

HALL
REED
GARNER

UNCONTESTED AGENDA

Wednesday, March 30, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.
Room 118

UNCONTESTED (**Class 2 Modification**)

- Item 1. Consideration of an application by EMPAK, INC. for a Class 2 permit modification to Permit No. HW-50025-001 in accordance with 30 TAC Section 305.69. The applicant operates a commercial hazardous and industrial solid waste storage and processing facility. The permit modification: (1) revises the Inspection Schedule in the Part B application; (2) changes Provision II.C.7. to allow a decrease in the minimum aisle space required in the container storage areas from 30 inches to 24 inches; and (3) revises the Waste Analysis Plan in the Part B application to include a discussion of the type and frequency of analysis performed for on-site generated wastes. The facility is located on a 4.5-acre tract of land adjacent to State Highway 134 (Battleground Road), approximately 0.8 mile southwest of the San Jacinto Monument in Deer Park, Harris County, Texas.

Approved, PR/PG

UNCONTESTED (**Water Quality Permit**)

- Item 2. APPLICATION BY POSITIVE FEED, INC. for renewal of Permit No. 02314 which authorizes an intermittent flow variable discharge of stormwater runoff and treated process wastewater from an irrigation field. The applicant operates a livestock feed manufacturing plant. The plant site is on the east side of State Highway 36 and approximately 0.3 mile northeast of the intersection of State Highway 36 and FM 2187 in Austin County, Texas.

Approved, PG/PR

UNCONTESTED (**District Matters**)

Item 3. APPLICATION BY LAKE LBJ MUNICIPAL UTILITY DISTRICT OF LLANO AND BURNET COUNTIES FOR APPROVAL TO LEVY A STANDBY FEE; For Commission consideration and action. Applicant requests Commission approval for the levy of a standby fee in the amount of \$24 per lot per year (\$182,736 annual revenue) on all underdeveloped property within the District. (Ferguson)

Continued to April 6, 1994

Item 4. APPLICATION BY HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 217 FOR APPROVAL OF THE LEVY OF A STANDBY FEE; For Commission consideration and action. Applicant requests Commission approval of an annual debt service standby fee of \$250.80 per equivalent single family connection (ESFC) and approval of an annual operation & maintenance standby fee of \$154.94 per ESFC. (Ferguson)

Approved, PR/PG

Item 5. APPLICATION BY HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 239 FOR APPROVAL OF THE LEVY OF A STANDBY FEE; For Commission consideration and action. Applicant requests Commission approval of an operation & maintenance standby fee of \$164.71 per lot and \$314.60 per acre for reserve tracts within Bear Creek Plantation Sections 1 & 2. (Ferguson)

Approved, PR/PG

Item 6. APPLICATION BY LANGHAM CREEK UTILITY DISTRICT OF HARRIS COUNTY FOR APPROVAL OF \$900,000 UNLIMITED TAX AND REVENUE BOND ISSUE, 6.72% NET EFFECTIVE INTEREST RATE, SERIES 1994, FIFTH ISSUE. For Commission consideration and action. Applicant requests approval of the issuance of \$900,000 in unlimited tax and revenue bonds to finance the purchase and construction of facilities to serve Coventry Park, Coventry Estates Phase One, and Water Plant improvements. (Ferguson)

Approved, PR/PG

Item 7. APPLICATION BY HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 202 FOR AUTHORIZATION TO PROCEED IN FEDERAL BANKRUPTCY. For Commission consideration and action. Applicant requests authorization to proceed in federal bankruptcy to implement a plan to restructure bonded debt so that conditions will be more favorable for development within the District and the payment of the District's obligations. (Cavazos)

Approved, PR/PG

Item 8. APPLICATION BY BRIDGESTONE MUNICIPAL UTILITY DISTRICT OF HARRIS COUNTY FOR APPROVAL OF \$4,600,000 UNLIMITED TAX AND REVENUE BONDS, FIFTH ISSUE, 7.174% NET EFFECTIVE INTEREST RATE, SERIES 1994. For Commission consideration and action. The District's application requests Commission approval of a bond issue to finance construction of additions to two water plants, construction of a new water plant, and an expansion of an existing wastewater treatment plant. (Ferguson)

Approved, PR/PG

UNCONTESTED (**Settled Hearings**)

Item 9. Consideration of Examiner's memorandum concerning the application of C. J. Holloway, individual and trustee, for a Section 11.111 water rights permit to authorize a 575 acre-foot reservoir for domestic and livestock purposes in Henderson County, Texas. Recommendation: Issuance of permit. (O'Neal)

Adoption of Memorandum, PR/PG

Item 10. Consideration of Examiner's Memorandum and Order concerning the application of Cardinal Valley Water Company, Inc. to increase retail water rates in Hays County, Texas (Docket No. 30216-G). Applicant provides retail water service to approximately 28 customers. Recommendation: Adoption of agreement of parties. (Sorrells)

Adoption of Memorandum and Issue Order, PR/PG

Item 11. Consideration of Examiner's Memorandum concerning the petition of Maverick Markets for reimbursement from the Commission's Petroleum Storage Tank Remediation Fund. Recommendation: Dismissal of Application (LIMES)

Adoption of Memorandum, PR/PG

Item 12. Consideration of Examiner's memorandum concerning the application of Sanifill of Texas, Inc. for Permit No. 2185 to authorize the operation of a municipal solid waste Type IV site in Harris County, Texas. Applicant seeks authorization to operate a Type IV MSW landfill for construction/demolition debris; brush, rubbish, and Class III industrial solid wastes. Recommendation: Issuance of permit. (Craven)

Adoption of Memorandum, PR/PG

Item 13. Consideration of Examiner's memorandum and order concerning the petition of William Lee Boomer, Receiver for South Seminary Addition Water Utility, to discontinue service and cancel CCN No. 12632 in Tarrant County, Texas. (Docket No. 9859-Q). Recommendation: Adoption of agreement of parties. (L. Sorrells)

Adoption of Memorandum and Issue Order, PR/PG

(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TNRCC 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 DOUG KITTS IN THE OFFICE OF THE CHIEF CLERK AT (512) 463-7905 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)

CONTESTED AGENDA

Wednesday, March 30, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.
Room 118

CONTESTED (Air Quality Enforcement Matters)

Item 1. (Docket No. 94-0107-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER REQUIRING CERTAIN ACTIONS OF Abate and Tusa Gin; ACCOUNT NO. RI-0001-T (Ehresman)

Issue Agreed Order, PG/PR

Item 2. (Docket No. 94-0108-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER REQUIRING CERTAIN ACTIONS OF American Spincast; ACCOUNT NO. BF-0145-K (Gregg)

Issue Agreed Order, PG/PR

Item 3. (Docket No. 94-0109-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER REQUIRING CERTAIN ACTIONS OF City of Austin; ACCOUNT NO. TH-0417-U (Ehresman)

Issue Agreed Order, PG/PR

Item 4. (Docket No. 94-0110-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Belvan Corporation; ACCOUNT NO. CZ-0006-F (Gregg)

Issue Agreed Order, PG/PR

Item 5. (Docket No. 94-0111-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Buck's Barbecue; ACCOUNT NO. ND-0064-D (Ehresman)

Issue Agreed Order, PG/PR

Item 6. (Docket No. 94-0112-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Dobbs Auto Sales; ACCOUNT NO. GB-0240-U (Marvin)

Issue Agreed Order, PG/PR

Item 7. (Docket No. 94-0113-AIR-E) CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND

REQUIRING CERTAIN ACTIONS OF Occidental Chemical Corporation; ACCOUNT NO. HG-1939-G (Ehresman)

Issue Agreed Order, PG/PR

Item 8. **(Docket No. 94-0114-AIR-E)** CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Petrofac, Incorporated; ACCOUNT NO. SK-0203-R (Ehresman)

Issue Agreed Order, PG/PR

Item 9. **(Docket No. 94-0115-AIR-E)** CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Pride Refining, Inc.; ACCOUNT NO. JI-0025-D (Marvin)

Issue Agreed Order, PG/PR

Item 10. **(Docket No. 94-0116-AIR-E)** CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Pro's Truck and Auto Body; ACCOUNT NO. EB-0297-C (Gregg)

Issue Agreed Order, PG/PR

Item 11. **(Docket No. 94-0117-AIR-E)** CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF San Angelo By-Products (a Division of Darling-Delaware Company, Incorporated); ACCOUNT NO. TG-0029-V (Ehresman)

Issue Agreed Order, PG/PR

Item 12. **(Docket No. 94-0118-AIR-E)** CONSIDERATION OF A TNRCC AGREED ORDER REQUIRING CERTAIN ACTIONS OF City of San Angelo; ACCOUNT NO. TG-0097-E (Ehresman)

Issue Agreed Order, PG/PR

Item 13. **(Docket No. 94-0119-AIR-E)** CONSIDERATION OF A TNRCC AGREED ORDER ASSESSING ADMINISTRATIVE PENALTIES AND REQUIRING CERTAIN ACTIONS OF Star Enterprise; ACCOUNT NO. JE-0093-H (Ehresman)

Issue Agreed Order, PG/PR

CONTESTED **(Water Quality Enforcement)**

Item 14. **(Docket No. 94-0120-IWD-E)** Commission Consideration of an Agreed Enforcement Order Resolving the Matter of the Executive Director's Preliminary Enforcement Report

Concerning Tyler Pipe Industries, Inc.; Permit No. 01793
(Martinez/Roberts)

Issue Agreed Order, PR/PG

- Item 15. **(Docket No. 94-0121-IWD-E)** Consideration of a Proposed Agreed Order resolving an enforcement action brought against Doyle Wood for violations of the Texas Water Code and Commission Rules, assessing administrative penalties and requiring certain actions for violations of the Texas Water Code (Winter/Chaffin)

Issue Agreed Order, PR/PG

CONTESTED (Municipal Solid Waste Enforcement)

- Item 16. **(Docket No. 94-0122-MSW-E)** Consideration of a Texas Natural Resource conservation commission agreed order assessing administrative penalties and requiring certain actions of Klingemann Tire and Auto Service; Texas Municipal Solid Waste Tire Generator No. 02879. (MEAD)

Issue Agreed Order, PG/PR

CONTESTED (Solid Waste Management Plan)

- Item 17. Consideration of a proposed regional Solid Waste Management Plan submitted by the Nortex regional planning commission. Regional solid waste management plans are required by the Texas Health and Safety Code, Chapter 363 (Comprehensive Municipal Solid Waste Management, Recovery, and Conservation Act, 1990). (Stephen Dayton)

Approve Solid Waste Management Plan as Recommended, PG/PR

CONTESTED (Rules)

- Item 18. Consideration for approval for the publication in the Texas Register of a proposed amendment to 30 TAC section 335.1, relating to the definition of "Container" for industrial solid and hazardous waste. (Ray Austin)

Request to Publish is approved, PR/PG

- Item 19. Adoption of proposed revisions to Chapter 116, (Concerning Regulation of Air Pollution by Permits for New Construction and Modification) regarding standard permits, compliance history, and renewal schedule, and the Standard Exemption List regarding standard exemption numbers 75, 107, 113, and new 124.

Continued to April 6, 1994

CONTESTED (Examiner's Proposal for Decision)

Item 20. Consideration of Examiner's Proposal for Decision and Order concerning the application of E&L Lumber Company, Inc. for Permit No. 03545 to authorize the no-discharge operation of a wood chipmill facility in Tyler County, Texas. Recommendation: Issuance of permit. (O'Neal)

Adopt Examiner's Proposal for Decision and issue order, overrule all exceptions, Language be added to permit as recommended by Chairman Hall. Item is carried forward to April 6, 1994 agenda for staff and General Counsel to add language into the permit as stated by Chirman Hall, JH/PG

Item 21. Consideration of Examiner's Proposal for Decision & Order concerning the application of Hidalgo County for an amendment to Permit No. MSW-1593 to authorize the operation of a solid waste landfill in Hidalgo County, Texas. RECOMMENDATION: Issuance of permit. (L. Sorrells)

Adopt Examiner's Proposal for Decision and Issue Order, Overrule all exceptions, except the Executive Director's exceptions that the Hearing's Examiner has excepted, and Chairman Hall's recommendations, regarding applicants concerns and Public Interest concerns, PR/PG

EXECUTIVE SESSION

Item 22. THE COMMISSION WILL MEET IN EXECUTIVE SESSION TO 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 GOV'T CODE, Sections 551.071 and 551.074, the Open Meetings Act. No final action, decision or vote with regard to any matter considered in closed session shall be made in the absence of further notice issued in accordance with Chapter 551 of the Government Code.

No Action Taken

Item 23. COMMISSIONERS WILL MEET IN EXECUTIVE SESSION TO DISCUSS THEIR DUTIES, ROLES, AND RESPONSIBILITIES AS COMMISSIONERS OF THE TNRCC UNDER GOV'T CODE, SECTION 551.074, the Open Meetings Act.

No Action Taken

(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TNRCC 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 DOUG KITTS IN THE OFFICE OF THE CHIEF CLERK AT (512) 463-7905 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)

ADDENDUM TO CONTESTED AGENDA

Wednesday, March 30, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.
Room 118

Item 24. THE COMMISSION WILL MEET IN EXECUTIVE SESSION TO DISCUSS THE FOLLOWING PENDING LITIGATION RELATED TO THE EDWARDS AQUIFER: SIERRA CLUB, ET AL. VS. BABBITT, ET AL., NO. 91-CA-069, U.S. DISTRICT COURT, WESTERN DISTRICT OF TEXAS, MIDLAND - ODESSA DIVISION. THE AUTHORITY FOR THIS MEETING IS GOVERNMENT CODE, SECTION 551.071, THE OPEN MEETINGS ACT.

No Action Taken

CONTESTED OLD BUSINESS

Wednesday, March 30, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.
Room 118

Item carried forward from Agenda of March 23, 1994.

Item 1. The Commission will consider a proposed order prepared by the General Counsel concerning the application of Sentry Environmental L.P. for Permit No. MSW 2171. The Commission denied the permit application during its public meeting of March 4, 1994. The proposed order contains specific findings of fact and conclusions of law that the General Counsel suggests the Commission adopt as a written order in support of its motion to deny the application. The proposed landfill site is located in Denton County.

1. Motion to Reopen the Record is denied.
2. Approve General Counsels order as recommended, and facts stated by applicant by stricken and official notices of those facts be overruled, JH/PR

BUDGET RETREAT
TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
Wednesday, March 30, 1994
2:00 p.m.

REGENCY APARTMENTS CLUB ROOM
601 West 11th
(between Rio Grande & Nueces)
Austin, Texas

The Commissioners will meet to discuss a budget planning process with their senior management team.

Continued to April 6, 1994