

Hall
Garner
Reed - Absent and Excused

AGENDA

Wednesday, December 21, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.
Room 201S
Bldg E.

UNCONTESTED (District Matters)

Item 1. Docket No. 94-0611-DIS. CONSIDERATION OF A PROPOSED ORDER APPROVING THE APPLICATION BY PONDEROSA FOREST UTILITY DISTRICT OF HARRIS COUNTY FOR APPROVAL OF THE RELEASE OF ESCROWED FUNDS, \$2,470,000 BOND ISSUE APPROVED FEBRUARY 8, 1985. For Commission consideration. Applicant requests approval of the release of \$133,600 in escrowed funds to finance the construction costs of the Water Plant No. 1 expansion. (Ferguson)

Approved, PG/JH

Item 2. Docket No. 94-0639-DIS. CONSIDERATION OF A PROPOSED ORDER APPROVING THE APPLICATION BY NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 29 FOR APPROVAL OF THE LEVY OF A STANDBY FEE. For Commission consideration. Applicant requests approval of a uniform operations and maintenance standby fee of \$61.00 per ESFC per year. (Robert Ferguson)

Approved, PG/JH

Item 3. Docket No. 94-0619-DIS. CONSIDERATION OF THE PROPOSED ORDER APPROVING THE APPLICATION BY HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165 FOR APPROVAL OF THE LEVY OF A STANDBY FEE. For Commission consideration. Applicant requests Commission approval of an operation & maintenance standby fee of \$356.24 per year per ESFC. (Robert Ferguson)

Approved, PG/JH

Item 4. Docket No. 95-0036-DIS. CONSIDERATION OF A PROPOSED ORDER ACTING ON THE PETITION BY RESOLUTION TRUST CORPORATION FOR APPOINTMENT OF DIRECTORS FOR NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 32; For Commission consideration. Applicant request appointment of William L. Close, Deborah Chrissinger, Barbara J.

Decker, Jack R. Grant, and Dean Hanson as directors each to serve until new directors are elected. (Robert Ferguson)

Approved, PG/JH

Item 5. Docket No. 95-0035-DIS. CONSIDERATION OF A PROPOSED ORDER ACTING ON THE PETITION BY RESOLUTION TRUST CORPORATION FOR APPOINTMENT OF DIRECTORS FOR NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 30; For Commission consideration. Applicant request appointment of Mary C. McAfee, Mike Martin, C.K. Stephenson, Jr., and Keith Wohlford as directors each to serve until new directors are elected. (Robert Ferguson)

Approved, PG/JH

UNCONTESTED (Water Utility Matters)

Item 6. Docket No. 94-0818-UCR. Approval of Comanche County Water Supply Corporation to amend Water Certificate of Convenience and Necessity Number 12707 in Comanche County, Texas. (Application #30513-C, Albert Holck)

Approved, PG/JH

Item 7. Docket No. 94-0815-UCR. Approval of Hornsby Bend Water Company to Cancel Water CCN No. 11919 in Travis County, Texas. (Application # 30645-Q, Albert Holck)

Approved, PG/JH

Item 8. Docket No. 94-0815-UCR. Approval of Hornsby Bend Water Company to Cancel Sewer CCN no. 20635 in Travis County, Texas. (Application # 30646-Q, Albert Holck)

Approved, PG/JH

UNCONTESTED (Settled Hearings)

Item 9. Docket No. 94-0574-UCR. Consideration of Examiner's Memorandum and Order concerning the application of H2M Water Systems, Inc. to increase retail water rates of approximately 1,069 residential customers in Denton, Hood, Johnson, Somervell, Tarrant and Wise Counties, Texas; Application No. 30439-R; and concerning the petition of H2M Water Systems, Inc. appealing the denial by the City of Southlake of a proposed increase in the retail water rates of approximately 50 residential customers who reside wholly within the corporate limits of the City of Southlake. RECOMMENDATION: ADOPTION OF AGREEMENT OF PARTIES. (NINA FANTL)

Adopt Examiner's Memorandum and Issue Order, PG/JH

Item 10. Docket No. 94-0782-UCR. Consideration of Examiner's Memorandum and Order concerning the applications of Clarence Reeves dba Pleasant Ridge, Aloha Gardens, and Timber Creek Water to increase retail water rates in Grayson County, Texas. Applicant provides retail water service to approximately 164 customers. Recommendation: Adoption of agreement of parties. (Bill Zukauckas)

Adopt Examiner's Memorandum and Issue Order, PG/JH

Item 11. Docket No. 94-0749-UCR. Consideration of Examiner's Memorandum and Order concerning the application of William Nathaniel Kelley, Jr. dba Kelley Well Service to increase retail water rates in Liberty County, Texas. Applicant provides retail water service to approximately 172 customers. Recommendation: Adoption of agreement of parties. (Jim Bateman)

Adopt Examiner's Memorandum and Issue Order, PG/JH

Item 12. Docket No. 94-0821-MWD. Consideration of Examiner's Memorandum and Permit concerning the application of Axtell Independent School District for Permit No. 11576-002 to authorize the discharge of 16,000 gpd of treated domestic wastewater effluent in McLennan County, Texas, and Segment No. 1242 of the Brazos River Basin. Recommendation: Issuance of permit. (Betsy Todd)

Adopt Examiner's Memorandum, PG/JH

Item 13. Docket No. 94-0817-UCR. Consideration of Examiner's Memorandum and Order concerning the petition of the City of Leander for review of an increase in wholesale water rates in Williamson County, Texas by the Chisholm Trail Special Utility District. Recommendation: Dismissal of Petition in accordance with Agreement of Parties. (Linda Sorrells)

Adopt Examiner's Memorandum and Issue Order, PG/JH

Item 14. Docket No. 94-0775-UCR. Consideration of Examiner's Memorandum and Order concerning the application of Virdell Drilling, Inc. dba Parkview Acres Water System to increase retail water rates in Llano County, Texas. Applicant provides retail water service to approximately 33 residential customers. Recommendation: Adoption of agreement of parties. (Sylvia McClellan)

Adopt Examiner's Memorandum and Issue Order, PG/JH

Item 15. Docket No. 94-0375-MWD. Consideration of Memorandum and proposed Order dismissing the September 20, 1991

application of Lakeway Municipal Utility District to amend Permit No. 11495-01 to increase the disposal volume of treated domestic sewage effluent from 250,000 gallons per day to 390,000 gallons per day. Applicant also seeks to withdraw the subject application because it has been superseded by a new application requesting a discharge of 520,000 gallons per day. Recommendation: That the application of Lakeway MUD filed on September 20, 1991 requesting a 390,000 discharge be dismissed. (Bill Zukauckas)

Adopt Examiner's Memorandum and Issue Order, PG/JH

Item 16. Docket No. 94-0805-UCR. Consideration of Examiner's Memorandum and Order concerning the application of John T. Gilley dba Holiday Estates Water System to increase retail water rates in Hunt County, Texas. Applicant provides retail water service to approximately 46 customers. Recommendation: Adoption of agreement of parties. (Patricia Robards)

Adopt Examiner's Memorandum and Issue Order, PG/JH

UNCONTESTED (Agency Monthly Enforcement Report)

Item 17. Docket No. 94-0839-RPT. Discussion of an Agency Report on Enforcement Actions from various programs including Air, Industrial & Hazardous Waste, Watershed Management, Municipal Solid Waste, Petroleum Storage Tanks, Water Utilities, and Agriculture. (Anne Dobbs, John Riley)

No Action Taken

CONTESTED (Water Quality Enforcements)

Item 18. Docket No. 94-0834-MWD-E. Consideration of a Texas Natural Resource Conservation Commission Agreed Order Assessing Administrative Penalties and Requiring Certain Actions of Mayde Creek Municipal Utility District, TNRCC Permit No. 11969-001, (Angelle)

Issue Agreed Order, PG/JH

Item 19. Docket No. 94-0398-MWD-E. Consideration of a Texas Natural Resource Conservation Commission Agreed Order Requiring Certain Actions of the City of Ector, TNRCC Permit No. 10552-001. (Roxanne Cook)

Issue Agreed Order, PG/JH

Item 20. Docket No. 94-0835-MWD-E. Consideration of a Texas Natural Resource Conservation Commission Agreed Order

Requiring Certain Actions of the City of Knox City, TNRCC
Permit No. 10416-001. (Cook)

Issue Agreed Order, PG/JH

CONTESTED (Industrial and Hazardous Waste
Enforcement)

Item 21. Docket No. 94-0833-IHW-E. Consideration of Agreed Order assessing administrative penalties and requiring certain actions of Van Waters and Rogers, Inc. SWR NO. 31657, for violations of the Texas Health and Safety Code Chapter 361, the Texas Water Code, and 30 Texas Administrative Code Chapter 335 pertaining to Industrial and Hazardous Waste. (ROBIN SMITH/BOBECK)

Issue Agreed Order, PG/JH

Item 22. Docket No. 94-0840-IHW-E. Consideration of an Agreed Order Assessing Administrative Penalties and Requiring Certain Actions of Clean Solvent Recycling, Inc., SWR No. 81215 for violations of the Texas Health and Safety Code Chapter 361, and 30 Texas Administrative Code Chapter 335 pertaining to industrial and hazardous waste. (Robin Smith/Cathy Remmert)

Issue Agreed Order, PG/JH

CONTESTED (Resolution)

Item 23. Docket No. 94-0829-RES. Consideration of a resolution concerning the enforcement of requirements contained in 30 TAC 114.3(1), relating to voluntary certified repair technician of Texas and voluntary certified repair facility of Texas requirements for obtaining minimum expenditure and time extension waivers. (John Steib)

Adopt Staff Recommendation on Resolution, PG/JH

CONTESTED (Contract)

Item 24. Docket No. 94-0830-CON. Consideration of the modification of the contracts for the Motor Vehicle Inspection/Maintenance Program with the Managing Contractors (MARTA Technologies, Inc. in the El Paso Region; Tejas Testing Technology Two, Inc. in the Dallas/Fort Worth Region; and Tejas Testing Technology One, Inc. in the Southeast Regions) providing for a waiver fee and credit card services, and increasing the contractor fees. (John Steib)

Approve Contract as Recommended by Staff, PG/JH. Item was called up again to Correct typo on Contract, amount should have been \$18.02, JH/PG

CONTESTED (Water Utility Enforcements)

Item 25. Docket No. 94-0694-PWS-E. Consideration of Agreed Order Assessing Administrative Penalties and requiring certain actions of Weldon W. Alders DBA Woodway Water Company for violations of Title 30 Texas Administrative Code Chapter 290 pertaining to water hygiene and Chapter 341 of the Health and Safety Code pertaining to minimum standards of sanitation and health protection measures. (Steve Shepherd/Terry Thompson)

Issue Agreed Order, PG/JH

Item 26. Docket No. 94-0841-PWS-E. Consideration of Agreed Order Assessing Administrative Penalties and requiring certain actions of the City of Emory for violations of Title 30 Texas Administrative Code Chapter 290 pertaining to water hygiene and Section 341 of the Health and Safety Code pertaining to minimum standards of sanitation and health protection measures. (Steve Shepherd/Tom Napier)

Issue Agreed Order, PG/JH

Item 27. Docket No. 94-0843-PWS-E. Consideration of Agreed Order Assessing Administrative Penalties and requiring certain actions of Selkirk Island Utilities Corporation for violations of Title 30 Texas Administrative Code Chapter 290 pertaining to water hygiene and Section 341 of the Health and Safety Code pertaining to minimum standards of sanitation and health protection measures. (Steve Shepherd/Kathryne Wheatly)

Issue Agreed Order, PG/JH

Item 28. Docket No. 94-0756-PWS-E. Consideration of Agreed Order Assessing Administrative Penalties and requiring certain actions of the City of Mabank for violations of Title 30 Texas Administrative Code Chapter 290 pertaining to water hygiene and section 341 of the Health and Safety Code pertaining to minimum standards of sanitation and health protection measures. (Steve Shepherd/Tom Napier)

Issue Agreed Order, PG/JH

Item 29. Docket No. 94-0734-PWS-E. Consideration of Agreed Order Assessing Administrative Penalties and requiring certain actions of Herbert Zieben and Douglas Utilities Company for violations of Title 30 Texas Administrative Code Chapter 290 pertaining to water hygiene and section 341

of the Health and Safety Code pertaining to minimum standards of sanitation and health protection measures. (Steve Shepherd/Tom Napier)

Continued to January 4, 1995

CONTESTED (Rules)

Item 30. Docket No. 94-0838-RUL. Consideration of the publication in the Texas Register of a proposed new 30 TAC Chapter 345, concerning rules and procedures applicable to advisory committees created to advise the Texas Natural Resource Conservation Commission. (Dave Bolduc)

Approve publicaiton into the Texas Register, JH/PG

Item 31. Docket No. 94-0831-RUL. Consideration of the draft rule 30 Texas Administrative Code Section 305.71 implementing the Permitting-by -Basin provisions of the Texas Clean Rivers Act found in Texas Water Code 26.0285. (Randall B. Wilburn)

Adopt Rules as Recommended by Staff, PG/JH

Item 32. Docket No. 94-0837-RUL. Consideration of an emergency rulemaking for a new 30 TAC Section 114.7, concerning fees for the Inspection/Maintenance program in the following nonattainment areas: Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso. (John Steib)

Approve Staff Recommendation, PG/JH

Item 33. Docket No. 94-0836-RUL. Consideration and action on the adoption of 30 TAC Section 327.31, concerning Incorporation by Reference of the NRDA Coastal Oil Spill Rules, rules were published in the Texas Register on November 18, 1994. (Ginny King)

Adopt Rules As Recommended, PG/JH

Item 34. Docket No. 94-0832-RUL. Consideration of adoption of proposed changes to 30 TAC **REWRITE** 334.301(i) regarding nonprofit entities with pending requests for reimbursement from the PST Remediation Fund. (Dan Neal/David Duncan)

Adopt Rules Recommended, PG/JH

EXECUTIVE SESSION

Item 35. Docket No. 94-0844-EXE. 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 36. Docket No. 94-0845-EXE. 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 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

(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) 239-3317 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)

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

ADDENDUM TO AGENDA

Wednesday, December 21, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.
Room 201S

Item 37. Docket No. 94-0846-EXE. The Commission will meet in Executive Session to discuss the appointment of the Chief Hearings Examiner, as permitted by Section 551.074 of the Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in Open Session to consider the appointment of the Chief Hearings Examiner in accordance with Chapter 551 of the Government Code.

Jim Phillips was named as the new Chief Hearings Examiner, JH/PG

CONTESTED OLD BUSINESS

Wednesday, December 21, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.
Room 201S
Bldg E.

Item carried forward from agenda of September 07, September 21, and October 12, 1994, December 07, 1994.

- Item 1. Consideration of Examiner's Proposal for Decision and Order concerning the application of STEBEC, INC. for Permit No. 13666-01 to authorize the discharge of 13,000 gpd of treated domestic wastewater effluent in Harris County, Texas and Segment No. 1005 of the San Jacinto River Basin. Recommendation: Denial of Permit. (FANTL)

Adopt Executive's Recommendation and incorporate Executive Director's recommendation on casing of water well, JH/PG

Item carried forward from agenda of December 7, 1994.

- Item 2. Docket No. 94-0812-DIS. Consideration of Examiner's Proposal for Decision concerning the application of Sportsman's World Municipal Utility District to adopt and impose standby fees in Palo Pinto County. Application No. IC-070193-D03; Recommendation: Issuance. (Cecile Hanna)

Adopt Examiner's Proposal for Decision and overrule all exceptions, PG/JH

SECOND ADDENDUM

Wednesday, December 21, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.
Room 201S
Bldg. E

Item 38. **Docket No. 94-0334-WR.** The Commission will consider the motion for rehearing filed concerning the application of the City of Dallas for water rights permit no. 5414. The application sought authorization of the diversion for municipal use of the periodically occurring higher flows of the Elm Fork Trinity River, Trinity River Basin, at two diversion points in Dallas County, Texas. The Commission's order of November 1, 1994, approved the application for permit no. 5414.

Grant the MFR, Modify November 1, Order. (1) Application represents request for a new water rights permit. (2) Non Priority strike, and have priority date of April 22, 1992 included into permit. JH/PG