Bryan W. Shaw, Ph.D., *Chairman*
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Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 24, 2009

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

Re: Appeal of the Executive Director's Negative Use Determination regarding Valero Refining – Texas, L.P., TCEQ Use Determination No. 06-10285; TCEQ Docket No. 2007-0724-MIS-U.; and TCEQ Use Determination No. 06-10284; TCEQ Docket No. 2007-0740-MIS-U.

The above-named matter was previously scheduled to be considered by the Texas Commission on Environmental Quality ("TCEQ") at its January 28, 2009, public meeting. On January 16, 2009, Valero Refining – Texas, L.P., Diamond Shamrock Refining Company, L.P., and The Premcor Refining Group, Inc. (Valero) filed its *Supplemental Response in Reply to the Executive Director, Public Interest Counsel, Galveston Central Appraisal District, and Harris County Appraisal District's Response Briefs to the Appeal of the Executive Director's Negative Use Determinations* (Valero's Supplemental Response). The Executive Director thereafter filed the *Executive Director's Reply to Valero's Supplemental Response and Motion for Continuance* (ED's Motion). The ED's Motion asked that the Commission either refrain from considering Valero's Supplemental Response, or continue the matter to a future agenda to allow time to prepare a reply brief. Pursuant to the ED's Motion, the Office of General Counsel continued the matter indefinitely by letter dated January 22, 2009.

In order for the parties to provide the Commission with a complete discussion of any new issues raised by Valero's Supplemental Response, the Office of General Counsel is now requesting the filing of response briefs by the Executive Director, the Office of Public Interest Counsel, and the **Chief Appraiser for the Galveston County Appraisal District** and the subsequent filing of a reply brief by Valero.

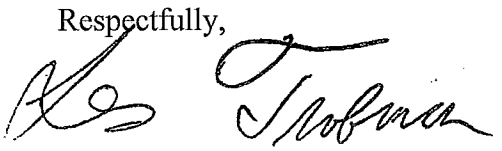
This letter is to notify the Chief Appraiser for the Galveston County Appraisal District, the Executive Director, and the Office of Public Interest Counsel that they may file a brief in the Commission's Office of Chief Clerk (Chief Clerk or OCC) on or before **5:00 P.M.** on **Tuesday, December 15, 2009**. Valero may file a reply brief on or before **5:00 P.M.** on **Wednesday, December 23, 2009**. Briefs may be filed with the Chief Clerk electronically at http://www10.tceq.state.tx.us/epic/efilings/ ***or*** by filing an original and 7 copies with the Chief Clerk. To be considered timely, a 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 numbers provided above. All 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. After receipt of all briefs, you will be notified by subsequent letter of the Commission meeting during which the Commission 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 (http://www.sos.state.tx.us/tac/index.shtml) contains a complete copy of the Texas Administrative Code, including Chapter 17 of Title 30.

If you have any questions about the briefing schedule or related matters, please contact John Sedberry, Assistant General Counsel, at 512-239-6575.

Respectfully,



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