

*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)).*

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

## **OLD BUSINESS AGENDA**

September 20, 2017

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

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

Continued from the September 6, 2017 Agenda.

Item 1      **[Docket No. 2016-1429-RUL.](#)**

Consideration of the adoption of amended Sections 101.300, 101.302 – 101.304, 101.306, 101.370, 101.372 - 101.374, and 101.376 of 30 TAC Chapter 101, General Air Quality Rules, and corresponding revisions to the state implementation plan (SIP). The adoption would revise the Emissions Reduction Credit and Discrete Emissions Reduction Credit Programs to address implementation issues that were identified with the generation of emissions credits from area and mobile sources. The revisions include: identifying types of area and mobile sources that are eligible to generate credits; defining the eligible SIP emissions for credit generation projects; extending the application deadline to generate credits from mobile sources; defining the years used to determine the historical adjusted emissions for area and mobile sources; specifying the procedure for adjusting the credits issued for an individual mobile source based on its remaining useful life; reducing the amount of

credits issued for an individual source based on the quality of the data used to determine the emissions; providing additional means to specify monitoring, testing, recordkeeping, and reporting requirements and to make the emission reduction permanent and federally enforceable; and various revisions providing greater flexibility for the generation and use of emission credits. The proposed rules were published in the March 24, 2017, issue of the *Texas Register* (42 TexReg 1335). (Guy Hoffman, Amy Browning) (Rule Project No. 2016-041-101-AI)

Adopt the amendments to 30 TAC Chapter 101, Subchapter H, Divisions 1 and 4 and the corresponding revisions to the State Implementation Plan, as recommended by the Executive Director. TB/JN; all agree.

# AGENDA

September 20, 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. 2017-1060-AIR.**

Consideration of application by Aurora ReadyMix Concrete, LLC for Air Quality Permit No. 138224, to authorize the construction of a concrete batch plant to be located at 5715 Schurmier Road, Houston, Harris 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. (Bill Moody, Nimasha Weliwitigoda)

Grant the hearing request of Monica Harris-Roach; Deny the remaining hearing requests; Refer the application to SOAH for a contested case hearing on the following issues: 1) Whether the draft permit contains adequate conditions to protect against adverse effects on the requestor's health and safety; 2) Whether the draft permit contains adequate conditions to protect against nuisance dust conditions effecting the requestor's property; 3) Whether the application properly calculated and addressed potential emission sources, emission rates, and background particulate matter concentrations to establish appropriate conditions in the draft permit; Specify that the maximum expected hearing duration between the preliminary hearing and the PFD issuance be set at 180 days; and Refer the matter to the Commission's ADR program concurrently with the SOAH scheduling process. JN/TB; all agree.

Item 2

#### **Docket No. 2017-1156-MWD.**

Consideration of the application by the City of Alamo for a renewal of Texas Pollutant Discharge Elimination System Permit No. WQ0013633001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The wastewater treatment facility is located approximately 14,000 feet south along South Tower Road from the intersection of Tower Road and U.S. 83 Business Highway or approximately 17,000 feet south from the intersection of South Tower Road with U.S. 83 Expressway in Hidalgo County, Texas 78516. The Commission will also consider requests for hearing or reconsideration, related responses and

replies, public comment, and the Executive Director's Response to Comments. (David Akoma, Hollis Henley)

Grant the hearing requests of Aire Limpio Para South Tower, Fidencia Fernandez, Martina Isidro, Maria Mendoza, Raquel Molina, Maria Olivares, Anay Rangel, Elsa Rangel, Maria Luisa Soto, Maria Celio Torres; Refer the matter to SOAH for a contested case hearing on the following issues: a) Whether the draft permit contains sufficient provisions to prevent nuisance odors; b) Whether the draft permit contains sufficient provisions to adequately protect the health of the requestors' and their families; c) Whether the draft permit is protective of the requestors' use and enjoyment of their property; d) Whether the applicant's compliance history raises issues regarding the applicant's ability to comply with the material terms of the permit that warrant denying or altering the terms of the draft permit; e) Whether the plant will be adequately protected from inundation and damage that may occur during a 100-year flood event; f) Whether the proposed discharge authorized by the draft permit will be protective of water quality and the uses in the receiving waters under the applicable surface water quality standards; g) Whether the facility meets all applicable buffer zone requirements; h) Whether the permit application is complete and contains accurate information; i) Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need under TWC § 26.0282 and the general policy to promote regional or area wide systems under TWC § 26.081; and Specify that the maximum duration of the hearing is nine months from the preliminary hearing to issuance of the Proposal for Decision. TB/JN; all agree.

### **MISCELLANEOUS MATTERS**

Item 3 [\*\*Docket No. 2016-1179-MIS.\*\*](#)

Consideration for adoption of the update to the Texas Nonpoint Source Management Program. This update is required to be submitted through the Governor's Office to the United States Environmental Protection Agency for continued eligibility for Section 319 Nonpoint Source Grant funds under the federal Clean Water Act. This update represents the joint submission of both the Texas Commission on Environmental Quality and the Texas State Soil and Water Conservation Board. (Kerry Niemann, Ashley McDonald) (Project No. 2016-043-MIS-NR)

Adopt the update to the Texas Nonpoint Source Management Program as recommended by the Executive Director. JN/TB; all agree.

Item 4 [\*\*Docket No. 2017-0734-MIS.\*\*](#)

Discussion of the Office of Public Interest Counsel's Annual Report to the Commission made pursuant to Texas Water Code, Section 5.2725, Annual Report; Performance Measures. (Vic McWherter)

No action taken.

## **WATERMASTER BUDGET MATTERS**

### **Item 5 [Docket No. 2017-1129-BGT.](#)**

Consideration of Fiscal Year 2018 assessment of annual costs for Watermaster operations in the Concho River Watermaster Program. Pursuant to Texas Water Code Sections 11.329 and 11.558 and 30 Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 304.61, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2017, and ending August 31, 2018, for water right holders in the Concho River Watermaster Program, and approve \$217,069.21 as the amount to be assessed for annual costs. The Concho River Watermaster Program consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County. (Amy Settemeyer, Robin Smith)

Joint Motion for Items 5-8.

Approve the Concho River, Rio Grande, South Texas, and Brazos Watermaster budgets for Fiscal Year 2018 as recommended by the Executive Director; Issue the Executive Director's four Proposed Orders assessing the annual costs of those Watermaster programs, which includes the Order assessing the amount of \$840,583.00 for the Brazos Watermaster operations. TB/JN; all agree.

### **Item 6 [Docket No. 2017-1130-BGT.](#)**

Consideration of Fiscal Year 2018 assessment of annual costs for Watermaster operations in the Rio Grande Water Division. Pursuant to Texas Water Code Section 11.329 and 30 Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 303.71-303.73, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2017, and ending August 31, 2018, for water right holders in the Rio Grande Water Division, and approve \$984,173.19 as the amount to be assessed for annual costs. The Rio Grande Water Division extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers and including that portion of the Nueces-Rio Grande

Costal Basin lying in Hidalgo, Cameron, Willacy, and Starr Counties whose source of water is the Rio Grande. (Amy Settemeyer, Robin Smith)

Joint Motion for Items 5-8.

Approve the Concho River, Rio Grande, South Texas, and Brazos Watermaster budgets for Fiscal Year 2018 as recommended by the Executive Director; Issue the Executive Director's four Proposed Orders assessing the annual costs of those Watermaster programs, which includes the Order assessing the amount of \$840,583.00 for the Brazos Watermaster operations. TB/JN; all agree.

Item 7 [\*\*Docket No. 2017-1131-BGT.\*\*](#)

Consideration of Fiscal Year 2018 assessment of annual costs for Watermaster operations in the South Texas Watermaster Division. Pursuant to Texas Water Code Section 11.329 and 30 Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 304.61, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2017, and ending August 31, 2018, for water right holders in the South Texas Water Division, and approve \$710,854.36 as the amount to be assessed for annual costs. The South Texas Water Division consists of the Nueces, San Antonio, Guadalupe, and Lavaca River Basins, as well as the Lavaca-Guadalupe Coastal Basin, the San Antonio-Nueces Coastal Basin, and the Nueces-Rio Grande Coastal Basin, except that part in Hidalgo, Cameron, Willacy, and Starr Counties. (Amy Settemeyer, Robin Smith)

Joint Motion for Items 5-8.

Approve the Concho River, Rio Grande, South Texas, and Brazos Watermaster budgets for Fiscal Year 2018 as recommended by the Executive Director; Issue the Executive Director's four Proposed Orders assessing the annual costs of those Watermaster programs, which includes the Order assessing the amount of \$840,583.00 for the Brazos Watermaster operations. TB/JN; all agree.

Item 8 [\*\*Docket No. 2017-1132-BGT.\*\*](#)

Consideration of Fiscal Year 2018 assessment of annual costs for Watermaster operations in the Brazos Watermaster Program. Pursuant to Texas Water Code Sections 11.329 and 11.455 and 30 Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 304.61, the Executive Director requests that the Commission consider Watermaster assessment of

annual costs for the fiscal year beginning September 1, 2017, and ending August 31, 2018, and approve \$840,583.00 as the amount to be assessed for annual costs for water right holders. The Brazos Watermaster program consists of the Brazos River Basin, including and below Possum Kingdom Lake. (Amy Settemeyer, Robin Smith)

Joint Motion for Items 5-8.

Approve the Concho River, Rio Grande, South Texas, and Brazos Watermaster budgets for Fiscal Year 2018 as recommended by the Executive Director; Issue the Executive Director's four Proposed Orders assessing the annual costs of those Watermaster programs, which includes the Order assessing the amount of \$840,583.00 for the Brazos Watermaster operations. TB/JN; all agree.

### **OCCUPATIONAL LICENSE REVOCATION MATTER**

Item 9 [\*\*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)

Adopt the Default Order revoking Occupational License No. IT0004829 held by Ramon Villa. JN/TB; all agree.

### **INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 10 [\*\*Docket No. 2016-1950-IHW-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Gulf Marine Fabricators, L.P. in San Patricio County; RN102203445; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, 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. (Keith Frank, Michael Parrish)

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

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 11 [Docket No. 2016-0319-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aqua Texas, Inc. in Denton County; RN102343662; 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. (Steven Van Landingham, Michael Parrish)

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

Item 12 [Docket No. 2015-0892-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Charlotte in Atascosa County; RN101721033; 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. (Ronica Rodriguez, Michael Parrish)

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

Item 13 [Docket No. 2015-1102-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Earth in Lamb County; RN101916187; 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.

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 14 [Docket No. 2015-1288-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Arman Management Corp. dba S&A Food Mart 2 in Dallas County; RN102027935; for petroleum storage tank violations pursuant



to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jess Robinson, Janice Hernandez)

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

Item 15 [\*\*Docket No. 2015-0579-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shakil Chowdhury dba Prime Stop 3 in Hunt County; RN101533313; 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 Van Landingham, Michael Parrish)

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

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 16 [\*\*Docket No. 2016-0427-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Jack Turner dba Cherokee Mobile Home Park in Kerr County; RN102324324; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Audrey Liter, Janice Hernandez)

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

Item 17 [\*\*Docket No. 2016-2098-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against MOUNTAIN PURE TX, L.L.C. in Anderson County; RN105722995; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Janice Hernandez)

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

Item 18 [\*\*Docket No. 2015-1772-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of WATER NECESSITIES, INC. in Hardin County; RN101229847; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sarah Kim, Michael Parrish)

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

### **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 19 **Docket No. 2016-2061-PWS-E.**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Randy L. Snapp dba Fredericksburg Kampgrounds of America in Gillespie County; RN101257129; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Clayton Smith, Janice Hernandez)

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

### **SLUDGE ENFORCEMENT AGREED ORDER**

Item 20 **Docket No. 2016-2022-SLG-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DEEP ROOTS RECYCLING, INC. in Van Zandt County; RN106159643 and RN106143902; 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 Tex. Admin. Code ch. 60. (Austin Henck, Michael Parrish)

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

### **WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 21 **Docket No. 2017-0181-WQ-E.**

Consideration of an Agreed Order assessing administrative penalties against the City of Waco in McLennan County; RN102963576; 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. (Sandra Douglas, Michael Parrish)

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

### **MONTHLY ENFORCEMENT REPORT**

Item 22 **[Docket No. 2017-1149-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.

### **EXECUTIVE MEETING**

Item 23 **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 24 **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 25 **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 26      **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

09/26/2017  
Date