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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)).

Chairman Bryan W. Shaw, Ph.D., P.E.
Commissioner Toby Baker
Commissioner Jon Niermann

AGENDA

May 24, 2017

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 1 **[Docket No. 2017-0533-AIR.](#)**

Consideration of an application by Saint-Gobain Ceramics & Plastics, Inc. for Air Quality Permit No. 20006 to authorize the construction of Tunnel Kiln No. 6 and modification to Tunnel Kiln No. 1 at the Bryan Ceramics Plant, located at 1500 Independence Avenue, Bryan, Brazos 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. (Ruth Álvarez, Nicolas Parke)

Grant the hearing request of Bryan Independent School District; Refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrent with SOAH preliminary hearing scheduling efforts; Refer the application to SOAH for contested case hearing on the following issues: 1) Whether the draft permit is protective of the health of students and staff at nearby schools; 2) Whether the use of an alternative air quality model in lieu of the AERMOD air quality model was

appropriate; and 3) Whether the meteorological data used in the model was representative of the Bryan area; Set a hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued; and Deny all Requests for Reconsideration. TB/JN; all agree.

EMERGENCY ORDER

Item 2 [**Docket No. 2017-0392-UCR-E.**](#)

Consideration of whether to affirm, modify, or set aside the Emergency Order Appointing a Temporary Manager of a Water Utility issued on March 27, 2017, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Utility) by SUBURBAN UTILITY CO; RN101175057; RN101241081; RN101252963; RN101209922; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order appointed Quadvest, L.P. as temporary manager of the Utility. (Meaghan Bailey)

Affirm the Executive Director's March 27, 2017 Emergency Order appointing Quadvest, L.P. as temporary manager of four public water systems owned and operated by SUBURBAN UTILITY CO but with the following modifications: 1) Delete the last sentence of Finding of Fact No. 2; 2) Revise Finding of Fact No. 7 to state "TCEQ referred the utility to the Office of Attorney General for the appointment of a receiver pursuant to Texas Water Code § 13.412 on September 16, 2013 and March 10, 2017."; 3) Add new Conclusion of Law No. 1 which should read "As evidenced by Finding of Fact No. 2, the utility consists of four public water systems as defined by 30 TAC § 290.38(69)."; 4) Renumber the Conclusions of Law accordingly; and 5) Delete the duplicative Ordering Provision No. 7. TB/BS; JN abstained.

OCCUPATIONAL LICENSE REVOCATION MATTER

Item 3 [**Docket No. 2016-0345-LIC.**](#)

Consideration of a Default Order revoking the occupational license and requiring certain actions of Ramon Villa in El Paso County; Occupational License No. IT0004829; for conviction of an offense warranting license revocation pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code chs. 53 and 1903, and the rules of the Texas Commission on Environmental Quality. (Jess Robinson, Janice Hernandez)

Deny to issue the Default Order and direct the Executive Director to refer the matter to SOAH for contested case hearing. JN/TB; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 4 [**Docket No. 2016-1381-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against ETC Field Services LLC in Hemphill County; RN105621569; 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 Tex. Admin. Code ch. 60. (Abigail Lindsey, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 5 [**Docket No. 2016-1167-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kiewit Offshore Services, Ltd. in San Patricio County; RN102905064; 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 Tex. Admin. Code ch. 60. (David Carney, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 6 [**Docket No. 2016-0921-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TXI Operations, LP in Comal County; RN100212067; 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 Tex. Admin. Code ch. 60. (Abigail Lindsey, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 7 [**Docket No. 2014-0923-IHW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FORMOSA PLASTICS CORPORATION, TEXAS in Calhoun County; RN100218973; for industrial and hazardous 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 Tex. Admin. Code ch. 60. (Abigail Lindsey, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 8 [**Docket No. 2016-1568-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Total Petrochemicals USA, Inc. in Jefferson County; RN102457520; 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. (Caleb Olson, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 9 [**Docket No. 2016-1183-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TXI OPERATIONS, LP in Bastrop County; RN102765641; 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. (Alejandro Laje, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 10 [**Docket No. 2016-0068-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Beeville in Bee County; RN101419133; for municipal solid waste and public drinking water violations pursuant to Tex. Health & Safety Code chs. 341 and 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Michaëlle Garza, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 11 **Docket No. 2015-1481-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of EAST TEXAS PRECAST CO., LTD. in Waller County; RN100889872; industrial solid waste, used/scrap tires, and used oil violations pursuant to Tex. Health & Safety Code chs. 361 and 371, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Danielle Porras, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 12 **Docket No. 2015-1281-MLM-E.**

Consideration of an Agreed Order assessing administrative penalties against Liberty Trails, LP in Williamson County; RN107253148; for Edwards Aquifer and 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. (Cheryl Thompson, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 13 **Docket No. 2015-0515-MWD-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Calvert in Robertson County; RN102185972; 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. (Had Darling, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 14 **[Docket No. 2015-1496-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Diana Special Utility District in Upshur County; RN101514826; 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. (Cheryl Thompson, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 15 **[Docket No. 2016-0451-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Farmers Transport, Inc. in Calhoun County; RN101715134; 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. (Melissa Castro, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 16 **[Docket No. 2016-1769-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ranch Utilities, L.P. in Parker County; RN101522464; 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. (Alejandro Laje, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 17 **[Docket No. 2016-0375-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the Town of Windom in Fannin County; RN103014619; 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. (Cheryl Thompson, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 18 [**Docket No. 2016-0627-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Bassam Zahra dba Saveway FS in Dallas County; RN102355690; 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. (Ian Groetsch, Janice Hernandez)

Adopt the Agreed Order. TB/JN; all agree.

Item 19 [**Docket No. 2015-1773-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Nasser Farahnakian dba Sunrise Food Mart in Nueces County; RN105837108; 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. (Audrey Liter, Janice Hernandez)

Adopt the Agreed Order. TB/JN; all agree.

Item 20 [**Docket No. 2016-1592-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against JADIDI CORPORATION dba Friendswood Shell Station in Galveston County; RN102795648; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, 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. (Jonathan Nguyen, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 21 [**Docket No. 2016-1336-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of JZV, INC. dba Star Mart in Galveston County; RN101744241; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, 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. (John Fennell, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 22 **Docket No. 2016-1653-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of PRANAV & DAISY GROUP LLC dba Newway Food Mart in Gregg County; RN102359718; 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. (John Paul Fennell, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 23 **Docket No. 2016-1200-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Western Refining Wholesale, LLC in El Paso County; RN102942620; 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. (Steven Stump, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDERS

Item 24 **Docket No. 2016-1190-PST-E.**

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of Robin Annette Wiley and Kenneth D. Wiley dba Wileys Food Store in Dawson County; RN101894400; 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. (Isaac Ta, Janice Hernandez)

Adopt the Default and Shutdown Order. TB/JN; all agree.

Item 25 [**Docket No. 2016-0964-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of Benton Rainey dba Delta Family Mart in Delta County; RN102839560; 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. (Clayton Smith, Janice Hernandez)

Remanded to the Executive Director on May 18, 2017.

Item 26 [**Docket No. 2016-1087-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of SUHA ENTERPRISES INC dba Diamond Food Mart in Bexar County; RN101781862; 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. (Clayton Smith, Janice Hernandez)

Adopt the Default Order. TB/JN; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 27 [**Docket No. 2016-0649-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Carolyn Bush dba Paradise Ranch RV Park and Wayne Bush dba Paradise Ranch RV Park in Robertson County; RN106691025; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michaëlle Garza, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 28 [**Docket No. 2016-2051-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of STAFF WATER SUPPLY CORPORATION in Eastland County; RN101189918; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the

rules of the Texas Commission on Environmental Quality. (Michaëlle Garza, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 29 [Docket No. 2016-0746-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of David P. Dey dba Wildwood Mobile Home Village in Lubbock County; RN101193357; for public drinking water violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Janice Hernandez)

Adopt the Default Order. TB/JN; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 30 [Docket No. 2016-0380-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Arlington in Tarrant County; RN101385714; 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. (Melissa Castro, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

MONTHLY ENFORCEMENT REPORT

Item 31 [Docket No. 2017-0464-MIS.](#)

Consideration of the Texas Commission on Environmental Quality Monthly Enforcement Report, submitted for discussion in accordance with Texas Water Code § 7.003. (Bryan Sinclair, Melissa Cordell)

No action taken.

PETITION FOR RULEMAKING

Item 32 [Docket No. 2017-0425-PET.](#)

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 (commission) on March 27, 2017, by the Texas Septic Systems Council (petitioner). The petitioner requested that the commission modify 30 TAC Chapter 285, On-site Sewage Facilities, by adding or amending language related to grease interceptors, conditioning of all commercial on-site sewage facility (OSSF) permits, design requirements for restaurants, specific requirements for flow equalization, and requirements for equipment to measure wastewater flow in an OSSF. (James McCaine, Kathy Humphreys) (Project No. 2017-021-PET-NR)

Deny the petition for rulemaking filed by Texas Septic Systems Council concerning amendments to 30 Texas Administrative Code Chapter 285 for the reasons stated in the Executive Director's response memorandum; and Issue the Executive Director's Proposed Order, but modify the decision to deny the Petition by: 1) Deleting the second sentence of the second paragraph of the Order and 2) Adding the following to the end of the second paragraph which states: "The decision to deny the petition is based on our conclusion that the Commission's existing rules concerning grease interceptors and restaurant/food service OSSFs are protective of human health and the environment. The Commission includes the reasons to deny the Petition as expressed in the Executive Director's response memorandum to the petitioner dated May 5, 2017." JN/TB; all agree.

EXECUTIVE MEETING

Item 33 **Docket No. 2017-0001-EXE.**

The Commission will conduct a closed meeting to receive legal advice from its attorney(s) and will discuss pending or contemplated litigation, and/or settlement offers, as permitted by Section 551.071 of the Texas Open Meetings Act, Chapter 551 of the Texas 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 Texas Government Code.

The Commission did not meet in Executive Meeting.

Item 34 **Docket No. 2017-0002-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, General Counsel, Chief Clerk, Public Interest Counsel, or Chief Auditor as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the

Texas 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 Texas Government Code.

The Commission did not meet in Executive Meeting.

Item 35 **Docket No. 2017-0003-EXE.**

The Commission will conduct a closed meeting to discuss the employment, evaluation, reassignment, duties, discipline or dismissal of a specific Commission employee(s) as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Texas 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 Texas Government Code.

The Commission did not meet in Executive Meeting.

Item 36 **Docket No. 2017-0004-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 Texas Open Meetings Act, Chapter 551 of the Texas 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 Texas Government Code.

The Commission did not meet in Executive Meeting.

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.

SECTION 46.035 OF THE TEXAS PENAL CODE PROHIBITS HANDGUN LICENSEES FROM CARRYING THEIR HANDGUNS AT GOVERNMENT MEETINGS SUCH AS THIS ONE. THIS PROHIBITION APPLIES TO BOTH CONCEALED CARRY AND OPEN CARRY BY HANDGUN LICENSEES.

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)**

/s/ Greg Merrell
Assistant General Counsel
Greg Merrell

06-05-2017
Date