Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2009 FEB 23 PM 4: 41

CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 23, 2009

To: Persons on the attached Mailing List (By mail, and facsimile as indicated)

Re: Appeals of the Executive Director's Use Determinations regarding Tenaska Gateway Partners, Ltd. (Rusk County), Freestone Power Generation LP (Freestone County), Borger Energy Associates, LP (Hutchinson County), Brazos Valley Energy L.P. (Fort Bend County), Freeport Energy Center, L.P. (Brazoria County), and Navasota Wharton Energy Partners LP (Wharton County), TCEQ Use Determination Nos. 07-11914, 07-11966, 07-11971, 07-11969, 07-11994 and 07-11926; TCEQ Docket Nos. 2008-0830-MIS-U, 2008-0831-MIS-U, 2008-0832-MIS-U, 2008-0849-MIS-U, 2008-0850-MIS-U, and 2008-0851-MIS-U

The above-named matters are currently scheduled to be considered by the Texas Commission on Environmental Quality ("TCEQ") at its February 25, 2009, public meeting. The TCEQ Executive Director (ED) filed a *Motion for Continuance* (ED's Motion) on February 23, 2009. The ED's Motion asks that the Commission continue its consideration of these above-named matters to allow the ED more time to evaluate its current recommendation. The ED states that none of the parties oppose the ED's Motion.

Pursuant to the ED's Motion, the Office of General Counsel has determined to continue the matter from the February 25, 2009 meeting. Accordingly, this matter is continued indefinitely pursuant to 30 TAC § 10.4. The Office of General Counsel will notify the parties by subsequent letter of the future agenda setting and any associated filing deadlines.

If you have any questions regarding this matter, please contact John Sedberry, Assistant General Counsel, at 512-239-6575.

Respectfully,

Les Trobman
General Counsel

Mailing List

Mailing List

Tenaska Gateway Partners, Ltd. (Rusk County), Freestone Power Generation LP (Freestone County), Borger Energy Associates, LP (Hutchinson County), Brazos Valley Energy L.P. (Fort Bend County), Freeport Energy Center, L.P. (Brazoria County), and Navasota Wharton Energy Partners LP (Wharton County)
TCEQ Docket Nos. 2008-0830-MIS-U, 2008-0831-MIS-U, 2008-0832-MIS-U, 2008-0849-MIS-U, 2008-0850-MIS-U, and 2008-0851-MIS-U

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2009 FEB 23 PM 3:34
CHIEF CLERKS OFFICE

February 23, 2009

LaDonna Castañuela, Chief Clerk
TCEQ Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Re: TCEQ Docket Nos. 2008-0830-MIS-U (UD No. 07-11914/Tenaska Gateway Partners, Ltd.— Rusk County Appraisal District), 2008-0831-MIS-U (UD No. 07-11966/Freestone Power Generation, L.P.— Freestone Central Appraisal District), 2008-0832-MIS-U (UD No. 07-11971/Borger Energy Associates, L.P.— Hutchinson County Appraisal District), 2008-0849-MIS-U (UD No. 07-11969/ Brazos Valley Energy, L.P.— Fort Bend Central Appraisal District), 2008-0850-MIS-U (UD No. 07-11994/Freeport Energy Center, L.P.— Brazoria County Appraisal District), 2008-0851-MIS-U (UD No. 07-11926/Navasota Wharton Energy Partners, L.P.— Wharton County Appraisal District).
Executive Director's Motion for Continuance

Dear Ms. Castañuela:

Enclosed for filing, please find a copy of the *"Executive Director's Motion for Continuance"* regarding the above referenced use determination appeals. If you have any questions, please do not hesitate to contact me at (512) 239-0969.

Sincerely,

Timothy J. Reidy
Staff Attorney
Environmental Law Division

TCEQ Docket Numbers
2008-0830-MIS-U (UD 07-11914/Tenaska Gateway Partners, Ltd. – Rusk County)
2008-0831-MIS-U (UD 07-11966/Freestone Power Generation, L.P. – Freestone County)
2008-0832-MIS-U (UD 07-11971/Borger Energy Associates, L.P. – Hutchinson County)
2008-0849-MIS-U (UD 07-11969/Brazos Valley Energy, L.P. – Fort Bend County)
2008-0850-MIS-U (UD 07-11994/Freeport Energy Center, L.P. – Brazoria County)
2008-0851-MIS-U (UD 07-11926/Navasota Wharton Energy Partners, L.P. – Wharton County)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2009 FEB 23 PM 3: 35
CHIEF CLERKS OFFICE

APPEAL OF THE EXECUTIVE	§	**BEFORE THE**
DIRECTOR'S USE DETERMINATIONS	§	
ISSUED TO	§	
TENASKA GATEWAY PARTNERS, LTD.;	§	
FREESTONE POWER GENERATION, L.P.;	§	**TEXAS COMMISSION ON**
BORGER ENERGY ASSOCIATES, L.P.;	§	
BRAZOS VALLEY ENERGY, L.P.;	§	
FREEPORT ENERGY CENTER, L.P.; and	§	
NAVASOTA WHARTON ENERGY	§	
PARTNERS, L.P.	§	**ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S MOTION FOR CONTINUANCE

TO THE GENERAL COUNSEL OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

The Commission is scheduled to consider the above referenced use determination appeals at its February 25, 2009 agenda meeting. The Executive Director respectfully requests that, pursuant to Section 10.4(b) of Title 30 of the Texas Administrative Code, the Commission continue its consideration of these matters to allow the Executive Director more time to evaluate its current recommendation. The Executive Director has conferred with all parties, and none of the parties oppose this motion.

Respectfully submitted,
Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By Tim Reidy
Timothy J. Reidy, Staff Attorney
Environmental Law Division

State Bar No. 24058069
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0969
REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on February 23, 2009, a copy of the "Executive Director's Motion for Continuance" was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and was sent by hand delivery, first-class mail, or facsimile to all persons on the attached mailing list.

Timothy J. Reidy, Staff Attorney
Environmental Law Division
State Bar No. 24058069

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2009 FEB 23 PM 3:35
CHIEF CLERKS OFFICE

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 13, 2009

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

Re: Appeals of the Executive Director's Use Determinations regarding Tenaska Gateway Partners, Ltd. (Rusk County), Freestone Power Generation LP (Freestone County), Borger Energy Associates, LP (Hutchinson County), Brazos Valley Energy L.P. (Fort Bend County), Freeport Energy Center, L.P. (Brazoria County), and Navasota Wharton Energy Partners LP (Wharton County), TCEQ Use Determination Nos. 07-11914, 07-11966, 07-11971, 07-11969, 07-11994 and 07-11926; TCEQ Docket Nos. 2008-0830-MIS-U, 2008-0831-MIS-U, 2008-0832-MIS-U, 2008-0849-MIS-U, 2008-0850-MIS-U, and 2008-0851-MIS-U

This letter is to notify you that the Texas Commission on Environmental Quality (Commission) will consider the above-described 6 appeals and all related filings during the Commission's public meeting scheduled to begin at **9:30 A.M.** on **Wednesday, February 25, 2009**.

During the public meeting, the Appraisal Districts for Rusk, Freestone, Hutchinson, Fort Bend, Brazoria, and Wharton Counties (Appraisal Districts) or their representative(s), may speak first and save part of their time for rebuttal since the Appraisal Districts have filed the appeals at issue here. The Appraisal Districts have 3 minutes each for their oral presentations, including the time for rebuttal argument. Tenaska Gateway Partners, Ltd., Freestone Power Generation LP, Borger Energy Associates, LP, Brazos Valley Energy L.P., Freeport Energy Center, L.P., and Navasota Wharton Energy Partners LP (Applicants) may speak next and have 3 minutes each for their oral presentations. If any parties share a representative, their allotted time may be combined as appropriate. The Applicants will be followed by the Executive Director and the Office of Public Interest Counsel. The Executive Director and the Office of Public Interest Counsel each have a total time of 5 minutes for their oral presentations.

If you have any questions about the public meeting or related matters, please contact John Sedberry at (512) 239-6575.

Very truly yours,

Les Trobman
General Counsel

Mailing List

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Tenaska Gateway Partners, Ltd. (Rusk County), Freestone Power Generation LP (Freestone County), Borger Energy Associates, LP (Hutchinson County), Brazos Valley Energy L.P. (Fort Bend County), Freeport Energy Center, L.P. (Brazoria County), and Navasota Wharton Energy Partners LP (Wharton County)
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Mark R. Vickery, P.G., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 7, 2008

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

Re: Appeal of the Executive Director's Use Determinations regarding Freestone Power Generation LP, TCEQ Use Determination No. 07-11966; TCEQ Docket No. 2008-0831-MIS-U.

The above-referenced appeal (Appeal) was filed by the Freestone Central Appraisal District (Appellant). Appellant requests Commission consideration of the positive use determination for the Use Determination No. above. As is our general practice with regard to Use Determination appeals, this office is requesting the filing of legal briefs or responses by the Executive Director, the Office of Public Interest Counsel, and **Freestone Power Generation LP (Freestone)**, 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.

Recognizing the upcoming holiday season, the Office of General Counsel is notifying Freestone, 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 **Friday, December 5, 2008**. The Appellant may file a reply brief to the response briefs on or before **5:00 P.M.** on **Wednesday, January 7, 2009**. To be considered timely, <u>an original and seven copies</u> of any response or reply brief must be <u>received</u> 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 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. 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 appeal 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.

Very Truly Yours,

Les Trobman
General Counsel

Mailing List

Mailing List
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TCEQ Docket No. 2008-0831-MIS-U

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