



HARRIS COUNTY OFFICE OF LEGISLATIVE RELATIONS

January 12, 2010

2010 JAN 12 PM 3:21
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Ms. LaDonna Castanuela
Chief Clerk
Texas Commission on Environmental Quality
P. O. Box 13087
MC 105
Austin, Texas 78711-3087
Fax (512) 239-3331

Re: Docket Nos. 2007-0724-MIS-U, 2007-0732-MIS-U, 2007-0733-MIS-U, 2007-0734-MIS-U, 2007-0735-MIS-U, 2007-0736-MIS-U, 2007-0737-MIS-U, 2007-0738-MIS-U, 2007-0739-MIS-U, 2007-0740-MIS-U. Consideration of the appeals filed by Valero Refining - Texas, L.P., Diamond Shamrock Refining Company, L.P., and The Premcor Refining Group, Inc. with regard to ten use determinations issued by the Executive Director regarding Valero Corpus Christi Refinery (Nueces County), Valero Houston Refinery (Harris County), Diamond Shamrock McKee Refinery (Moore County), Valero Port Arthur Refinery (Jefferson County), and Valero Texas City Refinery (Galveston County). Assigned Application Numbers 06-10268, 06-10270 and 06-10271, and 06-10279 through 06-10285.

Dear Ms. Castanuela:

I understand that the referenced use determinations will be considered tomorrow. The Harris County Appraisal District will be represented and although we fully support their position, we thought it important that the Commission hear directly from Harris County itself, since the county is an entity separate and distinct from the appraisal district. I therefore submit these comments on behalf of the Harris County Commissioners Court for presentation to the TCEQ Chairman and Commissioners.

As the Commission is aware, industrial facilities comprise a significant portion of Harris County's tax base. Consequently, we must rely on the Commission to take great care in making Proposition 2 use determinations. Should the Commission grant the above appeals of the Executive Director's determinations, it would have the effect of shifting part of the tax burden in Harris County from the industrial sector to residential taxpayers and would serve as a dangerous precedent, opening the door to other industrial tax exemptions based on the production of pollution-reducing products, clearly contrary to the intent of the Legislature in implementing Proposition 2.

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Attached is a letter from the Conference of Urban Counties (CUC) on this issue. Harris County endorses and wholly agrees with the position stated in the CUC letter and would urge the Commission to deny the appeals.

Harris County greatly appreciates the Commission's consideration of these comments.

Sincerely,



Cathy Sisk
Director

c: Mr. Les Trobman
General Counsel
Fax (512) 239-5525

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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".

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Commissioner Shaw
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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

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Chief Clerk
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SENDER:

**Cathy Sisk
Director, Office of Legislative Relations
Phone No. 713-755-7872 Fax No. 713-755-2680**

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