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**Notice of Availability  
and Request for Comments**

on a

**Proposed Draft Restoration Plan  
and Environmental Assessment  
and Settlement Agreement  
for Col-Tex State Superfund Site**

as published in the

***Texas Register***

**(27 TexReg 10195-10196)**

on

**October 25, 2002**

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protection for the water resources in the area. The TCEQ composting rules, 30 TAC Chapter 332, also prohibit all composting facilities from creating nuisance conditions and provide for enforcement action in the case of nuisance odors. Composting facilities that are authorized by this permit and that operate in accordance with the requirements of the permit may not discharge waste into or cause water quality degradation of waters in the state.

Mr. Brown supported monitoring of phosphorus in soils as a means to control nutrient applications to agricultural land and suggested that a requirement for nutrient management plans should be expanded to include all farms and animal feeding operations in entire watersheds or regions. He expressed his support for fees for composting operations and his opposition to fees for agricultural producers.

No changes were made to the general permit in response to these comments. Current commission regulations require nutrient management plans for only those land application areas that receive manure and liquid animal wastes when the soil test phosphorus levels reaches a certain level. However, as the relationships between land applied nutrients and water quality become more defined, nutrient management plans will likely become a part of the normal operation of any agricultural enterprise.

Fees associated with this general permit and other permits issued by the commission are set in accordance with existing statutes and agency funding processes.

The City of Waco requested that the term "discharge" in the definition section of the permit should be defined in a manner consistent with the new definitions of "agricultural waste" and "pollutant" in TWC, §26.001(10) and (13) to make it clear that tail water or runoff water from irrigation with wastewater generated by the composting operation and any runoff from fields on which irrigation water has been applied in excess of the agronomic rate will be treated as discharges of pollutants.

No change was made in response to this comment. The general permit is designed to preclude discharges to water in the state. This general permit is being developed for statewide application and does not need modification to address changes in definition applicable to a particular area of the state. These definitions have been included and addressed by the commission in the proposal for revisions to 30 TAC Chapter 321, Subchapter B. The executive director further notes that no change is necessary in the definition of discharges in this general permit because it is broad enough to address the concerns expressed in the comment.

TRD-200206725

Stephanie Bergeron

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 15, 2002



### Notice of Availability and Request for Comments on Proposed Natural Resource Damages Settlement Agreement and Draft Restoration Plan

AGENCIES: Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, and Texas General Land Office (collectively the Natural Resource Trustees).

ACTION: Notice of the availability of a proposed settlement agreement and draft restoration plan for injuries or potential injuries to natural resources from releases of hazardous substances and/or discharges of oil at the Col-Tex State Superfund Site (Site) and notice of a 30-day period for public comment on these documents beginning October 25, 2002.

SUMMARY: Notice is hereby given that a proposed settlement agreement and draft restoration plan in resolution of the Natural Resource Trustees' claim for natural resource damages at the Site are available for public review and comment. These documents have been prepared by the Natural Resource Trustees to address natural resources impaired by discharges of oil and/or releases of hazardous substances from the former Col-Tex Refinery in Colorado City, Mitchell County, Texas. The Natural Resource Trustees have reached a proposed agreement with ATOFINA Petrochemicals, Inc. (formerly Fina Oil and Chemical Company); Chevron Environmental Management Company (a successor in interest to Chevron U.S.A., Inc.); and Lone Wolf Land Company (a wholly-owned subsidiary of ATOFINA Petrochemicals, Inc.); hereinafter collectively referred to as the "Settling Parties," to resolve their liability under the Oil Pollution Act of 1990 (OPA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for injuries to natural resources and the ecological services they provide.

The opportunity for public review and comment on the proposed settlement agreement and draft restoration plan announced in this notice is required under OPA and CERCLA.

To receive a copy of the proposed settlement agreement and draft restoration plan, interested members of the public are invited to contact Charles Brigance of the Texas Commission on Environmental Quality, Remediation Division, MC 142, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2238, or at [cbriganc@tnrcc.state.tx.us](mailto:cbriganc@tnrcc.state.tx.us).

The settlement agreement and draft restoration plan may also be reviewed at the Mitchell County Public Library at 340 Oak Street in Colorado City, Texas or on the Texas Commission on Environmental Quality Natural Resource Trustee Program website: [www.tnrcc.state.tx.us/permitting/remed/site/nrt](http://www.tnrcc.state.tx.us/permitting/remed/site/nrt).

DATES: Comments must be submitted in writing on or before 5:00 p.m. on November 25, 2002, to Charles Brigance at the address listed previously. The Natural Resource Trustees will consider all written comments prior to finalizing the proposed settlement agreement and draft restoration plan.

SUPPLEMENTARY INFORMATION: The Site was formerly occupied by a petroleum refinery which operated from 1924 to 1969. It is located on Business I-20 immediately west of Colorado City in Mitchell County, Texas. The Colorado River is located immediately north and east of the Site.

As a result of groundwater contamination and discharges to the Colorado River, the Site was placed in the Texas State Superfund Program in 1994.

A cooperative assessment of injuries to natural resources jointly performed by the Natural Resource Trustees and the Settling Parties resulted in the proposed Settlement Agreement and Restoration Plan. The Settlement Agreement and Restoration Plan require the Settling Parties to provide compensatory restoration projects to restore the injured or potentially injured natural resources to baseline conditions, and to compensate the public for lost ecological services. Details of the injury assessment and the review of potential restoration options are outlined in the draft Restoration Plan.

To compensate for injuries or potential injuries to water quality and aquatic habitats, the Settling Parties will construct 1.5 acres of open-water pond habitat. In addition, the Settling Parties will install a rain-water catchment system to be used as a water source for mammals and birds. The Settling Parties will also provide improvements to abate erosion on 2.4 acres along the Colorado River within and adjacent to the restoration property.

As compensation for injuries or potential injuries to riparian natural resources, the Settling Parties will construct and enhance 21 acres of riparian habitat. This restoration will include the removal of salt cedar trees and the planting of native riparian vegetation along the Colorado River.

To compensate for injury or potential injury to terrestrial habitats and to augment water quality improvements, the Settling Parties will construct 25 acres of native trees, grasses, and scrub-shrub habitats. In addition, the Settling Parties will preserve 35 acres of existing scrub-shrub habitat located adjacent to the Site.

The restoration project lies within an 85-acre tract of land, located just west of Colorado City along the Colorado River. The proposed Settlement Agreement requires conservation easements to be granted to The Natural Area Preservation Association (NAPA) to ensure that the ecological services of the property are preserved in perpetuity. Terms of the conservation easements to be held by NAPA are described in the Settlement Agreement.

The proposed Settlement Agreement also requires the Settling Parties to pay the Natural Resource Trustees past assessment costs as well as future oversight costs.

TRD-200206722

Paul C. Sarahan

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: October 15, 2002



#### Notice of Comment and Opportunity for Hearing on Rescission of Compliance Assurance Monitoring, General Operating Permit Numbers One and Two and of Periodic Monitoring on Numbers One and Two

The Texas Commission on Environmental Quality (commission or TCEQ), under 30 TAC Chapter 122, is providing an opportunity for public comment and an opportunity to request a notice and comment hearing in order to receive testimony concerning the rescission of compliance assurance monitoring (CAM) general operating permit (GOP) Numbers one and two, and of periodic monitoring GOP Numbers one and two.

In a deficiency notice regarding the commission's Federal Operating Permit Program (30 TAC Chapter 122), the United States Environmental Protection Agency (EPA) stated that the commission's use of GOPs to implement periodic monitoring and CAM does not comply with 40 Code of Federal Regulations (CFR) Part 70. The basis of EPA's position is that the monitoring GOPs do not contain all the requirements for 40 CFR Part 70 permits, as set forth in 40 CFR §70.6. The commission has proposed changes to 30 TAC Chapter 122 to address the deficiency notice. Since the commission is eliminating the monitoring GOP process, the executive director will no longer issue monitoring GOPs. Subsequently, the executive director will rescind all existing monitoring GOPs. Once rescinded, federal operating permit holders and applicants will need to follow the new CAM and periodic monitoring procedures and schedules contained in 30 TAC Chapter 122.

The rescission of CAM GOP Numbers one and two and periodic monitoring GOP Numbers one and two is subject to the procedural requirements of 30 TAC §122.506, which include a 30-day public comment period. Any person who may be affected by the rescission of either CAM or periodic monitoring GOPs Numbers one and two has the opportunity to request a notice and comment hearing on the subject rescission during the 30-day public notice comment period. The notice and comment hearing request must be submitted in writing. As requested,

the notice and comment hearing may be structured for the receipt of oral or written comments by interested parties. Individuals may present oral statements when called upon in order of registration. Note that oral discussion will not occur during a notice and comment hearing.

The four monitoring GOPs to be rescinded are available for review at the commission's Web site at <http://www.tnrcc.state.tx.us/permitting/airperm/opd/permtabl.htm>, or by contacting the TCEQ, Office of Permitting, Remediation and Registration, Air Permits Division at (512) 239-1250. Comments or notice and comment hearing requests may be mailed to Mr. Steven Hagood, Texas Commission on Environmental Quality, Office of Permitting, Remediation and Registration, Air Permits Division, MC 163, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1070. Comments must be received by 5:00 p.m., November 25, 2002. To inquire about the submittal of comments, if a notice and comment hearing will be held, or for further information, contact Mr. Steven Hagood at (512) 239-1580.

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Stephanie Bergeron

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 15, 2002



#### Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director (ED) of the commission in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 25, 2002**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate a proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 25, 2002**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, comments on the DOs should be submitted to the commission in **writing**.

(1) COMPANY: Dale Haggard dba Haggard Water dba Whispering Pines Subdivision and dba Spring Valley Subdivision; DOCKET