

*The Agenda document below includes hyperlinks (docket numbers highlighted in blue) that enable the user to view agenda backup documents [documents pertaining to a particular matter that have been filed with the Office of the Chief Clerk (OCC)]. To view all agenda backup in person including those documents not found in the hyperlinks below, please visit OCC at 12100 Park 35 Circle, Building F, Suite 1101 (30 TAC § 1.10).*

*Updates to backup documents will be noted by a purple indicator. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white. Finally, parties are still required to submit an original and 7 copies of documents filed for Commission consideration (30 TAC § 1.10(d)).*

## **AGENDA**

December 5, 2012

### **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

9:30 A.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

#### **PROPOSALS FOR DECISION**

Item 1 **[TCEQ Docket No. 2011-2199-IWD; SOAH Docket No. 582-12-5301.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of Southwestern Electric Power Company for renewal and major amendment to TPDES Permit No. WQ0002496000 to authorize: (a) an increase in the capacity of the existing Landfill Pond, (b) the diversion of wastewater from the Ash Pond into the Landfill Pond on an infrequent basis, (c) a reduction in the monitoring frequency for total suspended solids at Outfalls 004 and 005 from once per month to once per quarter, (d) a reduction in the monitoring frequency for oil and grease at Outfall 006 from once per month to once per quarter, (e) a reduction in the monitoring frequency for oil and grease at Outfall 102 from once per quarter to once per year, (f) a reduction in monitoring frequency for biochemical oxygen demand (5-day) at Outfall 302 from once per two months to once per quarter, and (g) a temporary reduction in the two-foot freeboard requirement for ponds during storm events. The facility is located adjacent to Red Oak Road at a point approximately six miles southeast of the City of Hallsville, Harrison County, Texas. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the record, timely related filings, exceptions and replies. (D.A. Chris Ekoh, Satya Dwivedula)

Item 2 [\*\*TCEQ Docket No. 2010-0801-MLM-E; SOAH Docket No. 582-11-9593.\*\*](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against Benjamin Sanjuan d/b/a Deer Trail Mobile Home Park in Harris County; RN101237923; for water quality violations pursuant to Tex. Water Code chs. 7, 26, and 37, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. The Commission will also consider the record, timely related filings, exceptions and replies. (Tammy Mitchell)

**MISCELLANEOUS MATTER**

Item 3 [\*\*TCEQ Docket No. 2012-2421-WR.\*\*](#)

Hyperlink  
Updated  
11/29/2012  
10:49 AM

Consideration of whether to affirm, modify, or set aside the Executive Director's Order, signed on November 19, 2012, suspending certain water rights in the Brazos River Basin pursuant to Texas Water Code Section 11.053 and 30 Tex. Admin. Code Chapter 36. On November 14, 2012, Dow Chemical Company submitted a senior call which the Executive Director addressed based on the February 15, 1942 priority date in Dow's Certificate of Adjudication No. 12-5328. The Order has a term of 180 days and was issued by the Executive Director without a hearing. Water rights for municipal, power, or domestic use in the basin were not curtailed by the Order. The Order affects certain water rights in Austin, Bastrop, Bell, Bosque, Brazoria, Brazos, Brown, Burleson, Burnet, Callahan, Colorado, Comanche, Coryell, Eastland, Erath, Falls, Fayette, Fort Bend, Freestone, Grimes, Hamilton, Harris, Hill, Hood, Jack, Johnson, Lampasas, Lee, Leon, Limestone, Madison, McLennan, Milam, Mills, Palo Pinto, Parker, Robertson, Somervell, Stephens, Travis, Waller, Washington, and Williamson Counties. (Kellye Rila, Robin Smith)

**HEARING REQUEST/REQUEST FOR RECONSIDERATION**

Item 4 [\*\*Docket No. 2012-2138-AIR.\*\*](#)

Consideration of an application by the Lower Colorado River Authority for amendment of Air Quality Permit Nos. 51770 and PSD-TX-486M3 to convert the existing authorization of the Fayette Power Project (FPP) from an air quality flexible permit issued under Texas Administrative Code (TAC) Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, Subchapter G, Flexible Permits, to an air quality permit issued under 30 TAC Chapter 116, Subchapter B, New Source Review Permits. FPP is located at 6549 Power Plant Road, La Grange, Fayette County, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Erik Hendrickson, Janis Hudson)

**STANDARD PERMIT**

Item 5 [\*\*Docket No. 2012-1544-MIS.\*\*](#)

Consideration of the adoption of amendments to the air quality standard permit for concrete batch plants. The adoption would account for the 2006 AP-42 emission factors and engine requirements as promulgated by the United States

Environmental Protection Agency (EPA). The pollutants of concern at concrete batch plants are particulate matter less than or equal to 2.5 microns in diameter (PM2.5) and particulate matter less than or equal to ten microns in diameter (PM10). The proposed amendments were published in the August 31, 2012, issue of the Texas Register (37 TexReg 6960). (Becky Southard, Chrissie Angeletti) (Non-Rule Project No. 2012-017-OTH-NR)

#### **USE DETERMINATION APPEAL MATTERS**

Item 6 **[Docket No. 2012-1529-MIS-U.](#)**

Consideration of the appeal filed by EN Services LP with regard to the Executive Director's negative use determination on Application No. 12696, dated July 10, 2012, for certain property at the Harrison County Power Project in Harrison County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 7 **[Docket No. 2012-1552-MIS-U.](#)**

Consideration of the appeal filed by Bosque Power Company LLC with regard to the Executive Director's negative use determination on Application No. 16409, dated July 10, 2012, for certain property at the Bosque County Power Plant in Bosque County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 8 **[Docket No. 2008-0851-MIS-U.](#)**

Consideration of the appeal filed by CER-Colorado Bend Energy LLC with regard to the Executive Director's negative use determination on Application No. 07-11926, dated July 10, 2012, for certain property at the Colorado Bend Energy Center in Wharton County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 9 **[Docket No. 2012-1559-MIS-U.](#)**

Consideration of the appeal filed by Topaz Power Group, LLC with regard to the Executive Director's negative use determinations on Application Nos. 12210 and 12211, dated July 10, 2012, for certain property at the Barney Davis Power Plant (Application No. 12210) and the Nueces Bay Power Plant (Application No. 12211) in Nueces County, Texas. The Commission will also consider the applications and all timely responses and reply briefs.

Item 10 **[Docket No. 2012-1562-MIS-U.](#)**

Consideration of the appeal filed by Cottonwood Energy Company LP with regard to the Executive Director's negative use determinations on Application Nos. 15505, 16410, 16411, and 16412, dated July 10, 2012, for certain property at

the Cottonwood Energy Center in Newton County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 11 [\*\*Docket No. 2012-1586-MIS-U.\*\*](#)

Consideration of the appeal filed by Wolf Hollow I, LP with regard to the Executive Director's negative use determination on Application No. 12268, dated July 10, 2012, for certain property at the Wolf Hollow Plant in Hood County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 12 [\*\*Docket No. 2012-1587-MIS-U.\*\*](#)

Consideration of the appeal filed by South Texas Electric Cooperative, Inc. with regard to the Executive Director's negative use determination on Application No. 13534, dated July 10, 2012, for certain property at the Sam Rayburn Power Plant Expansion in Victoria County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 13 [\*\*Docket No. 2012-1635-MIS-U.\*\*](#)

Consideration of the appeal filed by Brazos Electric Cooperative with regard to the Executive Director's negative use determination on Application No. 13544, dated July 10, 2012, for certain property at the Johnson County Generation Facility in Johnson County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 14 [\*\*Docket No. 2012-1648-MIS-U.\*\*](#)

Consideration of the appeal filed by Brazos Electric Cooperative with regard to the Executive Director's negative use determination on Application No. 16413, dated July 10, 2012, for certain property at the Jack County Generation Facility in Jack County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 15 [\*\*Docket No. 2012-1650-MIS-U.\*\*](#)

Consideration of the appeal filed by Midlothian Energy Limited Partnership with regard to the Executive Director's negative use determination on Application No. 12271, dated July 10, 2012, for certain property at the Midlothian Energy Plant in Ellis County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 16 [\*\*Docket No. 2012-1660-MIS-U.\*\*](#)

Consideration of the appeal filed by Wise County Power Company, LLC with regard to the Executive Director's negative use determination on Application No. 12202, dated July 10, 2012, for certain property at the Wise County Power Plant in Wise County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 17 [\*\*Docket No. 2012-1682-MIS-U.\*\*](#)

Consideration of the appeal filed by Hays Energy Limited Partnership with regard to the Executive Director's negative use determination on Application No. 12272, dated July 10, 2012, for certain property at the Hays Energy Plant in Hays County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 18 [\*\*Docket No. 2012-1662-MIS-U.\*\*](#)

Consideration of the appeal filed by Ennis Power Company, LLC with regard to the Executive Director's negative use determination on Application No. 12203, dated July 10, 2012, for certain property at the Ennis Power Plant in Ellis County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 19 [\*\*Docket No. 2008-0830-MIS-U.\*\*](#)

Consideration of the appeal filed by Tenaska Gateway Partners, Ltd. with regard to the Executive Director's negative use determination on Application No. 07-11914, dated July 10, 2012, for certain property at the Tenaska Gateway Generating Station in Rusk County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 20 [\*\*Docket No. 2008-0832-MIS-U.\*\*](#)

Consideration of the appeal filed by Borger Energy Associates, LP with regard to the Executive Director's negative use determination on Application No. 07-11971, dated July 10, 2012, for certain property at the Blackhawk Station in Hutchinson County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 21 [\*\*Docket No. 2012-1683-MIS-U.\*\*](#)

Consideration of the appeal filed by GIM Channelview Cogeneration LLC with regard to the Executive Director's negative use determination on Application No. 12826, dated July 10, 2012, for certain property at the Channelview Cogeneration Facility in Harris County, Texas. The Commission will also

consider the application and all timely responses and reply briefs.

Item 22 [\*\*Docket No. 2008-0850-MIS-U.\*\*](#)

Consideration of the appeal filed by Freeport Energy Center, LLC with regard to the Executive Director's negative use determination on Application No. 07-11994, dated July 10, 2012, for certain property at the Freeport Energy Center in Brazoria County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 23 [\*\*Docket No. 2008-0849-MIS-U.\*\*](#)

Consideration of the appeal filed by Brazos Valley Energy Center LLC with regard to the Executive Director's negative use determination on Application No. 07-11969, dated July 10, 2012, for certain property at the Brazos Valley Energy Center in Fort Bend County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

Item 24 [\*\*Docket No. 2008-0831-MIS-U.\*\*](#)

Consideration of the appeal filed by Freestone Power Generation, LLC with regard to the Executive Director's negative use determination on Application No. 07-11966, dated July 10, 2012, for certain property at the Freestone Energy Center in Freestone County, Texas. The Commission will also consider the application and all timely responses and reply briefs.

**AGRICULTURAL ENFORCEMENT AGREED ORDER**

Item 25 [\*\*Docket No. 2012-0840-AGR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Klaas Talsma dba Talsma Dairy in Erath County; RN102313384; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Debra Barber)

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 26 [\*\*Docket No. 2012-0804-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Formosa Plastics Corporation, Texas in Calhoun County; RN100218973; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Debra Barber)

Item 27 [\*\*Docket No. 2012-0481-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Shumard Corporation dba Associated Fiberglass Enterprises in Tarrant County; RN101340818; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Podlipny, Debra Barber)

Item 28 [\*\*Docket No. 2012-0462-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against WM Resource Recovery & Recycling Center, Inc. in Chambers County; RN100922392; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Debra Barber)

Item 29 [\*\*Docket No. 2012-0684-AIR-E.\*\*](#)

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11:10 AM

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INVISTA S.a r.l in Harris County; RN104244942; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Debra Barber)

Item 30 [\*\*Docket No. 2011-1093-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Fort Apache Energy, Inc. in Galveston County; RN106144488; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

Item 31 [\*\*Docket No. 2012-1139-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against DCP Midstream, LP in Panola County; RN102805272; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kimberly Morales, Debra Barber)

Item 32 [\*\*Docket No. 2012-0897-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Dow Chemical Company in Brazoria County; RN100225945; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Amancio R. Gutierrez, Debra Barber)

**EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

Item 33 [Docket No. 2011-2202-EAQ-E.](#)

Hyperlink  
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11/30/2012  
11:10 AM

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Herlinda G. Cantu in Bexar County; RN106251366; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jeremy Escobar, Debra Barber)

**EDWARDS AQUIFER ENFORCEMENT DEFAULT ORDER**

Item 34 [Docket No. 2011-2249-EAQ-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of GREEN LAND VENTURES, LTD. in Bexar County; RN105004683; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jim Sallans, Lena Roberts)

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 35 [Docket No. 2012-0162-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Mart in McLennan County; RN100633353; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Debra Barber)

Item 36 [Docket No. 2012-0195-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jackie C. Underwood dba Tire Outlet in Wise County; RN101858496, RN106260870, RN106247448, and RN106247612; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Debra Barber)

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 37 [\*\*Docket No. 2012-0801-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Dripping Springs in Hays County; RN104005434; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (JR Cao, Debra Barber)

Item 38 [\*\*Docket No. 2011-0940-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Van Alstyne in Grayson County; RN102844123; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Debra Barber)

Item 39 [\*\*Docket No. 2011-0504-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Huntington in Angelina County; RN102184355; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Debra Barber)

Item 40 [\*\*Docket No. 2012-0742-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against MHC TT, Inc. in Hill County; RN101714871; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jeremy Escobar, Debra Barber)

Item 41 [\*\*Docket No. 2012-0913-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Victoria County Water Control and Improvement District No. 2 in Victoria County; RN101612331; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jennifer Graves, Debra Barber)

Item 42 [\*\*Docket No. 2012-0729-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aus-Tex Parts & Services, Ltd. in Hays County; RN102314218; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Stephen Thompson, Debra Barber)

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 43 [\*\*Docket No. 2011-1158-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Edward DeVoe Smith dba Smittys in Sutton County; RN101433688; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mike Fishburn, Lena Roberts)

Item 44 [\*\*Docket No. 2012-0355-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of EAS Oil, LLC dba Stage Coach Stop in Gillespie County; RN101776540; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Peipey Tang, Lena Roberts)

Item 45 [\*\*Docket No. 2012-0768-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INWOOD STORES, INC. dba Inwood Food Mart in Harris County; RN102230349; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Debra Barber)

Item 46 [\*\*Docket No. 2011-1950-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Amin Makhani d/b/a Asian Groceries in Bexar County; RN102783867; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna Treadwell, Lena Roberts)

Item 47 [\*\*Docket No. 2012-0227-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of Noel S Corporation dba Daves Food & Deli in Tarrant County; RN100761154; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Brister, Debra Barber)

Item 48 [\*\*Docket No. 2012-0993-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Bee Trucking, LLC in Bexar County; RN102258951; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Andrea Park, Debra Barber)

Item 49 [\*\*Docket No. 2011-1382-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Dae H. Lee d/b/a Smile Mart in Harris County; RN102380722; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rudy Calderon, Lena Roberts)

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDER**

Item 50 [\*\*Docket No. 2012-0404-PST-E.\*\*](#)

Hyperlink  
Updated  
11/29/2012  
8:26 AM

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of R K DREAMS INC in Dallas County; RN102248051; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca M. Combs, Lena Roberts)

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 51 [\*\*Docket No. 2012-0935-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1 in DeWitt County; RN106216427; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Bridgett Lee, Debra Barber)

Item 52 [\*\*Docket No. 2011-0924-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Amana Rose, LLC d/b/a Tejas Village in Marion County; RN102684339; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341

and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

Item 53 **[Docket No. 2012-0957-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Tom Green County Fresh Water Supply District 2 in Tom Green County; RN101426047; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

Item 54 **[Docket No. 2012-0469-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SOUTHWESTERN HOLDINGS, INC. in Presidio County; RN101214336; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Andrea Linson, Debra Barber)

Item 55 **[Docket No. 2012-1101-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Cameron in Milam County; RN101392215; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Bridgett Lee, Debra Barber)

**WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 56 **[Docket No. 2011-2258-WQ-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Arlington in Tarrant County; RN104950134; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jeremy Escobar, Debra Barber)

**STATE IMPLEMENTATION PLAN**

Item 57 **[Docket No. 2012-1087-SIP.](#)**

Consideration of the adoption of the Federal Clean Air Act (FCAA), Section 110(a)(1) and (2) Infrastructure and Transport State Implementation Plan (SIP) Revision for the 2008 Ozone National Ambient Air Quality Standards. The adopted SIP revision outlines the requirements of FCAA, Section 110(a)(2)(A) through (M) and the Texas provisions supporting the requirements. These requirements include basic program elements such as enforceable emission limitations and control measures, air quality monitoring and modeling, a

permitting program, adequate funding, personnel, and authority under state law to carry out the plan, emissions reporting, emergency powers, public participation, and fee collection. This SIP revision also includes a technical demonstration to support that Texas meets the interstate transport requirements of FCAA, Section 110(a)(2)(D)(i)(I). (Shelley Naik, Amy Browning) (Non-Rule Project No. 2012-004-SIP-NR)

#### **RULE PETITION**

Item 58 [\*\*Docket No. 2012-2045-RUL.\*\*](#)

Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality on October 8, 2012 by Baker Botts L.L.P. on behalf of ProTechnics Division of Core Laboratories LP. The petitioner requested that the commission adopt a rule that would conditionally exempt minimal amounts of properly disposed radioactive proppant tracers in hydraulic fracturing flowback from TCEQ low-level radioactive waste licensing and disposal requirements. (Hans Weger, Don Redmond) (Project No. 2013-006-PET-NR)

#### **RULE MATTERS**

Item 59 [\*\*Docket No. 2011-1260-RUL.\*\*](#)

Consideration of the adoption of the amendment to Section 7.117 of 30 TAC Chapter 7, Memorandum of Understanding (MOU). The adoption would implement Article 2 of House Bill 2694, 82nd Legislature, 2011, Regular Session, which transferred from the TCEQ to the Railroad Commission of Texas (RRC), effective September 1, 2011, those duties pertaining to responsibility of preparing groundwater protection advisory/recommendation letters and issuing to permit applicants for geologic storage of anthropogenic carbon dioxide a letter of determination stating that drilling and operating the carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata and that the formation or stratum to be used for the geologic storage facility is not freshwater sand. The rulemaking would adopt by reference a revised MOU between the RRC and TCEQ. The proposed rules were published in the August 24, 2012, issue of the Texas Register (37 TexReg 6524). (Kari Bourland, Don Redmond) (Rule Project No. 2011-037-007-WS)

Item 60 [\*\*Docket No. 2012-1816-RUL.\*\*](#)

Consideration of the adoption of amendments to Sections 285.3 - 285.6, 285.32 - 285.36, 285.90, and 285.91 of 30 TAC Chapter 285, On-Site Sewage Facilities. The adoption would update the rule requirements to remove the requirements for drainage easements; clarify that a permit and an approved plan are required to construct, alter, repair, extend, or operate an On-Site Sewage Facility; exempt subdivisions when one tract is divided into two five-acre or larger tracts from submitting planning materials; allow the repair or alteration of existing cluster systems; update tank sizing requirements; update formulas for leaching

chambers; add language relating to new or replacement disinfection equipment; add equalization tank requirements; clarify what constitutes an emergency repair; and update figures and tables. (Candy Garrett, Alicia Ramirez) (Rule Project No. 2012-023-285-CE)

Item 61 **Docket No. 2012-1610-RUL.**

Consideration of the adoption of amendments to 30 TAC Chapter 30, Occupational Licenses and Registrations, Subchapter K, Section 30.387, Definitions and Section 30.402, Exemptions. The adopted rulemaking amends 30 TAC Chapter 30 by adding a new definition for a Military Operator-in-Training and clarifying the existing definition of an Operator-in-Training. Additionally, the rulemaking amends 30 TAC Section 30.402 to allow active duty military personnel who have successfully completed the Bioenvironmental Engineering Apprentice (BEA) or equivalent military training, as determined by the executive director, to collect microbiological samples and determine disinfection residuals at military facilities' water distribution systems, without holding a TCEQ issued public water system operator license. The proposed rules were published in the July 13, 2012, issue of the Texas Register (37 TexReg 5194). (Terry Thompson, Jessica Rogers) (Rule Project No. 2012-024-030-WS)

Item 62 **Docket No. 2012-0004-RUL.**

Consideration of the adoption of new Section 7.127 of 30 TAC Chapter 7, Memoranda of Understanding. The adoption would implement House Bill 451 from the 82nd Legislature, 2011, Regular Session, relating to the creation of a Don't Mess with Texas Water Program to help prevent illegal dumping that affects surface waters of this state. The proposed rule was published in the August 10, 2012, issue of the Texas Register (37 TexReg 5984). (Cynthia Carter, Steven Shepherd) (Rule Project No. 2012-012-007-AD)

**PUBLIC COMMENT SESSION**

Item 63 The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code §2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour.

**EXECUTIVE MEETING**

Item 64 **Docket No. 2012-0001-EXE.**

The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director and General Counsel, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as

required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

Item 65 **Docket No. 2012-0002-EXE.**

The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

Item 66 **Docket No. 2012-0003-EXE.**

The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST SIX (6) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

**REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. AND WILL CONTINUE UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT:**  
**[HTTP://WWW.TEXASADMIN.COM/tceqa.shtml](http://www.texasadmin.com/tceqa.shtml)**

