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

Mailing List

Application Nos./ TCEQ Docket Nos.	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. 15506, 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 Power Cooperative, Inc.	Johnson County
No. 16413/ Docket No. 2012-1648-MIS-U	Brazos Electric Power Cooperative, Inc.	Jack County
No. 12271/ Docket No. 2012-1650-MIS-U	Midlothian Energy, LLC	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, LLC	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

Mike Nasi
Jackson Walker L.L.P.
100 Congress Ave., Suite 1100
Austin, Texas 78701
512/236-2216 FAX 512/391-2194
mnasi@jw.com

Peter Low
Law Office of Peter William Low
3305 Northland Drive, Suite 500
Austin, Texas 78731
512/302-3403 FAX 512/476-6685

C. Wayne Frazell, P.E., RPA
Pritchard & Abbott, Inc.
4900 Overton Commons Court
Fort Worth, Texas 76132-3687
817/926-7861 FAX 817-927-5314

Paul Sarahan
Thompson & Knight LLP
98 San Jacinto Blvd., Suite 1900
Austin, Texas 78701
512/ 469-6106 FAX 512/469-6180
paul.sarahan@tklaw.com

W. Clayton Cain
Cullen, Carsner, Seerden & Cullen
P.O. Box 2938
Victoria, Texas 77092
FAX 361-573-2603

Whitney L. Swift
Katten Muchin Rosenman, LLP
111 Congress Avenue, Suite 1000
Austin, Texas 78701
512/691-4003 FAX 512/691-4001

Elizabeth E. Mack
Locke Lord LLP
2200 Ross Ave., Suite 2200
Dallas, Texas 75201
214/740-8598 FAX 214/756-8598

Thomas Countryman
Norton Rose Fulbright
Fulbright & Jaworski L.L.P.
300 Convent St., Suite 2100
San Antonio, Texas 78205-3792
210/270-7144 FAX 210/270-7205
tom.countryman@fulbright.com

Eric Groten
Vinson & Elkins LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512/542-8709 FAX 512/236-3272
egroten@velaw.com

Lee Vickers
Martinec, Winn, & Vickers
919 Congress Avenue, Suite 200
Austin, Texas 78701
FAX 512-476-0753

Peter Smith
Braden Metclaf
Nichols, Jackson, Dillard, Hager & Smith
1800 Ross Tower
500 North Akard
Dallas, Texas 75201
FAX (214) 965-0010

L. Susan Herrera
Robert Presiler
Legal Services Division
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975
FAX (713) 957-5210

Kathryn Tronsberg Macciocca
Duff & Phelps, LLC
2000 Market Street, Suite 2700
Philadelphia, PA 19103
215/430-6059 FAX 215/240-6334
kathryn.tronsbergmacciocca@duffandphelps.com

CER-Colorado Bend Energy, LLC
Attn: Barbara Cherry
100 Constellation Way, Suite 1700P
Baltimore, Maryland 21202

Topaz Power Group, LLC
Barney Davis Power Plane
4301 Waldron Rd.
Corpus Christi, Texas 78418

Topaz Power Group, LLC
Nueces Bay Power Plant
2002 Navigation Road
Corpus Christi, Texas 78402

Cottonwood Energy Company, LP
Cottonwood Energy Center
976 County Road 4213
Deweyville, Texas 77614

Greg Maxim
Dale Cummings
Cummings Westlake, LLC
12837 Louetta Street, Suite 201
Cypress, Texas 77429

Wolf Hollow I, LP
9201 Wolf Hollow Ct.
Granbury, Texas 76048

South Texas Electric Cooperative, Inc.
Sam Rayburn Power Plant
2849 FM 447
Nursery, Texas 77976

J. M. Harris
H & H Associates
406 FM 3016
Grapeland, Texas 75844
936/687-4230 FAX 936/687-9064
jimharrisat-h-h@hughes.net

Mike Meyers
Brazos Electric Power Cooperative, Inc.
Manager, Environmental Services
2404 LaSalle Ave.
Waco, Texas 76706
254/750-6228 FAX 254/750-6292

Brazos Electric Power Cooperative, Inc.
Johnson County Generation Facility
831 Sparks Drive
Cleburne, Texas 76033-7700

Brazos Electric Power Cooperative, Inc.
Jack County Generation Facility
3844 Henderson Ranch Road
Bridgeport, Texas 76426

Sydney Free
Wise County Power Company, LLC
Wise County Power Plant
800 Boons Creek Lane
Poolville, Texas 76487
713/636-1608

Sydney Free
Midlothian Energy Limited Partnership
Midlothian Energy Plant
4601 Brookhollow Dr.
Midlothian, Texas 76065
713/636-1608

Sydney Free
Hays Energy, LLC
Hays Energy Plant
1601 Frances Harris Lane
San Marcos, Texas 78666
713/636-1608

Sydney Free
Ennis Power Company, LLC
Ennis Power Plant
4001 West Ennis Ave.
Ennis, Texas 75119
713/636-1608

David Johnson
Tenaska Gateway Partners. Ltd.
14302 FNB Parkway
Omaha, Nebraska 68154-5212

Borger Energy Associates, LP
7001 Boulevard 26, Suite 310
N. Richland Hills, Texas 76180

Matt Wolske
EIF Channelview Cogeneration, LLC
Channelview Cogeneration Facility
P.O. Box 1639
Channelview, Texas 77530

Freeport Energy Center, LLC
717 Texas Ave., Suite 1000
Houston, Texas 77002

Brazos Valley Energy LLC
717 Texas Ave., Suite 1000
Houston, Texas 77002

Freestone Power Generation, LLC
717 Texas Ave., Suite 1000
Houston, Texas 77002

Chief Appraiser
Johnson County Appraisal District
109 N. Main St.
Cleburne, Texas 76031-4941
817/648-3000 FAX 817/645-3105

Chief Appraiser
Hood County Appraisal District
P.O. Box 819
Granbury, Texas 76048
817/573-2471 FAX 817/573-6451

Chief Appraiser
Nueces County Appraisal District
201 North Chaparral
Corpus Christi, Texas 78401
361/881-9978 FAX 361/887-6138

Chief Appraiser
Newton County Appraisal District
109 Court St.
Newton, Texas 75966
409/379-3710 FAX 409/379-4020

Chief Appraiser
Wharton County Appraisal District
308 East Milam Street
Wharton, Texas 77488-4918
979/532-8931 FAX 979/532-5691

Chief Appraiser
Fort Bend County Appraisal District
2801 B. F. Terry Blvd.
Rosenberg, Texas 77471
281/344-8623 FAX 281/762-9666

Chief Appraiser
Brazoria County Appraisal District
500 North Chenango St.
Angleton, Texas 77515-4650
979/849-7792 FAX 979/849-7984

Chief Appraiser
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975
713/957-7800 FAX 713/957-5210

Chief Appraiser
Hutchinson County Appraisal District
P.O. Box 5065
Borger, Texas 79008-5065
806/274-2294 FAX 806/273-3400

Chief Appraiser
Rusk County Appraisal District
P.O. Box 7
Henderson, Texas 75653-0007
903/657-3578 FAX 903/657-9073

Chief Appraiser
Wise County Appraisal District
400 East Business 380
Decatur, Texas 76234
940/627-3081 FAX 940/627-5187

Chief Appraiser
Ellis County Appraisal District
P.O. Box 878
Waxahachie, Texas 75165-0878
972/937-3552 FAX 972/937-1618

Chief Appraiser
Jack County Appraisal District
P.O. Box 958
Jacksboro, Texas 76058-0958
940/567-6301 FAX 940/567-3640

Chief Appraiser
Victoria County Appraisal District
2805 N. Navarro #300
Victoria, Texas 77901
361/576-3621 FAX 361/578-1662

Chief Appraiser
Hays County Appraisal District
21001 N. IH-35
Kyle, Texas 78640
512/268-2522 FAX 512/268-1945

Chief Appraiser
Freestone County Appraisal District
218 N. Mount St.
Fairfield, Texas 75840
903/389-5510 FAX 903/389-5955

Ron Hatlett
TCEQ Office of Air MC 110
P.O. Box 13087
Austin, Texas 78711-3087
FAX 512/239-6188

David Brymer
TCEQ Office of Air MC 206
P.O. Box 13087
Austin, Texas 78711-3087
FAX 512/239-6188

Don Redmond
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606

Vic McWherter
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

Bryan W. Shaw, Ph.D., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2014 JUL 16 PM 3:09
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 Brazos Valley Energy LLC's Use Determination Application No. 07-11969, TCEQ Docket No. 2008-0849-MIS-U

The above-referenced appeal (Appeal) was filed by Brazos Valley Energy LLC (Appellant). The Appellant requests Commission consideration of the Executive Director's negative use determination for Use Determination Application No. 07-11969. 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 Fort Bend 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 Fort Bend 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

Mailing List

Mailing List
Brazos Valley Energy LLC
Application No. 07-11969
TCEQ Docket No. 2008-0849-MIS-U

Elizabeth E. Mack
Locke Lord LLP
2200 Ross Ave., Suite 2200
Dallas, Texas 75201
214/740-8598 FAX 214/756-8598

Kathryn Tronsberg Macciocca
Duff & Phelps, LLC
2000 Market Street, Suite 2700
Philadelphia, PA 19103
FAX 215/240-6334

Brazos Valley Energy LLC
717 Texas Ave., Suite 1000
Houston, Texas 77002

Chief Appraiser
Fort Bend County Appraisal District
2801 B. F. Terry Blvd.
Rosenberg, Texas 77471
281/344-8623 FAX 281/762-9666

Ron Hatlett
TCEQ Office of Air MC 110
P.O. Box 13087
Austin, Texas 78711-3087
FAX 512/239-6188
ronald.hatlett@tceq.texas.gov

David Brymer
TCEQ Office of Air MC 206
P.O. Box 13087
Austin, Texas 78711-3087
FAX 512/239-6188
David.brymer@tceq.texas.gov

Don Redmond
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606
Don.redmond@tceq.texas.gov

Vic McWherter
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377
vic.mcwherter@tceq.texas.gov

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311