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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)).

OLD BUSINESS AGENDA

Chairman Bryan W. Shaw, Ph.D.
Commissioner Toby Baker

November 20, 2013

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item Continued from the November 6, 2013 Agenda

Item 1 **[Docket No. 2013-0241-PST-E.](#)**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of FARMERS COOPERATIVE ASSOCIATION OF O'DONNELL, TEXAS in Lynn County; RN102025947; 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. (Kari L. Gilbreth, Lena Roberts)

Remanded to the Executive Director by the Office of General Counsel on 11/15/13.

AGENDA

Chairman Bryan W. Shaw, Ph.D.
Commissioner Toby Baker

November 20, 2013

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

PROPOSAL FOR DECISION

Item 1 [**TCEQ Docket No. 2011-1647-PWS-E; SOAH Docket No. 582-12-5353.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against South Texas Water Authority in Kleberg County, Texas; RN102683323; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Jennifer Cook)

Continue this matter for up to six months. BS/TB; all agree.

HEARING REQUEST/REQUEST FOR RECONSIDERATION

Item 2 [**Docket No. 2013-1507-MWD.**](#)

Consideration of the application by Avalon Water Supply and Sewer Service Corporation for a major amendment to TPDES Permit No. WQ0013981001 to authorize a variance from buffer zone requirements and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 25,000 gallons per day to a daily average flow not to exceed 40,000 gallons per day. The facility is located approximately 1,100 feet west of Farm to Market Road 55 and approximately 1,900 feet south of the intersection of Farm-to-Market Road 55 and State Highway 34 in the community of Avalon in Ellis 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. (Celia Castro, Dex Dean)

Item was continued prior to the agenda meeting.

MISCELLANEOUS MATTER

Item 3 **[Docket No. 2013-1871-UCR.](#)**

Consideration of a Commission order setting the monetary amount of compensation due to Monarch Utilities I, L.P. (Monarch) for the previous decertification of a portion of Certificate of Convenience and Necessity (CCN) No. 12983, in Hays County, Texas, pursuant to Texas Water Code section 13.254 and 30 Texas Administrative Code section 291.113. The Executive Director granted the petition from EB Windy Hill, L.P. (Landowner), for (a-5) expedited CCN release in an order dated February 13, 2013, which decertified the area from Monarch's CCN (Order for Application No. 37510-C). The Commission will consider the appraisals of the decertified area conducted on behalf of Monarch, the Landowner, and the Executive Director and the timely-filed briefs regarding the appraisals. (Hollis Henley, Brian Dickey, Elizabeth Flores)

Adopt the Executive Director's Proposed Order with the following changes: 1) amend Ordering Provision No. 1 to state: "The Commission accepts that the compensation amount determined by the independent appraiser for property rendered useless and valueless is binding on the Commission under Texas Water Code § 13.254(f) and 30 Texas Administrative Code § 291.113(j). The City of Kyle shall not in any way render service to Windy Hill's property until the \$275,512.00 amount has been paid to Monarch or if Monarch reports to the Executive Director that an alternative agreed upon amount has been paid."

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 4 **[Docket No. 2012-0776-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Enterprise Hydrocarbons L.P. in Bexar County; RN100668573; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

Item 5 **[Docket No. 2013-0759-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Flint Hills Resources Port Arthur, LLC in Jefferson County; RN100217389; 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 Texas Administrative Code ch. 60. (Nadia Hameed, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

Item 6 [Docket No. 2013-0656-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Gulf South Pipeline Company LP in Jackson and Refugio Counties; RN100219245 and RN100542356; 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 Texas Administrative Code ch. 60. (Rajesh Acharya, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

AIR QUALITY ENFORCEMENT DEFAULT ORDER

Item 7 [Docket No. 2012-1861-AIR-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Anthony Barron dba Genesis in Kerr County; RN106162613; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jeffrey Huhn, Lena Roberts)

Approve the Default Order. TB/BS; all agree.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 8 [Docket No. 2013-0805-EAQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties against BOH Indian Springs TX, L.P. in Bexar County; RN106455611; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Christopher Bost, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 9 [Docket No. 2012-1225-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Wellman in Terry County; RN102074879; 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. (Jennifer Cook, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

Item 10 [Docket No. 2012-1518-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Angelina County Water Control and Improvement District No. 3 in Angelina County; RN102739422; 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 Texas Administrative Code ch. 60. (Jill Russell, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

Item 11 [Docket No. 2013-0961-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Kenedy in Karnes County; RN102097839; 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 Texas Administrative Code ch. 60. (Jennifer Graves, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

**ON SITE SEWAGE FACILITY INSTALLERS ENFORCEMENT
DEFAULT ORDER**

Item 12 [Docket No. 2012-2699-OSI-E.](#)

Consideration of a Default Order assessing administrative penalties against Larry D. Stephens in Ellis County; RN103814232; for on-site sewage disposal system occupational license violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Steven M. Fishburn, Lena Roberts)

Approve the Default Order. TB/BS; all agree.

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED
ORDERS**

Item 13 [Docket No. 2013-0331-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Patricia Gillespie d/b/a Pals Video Plus in Angelina County; RN101815926; 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. (Kari L. Gilbreth, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

Item 14 [Docket No. 2013-0735-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MKRF, Inc. d/b/a Handy Stop in Bexar County;

RN101432649; 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. (Ryan Rutledge, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

Item 15 **[Docket No. 2012-2099-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of VJK FRIENDS PLACE, INC. dba Chevron at Valley Ridge in Denton County; RN101829224; 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. (Jennifer Cook, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

Item 16 **[Docket No. 2013-0812-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of KBB & KBB, INC dba Crossroads Conoco in Jones County; RN101827293; 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 Texas Administrative Code ch. 60. (Rebecca Boyett, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

Item 17 **[Docket No. 2012-2425-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CHEERS ONE STOP & MORE INC. in Harris County; RN101773208; 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. (Jennifer Cook, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

Item 18 **[Docket No. 2013-0987-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against DANAM ENTERPRISES INC. d/b/a Hildebrand Grocery in Bexar County; RN101851400; for petroleum storage tank violations pursuant to Texas Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Elizabeth Lieberknecht, Lena Roberts)

Approve the Agreed Order. TB/BS; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 19 [**Docket No. 2012-2426-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties against Jian Enterprises Inc. dba Speedy B 4 in Denton County; RN102258209; 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. (Jennifer Cook, Lena Roberts)

Approve the Default Order. TB/BS; all agree.

Item 20 [**Docket No. 2013-0288-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties against Donny Sadoski d/b/a Whitney One Stop in Hill County; RN101774164; 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. (David A. Terry, Lena Roberts)

Approve the Default Order. TB/BS; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 21 [**Docket No. 2013-1014-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BEZINQUE PROPERTIES I, LTD. dba Peak Properties in Midland County; RN101181105; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sam Keller, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

Item 22 [**Docket No. 2013-1047-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Howard T. Nelius dba Coushatte Campground in Austin County; RN101233054; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Montgomery, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

Item 23 [**Docket No. 2013-0215-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Thirsty Parrot, LLC in Waller County;

RN105232177; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Abigail Lindsey, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

Item 24 **Docket No. 2013-1233-PWS-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ocean Mobile Home Park, LLC in Chambers County; RN100928282; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michaelle Garza, Candy Garrett)

Approve the Agreed Order. TB/BS; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 25 **Docket No. 2013-0733-PWS-E.**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of HELD GOLF, Ltd. d/b/a Preston West Golf Course in Randall County; RN101379147; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Steven M. Fishburn, Lena Roberts)

Remanded to the Executive Director.

RULE PETITION

Item 26 **Docket No. 2013-0939-RUL.**

Executive Director's staff follow-up report on a petition, filed on May 13, 2013, with the Texas Commission on Environmental Quality, by Cole Turner on behalf of landowners and citizens of Ellis County (Petitioner). The Petitioner requested that TCEQ amend 30 Texas Administrative Code Chapter 312, Sludge Use, Disposal and Transportation, to prohibit the application of sewage sludge in, or within, three miles of a city limit in a county with a population of 140,000 or more that is located adjacent to a county with a population between 2,000,000 and 4,000,000. (Brian Sierant, Michael Parr) (Project No. 2013-033-PET-NR)

No action taken. Gave Direction on initiating a statewide rulemaking to be brought to the Commission for proposal in no later than 4 months.

PUBLIC COMMENT SESSION

Item 27 The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code §2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour.

No Action Taken.

EXECUTIVE MEETING

Item 28 Docket No. 2013-0001-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 and General Counsel, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the 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 Government Code.

The Commission did not meet in Executive Meeting.

Item 29 Docket No. 2013-0002-EXE.

The Commission will conduct a closed meeting to receive legal advice and will 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 Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The Commission did not meet in Executive Meeting.

Item 30 Docket No. 2013-0003-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 Open Meetings Act, Codified as Chapter 551 of the 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 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.)

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/ Tim Reidy
Assistant General Counsel
Tim Reidy

11/25/13
Date