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FACSIMILE TRANSMITTAL

To:	Commissioner Bryan Shaw	**Fax: 512/239-5533**	
From:	Michael Vasquez, Program Manager	**Date:**	January 8, 2010
Re:	Valero Appeals	**Pages:**	2

☑ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply**

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January 8, 2010

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Commissioner Bryan W. Shaw
Chairman, Texas Commission on Environmental Quality
MC-100
P.O. Box 13087
Austin, Tx 787111
Via Fax: 512/239-5533

Re: **Valero Pollution Control Property Appeals (2007-0724-MIS-U and 2007-0732-MIS-U through 2007-0740-MIS-U)**

Dear Chairman Shaw:

The Texas Conference of Urban Counties agrees with the Executive Director's recommendations in the above appeals and respectfully requests that the Commission deny the appeals and affirm the Executive Director's Tier II negative use determinations.

The Urban Counties is submitting this letter to encourage the TCEQ to remain diligent in ensuring that a dangerous precedent is not set that would establish a policy for TCEQ that could impact numerous future applications.

Hydrotreaters and other desulfurization equipment are used to improve and protect the function of refinery equipment and serve ultimately to enhance profitability by producing cleaner motor vehicle fuels for sale. Since they have productive value and are used to make a marketable product for sale under modern standards, they should not qualify as pollution control properties.

While changing fuel standards do require fuel producers to change their production equipment, it must be pointed out that these changes are not made to meet a specific environmental regulation on industry, but are instead necessary to adjust their product to satisfy the market. It is irrelevant whether the market changed due to consumer demand or due to federal requirements; the market has determined a cleaner product is preferable and motor fuel producers must adapt to the change as a cost of doing business.

It bears repeating that the statutory language implementing the Prop. 2 program is quite clear on this issue:

"A person is not entitled to an exemption from taxation...solely on the basis that the person manufactures or produces a product...that prevents, monitors, controls, or reduces...pollution".

The potential for damage to the property tax system and the shift of additional tax burden to residential property owners that could result, make it essential that TCEQ maintain a narrow interpretation of the Prop. 2 provision. Prop. 2 was intended to permit a property tax exemption only for property that is installed to meet or exceed specific rules or regulations for the prevention or reduction of pollution.

Finally, it is our understanding that the appellants repeatedly ignored requests from the TCEQ for additional information upon which to make its determinations. Because of the scope and permanence of exemptions granted under the Prop. 2 program, it is imperative that TCEQ ensure that companies are responsive to requests for clarification or additional information in making its determinations. If a company fails to fulfill its statutory and regulatory obligations in requesting a determination, then the request should be denied.

The Urban Counties appreciates your consideration of our comments on this matter.

Sincerely,

Donald Lee
Executive Director

cc: Commissioner Buddy Garcia
Commissioner Carlos Rubinstein