Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 13, 2007

To: Persons on the Attached Mailing List (by mail and facsimile as indicated)

Re: Appeal of the Executive Director's Negative Use Determination regarding BJ Services Company USA, TCEQ Use Determination No. 06-10292; TCEQ Docket No. 2007-0490-MIS-U.

The above-referenced appeal (Appeal) was filed by W. Ted Clark, UHY Advisors SALT, LLC on the behalf of BJ Services Company, USA (Appellant). Appellant requests Commission consideration of the negative use determination portion of the Executive Director's March 2007 decision in Use Determination No. 06-10292. As is our general practice with regard to Use Determination appeals, this office is requesting the filing of legal briefs or responses to the Appeal by the Executive Director, the Office of Public Interest Counsel, and the Chief Appraiser for the Harris County Appraisal District and the subsequent filing of a legal reply to the responses by the Appellant. The briefs should contain a full discussion of the parties' legal and factual reasons for their positions.

This letter is to notify the Chief Appraiser for the Harris County Appraisal District, the Executive Director, and the Office of Public Interest Counsel that they may file a response brief in the Commission's Office of Chief Clerk (OCC) on or before **5:00 P.M.** on **Monday, May 14, 2007**. The Appellant may file a reply brief to the response briefs on or before **5:00 P.M.** on **Monday, June 4, 2007**. To be considered timely, an original and eleven copies of any response or reply brief must be received in the OCC on or before the applicable 5:00 P.M. deadline. All briefs filed with the OCC should also be addressed to the attention of the Agenda Docket Clerk and be marked with the TCEQ Docket number provided above. All response and reply briefs should also be mailed to all other persons on the attached mailing list on the same day mailed or filed in the Office of Chief Clerk.

The Commission's determination is primarily a legal determination based on the applicable statutes, rules, and guidance documents. All briefs should address with specificity the applicable statute(s), rule(s), and parts of guidance document(s) that support the position of the filer. For instance, the specific statute in a state or federal act or specific rule in an applicable chapter of the agency's rules should be cited rather than just the act or chapter only as support for the position that a positive use determination is appropriate with regard to particular property. In addition, an explanation should be provided how the specific statute or rule supports the requested positive use determination if that is the filer's position. After receipt of all briefs, you will be notified by subsequent letter of the Commission meeting during which the Commissioners will consider this matter.

Chapter 17 of the Commission's rules (30 Texas Administrative Code Chapter 17) contains the requirements applicable to Use Determinations, including the rules that address the review standards and appeals process. The website of the Texas Secretary of State contains a complete copy of the Texas Administrative Code, including Chapter 17 of Title 30, at http://info.sos.state.tx.us /pls/pub/readtac$ext.viewtac.

If you have any questions about the briefing schedule or related matters, please contact Celeste A. Baker, Assistant General Counsel, at 512/239-5527.

Respectfully,

Derek Seal

Derek Seal
General Counsel

Mailing List
H:/counsel/baker/letters/07/Prop2brief/BJServicesCompanyUSABrief.ltr

Mailing List
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TCEQ Docket No. 2007-0490-MIS-U

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