

HALL  
GARNER  
REED

UNCONTESTED AGENDA

Wednesday, May 25, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.  
Room 118

UNCONTESTED (**Amend to Water Quality Permit**)

- Item 1. APPLICATION BY CITY OF FORT STOCKTON for an amendment to Permit No. 10708-01 to authorize an increase in the disposal volume of treated domestic wastewater effluent from 1,310,000 gallons per day average to 1,410,000 gallons per day average. The proposed amendment will also divert 440,000 gallons per day of water treatment plant brine into the wastewater treatment plant storage ponds in the final phase. Additionally, the proposed amendment will authorize a variance to the buffer zone requirements. A total of 587 acres is available for irrigation. In the existing permit, application rates for the irrigated land shall not exceed 9.9 acre-feet/acre/year. In the draft permit, application rates for the irrigated land shall not exceed 8.44 acre-feet/acre/year for alfalfa and 3.21 acre-feet/acre year for josa wheat. The wastewater treatment facility and irrigation site are northeast of the City of Fort Stockton at a site approximately one mile east of Farm-to-Market Road 1053 and two miles north of U.S. Highway 290 in Pecos County, Texas.

APPROVED APPLICATION; PR/PG.

UNCONTESTED (**New Water Quality Permits**)

- Item 2. APPLICATION BY RUNNELS SEPTIC SERVICE, INC. for a permit (Proposed Permit No. 13622-01) to authorize the disposal of treated domestic sewage effluent at a volume not to exceed 20,000 gallons per day average by irrigation on 71 acres. Application rates for the irrigated land are not to exceed 0.32 acre-feet/acre/year. The wastewater treatment facility and irrigation site are approximately 1,500 feet northwest of the intersection of McRae Creek and Farm-to-Market Road 1484, approximately 2,500 feet northwest of the end of pavement at Runnels Road in Montgomery County, Texas.

ITEM REMANDED TO OFFICE OF HEARINGS EXAMINER'S

- Item 3. APPLICATION BY JAMES TRAWEEK DBA JAMES TRAWEEK #2 DAIRY for a permit (Proposed Permit No. 03587) to authorize disposal of waste and wastewater from a dairy operation. The dairy will consist of a maximum of 995 head. Washdown water, flushwater and stormwater will be retained in two storage ponds, where subsequently it will be used to irrigate agricultural land. Manure/solids will be disposed of as fertilizer on agricultural land. The dairy is on the east side of an unnamed County Road approximately one and three quarter miles west of Farm-to-Market Road 219 and one and three quarter miles south of Farm-to-Market Road 8 in Erath County, Texas.

APPROVED APPLICATION; PR/PG.

UNCONTESTED (**District Matters**)

- Item 4. APPLICATION BY MORTON ROAD MUNICIPAL UTILITY DISTRICT OF HARRIS COUNTY FOR APPROVAL TO LEVY A STANDBY FEE. For Commission consideration and action. Applicant requests approval of a uniform standby fee of \$47,657 (\$89.41 per ESFC per year) for 1994-1996 for debt service and \$88,478 (\$166 per ESFC) for 1994 & \$48503 (\$91 per ESFC) for 1995-1996 for operations and maintenance. (Ferguson)

APPROVED APPLICATION; PG/PR.

- Item 5. APPLICATION BY HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 157 FOR APPROVAL TO LEVY A STANDBY FEE. For Commission consideration and action. Applicant requests Commission approval of an annual debt service standby fee of \$330.00 per equivalent single family connection (ESFC) and approval of an annual operation & Maintenance standby fee of \$27.17 per ESFC in year 1 and \$11.16 per ESFC in years 2 & 3. (Ferguson)

APPROVED APPLICATION; PG/PR.

- Item 6. APPLICATION BY WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 17 FOR APPROVAL OF \$1,850,000 UNLIMITED TAX BONDS, SECOND ISSUE, 6.692% NET EFFECTIVE INTEREST RATE, SERIES 1994. For Commission consideration. The District's application requests approval of a bond issue to finance water, wastewater & drainage facilities for Sundown Glen Section 1, a water plant, expansion of the District's wastewater plant, and drainage repairs. (Ferguson)

APPROVED APPLICATION; PG/PR.

Item 7. APPLICATION BY MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 7 FOR APPROVAL OF \$2,470,000 UNLIMITED TAX BONDS, EIGHTH ISSUE, 6.67% NET EFFECTIVE INTEREST RATE, SERIES 1994. For Commission consideration. Applicant requests approval of the issuance of \$2,470,000 in tax bonds to finance water supply & wastewater treatment plant capacity charges; wastewater conveyance capacity charges; pro rata share of drainage ditches; and water, wastewater & Drainage facilities for the Village of Panther Creek Sections 35, 36 & 37. (Ferguson)

APPROVED APPLICATION; PG/PR.

Item 8. APPLICATION BY FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37 FOR APPROVAL OF A BOND ORDER AMENDMENT. For Commission consideration. Applicant requests that the Commission amend the Order dated February 4, 1994 approving an \$1,060,000 Bond Issue to delete the conditions of an acceptable credit rating. (Ferguson)

APPROVED APPLICATION; PG/PR.

Item 9. APPLICATION BY ACTON MUNICIPAL UTILITY DISTRICT OR HOOD AND JOHNSON COUNTIES FOR APPROVAL OF AN IMPACT FEE. For Commission consideration. Applicant requests approval of an impact fee of \$2,212 per equivalent single family connection (ESFC) for new connections to its water system, \$2,290 per ESFC for new connections to its wastewater system within the DeCordova Bend Estates subdivision, and \$1,444 per ESFC for new connections to its wastewater system within the Pecan Plantation and Orchard Addition subdivisions. (Ferguson)

APPROVED APPLICATION; PG/PR.

**UNCONTESTED (On-Site Disposal)**

Item 10. Application by Beach City, City of Manvel, City of Roma, Lower Colorado River Authority, and Hudspeth County for Authorized Agent status to regulate on-site disposal systems within their jurisdiction.

APPROVED APPLICATION; PR/PG.

**UNCONTESTED (NUNC PRO TUNC ORDER)**

Item 11. Consideration of the Executive Director's Petition for Order Nunc Pro Tunc correcting an agreed order issued February 4, 1992 in the matter of Earl Hertel, enforcement ID No. E10025. (Corwin)

APPROVED PETITION FOR NUNC PRO TUNC; PG/PR.

UNCONTESTED (**Settled Hearings**)

Item 12. Consideration of Examiner's Memorandum concerning the application of Galleria Holding, Ltd. for Application No. 5475 to authorize the diversion of 32 acre-feet of water per year from Jernigan Creek for irrigation in Bandera County, Texas. (O'Neal)

APPROVED MEMORANDUM; PR/PG.

Item 13. Consideration of Examiner's Memorandum concerning the appeal from issuance of Permit No. AQ-23268 to Haas-Anderson Construction, Inc. which authorizes the construction and operation of a hot mix asphalt plant in Nueces County, Texas. Recommendation: Dismissal of appeal. (WOOD)

APPROVED MEMORANDUM; PR/PG.

Item 14. Consideration of Examiner's Memorandum and Order concerning the application of a certificate of convenience and necessity to provide sewer service in Hidalgo County, Texas. (Docket No. 30147-C). Recommendation: Adoption of agreement of parties. (ROBARDS)

NO ACTION TAKEN ON THIS ITEM.

(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 UNCONTESTED AGENDA

Wednesday, May 25, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.  
Room 118

- Item 15. Consideration of Examiner's Memorandum and Order concerning the application of City of Mission for a certificate of convenience and necessity to provide sewer service in Hidalgo County, TX (Docket No. 30147-C). Recommendation: Adoption of agreement of parties. (ROBARDS) (This item is submitted to correct language of item 14.)

APPROVED MEMORANDUM; PR/PG.

UNCONTESTED OLD BUSINESS

Wednesday, May 25, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.  
Room 118

Item carried forward from Agenda of May 11, 1994.

- Item 1. APPLICATION BY MAXIM PRODUCTION CO., INC. for an amendment to Permit No. 03357 to authorize an increase in the number of poultry, ponds and the amount of land used for irrigation. The permit currently authorizes the poultry operation to have a maximum of 268,000 birds in confinement. The proposed amendment will authorize the poultry operation to have 9 houses with a maximum of 67,000 birds per house. Washdown water, flushwater and stormwater is retained in ponds. Wastewater from the ponds is disposed of by irrigation on agricultural land. The proposed amendment will also increase the amount of land used for irrigation from 260 acres to 520 acres. Manure and/or solids are applied as fertilizer on agricultural land. The poultry operation is on the north side of the intersection of Farm-to-Market Road 442 and Farm-to-Market Road 1096 in Wharton County, Texas.

ITEM REMANDED TO OFFICE OF HEARINGS EXAMINER'S.

Item carried forward from Agenda of May 11, 1994.

- Item 2. APPLICATION BY BAYBROOK MUNICIPAL UTILITY DISTRICT NO. 1 OF HARRIS COUNTY FOR APPROVAL TO RELEASE ESCROWED FUNDS; \$2,800,000 BOND ISSUE APPROVED OCTOBER 4, 1988 AND FOR USE OF SURPLUS FUNDS, \$2,300,000 BOND ISSUE APPROVED MAY 31, 1990. For Commission consideration and action. Applicant requests approval for release of \$30,177 from escrow and use of \$348,473 in surplus funds to finance reimbursement to the developer for constructed District facilities. (Ferguson)

APPROVED APPLICATION; PG/PR.

CONTESTED AGENDA

Wednesday, May 25, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.  
Room 118

**CONTESTED (Water Quality Enforcement)**

- Item 1. Consideration of a Texas Natural Resource Conservation Commission Agreed Order assessing Administrative penalties against the Resolution Trust Corporation, Conservator of Lemont Federal Savings Association, TNRCC Permit No. 13315-01. (Rawlins/Watson)

ISSUED AGREED ORDER; PG/PR.

**CONTESTED (Report on Enforcement Actions)**

- Item 2. Discussion of Agency Report on Enforcement Actions from various programs, including Air, Hazardous Waste, and Water Quality. (LYNCH)

COMMISSIONERS WERE BRIEFED AND INSTRUCTED STAFF.

**CONTESTED (Pilot Projects)**

- Item 3. Discussion of pilot projects relating to standardized agency orders issued and negotiated by regional offices. (LYNCH)

COMMISSIONERS WERE BRIEFED AND INSTRUCTED STAFF.

**CONTESTED (Rule Making and Concepts)**

- Item 4. Discussion by the Commission of proposed rule making and concepts relating to the control of certain activities by rule (30 TAC §321), including small volume domestic discharges, aquaculture and mariculture discharges and storm water discharges from municipal solid waste landfill facilities.

COMMISSIONERS WERE BRIEFED AND INSTRUCTED STAFF.

Item 5. Discussion of TNRCC Rules Concept Paper on Enforcement Hearings Rules, Texas Administrative Code, Section 337. (LYNCH)

COMMISSIONERS WERE BRIEFED AND INSTRUCTED STAFF.

**CONTESTED (Statement of Enforcement Philosophy)**

Item 6. Consideration of Statement of Enforcement Philosophy of Texas Natural Resource Conservation Commission. (LYNCH)

ADOPTED STATEMENT; PR/PG.

**CONTESTED (Authorization for Public Hearings)**

Item 7. Consideration of authorization for public hearings on amendments to the Emission Credit Banking Rule, to allow for the deposit and use of mobile source emission reduction credits and to make administrative and procedural revisions for clarification and consistency purposes.

APPROVED AUTHORIZATION; JH/PR.

Item 8. Consideration of authorization for public hearings on the Accelerated Vehicle Retirement Rule, which allows for the creation of mobile source emission reduction credits through the permanent removal of high-emitting vehicles in the ozone nonattainment areas.

APPROVED AUTHORIZATION; JH/PR.

**CONTESTED (Rules)**

Item 9. Consideration on the adoption of amendments to 30 TAC Chapter 117, regarding Control of Air Pollution from Nitrogen Compounds, to revise reasonably available control technology regulations for nitrogen oxides.

APPROVED ADOPTION OF AMENDMENTS; PR/PG.

Item 10. Consideration of a petition from the Outdoor Power Equipment Institute (OPEI) to rescind the TNRCC Utility Engine Rule (Section 115.621-625).

APPROVED PETITION AS RECOMMENDED BY STAFF; JH/PR.

Item 11. Consideration of proposed revisions to the Texas Surface Water Quality Standards, 30 TAC §307, for publication in the Texas Register and subsequent public hearing. These changes are proposed for the triennial revisions to the Texas Surface Water Quality Standards, in accordance with the Texas Water Code and the Federal Clean Water Act. (Davenport)

AUTHORIZED TO PUBLISH IN TEXAS REGISTER; JH/PR.

Item 12. Consideration of proposed revisions to the rule for state certification of federal permits, 30 TAC §279, for publication in the Texas Register and subsequent public hearing. This rule governs TNRCC procedures for certifying that federal permits and licenses are in accordance with the Texas Surface Water Quality Standards. State certification, which is authorized under Section 401 of the Federal Clean Water Act, is applicable to U.S. Corps of Engineers permits for dredge and fill operations, to EPA NPDES permits for discharges of treated wastewater, and any other federal permit or license which may result in any discharge into navigable waters of the U.S. (Fisher)

AUTHORIZED TO PUBLISH IN TEXAS REGISTER; JH/PR.

Item 13. Consideration and action on proposed rules to update Chapter 330, Subchapter Y, regarding medical waste management. Some associated changes proposed in Subchapters A, G, and P. The amended and new sections are proposed in order to clarify and properly delineate the jurisdiction of the TNRCC in rules that were moved in their entirety from the Texas Department of Health (TDH), as required by 72nd Legislature, 1991. (Riley)

APPROVED UPDATE, CHANGES AND AMENDMENTS TO RULES AS RECOMMENDED BY STAFF; PG/PR.

Item 14. Consideration of adoption of new section 334.14 of title 30 Texas Administrative Code, relating to adoption of Memorandum of Understanding (MOU) between the TNRCC and the Texas Attorney General regarding enforcement of Petroleum Storage Tank regulations. (Duncan)

APPROVED ADOPTION OF NEW SECTION TO RULES; PR/PG.

Item 15. Consideration of Proposed amendments to the Commission's procedural rules, including the repeal of 30 TAC Chapter 274, Complex Hearing Rules and adoption of new 30 TAC Section 265.21-265.35, Special Procedures for Freezing the Process; Sections 265.36-265.49, Discovery in Hearings Held Under Subchapter C; and Sections 265.50-265.55, Special Sanctions Rules Relating to Freezing the Process. (Arenson)

APPROVED PROPOSED AMENDMENTS; JH/PR.

Item 16. Consideration of repeal of 30 TAC Chapter 103 (procedural rules of the former Texas Air Control Board) and amendments to 30 TAC Chapters 263, 265, 267, 269 and 275 (procedural rules of the former Texas Water Commission). (Arenson)

APPROVED REPEAL OF RULES; PG/PR.

**EXECUTIVE SESSION**

Item 17. 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 18. 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, May 25, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.  
Room 118

Item 19. Consideration of the appeal and request for a contested case hearing on the amendment granted by the Executive Director on March 3, 1994, to Air Quality Permit No. 9429 held by Gibraltar Chemical Resources, Inc. for its hazardous waste management facility in Winona, Smith County, Texas.

CONTINUED TO JUNE 29, 1994 AT 9:00 A.M.

Item 20. Discussion of the Executive Director's proposal that commercial hazardous waste permit (No. HW-50358) for Waste Control Specialists, Inc.'s Andrews County facility require Waste Control Specialists, Inc. to comply with S.B. 1099 in its payment of financial assurance. Under the proposal, the financial assurance required to close each landfill unit at the facility would be paid into a closure trust fund within three years of the unit's first receipt of waste.

CONTINUED TO JUNE 29, 1994 AT 9:00 A.M. FOR STAFF BRIEFING ON RECOMMENDATIONS MADE BY CHAIRMAN HALL.

CONTESTED OLD BUSINESS

Wednesday, May 25, 1994

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:00 a.m.  
Room 118

Item carried forward from agenda of May 11, 1994.

- Item 1. Consideration of rules to be adopted to implement section 361.0232 of the Texas Solid Waste Disposal Act. the rules, which amend 30 TAC Section 281, pertain to criteria for expediting commercial Hazardous Waste Management Facilities and describe information which will be prepared by the Executive Director for consideration by the Commissioners.

REMANDED TO STAFF

Item carried forward from agenda of May 11, 1994.

- Item 2. **Docket No. 94-0153-IWD-E.** Consideration of a Texas Natural Resource Conservation Commission Agreed Order Assessing Administrative Penalties and Requiring Certain Actions of Hardin County WCID #1, Permit No. 10678-001. (Stovall/Honer)

ISSUED AGREED ORDER; PR/PG.

Item carried forward from Agenda of July 14, 1993 and August 18, 1993, November 17, 1993, and April 20, 1994 and May 18, 1994.

- Item 3. Consideration of Examiner's Proposal for Decision and proposed order concerning the petition of City of Highland Village for review of the Wholesale Sewer rates charged by the City of Lewisville, Denton County, Texas, and Petition by Highland Village requesting the commission to compel service. (Docket No. 9271-A & 9324). Recommendation: Approval of rate of \$2.50 per 1000 gallons and rate case expense surcharge of \$39,961. (Thomas) (Instructed staff to bring draft rules to the Commission when this item comes up for consideration).

CONTINUED TO JUNE 29, 1994 AT 9:00 A.M.

Item carried forward from Agenda of May 18, 1994.

Item 4. Consideration of the adequacy of the record for final Commission action concerning the petition of City of Highland Village for review of the Wholesale Sewer rates charged by the City of Lewisville, Denton County, Texas and Petition by Highland Village requesting the Commission to compel service (Docket Nos. 9271-A and 9324) in light of the Court's decision in Texas Water Commission v. City of Fort Worth (Tex. App.--Austin, No. 3-92-502-CV) And proposed rules relating to wholesale water and sewer contractual rate provisions (proposed 30 TAC 291.128 through 291.138). (Sullivan)

CONTINUED TO JUNE 29, 1994 AT 9:00 A.M.