

TR 3

15505

128598
Texas Commission on Environmental Quality
Use Determination for Pollution Control Property
Application

A person seeking a use determination must complete this application form. For assistance in completing the application form please refer to the *Instructions for Use Determination for Pollution Control Property Application Form TCEQ-00611*, as well as the rules governing the Tax Relief Program in Title 30 Texas Administrative Code Chapter 17 (30 TAC 17). Information relating to completing this application form is also available in the TCEQ regulatory guidance document, *Property-Tax Exemptions for Pollution Control Property, RG-461*. For additional assistance, please call the Tax Relief Program at 512-239-4900.

You must supply information for each field of this application form unless otherwise noted.

Section 1. Eligibility

1. Is the property/equipment subject to any lease, lease-to-own agreement, or environmental incentive grant? Yes No
2. Is the property/equipment used solely to manufacture or produce a product or provide a service that prevents, monitors, controls, or reduces air, water or land pollution?
Yes No
3. Was the property/equipment acquired, constructed, installed, or replaced before January 1, 1994? Yes No

If the answer to any of these questions is 'Yes', then the property/equipment is not eligible for a tax exemption under this program.

Section 2. General Information

1. What is the type of ownership of this facility?
Corporation Partnership Utility
Sole Proprietor Limited Partner Other: **Limited Liability**
2. Size of Company: Number of Employees
1 to 99 500 to 999 2,000 to 4,999
100 to 499 1,000 to 1,999 5,000 or more
3. Business Description: (Briefly describe the type of business or activity at the facility)
Natural Gas-Fired Electric Power Generation
4. Provide the North American Industry Classification System (NAICS) six-digit code for this facility. **221122 - Electric Power Generation, fossil fuel**

Section 3. Type of Application and Fee

1. Select only one:

Tier I – Fee: \$150

Tier II – Fee: \$1,000

Tier III – Fee: \$2,500

2. Payment Information:

Check/Money Order/Electronic Payment Receipt Number:

Payment Type: Check

Payment Amount: \$2,500

Name on payment: Duff & Phelps

Total Amount: \$2,500

NOTE: Enclose a check, money order to the TCEQ, or a copy of the ePay receipt along with the application to cover the required fee.

Section 4. Property/Equipment Owner Information

1. Company Name of Owner: Cottonwood Energy Company LP

2. Mailing Address: 976 County Road 4213

3. City, State, Zip: Deweyville, TX 77614

4. Customer Number (CN): CN602765687

5. Regulated Entity Number (RN):RN100226109

6. Is this property/equipment owned by the CN listed in Question 4? Yes No

If the answer is 'No,' please explain: N/A

7. Is this property/equipment leased from a third party? Yes No

If the answer is 'Yes,' please explain: N/A

8. Is this property/equipment operated by the RN listed in Question 5? Yes No

If the answer is 'No,' please explain: N/A

Section 5. Name of Property/Equipment Operator (If different from Owner)

1. Company Name: N/A

2. Mailing Address: N/A

3. City, State, Zip: N/A

4. Customer Number (CN): N/A

5. Regulated Entity Number (RN):N/A

Section 6. Physical Location of Property/Equipment

1. Name of Facility or Unit where the property/equipment is physically located:

Cottonwood Energy Center

2. Type of Mfg. Process or Service: **Natural Gas-Fired Electric Power Generation**

3. Street Address: 976 County Road 4213
4. City, State, Zip: Deweyville, TX 77614

Section 7. Appraisal District with Taxing Authority

1. Appraisal District: Newton County
2. District Account Number(s): 9900015-0805153

Section 8. Contact Name

1. Company Name: Duff & Phelps, LLC
2. First Name of Contact: Greg
3. Last Name of Contact: Maxim
4. Salutation: Mr. Mrs. Ms. Dr. Other:
5. Title: Director
6. Mailing Address: 919 Congress Avenue, Suite 1450
7. City, State, Zip: Austin, TX 78701
8. Phone Number/Fax Number: (P) 512-671-5580; (F) 512-351-7911
9. Email Address: Gregory.maxim@duffandphelps.com
10. Tracking Number (optional): CC-2011-48

Section 9. Property/Equipment Description, Applicable Rule, and Environmental Benefit

For each piece, or each category, of pollution control property/equipment for which a use determination is being sought, answer the following questions.

Attach additional response sheets to the application for each piece of integrated pollution control property/equipment if a use determination is being sought for more than one (1) piece.

General Information

1. Name the property/equipment:
Unit 1 Heat Recovery Steam Generator ("HRSG") and Dedicated Ancillary Systems
2. Is the property/equipment used 100% as pollution control equipment? Yes No
If the answer is 'Yes,' explain how it was determined that the equipment is used 100% for pollution control: N/A. See Calculation of Percentage of pollution control Property in attached Cost Analysis Procedure ("CAP") Model.
3. Does the property/equipment generate a Marketable Product? Yes No
If the answer is 'Yes,' describe the marketable product: Electricity
4. What is the appropriate Tier I Table or Expedited Review List number? ERL #8
5. Is the property/equipment integrated pollution control equipment? Yes No

If the answer is 'No,' separate applications must be filed for each piece of property/equipment.

6. List applicable permit number(s) for the property/equipment: Title V Operating Permit O2338

Incremental Cost Difference

7. Is the Tier I Table percentage based on the incremental cost difference? Yes No N/A

If the answer is 'Yes,' answer the following questions:

8. What is the cost of the new piece of property/equipment? N/A
9. What is the cost of the comparable property/equipment? N/A
10. How was the value of the comparable property/equipment calculated? N/A

Property/Equipment Description

11. Describe the property/equipment. (What is it? Where is it? How is it used?)

Background: Cottonwood Energy Center

The Cottonwood Energy Center (the "Facility") is a natural gas-fired, combined cycle power generating facility located in Deweyville, Newton County, Texas. Four GE 7-FA combustion turbines are routed to four Foster Wheeler heat recovery steam generators ("HRSGs"), which provide steam to four Alstom steam turbine-generator sets. The Facility began commercial operation in December 2003. It has a base load capacity of 1,260 MW. The Facility serves the SERC Reliability Corporation region.

Pollution Control Property Description – Cottonwood Unit 1 HRSG

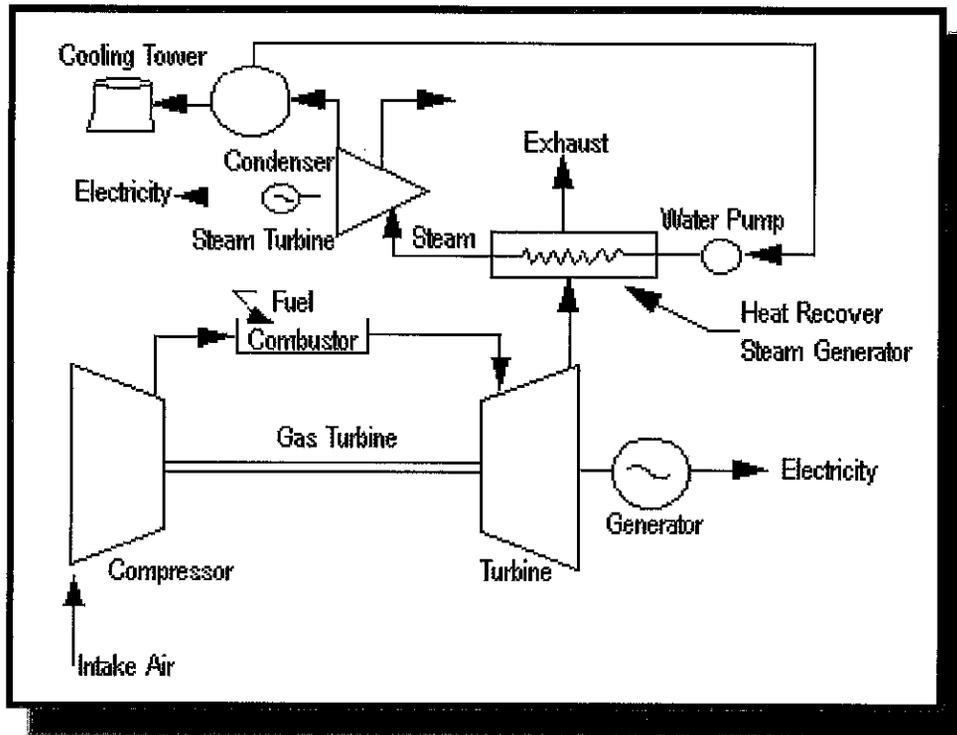
The pollution control property described in this Application is the Unit 1 HRSG and dedicated ancillary system (the "PC Property") installations.

Cottonwood Unit 1 HRSG

The Facility consists of a combined-cycle gas turbine power plant with four (4) gas Combustion Turbines ("CTs") each equipped with HRSGs and dedicated ancillary systems necessary to capture heat from the CTs' exhaust and convert it into electrical power. The Unit 1 HRSG captures and utilizes the waste heat of combustion from the Unit 1 CT exhaust gas and utilizes this waste heat to produce steam, which in turn powers a steam turbine-generator set to produce electric power at the Facility in addition to the electric power generated by the CT alone.

The Facility gains both production and pollution control benefits from the subject PC Property. First, the use of this waste heat of combustion by the Unit 1 HRSG creates a thermal efficiency benefit for the Facility. Specifically, the use of waste heat in the Unit 1 CT exhaust gas results in the conversion of approximately 50% of the chemical energy of the natural gas utilized at the Facility into electricity (HHV basis), a gain over the CT's alone's use of the fuel. Secondly, due to this efficiency gain, the Facility is able to generate fewer emissions (particularly NO_x emissions) than a traditional power generation facility utilizing a single thermodynamic cycle; and allowing the subject PC Property to appear on the Expedited Review List.

The Figure below is representative of a simplified combined-cycle plant process flow.



Please see the Cost Analysis Procedure (“CAP”) Model attached for the calculation of the percentage of the subject pollution control property eligible for property tax exemption.

Applicable Rule

12. What adopted environmental rule or regulation is being met by the construction or installation of the property/equipment? The citation must be to the subsection level.

The PC Property was installed to meet the requirements of 40 CFR Part 60.44da(a) “Standards for nitrogen oxides (“NOx”) for Electric Utility Steam generating units for New Source Performance Standards (“NSPS”).

As well, the PC Property allows emissions to meet or exceed Best Available Control Technology emission limitations established in Federal Operating Permit #O2338. Per 30 Texas Administrative Code (“TAC”) §122.143(4), the permit holder must comply with all terms and conditions codified in the permit and any provisional terms and conditions required to be included with the permit.

Environmental Benefit

13. What is the anticipated environmental benefit related to the construction or installation of the property/equipment?

The PC Property reduces the formation of and/or controls the emission of NO_x and other air emissions associated with the combustion of natural gas used in combined cycle power generation at the Facility.

Section 10. Process Flow Diagram (Optional)

Attach documentation to the application showing a Process Flow Diagram for the property/equipment.

Please see the simplified Process Flow Diagram above for a representation of the combined-cycle power plant.

Section 11. Partial-Use Percentage Calculation

This section must be completed for all Tier III applications. Attach documentation to the application showing the calculations used to determine the partial-use percentage for the property/equipment.

Please see the attachment to this application for the Cost Analysis Procedure ("CAP") Calculations.

Section 12. Property Categories and Costs

List each piece of property/equipment of integrated pollution control property/equipment for which a use determination is being sought.

Property/Equipment Name	Tier 1 Table No. or Expedited Review List No.	Use Percent	Estimated Dollar Value
Land:			
Property: Heat Recovery Steam Generator ("HRSG") and Dedicated Ancillary Systems	N/A	42.99%	\$ 60,584,465
Property:			
Property:			
Total:			\$ 26,043,320

Attach additional response sheets to the application if more than three (3) pieces.

NOTE: Separate applications must be filed for each piece of nonintegrated pollution control property/equipment.

Section 13. Certification Signature

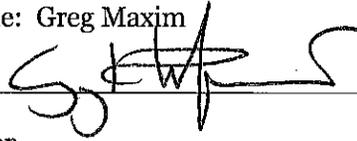
Must be signed by owner or designated representative.

By signing this application, I certify that I am duly authorized to submit this application form to the TCEQ and that the information supplied here is true and accurate to the best of my knowledge and belief.

Printed Name: Greg Maxim

Date: 6/30/2011

Signature: _____

A handwritten signature in black ink, appearing to read 'G. Maxim', written over a horizontal line.

Title: Director

Company Name: Duff & Phelps, LLC

Under Texas Penal Code 37.10, if you make a false statement on this application, you could receive a jail term of up to one year and a fine up to \$2,000, or a prison term of two to 10 years and a fine of up to \$5,000.

Taxpayer: Cottonwood Energy Company, LP
Plant: Cottonwood Energy Center
Plant Summary: 1,250 MW and Configuration Combined Cycle Power Plant (2013)
Plant Location: Newton County, Texas
Project: Tier III Cost Analysis Procedure ("CAP") Calculations
Date: June 30, 2011
Rev: 7

Source Legend	
C	Calculated Assumption
D&P	D&P VAS Standard Estimate
CW	Cottonwood Client-Provided Data
HH	Henry Hub Natural Gas Pricing
30 TAC	30 TAC Chapter 17

I. Assumptions

Plant Design Profile			Conversion Factors			Economic Assumptions			Levelized Cost of Energy ("LCOE") Model Outputs*	
PC Property		Source	Hours/Year	8,760		Discount Rate	10.0%	Source	Capital Recovery Factor ("CRF")	10.23%
PC Property Capital Cost	\$ 80,564,485	CW	kWh/MWh	1,000		Periodic	40	D&P	LCOE (\$/kWh)	0.03079
PC Property Capital Cost (\$/kW)	\$ 208	C	lb/kg	2.20		PC Property Fixed O&M Cost (\$/kW-yr)	\$ 4.63	CW		
PC Property Capacity (MW)	292	CW	\$/hour	3,600		Fuel Cost (\$/MMBTU)	\$ 2.80	HH		
PC Property Net Annual Generation Capacity (MWh)	808,483,195	C	\$/mmBtu	1,000,000		PC Property Variable Cost (\$/MWh)	\$ 0.48	CW		
PC Property Net Annual Generation Capacity (MMWh)	808,483	C				PC Property Variable Cost (\$/kWh)	\$ 0.00	C		
Plant Capacity Factor	31.65%	CW				SERC Electricity Pricing (\$/MWh) ⁽¹⁾	\$ 35.32	SNL		
Plant Heat Rate (btu/MWh)	7,503	CW				Interest Rate	10%	30 TAC		
Plant Heat Rate (MMBTU/MWh)	0.01	C								
Capital Cost Old ("CCO")										
Comparable Technology Cost	\$ -									
Comparable Technology	\$ -									
Design Capacity Factor	0%									
Capacity ("MW")	1									

⁽¹⁾ Three-year average daily historical electricity rates for SERC Reliability Corporation.

Taxpayer: Cottonwood Energy Company, LP
 Plant: Cottonwood Energy Center
 Plant Summary: 1,200 MW Ax4 Configuration Combined Cycle Power Plant (2003)
 Plant Location: Newton County, Texas
 Project: Tier III Cost Analysis Procedure ("CAP") Calculations
 Date: June 30, 2011
 Rev: 7

II. Cost Analysis Procedure ("CAP")

Formula:

$$\frac{[(PCF \times CCN) - CCO - MP]}{CCN}$$

A. Definitions (provided by TCEQ)¹⁹

1. Production Capacity Factor ("PCF")

The ratio of the capacity of the existing equipment or process to the capacity of the new equipment or process.

2. Capital Cost New ("CCN")

CCN is the estimated total capital cost of the new equipment or process.

3. Capital Cost Old ("CCO")

CCO is the cost of comparable equipment or a comparable process without the pollution control.

The standards for calculating CCO are:

- ²⁰ If comparable equipment without the pollution control feature is on the market in the U.S., then use the average market price of the most recent generation of technology must be used.
- ²² If the conditions in variable 3.1 do not apply and the company is replacing an existing unit that already has received a positive use determination, the company shall use the CCO from the application for the previous use determination.
- ²³ If the conditions in variable 3.1 and 3.2 do not apply and the company is replacing an existing unit, then the company shall convert the original cost of the unit to today's dollars by using a published industry specific standard. If the production capacity of the new equipment or process is lower than the production capacity of the old equipment or process CCO is divided by the PCF to adjust CCO to reflect the same capacity as CCN.
- ²⁴ If the conditions in variables 3.1, 3.2 and 3.3 do not apply, and the company can obtain an estimate to manufacture the alternative equipment without the pollution control feature, then an average estimated cost to manufacture the unit must be used. The comparable unit must be the most recent generation of technology. A copy of the estimate must be provided with the worksheet including the specific source of the information.

4. Marketable Product ("MP")

Anything produced or recovered using pollution control property that is sold as a product, is accumulated for later use, or is used as raw material in a manufacturing process. Marketable product includes, but is not limited to, anything recovered or produced using the pollution control property sold, traded, accumulated for later use, or used in a manufacturing process (including at a different facility). Marketable product does not include any emission credits or emission allowances that result from installation of the pollution control property.

5. Marketable Product Value ("MPV")

The marketable product value may be calculated in one of two ways:

- The retail value of the product produced by the equipment for one year periods. Typically, the most recent three-year average price of the material as sold on the market should be used in the calculation. If the price varies from state-to-state, the applicant shall calculate an average and explain how the figures were determined.
- If the material is used as an intermediate material in a production process, then the value assigned to the material for internal accounting purposes may be used. It is the responsibility of the applicant to show that the internally assigned value is comparable to the value assigned by other similar producers of the product.

6. Direct Costs of Production ("DCP")

The costs directly attributed to the production of the product, including raw materials, storage, transportation, and personnel, but excluding non-cash costs, such as overhead and depreciation.

7. n Factor

The estimated useful life in years of the equipment that is being evaluated for a use determination.

8. i Factor

Year One.

9. Interest Rate

10%.

¹⁹ Title 30, Texas Administrative Code, Chapter 17

B. CAP Formulas (provided by TCEQ)

$$\text{Partial Use Determination} = \frac{[(PCF \times CCN) - CCO - NPVMP]}{CCN}$$

Where:

$$\text{Production Capacity Factor ("PCF")} = \frac{\text{Production Capacity of Existing Equipment or Process}}{\text{Production Capacity of New Equipment or Process}}$$

And where:

$$NPVMP = \sum_{t=1}^n \frac{MPV - PC}{(1 + \text{Interest Rate})^t}$$

C. CAP Formulas for PC Property

$$\text{Marketable Product Value ("MPV")} = \text{Electricity Price (\$/MWh)} \times \text{MWh per Year}$$

$$\text{Direct Cost of Production ("DCP")} = \text{LCOE} \times \text{MWh per year}$$

$$\text{LCOE} = \left(\frac{\text{Capital Cost} \times \text{Capital Recovery Factor}}{\text{Hours per Year}} \right) + \frac{\text{Fixed O\&M Costs}}{\text{Capacity Factor}} + \left(\text{Fuel Cost} \times \text{Heat Rate} \right)$$

Taxpayer: Cottonwood Energy Company, LP
Plant: Cottonwood Energy Center
Plant Summary: 1,280 MW 4x4 Configuration Combined Cycle Power Plant (2003)
Plant Location: Newton County, Texas
Project: Tier III Cost Analysis Procedure ("CAP") Calculations
Date: June 30, 2011
Rev: 7

III. Cost Analysis Procedure ("CAP") Calculations for Cottonwood Unit 1 HRSG

Formula:
$$\frac{(\text{PCF} \times \text{CCN}) - \text{CCO} - \text{NPVMP}}{\text{CCN}}$$

A. Marketable Product Value ("MPV")

$$\begin{aligned} \text{Electricity Price} \frac{\$}{\text{MWh}} \times \frac{\text{Plant MWh}}{\text{Year}} &= (\$) \text{ MPV} \\ \$35.32 \frac{\$}{\text{MWh}} \times 808,493 \frac{\text{MWh}}{\text{Year}} &= \$28,557,781 \end{aligned}$$

B. Production Cost ("PC")

$$\begin{aligned} \text{Levelized Cost of Energy ("LCOE")} \frac{\$}{\text{kWh}} \times \frac{\text{Plant MWh}}{\text{Year}} &= (\$) \text{ PC} \\ \$0.0308 \frac{\$}{\text{kWh}} \times 808,493,135 \frac{\text{kWh}}{\text{Year}} &= \$24,893,882 \end{aligned}$$

Net Present Value Marketable Product ("NPVMP") Calculation

$$\sum_{t=1}^n \frac{(\$) \text{ MPV} - (\$) \text{ PC}}{(1 + \text{Interest Rate})^t} = \text{NPVMP } (\$)$$

$$\sum_{t=1}^n \frac{\$28,557,781 - \$24,893,882}{(1 + 10\%)^t} = \$34,541,145 = \text{NPVMP } \$34,541,145$$

* If MP is ≤ 0, then MP = 0.

Taxpayer: Cottonwood Energy Company, LP
 Plant: Cottonwood Energy Center
 Plant Summary: 1,200 MW 4x4 Configuration Combined Cycle Power Plant (2003)
 Plant Location: Newton County, Texas
 Project: Tier III Cost Analysis Procedure ("CAP") Calculations
 Date: June 30, 2011
 Rev: 7

C. Production Capacity Factor ("PCF")

$$\frac{\text{Production Capacity of Existing Equipment or Process}}{\text{Production Capacity of New Equipment or Process}} = \text{PCF}$$

$$\frac{0}{292 \text{ MW} \times 31.95\%} = 1.000$$

D. Capital Cost New ("CCN")
 PC Property

$$\text{CCN} = \$60,584,485$$

E. Capital Cost Old ("CCO")
 Comparable Technology

$$\text{CCO} = \$0$$

Partial Use Determination Calculation

(PCF x CCN)	-	CCO	-	MP	=	Partial Use Determination %
1.000 x \$60,584,485	-	\$0	-	\$34,541,145	=	42.89%
		\$60,584,485				

TCEQ Use Determination-Application Section 12, use:	
Use Percent	42.89%
Estimated Dollar Value	\$ 60,584,485

$$\text{Eligible HRSG Costs (Partial Use Determination \% x PC Property Cost)} = \$ 26,043,320$$

ATTACHMENT A

Taxpayer: Cottonwood Energy Company, LP
Plant: Cottonwood Energy Center
Plant Summary: 1,260 MW 4x4 Configuration Combined Cycle Power Plant (2003)
Plant Location: Newton County, Texas
Project: Tier III Cost Analysis Procedure ("CAP") Calculations
Date: June 30, 2011
Rev: 7

Levelized Cost of Energy ("LCOE") Model^[1]

Formulas

$$\text{Capital Recovery Factor ("CRF")} = \frac{i \times (1 + i)^n}{(1 + i)^n - 1}$$

$$\text{LCOE} = \left(\frac{\text{Capital Cost} \times \text{CRF}}{\text{Hours per Year} \times \text{Capacity Factor}} \right) + \frac{\text{Fixed O\&M Costs}}{\text{Capacity Factor}} + \left(\text{Fuel Cost} \times \text{Heat Rate} \right)$$

Calculations

Capital Recovery Factor 10.23%

LCOE (\$/kWh) \$ 0.03079

^[1] http://www.nrel.gov/analysis/lcoe_documentation.html

Note: The Levelized Cost of Energy is a calculation developed by the United States Department of Energy's National Renewable Energy Lab to determine the cost of generating energy (electricity) using the design or performance criteria for a specific power generation unit. The website above gives a more detailed description of the model and its development.

Electricity - PV Calculations

Difference	Period	Interest Rate	PV - Period
\$3,664,099	1	1.10	\$ 3,330,999
\$3,664,099	2	1.21	\$ 3,028,181
\$3,664,099	3	1.331	\$ 2,752,892
\$3,664,099	4	1.4641	\$ 2,502,629
\$3,664,099	5	1.61051	\$ 2,275,117
\$3,664,099	6	1.771561	\$ 2,068,288
\$3,664,099	7	1.9487171	\$ 1,880,262
\$3,664,099	8	2.14358881	\$ 1,709,329
\$3,664,099	9	2.357947691	\$ 1,553,936
\$3,664,099	10	2.59374246	\$ 1,412,689
\$3,664,099	11	2.853116706	\$ 1,284,244
\$3,664,099	12	3.136428377	\$ 1,167,495
\$3,664,099	13	3.452271214	\$ 1,061,359
\$3,664,099	14	3.797498336	\$ 964,872
\$3,664,099	15	4.177248169	\$ 877,156
\$3,664,099	16	4.594972986	\$ 797,415
\$3,664,099	17	5.054470285	\$ 724,922
\$3,664,099	18	5.559917313	\$ 659,020
\$3,664,099	19	6.115909045	\$ 599,109
\$3,664,099	20	6.727499949	\$ 544,645
\$3,664,099	21	7.400249944	\$ 495,132
\$3,664,099	22	8.140274939	\$ 450,120
\$3,664,099	23	8.954302433	\$ 409,200
\$3,664,099	24	9.849732676	\$ 372,000
\$3,664,099	25	10.83470594	\$ 338,182
\$3,664,099	26	11.91817654	\$ 307,438
\$3,664,099	27	13.10999419	\$ 279,489
\$3,664,099	28	14.42099361	\$ 254,081
\$3,664,099	29	15.86309297	\$ 230,983
\$3,664,099	30	17.44940227	\$ 209,984
NPVMP:			\$ 34,541,145

TCEQ Cashier's Office - MC-214
Building A
12100 Park 35 Circle
Austin, TX 78753

June 30, 2011

Re: Application for Use Determination for Air Pollution Control Property Located at Cottonwood Energy Center in Newton County, Texas

Enclosed please find one application (the "Application") for property tax exemption for Air Pollution Control Property located at Cottonwood Energy Center (the "Facility") in Newton County, Texas. A copy of the Application has been provided for the appraisal district.

Pursuant to Title 30 of Chapter 17 of the Texas Administrative Code, the Application has been prepared using the Texas Commission on Environmental Quality ("TCEQ") Application for Use Determination for Pollution Control Property. The enclosed application is a Tier III Application. Submission of this Application is required as a process step in the TCEQ's pollution control certification process for tax exemption of certain assets used in pollution control capacities within the Facility. As outlined by the application instructions, the fee for this Tier III Application is \$2,500. Please find enclosed a check for the \$2,500 Tier III Application Fee.

The Application can be summarized as follows:

Property	Description	Estimated Cost
Tier III	Unit 1 Heat Recovery Steam Generator ("HRSG") and Dedicated Ancillary Systems	\$ 26,043,320

Please send one copy of the completed property tax exemption Use Determination to the following address:

Mr. Greg Maxim
Duff & Phelps LLC
919 Congress Avenue, Suite 1450
Austin, TX 78801

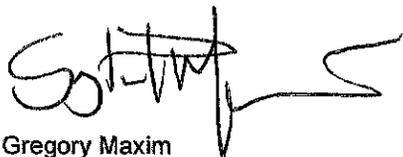
TCEQ Cashier's Office

June 30, 2011

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If you have any questions regarding the Application or the information supplied within the Application, please contact me, Greg Maxim, Director, Duff & Phelps LLC, at (512) 671-5580 or by e-mail at gregory.maxim@duffandphelps.com.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Greg Maxim', with a long horizontal flourish extending to the right.

Gregory Maxim

Director

Specialty Tax

Enclosures

cc: Ms. Kathryn Tronsberg Macciocca (Duff & Phelps, LLC)

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 10, 2012

Mr. Greg Maxim
Director
Duff and Phelps, LLC
919 Congress Ave Ste 1450
Austin, Texas 78701

Re: Notice of Negative Use Determination
Cottonwood Energy Company, LP
Cottonwood Energy Center
976 County Road 4213
Deweyville (Newton County)
Regulated Entity Number: RN100226109
Customer Reference Number: CN602765687
Application Number: 15505; Tracking Number: CC-2011-48

Dear Mr. Maxim:

This letter responds to Cottonwood Energy Company, LP's Application for Use Determination, received July 5, 2011, pursuant to the Texas Commission on Environmental Quality's (TCEQ) Tax Relief for Pollution Control Property Program for the Cottonwood Energy Center.

The TCEQ has completed the review for application #15505 and has issued a Negative Use Determination for the property in accordance with Title 30 Texas Administrative Code (TAC) §17.4 and §17.6. Heat recovery steam generators and associated dedicated ancillary equipment are used solely for production; therefore, are not eligible for a positive use determination.

Please be advised that a Negative Use Determination may be appealed. The appeal must be filed with the TCEQ Chief Clerk within 20 days after the receipt of this letter in accordance with 30 TAC §17.25.

If you have questions regarding this letter or need further assistance, please contact Ronald Hatlett of the Tax Relief for Pollution Control Property Program by telephone at (512) 239-6348, by e-mail at ronald.hatlett@tceq.texas.gov, or write to the Texas Commission on Environmental Quality, Tax Relief for Pollution Control Property Program, MC-110, P.O. Box 13087, Austin, Texas 78711-3087.

Sincerely,

A handwritten signature in cursive script that reads "cgoodin".

Chance Goodin, Team Leader
Stationary Source Programs
Air Quality Division

Mr. Greg Maxim
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July 10, 2012

CG/RH

cc: Chief Appraiser, Newton County Appraisal District, 109 Court Street, Newton, Texas 75966