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Texas Commission on Environmental Quality

√ **Notice of Availability of the Draft Restoration Plan and
Environmental Assessment and Federal Consistency
Determination with Coastal Management Plan**

AGENCIES: Texas Commission on Environmental Quality (TCEQ or commission), Texas Parks and Wildlife Department (TPWD), Texas General Land Office (GLO), United States Department of the Interior (DOI), and National Oceanic and Atmospheric Administration (NOAA) (collectively the trustees).

ACTION: Notice of availability of a Draft Restoration Plan and Environmental Assessment (Draft RP/EA) for natural resource injuries and ecological service losses associated with the Old Gulf Oil Refinery Site (the Site) in Port Arthur, Jefferson County, Texas, the Federal Consistency Determination for this plan under the Texas Coastal Management Program (CMP), and a 30-day public comment period on the Draft RP/EA and the Federal Consistency Determination beginning May 21, 2004.

SUMMARY: Notice is hereby given that the Draft RP/EA for the Site and the Federal Consistency Determination with the CMP related to the activities outlined in the Draft RP/EA are available for public review and comment.

The Draft RP/EA has been prepared by the state and federal natural resource trustees to address natural resource injuries and resource service losses of an ecological nature resulting from releases of hazardous substances to areas at or adjacent to the Site. The Draft RP/EA presents the trustees' assessment of the natural resource injuries and ecological service losses in areas at or adjacent to the Site and their proposed plan to compensate for those losses by restoring ecological resources

and services. The trustees will consider comments received during the public comment period before finalizing the RP/EA for these ecological losses.

The Federal Consistency Determination for this Draft RP/EA outlines the basis for NOAA and DOI's determination that the restoration actions described in the Draft RP/EA are consistent to the maximum extent possible, and will be undertaken in a manner consistent with the applicable policies of the CMP. Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the goals and policies of the CMP identified in 31 Texas Administrative Code (TAC) Chapter 501. Under 31 TAC §506.20(c), a determination of consistency with the CMP must be made by the federal trustees for natural resource damage assessment and restoration plans that are the product of a joint cooperative natural resource damage assessment by state and federal trustees. Review of the Federal Consistency Determination is delegated to the state trustee agencies (TCEQ, TPWD, and GLO). The state trustees will consider all comments received during the public comment period in their evaluation of the Federal Consistency Determination for the Draft RP/EA and will, depending on the comments received, submit a letter of concurrence to the federal trustees.

To receive a copy of the Draft RP/EA and/or the Federal Consistency Determination with the CMP, interested members of the public are invited to contact Richard Seiler, Texas Commission on Environmental Quality, Remediation Division, MC 225, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2523 or fax (512) 239-4814.

DATES: Comments must be submitted in writing on or before June 21, 2004, to Richard Seiler, Texas Commission on Environmental Quality, Remediation Division, MC 225, P.O. Box 13087, Austin, Texas 78711-3087. The trustees will consider all written comments prior to finalizing the RP/EA and completing their review of the Federal Consistency Determination.

AUTHORITY: The opportunity for public review and comment on the Draft RP/EA is required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code (USC) §9622(i), and parallels the provisions included in 43 Code of Federal Regulations (CFR) §11.32(c) of the federal natural resource damage assessment regulations.

SUPPLEMENTARY INFORMATION: The Site is located in Port Arthur, Jefferson County, Texas and encompasses releases of hazardous substances from the Premcor Port Arthur Refinery Site (the Old Gulf Oil Refinery Site). The Gulf Oil Company built and began operating a refinery at this site around 1902 to refine Spindletop crude oil. In 1984, Chevron acquired Gulf Oil Corporation. Premcor Refining Group, Inc. purchased the refinery in 1995 from Chevron and today it refines approximately 250,000 barrels per day of crude oil.

In a 1997 Agreed Order (Docket Number 970404IHWE; SWR Number 30004) with Chevron, the commission identified numerous solid waste management units (SWMUs) for remedial investigation. The Agreed Order consists of 12 ordering provisions and five attachments that stipulate how and when remedial investigations are to be completed.

Chevron began remediation efforts and voluntarily began to implement source control, *in-situ* stabilization and capping of identified wastes, excavation, etc., to address potential site-related human health and ecological risks. Prior to the Agreed Order, Chevron had implemented remedial actions at the Site. Chevron is expected to have completed all on-site corrective action (remedial) construction activities by August 2005. The final remedy also included consolidating waste, performing grading and capping within the Site's waste areas, installing controls to manage and treat storm water run-off from inactive and completed areas, making adjustments to dike elevations and slopes necessary to construct caps, and monitoring to prevent areas of excessive settlement

and protect against future erosion. As planned and when implemented, the remedy selected to address the contamination at the Site is expected to protect natural resources in the vicinity of the Site from further or future injury.

Paralleling TCEQ's remedial investigations at the Site, the trustees evaluated natural resource injuries and ecological service losses resulting from releases of hazardous substances to areas at or adjacent to the Site. The trustees' evaluation focused on natural resource injuries or service losses of an ecological nature caused by hazardous substances at the Site based on known contamination and anticipated remedial actions. The trustees identified polynuclear aromatic hydrocarbons, lead, zinc, nickel, chromium, and copper as contaminants of concern due to exceedances of designated criteria in the surface water and sediments of habitats in areas at or adjacent to the Site. The trustees then determined the total acreage of habitats impacted by the contaminants exceeding these criteria.

The Draft RP/EA identifies the information and methods being used to define the natural resource injuries and lost ecological services, including the scale of restoration actions, and identifies the restoration actions that are preferred to restore, replace, or acquire resources or services equivalent to those lost.

For further information, contact Richard Seiler at (512) 239-2523 or email rseiler@tceq.state.tx.us.

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