Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 9, 2014

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

Re: Notice of Agenda Setting for Appeals Regarding the Executive Director's Negative Use Determinations for the Application and Docket Nos. Referenced in the Table.

This letter provides notice that the following appeals of the Executive Director's Negative Use Determinations have been set on the Texas Commission on Environmental Quality's (Commission) public meeting scheduled to begin at **9:30 A.M.** on **Wednesday, September 24, 2014**.

Application No./ TCEQ Docket No.	Appellant	County
No. 07-11926/ Docket No. 2008-0851-MIS-U	CER-Colorado Bend Energy LLC	Wharton County
Nos. 12210 and 12211/ Docket No. 2012-1559-MIS-U	Topaz Power Group, LLC	Nueces County
Nos. 15505, 16410, 16411, and 16412/ Docket No. 2012-1562-MIS-U	Cottonwood Energy Company LP	Newton County
No. 12268/ Docket No. 2012-1586-MIS-U	Wolf Hollow I, LP	Hood County
No. 13534/ Docket No. 2012-1587-MIS-U	South Texas Electric Cooperative, Inc.	Victoria County
No. 13544/ Docket No. 2012-1635-MIS-U	Brazos Electric Cooperative	Johnson County
No. 16413/ Docket No. 2012-1648-MIS-U	Brazos Electric Cooperative	Jack County
No. 12271/ Docket No. 2012-1650-MIS-U	Midlothian Energy Limited Partnership	Ellis County
No. 12202/ Docket No. 2012-1660-MIS-U	Wise County Power Company, LLC	Wise County
No. 12272/ Docket No. 2012-1682-MIS-U	Hays Energy Limited Partnership	Hays County
No. 12203/ Docket No. 2012-1662-MIS-U	Ennis Power Company, LLC	Ellis County
No. 07-11914/ Docket No. 2008-0830-MIS-U	Tenaska Gateway Partners, Ltd.	Rusk County
No. 07-11971/ Docket No. 2008-0832-MIS-U	Borger Energy Associates, LP	Hutchinson County
No. 12826/ Docket No. 2012-1683-MIS-U	EIF Channelview Cogeneration LLC	Harris County
No. 07-11994/ Docket No. 2008-0850-MIS-U	Freeport Energy Center, LLC	Brazoria County
No. 07-11969/ Docket No. 2008-0849-MIS-U	Brazos Valley Energy, LLC	Fort Bend County
No. 07-11966/ Docket No. 2008-0831-MIS-U	Freestone Power Generation, LLC	Freestone County

The meeting will take place in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas. The Commission will consider the applications, the appeals, and timely responses and replies.

The Commission will take oral argument on the matters listed in the table above. Due to the overlap of issues presented in the appeals, the General Counsel is likely to recommend that the Commission take up the items together. In light of this, the fact that certain counsel represent multiple parties, and the extensive briefing that has already been filed on these matters, we request that the Appellants and the Appraisal Districts each coordinate to divide the time for oral argument. Total oral argument time for the Appellants will be 20 minutes. Appellants will present the item first and may save a portion of the 20 minutes for rebuttal. Representatives of the Appraisal Districts will speak next and will also have 20 minutes to divide among themselves. The Appellants and Appraisal Districts should contact Melissa Chao, Office of the Chief Clerk at (512) 239-5234 by 5:00 p.m. Monday, September 22, 2014 to let her know how the time will be apportioned. The Executive Director and the Office of Public Interest Counsel will speak after the appraisal districts and will each have ten minutes for their respective oral presentations.

If you have any questions about the public meeting or related matters, please contact Tracy Gross at (512) 239-1736 or Greg Merrell at (512) 239-0669.

Sincerely,

Anne Idsal
General Counsel

Mailing List

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Application Nos./ TCEQ Docket Nos.	Appellant	County
No. 07-11926/ Docket No. 2008-0851-MIS-U	CER-Colorado Bend Energy, LLC	Wharton County
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Nos. 15506, 16410, 16411, and 16412/ Docket No. 2012-1562-MIS-U	Cottonwood Energy Company, LP	Newton County
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No. 07-11914/ Docket No. 2008-0830-MIS-U	Tenaska Gateway Partners, Ltd.	Rusk County
No. 07-11971/ Docket No. 2008-0832-MIS-U	Borger Energy Associates, LP	Hutchinson County
No. 12826/ Docket No. 2012-1683-MIS-U	EIF Channelview Cogeneration, LLC	Harris County
No. 07-11994/ Docket No. 2008-0850-MIS-U	Freeport Energy Center, LLC	Brazoria County
No. 07-11969/ Docket No. 2008-0849-MIS-U	Brazos Valley Energy LLC	Fort Bend County
No. 07-11966/ Docket No. 2008-0831-MIS-U	Freestone Power Generation, LLC	Freestone County

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2014 JUL 16 PM 3:06
CHIEF CLERKS OFFICE

July 16, 2014

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

Re: Appeal of the Executive Director's Use Determination regarding Borger Energy Associates, LP's Use Determination Application No. 07-11971, TCEQ Docket No. 2008-0832-MIS-U

The above-referenced appeal (Appeal) was filed by Borger Energy Associates, LP (Appellant). The Appellant requests Commission consideration of the Executive Director's negative use determination for Use Determination Application No. 07-11971. 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 Hutchinson County Appraisal District; and the subsequent filing of a legal reply to the responses by the Appellant. The briefs should respond to the procedural and substantive issues raised in the Appeal and contain a full discussion of the parties' legal and factual reasons for their positions. Because briefs are also being requested on a number of other similar appeals and with the same briefing deadlines, the Executive Director, the Office of Public Interest Counsel, and other parties to multiple appeals may elect to file a consolidated brief that addresses multiple dockets. Any consolidated briefs should discuss the substantive and procedurals issues unique to individual Appeals and the underlying use determinations, as well as those issues common to multiple dockets.

This letter is to notify the Hutchinson 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 **Friday, August 8, 2014**. The Appellant may file a reply brief to the response briefs on or before **5:00 P.M.** on **Friday, September 5, 2014**. To be considered timely, an original and seven 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 responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at www.tceq.texas.gov/goto/eFilings ***or*** by filing an original and 7 copies with the Chief Clerk of the TCEQ. 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 OCC. You will be notified by subsequent letter of the Commission public meeting during which the Commissioners will consider this matter.

Chapter 17 of the Commission's rules (30 Texas Administrative Code Chapter 17) set forth 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 Tracy Gross, Assistant General Counsel, at 512-239-1736 or Greg Merrell, Assistant General Counsel, at 512-239-0669.

Respectfully,

Anne Idsal
General Counsel

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TCEQ Docket No. 2008-0832-MIS-U

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