

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

September 6, 2017

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. 2015-0069-MSW. SOAH Docket No. 582-15-2082.**](#)

Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the Application of 130 Environmental Park, LLC, for new Type I Municipal Solid Waste Landfill Permit No. 2383 pursuant to rules of the Texas Commission on Environmental Quality and Texas Health & Safety Code ch. 361. The facility is proposed to be located on 519.746 acres approximately 0.6 miles east of State Highway 130 and US Highway 183 and 0.7 miles north of FM 1185 more than two miles north of the city limits of Lockhart in northern Caldwell County. The Commission will also consider the application; timely public comments and the Executive Director's Response to Comments; the record; and timely related filings, exceptions and replies. (Anthony Tatu, Kayla Murray and Aaron Vargas)

Adopt the ALJs' Proposed Order as revised by the ALJs' letter dated May 10, 2017 with the following changes: a) Amend Finding of Fact Number 23 to correct the suffix included after Mr. Snyder's name; b) Delete Finding of Fact Numbers 69, 70, and 394; c) Amend Finding of Fact Number 92 to add the word "Report" between the words "Geology" and "shows;" d) Amend Finding of Fact Number 318 to remove the phrase "is a zoning ordinance that;" e) Amend Finding of Fact Number 372 to state "There are no residences within the approximately 185 and 345 feet of the proposed facility boundary and landfill footprint, respectively;" f) Delete Conclusion of Law Number 7.a and 21; g) Amend Conclusion of Law Number 13 to state "The Application complied with 30 TAC §§ 281.5 and 330.59;" h) Amend Conclusion of Law Number 51 to state "Part I of the Application meets the requirements of 30 TAC §§ 281.5, 305.45, 330.57(c)(1), and 330.59;" i) Amend Conclusion of Law Number 52 to remove the citation to 30 TAC § 305.61; j) Delete Ordering Provision 1.a; and k) Add new Ordering Provision Number 4 that states "the Executive Director's Response to Comments is hereby Adopted pursuant to 30 TAC §§ 50.117 and 80.126;" Renumber the remaining numbering provisions; Approve issuance of the ED's draft permit as modified by the ALJs' in their May 10, 2017 letter but also as modified by the Commission from the dais here today; and Adopt the ED's Response to Comment. TB/JN; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2

[Docket No. 2017-0728-AIR.](#)

Consideration of application by CONCRETE CRUSHING CO., INC., for renewal of Air Quality Permit No. 79342, to authorize the continued operation of an existing permitted concrete crushing plant. The plant is located at 7505 Liberty 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. (Patricia Nicolson, Sierra Redding)

Find that there is no right to a hearing on this application pursuant to Texas Health and Safety Code § 382.056(g); Deny the hearing requests of Dee Allen and Representative Harold Dutton, Jr.; and Issue the renewal of NSR Permit No. 79342 to CONCRETE CRUSHING CO., INC. JN/TB; all agree.

Item 3

[Docket No. 2017-0742-SLG.](#)

Consideration of the application by K-3 Resources, L.P., for a major amendment and renewal of TCEQ Permit No. WQ0004454000 to increase the land application area, increase the maximum overall application rate, divide the land application area into two fields, and to include authorization to land apply water treatment plant sludge. This permit will not authorize a discharge of pollutants into water in the state. The sludge land application site is located approximately 2 miles south of Monaville, Texas, at the intersection of Farm-to-Market Roads

529 and 359, in Waller County, Texas 77423. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Nathan Sessions, Stefanie Skogen)

Deny the hearing request of Emicael Ortega; Issue the renewal with amendment of Permit No. WQ0004454000 to K-3 Resources, L.P. as recommended by the Executive Director; and Adopt the Executive Director's Response to Public Comment. TB/JN; all agree.

Item 4 **[Docket No. 2017-0905-MWD.](#)**

Consideration of the application by 360 Development LLC for a new permit, Texas Commission on Environmental Quality (TCEQ) Permit No. WQ0015473001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day via a public access subsurface drip irrigation system with a minimum area of 120,000 square feet. The wastewater treatment facility and disposal site will be located at 800 Capital of Texas Highway, in Travis County, Texas 78746. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's response to comments. (Julian Centeno, Jr., Kathy Humphreys)

Grant the hearing requests of Damon Davis, Trennis and Grova Jones, William King and Dr. Edward A. Neusel; Deny all the remaining hearing requests; Refer the matter to the Commission's Alternative Dispute Resolution program to run concurrent with SOAH preliminary hearing scheduling efforts; Refer the application to SOAH for a contested case hearing on the following issues: a) Whether the proposed wastewater treatment facility will cause nuisance odors; b) Whether the soil at the proposed disposal site has been properly characterized and is suited for the Subsurface Area Drip Dispersal System; c) Whether operational issues at the facility will negatively affect wildlife and wildlife habitat in the area, as well as the requestors' health and safety; and d) Whether the Commission should deny or alter the terms of the conditions of the draft permit based on the consideration of need under Texas Water Code § 26.0282 and the general policy to promote regional or area wide systems under Water Code Section § 26.081; and Set a hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued. JN/TB; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 5 **[Docket No. 2016-1700-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Dartco of Texas LLC in Ellis County; RN100213537; 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. (Carol McGrath, Michael Parrish)

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

Item 6 [**Docket No. 2017-0053-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enbridge Pipelines (Texas Gathering) L.P. in Wheeler County; RN104294111; 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. (Raime Hayes-Falero, Michael Parrish)

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

Item 7 [**Docket No. 2016-1868-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Equistar Chemicals, LP in Harris County; RN100210319; 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. (Raime Hayes-Falero, Michael Parrish)

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

Item 8 [**Docket No. 2016-1996-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Total Petrochemicals & Refining USA, Inc. in Jefferson County; RN102457520; 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. (Abigail Lindsey, Michael Parrish)

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

Item 9 [**Docket No. 2017-0216-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Total Petrochemicals & Refining USA, Inc. in Harris County; RN100212109; 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. (Danielle Porras, Michael Parrish)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 10 [**Docket No. 2015-1685-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of SOUTH TEXAS ELECTRIC COOPERATIVE, INC. in Victoria County; RN100222652; 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. (Elizabeth Carroll Harkrider, Janice Hernandez)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

Item 11 [**Docket No. 2016-0302-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Dynasty Enterprises, LLC in Karnes County; RN101693547; for petroleum storage tank, used oil, municipal solid waste, and industrial hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 371, 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. (Huan Nguyen, Michael Parrish)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 12 [Docket No. 2016-1389-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Alvin in Brazoria County; RN102034402; 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. (Epifanio Villarreal, Michael Parrish)

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

Item 13 [Docket No. 2016-2097-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Fred Havlak and Tommy Wright, Jr. dba Wyn-Lor in Sterling County; RN101816627; 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 Porras, Michael Parrish)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER

Item 14 [Docket No. 2016-1447-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against JAN ENTERPRISES INC. dba NIKU'S LUCKY LADY in Tarrant County; RN100539717; 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. (Amanda Patel, Janice Hernandez)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT AND SHUTDOWN ORDER

Item 15 [Docket No. 2016-0075-PST-E.](#)

Consideration of a Default and Shutdown Order assessing administrative penalties against and requiring certain actions of Roha Enterprises, Inc. dba GK Mart Convenience Store in Bell County; RN102277324; 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. (James Sallans, Janice Hernandez)

Remanded to the Executive Director on September 1, 2017.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 16 **[Docket No. 2017-0089-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of FOREST WATER SUPPLY CORPORATION in Cherokee County; RN101183465; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Isaac Ta, Janice Hernandez)

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

Item 17 **[Docket No. 2016-1802-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Grand Saline in Van Zandt County; RN101385920; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Michael Parrish)

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

Item 18 **[Docket No. 2017-0327-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Grand Harbor Water Supply Corporation in Wise County; RN104497946; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Fisher, Michael Parrish)

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

Item 19 [**Docket No. 2016-0641-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lower Valley Water District in El Paso County; RN101185676; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ryan Byer, Michael Parrish)

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

Item 20 [**Docket No. 2017-0451-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Monarch Utilities I L.P. in Grayson County; RN101450286; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Fisher, Michael Parrish)

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

Item 21 [**Docket No. 2016-1966-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of RANGER UTILITY COMPANY in Waller County; RN101216133; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Ross Luedtke, Michael Parrish)

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

Item 22 [**Docket No. 2017-0326-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SPIRIT RAYS INC. dba Hills Country Food Mart in Burnet County; RN104375084; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jonathan Nguyen, Michael Parrish)

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

Item 23 [**Docket No. 2016-1860-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Thalia Water Supply Corporation in Foard County; RN101454569; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ronica Rodriguez, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 24 [**Docket No. 2015-1606-WQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Centex Materials LLC in Hays County; RN102190592; for aggregate production operation violations pursuant to Tex. Water Code chs. 7 and 28A and the rules of the Texas Commission on Environmental Quality. (Ronica Rodriguez, Michael Parrish)

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

RULE MATTER

Item 25 [**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)

Continue Item Number 25. 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

9/12/2017
Date