
2 Certification page signed and dated by authorized school district representative	2 of 16	✓
3 Date application deemed complete by ISD.	2 of 16	✓
4 Certification pages signed and dated by applicant or authorized business representative of applicant	4 of 16	✓
5 Completed company checklist	12 of 16	✓
6 School finance documents described in TAC 9.1054(c)(3) (Due within 20 days of district providing notice of completed application)	2 of 16	will supplement



## Application for Appraised Value Limitation on Qualified Property

Form 10-2007

## APPLICANT INFORMATION - CERTIFICATION OF APPLICATION

## Authorized Business Representative (Applicant)

First Name

Adam

Last Name

Diamond

Title

Government Relations Manager

Organization

Agrium US, Inc.

Street Address

9201 FM 1551

Mailing Address

9201 FM 1551

City

Borger

State

TX

ZIP

79007

Phone Number

(303) 442-4085

Fax Number

Business e-mail Address

adam.diamond@agrium.com

Mobile Number (optional)

Will a company official other than the authorized business representative be responsible for responding to future information requests? .....

☒ Yes☐ No

If yes, please fill out contact information for that person.

First Name

Jennie

Last Name

Hon

Title

Finance Controller

Organization

Agrium US, Inc.

Street Address

9201 FM 1551

Mailing Address

9201 FM 1551

City

Borger

State

TX

ZIP

79007

Phone Number

(806) 468-0604

Fax Number

E-mail Address

jennie.hon@agrium.com

Mobile Number (optional)

(806) 886-4269

I authorize the consultant to provide and obtain information related to this application.....

☒ Yes☐ No

Will consultant be primary contact? .....

☒ Yes☐ No





Application for Appraised Value Limitation on Qualified Property

APPLICANT INFORMATION - CERTIFICATION OF APPLICATION (Continued)

Authorized Company Consultant (If Applicable)

First Name  
Trey

Last Name  
Cobb

Title  
Senior Property Tax Consultant

Firm Name  
Kirkwood and Darby, Inc.

Street Address  
307 W 7<sup>th</sup> St Suite 1110

Mailing Address  
307 W 7<sup>th</sup> St Suite 1110

City  
Fort Worth

State  
TX

ZIP  
76102

Phone Number  
(817) 831-3597

Fax Number  
(817) 831-3598

Business email Address  
tcobb@kirkwoodanddarby.com

I am the authorized representative for the business entity for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application is true and correct to the best of my knowledge and belief.

I hereby certify and affirm that the business entity I represent is in good standing under the laws of the state in which the business entity was organized and that no delinquent taxes are owed to the State of Texas.

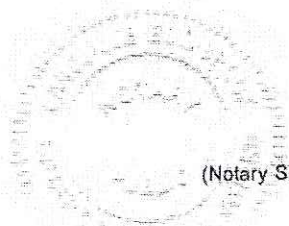
Signature (Authorized Business Representative (Applicant))

Date

7/2/2013

GIVEN under my hand and seal of office this 02<sup>ND</sup> day of July, 2013

Notary Public, State of MARYLAND



(Notary Seal)

CAROL-LEE ESTABROOK  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires January 4, 2015

My commission expires January 1, 2015

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code § 37.10.





## Application for Appraised Value Limitation on Qualified Property

## FEES AND PAYMENTS

☒ Enclosed is proof of application fee paid to the school district.

For the purpose of this question, "payments to the school district" include any and all payments or transfers of things of value made to the school district or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value.

Please answer only either A OR B:

A. Will any "payments to the school district" that you may make in order to receive a property tax value limitation agreement result in payments that are not in compliance with Tax Code, 313.027(i)? ☐ Yes ☒ No

B. If "payments to the school district" will only be determined by a formula or methodology without a specific amount being specified, could such method result in "payments to the school district" that are not in compliance with Tax Code §313.027(i)? ☐ Yes ☐ No

## BUSINESS APPLICANT INFORMATION

Legal Name under which application is made

**Cominco Fertilizer Partnership**

Texas Taxpayer I.D. Number of entity subject to Tax Code, Chapter 171 (11 digits)

**19115994501**

NAICS code

**325311**

Is the applicant a party to any other Chapter 313 agreements? ☐ Yes ☒ No

If yes, please list name of school district and year of agreement.

## APPLICANT BUSINESS STRUCTURE

Registered to do business in Texas with the Texas Secretary of State? ☐ Yes ☒ No

Identify business organization of applicant (corporation, limited liability corporation, etc.)

## Partnership

1. Is the applicant a combined group, or comprised of members of a combined group, as defined by Texas Tax Code Chapter 171.0001(7)? ☒ Yes ☐ No  
If so, please attach documentation of the combined group membership and contact information. (See Attachment A)

2. Is the applicant current on all tax payments due to the State of Texas? ☒ Yes ☐ No

3. Are all applicant members of the combined group current on all tax payments due to the State of Texas? ☐ NA ☒ Yes ☐ No

If the answer to either question is no, please explain and/or disclose any history of default, delinquencies and/or any material litigation, including litigation involving the State of Texas. (Use attachment if necessary.)





Form 50-296

## Application for Appraised Value Limitation on Qualified Property

## ELIGIBILITY UNDER TAX CODE CHAPTER 313.024

Are you an entity to which Tax Code, Chapter 171 applies? ☒ Yes ☐ No

The property will be used as an integral part, or as a necessary auxiliary part, in 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

Are you requesting that any of the land be classified as qualified investment? ☐ Yes ☒ No

Will any of the proposed qualified investment be leased under a capitalized lease? ☐ Yes ☒ No

Will any of the proposed qualified investment be leased under an operating lease? ☐ Yes ☒ No

Are you including property that is owned by a person other than the applicant? ☐ Yes ☒ No

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

## PROJECT DESCRIPTION

Provide 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. (Use attachments as necessary) **(See Attachment B)**

Describe the ability of your company to locate or relocate in another state or another region of the state.

Cominco Fertilizer Partnership, as part of the larger Agrium US, Inc. and by extension Agrium, Inc., has production facilities in several US states including Texas, Washington, Ohio, California and Idaho as well as facilities in Alberta, Canada and South America. Our Board of Directors looks at all of these existing facilities for expansion opportunities as well as the potential to invest in new "Greenfield" projects in North America. At this time, the company is evaluating whether to invest in expanding production in the Texas Panhandle region of the state at our Borger, Texas facility. However, expansion opportunities at our other North American facilities in lieu of, or in addition to, the Borger, Texas project are also being evaluated. Agrium's Board of Directors are expected to make decisions on which projects to approve later this year. At this stage of the Board's investment plans for the future, the Chapter 313 economic incentive is a critical factor driving the Board of Director's decision as to whether to invest in Texas.

## PROJECT CHARACTERISTICS (CHECK ALL THAT APPLY)

- |   |  |  |  |
|---|--|--|--|
| <input checked="" type="checkbox"/> New Jobs          | <input type="checkbox"/> Construct New Facility  | <input type="checkbox"/> New Business / Start-up                   | <input checked="" type="checkbox"/> Expand Existing Facility |
| <input type="checkbox"/> Relocation from Out-of-State | <input checked="" type="checkbox"/> Expansion    | <input checked="" type="checkbox"/> Purchase Machinery & Equipment |  |
| <input type="checkbox"/> Consolidation                | <input type="checkbox"/> Relocation within Texas |  |  |

## PROJECTED TIMELINE

Begin Construction 01/01/2014 Begin Hiring New Employees Q3, 2013

Construction Complete 12/31/2015 Fully Operational 01/01/2016

Purchase Machinery & Equipment Q3, 2013 (Pre-purchase of long-lead time items. None delivered until 2014)

Do you propose to construct a new building or to erect or affix a new improvement after your application review start date (date your application is finally determined to be complete)? ☒ Yes ☐ No

**Note:** Improvements made before that time may not be considered qualified property.

When do you anticipate the new buildings or improvements will be placed in service? 05/15/2015

**ECONOMIC INCENTIVES**

Identify state programs the project will apply for:

State Source

Amount

Total

Will other incentives be offered by local units of government? ☒ Yes ☐ No

Please use the following box for additional details regarding incentives. (Use attachments if necessary.)

**Cominco Fertilizer Partnership has applied for and been granted a 7-year step-down property tax abatement from Hutchinson County beginning at 90% abatement for the first year and reducing 10% per year to 30% in the final year.**

Identify county or counties in which the proposed project will be located Hutchinson CountyCentral Appraisal District (CAD) that will be responsible for appraising the property Hutchinson Central Appraisal DistrictWill this CAD be acting on behalf of another CAD to appraise this property? ☐ Yes ☒ No

List all taxing entities that have jurisdiction for the property and the portion of project within each entity

County: Hutchinson County (100%)  
(Name and percent of project)City: Not Applicable  
(Name and percent of project)Hospital District: Hutchinson County Hospital District (100%)  
(Name and percent of project)Water District: \_\_\_\_\_  
(Name and percent of project)Other (describe): Frank Phillips College (100%)  
(Name and percent of project)Other (describe): \_\_\_\_\_  
(Name and percent of project)Is the project located entirely within this ISD? ☒ Yes ☐ No

If not, please provide additional information on the project scope and size to assist in the economic analysis.





Form 50-296

## Application for Appraised Value Limitation on Qualified Property

**INVESTMENT**

**NOTE:** The minimum amount of qualified investment required to qualify for an appraised value limitation and the minimum amount of appraised value limitation vary depending on whether the school district is classified as rural, and the taxable value of the property within the school district. For assistance in determining estimates of these minimums, access the Comptroller's Web site at [www.window.state.tx.us/taxinfo/proptax/hb1200/values.html](http://www.window.state.tx.us/taxinfo/proptax/hb1200/values.html).

At the time of application, what is the estimated minimum qualified investment required for this school district? \$20 million

What is the amount of appraised value limitation for which you are applying? \$20 million

What is your total estimated qualified investment? \$443 million

**NOTE:** See 313.021(1) for full definition. Generally, Qualified Investment is the sum of the investment in tangible personal property and buildings and new improvements made between beginning of the qualifying time period (date of application final approval by the school district) and the end of the second complete tax year.

What is the anticipated date of application approval? 11/30/2013

What is the anticipated date of the beginning of the qualifying time period? 11/30/2013

What is the total estimated investment for this project for the period from the time of application submission to the end of the limitation period? \$600 million

Describe the qualified investment. [See 313.021(1).]

Attach the following items to this application:

- (1) a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021, **(See Attachment C)**
- (2) a description of any new buildings, proposed improvements or personal property which you intend to include as part of your minimum qualified investment and **(See Attachment D)**
- (3) a map of the qualified investment showing location of new buildings or new improvements with vicinity map. **(See Attachment E)**

Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or 313.053 for rural school districts) for the relevant school district category during the qualifying time period? ☒ Yes ☐ No

Except for new equipment described in Tax Code §151.318(q) or (q-1), is the proposed tangible personal property to be placed in service for the first time:

- (1) in or on the new building or other new improvement for which you are applying? ☒ Yes ☐ No
- (2) if not in or on the new building or other new improvement for which you are applying for an appraised value limitation, is the personal property necessary and ancillary to the business conducted in the new building or other new improvement? ☐ Yes ☐ No
- (3) on the same parcel of land as the building for which you are applying for an appraised value limitation? ☐ Yes ☐ No

("First placed in service" means the first use of the property by the taxpayer.)

Will the investment in real or personal property you propose be counted toward the minimum qualified investment required by Tax Code §313.023, (or 313.053 for rural school districts) be first placed in service in this state during the applicable qualifying time period? ☒ Yes ☐ No

Does the investment in tangible personal property meet the requirements of Tax Code §313.021(1)? ☒ Yes ☐ No

If the proposed investment includes a building or a permanent, non-removable component of a building, does it house tangible personal property? ☒ Yes ☐ No

**QUALIFIED PROPERTY**

Describe the qualified property. [See 313.021(2)] (If qualified investment describes qualified property exactly you may skip items (1), (2) and (3) below.)

Attach the following items to this application:

- (1) a specific and detailed description of the qualified property for which you are requesting an appraised value limitation as defined by Tax Code §313.021,
- (2) a description of any new buildings, proposed improvements or personal property which you intend to include as part of your qualified property and
- (3) a map of the qualified property showing location of new buildings or new improvements – with vicinity map.

**Land**

Is the land on which you propose new construction or improvements currently located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303? ☒ Yes ☐ No

If you answered "no" to the question above, what is the anticipated date on which you will submit proof of a reinvestment zone with boundaries encompassing the land on which you propose new construction or improvements? \_\_\_\_\_

Will the applicant own the land by the date of agreement execution? ☒ Yes ☐ No

Will the project be on leased land? ☐ Yes ☒ No



**QUALIFIED PROPERTY (CONTINUED)**

If the land upon which the new building or new improvement is to be built is part of the qualified property described by §313.021(2)(A), please attach complete documentation, including:

1. Legal description of the land (See Attachment F)
2. Each existing appraisal parcel number of the land on which the improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property **0003563-0-9900100**
3. Owner **Cominco Fertilizer Partnership**
4. The current taxable value of the land. Attach estimate if land is part of larger parcel. **\$291,430**
5. A detailed map (with a vicinity map) showing the location of the land (See Attachment G and H)

Attach a map of the reinvestment zone boundaries, certified to be accurate by either the governmental entity creating the zone, the local appraisal district, or a licensed surveyor. (With vicinity map)

Attach the order, resolution or ordinance establishing the zone, and the guidelines and criteria for creating the zone, if applicable. (See Attachments I and J)

**Miscellaneous**

Is the proposed project a building or new improvement to an existing facility? ☒ Yes ☐ No

Attach a description of any existing improvements and include existing appraisal district account numbers.

List current market value of existing property at site as of most recent tax year. **\$46,947,710** (2013)  
(Market Value) (Tax Year)

Is any of the existing property subject to a value limitation agreement under Tax Code 313? ☐ Yes ☒ No

Will all of the property for which you are requesting an appraised value limitation be free of a tax abatement agreement entered into by a school district for the duration of the limitation? ☒ Yes ☐ No

**WAGE AND EMPLOYMENT INFORMATION**

What is the estimated number of permanent jobs (more than 1,600 hours a year), with the applicant or a contractor of the applicant, on the proposed qualified property during the last complete quarter before the application review start date (date your application is finally determined to be complete)? **68 average, Q1 2013**

The last complete calendar quarter before application review start date is the:

☒ First Quarter ☒ Second Quarter ☐ Third Quarter ☐ Fourth Quarter of **2013** (year)

What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the TWC?

**83 reported**

**Note:** For job definitions see TAC §9.1051(14) and Tax Code 313.021(3). If the applicant intends to apply a definition for "new job" other than TAC §9.1051(14)(C), then please provide the definition of "new job" as used in this application.

Total number of new jobs that will have been created when fully operational **20**

Do you plan to create at least 25 new jobs (at least 10 new jobs for rural school districts) on the land and in connection with the new building or other improvement? ☒ Yes ☐ No

Do you intend to request that the governing body waive the minimum new job creation requirement, as provided under Tax Code §313.025(f-1)? ☐ Yes ☒ No

If you answered "yes" to the question above, attach evidence documenting that the new job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards. **Note: Even if a minimum new job waiver is provided, 80% of all new jobs must be qualifying jobs pursuant to Texas Tax Code, §313.024(d).**

What is the maximum number of qualifying jobs meeting all criteria of §313.021(3) you are committing to create? **19**

If this project creates more than 1,000 new jobs, the minimum required wage for this project is 110% of the average county weekly wage for all jobs as described by 313.021(3)(E)(ii).

If this project creates less than 1,000 new jobs, does this district have territory in a county that meets the demographic characteristics of 313.051(2)?...

☒ Yes ☐ No (see table of information showing this district characteristic at <http://www.window.state.tx.us/taxinfo/proptax/hb1200/values.html>)

If yes, the applicant must meet wage standard described in 313.051(b) (110% of the regional average weekly wage for manufacturing)

If no, the applicant shall designate one of the wage standards set out in §§313.021(5)(A) or 313.021(5)(B).



**WAGE AND EMPLOYMENT INFORMATION (CONTINUED)**

For the following three wage calculations please include on an attachment the four most recent quarters of data for each wage calculation. Show the average and the 110% calculation. Include documentation from TWC Web site. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(7).

110% of the county average weekly wage for all jobs (all industries) in the county is \$1,134.50 x 110% = \$1,247.95, or \$64,893.40 annually

110% of the county average weekly wage for manufacturing jobs in the county is \$1,655.50 x 110% = \$1,821.05, or \$94,694.60 annually

110% of the county average weekly wage for manufacturing jobs in the region is \$885.28 x 110% = \$1,081. or \$46,035 annually

Please identify which Tax Code section you are using to estimate the wage standard required for this project:

☐ §313.021(5)(A) or ☐ §313.021(5)(B) or ☐ §313.021(3)(E)(ii), or ☒ §313.051(b)?

What is the estimated minimum required annual wage for each qualifying job based on the qualified property?  
\$46,035 (See Attachment K)

What is the estimated minimum required annual wage you are committing to pay for each of the qualifying jobs you create on the qualified property? \$46,035

Will 80% of all new jobs created by the owner be qualifying jobs as defined by 313.021(3)? ☒ Yes ☐ No

Will each qualifying job require at least 1,600 of work a year? ☒ Yes ☐ No

Will any of the qualifying jobs be jobs transferred from one area of the state to another? ☐ Yes ☒ No

Will any of the qualifying jobs be retained jobs? ☐ Yes ☒ No

Will any of the qualifying jobs be created to replace a previous employee? ☐ Yes ☒ No

Will any required qualifying jobs be filled by employees of contractors? ☐ Yes ☒ No

If yes, what percent? \_\_\_\_\_

Does the applicant or contractor of the applicant offer to pay at least 80% of the employee's health insurance premium for each qualifying job? ☒ Yes ☐ No

Describe each type of benefits to be offered to qualifying jobholders. (Use attachments as necessary.)

Health and life insurance, 401(k) paid vacation and sick leave, wellness, etc. (See Attachment L)

**ECONOMIC IMPACT**

Is an Economic Impact Analysis attached (If supplied by other than the Comptroller's office)? ☐ Yes ☒ No

Is Schedule A completed and signed for all years and attached? ☒ Yes ☐ No

Is Schedule B completed and signed for all years and attached? ☒ Yes ☐ No

Is Schedule C (Application) completed and signed for all years and attached? ☒ Yes ☐ No

Is Schedule D completed and signed for all years and attached? ☒ Yes ☐ No

Note: Excel spreadsheet versions of schedules are available for download and printing at URL listed below.

If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, please attach a separate schedule showing the amount for each year affected, including an explanation.



**CONFIDENTIALITY NOTICE**

**Property Tax Limitation Agreement Applications  
Texas Government Code Chapter 313  
Confidential Information Submitted to the Comptroller**

Generally, an application for property tax value limitation, the information provided therein, and documents submitted in support thereof, are considered public information subject to release under the Texas Public Information Act.

There is an exception, outlined below, by which information will be withheld from disclosure.

The Comptroller's office will withhold information from public release if:

- 1) it describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application;
- 2) the information has been segregated in the application from other information in the application; and
- 3) the party requesting confidentiality provides the Comptroller's office a list of the documents for which confidentiality is sought and for each document lists the specific reasons, including any relevant legal authority, stating why the material is believed to be confidential.

All applications and parts of applications which are not segregated and marked as confidential as outlined above will be considered public information and will be posted on the internet.

Such information properly identified as confidential will be withheld from public release unless and until the governing body of the school district acts on the application, or we are directed to do so by a ruling from the Attorney General.

Other information in the custody of a school district or the comptroller submitted in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under Texas Tax Code, Chapter 313, such as

the nature and amount of the projected investment, employment, wages, and benefits, will not be considered confidential business information and will be posted on the internet.

All documents submitted to the Comptroller, as well as all information in the application once the school district acts thereon, are subject to public release unless specific parts of the application or documents submitted with the application are identified as confidential. Any person seeking to limit disclosure of such submitted records is advised to consult with their legal counsel regarding disclosure issues and also to take the appropriate precautions to safeguard copyrighted material, trade secrets, or any other proprietary information. The Comptroller assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by respondents. A person seeking to limit disclosure of information must submit in writing specific detailed reasons, including any relevant legal authority, stating why that person believes the material to be confidential.

The following outlines how the Comptroller's office will handle requests for information submitted under the Texas Public Information Act for application portions and submitted records appropriately identified as confidential.

- This office shall forward the request for records and a copy of the documents at issue to the Texas Attorney General's office for an opinion on whether such information may be withheld from disclosure under the Texas Public Information Act.
- The Comptroller will notify the person who submitted the application/documents when the information is forwarded to the Attorney General's office.
- Please be aware that this Office is obligated to comply with an Attorney General's decision, including release of information ruled public even if it was marked confidential.





Application for Appraised Value Limitation on Qualified Property

**COMPANY CHECKLIST AND REQUESTED ATTACHMENTS**

	Checklist	Page X of 16	Check Completed
1	Certification pages signed and dated by Authorized Business Representative (applicant)	4 of 16	
2	Proof of Payment of Application Fee (Attachment)	5 of 16	
3	For applicant members, documentation of Combined Group membership under Texas Tax Code 171.0001(7) (if Applicable) (Attachment)	5 of 16	
4	Detailed description of the project	6 of 16	
5	If project is located in more than one district, name other districts and list percentage in each district (Attachment)	7 of 16	
6	Description of Qualified Investment (Attachment)	8 of 16	
7	Map of qualified investment showing location of new buildings or new improvements with vicinity map.	8 of 16	
8	Description of Qualified Property (Attachment)	8 of 16	
9	Map of qualified property showing location of new buildings or new improvements with vicinity map	8 of 16	
10	Description of Land (Attachment)	9 of 16	
11	A detailed map showing location of the land with vicinity map.	9 of 16	
12	A description of all existing (if any) improvements (Attachment)	9 of 16	
13	Request for Waiver of Job Creation Requirement (if applicable) (Attachment)	9 of 16	
14	Calculation of three possible wage requirements with TWC documentation. (Attachment)	10 of 16	
15	Description of Benefits	10 of 16	
16	Economic Impact (if applicable)	10 of 16	
17	Schedule A completed and signed	13 of 16	
18	Schedule B completed and signed	14 of 16	
19	Schedule C (Application) completed and signed	15 of 16	
20	Schedule D completed and signed	16 of 16	
21	Map of Reinvestment Zone (Attachment) (Showing the actual or proposed boundaries and size, Certified to be accurate by either the government entity creating the zone, the local appraisal district, or a licensed surveyor, with vicinity map)*	9 of 16	
22	Order, Resolution, or Ordinance Establishing the Zone (Attachment)*	9 of 16	
23	Legal Description of Reinvestment Zone (Attachment)*	9 of 16	
24	Guidelines and Criteria for Reinvestment Zone(Attachment)*	9 of 16	

\*To be submitted with application or before date of final application approval by school board.



Schedule A (Rev. May 2010): Investment

Applicant Name: Comingo Fertilizer Partnership  
ISD Name: Borger

Form 50-286

PROPERTY INVESTMENT AMOUNTS

(Estimated investment in each year. Do not put cumulative totals.)

Year	Investment made before filing complete application with district (whether qualified property or not eligible to become qualified investment)	School Year (YYYY-YYYY)	Tax Year (fill in actual tax year below) YYYY	Personal Property (Column A): Tangible Personal Property (The amount of new investment (original cost) placed in service during the year.)	Building or permanent nonremovable component (Column B): Building (original amount only)	Sum of A and B (Column C): Qualifying Investment (during the qualifying time period)	Other investment that is not qualified investment but investment affecting economic impact and land value (Column D)	Total Investment (A+B+D)
1	Complete tax years of qualifying time period	2014-2015	2014	\$19,346,000	\$0	\$19,346,000	\$28,856,000	\$48,202,000
2		2015-2016	2015	\$320,725,000	\$0	\$320,725,000	\$83,783,000	\$394,508,000
3		2016-2017	2016	\$101,800,000	\$0	\$101,800,000	\$28,233,000	\$130,023,000
4		2017-2018	2017	\$0	\$0	\$0	\$0	\$0
5		2018-2019	2018	\$0	\$0	\$0	\$0	\$0
6		2019-2020	2019	\$0	\$0	\$0	\$0	\$0
7		2020-2021	2020	\$0	\$0	\$0	\$0	\$0
8		2021-2022	2021	\$0	\$0	\$0	\$0	\$0
9		2022-2023	2022	\$0	\$0	\$0	\$0	\$0
10		2023-2024	2023	\$0	\$0	\$0	\$0	\$0
11		2024-2025	2024	\$0	\$0	\$0	\$0	\$0
12		2025-2026	2025	\$0	\$0	\$0	\$0	\$0
13		2026-2027	2026	\$0	\$0	\$0	\$0	\$0
14		2027-2028	2027	\$0	\$0	\$0	\$0	\$0
15		2028-2029	2028	\$0	\$0	\$0	\$0	\$0


Qualifying Time Period usually begins with the final board approval of the application and extends generally for the following two complete tax years.

Column A: This represents the total dollar amount of planned investment in tangible personal property the applicant considers qualified investment, as defined in Tax Code §919.021(1)(M)-(O). For the purpose of investment, please list amount invested each year, not cumulative totals.

Column B: For the years outside the qualifying time period, this number should simply represent the planned investment in tangible personal property. If for the years outside the qualifying time period, this number should simply represent the planned investment in tangible personal property. Include estimates of investment for "replacement" property, property that is part of original investment but scheduled for probable replacement during limitation period. The total dollar amount of planned investment each year in buildings or nonremovable component of buildings that the applicant considers qualified investment under Tax Code §919.021(1)(M).

Column C: For the years outside the qualifying time period, this number should simply represent the planned investment in new buildings or nonremovable components of buildings. Dollar value of other investment that may not be qualified investment but that may affect economic impact and total value for planning, construction and operation of the facility. The most significant example for many projects would be land. Other examples may be items such as professional services, etc.

Notes: For advanced clean energy projects, nuclear projects, projects with deferred qualifying time periods, and projects with lengthy application review periods, insert additional rows as needed. This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

Signature of Authorized Company Representative: 

DATE: 07/02/2015



Applicant Name  
Borger

Cominco Fertilizer Partnership

Schedule B (Rev. May 2010): Estimated Market And Taxable Value

Form 50-296

Tax Credit Period (with 50% cap on credit)	Value Limitation Period	Complete tax years of qualifying time period	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new building or "in or on the new improvement"	Exempted Value	Final taxable value for IRS - after all reductions	Final taxable value for M&O - after all reductions
			pre-year 1	2013-2014	2013	\$0	0	0	0	0	0
		1		2014-2015	2014	\$0	\$20,121,000	0	0	\$20,121,000	\$20,121,000
		2		2015-2016	2015	\$0	\$340,846,000	0	0	\$340,846,000	\$340,846,000
		3		2016-2017	2016	\$0	\$433,793,080	0	\$413,793,080	\$407,112,580	\$20,000,000
		4		2017-2018	2017	\$0	\$434,180,395	0	\$414,180,395	\$408,010,160	\$20,000,000
		5		2018-2019	2018	\$0	\$438,418,731	0	\$418,418,731	\$412,498,421	\$20,000,000
		6		2019-2020	2019	\$0	\$437,223,587	0	\$417,223,587	\$411,620,801	\$20,000,000
		7		2020-2021	2020	\$0	\$435,165,283	0	\$415,165,283	\$409,995,184	\$20,000,000
		8		2021-2022	2021	\$0	\$432,243,819	0	\$412,243,819	\$407,665,218	\$20,000,000
		9		2022-2023	2022	\$0	\$428,459,196	0	\$408,459,196	\$404,668,338	\$20,000,000
		10		2023-2024	2023	\$0	\$423,811,413	0	\$403,811,413	\$401,032,856	\$20,000,000
		11		2024-2025	2024	\$0	\$418,300,470	0	\$0	\$396,774,734	\$396,774,734
		12		2025-2026	2025	\$0	\$406,205,168	0	\$0	\$386,451,539	\$386,451,539
		13		2026-2027	2026	\$0	\$398,824,046	0	\$0	\$381,026,026	\$381,026,026
		14		2027-2028	2027	\$0	\$384,570,845	0	\$0	\$369,107,925	\$369,107,925
		15		2028-2029	2028	\$0	\$369,166,764	0	\$0	\$356,270,689	\$356,270,689

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.  
This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

DATE

07/02/2013



Applicant Name **Cominco Fertilizer Partnership**  
 ISD Name **Borger**

**Schedule C - Application: Employment Information**

Form 50-296

		Year pre-year 1	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Construction		New Jobs		Qualifying Jobs	
					Column A: Number of Construction FTEs or man- hours (specify)	Column B: Average annual wage rates for construction workers	Column C: Number of new jobs applicant commits to create (cumulative)	Column D: Average annual wage rate for all new jobs.	Column E: Number of qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Column F: Average annual wage of qualifying jobs
Tax Credit Period (with 50% cap on credit)	Complete tax years of qualifying time period	1			(FTE) 375	\$75,000	13	\$47,416	13	\$47,416
		2			(FTE) 650	\$75,000	20	\$48,397	19	\$48,839
		3	2016-2017	2016			20	\$49,849	19	\$50,304
		4	2017-2018	2017			20	\$51,344	19	\$51,813
		5	2018-2019	2018			20	\$52,885	19	\$53,367
		6	2019-2020	2019			20	\$54,471	19	\$54,968
		7	2020-2021	2020			20	\$56,105	19	\$56,617
		8	2021-2022	2021			20	\$57,789	19	\$58,316
		9	2022-2023	2022			20	\$59,522	19	\$60,065
		10	2023-2024	2023			20	\$61,308	19	\$61,867
		11	2024-2025	2024			20	\$63,147	19	\$63,723
		12	2025-2026	2025			20	\$65,042	19	\$65,635
		13	2026-2027	2026			20	\$66,993	19	\$67,604
		14	2027-2028	2027			20	\$69,003	19	\$69,632
		15	2028-2029	2028			20	\$71,073	19	\$71,721

Notes: For job definitions see TAC §9.1051(14) and Tax Code §313.021(3).

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

DATE Aug 15, 2013



Applicant Name

Cominco Fertilizer Partnership

Schedule D: (Rev. May 2010): Other Tax Information

ISD Name

Borger

Form 50-236

The year preceding the first complete tax year of the qualifying time period (assuming no deferrals)	Complete tax years of qualifying time period	Year	School Year (YYYY-YYYY)	Tax/Calendar Year YYYY	Sales Tax Information		Franchise Tax	Other Property Tax Abatements Sought			
					Column F: Estimate of total annual expenditures* subject to state sales tax	Column G: Estimate of total annual expenditures* made in Texas NOT subject to sales tax	Column H: Estimate of Franchise tax due from (or attributable to) the applicant	County	City	Hospital	Other
	1		2013-2014	2013	\$2,300,000	\$13,000,000	\$54,000	0%	NA	0%	0%
	2		2015-2016	2015	\$2,369,000	\$13,390,000	\$54,000	0%	NA	0%	0%
	3		2016-2017	2016	\$2,416,360	\$13,657,900	\$54,000	100%	NA	0%	0%
	4		2017-2018	2017	\$2,484,708	\$13,930,956	\$54,000	100%	NA	0%	0%
	5		2018-2019	2018	\$2,514,002	\$14,209,576	\$54,000	100%	NA	0%	0%
	6		2019-2020	2019	\$2,564,282	\$14,483,767	\$54,000	100%	NA	0%	0%
	7		2020-2021	2020	\$2,615,567	\$14,763,642	\$54,000	100%	NA	0%	0%
	8		2021-2022	2021	\$2,667,879	\$15,079,315	\$54,000	100%	NA	0%	0%
	9		2022-2023	2022	\$2,721,236	\$15,380,801	\$54,000	100%	NA	0%	0%
	10		2023-2024	2023	\$2,775,961	\$15,688,519	\$54,000	0%	NA	0%	0%
	11		2024-2025	2024	\$2,831,174	\$16,002,289	\$54,000	0%	NA	0%	0%
	12		2025-2026	2025	\$2,887,796	\$16,322,335	\$54,000	0%	NA	0%	0%
	13		2026-2027	2026	\$2,945,554	\$16,648,782	\$54,000	0%	NA	0%	0%
	14		2027-2028	2027	\$3,004,465	\$16,981,758	\$54,000	0%	NA	0%	0%
	15		2028-2029	2028	\$3,064,554	\$17,321,393	\$54,000	0%	NA	0%	0%

\*For planning, construction and operation of the facility.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

DATE

7/2/2013

Proof of payment of filing fee received by the  
Comptroller of Public Accounts per TAC Rule  
§9.1054 (b)(5)

*(Page Inserted by Office of Texas Comptroller of Public  
Accounts)*



2WS284 2.000  
TX2013  
Ver. 4.0

05-165  
(Rev. 9-11/13)

Texas Franchise Tax Extension Affiliate List

Attachment A

Tcode 13298

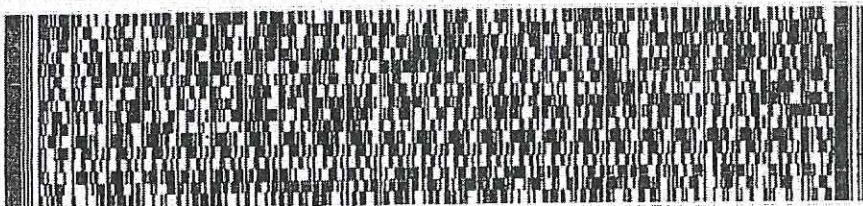
Reporting entity taxpayer number	Report year	Reporting entity taxpayer name
19115895682	2013	Agrium U.S. Inc. & Subsidiaries

LEGAL NAME OF AFFILIATE	AFFILIATE'S TEXAS TAXPAYER NUMBER (If none, enter FEI number)	CHECK BOX IF AFFILIATE DOES NOT HAVE NEXUS IN TEXAS
1. Agrium Nitrogen Company	19115994519	<input type="checkbox"/>
2. Nu West Industries, Inc.	820415557	<input checked="" type="checkbox"/>
3. Nu West Mining, Inc.	820343915	<input checked="" type="checkbox"/>
4. Nu West Minerals, Inc.	841158615	<input checked="" type="checkbox"/>
5. AGU US Holdings, Inc.	204256983	<input checked="" type="checkbox"/>
6. United Agri Products, Inc.	470621017	<input checked="" type="checkbox"/>
7. Loveland Products, Inc.	14707367133	<input type="checkbox"/>
8. Crop Production Services, Inc.	10437691610	<input type="checkbox"/>
9. Platte Chemical Co.	470557041	<input checked="" type="checkbox"/>
10. West Isle Line, Inc.	911835405	<input checked="" type="checkbox"/>
11. Agrium Advanced Technologies (U.S.) Holdings, Inc.	352267852	<input checked="" type="checkbox"/>
12. Agrium Advanced Technologies (U.S.) Inc	32039902443	<input type="checkbox"/>
13. Agrium Development, Inc.	841359990	<input checked="" type="checkbox"/>
14. Agrium Investments, U.S. Inc.	841503149	<input checked="" type="checkbox"/>
15. Cominco Fertilizer Partnership	19115994501	<input type="checkbox"/>
16. Utah Phosphate Company	272523299	<input checked="" type="checkbox"/>
17. Nu Tec Mineral & Chemical	841158617	<input checked="" type="checkbox"/>
18. Agrium Acquisitions (Delaware) LLC	611504227	<input checked="" type="checkbox"/>
19. 1226573 Alberta ULC	980502681	<input checked="" type="checkbox"/>
20. Agrium Retail Finance Company	770444111	<input checked="" type="checkbox"/>
21. STRW, LLC	460593998	<input checked="" type="checkbox"/>

Note: To file an extension request for a reporting entity and its affiliates, Form 05-184 (Texas Franchise Tax Extension Request) must be submitted with this affiliate list. The filing of this list by itself does not constitute a properly filed Extension Request.

Do not file this form when requesting a second extension.

Texas Comptroller Official Use Only



VE/DE	<input type="checkbox"/>	FM	<input type="checkbox"/>
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1062



2W5284 2.000  
TX2013  
Ver. 4.0

05-185  
(Rev. 9-11/3)

**Texas Franchise Tax Extension Affiliate List**

■ Tcode 13298

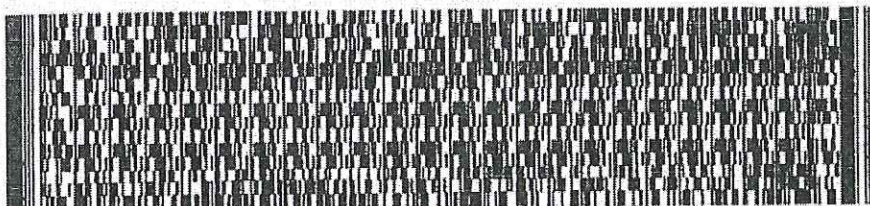
■ Reporting entity taxpayer number	■ Report year	Reporting entity taxpayer name
19115895682	2013	Agrium U.S. Inc. & Subsidiaries

LEGAL NAME OF AFFILIATE	AFFILIATE'S TEXAS TAXPAYER NUMBER (if none, enter FEI number)	CHECK BOX IF AFFILIATE DOES NOT HAVE NEXUS IN TEXAS
1. Halo Life Sciences, LLC	■ 461843189	■ <input checked="" type="checkbox"/>
2. Tacoma Ag Holdings, LLC	■ 264182788	■ <input type="checkbox"/>
3. NIPKO, LLC	■ 205689399	■ <input checked="" type="checkbox"/>
4. Tacoma Ag, LLC	■ 205682409	■ <input checked="" type="checkbox"/>
5.	■	■ <input type="checkbox"/>
6.	■	■ <input type="checkbox"/>
7.	■	■ <input type="checkbox"/>
8.	■	■ <input type="checkbox"/>
9.	■	■ <input type="checkbox"/>
10.	■	■ <input type="checkbox"/>
11.	■	■ <input type="checkbox"/>
12.	■	■ <input type="checkbox"/>
13.	■	■ <input type="checkbox"/>
14.	■	■ <input type="checkbox"/>
15.	■	■ <input type="checkbox"/>
16.	■	■ <input type="checkbox"/>
17.	■	■ <input type="checkbox"/>
18.	■	■ <input type="checkbox"/>
19.	■	■ <input type="checkbox"/>
20.	■	■ <input type="checkbox"/>
21.	■	■ <input type="checkbox"/>

Note: To file an extension request for a reporting entity and its affiliates, Form 05-184 (Texas Franchise Tax Extension Request) must be submitted with this affiliate list. The filing of this list by itself does not constitute a properly filed Extension Request.

Do not file this form when requesting a second extension.

Texas Comptroller Official Use Only



VE/DE	<input type="checkbox"/>	FM	<input type="checkbox"/>
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1062



## A attachment B

### PROJECT DESCRIPTION

Provide 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:

The existing nitrogen fertilizer manufacturing facility, located just outside the City of Borger in Hutchinson County, Texas, was commissioned in 1968, and manufactures anhydrous ammonia and 3 forms of urea (feed grade, agriculture granular, industrial diesel emissions fluid). The proposed expansion project, involves:

- a) debottlenecking the existing ammonia plant to produce 1,900 tons/day (30% increase);
- b) constructing a new 1,980 ton/day urea plant which replaces our existing 275 ton/day urea plant; and
- c) constructing a new urea storage and loading facilities and expanding our rail/truck transport infrastructure.

The project capital investment is estimated at \$550-\$600M, with a targeted startup in Q1 2015. Permanent site employment will increase by a minimum of 20 new jobs, from approximately 75 existing to 95+ full time employees. The Agrium project management team will consist of additional 10-15 new full-time employees, for the duration of project execution (2013 – 2015). Construction is anticipated to last 18-30 months, commencing Q1 2014, with an estimated peak construction workforce of over 500 people. Carbon Dioxide, a by-product produced when making ammonia, will continue to be sold for Enhanced Oil Recovery and used in the urea manufacturing process. Multiple indirect benefits exist, including additional jobs to support construction activities, as well as long-term, contract repair services, rail/truck carrier services, and maintenance/operating parts and supplies after construction. The marketing plan is to sell more urea to farmers within the state of Texas.

Demand for raw materials and utilities will increase: natural gas by 35% to approximately 65 MSCF per day, electricity by 5x to 24 MW, water by 2x to approximately 6 million gallons per day. No additional infrastructure or capital is required for our increased natural gas consumption. The existing power infrastructure will need to be upgraded to meet the new power demands. Xcel energy is prepared to commit to an investment of approximately \$5M for equipment and substation erection, with a construction timeline of 16-18 months. These construction jobs and associated benefits are not included in our estimates.

## Attachment C

### Specific Description of Qualified Investment

- Reformer upgrades
- Waste heat boiler
- Significant internal upgrades to converters
- Heat Exchangers
- Mole Sieves
- Significant upgrades to syngas and Ammonia compressors
- Ammonia Unitized Chiller
- Process Air Compressor
- Flare systems
- Urea melt production equipment
- Urea Granulation equipment
- CO<sup>2</sup> compressor
- Steam generation equipment
- Raw Water purification equipment
- Cooling towers



## **A tachment D**

### **Specific Description of New Buildings and Improvements**

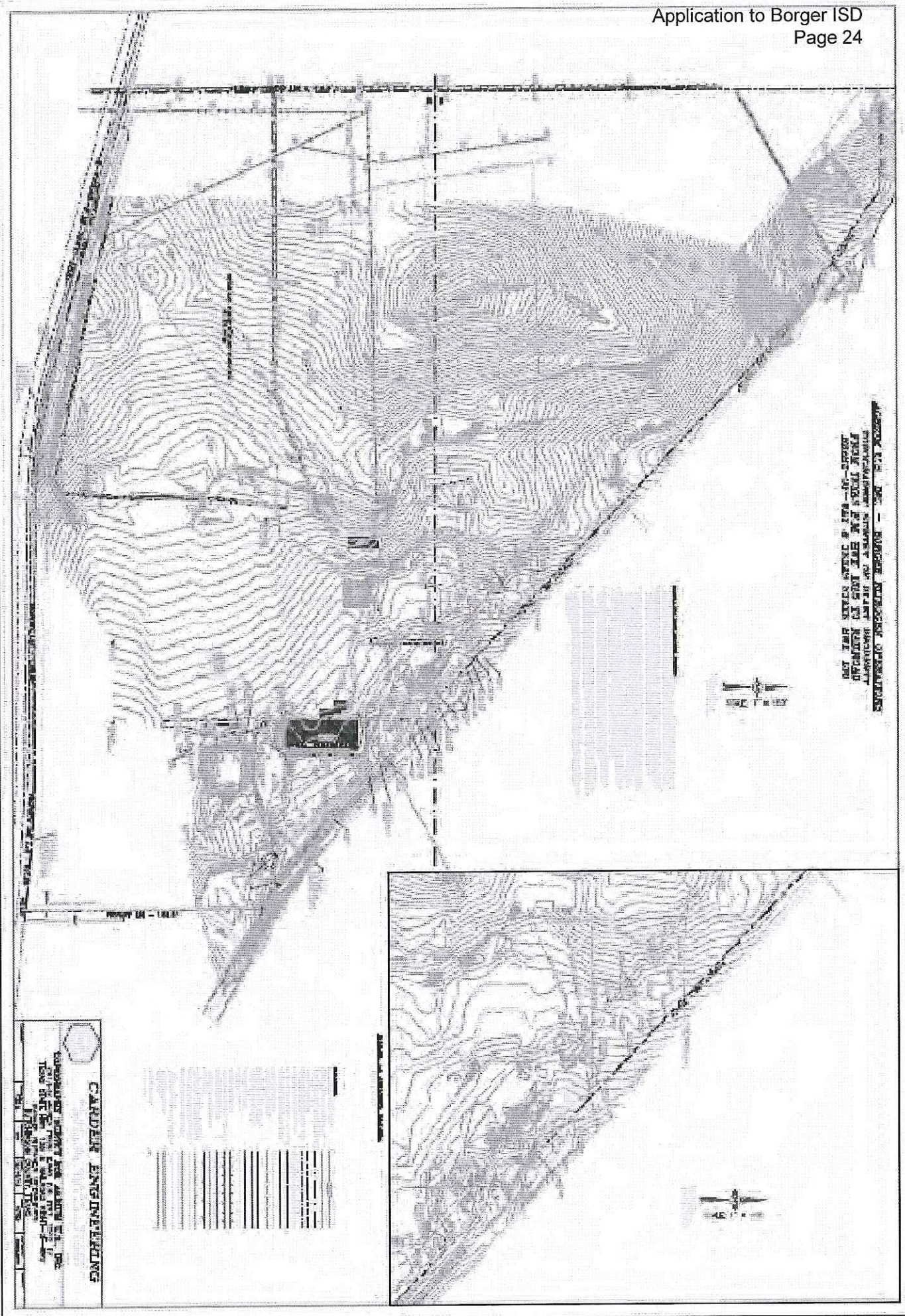
- Urea Storage Building
- MCC Bldg for Urea Melt and Granulation
- Security/Scale House
- Injection Well
- MCC Bldg for Urea Storage Bldg with Space Provided for Future Expansion
- Operator's Room
- Analyzer Shelter

## Attachment E

- Topographic Map with Plot Plan with visible Legal Description. Reinvestment Zone Boundary is black outline of property
- Existing Facility Plot Plan within Reinvestment Zone
- Aerial View of Existing Facility
- Plot Plan for Expansion. (Orientation note, the

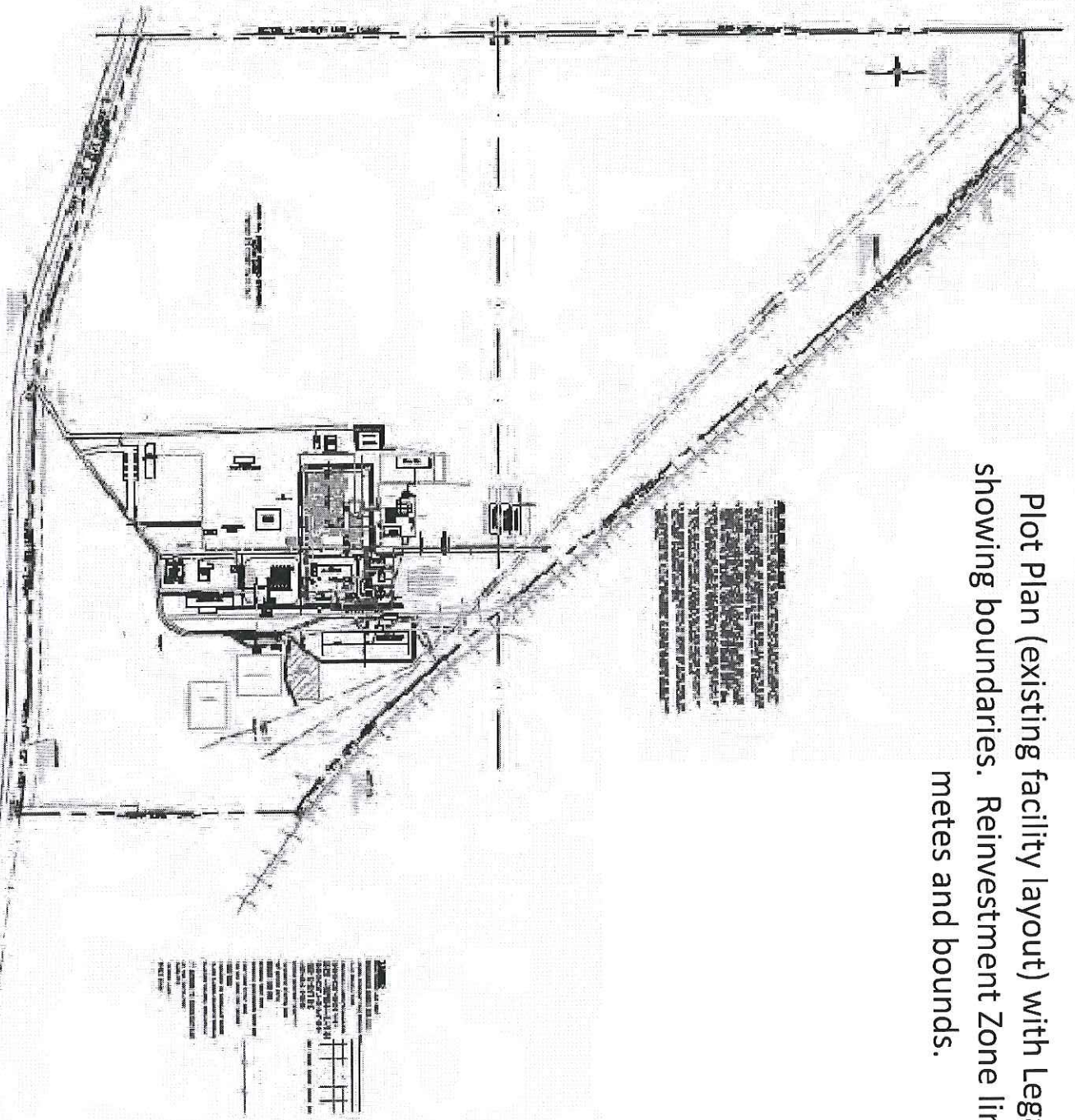


Plot Plan (topographic survey) with Legal Description, showing boundaries.  
Reinvestment Zone limited to existing metes and bounds.





metes and bounds.



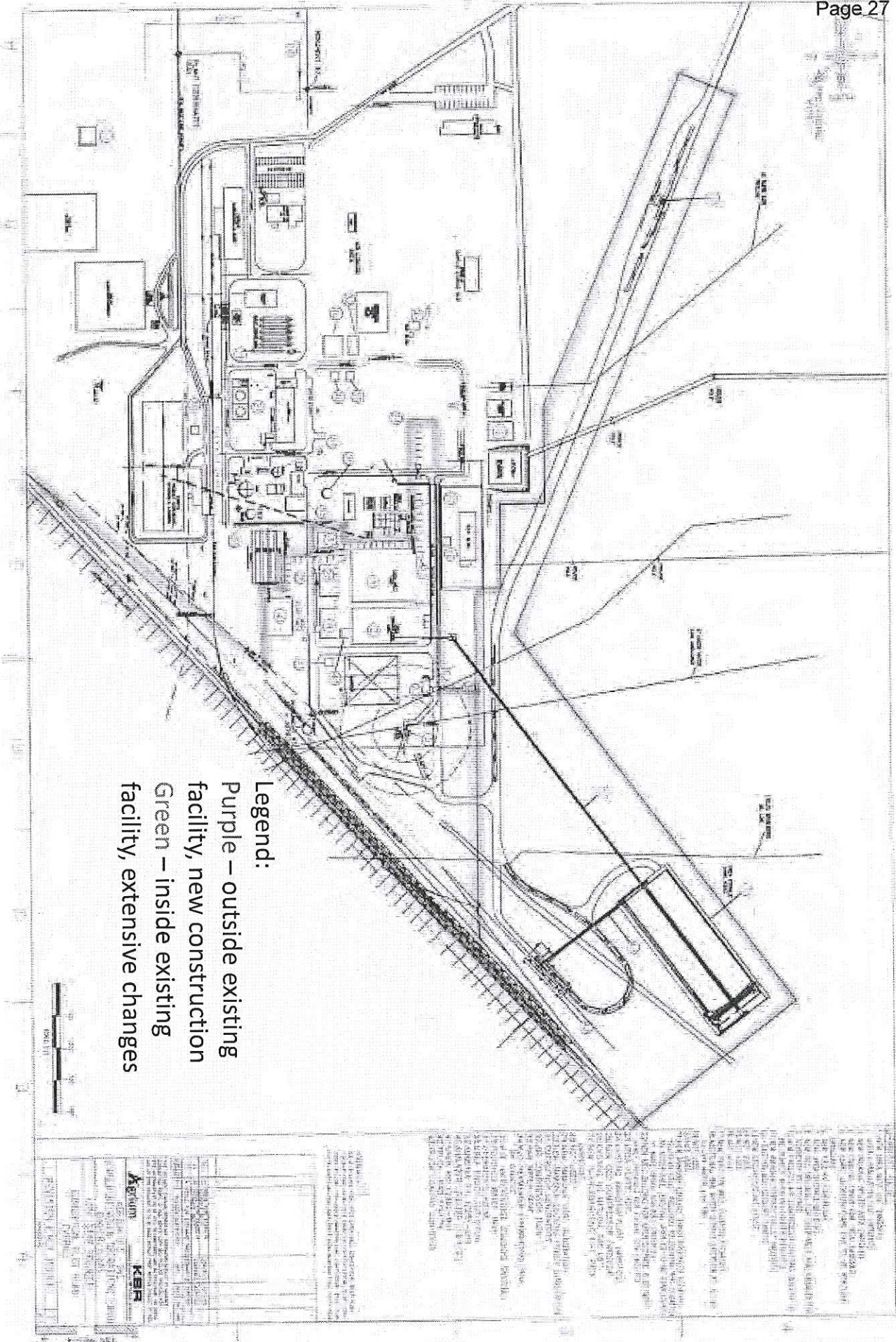


# Aerial View of Existing Facility





# Plot Plan for Expansion (note map orientation)

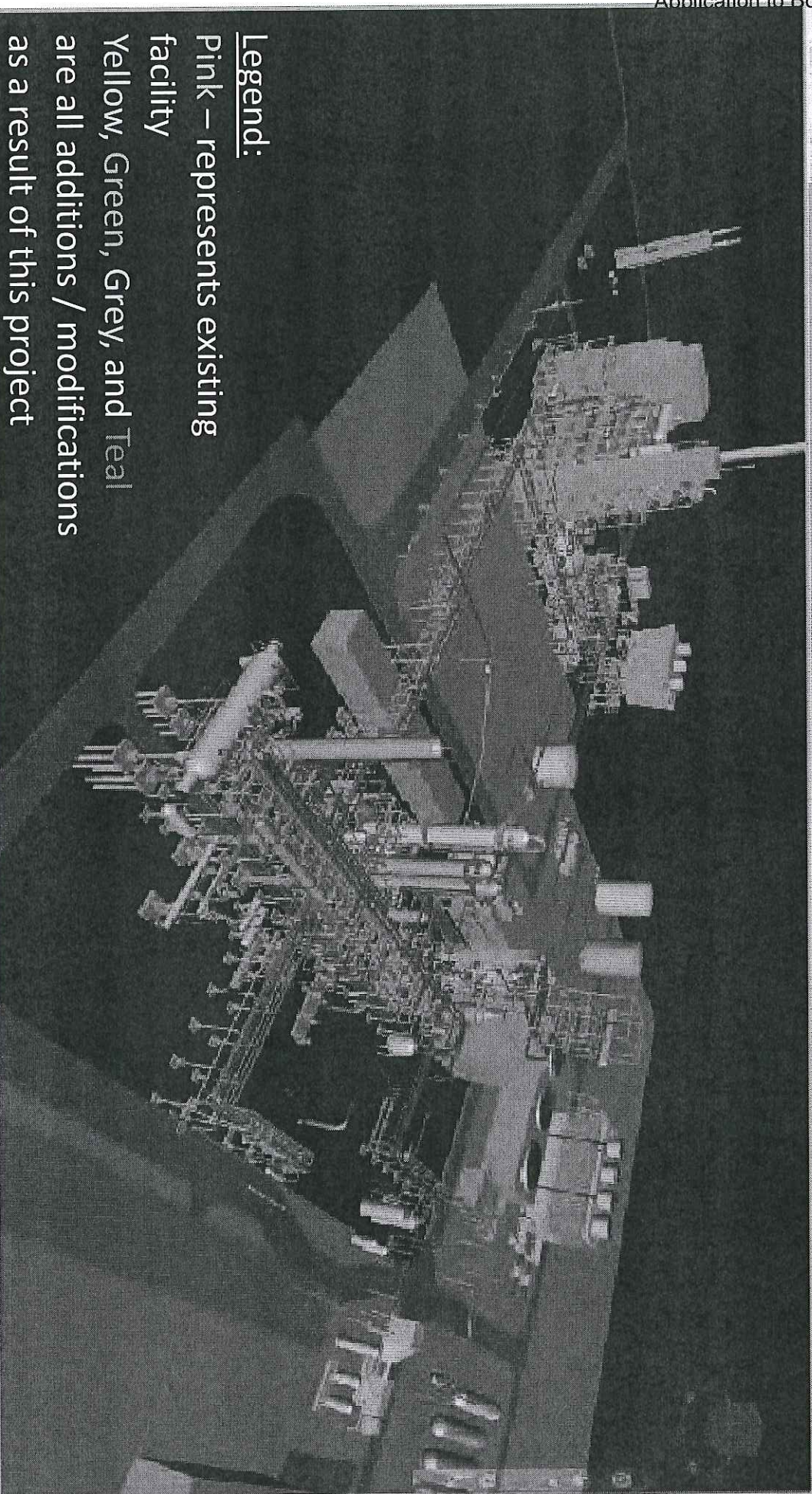




# View of 3D Model

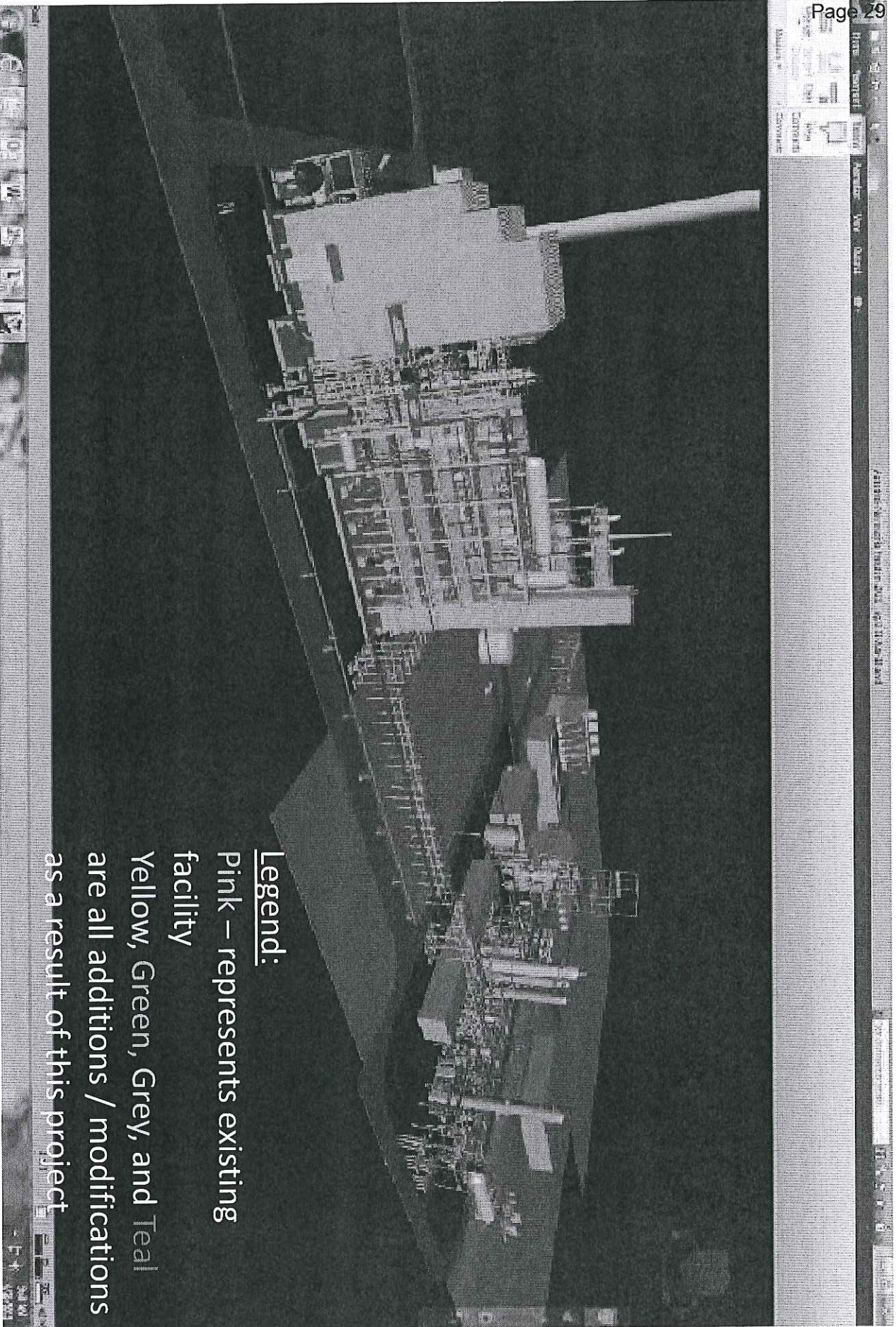
Legend:

Pink – represents existing facility  
Yellow, Green, Grey, and Teal  
are all additions / modifications  
as a result of this project





# View of 3D Model

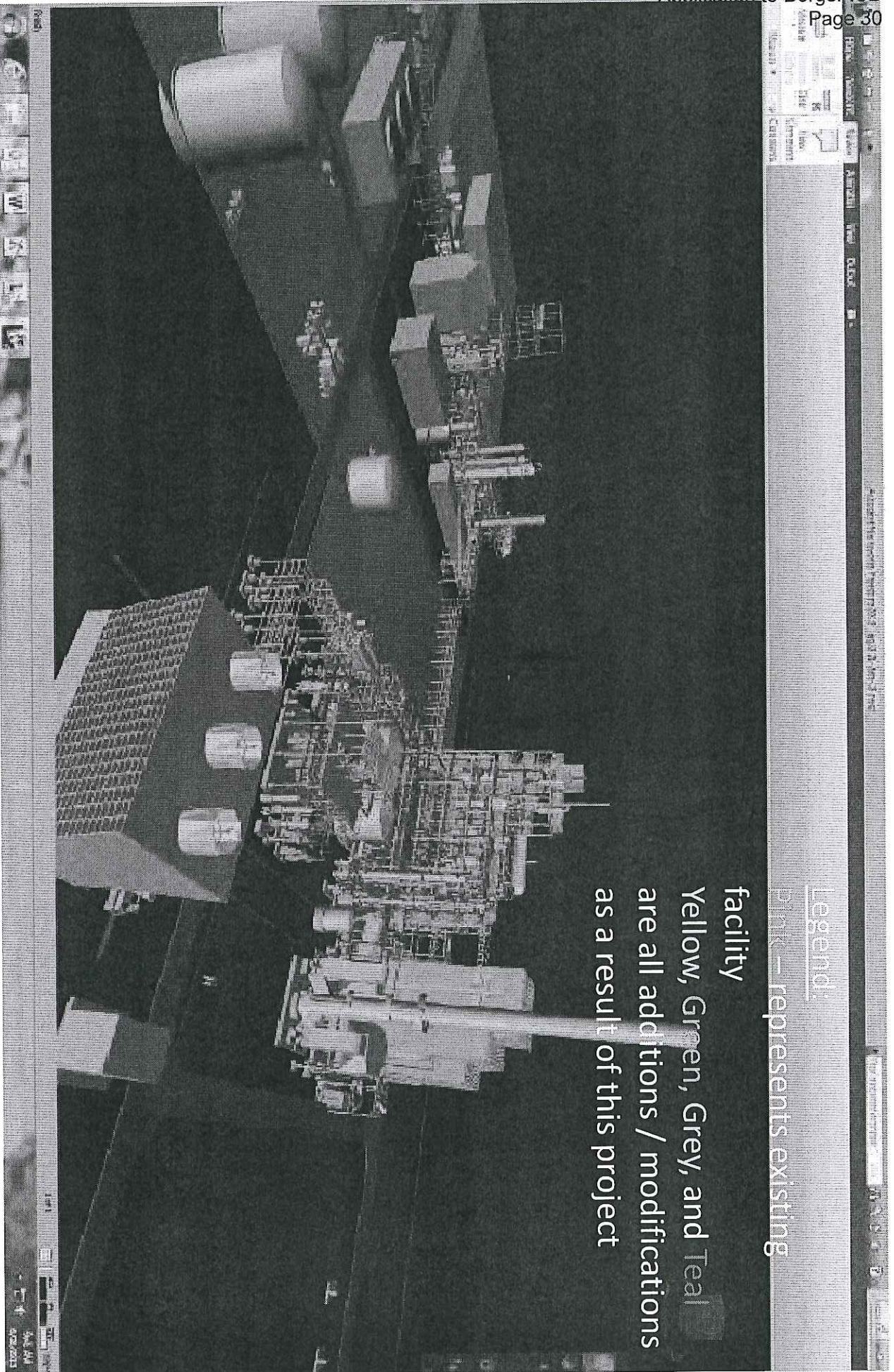


## Legend:

Pink – represents existing facility  
Yellow, Green, Grey, and Teal are all additions / modifications as a result of this project



# View of 3D Model



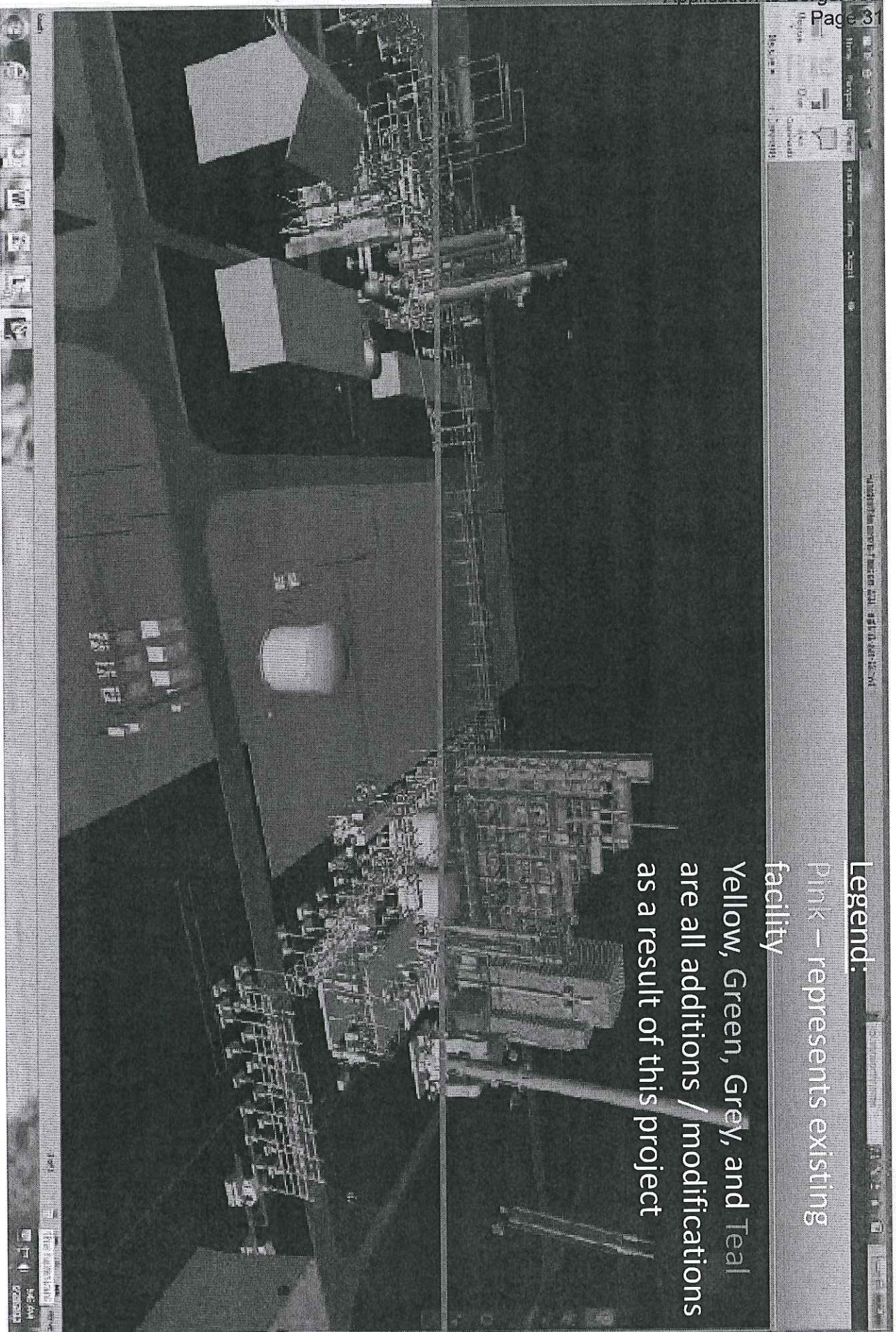


# View of 3D Model

## Legend:

Pink – represents existing facility

Yellow, Green, Grey, and Teal are all additions / modifications as a result of this project









## **Attachment F**

### **LEGAL DESCRIPTION**

A tract or parcel of land out of Section 25 and 26, Block Y, Arnold and Barnett, Original Grantee, Abstract Number 676, Certificate Number 50, Hutchinson County, Texas, more fully described by metes and bounds as follows:

BEGINNING at the Northwest corner of said Section 25, said corner being common to Sections 25 and 26;

THENCE South  $0^{\circ} 11' 30''$  East along the West line of said Section 25 a distance of 1719.33 feet to a point in the North Right of Way line of Farm To Market Road 1551;

THENCE South  $73^{\circ} 15' 40''$  East along said North Farm to Market Road Right of Way line a distance of 1347.93 feet to the point of curvature of a curve bearing to the left and having a radius of 2814.79 feet;

THENCE along said North Farm to Market Road Right of Way curve to the left a distance of 796.75 feet to the point of tangency of said curve;

THENCE South  $89^{\circ} 28' 45''$  East along said North Farm to Market Road Right of Way a distance of 1325.92 feet to the point of curvature of a curve bearing to the right and having a radius of 5779.58 feet;

THENCE along said North Farm to Market Road Right of Way curve to the right a distance of 631.29 feet to the point of tangency of said curve;



THENCE South  $83^{\circ} 13' 15''$  East along said North Farm to Market Road Right of Way a distance of 42.04 feet to a point;

THENCE North  $0^{\circ} 08' 30''$  West a distance of 1309.50 feet to a point on the South Right of Way line of the Panhandle and Santa Fe Railway Co. Track No. 109;

THENCE North  $57^{\circ} 20' 45''$  West along said South Railroad Right of Way a distance of 4.85 feet to the point of curvature of a curve bearing to the right and having a radius of 2914.79 feet;

THENCE along said South Railroad Right of Way curve to the right a distance of 716.24 feet to the point of tangency of said curve;

THENCE North  $43^{\circ} 16' 00''$  West along said South Railroad Right of Way a distance of 3103.14 feet to the point of curvature of a curve bearing to the left and having a radius of 1859.86 feet;

Thence along said South Railroad Right of Way curve to the left a distance of 261.76 feet to the point of tangency of said curve;

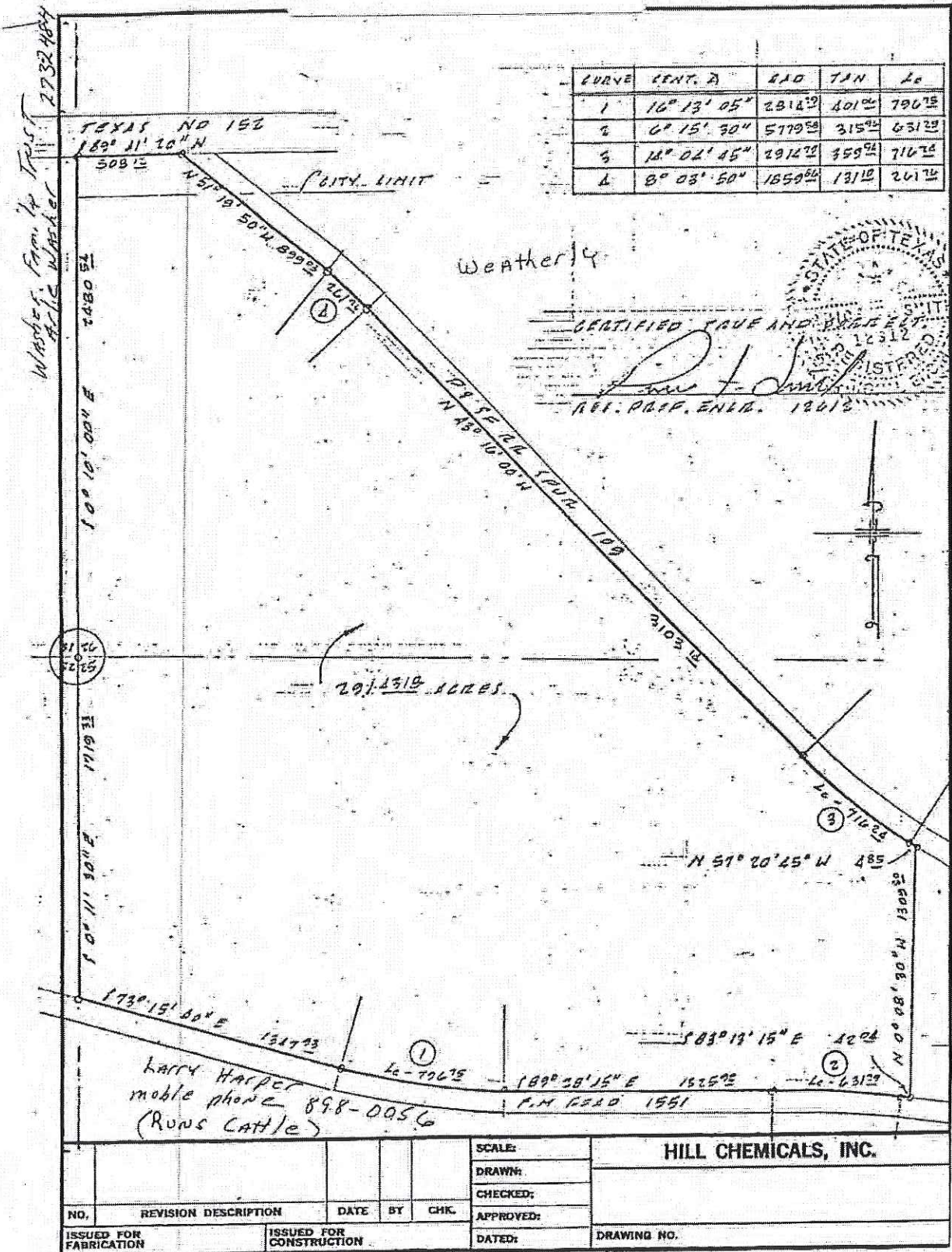
THENCE North  $51^{\circ} 19' 50''$  West along said South Railroad Right of Way a distance of 899.03 feet to a point in the South Right of Way line of Texas State Highway No. 136;

THENCE South  $89^{\circ} 41' 20''$  West a distance of 508.12 feet to a point in the West line of Section 26, Block Y, Arnold and Barnett Survey;

THENCE South  $0^{\circ} 10' 00''$  East along said West line of Section 26 a distance of 2480.54 feet to the Southwest corner of said Section 26 and the POINT OF BEGINNING, said corner being common to Sections 25 and 26 containing 291.4318 acres more or less.

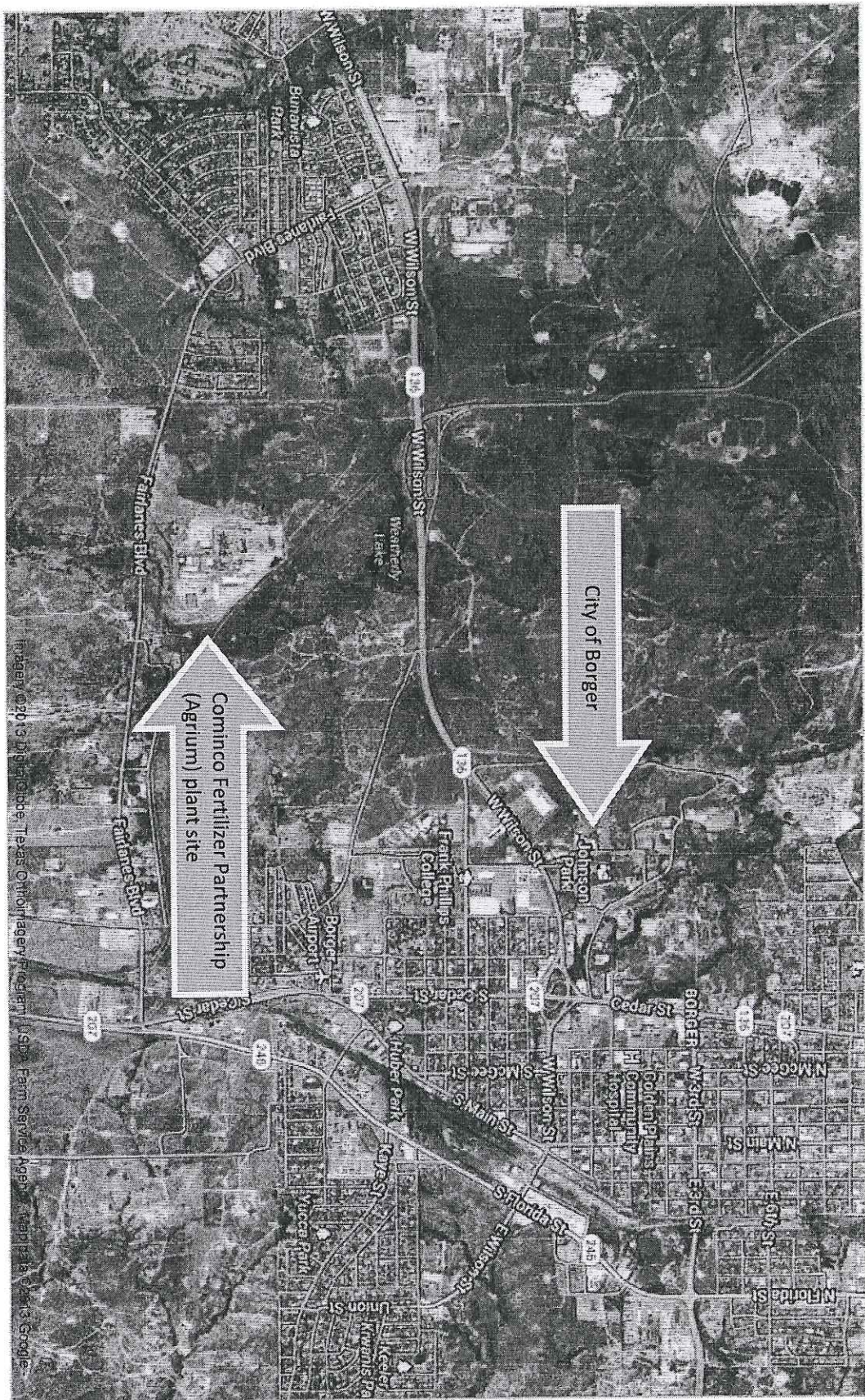


# Attachment G





## Attachment H









# Attachment I

## RESOLUTION OF THE COMMISSIONERS COURT OF HUTCHINSON COUNTY, TEXAS DESIGNATING REINVESTMENT ZONE

WHEREAS, Cominco Fertilizer Partnership, a partner to Agrium, US, Inc. filed an Application with the Commissioners Court of Hutchinson County, Texas for designation of a reinvestment zone on May 10, 2013; and

WHEREAS, pursuant to the Property Redevelopment and Tax Abatement Act (Texas Tax code, Chapter 312) and the Guidelines and Criteria of the Commissioners Court of Hutchinson County for Granting Tax Abatement in Reinvestment Zones Created in Hutchinson County (The Guidelines), the Commissioners Court published a Notice of Public Hearing on the Application of Cominco Fertilizer Partnership, for a designation of a reinvestment zone in the Borger News Herald on May 26, 2013; and

WHEREAS, the Commissioners Court convened in open meeting on June 10, 2013, at 9:30 o'clock, a.m. pursuant to said Notice for the purpose of conducting a Public Hearing on the Application of Cominco Fertilizer Partnership, for designation of a reinvestment zone and whereupon all interested persons in attendance who requested to do so, were given the opportunity to speak and present evidence for or against the designation; and

WHEREAS, upon conclusion of the Public Hearing, the members of the Commissioners Court considered the evidence and upon motion and second, adopted the following resolution:

BE IT RESOLVED by the Commissioners Court of Hutchinson County, Texas:

1. The Commissioners Court of Hutchinson County, Texas makes the following findings:
  - a. That the improvements sought are feasible and practical.
  - b. The designation and improvements would be a benefit to the land to be included in the zone, and to the County after the expiration of the tax abatement agreement;
  - c. The area will be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the



zone that would be a benefit to the property and that would contribute to the economic development of the County;


- d. The Commissioners Court further finds that the entire tract of land is located entirely in an unincorporated area of Hutchinson County, Texas.
2. Based upon its findings, the Commissioners Court of Hutchinson County, Texas concludes that the Application for Designation of Reinvestment zone dated May 8, 2013, should be and is hereby approved.
3. A map of the Reinvestment Zone, a metes and bounds description of the Reinvestment Zone, and a 2012 Agrium US., Inc. Annual Report to Stockholders are contained in Exhibits "A", "B", and "C", respectively, and are attached hereto, incorporated by reference and made a part hereof for any and all purposes.
4. The Reinvestment Zone is hereby designated as eligible for commercial-industrial tax abatement, subject to approval of any application for tax abatement by the Commissioners Court.
5. The tract of land contained in Exhibits "A" and "B" is hereby designated as Hutchinson County Reinvestment Zone Cominco/Agrium 2013-1 and is eligible for commercial-industrial tax abatement.
6. This designation of a reinvestment zone shall expire seven (7) years from the date of this resolution.

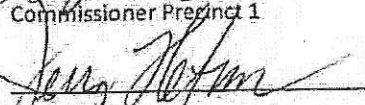


PASSED, ADOPTED AND APPROVED on this 10th day of June, 2013.

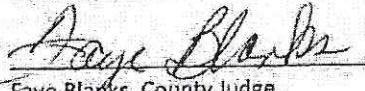
COMMISSIONERS COURT OF HUTCHINSON COUNTY, TEXAS

VOTING FOR:

  
Larry Coffman  
Commissioner Precinct 1


  
Jerry Heimer

Commissioner Precinct 2

  
Faye Blanks, County Judge

  
S. T. Isbell

Commissioner Precinct 3


  
Eddie Whittington

Commissioner Precinct 4

VOTING AGAINST:

\_\_\_\_\_  
None

ATTEST:

  
Jan Barnes, County Clerk



Legal Description of Reinvestment Zone

LEGAL DESCRIPTION

A tract or parcel of land out of Section 25 and 26, Block Y, Arnold and Barnett, Original Grantee, Abstract Number 676, Certificate Number 50, Hutchinson County, Texas, more fully described by metes and bounds as follows:

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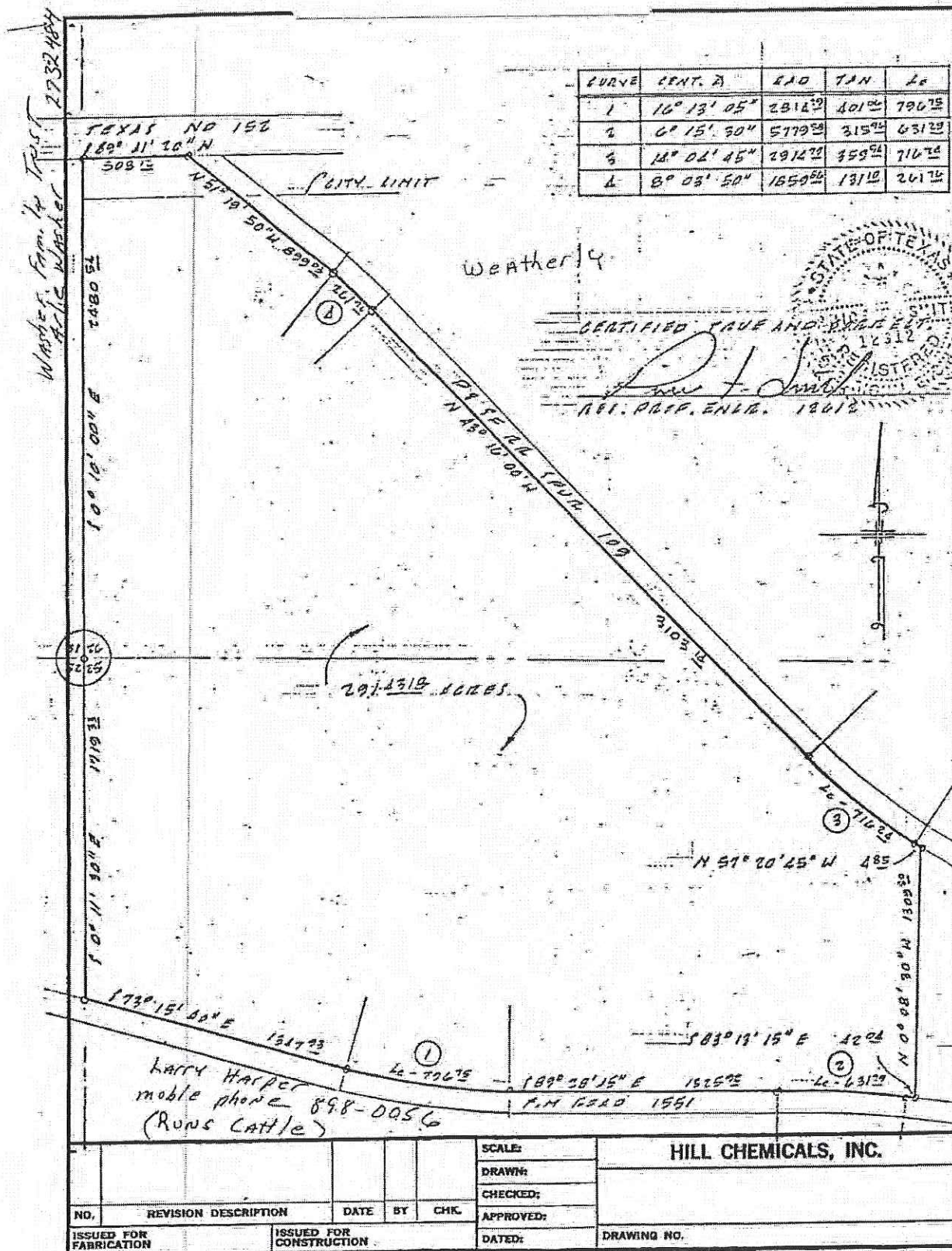
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## Attachment J

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county designating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;



**Board Members**

Robert Bradley

Clarence McDaniel

**Chief Appraiser**

Bill R. Swink

RPA/RTA

**Board Officers**

Mary Henderson  
Chairman

Leslie Deaton  
Vice Chairman

Leslie Monden  
Secretary

**HUTCHINSON COUNTY APPRAISAL DISTRICT**

P.O. Box 5065

Borger, Texas 79008-5065

806-274-2294

806-273-3400(Fax)

e-mail: [hutcad@arn.net](mailto:hutcad@arn.net)

O'hannon & Associates  
c/o Anna Bella Canchola  
808 West Ave.  
Austin, Texas 78701-2208

Dear Ms. Canchola,

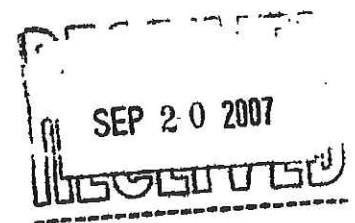
As per our phone conversation 9/18/2007, I am enclosing a copy of Hutchinson County's Guidelines for granting tax abatement in a reinvestment zone.

Sincerely yours



Bill Swink

Chief Appraiser Hutchinson CAD





**GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN A  
REINVESTMENT ZONE CREATED IN HUTCHINSON COUNTY**

Whereas, the creation and retention of job opportunities that bring new wealth is the highest civic priority; and

Whereas, new jobs and investments will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services; and

Whereas, the communities within Hutchinson County must compete with other localities across the nation currently offering tax inducements to attract new plants and modernization projects; and

Whereas, any tax incentives offered in Hutchinson County would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community; and

Whereas, any tax incentives should not adversely affect the competitive position of existing companies operating in Hutchinson County; and

Whereas, the abatement of the property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely recirculating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and

Whereas, effective September 1, 1987, Tax Law requires an eligible taxing jurisdiction to establish Guidelines and Criteria as to eligibility for tax abatement agreement prior to granting of any future tax abatement. Said Guidelines and Criteria are to be unchanged for a two year period unless amended by a three quarter vote; and

Whereas, to assure a common, coordinated effort to promote our communities' economic development, any such Guidelines and Criteria should be adopted only through the cooperation of affected school districts, cities, college district, Hutchinson County and other taxing jurisdictions; and

Whereas, Hutchinson County Commissioners Court has approved the circulation of the attached Guidelines and Criteria to affected taxing jurisdictions for consideration as a common policy for all jurisdictions to participate in tax abatement agreements;

Now, therefore be it resolved that Hutchinson County does hereby propose for consideration and adoption these Guidelines and Criteria for granting tax abatement to reinvestment zones in Hutchinson County.



## DEFINITIONS

### Section 1

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by Hutchinson County for economic development purposes.
- (b) "Affected jurisdiction" means Hutchinson County and any municipality, school district, or other taxing jurisdictions the majority of which is located in Hutchinson County that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone designated by Hutchinson County.
- (c) "Agreement" means a contractual agreement between a property owned and/or leased in Hutchinson County for the purposes of tax abatement.
- (d) "Base year value" means the assessed value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (e) "Committee" is composed of one (1) member from each taxing unit in the county. The committee shall be formed to recommend the adoption or rejection of all applications. The County Judge or his designee shall serve as staff to the committee. In determining where and how tax abatement will be utilized, the committee will examine the potential return on the public's investment. Return of a public investment will be measured in terms of net jobs created, jobs retained, broadening of the tax base and expansion of the economic base.
- (f) "Deferred Maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Distribution Center Facility" means buildings and structures, including machinery and equipment, used or to be used, primarily to receive, store, service or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points at least 50 miles from its location in Hutchinson County.
- (h) "Expansion" means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- (i) "Facility" means property improvements completed or in the process of construction.
- (j) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be to manufacture tangible goods or materials or the processing of such goods or materials by physical or chemical change.



- (k) "Modernization" means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing. ? SEE SEC. 2C
- (l) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (m) "Other Basic Industry" means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of goods or services which serve a market primarily outside of Hutchinson County and result in the creation of new permanent jobs and create new wealth in the County.
- (n) "Productive Life" means the number of years a property improvement is expected to be in service.
- (o) "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside at least 50 miles from its location in Hutchinson County.
- (p) "Research Facility" means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (q) "Regional Service Facility" means buildings and structures, including machinery and equipment used or to be used to service goods where a majority of the goods being serviced originate at least 50 miles from the facility's location in Hutchinson County.



# ABATEMENT AUTHORIZED

## Section 2

- (a) **Authorized Facility** A facility may be eligible for abatement if it is a: Manufacturing Facility, Research Facility, Distribution Center or Regional Service Facility, Regional Entertainment Facility or Other Basic Industry.
- (b) **Creation of New Value** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement agreement between Hutchinson County and the property owner or lessee, subject to such limitations as Hutchinson County may require.
- (c) **New and Existing Facilities** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) **Eligible Property** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus the office space and related fixed improvements necessary to the operation and administration of the facility.
- (e) **Ineligible Property** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings; other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; retail facilities; deferred maintenance investments; property to be rented or leased except as provided in section 2(f); property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- (f) **Owned/Lease Facilities** If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. Public owned land leased to private entities shall be eligible if otherwise qualified.
- (g) **Abatement Schedule** The owner of real property requesting tax abatement within a reinvestment zone shall, prior to the inception of the project(s) that are subject to an abatement contract, agree to expend a designated sum of money or provide a certain number of jobs as follows:

0 to 5 Years Abatement % of Appraised Value to be Abated	6 to 10 Years Abatement % of Appraised Value to be Abated	% Abated Is Based on the Greater Of:		No. of New Full- time Permanent Jobs Created
		Capital Cost of Project	OR	
15%	7.5%	\$ 150,000 -	1,000,000	15 - 25
25%	12.5%	\$ 1,000,001 -	2,500,000	26 - 50
50%	25.0%	\$ 2,500,001 -	7,500,000	51 - 75
75%	37.5%	\$ 7,500,001 -	10,000,000	76 - 100
100%	50.0%	\$10,000,001 -	12,000,000	101 - 200

Example: Capital investment of \$150,000 with a net job creation of 60 would be eligible for 50% abatement. Primary consideration for abatement in this instance is job creation.

Example: Capital investment of \$8,000,000 with a net job creation of 20 would be eligible for 75% abatement. Primary consideration for abatement in this instance is capital investment.

Projects which exceed a capital investment of \$12,000,000 or create more than 200 jobs will be individually negotiated.

- (h) **Abated Value** If a modernization project includes facility replacement, the abated value shall be the value of a new unit(s) less the value of the old unit(s).



## APPLICATION

### Section 3

- (a) A committee composed of one (1) member each from each taxing unit in Hutchinson County shall be formed to recommend the adoption or rejection of all applications. The County Judge or his designee shall serve as staff to the committee. In determining where and how tax abatement will be utilized, the committee will examine the potential return on the public's investment. The return of the public investment will be measured in terms of net jobs created, jobs retained, broadening of the tax base, and expansion of the economic base.
- (b) Any present or potential owner of taxable property in Hutchinson County may request the creation of a reinvestment zone and tax abatement by filing a written request with the County Judge.
- (c) The application shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken; a descriptive list of the improvements which will be a part of the facility; a map and property description; a time schedule for undertaking and completing the planned improvements. In the case of modernizing, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as the Committee deems appropriate for evaluating the financial capacity and other factors of the applicant.
- (d) Upon receipt of a completed application, the Committee Chairman shall notify, in writing, the presiding officer of the legislative body of each affected jurisdiction. Before acting upon the application, the Committee shall, through public hearing allow the the applicant and/or the designated representative of any affected jurisdiction opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on a Hutchinson County agenda to be posted at least three (3) days prior to the hearing.
- (e) After receipt of an application for creation of a reinvestment zone and application for abatement, the Committee shall prepare a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement. The feasibility study shall include, but not be limited to, an estimate of the economic effect of the creation of the zone and the abatement of taxes and the benefit to the eligible jurisdiction and the property to be included in the zone.
- (f) Requests for a variance from the provisions of Subsections (a), (e), and (g) of Section 2 may be made in written form to a designated member of the Committee provided, the total duration of an abatement shall in no instance exceed fifteen years. Such requests shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) vote of the Committee.



## PUBLIC HEARING

### Section 4

- (a) Should any affected jurisdiction be able to show cause in a public hearing why the granting of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of service; shall be reason for the Committee to deny any designation of the reinvestment zone, the granting of abatement, or both.
- (b) Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:
  - (1) there would be a substantial adverse affect on the provision of government services or tax base as determined by the Committee;
  - (2) the applicant has insufficient financial capacity;
  - (3) planned or potential use of the property would constitute a hazard to public safety, health or morals;
  - (4) violation of other codes or laws.

## AGREEMENT

### Section 5

- (a) After approval, Hutchinson County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee which shall include:
  - (1) estimated value to be abated and the base year value;
  - (2) percent of value to be abated each year as provided in Section 2(g);
  - (3) the commencement date and the termination date of abatement;
  - (4) the proposed use of the facility, nature of construction, time schedule, map, property description and a list of improvements as provided for in Application, Section 3(b);
  - (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections 2(a), 2(f), 2(g), 6, 7, and 8;
  - (6) size of investment and average number of jobs involved for the period of the abatement.
- (b) Such agreement shall be executed within 60 days after the applicant has forwarded all necessary information and documentation to Hutchinson County.

## RECAPTURE

### Section 6

- (a) In the event that the facility is completed and begins producing products or services, but subsequently discontinues producing products or services for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year, shall be paid to the taxing entities sixty (60) days from the date of termination.
- (b) Should Hutchinson County determine that the company or individual is in default according to the terms and conditions of the agreement, Hutchinson County shall notify the company or individual, in writing, to the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement may be terminated.
- (c) In the event that the company or individual allows the ad valorem taxes they owe the taxing entity to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or violates any of the terms and conditions of the abatement agreement, or fails to cure during the Cure Period, the agreement, then, may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.



## ADMINISTRATION

### Section 7

- (a) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions who levy taxes on the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of any affected taxing jurisdiction will have access to the reinvestment zone during the term of the abatement in order to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after giving a twenty-four (24) hours prior notice and shall be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual(s) and in accordance with its safety standards.
- (c) Upon completion of construction, Hutchinson County Appraisal District shall annually evaluate each facility and report possible violations of the contract and agreement to Hutchinson County and its attorney.

## ASSIGNMENT

### Section 8

- (a) Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval, by resolution, of Hutchinson County subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with Hutchinson County. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to Hutchinson County or any affected jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

## SUNSET PROVISION

### Section 9

- (a) These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by Hutchinson County to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed or eliminated providing that such actions shall not affect existing contracts.
- (b) This policy is mutually exclusive of existing Industrial District Contracts and owners of real property in areas deserving of specific attention as agreed by the affected jurisdictions.



## Attachment K

### 2012 Manufacturing Wages by Council of Government Region Wages for All Occupations

COG	Wages	
	Hourly	Annual
Texas	\$23.56	\$48,996
<b><u>1. Panhandle Regional Planning Commission</u></b>	<b>\$20.12</b>	<b>\$41,850*</b>
<u>2. South Plains Association of Governments</u>	\$16.18	\$33,662
<u>3. NORTEX Regional Planning Commission</u>	\$17.83	\$37,076
<u>4. North Central Texas Council of Governments</u>	\$24.68	\$51,333
<u>5. Ark-Tex Council of Governments</u>	\$16.84	\$35,032
<u>6. East Texas Council of Governments</u>	\$19.61	\$40,797
<u>7. West Central Texas Council of Governments</u>	\$18.24	\$37,941
<u>8. Rio Grande Council of Governments</u>	\$16.17	\$33,631
<u>9. Permian Basin Regional Planning Commission</u>	\$21.93	\$45,624
<u>10. Concho Valley Council of Governments</u>	\$16.33	\$33,956
<u>11. Heart of Texas Council of Governments</u>	\$19.07	\$39,670
<u>12. Capital Area Council of Governments</u>	\$26.03	\$54,146
<u>13. Brazos Valley Council of Governments</u>	\$16.55	\$34,424
<u>14. Deep East Texas Council of Governments</u>	\$16.20	\$33,698
<u>15. South East Texas Regional Planning Commission</u>	\$29.38	\$61,118
<u>16. Houston-Galveston Area Council</u>	\$26.59	\$55,317
<u>17. Golden Crescent Regional Planning Commission</u>	\$21.03	\$43,742
<u>18. Alamo Area Council of Governments</u>	\$18.40	\$38,280
<u>19. South Texas Development Council</u>	\$13.54	\$28,170
<u>20. Coastal Bend Council of Governments</u>	\$22.97	\$47,786
<u>21. Lower Rio Grande Valley Development Council</u>	\$16.33	\$33,961
<u>22. Texoma Council of Governments</u>	\$22.57	\$46,949
<u>23. Central Texas Council of Governments</u>	\$17.16	\$35,689
<u>24. Middle Rio Grande Development Council</u>	\$18.93	\$39,380

Source: Texas Occupational Employment and Wages

Data published: July 2013

Data published annually, next update will be July 31, 2014

Note: Data is not supported by the Bureau of Labor Statistics (BLS).

Wage data is produced from Texas OES data, and is not to be compared to BLS estimates.

Data intended for TAC 313 purposes only.

\*Note: The Panhandle Region Planning Commission annual manufacturing wage of  
\$41,850 x 110% = \$46,035.



## Quarterly Employment and Wages (QCEW)

### I.CODETITLE

Page 1 of 1 (40 results/page)

Year	Period	Area	Ownership	Division	Level	Ind Code	Industry	Avg Weekly Wages
2012	1st Qtr	Hutchinson County	Private	00	0	10	Total, All Industries	\$1,205
2012	2nd Qtr	Hutchinson County	Private	00	0	10	Total, All Industries	\$1,053
2012	3rd Qtr	Hutchinson County	Private	00	0	10	Total, All Industries	\$1,008
2012	4th Qtr	Hutchinson County	Private	00	0	10	Total, All Industries	\$1,228
2013	1st Qtr	Hutchinson County	Private	00	0	10	Total, All Industries	\$1,249
2013	1st Qtr	Hutchinson County	Private	31	2	31-33	Manufacturing	\$2,029
2012	4th Qtr	Hutchinson County	Private	31	2	31-33	Manufacturing	\$1,676
2012	3rd Qtr	Hutchinson County	Private	31	2	31-33	Manufacturing	\$1,419
2012	2nd Qtr	Hutchinson County	Private	31	2	31-33	Manufacturing	\$1,498
2012	1st Qtr	Hutchinson County	Private	31	2	31-33	Manufacturing	\$1,668

All Industries Avg. Wage

$1134.5 * 110\% = 1247.95$

Manufacturing Avg. Wage

$1655.50 * 110\% = 1821.05$



## A achment L

**Proof of at least 80% Employer Coverage of Employee Health Bene ts**  
**(Supplemental Insurance Bene ts Data Follows)**

**US Medical Contribution Rates 2013**  
**Monthly Rates**

<u>PLAN</u>	<u>LEVEL</u>	<u>Company</u> <u>Contribution</u>	<u>EE</u> <u>Contribution</u>	<u>Total</u> <u>Premium</u>	<u>Employer Paid</u>
<b>PPO</b>	Single	439.28	77.52	516.80	85%
<b>MEDICAL</b>	EE + Spouse	852.71	180.88	1,033.59	82.5%
	EE+ Children	852.71	180.88	1,033.59	82.5%
	EE+ Family	1,266.15	284.24	1,550.39	82%



# Chapter 313 Property Identification and Appraisal Plan

Cominco Fertilizer Partnership has submitted an application to Borger Independent School District for a school district value limitation pursuant to Chapter 313 of the Texas Property Tax Code. For the purpose of appraising property at the site of the Cominco Fertilizer Partnership nitrogen plant, certain delineations will need to be made between taxable property in existence prior to the issuance of a "substantially complete" application letter from the Texas Comptroller's office and that property which is delivered, constructed and/or put in service after such date through the end of the qualifying period of December 31, 2015.

For purposes of identification and appraisal, both the tax payer and appraisal district will take notice of the following account numbers and property type.

Account Number	Property Type	Description	2013 Market Value
0003563-0-9900240	Business Personal Property	Fixed Assets	\$82,230.00
0003563-0-9900140	Business Personal Property	Inventory	\$5,859,940.00
0003563-0-9900141	Business Personal Property	Inventory	\$59,940.00
0003563-0-9900200	Business Personal Property	Inventory	\$4,330.00
0003563-0-9900210	Business Personal Property	Inventory	\$199,050.00
0003563-0-9900170	Business Personal Property	Plant Industrial Equipment	\$298,280.00 TNRCC
0003563-0-9900171	Business Personal Property	Plant Industrial Equipment	\$347,830.00 TNRCC
0003563-0-9900190	Business Personal Property	Plant Industrial Equipment	\$366,920.00 TNRCC
0003563-0-9900260	Business Personal Property	Plant Industrial Equipment	\$4,295,270.00
0003563-0-9998010	Business Personal Property	Plant Industrial Equipment	\$0
0003563-0-9998040	Business Personal Property	Plant Industrial Equipment	\$77,070.00 TNRCC
0003563-0-9900220	Business Personal Property	Vehicles	\$193,720.00
0003563-0-9900100	Real Property	Land - 291.43 acres	\$291,430
0003563-0-9900120	Real Property	Plant Improvements	\$387,860.00
0003563-0-9900160	Real Property	Plant Improvements	\$19,084,350.00
0003563-0-9900165	Real Property	Plant Improvements	\$2,493,210.00
0003563-0-9900166	Real Property	Plant Improvements	\$501,970.00
0003563-0-9900180	Real Property	Plant Improvements	\$10,878,510.00
0003563-0-9900185	Real Property	Plant Improvements	\$234,240.00
0003563-0-9998000	Real Property	Plant Improvements	\$0
0003563-0-9998020	Real Property	Plant Improvements	\$46,370.00 TNRCC



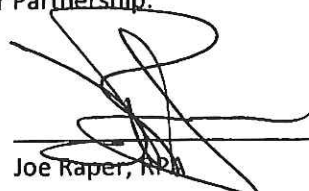
The preceding accounts are existing accounts as of this date, July 11, 2013, and do not and will not contain any property or property value to be included as part of the new property delivered, installed, constructed or otherwise put in service after the date of the issuance of a substantially complete application letter and will not be eligible for any value limitation under the Chapter 313 program. All existing accounts will continue to be appraised as in the past including consideration for depreciation, functional or economic obsolescence and legally entitled exemptions.

Beginning on January 1, 2014, entirely new accounts will be created by the Hutchinson Central Appraisal District chief appraiser to identify business personal property and real property improvements delivered, installed, constructed or otherwise put in service from the date of the substantially complete letter through December 31, 2015. Each new account number and appraisal record created during the qualifying period for property eligible for the Chapter 313 school district value limitation will list two values for Borger Independent School District:

1. The value according to the Chapter 313 school district value limitation agreement in each year that Cominco Fertilizer Partnership remains eligible for the value limitation. This value will be utilized in determining the taxable value for the maintenance & operations portion of the school district's tax rate; and
2. The value according to the market value of all property without the application of the Chapter 313 value limitation which will be derived by determining the replacement cost new less depreciation and any other appropriate factors including, but not limited to, economic or functional obsolescence, pollution control exemptions and/or freeport exemptions. This value will be utilized in determining the taxable value for the interest & sinking fund portion of the school district's tax rate.

Beginning on January 1, 2014, all property, real and personal, existing and new, shall be listed under the legal ownership name of such property. The legal owner of the property is and will be Cominco Fertilizer Partnership. All accounts, both existing and new, shall list Cominco Fertilizer Partnership as the owner until the ownership of the property is legally transferred to another entity evidenced by a written document filed at the Hutchinson County Courthouse.

I, Joe Raper, Chief Appraiser for Hutchinson County Appraisal District approve of this Chapter 313 Property Identification and Appraisal Plan for Cominco Fertilizer Partnership.



---

Joe Raper, CPA

September 26, 2013



**From:** [Trey Cobb](#)  
**To:** [Mali Hanley](#)  
**Cc:** "Diamond, Adam"  
**Subject:** FW: Application for Limitation Borger ISD - Inquiry from Chief Appraiser, Hutchinson County  
**Date:** Tuesday, October 01, 2013 5:02:49 PM  
**Attachments:** [BISD 313 Property ID.pdf](#)

---

Below is the e-mail string between the Hutchinson CAD Chief Appraiser, Joe Raper, and the comptroller's office concerning the appraisal plan.

Trey B. Cobb, SrPTC  
Kirkwood and Darby, Inc.  
307 W. 7th Street, Suite 1110  
Ft. Worth, Texas 76102  
817-831-3597 Phone  
817-831-3598 Fax

---

**From:** Joe Raper [<mailto:j.raper@hutchinsoncad.com>]  
**Sent:** Tuesday, October 01, 2013 5:00 PM  
**To:** [tcobb@kirkwoodanddarby.com](mailto:tcobb@kirkwoodanddarby.com)  
**Subject:** FW: Application for Limitation Borger ISD - Inquiry from Chief Appraiser, Hutchinson County

These are the emails and original attachment.

If there is anything else I can do along with you, please feel free to contact me.

---

**From:** Stephanie Jones [<mailto:Stephanie.Jones@cpa.state.tx.us>]  
**Sent:** Tuesday, October 01, 2013 2:36 PM  
**To:** [j.raper@hutchinsoncad.com](mailto:j.raper@hutchinsoncad.com)  
**Subject:** FW: Application for Limitation Borger ISD - Inquiry from Chief Appraiser, Hutchinson County

Mr. Raper,

The attachment is sufficient. Thank you for the prompt response.

Stephanie Jones

---

**From:** Joe Raper [<mailto:j.raper@hutchinsoncad.com>]  
**Sent:** Tuesday, October 01, 2013 10:41 AM  
**To:** Stephanie Jones  
**Subject:** RE: Application for Limitation Borger ISD - Inquiry from Chief Appraiser, Hutchinson County

Ms. Jones,

Thank you for your assistance.

---

**From:** Stephanie Jones [<mailto:Stephanie.Jones@cpa.state.tx.us>]



**Sent:** Tuesday, October 01, 2013 10:31 AM

**To:** [j.raper@hutchinsoncad.com](mailto:j.raper@hutchinsoncad.com)

**Subject:** FW: Application for Limitation Borger ISD - Inquiry from Chief Appraiser, Hutchinson County

Mr. Raper,

Can you provide a copy of the proposal for our review?

Stephanie Jones

Economic Development and Analysis

Texas Comptroller of Public Accounts

LBJ State Offices Building

111 East 17<sup>th</sup> Street

Austin, Texas 78774

(512)463.4594

IMPORTANT NOTICE: This communication and any attachments may contain privileged or confidential information under the Texas Public Information Act and/or applicable state and federal laws. If you have received this message in error, please notify the sender immediately.

---

**From:** Michelle Luera

**Sent:** Tuesday, September 24, 2013 2:19 PM

**To:** Joe Raper; Gary Price

**Cc:** Stephanie Jones; Michelle Luera

**Subject:** RE: Application for Limitation Borger ISD - Inquiry from Chief Appraiser, Hutchinson County

**Importance:** High

Dear Mr. Raper,

I do not know the answer to that question. I will have to defer your inquiry to Gary Price and he will be able to assist you. He can also be contacted at 512-463-3993.

Best regards,

Michelle Luera

Economic Development and Analysis Division

Texas Comptroller of Public Accounts

111 E. 17th St.

Austin, TX 78774

(512)463-6053

(800)531-5441 ext.3-6053

fax (512)475-0664

---

**From:** Joe Raper [<mailto:j.raper@hutchinsoncad.com>]

**Sent:** Tuesday, September 24, 2013 2:16 PM

**To:** Michelle Luera

**Subject:** Application for Limitation Borger ISD

Ms. Luera,

I have been contacted regarding the above application requiring a "detailed methodology and process to annually determine values." A proposal was submitted to me which identified existing appraisal accounts of the applicant and that new accounts would be established for property eligible for the limitation. Will this suffice, or does the statement require great detail?

Thank you for your assistance.

Joe Raper, RPA  
Chief Appraiser  
Hutchinson County Appraisal District  
[j.raper@hutchinsoncad.com](mailto:j.raper@hutchinsoncad.com)  
806 274-2294

Notice:

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Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 2013.0.3408 / Virus Database: 3222/6709 - Release Date: 09/29/13

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Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 2013.0.3408 / Virus Database: 3222/6709 - Release Date: 09/29/13

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Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 9.0.932 / Virus Database: 3222.1.1/6213 - Release Date: 10/01/13 01:06:00



1. Primary Reformer
2. Start-Up Heater
3. Primary Waste Heat Boiler
4. Primary Shift Effl. Waste Heat Boiler
5. Methanator Feed Heater
6. CO<sub>2</sub> Stripper Gas Reboiler
7. Shift Effluent BFW Heater
8. MEA Solution Cooler
9. MEA Solution Exchanger
10. CO<sub>2</sub> Stripper Condenser
11. CO<sub>2</sub> Stripper Steam Reboiler
12. MEA Vaporizer
13. Methanator Effluent BFW Heater
14. Methanator Effluent Cooler
15. Syn. Gas Compr. Interstage Cooler
16. Feed and Recycle 1<sup>st</sup> Stage Chiller
17. Feed and Recycle 2<sup>nd</sup> Stage Chiller
18. Feed and Recycle 3<sup>rd</sup> Stage Chiller
19. Ammonia Converter Feed/Feed Gas & Recycle Exchange
20. Ammonia Converter Feed-Effl. Exch.
21. Ammonia Converter Interchanger
22. Ammonia Converter Innerbed Exchanger
23. Ammonia Converter BFW Exchanger
24. Synthesis Gas Compr. Aftercooler
25. Purge Gas Chiller
26. Flash Gas Chiller
27. Refrigerant Condenser
28. Refrigerant Compressor Intercooler
29. Syn. Gas Compr. Interchange Chiller
30. Syn. Gas Methanator Feed Exchanger
31. Ammonia Vaporizer (In Yard Piping)
32. Air Compressor Interstage Cooler
33. Desulfurizers 1 & 2
34. Secondary Reformer
35. Shift Converter
36. Synthesis Converter
37. Methanator
38. Effluent Chamber
39. CO<sub>2</sub> Absorber
40. CO<sub>2</sub> Stripper
41. Steam Drum
42. Raw Gas Separator
43. CO<sub>2</sub> Stripper Reflux Drum
44. Syn. Gas Compr. Suction Drum
45. Synthesis Gas Compr 1<sup>st</sup> Stage Sep.
46. Secondary Ammonia Separator
47. Primary Ammonia Separator
48. Purge Separator
49. Refrigerant Receiver
50. First Stage Refrigerant Flash Drum
51. Second Stage Refrigerant Flash Drum
52. Third Stage Refrigerant Flash Drum
53. MEA Storage Tank
54. αMDEA Sump
55. Instrument Air Receiver
56. Blow Down Drum
57. Demineralized Water Storage Tank
58. Plant Air Compressor Receiver
59. Air Compressor
60. Process Feed Gas Compressor
61. Synthesis Gas Compressor
62. H.P. BFW Pumps
63. Refrigerant Compressor
64. Quench Pump
65. MEA Circulation Pumps
66. Condensate Pump
67. Product Ammonia Pumps
68. Ammonia Injection Pump
69. L.P. Boiler Feed Pump
70. Surface Condenser
71. Compressor Surface Condenser
72. Demineralized Water Pump
73. Control House

74. Firewater to Comp. Deck Bldg.	83. Metering Pump Water Trt. (W)	90. Secondary Anion Unit #2 Train
75. Water Treating Building	84. Water Treater Feed Tote (E)	91. Strong Base-Anion Unit
76. MEA Filter	85. Metering Pump Water Trt. (E)	92. Emergency Generator
77. Air Filter	86. Primary Anion Unit #1 Train	93. Deaerator
78. αMDEA Filter	87. Primary Anion Unit #2 Train	94. Cation Units (3)
79. Instrument Air Dryer Mfg. Pt.	88. Primary Anion Unit #3 Train	95. Secondary Cation Units (3)
80. Instrument Air Dryer (Urea) Mfg. Zurn.	89. Secondary Anion Unit #1 Train	96. Condensor Polisher Units (2)
81. Instrument Air Dryer (NH3) Mfg. Zurn.		97. Resin Trap
82. Water Treater Feed Tote (W)		98. Mixed Bed Unit
99. Ammonia Injection Tank		

The location of all existing property is indicated on the maps provided at Attachment E



Attachment B

Certificate of Account Status



## Franchise Tax Account Status

As of 01/03/2014 10:29:05 AM

**This Page is Not Sufficient for Filings with the Secretary of State**


COMINCO FERTILIZER PARTNERSHIP	
Texas Taxpayer Number	19115994501
Mailing Address	4582 S ULSTER ST STE 1700 C/O TAX DEPT DENVER, CO 80237-2641
Right to Transact Business in Texas	ACTIVE
State of Formation	
Effective SOS Registration Date	Not Registered
Texas SOS File Number	Not Registered
Registered Agent Name	Not on file
Registered Office Street Address	



## Attachment C

### State Comptroller's Recommendation



<div style="text-align: center;"> <b>S U S A N</b>  <b>C O M B S</b> </div>	<div style="text-align: center;"> <b>TEXAS COMPTROLLER of PUBLIC ACCOUNTS</b>  P.O. Box 13528 • AUSTIN, TX 78711-3528 </div>
	

November 8, 2013

Chance Welch  
Superintendent  
Borger Independent School District  
P.O. Box 1177  
Borger, Texas 79008-1177

Dear Superintendent Welch:

On October 11, 2013, the Comptroller received the completed application (Application # 317) for a limitation on appraised value under the provisions of Tax Code Chapter 313<sup>1</sup>. This application was originally submitted in April 2013 to the Borger Independent School District (the school district) by Cominco Fertilizer Partnership (the applicant). This letter presents the results of the Comptroller's review of the application:

- 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 make a recommendation to the governing body of the school district as to whether the application should be approved or disapproved using the criteria set out by Section 313.026.

The school district is currently classified as a rural school district in Category 2 according to the provisions of Chapter 313. Therefore, the applicant properly applied under the provisions of Subchapter C, applicable to rural school districts. The amount of proposed qualified investment (\$443 million) is consistent with the proposed appraised value limitation sought (\$20 million). The property value limitation amount noted in this recommendation is based on property values available at the time of application and may change prior to the execution of any final agreement.

The applicant is an active franchise taxpayer in good standing, as required by Section 313.024(a), and is proposing the construction of a manufacturing facility in Hutchinson County, an eligible property use under Section 313.024(b). The Comptroller has determined that the property, as described in the application, meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

After reviewing the application using the criteria listed in Section 313.026, and the information provided by the applicant, the Comptroller's recommendation is that this application under Tax Code Chapter 313 be approved.

Our review of the application assumes the truth and accuracy of the statements in the application and that, if the application is approved, the applicant would perform according to the provisions of the agreement reached with the school district. Our recommendation does not address whether the applicant has complied with all Chapter 313 requirements; the school district is responsible for verifying that all requirements of the statute have been fulfilled. Additionally, Section 313.025 requires the school district to only approve an application if the school district finds that the information in the application is true and

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



correct, finds that the applicant is eligible for a limitation and determines that granting the application is in the best interest of the school district and this state. As stated above, the Comptroller's recommendation is prepared by generally reviewing the application and supporting documentation in light of the Section 313.026 criteria.


Note that any new building or other improvement existing as of the application review start date of October 11, 2013, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2).

The Comptroller's recommendation is based on the application submitted by the school district and reviewed by the Comptroller. The recommendation may not be used by the school district to support its approval of the property value limitation agreement if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this recommendation is contingent on future compliance with the Chapter 313 and Texas Administrative Code, with particular reference to the following requirements related to the execution of the agreement:

- 1) The applicant must provide the Comptroller a copy of the proposed limitation on appraised value agreement no later than ten (10) days prior to the meeting scheduled by the school district to consider approving the agreement, so that the Comptroller may review it for compliance with the statutes and the Comptroller's rules as well as consistency with the application;
- 2) The limitation agreement must contain provisions that require:
  - a. the applicant to provide sufficient information to the Central Appraisal District (CAD) to distinguish between and separately appraise qualified property (as defined by 313.021(2)) from any property that is not qualified;
  - b. the school district to confirm with the CAD that the applicant has provided such information; and
  - c. that the Comptroller is provided with the CAD approved information no later than the first annual reporting period following the execution of the agreement;
- 3) The Comptroller must confirm that it received and reviewed the draft agreement and affirm the recommendation made in this letter;
- 4) The school district must approve and execute a limitation agreement that has been reviewed by the Comptroller within a year from the date of this letter; and
- 5) The school district must provide a copy of the signed limitation agreement to the Comptroller within seven (7) days after execution, as required by Section 313.025.

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 D

Economic Analysis



**Economic Impact for Chapter 313 Project**

Applicant	Cominco Fertilizer Partnership
Tax Code, 313.024 Eligibility Category	Manufacturing
School District	Borger ISD
2011-12 Enrollment in School District	2,814
County	Hutchinson
Total Investment in District	\$600,000,000
Qualified Investment	\$443,000,000
Limitation Amount	\$20,000,000
Number of total jobs committed to by applicant	20
Number of qualifying jobs committed to by applicant	19
Average Weekly Wage of Qualifying Jobs committed to by applicant	\$885
Minimum Weekly Wage Required Tax Code, 313.051(b)	\$885
Minimum Annual Wage committed to by applicant for qualified jobs	\$46,035
Investment per Qualifying Job	\$31,578,947
Estimated 15 year M&O levy without any limit or credit:	\$57,337,295
Estimated gross 15 year M&O tax benefit	\$35,605,134
Estimated 15 year M&O tax benefit ( <i>after</i> deductions for estimated school district revenue protection--but not including any deduction for supplemental payments or extraordinary educational expenses):	\$31,722,345
Tax Credits (estimated - part of total tax benefit in the two lines above - appropriated through Foundation School Program)	\$3,338,057
Net M&O Tax (15 years) After Limitation, Credits and Revenue Protection:	\$25,614,950
Tax benefit as a percentage of what applicant would have paid without value limitation agreement (percentage exempted)	55.3%
Percentage of tax benefit due to the limitation	90.6%
Percentage of tax benefit due to the credit	9.4%



This presents the Comptroller's economic impact evaluation of Cominco Fertilizer Partnership (the project) applying to Borger Independent School District (the district), as required by Tax Code, 313.026. This evaluation is based on information provided by the applicant and examines the following criteria:

- (1) the recommendations of the comptroller;
- (2) the name of the school district;
- (3) the name of the applicant;
- (4) the general nature of the applicant's investment;
- (5) the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999;
- (6) the relative level of the applicant's investment per qualifying job to be created by the applicant;
- (7) the number of qualifying jobs to be created by the applicant;
- (8) the wages, salaries, and benefits to be offered by the applicant to qualifying job holders;
- (9) the ability of the applicant to locate or relocate in another state or another region of this state;
- (10) the impact the project will have on this state and individual local units of government, including:
  - (A) tax and other revenue gains, direct or indirect, that would be realized during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller; and
  - (B) economic effects of the project, including the impact on jobs and income, during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller;
- (11) the economic condition of the region of the state at the time the person's application is being considered;
- (12) the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on appraised value under this subchapter;
- (13) the effect of the applicant's proposal, if approved, on the number or size of the school district's instructional facilities, as defined by Section 46.001, Education Code;
- (14) the projected market value of the qualified property of the applicant as determined by the comptroller;
- (15) the proposed limitation on appraised value for the qualified property of the applicant;
- (16) the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property does not receive a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated;
- (17) the projected dollar amount of the taxes that would be imposed on the qualified property, for each tax year of the agreement, if the property receives a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment clearly stated;
- (18) the projected effect on the Foundation School Program of payments to the district for each year of the agreement;
- (19) the projected future tax credits if the applicant also applies for school tax credits under Section 313.103; and
- (20) the total amount of taxes projected to be lost or gained by the district over the life of the agreement computed by subtracting the projected taxes stated in Subdivision (17) from the projected taxes stated in Subdivision (16).



#### **Wages, salaries and benefits [313.026(6-8)]**

After construction, the project will create 20 new jobs when fully operational. Of these jobs, 19 will meet the criteria for qualifying jobs as specified in Tax Code Section 313.021(3). According to the Texas Workforce Commission (TWC), the regional manufacturing wage for the Panhandle Regional Planning Commission, where Hutchinson County is located was \$41,850 in 2012. The annual average manufacturing wage for 2012-2013 for Hutchinson County is \$86,086. That same year, the county annual average wage for all industries was \$58,994. In addition to a salary of \$46,035, each qualifying position will receive benefits such as health insurance, life insurance, 401(k), paid vacation and sick leave, wellness, and at least 80% employer coverage of health benefits premiums. The project's total investment is \$600 million, resulting in a relative level of investment per qualifying job of \$31.6 million.

#### **Ability of applicant to locate to another state and [313.026(9)]**

According to Cominco Fertilizer Partnership's application, "Cominco Fertilizer Partnership, as part of the larger Agrium US, Inc. and by extension Agrium, Inc., has production facilities in several US states including Texas, Washington, Ohio, California and Idaho as well as facilities in Alberta, Canada and South America. Our Board of Directors looks at all of these existing facilities for expansion opportunities as well as the potential to invest in new "Greenfield" projects in North America. At this time, the company is evaluating whether to invest in expanding production in the Texas Panhandle region of the state at our Borger, Texas facility. However, expansion opportunities at our other North American facilities in lieu of, or in addition to, the Borger, Texas project are also being evaluated. Agrium's Board of Directors are expected to make decisions on which projects to approve later this year. At this stage of the Board's investment plans for the future, the Chapter 313 economic incentive is a critical factor driving the Board of Director's decision as to whether to invest in Texas."

#### **Number of new facilities in region [313.026(12)]**

During the past two years, 18 projects in the Panhandle Regional Planning Commission applied for value limitation agreements under Tax Code, Chapter 313.

#### **Relationship of applicant's industry and jobs and Texas's economic growth plans [313.026(5)]**

The Texas Economic Development Plan focuses on attracting and developing industries using technology. It also identifies opportunities for existing Texas industries. The plan centers on promoting economic prosperity throughout Texas and the skilled workers that the Cominco Fertilizer Partnership project requires appear to be in line with the focus and themes of the plan. Texas identified manufacturing as one of six target clusters in the Texas Cluster Initiative. The plan stresses the importance of technology in all sectors of the manufacturing industry.

#### **Economic Impact [313.026(10)(A), (10)(B), (11), (13-20)]**

Table 1 depicts Cominco Fertilizer Partnership's estimated economic impact to Texas. It depicts the direct, indirect and induced effects to employment and personal income within the state. The Comptroller's office calculated the economic impact based on 16 years of annual investment and employment levels using software from Regional Economic Models, Inc. (REMI). The impact includes the construction period and the operating period of the project.



**Table 1: Estimated Statewide Economic Impact of Investment and Employment in Cominco Fertilizer Partnership**

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2013	9	26	35	\$414,315	\$1,585,685	\$2,000,000
2014	388	496	884	\$28,741,408	\$31,258,592	\$60,000,000
2015	670	853	1523	\$49,717,940	\$59,282,060	\$109,000,000
2016	20	105	125	\$996,980	\$16,003,020	\$17,000,000
2017	20	80	100	\$1,026,880	\$12,973,120	\$14,000,000
2018	20	58	78	\$1,057,700	\$10,942,300	\$12,000,000
2019	20	52	72	\$1,089,420	\$8,910,580	\$10,000,000
2020	20	54	74	\$1,122,100	\$8,877,900	\$10,000,000
2021	20	64	84	\$1,155,780	\$7,844,220	\$9,000,000
2022	20	72	92	\$1,190,440	\$8,809,560	\$10,000,000
2023	20	84	104	\$1,226,160	\$9,773,840	\$11,000,000
2024	20	70	90	\$1,262,940	\$8,737,060	\$10,000,000
2025	20	72	92	\$1,300,840	\$8,699,160	\$10,000,000
2026	20	72	92	\$1,339,860	\$8,660,140	\$10,000,000
2027	20	74	94	\$1,380,060	\$9,619,940	\$11,000,000
2028	20	74	94	\$1,421,460	\$9,578,540	\$11,000,000

Source: CPA, REMI, Cominco Fertilizer Partnership

The statewide average ad valorem tax base for school districts in Texas was \$1.65 billion in 2011. Borger ISD's ad valorem tax base in 2011 was \$545 million. The statewide average wealth per WADA was estimated at \$343,155 for fiscal 2012-2013. During that same year, Borger ISD's estimated wealth per WADA was \$159,292. The impact on the facilities and finances of the district are presented in Attachment 2.

Table 2 examines the estimated direct impact on ad valorem taxes to the school district, Hutchinson County, Hutchinson County Hospital District, and Frank Phillips College District, with all property tax incentives sought being granted using estimated market value from Cominco Fertilizer Partnership's application. Cominco Fertilizer Partnership has applied for both a value limitation under Chapter 313, Tax Code and a tax abatement with the county. Table 3 illustrates the estimated tax impact of the Cominco Fertilizer Partnership project on the region if all taxes are assessed.



Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Borger ISD I&S Levy	Borger ISD M&O Levy	Borger ISD M&O and I&S Tax Levies (Before Credit Credited)	Borger ISD M&O and I&S Tax Levies (After Credit Credited)	Hutchinson County Tax Levy	Hutchinson County Hospital District Tax Levy	Frank Phillips College District Tax Levy	Estimated Total Property Taxes
				0.293900	1.040000			0.446570	0.093923	0.220000	
2014	\$20,121,000	\$20,121,000		\$59,136	\$209,258	\$268,394	\$268,394	\$89,854	\$18,898	\$41,266	\$421,413
2015	\$340,846,000	\$340,846,000		\$1,001,746	\$3,544,798	\$4,546,545	\$4,546,545	\$1,522,116	\$320,133	\$749,861	\$7,138,655
2016	\$407,112,580	\$20,000,000		\$1,196,504	\$208,000	\$1,404,504	\$1,404,504	\$181,804	\$382,372	\$895,648	\$2,864,328
2017	\$408,010,160	\$20,000,000		\$1,199,142	\$208,000	\$1,407,142	\$930,277	\$364,410	\$383,215	\$897,622	\$2,575,525
2018	\$412,498,421	\$20,000,000		\$1,212,333	\$208,000	\$1,420,333	\$943,468	\$552,628	\$387,431	\$907,497	\$2,791,023
2019	\$411,620,801	\$20,000,000		\$1,209,754	\$208,000	\$1,417,754	\$940,888	\$735,270	\$386,607	\$905,566	\$2,968,331
2020	\$409,995,184	\$20,000,000		\$1,204,976	\$208,000	\$1,412,976	\$936,111	\$915,458	\$385,080	\$901,989	\$3,138,638
2021	\$407,665,218	\$20,000,000		\$1,198,128	\$208,000	\$1,406,128	\$929,263	\$1,092,306	\$382,891	\$896,863	\$3,301,324
2022	\$404,668,338	\$20,000,000		\$1,189,320	\$208,000	\$1,397,320	\$920,455	\$1,264,989	\$380,077	\$890,270	\$3,455,791
2023	\$401,032,856	\$20,000,000		\$1,178,636	\$208,000	\$1,386,636	\$909,770	\$1,790,892	\$376,662	\$882,272	\$3,959,597
2024	\$396,774,734	\$396,774,734		\$1,166,121	\$4,126,457	\$5,292,578	\$5,292,578	\$1,771,877	\$372,663	\$872,904	\$8,310,022
2025	\$386,451,539	\$386,451,539		\$1,135,781	\$4,019,096	\$5,154,877	\$5,154,877	\$1,725,777	\$362,967	\$850,193	\$8,093,814
2026	\$381,026,026	\$381,026,026		\$1,119,835	\$3,962,671	\$5,082,506	\$5,082,506	\$1,701,548	\$357,871	\$838,257	\$7,980,182
2027	\$369,107,925	\$369,107,925		\$1,084,808	\$3,838,722	\$4,923,531	\$4,923,531	\$1,648,325	\$346,677	\$812,037	\$7,730,571
2028	\$356,270,689	\$356,270,689		\$1,047,080	\$3,705,215	\$4,752,295	\$4,752,295	\$1,590,998	\$334,620	\$783,796	\$7,461,708
						Total	\$37,935,461	\$16,948,254	\$5,178,164	\$12,129,043	\$72,190,922

Assumes School Value Limitation and Tax Abatement with the County.

Source: CPA, Cominco Fertilizer Partnership

<sup>1</sup>Tax Rate per \$100 Valuation

Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives											
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Borger ISD I&S Levy	Borger ISD M&O Levy		Borger ISD M&O and I&S Tax Levies	Hutchinson County Tax Levy	Hutchinson County Hospital District Tax Levy	Frank Phillips College District Tax Levy	Estimated Total Property Taxes
			Tax Rate <sup>1</sup>	0.293900	1.040000			0.446570	0.093923	0.220000	
2014	\$20,121,000	\$20,121,000		\$59,136	\$209,258		\$268,394	\$89,854	\$18,898	\$44,266	\$421,413
2015	\$340,846,000	\$340,846,000		\$1,001,746	\$3,544,798		\$4,546,545	\$1,522,116	\$320,133	\$749,861	\$7,138,655
2016	\$407,112,580	\$407,112,580		\$1,196,504	\$4,233,971		\$5,430,475	\$1,818,043	\$382,372	\$895,648	\$8,526,537
2017	\$408,010,160	\$408,010,160		\$1,199,142	\$4,243,306		\$5,442,448	\$1,822,051	\$383,215	\$897,622	\$8,545,336
2018	\$412,498,421	\$412,498,421		\$1,212,333	\$4,289,984		\$5,502,316	\$1,842,094	\$387,431	\$907,497	\$8,639,338
2019	\$411,620,801	\$411,620,801		\$1,209,754	\$4,280,856		\$5,490,610	\$1,838,175	\$386,607	\$905,566	\$8,620,957
2020	\$409,995,184	\$409,995,184		\$1,204,976	\$4,263,950		\$5,468,926	\$1,830,915	\$385,080	\$901,989	\$8,586,910
2021	\$407,665,218	\$407,665,218		\$1,198,128	\$4,239,718		\$5,437,846	\$1,820,511	\$382,891	\$896,863	\$8,538,112
2022	\$404,668,338	\$404,668,338		\$1,189,320	\$4,208,551		\$5,397,871	\$1,807,127	\$380,077	\$890,270	\$8,475,345
2023	\$401,032,856	\$401,032,856		\$1,178,636	\$4,170,742		\$5,349,377	\$1,790,892	\$376,662	\$882,272	\$8,399,204
2024	\$396,774,734	\$396,774,734		\$1,166,121	\$4,126,457		\$5,292,578	\$1,771,877	\$372,663	\$872,904	\$8,310,022
2025	\$386,451,539	\$386,451,539		\$1,135,781	\$4,019,096		\$5,154,877	\$1,725,777	\$362,967	\$850,193	\$8,093,814
2026	\$381,026,026	\$381,026,026		\$1,119,835	\$3,962,671		\$5,082,506	\$1,701,548	\$357,871	\$838,257	\$7,980,182
2027	\$369,107,925	\$369,107,925		\$1,084,808	\$3,838,722		\$4,923,531	\$1,648,325	\$346,677	\$812,037	\$7,730,571
2028	\$356,270,689	\$356,270,689		\$1,047,080	\$3,705,215		\$4,752,295	\$1,590,998	\$334,620	\$783,796	\$7,461,708
						Total	\$73,540,594	\$24,620,304	\$5,178,164	\$12,129,043	\$115,468,106

Source: CPA, Cominco Fertilizer Partnership

<sup>1</sup>Tax Rate per \$100 Valuation



Attachment 1 includes schedules A, B, C, and D provided by the applicant in the application. Schedule A shows proposed investment. Schedule B is the projected market value of the qualified property. Schedule C contains employment information, and Schedule D contains tax expenditures and other tax abatement information.

Attachment 2, provided by the district and reviewed by the Texas Education Agency, contains information relating to the financial impact of the proposed project on the finances of the district as well as the tax benefit of the value limitation. "Table 5" in this attachment shows the estimated 15 year M&O tax levy without the value limitation agreement would be \$57,337,295. The estimated gross 15 year M&O tax benefit, or levy loss, is \$35,605,134.

Attachment 3 is an economic overview of Hutchinson County.

**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.



# Attachments

1. Schedules A, B, C, and D provided by applicant in application
2. School finance and tax benefit provided by district
3. County Economic Overview



# Attachment 1



Schedule A (Rev. May 2010): Investment

Form 50-296

Applicant Name: Cominco Fertilizer Partnership  
 ISD Name: Borger

PROPERTY INVESTMENT AMOUNTS									
(Estimated investment in each year. Do not put cumulative totals.)									
	Year	School Year	Tax Year	(*)Column A: Tangible Personal Property	Column B: Building or permanent nonmovable component	Column C: Sum of A and B	Column D: Other investment that is not	Column E: Total investment	
			(fill in actual tax year below)	The amount of new investment (original cost) placed in service during this year	(annual amount of building)	(including the qualifying time period)	qualified investment but investment affecting economic impact and total value	(A+E+D)	
The year preceding the first complete tax year of the qualifying time period (assuming no deferrals)	Investment made before filing complete application with district (neither qualified property nor eligible to become qualified investment)		2014	\$0			\$21,002,000	\$21,002,000	
	Investment made after filing complete application with district, but before final board approval of application (eligible to become qualified property)		2015	\$775,000			\$13,327,000	\$14,102,000	
	Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period (qualified investment and eligible to become qualified property)		2016	\$19,345,000			\$28,856,000	\$48,202,000	
	Complete tax years of qualifying time period	1	2014-2015	\$19,345,000			\$28,856,000	\$48,202,000	
		2	2015-2016	\$320,725,000			\$63,783,000	\$384,508,000	
		3	2016-2017	\$101,800,000			\$28,223,000	\$130,023,000	
		4	2017-2018	\$0			\$0	\$0	
		5	2018-2019	\$0			\$0	\$0	
		6	2019-2020	\$0			\$0	\$0	
		7	2020-2021	\$0			\$0	\$0	
		8	2021-2022	\$0			\$0	\$0	
		9	2022-2023	\$0			\$0	\$0	
		10	2023-2024	\$0			\$0	\$0	
		11	2024-2025	\$0			\$0	\$0	
		12	2025-2026	\$0			\$0	\$0	
		13	2026-2027	\$0			\$0	\$0	
		14	2027-2028	\$0			\$0	\$0	
		15	2028-2029	\$0			\$0	\$0	
Tax Credit Period (with 50% cap on credit)	Value Limitation Period								
Credit Settle-Up Period	Continue to Maintain Viable Presence								
Post-Settle-Up Period	Post-Settle-Up Period								

Qualifying Time Period usually begins with the final board approval of the application and extends generally for the following two complete tax years.

Column A: This represents the total dollar amount of planned investment in tangible personal property the applicant considers qualified investment - as defined in Tax Code §13.021(1)(A)-(D). For the purposes of investment, please list amount invested each year, not cumulative totals.

Column B: For the years outside the qualifying time period, this number should simply represent the planned investment in tangible personal property.

Column C: Include estimates of investment for "replacement" property that is part of original agreement but scheduled for probable replacement during limitation period.

Column D: The total dollar amount of planned investment each year in buildings or nonmovable component of buildings that the applicant considers qualified investment under Tax Code §13.021(1)(E).

Column E: For the years outside the qualifying time period, this number should simply represent the planned investment in new buildings or nonmovable components of buildings.

Dollar value of other investment that may not be qualified investment but that may affect economic impact and total value-for planning, construction and operation of the facility.

The most significant example for many projects would be land. Other examples may be items such as professional services, etc.

Note: Land can be listed as part of investment during the "one-year" time period. It cannot be part of qualifying investment.

Notes: For advanced clean energy projects, nuclear projects, projects with deferred qualifying time periods, and projects with long-term application review periods, insert additional rows as needed.

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years, if original estimates have not changed, enter these amounts for future years.

07/02/2013

DATE

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE



**Schedule B (Rev. May 2010): Estimated Market And Taxable Value**

Form 50-296

Applicant Name  
Cominco Fertilizer Partnership  
Borger

Tax Credit Period (with 50% cap on credit)	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Qualified Property			Reductions from Market Value	Estimated Taxable Value	
				Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new building or "in or on the new improvement"		Final taxable value for M&O - after all reductions	Final taxable value for M&O - after all reductions
Complete tax years of qualifying time period	pre-year 1	2013-2014	2013	\$0	0	0	0	0	0
	1	2014-2015	2014	\$0	\$20,121,000	0	0	\$20,121,000	\$20,121,000
	2	2015-2016	2015	\$0	\$340,846,000	0	0	\$340,846,000	\$340,846,000
	3	2016-2017	2016	\$0	\$433,793,080	0	\$413,793,080	\$407,112,580	\$20,000,000
Value Limitation Period	4	2017-2018	2017	\$0	\$434,180,395	0	\$414,180,395	\$408,010,160	\$20,000,000
	5	2018-2019	2018	\$0	\$438,418,731	0	\$418,418,731	\$412,498,421	\$20,000,000
	6	2019-2020	2019	\$0	\$437,223,587	0	\$417,223,587	\$411,620,801	\$20,000,000
	7	2020-2021	2020	\$0	\$435,165,283	0	\$415,165,283	\$409,995,184	\$20,000,000
	8	2021-2022	2021	\$0	\$432,243,819	0	\$412,243,819	\$407,665,218	\$20,000,000
	9	2022-2023	2022	\$0	\$428,459,196	0	\$408,459,196	\$404,668,338	\$20,000,000
	10	2023-2024	2023	\$0	\$423,811,413	0	\$403,811,413	\$401,032,856	\$20,000,000
	11	2024-2025	2024	\$0	\$418,300,470	0	\$0	\$396,774,734	\$396,774,734
Credit Settle-Up Period	12	2025-2026	2025	\$0	\$406,205,168	0	\$0	\$386,451,539	\$386,451,539
	13	2026-2027	2026	\$0	\$398,824,046	0	\$0	\$381,026,026	\$381,026,026
Post-Settle-Up Period	14	2027-2028	2027	\$0	\$384,570,845	0	\$0	\$369,107,925	\$369,107,925
Post-Settle-Up Period	15	2028-2029	2028	\$0	\$369,186,764	0	\$0	\$356,270,689	\$356,270,689

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.



SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

07/02/2013

DATE



# Schedule C- Application: Employment Information

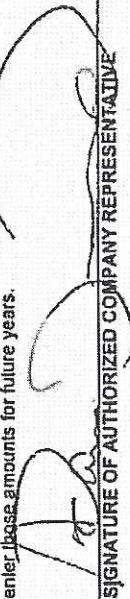
Applicant Name  
 Cominco Fertilizer Partnership  
 Barger

Form 50-296

Applicant Name Barger	Tax Credit Period (with 50% cap on credit)	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Construction		New Jobs		Qualifying Jobs	
				Column A: Number of Construction FTE's or man- hours (specify)	Column B: Average annual wage rates for construction workers	Column C: Number of new jobs applicant commits to create (cumulative)	Column D: Average annual wage rate for all new jobs.	Column E: Number of qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Column F: Average annual wage of qualifying jobs
Tax Credit Period (with 50% cap on credit)	Value Limitation Period	Year	pre-year 1			9	\$46,035	9	\$46,035
		Complete tax years of qualifying time period	1			13	\$47,416	13	\$47,416
			2			20	\$48,397	19	\$48,839
			3			20	\$49,849	18	\$50,304
			4			20	\$51,344	18	\$51,813
			5			20	\$52,885	19	\$53,367
			6			20	\$54,471	19	\$54,968
			7			20	\$56,105	19	\$56,617
			8			20	\$57,789	19	\$58,316
			9			20	\$59,522	19	\$60,085
			10			20	\$61,308	19	\$61,867
			11			20	\$63,147	19	\$63,723
			12			20	\$65,042	19	\$65,635
			13			20	\$66,993	19	\$67,604
			14			20	\$69,003	19	\$69,632
			15			20	\$71,073	19	\$71,721

Notes: For job definitions see TAC §9.1051(14) and Tax Code §313.021(3).

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

  
 SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

Aug 15, 2013  
 DATE



Schedule D: (Rev. May 2010): Other Tax Information

Applicant Name

Cominco Fertilizer Partnership

Borger

ISD Name

Form 50-296

Sales Tax Information				Other Property Tax Abatements Sought			
Sales Taxable Expenditures		Franchise Tax		County		City	
Year	School Year (YYYY-YYYY)	Tax/Calendar Year YYYY	Column F: Estimate of total annual expenditures* subject to state sales tax	Column G: Estimate of total annual expenditures* made in Texas NOT subject to sales tax	Column H: Estimate of Franchise tax due from (or attributable to) the applicant	Fill in percentage exemption requested or granted in each year of the Agreement	Fill in percentage exemption requested or granted in each year of the Agreement
The year preceding the first complete tax year of the qualifying time period (assuming no deferrals)							
Complete tax years of qualifying time period	1	2014-2015	\$37,300,000	\$208,000,000	\$54,000	0%	0%
	2	2015-2016	\$2,369,000	\$13,380,000	\$54,000	0%	0%
Value Limitation Period	3	2016-2017	\$2,416,380	\$13,657,800	\$54,000	100%	0%
	4	2017-2018	\$2,484,708	\$13,930,956	\$54,000	100%	0%
	5	2018-2019	\$2,514,002	\$14,208,575	\$54,000	100%	0%
	6	2019-2020	\$2,564,282	\$14,493,767	\$54,000	100%	0%
	7	2020-2021	\$2,615,567	\$14,783,642	\$54,000	100%	0%
	8	2021-2022	\$2,667,879	\$15,078,315	\$54,000	100%	0%
	9	2022-2023	\$2,721,236	\$15,380,901	\$54,000	100%	0%
	10	2023-2024	\$2,775,661	\$15,688,619	\$54,000	0%	0%
	11	2024-2025	\$2,831,174	\$16,002,289	\$54,000	0%	0%
	12	2025-2026	\$2,887,798	\$16,322,335	\$54,000	0%	0%
Credit Settle-Up Period	13	2026-2027	\$2,945,554	\$16,648,782	\$54,000	0%	0%
	14	2027-2028	\$3,004,485	\$16,981,768	\$54,000	0%	0%
Post-Settle-Up Period	15	2028-2029	\$3,064,554	\$17,321,363	\$54,000	0%	0%

\*For planning, construction and operation of the facility.

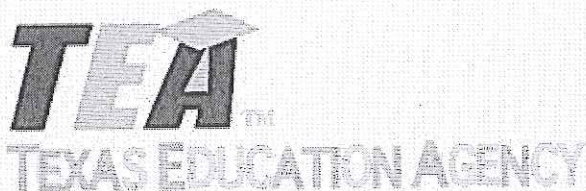
7/2/2013  
DATE

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# Attachment 2





1701 North Congress Ave. • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • [www.tea.state.tx.us](http://www.tea.state.tx.us)

Michael Williams  
Commissioner

November 5, 2013

Mr. Robert Wood  
Director, Economic Development and Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 East 17th Street  
Austin, Texas 78774

Dear Mr. Wood:

The Texas Education Agency (TEA) has analyzed the revenue gains that would be realized by the proposed Cominco Fertilizer Partnership project for the Borger Independent School District (BISD). Projections prepared by the TEA State Funding Division confirm the analysis that was prepared by Moak, Casey and Associates and provided to us by your division. We believe their assumptions regarding the potential revenue gain are valid, and their estimates of the impact of the Cominco Fertilizer Partnership project on BISD are correct.

Please feel free to contact me by phone at (512) 463-9186 or by email at [al.mckenzie@tea.state.tx.us](mailto:al.mckenzie@tea.state.tx.us) if you need further information about this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Al McKenzie", with a stylized flourish at the end.

Al McKenzie, Manager  
Foundation School Program Support

AM/rk





1701 North Congress Ave. • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • [www.tea.state.tx.us](http://www.tea.state.tx.us)

Michael Williams  
Commissioner

November 5, 2013

Mr. Robert Wood  
Director, Economic Development and Analysis  
Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 East 17th Street  
Austin, Texas 78774

Dear Mr. Wood:

As required by the Tax Code, §313.025 (b-1), the Texas Education Agency (TEA) has evaluated the impact of the proposed Cominco Fertilizer Partnership project on the number and size of school facilities in Borger Independent School District (BISD). Based on the analysis prepared by Moak, Casey and Associates for the school district and a conversation with the BISD superintendent, Chance Welch, the TEA has found that the operations of Cominco Fertilizer Partnership project would not have a significant impact on the number or size of school facilities in BISD. However, as many as 650 FTEs are anticipated during the construction phase of this project, so provisions related to extraordinary expenses that may be incurred by BISD should be included in the agreement.

Please feel free to contact me by phone at (512) 463-9186 or by email at [al.mckenzie@tea.state.tx.us](mailto:al.mckenzie@tea.state.tx.us) if you need further information about this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Al McKenzie", written over a horizontal line.

Al McKenzie, Manager  
Foundation School Program Support

AM/rk



Attachment E

Summary of Financial Impact



**SUMMARY OF FINANCIAL IMPACT OF THE PROPOSED COMINCO  
FERTILIZER PARTNERSHIP PROJECT (APPLICATION No. 317)  
ON THE FINANCES OF THE BORGER INDEPENDENT SCHOOL  
DISTRICT UNDER A REQUESTED CHAPTER 313 PROPERTY  
VALUE LIMITATION**

October 10, 2013

Final Report - Revised

**PREPARED BY**





# **Estimated Impact of the Proposed Cominco Fertilizer Partnership Project (Application No. 317) on the Finances of the Borger Independent School District under a Requested Chapter 313 Property Value Limitation**

## **Introduction**

Cominco Fertilizer Partnership (Cominco) has requested that the Borger Independent School District (BISD) consider granting a property value limitation under Chapter 313 of the Tax Code, also known as the Texas Economic Development Act. In an application initially submitted to BISD on April 11, 2013, Cominco proposes to invest \$433 million to construct a new fertilizer manufacturing project in BISD.

The Cominco project is consistent with the state's goal to "encourage large scale capital investments in this state." When enacted as House Bill 1200 in 2001, Chapter 313 of the Tax Code granted eligibility to companies engaged in manufacturing, research and development, and renewable electric energy production to apply to school districts for property value limitations. Subsequent legislative changes expanded eligibility to clean coal projects, nuclear power generation and data centers, among others.

Under the provisions of Chapter 313, BISD may offer a minimum value limitation of \$20 million. The provisions of Chapter 313 call for the project to be fully taxable in the 2014-15 and 2015-16 school years, unless the District and the Company agree to an extension of the start of the two-year qualifying time period. For the purpose of this analysis, it is assumed that the qualifying time period will be the 2014-15 and 2015-16 school years. Beginning with the 2016-17 school year, the project would go on the local tax roll at \$20 million and remain at that level of taxable value for eight years for maintenance and operations (M&O) taxes.

The full taxable value of the project would be assessed issues throughout the limitation period for debt service taxes on voter-approved bond, with BISD currently levying a \$0.2939 per \$100 I&S tax rate. The full taxable value of the investment is expected to reach \$413 million in the 2018-19 school year. While depreciation expected to reduce the taxable value of the project over the course of the value limitation agreement, in its peak value year the project would add about 72 percent to the District's current tax base. At its peak value, the Cominco project will provide some positive debt service benefits for the taxpayers of BISD, which will be addressed below.

In the case of the Cominco project, the agreement will call for a calculation of the revenue impact of the value limitation in years 3-10 of the agreement, under whatever school finance and property tax laws are in effect in each of those years. Under current law, BISD would experience a revenue loss of \$3.8 million as a result of the implementation of the value limitation in the 2016-17 school year, with very small amounts anticipated in the following years. Reimbursement of this amount would be addressed in the limitation agreement between the District and Cominco.

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Under the assumptions outlined below, the potential tax benefits to Cominco under a Chapter 313 agreement could reach an estimated \$31.7 million over the course of the agreement. This amount is net of any anticipated revenue losses for the District.

### **School Finance Mechanics**

Under the current school finance system, the property values established by the Comptroller's Office that are used to calculate state aid and recapture lag by one year, a practical consequence of the fact that the Comptroller's Office needs this time to conduct its property value study and the audits of appraisal district operations in alternating years. A taxpayer receiving a value limitation pays M&O taxes on the reduced value for the project in years 3-10 and receives a tax bill for I&S taxes based on the full project value throughout the qualifying and value limitation period (and thereafter), if the district levies taxes for this purpose. The school funding formulas use the Comptroller's property values that reflect a reduction due to the property value limitation in years 4-11 of the agreement as a result of the one-year lag in property values.

The third year is often problematical financially for a school district that approves a Chapter 313 value limitation. The implementation of the value limitation often results in a revenue loss to the school district in the third year of the agreement that would not be reimbursed by the state, but require some type of compensation from the applicant under the revenue protection provisions of the agreement. In years 4-10, smaller revenue losses would be anticipated when the state M&O property values are aligned at the minimum value established by the Board on both the local tax roll and the corresponding state property value study.

Under the HB 1 system adopted in 2006, most school districts received additional state aid for tax reduction (ASATR) that was used to maintain their target revenue amounts established at the revenue levels under old law for the 2005-06 or 2006-07 school years, whichever was highest. In terms of new Chapter 313 property value limitation agreements, adjustments to ASATR funding often moderated the impact of the reduced M&O collections as a result of the limitation, in contrast with the earlier formula-driven finance system.

House Bill 3646 as enacted in 2009 created more "formula" school districts that were less dependent on ASATR state aid than had been the case previously. The formula reductions enacted during the First Called Session in 2011 made \$4 billion in reductions to the existing school funding formulas for the 2011-12 and 2012-13 school years. For the 2011-12 school year, across-the-board reductions were made that reduced each district's students in weighted average daily attendance (WADA) count and resulted in an estimated 781 school districts still receiving ASATR to maintain their target revenue funding levels, while an estimated 243 districts operated directly on the state formulas. For the 2012-13 school year, the changes called for smaller across-the-board reductions and funding ASATR-receiving target revenue districts at 92.35 percent of the level provided for under the existing funding formula, with 689 districts operating on formula and 335 districts still receiving ASATR funding.

Senate Bill 1 and House Bill 1025 as passed by the 83<sup>rd</sup> Legislature made significant increases to the basic allotment and other formula changes by appropriation. The ASATR reduction percentage is increased slightly to 92.63 percent, while the basic allotment is increased by \$325 and \$365, respectively, for the 2013-14 and 2014-15 school years. A slight increase in the guaranteed yield for the six cents above compressed—known as the Austin yield—is also included. With the basic allotment increase, it is estimated that approximately 300 school districts



will still receive ASATR in the 2013-14 school year and 273 districts in the 2014-15 school year. Current state policy calls for ASATR funding to be eliminated by the 2017-18 school year.

In the case of BISD, it is classified as a formula school district with a relatively low target revenue level. Based on the estimates presented in this report, however, BISD is expected to receive ASATR funding of \$444,684 in the 2016-17 school year under current law following the adoption of a value limitation agreement, which will be discussed in more detail below.

One concern in projecting into the future is that the underlying state statutes in the Education Code were not changed in order to provide these funding increases. All of the major formula changes were made by appropriation, which gives them only a two-year lifespan unless renewed in the 2015 legislative session. Despite this uncertainty, it is assumed that these changes will remain in effect for the forecast period for the purpose of these estimates, assuming a continued legislative commitment to these funding levels in future years.

A key element in any analysis of the school finance implications is the provision for revenue protection in the agreement between the school district and the applicant. In the case of the Cominco project, the agreement calls for a calculation of the revenue impact of the value limitation in years 3-10 of the agreement, under whatever school finance and property tax laws are in effect in each of those years. This meets the statutory requirement under Section 313.027(f)(1) of the Tax Code to provide school district revenue protection language in the agreement.

### **Underlying Assumptions**

There are several approaches that can be used to analyze the future revenue stream of a school district under a value limitation. Whatever method is used, a reasonable analysis requires the use of a multi-year forecasting model that covers the years in which the agreement is in effect. The Chapter 313 application now requires 15 years of data and analysis on the project being considered for a property value limitation.

The general approach used here is to maintain static enrollment and property values in order to isolate the effects of the value limitation under the school finance system. The SB 1 basic allotment increases are reflected in the underlying models. With regard to ASATR funding the 92.63 percent reduction enacted for the 2013-14 school year and thereafter, until the 2017-18 school year. A statement of legislative intent was adopted in 2011 to no longer fund target revenue by the 2017-18 school year, so that change is reflected in the estimates presented below. Recent legislative action did not retreat from that principle. The projected taxable values of the Cominco Fertilizer Partnership project are factored into the base model used here. The impact of the limitation value for the proposed Cominco project is isolated separately and the focus of this analysis.

Student enrollment counts are held constant at 2,540 students in average daily attendance (ADA) in analyzing the effects of the Cominco project on the finances of BISD. The District's local tax base reached \$577 million for the 2012 tax year and is maintained for the forecast period in order to isolate the effects of the property value limitation. An M&O tax rate of \$1.04 is used throughout this analysis. BISD has estimated state property wealth per weighted ADA or WADA of approximately \$166,434 for the 2013-14 school year. The enrollment and property value assumptions for the 15 years that are the subject of this analysis are summarized in Table 1.



## School Finance Impact

School finance models were prepared for BISD under the assumptions outlined above through the 2028-29 school year. Beyond the 2014-15 school year, no attempt was made to forecast the 88<sup>th</sup> percentile or Austin yield that influence future state funding beyond the projected level for that school year. In the analyses for other districts and applicants on earlier projects, these changes appeared to have little impact on the revenue associated with the implementation of the property value limitation, since the baseline and other models incorporate the same underlying assumptions.

Under the proposed agreement, a model is established to make a calculation of the “Baseline Revenue” by adding the value of the proposed Cominco facility to the model, but without assuming that a value limitation is approved. The results of the model are shown in Table 2.

A second model is developed which adds the Cominco value but imposes the proposed property value limitation effective in the third year, which in this case is the 2016-17 school year. The results of this model are identified as “Value Limitation Revenue Model” under the revenue protection provisions of the proposed agreement (see Table 3). A summary of the differences between these models is shown in Table 4.

Under these assumptions, BISD would experience a revenue loss of \$3.8 million as a result of the implementation of the value limitation in the 2016-17 school year. The revenue reduction results chiefly because of the one-year lag in the state property value study. In addition, the mechanics of the up to six cents beyond the compressed M&O tax rate equalized to the Austin yield are also a factor, which also reflects the one-year lag in value associated with the state property value study.

As noted previously, no attempt was made to forecast further reductions in ASATR funding beyond the 92.63 percent adjustment adopted for the 2013-14 school year, although it is assumed that ASATR will be eliminated beginning in the 2017-18 school year, based on the 2011 statement of legislative intent. ASATR is a factor in these estimates for the 2016-17 school year.

One risk factor under the estimates presented here relates to the implementation of the value limitation in the 2016-17 school year. The formula loss of \$3,793,088 cited above between the base and the limitation models is based on an assumption that Cominco will save M&O taxes estimated at \$4.026 million when the \$20 million limitation is implemented. Under the estimates presented here and as highlighted in Table 4, an increase in ASATR funding estimated to reach \$444,684 would offset some of the reduction in M&O taxes in the first year the value limitation is in effect, but most if it would be addressed by the hold-harmless provisions of the limitation agreement.

In general, the ASATR offset poses little financial risk to the school district as a result of the adoption of the value limitation agreement. But a significant reduction of ASATR funding prior to the assumed 2017-18 school year elimination of these funds could reduce the residual tax savings in the first year that the \$20 million value limitation takes effect. The tax savings for the overall project are sufficient to offset any initial revenue losses and should allow for a financially viable project.

The Comptroller’s state property value study influences these calculations, as noted previously. At the school-district level, a taxpayer benefiting from a property value limitation has two property values assigned by the local appraisal district for their property covered by the



limitation: (1) a reduced value for M&O taxes, and (2) the full taxable value for I&S taxes. This situation exists for the eight years that the value limitation is in effect. Beginning with the 2011 state property value study, two value determinations are also made for school districts granting Chapter 313 agreements, consistent with local practice. A consolidated single state property value had been provided previously.

### **Impact on the Taxpayer**

Table 5 summarizes the impact of the proposed property value limitation in terms of the potential tax savings under the property value limitation agreement. The focus of this table is on the M&O tax rate only. As noted previously, the property is fully taxable in the first two years under the agreement. A \$1.04 per \$100 of taxable value M&O rate is assumed in the 2012-13 school year and thereafter.

Under the assumptions used here, the potential tax savings from the value limitation total \$32.3 million over the course of the agreement. In addition, Cominco would be eligible for a tax credit for M&O taxes paid on value in excess of the value limitation in each of the first two qualifying years. The credit amount is paid out slowly through years 4-10 due to statutory limits on the scale of these payments over these seven years, with catch-up payments permitted in years 11-13. The tax credits are expected to total approximately \$3.3 million over the life of the agreement, with no unpaid tax credits anticipated. The school district is to be reimbursed by the Texas Education Agency for the cost of these credits.

The key BISD revenue losses are expected to total approximately \$3.9 million over the course of the agreement under current law. The potential total net tax benefits (inclusive of tax credits but after hold-harmless payments are made) are estimated to total \$31.7 million over the life of the agreement. While legislative changes to ASATR funding could increase the hold-harmless amount owed in the initial year of the agreement, there would still be a substantial tax benefit to Cominco under the value limitation agreement for the remaining years that the limitation is in effect.

### **Facilities Funding Impact**

The Cominco project remains fully taxable for debt services taxes, with BISD currently levying a \$0.2939 per \$100 I&S tax rate. The value of the Cominco project is expected to depreciate over the life of the agreement and beyond, but full access to the additional value is expected to increase the District's projected wealth per ADA to \$391,221 in the peak year of I&S taxable project value. Given that the current state facilities programs provide the equivalent of a \$350,000 per ADA tax base guarantee, the increased value will provide an I&S tax benefit to BISD taxpayers as long as the I&S tax base exceeds that level.

The Cominco project is not expected to affect BISD in terms of enrollment. While there will be as many as 650 FTEs employed during the construction phase of the project, 20 FTEs are expected to be added when the facility begins operations. As a result, it is unlikely that the project will have a long-term impact on enrollment in BISD schools, although the upgrade should ensure stable employment for the 75 employees currently operating at the Company's existing facility.



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### **Conclusion**

The proposed Cominco manufacturing project enhances the tax base of BISD. It reflects continued capital investment in keeping with the goals of Chapter 313 of the Tax Code.

Under the assumptions outlined above, the potential tax savings for the applicant under a Chapter 313 agreement could reach an estimated \$31.7 million. (This amount is net of any anticipated revenue losses for the District.) The additional taxable value also enhances the tax base of BISD in meeting its future debt service obligations.



**Table 1 – Base District Information with Cominco Fertilizer Partnership Project Value and Limitation Values**

Year of Agreement	School Year	ADA	WADA	M&O Tax Rate	I&S Tax Rate	CAD Value with Project	CAD Value with Limitation	CPTD with Project	CPTD With Limitation	CPTD Value with Project per WADA	CPTD Value with Limitation per WADA
Pre-Year 1	2013-14	2,540.00	3,492.09	\$1.0400	\$0.2939	\$576,953,300	\$576,953,300	\$581,201,895	\$581,201,895	\$166,434	\$166,434
1	2014-15	2,540.00	3,491.82	\$1.0400	\$0.2939	\$597,074,300	\$597,074,300	\$581,201,895	\$581,201,895	\$166,447	\$166,447
2	2015-16	2,540.00	3,491.82	\$1.0400	\$0.2939	\$917,799,300	\$917,799,300	\$601,322,895	\$601,322,895	\$172,209	\$172,209
3	2016-17	2,540.00	3,491.82	\$1.0400	\$0.2939	\$984,065,880	\$596,953,300	\$922,047,895	\$922,047,895	\$264,059	\$264,059
4	2017-18	2,540.00	3,491.82	\$1.0400	\$0.2939	\$984,963,460	\$596,953,300	\$988,314,475	\$601,201,895	\$283,037	\$172,174
5	2018-19	2,540.00	3,491.82	\$1.0400	\$0.2939	\$989,451,721	\$596,953,300	\$989,212,055	\$601,201,895	\$283,294	\$172,174
6	2019-20	2,540.00	3,491.82	\$1.0400	\$0.2939	\$988,574,101	\$596,953,300	\$993,700,316	\$601,201,895	\$284,579	\$172,174
7	2020-21	2,540.00	3,491.82	\$1.0400	\$0.2939	\$986,948,484	\$596,953,300	\$992,822,696	\$601,201,895	\$284,328	\$172,174
8	2021-22	2,540.00	3,491.82	\$1.0400	\$0.2939	\$984,618,518	\$596,953,300	\$991,197,079	\$601,201,895	\$283,862	\$172,174
9	2022-23	2,540.00	3,491.82	\$1.0400	\$0.2939	\$981,621,638	\$596,953,300	\$988,867,113	\$601,201,895	\$283,195	\$172,174
10	2023-24	2,540.00	3,491.82	\$1.0400	\$0.2939	\$977,986,156	\$596,953,300	\$985,870,233	\$601,201,895	\$282,337	\$172,174
11	2024-25	2,540.00	3,491.82	\$1.0400	\$0.2939	\$973,728,034	\$596,953,300	\$982,234,751	\$601,201,895	\$281,296	\$172,174
12	2025-26	2,540.00	3,491.82	\$1.0400	\$0.2939	\$963,404,839	\$596,953,300	\$977,976,629	\$977,976,629	\$280,076	\$280,076
13	2026-27	2,540.00	3,491.82	\$1.0400	\$0.2939	\$957,979,326	\$957,979,326	\$967,653,434	\$967,653,434	\$277,120	\$277,120
14	2027-28	2,540.00	3,491.82	\$1.0400	\$0.2939	\$946,061,225	\$946,061,225	\$962,227,921	\$962,227,921	\$275,566	\$275,566
15	2028-29	2,540.00	3,491.82	\$1.0400	\$0.2939	\$933,223,989	\$933,223,989	\$950,309,820	\$950,309,820	\$272,153	\$272,153

\*Basic Allotment: \$5,040; AISD Yield: \$61.86; Equalized Wealth: \$504,000 per WADA

**Table 2– “Baseline Revenue Model”--Project Value Added with No Value Limitation**

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Excess Formula Reduction	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Total General Fund
Pre-Year 1	2013-14	\$5,578,893	\$12,290,022	\$0	\$0	\$0	\$222,866	\$580,171	\$0	\$18,671,952
1	2014-15	\$5,776,089	\$12,611,423	\$0	\$0	\$0	\$230,743	\$626,816	\$0	\$19,245,071
2	2015-16	\$8,919,351	\$12,410,203	\$0	\$0	\$0	\$356,310	\$938,299	\$0	\$22,624,164
3	2016-17	\$9,646,222	\$9,202,793	\$0	\$0	\$0	\$385,347	\$527,750	\$0	\$19,762,112
4	2017-18	\$9,655,198	\$8,540,094	\$0	\$0	\$0	\$385,706	\$466,961	\$0	\$19,047,959
5	2018-19	\$9,700,083	\$8,531,118	\$0	\$0	\$0	\$387,499	\$468,354	\$0	\$19,087,054
6	2019-20	\$9,691,306	\$8,486,233	\$0	\$0	\$0	\$387,148	\$464,069	\$0	\$19,028,757
7	2020-21	\$9,675,050	\$8,495,010	\$0	\$0	\$0	\$386,499	\$464,041	\$0	\$19,020,600
8	2021-22	\$9,651,748	\$8,511,267	\$0	\$0	\$0	\$385,568	\$464,315	\$0	\$19,012,899
9	2022-23	\$9,621,778	\$8,534,567	\$0	\$0	\$0	\$384,371	\$464,870	\$0	\$19,005,586
10	2023-24	\$9,585,422	\$8,564,538	\$0	\$0	\$0	\$382,918	\$465,685	\$0	\$18,998,564
11	2024-25	\$9,467,480	\$8,600,894	\$0	\$0	\$0	\$378,207	\$463,057	\$0	\$18,909,638
12	2025-26	\$9,366,307	\$8,643,478	\$0	\$0	\$0	\$374,165	\$461,733	\$0	\$18,845,684
13	2026-27	\$9,313,135	\$8,746,715	\$0	\$0	\$0	\$372,041	\$467,978	\$0	\$18,899,870
14	2027-28	\$9,196,332	\$8,800,973	\$0	\$0	\$0	\$367,375	\$466,786	\$0	\$18,831,466
15	2028-29	\$9,070,520	\$8,920,160	\$0	\$0	\$0	\$362,349	\$470,719	\$0	\$18,823,748



**Table 3-- "Value Limitation Revenue Model"--Project Value Added with Value Limit**

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Excess Formula Reduction	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Total General Fund
Pre-Year 1	2013-14	\$5,578,893	\$12,290,022	\$0	\$0	\$0	\$222,866	\$580,171	\$0	\$18,671,952
1	2014-15	\$5,776,089	\$12,611,423	\$0	\$0	\$0	\$230,743	\$626,816	\$0	\$19,245,071
2	2015-16	\$8,919,351	\$12,410,203	\$0	\$0	\$0	\$356,310	\$938,299	\$0	\$22,624,164
3	2016-17	\$5,774,903	\$9,202,793	\$444,684	\$0	\$0	\$230,696	\$315,948	\$0	\$15,969,024
4	2017-18	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
5	2018-19	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
6	2019-20	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
7	2020-21	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
8	2021-22	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
9	2022-23	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
10	2023-24	\$5,774,903	\$12,411,413	\$0	\$0	\$0	\$230,696	\$607,678	\$0	\$19,024,690
11	2024-25	\$9,467,480	\$12,411,413	\$0	\$0	\$0	\$378,207	\$996,238	\$0	\$23,253,338
12	2025-26	\$9,366,307	\$8,643,478	\$0	\$0	\$0	\$374,165	\$461,733	\$0	\$18,845,684
13	2026-27	\$9,313,135	\$8,746,715	\$0	\$0	\$0	\$372,041	\$467,978	\$0	\$18,899,870
14	2027-28	\$9,196,332	\$8,800,973	\$0	\$0	\$0	\$367,375	\$466,786	\$0	\$18,831,466
15	2028-29	\$9,070,520	\$8,920,160	\$0	\$0	\$0	\$362,349	\$470,719	\$0	\$18,823,748

**Table 4 – Value Limit less Project Value with No Limit**

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Excess Formula Reduction	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Total General Fund
Pre-Year 1	2013-14	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1	2014-15	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2	2015-16	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
3	2016-17	-\$3,871,319	\$0	\$444,684	\$0	\$0	-\$154,651	-\$211,802	\$0	-\$3,793,088
4	2017-18	-\$3,880,295	\$3,871,319	\$0	\$0	\$0	-\$155,010	\$140,717	\$0	-\$23,270
5	2018-19	-\$3,925,180	\$3,880,295	\$0	\$0	\$0	-\$156,803	\$139,323	\$0	-\$62,364
6	2019-20	-\$3,916,404	\$3,925,180	\$0	\$0	\$0	-\$156,453	\$143,609	\$0	-\$4,067
7	2020-21	-\$3,900,147	\$3,916,403	\$0	\$0	\$0	-\$155,803	\$143,637	\$0	\$4,090
8	2021-22	-\$3,876,846	\$3,900,146	\$0	\$0	\$0	-\$154,872	\$143,363	\$0	\$11,791
9	2022-23	-\$3,846,876	\$3,876,846	\$0	\$0	\$0	-\$153,675	\$142,808	\$0	\$19,103
10	2023-24	-\$3,810,519	\$3,846,875	\$0	\$0	\$0	-\$152,223	\$141,993	\$0	\$26,126
11	2024-25	\$0	\$3,810,519	\$0	\$0	\$0	\$0	\$533,181	\$0	\$4,343,700
12	2025-26	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
13	2026-27	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
14	2027-28	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
15	2028-29	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0



**Table 5 - Estimated Financial impact of the Cominco Fertilizer Partnership Project Property Value Limitation Request Submitted to BISD at \$1.04 M&O Tax Rate**

Year of Agreement	School Year	Project Value	Estimated Taxable Value	Value Savings	Assumed M&O Tax Rate	Taxes Before Value Limit	Taxes after Value Limit	Tax Savings @ Projected M&O Rate	Tax Credits for First Two Years Above Limit	Tax Benefit to Company Before Revenue Protection	School District Revenue Losses	Estimated Net Tax Benefits
Pre-Year 1	2013-14	\$0	\$0	\$0	\$1.040	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1	2014-15	\$20,121,000	\$20,121,000	\$0	\$1.040	\$209,258	\$209,258	\$0	\$0	\$0	\$0	\$0
2	2015-16	\$340,846,000	\$340,846,000	\$0	\$1.040	\$3,544,798	\$3,544,798	\$0	\$0	\$0	\$0	\$0
3	2016-17	\$407,112,580	\$20,000,000	\$387,112,580	\$1.040	\$4,233,971	\$208,000	\$4,025,971	\$0	\$4,025,971	-\$3,793,088	\$232,883
4	2017-18	\$408,010,160	\$20,000,000	\$388,010,160	\$1.040	\$4,243,306	\$208,000	\$4,035,306	\$476,865	\$4,512,171	-\$23,270	\$4,488,901
5	2018-19	\$412,498,421	\$20,000,000	\$392,498,421	\$1.040	\$4,289,984	\$208,000	\$4,081,984	\$476,865	\$4,558,849	-\$62,364	\$4,496,484
6	2019-20	\$411,620,801	\$20,000,000	\$391,620,801	\$1.040	\$4,280,856	\$208,000	\$4,072,856	\$476,865	\$4,549,722	-\$4,067	\$4,545,655
7	2020-21	\$409,995,184	\$20,000,000	\$389,995,184	\$1.040	\$4,263,950	\$208,000	\$4,055,950	\$476,865	\$4,532,815	\$0	\$4,532,815
8	2021-22	\$407,665,218	\$20,000,000	\$387,665,218	\$1.040	\$4,239,718	\$208,000	\$4,031,718	\$476,865	\$4,508,584	\$0	\$4,508,584
9	2022-23	\$404,668,338	\$20,000,000	\$384,668,338	\$1.040	\$4,208,551	\$208,000	\$4,000,551	\$476,865	\$4,477,416	\$0	\$4,477,416
10	2023-24	\$401,032,856	\$20,000,000	\$381,032,856	\$1.040	\$4,170,742	\$208,000	\$3,962,742	\$476,865	\$4,439,607	\$0	\$4,439,607
11	2024-25	\$396,774,734	\$396,774,734	\$0	\$1.040	\$4,126,457	\$4,126,457	\$0	\$0	\$0	\$0	\$0
12	2025-26	\$386,451,539	\$386,451,539	\$0	\$1.040	\$4,019,096	\$4,019,096	\$0	\$0	\$0	\$0	\$0
13	2026-27	\$381,026,026	\$381,026,026	\$0	\$1.040	\$3,962,671	\$3,962,671	\$0	\$0	\$0	\$0	\$0
14	2027-28	\$369,107,925	\$369,107,925	\$0	\$1.040	\$3,838,722	\$3,838,722	\$0	\$0	\$0	\$0	\$0
15	2028-29	\$356,270,689	\$356,270,689	\$0	\$1.040	\$3,705,215	\$3,705,215	\$0	\$0	\$0	\$0	\$0
						\$57,337,295	\$25,070,218	\$32,267,077	\$3,338,057	\$35,605,134	-\$3,882,789	\$31,722,345
Tax Credit for Value Over Limit in First 2 Years								Year 1	Year 2	Max Credits		
								\$1,258	\$3,336,798	\$3,338,057		
								Credits Earned		\$3,338,057		
								Credits Paid		\$3,338,057		
								Excess Credits Unpaid		\$0		

**\*Note:** School District Revenue-Loss estimates are subject to change based on numerous factors, including legislative and Texas Education Agency administrative changes to school finance formulas, year-to-year appraisals of project values, and changes in school district tax rates. One of the most substantial changes to the school finance formulas related to Chapter 313 revenue-loss projections could be the treatment of Additional State Aid for Tax Reduction (ASATR). Legislative intent is to end ASATR in 2017-18 school year. Additional information on the assumptions used in preparing these estimates is provided in the narrative of this Report.



## Attachment F

### Taxable Value of Property





# Window on State Government

Susan Combs Texas Comptroller of Public Accounts

## 2012 ISD Summary Worksheet

### 117/Hutchinson

### 117-901/Borger ISD

Category	Local Tax Roll Value	2012 WTD Mean Ratio	2012 PTAD Value Estimate	2012 Value Assigned
A. Single-Family Residences	328,065,930	.9588	342,163,048	328,065,930
B. Multi-Family Residences	5,245,560	N/A	5,245,560	5,245,560
C. Vacant Lots	4,741,820	N/A	4,741,820	4,741,820
D. Rural Real(Taxable)	5,602,620	.9751	5,745,443	5,602,620
F1. Commercial Real	69,174,020	.9342	74,046,264	69,174,020
F2. Industrial Real	67,642,720	N/A	67,642,720	67,642,720
G. Oil, Gas, Minerals	44,185,500	1.0273	43,011,292	44,185,500
J. Utilities	40,831,120	N/A	40,831,120	40,831,120
L1. Commercial Personal	48,698,810	.9762	49,886,099	48,698,810
L2. Industrial Personal	74,208,360	N/A	74,208,360	74,208,360
M. Other Personal	653,490	N/A	653,490	653,490
N. Intangible Pers/Uncert	0	N/A	0	0
O. Residential Inventory	499,100	N/A	499,100	499,100



S. Special Inventory	1,623,300	N/A	1,623,300	1,623,300
Subtotal	691,172,350		710,297,616	691,172,350
Less Total Deductions	109,970,455		113,303,193	109,970,455
Total Taxable Value	581,201,895		596,994,423	581,201,895 T2

Category D Detail	Local Tax Roll	Ratio	PTAD Value
Market Value Non-Qualified Acres And Farm/Ranch Imp	4,465,530	N/A	4,465,530
Prod Value Qualified Acres	1,137,090	.8884	1,279,913
Taxable Value	5,602,620		5,745,443

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T6 will be the same as T7 through T12.

### Value Taxable For M&O Purposes

T1	T2	T3	T4	T5	T6
619,529,255	581,201,895	605,322,670	566,995,310	583,153,765	568,947,180

Loss To the Additional \$10,000 Homestead Exemption	50% of the loss to the Local Optional Percentage Homestead Exemption
38,327,360	14,206,585

T1 = School district taxable value for M&O purposes before the loss to the additional \$10,000 homestead



### exemption

T2 = School district taxable value for M&O purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

T5 = T2 before the loss to the tax ceiling reduction

T6 = T5 minus 50% of the loss to the local optional percentage homestead exemption

### Value Taxable For I&S Purposes

T7	T8	T9	T10	T11	T12
619,529,255	581,201,895	605,322,670	566,995,310	583,153,765	568,947,180

T7 = School district taxable value for I&S purposes before the loss to the additional \$10,000 homestead exemption

T8 = School district taxable value for I&S purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50% of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50% of the loss to the local optional percentage homestead exemption

T11 = T8 before the loss to the tax ceiling reduction

T12 = T11 minus 50% of the loss to the local optional percentage homestead exemption

The PVS found your local value to be valid, and local value was certified



Attachment G

Participation Agreement



**AGREEMENT FOR LIMITATION ON APPRAISED VALUE  
OF PROPERTY FOR SCHOOL DISTRICT  
MAINTENANCE AND OPERATIONS TAXES**

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by and between

**BORGER INDEPENDENT SCHOOL DISTRICT**

and

**COMINCO FERTILIZER PARTNERSHIP**

*(Texas Taxpayer ID # 19115994501)*

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TEXAS COMPTROLLER APPLICATION NO. 317

Authorized by Board of Trustees

Dated

December 30, 2013



**AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR  
SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES**

STATE OF TEXAS                   §

COUNTY OF HUTCHINSON   §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this "Agreement," is executed and delivered by and between the **BORGER INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the "District," a lawfully created independent school district within the State of Texas operating under and subject to the Texas Education Code, and **COMINCO FERTILIZER PARTNERSHIP**, (*Texas Taxpayer ID # 19115994501*), hereinafter referred to as the "Applicant." The Applicant and the District are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties." Certain capitalized and other terms used in this Agreement shall have the meanings ascribed to them in Section 1.3.

**RECITALS**

**WHEREAS**, on April 11, 2013, the Superintendent of Schools (hereinafter referred to as "Superintendent") of the Borger Independent School District, acting as agent of the Board of Trustees of the District (the "Board of Trustees"), received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code; and,

**WHEREAS**, on April 11, 2013, the Board of Trustees authorized the Superintendent to accept, on behalf of the District, the Application from Cominco Fertilizer Partnership; and,

**WHEREAS**, on July 19, 2013, the Superintendent acknowledged receipt of the Application and the requisite application fee as established pursuant to Texas Tax Code §313.025(a)(1) and Local District Policy CCG (Local); and,

**WHEREAS**, the Application was delivered to the office of the Texas Comptroller of Public Accounts (the "Comptroller") for review pursuant to Texas Tax Code §313.025(d); and,

**WHEREAS**, the Application was determined deficient by the Comptroller on September 11, 2013; and,

**WHEREAS**, the Applicant submitted an Amended Application to the District on October 3, 2013, which was delivered to the Comptroller for review pursuant to Texas Tax Code §313.025(d); and,

**WHEREAS**, the Comptroller, via letter, has established October 11, 2013, as the completed Application date; and,

**WHEREAS**, pursuant to 34 Texas Administrative Code §9.1054, the Application was delivered for review to the Hutchinson County Appraisal District established in Hutchinson County, Texas (the "Appraisal District"); and,

**WHEREAS**, the Comptroller reviewed the Application pursuant to Texas Tax Code §313.025(d), and on November 8, 2013, the Comptroller, via letter, recommended that the Application be approved; and,

**WHEREAS**, the Comptroller conducted an economic impact evaluation pursuant to Texas Tax Code §313.026, which was presented to the Board of Trustees at a public hearing held in connection with the Board of Trustees' consideration of the Application; and,

**WHEREAS**, the Board of Trustees has carefully reviewed the economic impact evaluation and carefully considered the Comptroller's positive recommendation for the project; and,

**WHEREAS**, the District received written notification, pursuant to 34 Texas Administrative Code §9.1055(e)(2)(A), that the Comptroller reviewed this Agreement, and reaffirmed the recommendation previously made on November 8, 2013, that the Application be approved; and,

**WHEREAS**, on December 30, 2013, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District; and,

**WHEREAS**, on December 30, 2013, the Board of Trustees made factual findings pursuant to Texas Tax Code §313.025(f), including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) this Agreement is in the best interest of the District and the State of Texas; (iii) the Applicant is eligible for the limitation on appraised value of the Applicant's Qualified Property; and, (iv) each criterion referenced in Texas Tax Code §313.025(e) has been met; and,

**WHEREAS**, on December 30, 2013, the Board of Trustees determined that the Tax Limitation Amount requested by the Applicant, and as defined in Sections 1.2 and 1.3, below, is consistent with the minimum values set out by Texas Tax Code §§313.022(b) and 313.052, as such Tax Limitation Amount was computed for the Effective Date of this Agreement; and,

**WHEREAS**, on December 30, 2013, the Board of Trustees approved the Application and the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Superintendent to execute and deliver such Agreement to the Applicant, but only after receipt of written confirmation of the Comptroller's approval of the form of this Agreement;



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

## **ARTICLE I**

### **AUTHORITY, TERM, DEFINITIONS, AND GENERAL PROVISIONS**

#### **Section 1.1. AUTHORITY**

This Agreement is executed by the District as its written agreement with the Applicant pursuant to the provisions and authority granted to the District in Texas Tax Code §313.027.

#### **Section 1.2. TERM OF THE AGREEMENT**

This Agreement shall commence and first become effective on the Approval Date, as defined in Section 1.3 below. In the event that the Applicant makes a Qualified Investment in the amount defined in Section 2.6 below, or greater, between the Commencement Date, as defined in Section 1.3 below, and the end of the Qualifying Time Period, the Applicant will be entitled to the Tax Limitation Amount defined in Section 1.3 below, for the following Tax Years: 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023. The limitation on the local ad valorem property values for Maintenance and Operations purposes shall commence with the property valuations made as of January 1, 2016, the appraisal date for the third full Tax Year following the Commencement Date.

The period beginning with the Commencement Date and ending on December 31, 2015, is referred to herein as the "Qualifying Time Period," as that term is defined in Texas Tax Code §313.021(4). Applicant shall not be entitled to a tax limitation during the Qualifying Time Period.

Unless sooner terminated as provided herein, the limitation on the local ad valorem property values shall terminate on December 31, 2023. Except as otherwise provided herein, this Agreement will terminate in full on the Final Termination Date. The termination of this Agreement shall not (i) release any obligations, liabilities, rights and remedies arising out of any breach of, or failure to comply with, this Agreement occurring prior to such termination, or (ii) affect the right of a Party to enforce the payment of any amount, including any earned Tax Credit, to which such Party was entitled before such termination or to which such Party became entitled as a result of an event that occurred before such termination.

Except as otherwise provided herein, the Tax Years for which this Agreement is effective are as set forth below and set forth opposite each such Tax Year are the corresponding year in the term of this Agreement, the date of the Appraised Value determination for such Tax Year, and a summary description of certain provisions of this Agreement corresponding to such Tax Year (it being understood and agreed that such summary descriptions are for reference purposes only, and shall not affect in any way the meaning or interpretation of this Agreement):

Full Tax Year of Agreement	Date of Appraisal	School Year	Tax Year	Summary Description of Provisions
Partial Year Beginning on the Commencement Date (12/20/13)	January 1, 2013	2013-14	2013	Start of Qualifying Time Period beginning with Commencement Date. No limitation on value. First year for computation of Annual Limit.
1	January 1, 2014	2014-15	2014	Qualifying Time Period. No limitation on value. Possible Tax Credit in future years.
2	January 1, 2015	2015-16	2015	Qualifying Time Period. No limitation on value. Possible Tax Credit in future years.
3	January 1, 2016	2016-17	2016	\$ 20 million property value limitation.
4	January 1, 2017	2017-18	2017	\$ 20 million property value limitation. Possible Tax Credit due to Applicant.
5	January 1, 2018	2018-19	2018	\$ 20 million property value limitation. Possible Tax Credit due to Applicant.
6	January 1, 2019	2019-20	2019	\$ 20 million property value limitation. Possible Tax Credit due to Applicant.
7	January 1, 2020	2020-21	2020	\$ 20 million property value limitation. Possible Tax Credit due to Applicant.
8	January 1, 2021	2021-22	2021	\$ 20 million property value limitation. Possible Tax Credit due to Applicant.
9	January 1, 2022	2022-23	2022	\$ 20 million property value limitation. Possible Tax Credit



Full Tax Year of Agreement	Date of Appraisal	School Year	Tax Year	Summary Description of Provisions
				due to Applicant.
10	January 1, 2023	2023-24	2023	\$ 20 million property value limitation. Possible Tax Credit due to Applicant.
11	January 1, 2024	2024-25	2024	No tax limitation. Possible Tax Credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.
12	January 1, 2025	2025-26	2025	No tax limitation. Possible Tax Credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.
13	January 1, 2026	2026-27	2026	No tax limitation. Possible Tax Credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.

### Section 1.3. DEFINITIONS

Wherever used herein, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning, to-wit:

"Act" means the Texas Economic Development Act set forth in Chapter 313 of the Texas Tax Code, as amended.

"Affiliate" of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under direct or indirect common control with such specified person or entity. For purposes of this definition "control" when used with respect to any person or entity means (i) the ownership, directly or indirectly, or fifty percent (50%) or more of the voting securities of such person or entity, or (ii) the right to direct the management or operations of such person or entity, directly or indirectly, whether through the ownership (directly or indirectly) of securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Aggregate Limit" means, for any Tax Year of this Agreement, the cumulative total of the Annual Limit amount for such Tax Year and all previous years of the Agreement.

"Agreement" means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented from time to time in accordance with Section 7.3.

"Annual Limit" means the annual amount paid directly to the District as a Supplemental Payment under the provisions of Texas Tax Code §313.027(i). For purposes of this Agreement, the amount of the Annual Limit for each relevant year shall be \$254,000, calculated so as not to exceed the District's Average Daily Attendance for the 2012-2013 school year (2,546.96), times \$100.00, pursuant to Texas Education Code §42.005. .

"Applicant" means Cominco Fertilizer Partnership, *Texas Taxpayer Identification Number 19115994501*, the company listed in the Preamble of this Agreement who, on April 11, 2013, filed the Application with the District for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, and on October 3, 2013 responded to supplemental requests for information issued by the Comptroller's office, which materials were appended to the original Application. The term "Applicant" shall also include the Subsidiary and the Applicant's assigns and successors-in-interest.

"Applicable School Finance Law" means Chapters 41 and 42 of the Texas Education Code, the Texas Economic Development Act (Chapter 313 of the Texas Tax Code), Chapter 403, Subchapter M, of the Texas Government Code applicable to the District, and the Constitution and general laws of the State applicable to the independent school districts of the State, including specifically, the applicable rules and regulations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State, and judicial decisions construing or interpreting any of the above. The term also includes any amendments or successor statutes that may be adopted in the future that could impact or alter the calculation of the Applicant's ad valorem tax obligation to the District, either with or without the limitation of property values made pursuant to this Agreement.

"Application" means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C, of the Texas Tax Code) filed with the District by the Applicant on April 11, 2013 and the Amended Application filed on October 3, 2013, which has been certified by the Comptroller's office to constitute a complete final Application as of the date of October 11, 2013. The term also includes all other forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining this Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant.

"Appraised Value" shall have the meaning assigned to such term in Section 1.04(8) of the Texas Tax Code.

"Appraisal District" means the Hutchinson County Appraisal District.



"Board of Trustees" means the Board of Trustees of the Borger Independent School District.

"Commencement Date" means December 30, 2013, the date upon which this Agreement was approved by the District's Board of Trustees.

"Completed Application Date" means October 11, 2013, the date upon which the Comptroller determined to be the date of its receipt of a completed Application for Appraised Value Limitation on Qualified Property (Tax Code, Chapter 313, Subchapter B or C), Comptroller Form 50-296, from the Applicant.

"Comptroller" means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the Comptroller.

"Comptroller's Rules" means the applicable rules and regulations of the Comptroller set forth at Title 34 of the Texas Administrative Code, Part 1, Chapter 9, Subchapter F, together with any court or administrative decisions interpreting same.

"County" means Hutchinson County, Texas.

"Determination of Breach and Notice of Contract Termination" shall have the meaning assigned to such term in Section 6.8 of this Agreement.

"District" or "School District" means the Borger Independent School District, being a duly authorized and operating independent school district in the State, having the power to levy, assess, and collect ad valorem taxes within its boundaries and to which Subchapter C of the Act applies. The term also includes any successor independent school district or other successor governmental authority having the power to levy and collect ad valorem taxes for school purposes on the Applicant's Qualified Property or the Applicant's Qualified Investment.

"Final Termination Date" means December 31, 2026. However, any payment obligations of any Party arising under this Agreement prior to the Final Termination Date will survive until paid by the Party owing same, and any right of a Party to enforce payment of any amount to which such Party was entitled prior to the Final Termination Date will survive until paid by the Party owing same.

"Force Majeure" means a failure caused by (a) provisions of law, or the operation or effect of rules, regulations or orders promulgated by any governmental authority having jurisdiction over the Applicant, the Applicant's Qualified Property or the Applicant's Qualified Investment or any upstream, intermediate or downstream equipment or support facilities as are necessary to the operation of the Applicant's Qualified Property or the Applicant's Qualified Investment; (b) any demand or requisition, arrest, order, request, directive, restraint or requirement of any government or governmental agency whether federal, state, military, local or otherwise; (c) the action, judgment or decree of any court; (d) floods, storms, hurricanes, evacuation due to threats of hurricanes, lightning, earthquakes, washouts, high water, fires, acts

of God or public enemies, wars (declared or undeclared), blockades, epidemics, riots or civil disturbances, insurrections, strikes, labor disputes (it being understood that nothing contained in this Agreement shall require the Applicant to settle any such strike or labor dispute), explosions, breakdown or failure of plant, machinery, equipment, lines of pipe or electric power lines (or unplanned or forced outages or shutdowns of the foregoing for inspections, repairs or maintenance), inability to obtain, renew or extend franchises, licenses or permits, loss, interruption, curtailment or failure to obtain electricity, gas, steam, water, wastewater disposal, waste disposal or other utilities or utility services, inability to obtain or failure of suppliers to deliver feedstock, raw materials, equipment, parts or material, or inability of the Applicant to ship or failure of carriers to transport to or from the Applicant's facilities products (finished or otherwise), feedstock, raw materials, equipment, parts or material; or (e) any other cause (except financial), whether similar or dissimilar, over which the Applicant has no reasonable control and which forbids or prevents performance.

"Land" shall have the meaning assigned to such term in Section 2.2.

"Maintain Viable Presence" means, after the development and construction of the project described in the Application and in the description of the Applicant's Qualified Investment and Qualified Property as set forth in Section 2.3 below, (i) the operation over the term of this Agreement of the facility or facilities for which the tax limitation is granted, as the same may from time to time be expanded, upgraded, improved, modified, changed, remodeled, repaired, restored, reconstructed, reconfigured, and/or reengineered; (ii) the maintenance of at least twenty (20) New Jobs from the time they are created until the Final Termination Date; and (iii) the maintenance of at least eighty percent (80%) of such New Jobs as Qualifying Jobs from the time they are created until the Final Termination Date.

"M&O Amount" shall have the meaning assigned to such term in Section 3.2 of this Agreement.

"Maintenance and Operations Revenue" or "M&O Revenue" means (i) those revenues which the District receives from the levy of its annual ad valorem maintenance and operations tax pursuant to Texas Education Code §45.002 and Article VII §3 of the Texas Constitution, plus (ii) all State revenues to which the District is or may be entitled under Chapter 42 of the Texas Education Code or any other statutory provision as well as any amendment or successor statute to these provisions, plus (iii) any indemnity payments received by the District under other agreements similar to this Agreement to the extent that such payments are designed to replace District M&O Revenue lost as a result of such similar agreements, less (iv) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 41 of the Texas Education Code.

"Market Value" shall have the meaning assigned to such term in Section 1.04(7) of the Texas Tax Code.



"Net Aggregate Limit" means, for any Tax Year of this Agreement, the cumulative total of the Annual Limit amount for such Tax Year and all previous years of the Agreement, less all amounts previously paid by the Applicant to or on behalf of the District under Article IV, below.

"Net Tax Benefit" means, (i) the amount of maintenance and operations *ad valorem* taxes that the Applicant would have paid to the District for all Tax Years if this Agreement had not been entered into by the Parties, (ii) adding to the amount determined under clause (i) all Tax Credits received by the Applicant under Chapter 313, Texas Tax Code, and (iii) subtracting from the sum of the amounts determined under clauses (i) and (ii) the sum of (A) all maintenance and operations *ad valorem* school taxes actually due to the District or any other governmental entity, including the State of Texas, for all Tax Years of this Agreement, plus (B) any payments due to the District under Article III under this Agreement.

"New Jobs" means at least twenty (20) "new jobs," as defined by 34 Texas Administrative Code §9.1051(14)(C), which the Applicant will create in connection with the project described in the Application and in the description of the Applicant's Qualified Investment and Qualified Property as set forth in Section 2.3 below. In accordance with the requirements of Texas Tax Code §313.024(d), at least eighty percent (80%) of all New Jobs shall also be Qualifying Jobs, as defined below.

"Qualified Investment" has the meaning set forth in Chapter 313 of the Texas Tax Code, as interpreted by the Comptroller's Rules, in effect as of the Completed Application Date, and applying any specific requirements for rural school districts imposed by Subchapter C of Chapter 313 of the Texas Tax Code and by the Comptroller's Rules.

"Qualifying Jobs" means at least eighty percent (80%) of all New Jobs, which must meet the requirements of Texas Tax Code §313.021(3) in effect as of the Completed Application Date. For the avoidance of doubt, at least eighty percent (80%) of all New Jobs must be Qualifying Jobs (that is, eighty percent (80%) of all New Jobs must meet the requirements of Texas Tax Code §313.021(3)).

"Qualified Property" has the meaning set forth in Chapter 313 of the Texas Tax Code in effect as of the Completed Application Date, as interpreted by the Comptroller's Rules and the Texas Attorney General, as these provisions existed on the Effective Date of this Agreement, and applying any specific requirements for rural school districts imposed by Subchapter C of Chapter 313 of the Texas Tax Code and by the Comptroller's Rules.

"Qualifying Time Period" means the period that begins on the Commencement Date of December 30, 2013, and ends on December 31, 2015.

"Revenue Protection Amount" means the amount calculated pursuant to Section 3.2 of this Agreement.

"State" means the State of Texas.

"Substantive Document" means a document or other information or data in electronic media determined by the Comptroller to substantially involve or include information or data significant to an application, the evaluation or consideration of an application, or the agreement or implementation of an agreement for limitation of appraised value pursuant to Texas Tax Code, Chapter 313. The term includes, but is not limited to, any application requesting a limitation on appraised value and any amendments or supplements, any economic impact evaluation made in connection with an application, any agreement between the Applicant and the school district and any subsequent amendments or assignments, any school district written finding or report filed with the Comptroller as required under Texas Tax Code, Chapter 313, and any application requesting school Tax Credits under Texas Tax Code, §313.103.

"Tax Credit" means the tax credit, either to be paid by the District to the Applicant, or to be applied against any taxes that the District imposes on the Applicant's Qualified Property, as computed under the provisions of Subchapter D of the Act and rules adopted by the Comptroller and/or the Texas Education Agency, provided that the Applicant complies with the requirements imposed on the Applicant under such provisions, including the timely filing of a completed application under Texas Tax Code §313.103 and the duly adopted administrative rules relating thereto.

"Tax Limitation Amount" means the maximum amount which may be placed as the Appraised Value on Qualified Property/Qualified Investment for years three (3) through ten (10) of this Agreement pursuant to Texas Tax Code §313.054. That is, for each of the eight (8) Tax Years: 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed, and the Tax Limitation Amount shall be, the lesser of:

- (a) the Market Value of the Applicant's Qualified Investment; or
- (b) Twenty Million Dollars (\$20,000,000.00).

The Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the Effective Date of this Agreement, as set out by Texas Tax Code, §313.022(b) or §313.052, as applicable.

"Tax Year" shall have the meaning assigned to such term in Section 1.04(13) of the Texas Tax Code (*i.e.*, the calendar year).

"Taxable Value" shall have the meaning assigned to such term in Section 1.04(10) of the Texas Tax Code.

"Texas Education Agency Rules" means the applicable rules and regulations adopted by the Texas Commissioner of Education in relation to the administration of Chapter 313, Texas Tax Code, which are set forth at Title 19 – Part 2, Texas Administrative Code (including, but not limited to, §61.1019), together with any court or administrative decisions interpreting same.



## ARTICLE II

### PROPERTY DESCRIPTION

#### Section 2.1. LOCATION WITHIN A QUALIFIED REINVESTMENT OR ENTERPRISE ZONE

The Applicant's Qualified Property and the Applicant's Qualified Investment will be located is within an area designated as a reinvestment zone under Chapter 312 of the Texas Tax Code. The legal description of the reinvestment zone in which the Applicant's Qualified Property is located is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

#### Section 2.2. LOCATION OF QUALIFIED PROPERTY

The location of the Qualified Property (the "Applicant's Qualified Property") is described in the legal description which is attached to this Agreement as **EXHIBIT 2** and is incorporated herein by reference for all purposes. The land described in **EXHIBIT 2** (the "Land") qualifies as Qualified Property, and the Parties expressly agree that the boundaries of the Land may not be materially changed from its configuration described in **EXHIBIT 2** without the express authorization of each of the Parties.

#### Section 2.3. DESCRIPTION OF QUALIFIED INVESTMENT AND QUALIFIED PROPERTY

The Qualified Investment and/or Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 3**, which is attached hereto and incorporated herein by reference for all purposes (the "Applicant's Qualified Investment"). The Applicant's Qualified Investment shall be that property, described in **EXHIBIT 3** which is placed in service under the terms of the Application, during the Qualifying Time Period described in both Section 1.2 above and the definition of Qualifying Time Period set forth in Section 1.3 above. The Applicant's Qualified Property shall be all property, described in **EXHIBIT 3**, including, but not limited to the Applicant's Qualified Investment, together with the Land described in **EXHIBIT 2**, which: (1) is owned or leased by the Applicant; (2) is first placed in service after October 11, 2013, the Completed Application Date established by the Comptroller; and (3) is used in connection with the activities described in the Application. Property which is not specifically described in **EXHIBIT 3** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Investment or the Applicant's Qualified Property for purposes of this Agreement, unless pursuant to Texas Tax Code §313.027(e) and Section 7.3 of this Agreement, the Board of Trustees, by official action, provides that such other property is a part of the Applicant's Qualified Investment for purposes of this Agreement.

Property owned by the Applicant which is not described on **EXHIBIT 3** may not be considered to be Qualified Property unless the Applicant:

- (a) submits to the District and the Comptroller a written request to add such property to this Agreement, which request shall include a specific description of the

additional property to which the Applicant requests that the Tax Limitation Amount apply;

- (b) notifies the District and the Comptroller of any other changes to the information that was provided in the Application approved by the District; and,
- (c) provides any additional information reasonably requested by the District or the Comptroller that is necessary to re-evaluate the economic impact analysis for the new or changed conditions; and,
- (d) obtains all required approvals from both the Comptroller and the District for the inclusion of the newly listed property as Qualified Property.

Notwithstanding the foregoing, any replacement property shall not be subject to the foregoing restrictions and shall be considered Qualified Property hereunder.

#### **Section 2.4. APPLICANT'S OBLIGATIONS TO PROVIDE CURRENT INVENTORY OF QUALIFIED PROPERTY**

At the end of the Qualifying Time Period, or at any other time thereafter when there is a material change in the Applicant's Qualified Property located on the Land described in **EXHIBIT 2**, or upon a reasonable request by the District, the Comptroller, or the Appraisal District, the Applicant shall provide to the District, the Comptroller, and the Appraisal District a reasonably specific and detailed description of the material tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Applicant's Qualified Property to which the Tax Limitation Amount applies, including maps or surveys of sufficient detail and description to locate all such described property within the boundaries of the real property which is subject to this Agreement.

#### **Section 2.5. QUALIFYING USE**

The Parties agree that the Applicant's Qualified Investment described above in Section 2.3 qualifies for a Tax Limitation Agreement under Texas Tax Code §313.024(b)(1) as a manufacturing facility.

#### **Section 2.6. LIMITATION ON APPRAISED VALUE**

So long as the Applicant makes a Qualified Investment in the amount of Twenty Million Dollars (\$20,000,000.00), or greater, during the Qualifying Time Period, and unless this Agreement has been terminated as provided herein before such Tax Year, for each of the eight (8) Tax Years: 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

- (a) the Market Value of the Applicant's Qualified Investment; or



(b) Twenty Million Dollars (\$20,000,000.00).

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the Effective Date of this Agreement, as set out by Texas Tax Code, §313.054(a).

### **ARTICLE III**

#### **PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES**

##### **Section 3.1. INTENT OF THE PARTIES**

Subject to the limitations contained in this Agreement (including Section 4.1), it is the intent of the Parties that the District shall, in accordance with the provisions of Texas Tax Code, §313.027(f)(1), be compensated by the Applicant for any loss that the District incurs in its Maintenance and Operations Revenue solely as a result of, or on account of, entering into this Agreement, after taking into account any payments to be made under this Agreement. Subject to the limitations contained in this Agreement (including Section 4.1), it is the intent of the Parties that the risk of any negative financial consequence to the District in making the decision to enter into this Agreement will be borne by the Applicant and not by the District.

##### **Section 3.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT**

Subject to the provisions of Sections 4.1 and 4.2, the amount to be paid by the Applicant to compensate the District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year during the term of this Agreement (the "M&O Amount") shall be determined in compliance with the Applicable School Finance Law in effect for such year and according to the following formula:

The M&O Amount owed by the Applicant to the District means the Original M&O Revenue *minus* the New M&O Revenue;

Where:

- i. "Original M&O Revenue" means the total State and local Maintenance & Operations Revenue that the District would have received for the school year under the Applicable School Finance Law had this Agreement not been entered into by the Parties and the Applicant's Qualified Property and/or the Applicant's Qualified Investment been subject to the ad valorem maintenance and operations tax at the District-adopted tax rate for the applicable year.
- ii. "New M&O Revenue" means the total State and local Maintenance & Operations Revenue that the District actually received for such

school year, after all adjustments have been made to such Maintenance and Operations Revenue because of any portion of this Agreement.

In making the calculations required by this Section 3.2:

- i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law.
- ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property and/or the Applicant's Qualified Investment will be presumed to be one hundred percent (100%).
- iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue as calculated under this Section 3.2 results in a negative number, the negative number will be considered to be zero.
- iv. All calculations made for years three (3) through ten (10) of this Agreement under Section 3.2, Subsection ii, of this Agreement relating to the definition of "New M&O Revenue" will reflect the Tax Limitation Amount for such year.
- v. All calculations made under this Section 3.2 shall be made by a methodology which isolates only the revenue impact caused by this Agreement. The Applicant shall not be responsible to reimburse the District for other revenue losses created by other agreements or any other factors not contained in this Agreement.

### **Section 3.3. COMPENSATION FOR LOSS OF OTHER REVENUES**

In addition to the amounts determined pursuant to Section 3.2 above, and to the extent provided in Section 5.3, the Applicant, on an annual basis, shall also indemnify and reimburse the District for the following:

- (a) All non-reimbursed costs incurred by the District in paying or otherwise crediting to the account of the Applicant, any applicable Tax Credit to which the Applicant may be entitled pursuant to Chapter 313, Subchapter D of the Texas Tax Code, and for which the District does not receive reimbursement from the State pursuant to Texas Education Code §42.2515, or other similar or successor statute.
- (b) All non-reimbursed costs, certified by the District's external auditor to have been incurred by the District for extraordinary education-related expenses related to the Applicant's Qualified Investment that are not directly funded in state aid formulas, including expenses for the lease of portable classrooms and the hiring



of additional personnel to accommodate a temporary increase in student enrollment attributable to the Applicant's Qualified Investment.

- (c) All non-reimbursed increases in District costs paid to the Appraisal District caused by increased appraised values arising solely from the project described in the Application.

#### **Section 3.4. CALCULATIONS TO BE MADE BY THIRD PARTY**

All calculations under this Agreement shall be made annually by an independent third party (the "Third Party") approved each year by the Parties.

#### **Section 3.5. DATA USED FOR CALCULATIONS**

The calculations for payments under this Agreement shall be initially based upon the valuations that are placed upon the Applicant's Qualified Investment and/or the Applicant's Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District pursuant to Texas Tax Code §26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party selected under Section 3.4. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. All other data utilized by the Third Party to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party shall be adjusted from time to time by the Third Party to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified tax roll or any other changes in student counts, tax collections, or other data.

#### **Section 3.6. DELIVERY OF CALCULATIONS**

On or before November 1 of each year for which this Agreement is effective, the Third Party selected pursuant to Section 3.4 of this Agreement shall forward to the Parties a certification containing the calculations required under Sections 3.2 and/or 3.3 and/or Section 4.1 of this Agreement in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Third Party shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed, which fee shall be the sole responsibility of the Applicant, subject to the provisions of Section 3.7. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party's offices, personnel, books, records, work papers, calculations and correspondence pertaining to the calculation and fee for the purpose of verification. The Third Party shall maintain supporting data consistent with generally accepted accounting practices, and the employees and agents of the Applicant shall have the right to reproduce and retain for purpose of audit, any of these documents. The Third Party shall preserve all documents pertaining to the calculation and fee for a period of five (5) years after payment. The Applicant shall not be liable for any of the Third Party's costs resulting from an audit of the Third Party's

books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement or the fee paid by the Applicant to the Third Party pursuant to Section 3.7, if such fee is timely paid.

### **Section 3.7. PAYMENT BY APPLICANT**

The Applicant shall pay any amount determined to be due and owing to the District under this Agreement on or before the February 1 next following the tax levy for each year for which this Agreement is effective. By such date, the Applicant shall also pay any amount billed by the Third Party under Section 3.6 below, plus any reasonable and necessary legal expenses paid by the District to its attorneys, auditors, or financial consultants for the preparation and filing of any financial reports, disclosures, or Tax Credit or other reimbursement applications filed with or sent to the State of Texas which are, or may be required under the terms or because of the execution of this Agreement. For no Tax Year during the term of this Agreement shall the Applicant be responsible for the payment of an aggregate amount of fees and expenses under this Section 3.7 and Section 3.6 which exceeds Ten Thousand Dollars (\$10,000.00).

### **Section 3.8. RESOLUTION OF DISPUTES**

Pursuant to Section 3.4 and Section 3.6, should the Applicant disagree with the certification containing the calculations, the Applicant may appeal the findings, in writing, to the Third Party within thirty (30) days following the later of (i) receipt of the certification, or (ii) the date the Applicant is granted access to the books, records and other information in accordance with Section 3.6 for purposes of auditing or reviewing the information in connection with the certification. Within fifteen (15) days of receipt of the Applicant's appeal, the Third Party will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of the certification containing the calculations to the District. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the Board of Trustees within thirty (30) days of the final determination of the certification containing the calculations, and shall be without limitation of the Applicant's other rights and remedies available hereunder, at law or in equity.

### **Section 3.9. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT**

If at the time the Third Party selected under Section 3.4 makes its calculations under this Agreement, the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Property, and/or the Applicant's Qualified Property and such appeal remains unresolved, the Third Party shall base its calculations upon the values placed upon the Applicant's Qualified Property and/or the Applicant's Qualified Property by the Appraisal District.

If as a result of an appeal or for any other reason, the Taxable Value of the Applicant's Qualified Investment and/or the Applicant's Qualified Property is changed, once the determination of the new Taxable Value becomes final, the Parties shall immediately notify the Third Party who shall immediately issue new calculations for the applicable year or years using



the new Taxable Value. In the event the new calculations result in a change in any amount paid or payable by the Applicant under this Agreement, the Party from whom the adjustment is payable shall remit such amounts to the other Party within thirty (30) days of the receipt of the new calculations from the Third Party.

### **Section 3.10. EFFECT OF STATUTORY CHANGES**

Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 4.1, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by the Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, the District reasonably determines that it will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State, because of its participation in this Agreement, the Applicant shall make payments to the District, up to the revenue protection amount limit set forth in Section 5.1, that are necessary to offset any actual negative impact on the District as a result of its participation in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on the District. Such payment shall be made no later than thirty (30) days following notice from the District of such determination and calculation.

## **ARTICLE IV**

### **Section 4.1. INTENT OF PARTIES WITH RESPECT TO SUPPLEMENTAL PAYMENTS**

In interpreting the provisions of Article IV, the Parties agree as follows:

#### **(a) Amounts Exclusive of Indemnity Amounts**

In addition to undertaking the responsibility for the payment of all of the amounts set forth under Article III, and as further consideration for the execution of this Agreement by the District, the Applicant shall also be responsible for the Supplemental Payments set forth in this Article IV only for Tax Years 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 and 2023. The Applicant shall not be responsible to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313 of the Texas Tax Code, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the obligation for Supplemental Payments under this Article IV are separate and independent of the obligation of the Applicant to pay the amounts described in Article III; provided, however, that all payments under Articles III and IV are subject to such limitations as are contained in Section 5.1.

#### **(b) Adherence to Statutory Limits on Supplemental Payments**

It is the express intent of the parties that any Supplemental Payments made to or on behalf of the District by the Applicant, under this Article IV, shall not exceed the Annual Limit.

**Section 4.2. STIPULATED SUPPLEMENTAL PAYMENT AMOUNT - SUBJECT TO NET AGGREGATE LIMIT**

In any year during the term of this Agreement, the District shall not be entitled to receive Supplemental Payments that exceed the Annual Limit. The payment of all amounts due under this Article shall be made at the time set forth in Section 3.7, except that the Annual Limit payments for Tax Years 2013, 2014, and 2015, shall accrue without interest and shall be due on February 1, 2016, but shall not be paid prior to January 1, 2016.

**Section 4.3. DISTRICT'S OPTION TO DESIGNATE SUCCESSOR BENEFICIARY**

At any time during this Agreement, the District's Board of Trustees may, in its sole discretion, so long as such decision does not result in additional costs to the Applicant under this Agreement, direct that the Applicant's payment obligations under this Article IV be made to its educational foundation, or to a similar entity. The alternative entity may only use such funds received under this Article to support the educational mission of the District and its students. Any designation of an alternative entity must be made by recorded vote of the District's Board of Trustees at a properly posted public Board meeting. Any such designation will become effective after public vote and the delivery of notice of said vote to the Applicant in conformance with the provisions of Section 6.1, below. Such designation may be rescinded, with respect to future payments only, by action of the District's Board of Trustees at any time.

Any designation of a successor beneficiary under this Section shall not alter the Supplemental Payments described in Section 4.2, above.

**ARTICLE V**

**ANNUAL LIMITATION OF PAYMENTS BY APPLICANT**

**SECTION 5.1. ANNUAL LIMITATION AFTER FIRST THREE YEARS**

Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year during the term of this Agreement after Tax Year 2016, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the District under Article III with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such Tax Year (determined by using the District's actual maintenance and operations tax rate for such Tax



Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Sections 3.4 and 3.6, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then the payments otherwise due from the Applicant to the District under Article III shall be reduced until such excess is eliminated.

#### **Section 5.2. OPTION TO CANCEL AGREEMENT**

In the event that any payment otherwise due from the Applicant to the District under Article III with respect to a Tax Year is subject to reduction in accordance with the provisions of Section 5.1 above, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to cancel this Agreement by notifying the District of its election in writing not later than the July 31 of the year next following the Tax Year with respect to which a reduction under Section 5.1 is applicable. Any cancellation of this Agreement under the foregoing provisions of this Section 5.2 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the reduction giving rise to the option occurred. In addition to the foregoing, in the event the Applicant determines that it will not commence or complete construction of the Applicant's Qualified Investment, the Applicant shall have the option, during the Qualifying Time Period, to terminate this Agreement by notifying the District in writing of its exercise of such option. Any termination of this Agreement under the immediately preceding sentence shall be effective immediately prior to the beginning of the Tax Year immediately following the Tax Year during which such notification is delivered to the District. Upon any termination this Agreement under this Section 5.2, this Agreement shall terminate and be of no further force or effect; provided, however, that the Parties' respective rights and obligations under this Agreement with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged.

### **ARTICLE VI**

#### **TAX CREDITS**

##### **Section 6.1. APPLICANT'S ENTITLEMENT TO TAX CREDITS**

The Applicant shall be entitled to Tax Credits from the District under and in accordance with the provisions of Subchapter D of the Act and the Comptroller's Rules, provided that the Applicant complies with the requirements under such provisions, including the filing of a completed application under Section 313.103 of the Texas Tax Code and the Comptroller's Rules.

## **Section 6.2. DISTRICT'S OBLIGATIONS WITH RESPECT TO TAX CREDITS**

The District shall timely comply and shall cause the District's collector of taxes to timely comply with their respective obligations under Subchapter D of the Act and the Comptroller's Rules, including, but not limited to, such obligations set forth in Section 313.104 of the Texas Tax Code and the Comptroller's Rules and/or Texas Education Agency's rules, as applicable.

## **Section 6.3. COMPENSATION FOR LOSS OF TAX CREDIT PROTECTION REVENUES**

If after the Applicant has actually received the benefit of a Tax Credit under Section 5.1, the District does not receive aid from the State pursuant to Texas Education Code §42.2515 or other similar or successor statute with respect to all or any portion of such Tax Credit for reasons other than the District's failure to comply with the requirements for obtaining such aid, then the District shall notify the Applicant in writing thereof and the circumstances surrounding the State's failure to provide such aid to the District. The Applicant shall pay to the District the amount of such Tax Credit for which the District did not receive such aid within thirty (30) calendar days after receipt of such notice. If the District receives aid from the State for all or any portion of a Tax Credit with respect to which the Applicant has made a payment to the District under this Section 5.3, then the District shall pay to the Applicant the amount of such aid within thirty (30) calendar days after the District's receipt thereof. Upon the failure by either Party to make a payment within the time frame allowed herein, interest on the unpaid amount shall accrue at the rate specified by Texas Tax Code § 33.01(c).

# **ARTICLE VII**

## **ADDITIONAL OBLIGATIONS OF APPLICANT**

### **Section 7.1. DATA REQUESTS**

During the term of this Agreement, and upon the written request of one Party or by the Comptroller (the "Requesting Party"), the other Party shall provide the Requesting Party with all information reasonably necessary for the Requesting Party to determine whether the other Party is in compliance with its obligations, including any employment obligations which may arise under this Agreement. The Applicant shall allow authorized employees of the District, the Comptroller, and/or the Appraisal District to have access to the Applicant's Qualified Property and/or business records, in accordance with Texas Tax Code Section 22.07, during the term of this Agreement, in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property. All inspections will be made at a mutually agreeable time after the giving of not less than forty-eight (48) hours prior written notice, and will be conducted in such a manner so as not to unreasonably interfere with either the construction or operation of the Applicant's Qualified Property. All inspections shall be accompanied by one or more representatives of the Applicant, and shall be conducted in accordance with the Applicant's safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide the District, the Comptroller, or the Appraisal District with any technical or business



information that is private personnel data, proprietary, a trade secret or confidential in nature or is subject to a confidentiality agreement with any third party or any other information that is not necessary for the District to determine the Applicant's compliance with this Agreement.

## **Section 7.2. REPORTS TO OTHER GOVERNMENTAL AGENCIES**

The Applicant shall timely make any and all reports that are or may be required under the provisions of law or administrative regulation as a result of this Agreement, including but not limited to the annual report or certifications that may be required to be submitted by the Applicant to the Comptroller under the provisions of Texas Tax Code §313.032 and the provisions of Title 34, Part 1, Chapter 9, Subchapter F of the Texas Administrative Code. The Applicant shall forward a copy of all such required reports or certifications to the District contemporaneously with the filing thereof. Currently, the Comptroller requires an Annual Eligibility Report and the Biennial Progress Reports, Forms 50-772 and 50-773, respectively, and an Application for Tax Credit, Form 50-300. The obligation to make all such required filings shall be a material obligation under this Agreement.

## **Section 7.3. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE**

By entering into this Agreement, the Applicant warrants that:

- (a) it will abide by all of the terms of this Agreement;
- (b) if it does not cancel the Agreement prior to the end of the Qualifying Time Period under Section 4.2 of this Agreement, it will Maintain Viable Presence in the District through the Final Termination Date of this Agreement; provided, however, that notwithstanding anything contained in this Agreement to the contrary, the Applicant shall not be in breach of this Agreement, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure; and,
- (c) it will meet the applicable minimum eligibility requirements under Texas Tax Code, Chapter 313, throughout the period from and including the Tax Year 2016 through and including the last Tax Year during the term of this Agreement with respect to which the Applicant receives the benefit of a Tax Credit.

## **Section 7.4. CONSEQUENCES OF MATERIAL BREACH BY APPLICANT**

(a) In the event of a Material Breach of this Agreement as defined by Section 7.5, except as provided in Section 5.2, after the notice and cure period provided by Section 7.8, where applicable, then the District shall be entitled, as its sole and exclusive remedy, to the recapture of all ad valorem tax revenue lost as a result of this Agreement calculated pursuant to Tax Code Section 313.027 & 313.0275, and 34 Texas Administrative Code Section 9.1053(f)(2)(K) & 9.1054(h)(11) as applicable, together with the payment of penalty and interest, as calculated in

accordance with Section 7.5, on that recaptured ad valorem tax revenue that otherwise would have been paid to the District, without the benefit of this Agreement. For purposes of this calculation the Applicant shall be entitled to a credit for any payments made to the District as protection against loss of revenue pursuant to Article III of this Agreement. The penalty imposed becomes delinquent if not paid on or before February 1 of the tax year immediately following its imposition. Tax Code Section 33.01 applies to the delinquent penalty in the manner that section applies to delinquent taxes. Interest on a delinquent penalty, or any portion thereof, shall be calculated in accordance with the methodology set forth in Texas Tax Code §33.01(c), or its successor statute. Upon payment, the Applicant's obligations under this Agreement shall be deemed fully satisfied.

(b) In the event of a Material Breach of this Agreement defined by Sections 7.5(c) or (g) that results in the District not receiving monies to which it is otherwise entitled by this Agreement, interest on the unpaid amount shall accrue at the rate specified by Texas Tax Code § 33.01(c).

#### **Section 7.5. MATERIAL BREACH OF AGREEMENT**

The Applicant shall be in "Material Breach of this Agreement" (herein so called) if it commits one or more of the following acts or omissions:

- (a) The Applicant is determined to have failed to meet its obligations to have made accurate material representations of fact in the submission of its Application as is required by Section 8.13, below.
- (b) Subject to Section 5.2, the Applicant fails to Maintain Viable Presence in the District, as required by Section 7.3 of this Agreement, through the Final Termination Date of this Agreement.
- (c) The Applicant fails to make any payment required under Articles III or IV of this Agreement on or before its due date, and after notice and an opportunity to cure under Section 7.8 herein.
- (d) Subject to Section 5.2, the Applicant fails to create and maintain at least twenty (20) New Jobs.
- (e) Subject to Section 5.2, the Applicant fails to create and maintain at least eighty percent (80%) of all such New Jobs as Qualifying Jobs which meet the requirements of Texas Tax Code §313.021(3).
- (f) The Applicant intentionally makes any payments to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement, in excess of the amounts set forth in Articles III or IV above.



Voluntary donations made by the Applicant to the District after the date of execution of this Agreement, and not mandated by this Agreement or made in recognition of or in consideration for this Agreement are not barred by this provision.

- (g) The Applicant fails to materially comply in any material respect with any other term of this Agreement, or the Applicant fails to meet its obligations under the applicable Comptroller's Rules, and under the Act.

#### **Section 7.6. LIMITED STATUTORY CURE OF MATERIAL BREACH**

In accordance with the provisions of Texas Tax Code §313.0275, for any full Tax Year which commences after the project has become operational, the Applicant may cure any Material Breach of this Agreement described in Subsections 7.5(d) and 7.5(e) or 7.5(f), above, without the termination of the remaining term of this Agreement. In order to cure any such non-compliance with Subsections 7.5(d) and 7.5(e) or 7.5(f) for any such Tax Year, the Applicant may make the liquidated damages payment required by Texas Tax Code §313.0275(b), in accordance with the provisions of Texas Tax Code §313.0275(c).

#### **Section 7.7. DETERMINATION OF MATERIAL BREACH AND TERMINATION OF AGREEMENT**

Prior to making a determination under Section 7.4 or Section 7.5 that the Applicant is in Material Breach of this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the Material Breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that a Material Breach of this Agreement has not occurred and/or that it has cured or undertaken to cure any such Material Breach of this Agreement.

If the Board of Trustees is not reasonably satisfied with such response and/or that such Material Breach of this Agreement has been cured, then the Board of Trustees shall, after reasonable notice to the Applicant, conduct a hearing called and held for the purpose of determining whether such Material Breach of this Agreement has occurred and, if so, whether such Material Breach of this Agreement has been cured. At any such hearing, the Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to whether or not a Material Breach of this Agreement has occurred, the date such Material Breach of this Agreement occurred, if any, and whether or not any such Material Breach of this Agreement has been cured. Except as otherwise provided in Section 7.6, in the event that the Board of Trustees determines that such a Material Breach of this Agreement has occurred and has not been cured, it shall also terminate this Agreement and determine the amount of penalty owed under Section 7.4(a) and, if applicable, the unpaid amount owed, including interest, under Section 7.4(b).

After making its determination regarding any alleged Material Breach of this Agreement, the Board of Trustees shall cause the Applicant to be notified in writing of its determination (a "Determination of Breach and Notice of Contract Termination").

#### **Section 7.8. DISPUTE RESOLUTION**

After receipt of notice of the Board of Trustee's Determination of Breach and Notice of Contract Termination under Section 7.7, the Applicant shall, unless prohibited by statute or Comptroller's Rules, have ninety (90) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to the District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within ninety (90) days after the Applicant's receipt of notice of the Board of Trustee's Determination of Breach and Notice of Contract Termination under Section 7.7, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then presiding in Hutchinson County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the Texas Civil Practice and Remedies Code and such other rules as the mediator shall prescribe. With respect to such mediation, (i) the District shall bear one-half of such mediator's fees and expenses and the Applicant shall bear one-half of such mediator's fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys' fees) incurred in connection with such mediation.

In the event that any mediation is not successful in resolving the dispute or that payment is not received before the expiration of such ninety (90) days, the District shall have the remedies for the collection of the amounts determined under Section 7.7 as are set forth in Texas Tax Code Chapter 33, Subchapters B and C, for the collection of delinquent taxes. In the event that the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of reasonable attorney's fees to the attorneys representing the District pursuant to Texas Tax Code §6.30. In the event that the Applicant is a prevailing party in any such legal proceedings under this section, the District shall be responsible for the payment of the Applicant's reasonable attorney's fees.

In any event where a dispute between the District and the Applicant under this Agreement cannot be resolved by the Parties, after completing the procedures required above in this Section 7.8, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in any judicial proceeding, assert any rights or defenses, or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any covenant, agreement or undertaking made by a Party pursuant to this Agreement.

#### **Section 7.9. LIMITATION OF OTHER DAMAGES**



Notwithstanding anything contained in this Agreement to the contrary, damages for any default shall under no circumstances exceed the greater of any amounts calculated under Sections 7.4(a) and 7.4(b) above. Upon termination of this Agreement by either Party, Applicant's duty to make payments under Articles III and IV are extinguished for any Tax Years remaining after the date of termination. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement.

The Parties further agree that the limitation of damages and remedies set forth in this Section 7.9 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

#### **Section 7.10. LIMITATION OF OTHER DAMAGES**

In the event that Applicant makes a payment to the District under this Article and subsequent to that payment, the State validly requests payment for the same, the District shall immediately forward said payment to the State. In the event that Applicant makes a payment to the State, a District validly requests payment for the same, the District, upon proof of payment by Applicant, shall credit that payment against any obligation by Applicant to District.

#### **Section 7.11. BINDING ON SUCCESSORS**

In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

### **ARTICLE VIII**

#### **MISCELLANEOUS PROVISIONS**

##### **Section 8.1. INFORMATION AND NOTICES**

Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (e.g., by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile transmission, with "answer back" or other "advice of receipt" obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

Notices to the District shall be addressed as follows:

Chance Welch, Superintendent  
**BORGER INDEPENDENT SCHOOL DISTRICT**  
200 E Ninth Street  
P.O. Box 1177  
Borger, Texas 79008  
Fax: (806) 273-1066  
E-mail: chance.welch@borgerisd.net

or at such other address or to such other facsimile transmission number and to the attention of such other person as the District may designate by written notice to the Applicant.

Notices to the Applicant shall be addressed as follows:

Adam Diamond  
Government Relations Manger  
Agrium US, Inc.  
9201 FM 1551  
Borger, Texas 79007  
Fax: (303) 267-1319  
Email: adam.diamond@agrium.com

or at such other address or to such other facsimile transmission number and to the attention of such other person as the Applicant may designate by written notice to the District.

#### **Section 8.2. EFFECTIVE DATE, TERMINATION OF AGREEMENT**

- (a) This Agreement shall be and become effective on the date of final approval of this Agreement by the Board of Trustees,
- (b) Subject to Sections 5.2 and 7.3(b), the obligation to Maintain Viable Presence under this Agreement shall remain in full force and effect through the Final Termination Date.
- (c) In the event that the Applicant fails to make a Qualified Investment in the amount of Twenty Million Dollars (\$20,000,000.00), or greater, during the Qualifying Time Period, this Agreement shall become null and void on December 31, 2015.

#### **Section 8.3. AMENDMENTS TO AGREEMENT; WAIVERS**

This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties. Waiver of any term, condition or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition or provision, or a waiver of any other term, condition or provision of this Agreement. By official



action of the Board of Trustees, this Agreement may be amended to include, in the Applicant's Qualified Investment, additional or replacement Qualified Property or Qualified Investment not specified in **EXHIBIT 3**, provided that prior to such approval Applicant shall meet all requirements of 34 Tex. Admin Code § 9.1053(f)(2)(O), or any successor rule adopted by the Comptroller, and report to the District, the Comptroller, and the Appraisal District, in the same format, style, and presentation as the Application, all relevant investment, value, and employment information that is related to the additional or replacement property.

Any amendment of this Agreement adding additional or replacement Qualified Property or Qualified Investment pursuant to this Section 8.3 shall, (1) require that all property added by amendment be eligible property as defined by Texas Tax Code, §313.024; (2) clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and (3) define minimum eligibility requirements for the recipient of limited value.

Notwithstanding the foregoing, this Agreement may not be amended to extend the value limitation time period beyond its eight-year statutory term.

#### **Section 8.4. ASSIGNMENT**

With the prior approval of the Board of Trustees, which approval shall not be unreasonably withheld, delayed or conditioned, the Applicant may assign this Agreement, or a portion of this Agreement, to a new owner or lessee of all or a portion of the Applicant's Qualified Property and/or the Applicant's Qualified Investment. Upon notice to the Board of Trustees, but without requiring the prior approval of the Board of Trustees, Applicant may assign this Agreement in its entirety to an Affiliate. Upon any assignment, the Applicant's assignee will be liable to the District for outstanding taxes or other obligations arising under this Agreement. A recipient of limited value under Texas Tax Code, Chapter 313 shall notify immediately the District, the Comptroller, and the Appraisal District in writing of any change in address or other contact information for the owner of the property subject to the limitation agreement for the purposes of Texas Tax Code §313.032. The assignee's or its reporting entity's Texas Taxpayer Identification Number shall be included in the notification.

#### **Section 8.5. MERGER**

This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

#### **Section 8.6. MAINTENANCE OF COUNTY APPRAISAL DISTRICT RECORDS**

When appraising the Applicant's Qualified Property and the Applicant's Qualified Investment subject to a limitation on Appraised Value under this Agreement, the Chief Appraiser

of the Appraisal District shall determine the Market Value thereof and include both such Market Value and the appropriate value thereof under this Agreement in its appraisal records.

#### **Section 8.7. GOVERNING LAW**

This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in Hutchinson County, Texas.

#### **Section 8.8. AUTHORITY TO EXECUTE AGREEMENT**

Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

#### **Section 8.9. SEVERABILITY**

If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision or condition cannot be so reformed, then such term, provision or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality and enforceability of the remaining terms, provisions and conditions contained herein (and any other application such term, provision or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement in a mutually acceptable manner so as to effect the original intent of the Parties as closely as possible to the end that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 8.9, the term "Law" shall mean any applicable statute, law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction, decree or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

#### **Section 8.10. PAYMENT OF EXPENSES**

Except as otherwise expressly provided in this Agreement, or as covered by the application fee, (i) each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement, and (ii) in the event of a dispute between the Parties in connection with this Agreement, the prevailing Party in the litigation of any such dispute shall be entitled to full recovery of all reasonable and



necessary attorneys' fees, costs, and expenses incurred in connection therewith, including costs of court, from the non-prevailing Party.

#### **Section 8.11. INTERPRETATION**

When a reference is made in this Agreement to a Section, Article or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The words "include," "includes" and "including" when used in this Agreement shall be deemed in such case to be followed by the phrase ", but not limited to,". Words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require. This Agreement is the joint product of the Parties and each provision of this Agreement has been subject to the mutual consultation, negotiation and agreement of each Party and shall not be construed for or against any Party.

#### **Section 8.12. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

#### **Section 8.13. ACCURACY OF REPRESENTATIONS CONTAINED IN APPLICATION**

The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application. The Applicant warrants that to the best of Applicant's knowledge all material representations, material information, and material facts contained in the Application are true and correct in all material respects. The parties further agree that the Application and all the attachments thereto are included by reference into this Agreement as if set forth herein in full; provided, however, that to the extent of any differences or inconsistencies between the terms, conditions, representations, information, and facts contained in the Application and those contained in this Agreement, the terms, conditions, representations, information, and facts contained in this Agreement shall be controlling.

In the event that the Board of Trustees, after completing the procedures required by Sections 7.7 and 7.8 of this Agreement, makes a written determination that the Application was either incomplete or inaccurate as to any material representation, material information, or material fact, then the Board of Trustees shall notify Applicant in writing of such determination and the Applicant shall have the time periods permitted by Section 7.7 or any other section of this Agreement; if any such material representation, material information or material fact remains uncured after the written notice and cure periods specified herein, this Agreement shall be invalid and void except for the enforcement of the provisions required by 34 Texas Administrative Code §9.1053(f)(2)(K).


**Section 8.14. PUBLICATION OF DOCUMENTS**

The Parties acknowledge that the District is required to publish all Substantive Documents including the Application and its required schedules, or any amendment thereto; all economic analyses of the proposed project submitted to the District; the approved and executed copy of this Agreement or any amendment thereto; and each application requesting Tax Credits under Texas Tax Code §313.103, as follows:


- a. Within seven (7) days of such document, the District shall submit a copy to the Comptroller for publication on the Comptroller's Internet website.
- b. The District shall provide on its website a link to the location of those documents posted on the Comptroller's website.
- c. This Section 8.14 does not require the publication of information that is confidential under Texas Tax Code §313.028.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 30<sup>th</sup> day of December, 2013.


**COMINCO FERTILIZER PARTNERSHIP**

By:   
Name: Glenn Straud  
Title: Vice President

**BORGER INDEPENDENT SCHOOL DISTRICT**

By:   
**ROBERT BRADLEY**  
President  
Board of Trustees

Attest:

By:   
**TODD HARRIS**  
Secretary  
Board of Trustees



## EXHIBIT 1

### DESCRIPTION OF QUALIFIED REINVESTMENT ZONE

The *Hutchinson County Reinvestment Zone Cominco/Agrium 2013-1* was originally created on June 10, 2013, by action of the Hutchinson County Commissioner's Court. A map of the *Hutchinson County Reinvestment Zone Cominco/Agrium 2013-1* is attached as the next page of this **EXHIBIT 1**. The legal description of the *Hutchinson County Reinvestment Zone Cominco/Agrium 2013-1* is as follows:

A tract or parcel of land out of Section 25 and 26, Block Y, Arnold and Barnett, Original Grantee, Abstract Number 676, Certificate Number 50, Hutchinson County, Texas, more fully described by metes and bounds as follows:

BEGINNING at the Northwest corner of said Section 25, said corner being common to Sections 25 and 26;

THENCE South  $0^{\circ} 11' 30''$  East along the West line of said Section 25 a distance of 1719.33 feet to a point in the North Right of Way line of Farm To Market Road 1551;

THENCE South  $73^{\circ} 15' 40''$  East along said North Farm to Market Road Right of Way line a distance of 1347.93 feet to the point of curvature of a curve bearing to the left and having a radius of 2814.79 feet;

THENCE along said North Farm to Market Road Right of Way curve to the left a distance of 796.75 feet to the point of tangency of said curve;

THENCE South  $89^{\circ} 28' 45''$  East along said North Farm to Market Road Right of Way a distance of 1325.92 feet to the point of curvature of a curve bearing to the right and having a radius of 5779.58 feet;

THENCE along said North Farm to Market Road Right of Way curve to the right a distance of 631.29 feet to the point of tangency of said curve;

THENCE South  $83^{\circ} 13' 15''$  East along said North Farm to Market Road Right of Way a distance of 42.04 feet to a point;

THENCE North  $0^{\circ} 08' 30''$  West a distance of 1309.50 feet to a point on the South Right of Way line of the Panhandle and Santa Fe Railway Co. Track No. 109;

THENCE North  $57^{\circ} 20' 45''$  West along said South Railroad Right of Way a distance of 4.85 feet to the point of curvature of a curve bearing to the right and having a radius of 2914.79 feet;

THENCE along said South Railroad Right of Way curve to the right a distance of 716.24 feet to the point of tangency of said curve;

THENCE North  $43^{\circ} 16' 00''$  West along said South Railroad Right of Way a distance of 3103.14 feet to the point of curvature of a curve bearing to the left and having a radius of 1859.86 feet;

THENCE along said South Railroad Right of Way curve to the left a distance of 261.76 feet to the point of tangency of said curve;

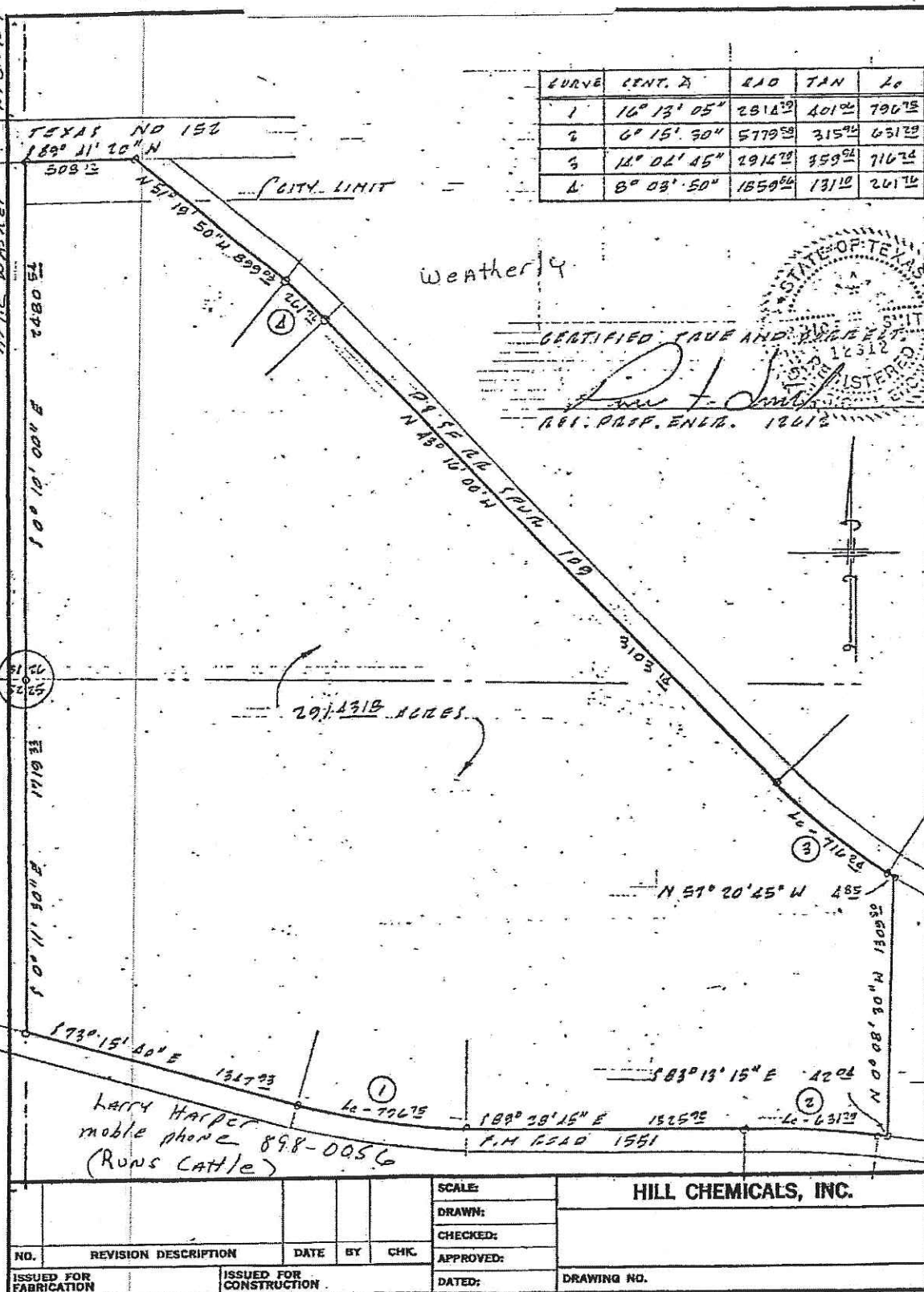
THENCE North  $51^{\circ} 19' 50''$  West along said South Railroad Right of Way a distance of 899.03 feet to a point in the South Right of Way line of Texas State Highway No. 136;

THENCE South  $89^{\circ} 41' 20''$  West a distance of 508.12 feet to a point in the West line of Section 26, Block Y, Arnold and Barnett Survey;

THENCE South  $0^{\circ} 10' 00''$  East along said West line of Section 26 a distance of 2480.54 feet to the Southwest corner of said Section 26 and the POINT OF BEGINNING, said corner being common to Sections 25 and 26 containing 291.4318 acres more or less.



Washburne, Fran. W. Trust  
2732 48th St. Washburne



## **EXHIBIT 2**

### **LOCATION OF QUALIFIED INVESTMENT/QUALIFIED PROPERTY**

All Qualified Property owned or leased by the Applicant or its Affiliates and located within the boundaries of both the Borger Independent School District and the *Hutchinson County Reinvestment Zone Cominco/Agrium 2013-1* described in **EXHIBIT 1** will be included in and subject to this Agreement, except as expressly excluded by the terms of **EXHIBIT 3** of this Agreement.



### EXHIBIT 3

#### DESCRIPTION OF THE APPLICANT'S QUALIFIED INVESTMENT/QUALIFIED PROPERTY

Applicant's Qualified Property and/or Applicant's Qualified Investment shall include the buildings and improvements and all fixtures and personal property, as further described below under the heading "Project Description," which are owned by Applicant or its Affiliates and located within the boundaries of the *Hutchinson County Reinvestment Zone Cominco/Agrium 2013-1* described in **EXHIBIT 1**, with the exception of the listed property described below under the heading "Excluded Property" which shall be excluded:

#### PROJECT DESCRIPTION

The project includes construction of new improvements and acquiring new machinery, equipment and other tangible personal property. The project shall include, as described herein, real and personal property to be used in connection with the expansion of the existing nitrogen fertilizer manufacturing facility, located just outside the City of Borger in Hutchinson County, Texas.

The proposed expansion project, involves:

- a) debottlenecking the existing ammonia plant to produce 1,900 tons/day (30% increase);
- b) constructing a new 1,980 ton/day urea plant which replaces our existing 275 ton/day urea plant; and
- c) constructing a new urea storage and loading facilities and expanding our rail/truck transport infrastructure.

And includes the following main processing units:

- Reformer upgrades
- Waste heat boiler
- Significant internal upgrades to converters
- Heat Exchangers
- Mole Sieves
- Significant upgrades to syngas and Ammonia compressors
- Ammonia Unitized Chiller
- Process Air Compressor

- Flare systems
- Urea melt production equipment
- Urea Granulation equipment
- CO2 compressor
- Steam generation equipment
- Raw Water purification equipment
- Cooling towers
- Urea Storage Building
- MCC Bldg for Urea Melt and Granulation
- Security/Scale House
- Injection Well
- MCC Bldg for Urea Storage Bldg with Space Provided for Future Expansion
- Operator's Room
- Analyzer Shelter

#### **EXCLUDED PROPERTY**

Excluded from the definition of Applicant's Qualified Property and/or Applicant's Qualified Investment are certain items of pre-existing machinery, equipment and other tangible personal property which are owned by Applicant. For purposes of identification and appraisal, both the tax payer and appraisal district will take notice of the following account numbers and property type.

<b>Account Number</b>	<b>2013 Market Value</b>
0003563-0-9900240	\$82,230.00
0003563-0-9900140	\$5,859,940.00
0003563-0-9900141	\$59,940.00
0003563-0-9900200	\$4,330.00
0003563-0-9900210	\$199,050.00
0003563-0-9900170	\$298,280.00 TNRCC
0003563-0-9900171	\$347,830.00 TNRCC
0003563-0-9900190	\$366,920.00 TNRCC
0003563-0-9900260	\$4,295,270.00
0003563-0-9998010	\$0
0003563-0-9998040	\$77,070.00 TNRCC
0003563-0-9900220	\$193,720.00
0003563-0-9900100	\$291,430
0003563-0-9900120	\$387,860.00
0003563-0-9900160	\$19,084,350.00
0003563-0-9900165	\$2,493,210.00
0003563-0-9900166	\$501,970.00
0003563-0-9900180	\$10,878,510.00
0003563-0-9900185	\$234,240.00
0003563-0-9998000	\$0

**Agreement for Limitation on Appraised Value**  
 Between Borger Independent School District and Cominco Fertilizer Partnership  
 Texas Comptroller Application No. 317  
 December 30, 2013



0003563-0-9998020

\$46,370.00 TNRCC

The preceding accounts are existing accounts as of this date, October 11, 2013, and do not and will not contain any property or property value to be included as part of the new property delivered, installed, constructed or otherwise put in service after the date of the issuance of a substantially complete application letter and will not be eligible for any value limitation under the Chapter 313 program. All existing accounts will continue to be appraised as in the past including consideration for depreciation, functional or economic obsolescence and legally entitled exemptions. Beginning on January 1, 2014, entirely new accounts will be created by the Hutchinson Central Appraisal District chief appraiser to identify business personal property and real property improvements delivered, installed, constructed or otherwise put in service from the date of the substantially complete letter through December 31, 2015. Each new account number and appraisal record created during the qualifying period for property eligible for the Chapter 313 school district value limitation will list two values for Borger Independent School District:

1. The value according to the Chapter 313 school district value limitation agreement in each year that Cominco Fertilizer Partnership remains eligible for the value limitation. This value will be utilized in determining the taxable value for the maintenance & operations portion of the school district's tax rate; and
2. The value according to the market value of all property without the application of the Chapter 313 value limitation which will be derived by determining the replacement cost new less depreciation and any other appropriate factors including, but not limited to, economic or functional obsolescence, pollution control exemptions and/or freeport exemptions. This value will be utilized in determining the taxable value for the interest & sinking fund portion of the school district's tax rate.

Beginning on January 1, 2014, all property, real and personal, existing and new, shall be listed under the legal ownership name of such property. The legal owner of the property is and will be Cominco Fertilizer Partnership. All accounts, both existing and new, shall list Cominco Fertilizer Partnership as the owner until the ownership of the property is legally transferred to another entity evidenced by a written document filed at the Hutchinson County Courthouse.