

*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

## **AGENDA**

March 8, 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. 2017-0024-AIR.](#)**

Consideration of the application by Integrity Ready Mix Concrete, LLC for the renewal of Air Quality Standard Permit for Concrete Batch Plants, Registration No. 78606, which would authorize continued operation of an existing permanent concrete batch plant. The plant site is located at 2219 Hartwick 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. (Don Nelon, Amy Browning)

Find that there is no right to a hearing on this application pursuant to Texas Health & Safety Code § 382.056; Deny all hearing requests; Issue the renewal of Registration No. 78606 for an Air Quality standard permit for concrete batch plants as recommended by the Executive Director; and Adopt the Executive Directors response to public comment. TB/JN all agree.

Item 2 [\*\*Docket No. 2017-0085-AIR.\*\*](#)

Consideration of the application by Lincoln Manufacturing, Inc. (Lincoln) for the issuance of Air Quality Permit No. 126919. This permit will authorize the operation of an existing surface coating/pipe fabrication plant. The plant consists of three automated paint booths and their associated drying tunnels and electric drying ovens, and one regenerative thermal oxidizer (RTO). Two of the paint booths are currently authorized under Permit-by-Rule (PBR) Registration No. 89627. The Lincoln site is located at 31209 FM 2978 Road, Magnolia, Montgomery 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. (Steve Akers, Becky Petty)

Grant the hearing request of Suzanne Zick; Deny the remaining hearing requests; Refer the matter to the Commission's alternative dispute resolution program concurrent with the SOAH scheduling process; Refer the matter to SOAH for a contested case hearing on the following issues: 1) Whether the draft permit is protective of the air quality, the requestor's health and wildlife and 2) Whether the applicant performed and submitted in the permit application accurate emission calculations and dispersion modeling; and Specify a maximum duration of the hearing of six months from the preliminary hearing to the issuance of the proposal for decision. JN/TB all agree.

**WATER USE PERMIT APPLICATION MATTERS**

Item 3 [\*\*Docket No. 2016-1612-WR.\*\*](#)

Consideration of an application by William Gavranovic, Jr. (Applicant) to extend or delete the term authorization for diversions under Water Use Permit No. 5603. The permit authorizes the diversion and use of 4,350 acre-feet of water per year, being 850 acre-feet from the Old River and 3,500 acre-feet from the Brazos River, Brazos River Basin for agricultural use in Burleson County. The authorization to divert 4,350 acre-feet expired on December 31, 2008, and the Applicant timely requested an extension or deletion of the term and to reduce the diversion amount to 3,210 acre-feet of water per year, divided as 620 acre-feet from the Old River and 2,590 acre-feet from the Brazos River. The Executive Director recommends denial of Application No. 5603A because unappropriated water is not available for a perpetual authorization and appropriated but unused water is not available for extension of the term authorization. The Commission will consider the application, the ED's recommendation, and timely filings on this application. (Calvin Clary, Ruth Takeda)

Deny the application filed by William Gavranovic, Jr. concerning Water Use Permit No. 5603; and Issue the Executive Director's Proposed Order. TB/JN all agree.

Item 4 [Docket No. 2016-1613-WR.](#)

Consideration of an application by William Gavranovic and Gladys Gavranovic (Applicants) to extend or delete the expiration date for a portion of the water authorized under Water Use Permit No. 5752. The Permit authorizes the diversion and use of 1,200 acre-feet of water per year on a perpetual basis; diversion of 1,260 acre-feet of water per year on a term basis from the Brazos River and the Old River, tributary of the Brazos River, Brazos River Basin for agricultural use in Burleson County. The Permit also authorizes storage of the diverted water in an off-channel reservoir with a capacity of 367.26 acre-feet. The term authorization expired on December 31, 2012, and the Applicants timely requested a deletion or extension of the term. The Executive Director recommends denial of Application No. 5752A because unappropriated water is not available for a perpetual authorization and appropriated but unused water is not available for extension of the term authorization. The Commission will consider the application, the ED's recommendation, and timely filings on this application. (Calvin Clary, Ruth Takeda)

Deny the application filed by Gladys Gavranovic and William Gavranovic concerning Water Use Permit No. 5752; and Issue the Executive Directors Proposed Revised Order. JN/TB all agree.

**AIR QUALITY ENFORCEMENT AGREED ORDER**

Item 5 [Docket No. 2016-0734-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Lubrizol Corporation in Harris County; RN100221589; 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. (Shelby Orme, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

**INDUSTRIAL AND HAZARDOUS WASTE ENFORCMENT  
AGREED ORDER**

Item 6 [Docket No. 2016-1074-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of AEP Texas Central Company in Nueces County; RN100678358; 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. (Epifanio Villarreal, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 7 [Docket No. 2016-1203-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ACME BRICK COMPANY in Denton County; RN102097904; 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. (James Boyle, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

**LANDSCAPE IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDER**

Item 8 [Docket No. 2016-0152-LII-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Michael V. I. McIver in Nueces and San Patricio Counties; RN105522593; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Jess Robinson, Ryan Rutledge)

Adopt the Default Order. TB/JN all agree.

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER**

Item 9 [Docket No. 2016-0247-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Saeed A. Ally formerly known as (f/k/a)

Jeffco Reclamation & Storage, LLC in Jefferson County; RN103042545; for used tires 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. (James Baldwin, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

**MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

Item 10 [Docket No. 2015-1703-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of RL Gordon in Upshur County; RN108794041; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jake Marx, Ryan Rutledge)

Remanded to the Executive Director on March 6, 2017.

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 11 [Docket No. 2016-0514-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Penelope in Hill County; RN101523066; 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.

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 12 [Docket No. 2016-1144-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of L. H. CHANEY MATERIALS, INC. d/b/a Chaney Trucking in Wise County; RN101563344; 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. (Lena Roberts, Ryan Rutledge)

Adopt the Agreed Order. TB/JN all agree.

Item 13 [\*\*Docket No. 2016-0080-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of NNS INC d/b/a Andys Food Mart in Dallas County; RN101542405; 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. (Amanda Patel, Ryan Rutledge)

Adopt the Agreed Order. TB/JN all agree.

Item 14 [\*\*Docket No. 2016-1477-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Pasadena in Harris County; RN100663889; 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. (Keith Frank, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

Item 15 [\*\*Docket No. 2016-1532-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DIXIE OIL COMPANY in Bexar County; RN100845866; 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. (Danielle Porrás, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 16

**[Docket No. 2016-1525-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of K.L. COMFORT PARK, LTD. in Bell County; RN101223600; 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.

Item 17

**[Docket No. 2016-0866-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Monarch Utilities I L.P. in Johnson County; RN101376200; 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.

Item 18

**[Docket No. 2016-1300-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of REHOBETH WATER SUPPLY CORPORATION in Panola County; RN101457919; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Steven Hall, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

Item 19

**[Docket No. 2015-0687-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Wigginsville Victory Tabernacle in Montgomery County; RN101230407; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Farhaud Abbaszadeh, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

## **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 20 [\*\*Docket No. 2016-0833-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of HILLIARD DOZER, LP in Bell County; RN105767461; for aggregate production operation violations pursuant to Tex. Water Code chs. 7 and 28A and the rules of the Texas Commission on Environmental Quality. (Cheryl Thompson, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

Item 21 [\*\*Docket No. 2016-0515-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against COBRA STONE, INC in San Saba County; RN107556524; for aggregate production operation and water quality violations pursuant to Tex. Water Code chs. 7, 26, and 28A and the rules of the Texas Commission on Environmental Quality. (Ross Luedtke, Michael Parrish)

Adopt the Agreed Order. TB/JN all agree.

## **MONTHLY ENFORCEMENT REPORT**

Item 22 [\*\*Docket No. 2017-0050-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 23 [\*\*Docket No. 2017-0054-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 January 12, 2017 by the Texas Septic Systems Council (petitioner). The petitioner requested that the commission modify 30 TAC Chapter 30, Occupational Licenses and Registrations, and Chapter 285, On-Site Sewage Facilities, by creating a new occupational certification called Certified Reuse Technician for individuals who design, construct, and

maintain water/wastewater reuse facilities and appurtenances. (James McCain, Kathy Humphreys) (Project No. 2017-011-PET-NR)

Deny the petition for rulemaking filed by the Texas Septic Systems Council concerning amendments to 30 Texas Administrative Code Chapters 30 and 285 for the reasons stated in the Executive Director's Response Memorandum; and Issue the Executive Director's Proposed Order, but modify the decision denying the petition by: 1) Modifying the second sentence of the second paragraph of the Order by removing the word "it" and replacing it with "HB 1902 (84<sup>th</sup> Texas Legislature)" and 2) Adding an additional sentence to the end of the second paragraph which states: "The Commission includes the reasons to deny the Petition as expressed in the Executive Director's Response Memorandum to the Petitioner dated February 17, 2017." JN/TB all agree.

### **RULE MATTERS**

Item 24 **[Docket No. 2016-1429-RUL.](#)**

Consideration for publication of, and hearings on, proposed amendments to 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 proposed rulemaking 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 for area and mobile sources. The revisions include: limiting types of area and mobile sources that are eligible to generate credits; reducing the eligible SIP emissions for credit generation projects; extending the deadline for applying 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. (Guy Hoffman, Amy Browning) (Rule Project No. 2016-041-101-AI)

Approve the publication of, and hearing on the proposed amendments to 30 Texas Administrative Code Chapter 101 and the corresponding revisions to the state implementation plan as recommended by the Executive Director. TB/JN all agree.

Item 25 **Docket No. 2015-1532-RUL.**

Consideration for the adoption of amended Sections 290.38, 290.42, 290.46, 290.47, 290.102 - 290.104, 290.106 - 290.119, 290.121, 290.122, 290.272, and 290.275 of 30 TAC Chapter 290, Public Drinking Water. The adoption would incorporate the new federal Revised Total Coliform Rule (RTCR) requirements; address comments from the United States Environmental Protection Agency regarding state implementation of the federal Ground Water Rule; clarify state implementation of the federal Lead and Copper Rule, Total Organic Carbon Rule, and Public Notification Rule; clarify the state monitoring requirements for nitrite during a compliance period and compliance cycle; amend state analytical requirements as required under the federal RTCR; clarify and streamline existing state rules; and make other minor changes for internal consistency, grammatical correction, and compliance with *Texas Register* requirements. The proposed rules were published in the October 7, 2016, issue of the *Texas Register* (41 TexReg 7949). (James Beauchamp, Ruth Takeda) (Rule Project No. 2015-035-290-OW)

Adopt the proposed amendments to 30 Texas Administrative Code Chapter 290, Public Drinking Water, as recommended by the Executive Director, including the revisions offered today by the Executive Director regarding the submission of tests, measurement, and analysis results to the Commission. JN/TB all agree.

**PUBLIC COMMENT SESSION**

Item 26 **Docket No. 2017-0005-PUB.**

The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ in accordance with Texas Water Code Section 5.112, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code Section 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. Please note that the Commission's discussion of subjects for which public notice has not been given are limited to statements of specific factual responses and recitation of existing policy.

No action taken.

**EXECUTIVE MEETING**

Item 27 **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 28      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 29      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 30      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/Ron Olson  
Assistant General Counsel  
Ron Olson

3-16-2017  
Date