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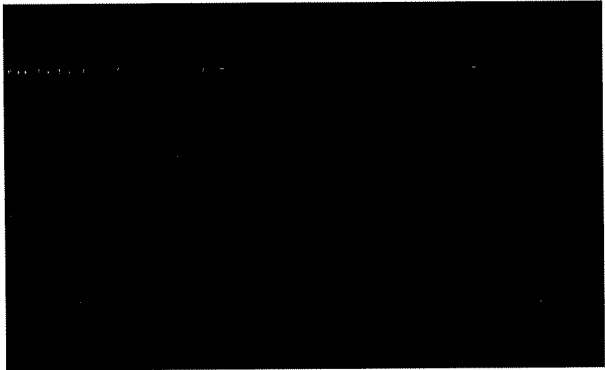
Verne, B. Michael

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**From:** [REDACTED]  
**Sent:** Friday, January 28, 2005 12:39 PM  
**To:** Verne, B. Michael  
**Subject:** Transaction Description And Analysis/Proposed LNG Facility



Mr. Verne: Attached is a Transaction Description and Analysis relating to a transaction that we recently discussed for which no filing would be required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. Please confirm by email or voicemail that our analysis is correct. As always, thank you for your assistance. [REDACTED]



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## TRANSACTION DESCRIPTION AND ANALYSIS

### FACTUAL BACKGROUND

Corporation X is a publicly-traded corporation engaged primarily in the development, construction and operation of liquefied natural gas ("LNG") onshore receiving facilities, as well as the business of oil and gas exploration and development. Corporation X is its own ultimate parent entity. Corporation Y is a privately-held corporation that owns a one-third limited partner interest in LP, a limited partnership formed to develop, construct and operate an LNG onshore receiving facility (the "LNG Facility"). Corporation X indirectly owns the remaining two-thirds limited partner interest in LP and 100% of the general partner interest in LP.

It is proposed that Corporation X, through a merger of Corporation Y into a wholly-owned subsidiary of Corporation X, indirectly acquire the limited partner interest of Corporation Y in LP in a tax-free exchange for restricted common stock of Corporation X having a value of approximately \$70 million and representing approximately 4% of the outstanding common stock of Corporation X (the "Transaction"). At the closing of the Transaction, Corporation Y's sole asset will be the one-third limited partnership interest in LP. In connection with the transaction, Corporation X will grant the sole shareholder of Corporation Y, who will receive the restricted common stock, certain registration rights with respect to such restricted common stock. The common stock of Corporation X is the only voting security of Corporation X. As a result of the Transaction, Corporation X will indirectly own 100% of LP.

At the time of the formation of LP, Corporation Y contributed to LP a tract of real estate (approximately 212 acres in fee and related easements and additional rights) valued at approximately \$310,000 (the "Land") and a commitment to contribute cash of approximately \$4.5 million. Since the formation of LP, Corporation Y has contributed to

LP the approximately \$4.5 million in cash from its commitment, and Corporation X and Corporation Y have contributed to LP additional cash of approximately \$4.2 million.

The only assets of LP are the Land on which the LNG Facility will be located, plans and specifications for the construction of the LNG Facility, an application with the Federal Energy Regulatory Commission for the development, construction and operation of the LNG Facility and an air permit for the operation of the LNG Facility. The technology to be utilized in connection with the development, construction and operation of the LNG Facility is existing technology that may be purchased by any person or entity.

The Land does not currently generate any revenues, and during the 36 months preceding the closing of the Transaction, the Land did not generate total revenues in excess of \$5 million. The Land is currently vacant and does not contain manufacturing or non-manufacturing facilities that have not yet begun operation, or manufacturing facilities or non-manufacturing facilities that were in operation at any time during the 12 months preceding the closing of the Transaction. In addition, the Land is not adjacent to or used in conjunction with real property that is not unproductive real property and is included in the Transaction.

Corporation Y and its officers, directors and sole shareholder do not currently participate in the management of Corporation X. Following the closing of the Transaction, neither Corporation X nor the current sole shareholder of Corporation Y contemplate that the current sole shareholder of Corporation Y will participate in the management of Corporation X, and it is contemplated that the current sole shareholder of Corporation Y will hold the common stock of Corporation X received in the Transaction as a passive investor.

## **QUESTION**

Is any filing required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act"), in connection with the Transaction?

## OUR UNDERSTANDING

It is our understanding that the indirect acquisition by Corporation X of an interest in LP that will result in Corporation X indirectly owning 100% of LP will be treated for purposes of the Act as an acquisition of all of the assets of LP having a fair market value in excess of \$50 million and subject to the filing requirements of the Act in the absence of an exemption. It is also our understanding that the receipt by the sole shareholder of Corporation Y of the consideration for the merger of Corporation Y into a wholly-owned subsidiary of Corporation X will be treated for purposes of the Act as the acquisition of voting securities of Corporation X in excess of \$50 million and subject to the filing requirements of the Act in the absence of an exemption.

It is our understanding that the indirect acquisition by Corporation X of the Land would constitute an acquisition of unproductive real property within the meaning of 16 C.F.R. §802.2(c) and therefore be exempt from the filing requirements of the Act. It is also our understanding that the indirect acquisition by Corporation X of all other assets of LP, other than the Land, would constitute an acquisition of new goods in the ordinary course of business within the meaning of 16 C.F.R. §802.1(b) and therefore be exempt from the filing requirements of the Act.

In addition, it is our understanding that the acquisition by the current sole shareholder of Corporation Y of the common stock of Corporation X would constitute an acquisition solely for the purpose of investment within the meaning of 16 C.F.R. §802.9 and therefore be exempt from the filing requirements of the Act.

In view of the foregoing, it is our understanding that the Transaction described above would be exempt from the filing requirements under the Act.

AGREE -  
B. [Signature]  
1/23/05