

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

Protecting Texas by Reducing and Preventing Pollution

January 21, 2009

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

CHIEF CLERKS OFFICE

2009 JAN 21 AM 9:01

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Valero Refining – Texas L.P.
Diamond Shamrock Refining Company, L.P.
The Premcor Refining Group, Inc.
TCEQ Docket Nos. 2007-0732-MIS-U (UD 06-10270/Valero Corpus Christi Refinery – Nueces County); 2007-0733-MIS-U (UD 06-10271/Valero Corpus Christi Refinery – Nueces County); 2007-0734-MIS-U (UD 06-10281/Valero Houston Refinery – Harris County); 2007-0735-MIS-U (UD 06-10268/Valero Houston Refinery – Harris County); 2007-0736-MIS-U (UD 06-10283/Diamond Shamrock McKee Refinery – Moore County); 2007-0737-MIS-U (UD 06-10282/Diamond Shamrock McKee Refinery – Moore County); 2007-0738-MIS-U (UD 06-10280/Valero Port Arthur Refinery – Jefferson County); 2007-0739-MIS-U (UD 06-10279/Valero Port Arthur Refinery – Jefferson County); 2007-0724-MIS-U (UD 06-10285/Valero Texas City Refinery – Galveston County); 2007-0740-MIS-U (UD 06-10284/Valero Texas City Refinery – Galveston County)
Executive Director's Reply to Valero's Supplemental Response and Motion for Continuance

Dear Ms. Castañuela:

Enclosed for filing, please find a copy of the "*Executive Director's Reply to Valero's Supplemental Response and 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,

A handwritten signature in black ink that reads "Tim Reidy".

Timothy J. Reidy
Staff Attorney
Environmental Law Division

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

Protecting Texas by Reducing and Preventing Pollution

January 21, 2009

Les Trobman, General Counsel
Texas Commission on Environmental Quality
Office of General Counsel
P.O. Box 13087, MC-101
Austin, Texas 78711-3087

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 JAN 21 AM 9:00
CHIEF CLERKS OFFICE

Re: Valero Refining – Texas L.P.
Diamond Shamrock Refining Company, L.P.
The Premcor Refining Group, Inc.
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Executive Director's Reply to Valero's Supplemental Response and Motion for Continuance

Mr. Trobman:

Attached for your consideration is the "*Executive Director's Reply to Valero's Supplemental Response and 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,

A handwritten signature in black ink that reads "Tim Reidy".

Timothy J. Reidy, Staff Attorney
Environmental Law Division

TCEQ Docket Numbers

2009 JAN 21 AM 9:20
CHIEF CLERKS OFFICE
2007-0732-MIS-U (UD 06-10270/Valero Corpus Christi Refinery – Nueces County)
2007-0733-MIS-U (UD 06-10271/Valero Corpus Christi Refinery – Nueces County)
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2007-0735-MIS-U (UD 06-10268/Valero Houston Refinery – Harris County)
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2007-0738-MIS-U (UD 06-10280/Valero Port Arthur Refinery – Jefferson County)
2007-0739-MIS-U (UD 06-10279/Valero Port Arthur Refinery – Jefferson County)
2007-0724-MIS-U (UD 06-10285/Valero Texas City Refinery – Galveston County)
2007-0740-MIS-U (UD 06-10284/Valero Texas City Refinery – Galveston County)

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|---|---|-----------------------|
| APPEAL OF THE EXECUTIVE | § | BEFORE THE |
| DIRECTOR'S USE DETERMINATIONS | § | |
| ISSUED TO VALERO REFINING - | § | |
| TEXAS, L.P.; DIAMOND SHAMROCK | § | |
| REFINING COMPANY, L.P.; AND THE | § | TEXAS COMMISSION ON |
| PREMCOR REFINING GROUP, INC. | § | |
| APPLICATION NUMBERS: 06-10268, | § | |
| 06-10270, 06-10271, 06-10279, 06-10280, | § | |
| 06-10281, 06-10282, 06-10283, 06-10284, and | § | |
| 06-10285 | § | ENVIRONMENTAL QUALITY |

**EXECUTIVE DIRECTOR'S REPLY TO VALERO'S SUPPLEMENTAL RESPONSE
AND MOTION FOR CONTINUANCE**

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

The Executive Director respectfully requests that the Commission, in its consideration of the above referenced use determination appeals, not consider *Valero Refining – Texas, L.P.*, *Diamond Shamrock Refining Company, L.P.*, and the *Premcor Refining Group, Inc.*'s *Supplemental Response in Reply to the Executive Director, Public Interest Counsel, Galveston Central Appraisal District, and the Harris County Appraisal District's Response Briefs to the Appeal of the Executive Director's Negative Use Determinations* (hereinafter referred to a "Valero's Supplemental Response") as it is untimely filed. On February 11, 2008, the General Counsel mailed the parties a briefing schedule regarding the appeals, which required the Executive Director, the Office of Public Interest Counsel, and the affected appraisal districts to file a response brief with the Texas Commission on Environmental Quality's (TCEQ) Office of the Chief Clerk on or before 5:00 p.m. on Monday, April 7, 2008. The briefing schedule also required the Appellant to file its reply brief with the TCEQ's Office of the Chief Clerk on or before 5:00 p.m. on Monday, May 19, 2008. The Executive Director, the Office of Public Interest Counsel, the Harris County Appraisal District, the Galveston Central Appraisal District,

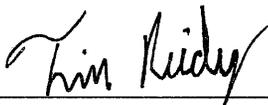
and the Appellant filed timely briefs. However, Valero's Supplemental Response was filed with the TCEQ's Office of the Chief Clerk on January 16, 2009. Valero's Supplemental Response was filed outside of the deadlines established by the briefing schedule, and should not be made a part of the record. The Executive Director respectfully requests that, pursuant to its authority in Section 1.10(g) of Title 30 of the Texas Administrative Code (30 TAC), the Commission refuse to consider Valero's Supplemental Response.

However, should the Commission or General Counsel waive the filing requirements established by the briefing schedule and consider Valero's Supplemental Response, the Executive Director respectfully requests that the Commission continue its consideration of these matters until its March 11, 2009 public meeting to allow the Executive Director adequate time to prepare a written reply. An initial review of Valero's Supplemental Response does not appear to alter the recommendations made by the Executive Director in his response brief. However, should Valero's Supplemental Response become a part of the record, the Executive Director respectfully requests additional time to prepare a detailed written reply.

Respectfully submitted,
Texas Commission on Environmental Quality

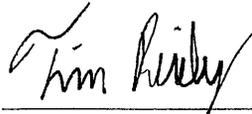
Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 
Timothy J. Reidy, Staff Attorney
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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on January 21, 2009, the "Executive Director's Reply to Valero's Supplemental Response and Motion for Continuance" was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and copy of which was sent by hand delivery, first-class mail, or facsimile to all persons on the attached mailing list.



Timothy J. Reidy, Staff Attorney
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