

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by Beneficial Land Management, L.L.C., for Permit No. WQ0004666000; TCEQ Docket No. 2005-1607-SLG.

On January 11, 2006, the Texas Commission on Environmental Quality (Commission) during its public meeting evaluated the timely hearing request submitted by Victoria County Commissioner Wayne Dierlam and the request for reconsideration submitted by Judge Donald Pozzi, both on behalf of Victoria County concerning the application by Beneficial Land Management, L.L.C. (Applicant) for Permit No. WQ0004666000. The requests were evaluated under the requirements in the applicable statutes and Commission rules, including 30 TAC Chapters 50 and 55. The Commission also considered all timely public comment, the Executive Director's Response to Public Comment, and all other timely filings in this matter.

After evaluation of all relevant filings, the Commission granted the hearing request of Victoria County. The Applicant, represented by Helen Gilbert, indicated at the Commission's public meeting that it was in agreement with the granting of Victoria County's hearing request and the referral of the matter to the State Office of Administrative Hearings (SOAH). The Commission also determined that the following issues should be referred to SOAH for a contested case hearing with a concurrent referral to formal mediation with the Commission's Alternative Dispute Resolution (ADR) staff:

- (1) The environmental impact that application of sludge and its attendant pathogens, bacteria, viruses and heavy metal at the site may have on Victoria County's soil, wetlands, health, wildlife, agriculture and surface and ground water supply; and
- (2) Concerns about the sludge application's creation of nuisance odors.

The Applicant, represented by Helen Gilbert, and Victoria County, represented by Clayton Cain, agreed at the Commission's public meeting that the two issues listed above are appropriate for referral to SOAH. The Commission also specified that the maximum duration of the contested case

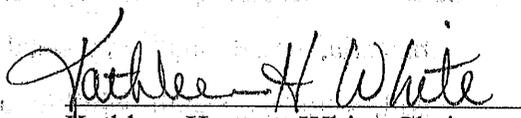
hearing shall be six months from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- (1) This contested matter is referred to SOAH for hearing on the application as ordered below with a concurrent referral to ADR.
- (2) Victoria County's hearing request is hereby granted with regard to the issues identified in Ordering Provision No. 4.
- (3) All hearing requests not identified in Ordering Provision No. 2 are hereby denied.
- (4) The Chief Clerk shall refer to SOAH the following issues for a contested case hearing on the application:
  - (a) The environmental impact that application of sludge and its attendant pathogens, bacteria, viruses and heavy metal at the site may have on Victoria County's soil, wetlands, health, wildlife, agriculture and surface and ground water supply; and
  - (b) Concerns about the sludge application's creation of nuisance odors.
- (5) All issues not identified as being referred to SOAH in Ordering Provision No. 4 are hereby denied.
- (6) The maximum duration of the hearing is set at six months from the first day of the preliminary hearing to the date the proposal for decision is issued by the State Office of Administrative Hearings.

Issue date: **JAN 12 2006**

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
Kathleen Hartnett White, Chairman