

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 Jon Niermann
Commissioner Emily Lindley

AGENDA

January 30, 2019

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. 2017-0593-PST-E; SOAH Docket No. 582-18-2534.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties and certain corrective actions against REDDY BUSINESS SOLUTIONS, INC. dba Dale Corner in Caldwell County, Texas; RN102652674; regarding underground storage tank violations pursuant to Tex. Water Code ch. 26 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record and all related, timely filings. (Jess Robinson)

Adopt the Administrative Law Judge's Proposed Order as modified by the Executive Director's Exceptions to the Administrative Law Judge's Proposed Order and recommended by the Administrative Law Judge in her reply letter dated April 5, 2018 and further modify to 1) Revise Finding of Fact No. 8 by adding the words "of

discovery” after the words “within 24 hours”; 2) Revise Finding of Fact No. 10 by removing the wording “and requested a hearing”; 3) Revise Finding of Fact No. 18 by adding a semi-colon and the words “however at the evidentiary hearing, the ED sought a reduction penalty of \$21,475” just before the period; and 4) Revise Finding of Fact No. 27 by placing the words “compliance history” after the words “high performer.” JN/EL; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 Docket No. 2018-1306-MWD.

Consideration of the application by East Fork Partners LLC for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015565001, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 2,500,000 gallons per day in the Final Phase. The facility was previously permitted under TPDES Permit No. WQ0014998001 which expired on October 1, 2016. The facility will be located approximately 1.4 miles west and 0.8 mile north of the intersection of County Road 170 and Farm-to-Market Road 543, and approximately 2.25 miles south-southeast of the City of Weston, in Collin County, Texas 75009. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director’s Response to Comments. (Phillip Urbany, Michael Parr)

Grant the hearing request of the North Texas Municipal Water District; Deny the request for reconsideration of the North Texas Municipal Water District; Refer the matter to the Commission’s Alternative Dispute Resolution Program, to run concurrent with the SOAH preliminary hearing scheduling efforts; Refer the application to SOAH for a contested case hearing on the following issues: 1) Whether issuance of the proposed permit is contrary to the State’s regionalization policy and whether the Commission should deny or alter the terms and conditions of the proposed permit based on consideration of the State’s policy to encourage and promote regionalization under Texas Water Code § 26.081 and the designation of regional entities pursuant to 30 TAC Chapter 351; 2) Whether the application is sufficiently complete, including the demonstrations and justifications required by applicable regulations; 3) Whether the proposed permit complies with TCEQ’s antidegradation requirements, including whether the proposed discharge is protective of water quality and the uses of the receiving waters under the applicable surface water quality standards in 30 TAC Chapter 307; 4) Whether proper evaluation of modeling was performed by the Applicant for the treatment levels in the proposed permit given the location of the proposed facility and outfall and the ultimate discharge into Lake Lavon; 5) Whether the Applicant evaluated the impacts of nutrient loading from the proposed discharge in the East Fork Trinity River and Lavon Lake, and whether the proposed permit’s lack of Total Phosphorus limit in the Interim I phase will maintain water quality in the East Fork Trinity River and Lavon

Lake and prevent nutrient loading; 6) Whether the proposed permit will adversely affect aquatic life; and 7) Whether the draft permit adequately addresses treatment levels and the prevention of nuisance odors in accordance with 30 TAC Chapter 309; and Set a hearing duration of 180 days from the date of the preliminary hearing until the proposal for decision is issued. EL/JN; all agreed.

EMERGENCY ORDER

Item 3 **Docket No. 2018-1749-UCR-E.**

Consideration of whether to affirm, modify, or set aside the Emergency Order Appointing a Temporary Manager of a Wastewater Utility issued on December 21, 2018, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5, 13, and 26 and 30 Tex. Admin. Code chs. 35, 291, 307, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a wastewater treatment utility (“Sewer Utility”) by Tawakoni Waste, LLC and Texas Rain Holding Company, Inc.; Texas Permit Discharge Elimination System Permit No. WQ0014297001; RN103014973; to ensure continued operation of the Sewer Utility and to provide continuous and adequate service to the customers. The Sewer Utility is located at 10636 Black Bass Road, approximately 1,000 feet southwest of the intersection of Farm-To-Market Road 429 and Farm-To-Market Road 751 on the northwest side of Farm-To-Market Road 429 between Farm-To-Market Road 429 and Lake Tawakoni in Quinlan, Hunt County, Texas. The Emergency Order appointed Troy Henry as temporary manager of the Sewer Utility. (Isaac Ta)

Affirm the Executive Director’s Emergency Order appointing Troy Henry as the temporary manager for the Sewer Utility owned or operated by Tawakoni Waste, LLC and Texas Rain Holding Company, Inc.; Modify the Emergency Order with the five modifications recommended by the Executive Director; and Issue the proposed Order. EL/JN; all agree.

MOTION TO OVERTURN

Item 4 **Docket No. 2018-1666-DIS.**

Consideration of the Motion to Overturn the Executive Director’s November 9, 2018 issuance of an order granting a petition to designate an in-district meeting location for Harris County Municipal Utility District No. 304. The Commission will also consider timely filed responses and replies to the Motion to Overturn.

Overturn the Executive Director’s November 9, 2018 Order granting a petition to designate an in-district meeting location for Harris County Municipal Utility District

No. 304 and Remand this matter to the Executive Director with a concurrent referral to the Commission's ADR Program. EL/JN; all agree.

TOTAL MAXIMUM DAILY LOAD MATTERS

Item 5 **[Docket No. 2018-1105-TML.](#)**

Consideration for approval to publish and solicit public comment on One Draft Total Maximum Daily Load for Indicator Bacteria in Oso Creek, in Nueces County. (Kerry Niemann, Robert Brush) (Project No. 2018-038-TML-NR)

Approve the publication of, and solicitation of public comment on One Total Maximum Daily Load for Indicator Bacteria in Oso Creek, as recommended by the Executive Director. EL/JN; all agree.

Item 6 **[Docket No. 2018-1561-TML.](#)**

Consideration for approval to publish and solicit public comment on Two Draft Total Maximum Daily Loads for Indicator Bacteria in the Navasota River below Lake Limestone of the Brazos River Basin, in Brazos, Grimes, Leon, Limestone, Madison, and Robertson Counties. (Kerry Niemann, Robert Brush) (Project No. 2019-052-TML-NR)

Joint Motion for Items 6 and 7.

Approve the publication of, and solicitation of comment on Two Total Maximum Daily Loads and corresponding Implementation Plan for Indicator Bacteria in the Navasota River below Lake Limestone in the Brazos River Basin, as recommended by the Executive Director. EL/JN; all agree.

Item 7 **[Docket No. 2018-1562-TML.](#)**

Consideration for approval to publish and solicit public comment on the draft Implementation Plan for Two Total Maximum Daily Loads for Indicator Bacteria in the Navasota River below Lake Limestone of the Brazos River Basin, in Brazos, Grimes, Leon, Limestone, Madison, and Robertson Counties. (Kerry Niemann, Robert Brush) (Project No. 2019-053-TML-NR)

Joint Motion for Items 6 and 7.

Approve the publication of, and solicitation of comment on Two Total Maximum Daily Loads and corresponding Implementation Plan for Indicator Bacteria in the Navasota River below Lake Limestone in the Brazos River Basin, as recommended by the Executive Director. EL/JN; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 8 **[Docket No. 2017-1451-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Owens Corning Insulating Systems, LLC in Ellis County; RN100223585; 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. (Johnnie Wu, Michael Parrish)

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

Item 9 **[Docket No. 2017-0922-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TPC Group LLC in Harris County; RN100219526; 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. EL/JN; all agree.

Item 10 **[Docket No. 2016-1414-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Valero Refining-Texas, L.P. in Harris County; RN100219310; 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. (Margarita Dennis, Michael Parrish)

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

Item 11 **[Docket No. 2017-1520-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Eastman Chemical Texas City, Inc. in Galveston County;

RN100212620; 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. (Elizabeth Lieberknecht, Janice Hernandez)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 12 [Docket No. 2018-0225-EAQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jeffrey R. Bair, Tracy M. Savell, and James W. Savell in Comal County; RN105452981; 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 Tex. Admin. Code ch. 60. (Alejandro Laje, Michael Parrish)

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

INDUSTRIAL AND/OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 13 [Docket No. 2017-1018-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of ALL STATE GEAR INC. in Bexar County; RN109009217; for industrial 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. (Tracy Chandler, Janice Hernandez)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 14 [Docket No. 2015-1266-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rosebud in Falls County; RN101918423; 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. (Had Darling, Michael Parrish)

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

Item 15 [**Docket No. 2017-1642-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Roxton in Lamar County; RN101920759; 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. (Christopher Moreno, Michael Parrish)

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

Item 16 [**Docket No. 2016-1595-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Avnoor Mahi, LLC in Polk County; RN103759106; 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. (Adam Taylor, Janice Hernandez)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 17 [**Docket No. 2018-0122-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Mesquite Independent School District in Dallas County; RN101536688; 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. (Epi Villarreal, Michael Parrish)

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

Item 18 [**Docket No. 2016-0217-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of PARTY TIME BEER DEPOT, LLC dba Party Time II in El Paso County; RN104759568; 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. (Margarita Dennis, Michael Parrish)

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

Item 19 **[Docket No. 2017-1729-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against CIRCLE K STORES INC. dba Circle K 2706187 in Dallas County; RN101551307; 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, Janice Hernandez)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 20 **[Docket No. 2017-1427-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ELITE OIL FIELD AND CONSTRUCTION SERVICES LLC in Zavala County; RN107203887; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Boyle, Michael Parrish)

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

Item 21 **[Docket No. 2018-0085-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of RATCLIFF WATER SUPPLY CORPORATION in Houston County; RN101222339; for public drinking water violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jake Marx, Janice Hernandez)

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

WASTE WATER DISPOSAL ENFORCEMENT AGREED ORDER

Item 22 [Docket No. 2017-1788-WDW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INEOS NITRILES USA LLC in Calhoun County; RN100210038; for waste disposal well violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 27, 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. EL/JN; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 23 [Docket No. 2018-0308-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Killeen in Bell County; RN103174306; 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. (Alejandro Laje, Michael Parrish)

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

MONTHLY ENFORCEMENT REPORT

Item 24 [Docket No. 2018-0614-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.

STATE IMPLEMENTATION PLAN MATTER

Item 25 [Docket No. 2018-1318-SIP.](#)

Consideration of the adoption of the Beaumont-Port Arthur (BPA) Redesignation Request and Maintenance Plan for the One-Hour Ozone Nonattainment Area and Second 10-Year Maintenance Plan for the 1997 Eight-Hour Ozone Nonattainment Area State Implementation Plan (SIP) revision. The SIP revision includes a request that the United States Environmental Protection Agency (EPA) redesignate the BPA area (Hardin, Jefferson, and Orange Counties) to attainment for the one-hour ozone National Ambient Air Quality Standard (NAAQS) and provides a maintenance plan that will ensure the area remains in attainment of the NAAQS through 2032. The SIP revision includes a request that the EPA also consider this plan as a second 10-year maintenance plan for the one-hour standard. The SIP revision also includes a second 10-year maintenance plan for the 1997 eight-hour ozone NAAQS. (Alison Stokes, Amy Browning) (Non-rule Project No. 2018-027-SIP-NR)

Adopt the Beaumont-Port Arthur Redesignation Request and Maintenance Plan for the One-Hour Ozone Nonattainment Area and Second 10-Year Maintenance Plan for the 1997 Eight-Hour Ozone Nonattainment Area State Implementation Plan revision, as recommended by the Executive Director. EL/JN; all agree.

EXECUTIVE MEETING

Item 26 Docket No. 2019-0001-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 Session.

Item 27 Docket No. 2019-0002-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 Session.

Item 28 Docket No. 2019-0003-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 Session.

Item 29 Docket No. 2019-0004-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 Session.

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 TCEQ MEETINGS ON THE TCEQ YOUTUBE CHANNEL AT NO COST, AT:
[HTTPS://WWW.TCEQ.TEXAS.GOV/AGENCY/DECISIONS/AGENDAS/WEBCASTS.HTML](https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html)**

/s/ Elaine Lucas
Assistant General Counsel
Elaine Lucas

February 4, 2019
Date