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On March 16, 2020, in accordance with section 418.016 of the Texas Government Code, Governor Abbott suspended various provisions of the Open Meetings Act that require government officials and members of the public to be physically present at a specified meeting location. Pursuant to that suspension, the public will not be able to attend the Agenda in person but may attend telephonically or via webinar or view the meeting on the web at no cost.

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http://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/AgendaRegistrationForm.docx or provide the following information: 1. Agenda item number; 2. Name; 3. Affiliation; 4. Address; 5. Phone number; 6. whom you represent (self or company/client); and 7. whether you wish to address the Commission, are available for questions from the Commission, or would like to be noted as present for the record.

Registration for agenda will conclude at 9:30 a.m. Please register before this time. Late registration could result in your missing the opportunity to comment on your item. Finally, the Commissioners may discuss or consider posted items in an order other than the order posted.

Chairman Jon Niermann
Commissioner Emily Lindley
Commissioner Bobby Janecka

OLD BUSINESS AGENDA

March 10, 2021

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

<https://www.gotomeeting.com/webinar/join-webinar> / Webinar ID 931-887-619
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Continued from the February 24, 2021 Commissioners' Agenda.

Item 1 **Docket No. 2018-1115-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Texas Materials Group, Inc. fka Oldcastle Materials Texas, Inc. in Collin County; RN104992276; 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. (Jess Robinson, Janice Hernandez)

Remand to the Executive Director for further case development. JN/BJ; all agree.

AGENDA

March 10, 2021

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

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(631) 992-3221 / Access Code 469-537-804

PROPOSALS FOR DECISION

Item 1 [**TCEQ Docket No. 2019-1806-MSW; SOAH Docket No. 582-20-2569.**](#)

Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of Texas Regional Landfill Company, LP, for Municipal Solid Waste (MSW) Permit No. 1841B, a major amendment to authorize the expansion of the Travis County Landfill, a MSW Type IV landfill pursuant to rules of the Texas Commission on Environmental Quality and Texas Health & Safety Code ch. 361. The facility is located at 9600 FM 812, Austin in Travis 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. (Amie Robinson, Natasha Douglas, Ian Groetsch)

Adopt the ALJs' Amended Proposed Order filed by the ALJ on March 1, 2021; Grant the permit amendment application of Texas Regional Landfill Company, LP, for MSW Permit No. 1841B; and Adopt the ED's Final Response to Comments. EL/BJ; all agree.

Item 2 [**TCEQ Docket No. 2020-0511-AIR; SOAH Docket No. 582-20-3438.**](#)

Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of Lone Star Ports, LLC, for new Air Quality Permit No. 157150, authorizing construction of an onshore crude-oil-loading marine terminal pursuant to rules of the Texas Commission on Environmental Quality, Texas Health & Safety Code ch. 382, and Texas Water Code ch. 5. The proposed facility is to be located on Harbor Island adjacent to Highway 361 and northeast of the ferry landing in Port Aransas, Nueces County, Texas. 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. (Betsy Petcolas, Adam Taylor)

Adopt the ALJs' Proposed Order with the following modifications: 1) In Finding of Fact No. 19, change the date from "April 6, 2020" to "April 1, 2020," to reflect the correct date that LSP requested direct referral of this matter; 2) In Finding of Fact No. 33, change the year "2020" to "2021" and change roman numeral "III" to "IV," to reflect that Ben F. Vaughn, IV's request to withdraw was granted on January 8, 2021; Grant the permit application of Lone Star Ports, LLC for new Air Quality Permit No. 157150; and Adopt the ED's Response to Comments. BJ/EL; all agree.

Item 3 [**TCEQ Docket No. 2017-0898-PST-E; SOAH Docket No. 582-20-3433.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties against Shrishubh, LLC dba Super Food Mart in Dallas County, Texas; RN102852423; regarding underground storage tank violations pursuant to the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Christopher Mullins)

Adopt the ALJ's Proposed Order with the modifications recommended by the ED's Exceptions and agreed to by the ALJ's Reply. BJ/EL; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 4 [**Docket No. 2021-0053-MWD.**](#)

Consideration of application by HK Real Estate Development LLC for the new Texas Pollutant Discharge Elimination System Permit No. WQ0015784001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 450,000 gallons per day. The facility will be located approximately 4,600 feet northeast of the intersection of Old Bastrop Road and Staples Road, in Hays County, Texas 78666. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Jose Alfonso Martinez, Hollis Henley)

Grant the hearing requests of the City of San Marcos, San Marcos River Foundation, and Texas Rivers Protection Association; Deny all other hearing requests and requests for reconsideration; Refer the application to SOAH for a contested case hearing on the following issues: a) Whether the draft permit is protective of water quality and the uses in receiving waters under the applicable surface and water quality standards in 30 TAC Chapter 307; b) Whether the draft permit is protective of the health of the Group members and City residents in the immediate vicinity of the proposed facility and discharge route; c) Whether the Commission should deny or alter the terms and

conditions of the draft permit based on consideration of need under Texas Water Code Chapter 26.0282, and the general policy to promote regional or area wide systems under Texas Water Code Chapter 26.081; d) Whether the draft permit complies with applicable requirements to abate and control nuisance odors as set forth in 30 TAC § 309.13; e) Whether the draft permit is protective of aquatic, vegetation, livestock, and wildlife, including endangered species in the immediate vicinity of the proposed facility and discharge route; f) Whether the draft permit contains adequate operational and monitoring requirements to demonstrate compliance with its material terms; g) Whether the draft permit is protective of groundwater in the area; h) Whether the application and supporting materials substantially complied with all Commission rules regarding their submission; i) Whether the applicant substantially complied with all applicable public notice requirements; and j) Whether the applicant's compliance history for the previous five years raises issues regarding the applicant's ability to comply with the material terms of the permit that warrant altering the terms of the draft permit; and Set the hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued. EL/BJ; all agree.

MOTION TO OVERTURN

Item 5 **[Docket No. 2021-0104-AGR.](#)**

Consideration of the Motion to Overturn filed by Durk and Shawna DeBoer concerning the Executive Director's decision to reject the application by Durk and Shawna DeBoer for the renewal of TXG921433. The concentrated animal feeding operation facility known as the Dutch Tex Dairy is located in Erath County, Texas. The Commission will also consider the related responses and reply. (Michael Parr, Katherine McKenzie)

Grant the Motion to Overturn filed by Durk and Shawna DeBoer and Remand the application to the Executive Director with directions to process the application for the renewal of TXG921433. BJ/EL; all agree.

MISCELLANEOUS MATTER

Item 6 **[Docket No. 2021-0241-MIS.](#)**

Consideration of material changes to contracts for goods and services awarded under Chapter 2155 of the Texas Government Code executed during the previous quarter. (Chris Gobert)

Approve issuance of the Executive Director's Proposed Resolution that acknowledges the material changes to contracts for goods and services in accordance with Texas Government Code § 2155.088 for the period of September 1, 2020 to November 30, 2020, as described in the TCEQ Interoffice Memorandum to the Commissioners and

Executive Director dated March 10, 2021 in Docket Number 2021-0241-MIS. JN/EL; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 7 [**Docket No. 2018-0987-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kuraray America, Inc. in Harris County; RN106155849; 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. (Amanda Diaz, Michael Parrish)

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

Item 8 [**Docket No. 2020-0977-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against PCI Nitrogen, LLC in Harris County; RN101621944; 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. (Mackenzie Mehlmann, Michael Parrish)

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

Item 9 [**Docket No. 2020-0433-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of South Hampton Resources, Inc. in Hardin County; RN101995611; 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/BJ; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 10 [**Docket No. 2020-0458-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enterprise Products Operating LLC in Harris County; RN100210665; 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/BJ; all agree.

Item 11 [**Docket No. 2019-1485-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Dow Chemical Company in Brazoria County; RN100225945; 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. (Harley Hobson, Michael Parrish)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 12 [**Docket No. 2019-1238-MSW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against LOGAN AND SON USED TIRE SERVICE, INCORPORATED in Dallas County; RN103101317; 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. (Ken Moller, Michael Parrish)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 13 [**Docket No. 2019-1300-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Roscoe in Nolan County; RN105605927; 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. (Aaron Vincent, Michael Parrish)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDER

Item 14 [Docket No. 2020-0822-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Swash Car Wash, LLC dba Swash Car Spa in Harris County; RN101741122; 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. (Courtney Atkins, Michael Parrish)

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

WASTE DISPOSAL WELL ENFORCEMENT AGREED ORDER

Item 15 [Docket No. 2019-1251-WDW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against South Texas Mining Venture L.L.P. dba Hobson Mining Project in Karnes County; RN102342995; 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. (Ken Moller, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 16 [Docket No. 2019-1272-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Ferris in Ellis County; RN101404358; 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. (Caleb Olson, Michael Parrish)

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

RULE MATTERS

Item 17 **Docket No. 2020-0040-RUL.**

Consideration for publication of, and hearing on, proposed new Section 39.426 and amendments to Sections 39.405, 39.412, 39.418, 39.419, 39.423, 39.503, 39.602, 39.604, and 39.651 of 30 TAC Chapter 39, Public Notice and proposed amendments to Sections 55.154, 55.156, 55.209, and 55.210 of 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment and corresponding revisions to the State Implementation Plan. (Amy Browning, Adam Taylor) (Rule Project No. 2020-018-039-LS)

Approve the publication of, and hearing on, new 30 Texas Administrative Code Section 39.426; amendments to 30 Texas Administrative Code Chapters 39 and 55; and corresponding revisions to the State Implementation Plan, as recommended by the Executive Director. BJ/EL; all agree.

Item 18 **Docket No. 2020-0820-RUL.**

Consideration of the adoption of the repeal of Section 328.203 and Section 328.204; and simultaneous adoption of new Section 328.203 and Section 328.204 of 30 TAC Chapter 328, Waste Minimization and Recycling. (Calen Roome, Kathy Humphreys) (Rule Project No. 2020-041-328-AD)

Adopt the proposed repeal of Sections 328.203 and 328.204; and simultaneous adoption of new Sections 328.203 and 328.204, of 30 Texas Administrative Code Chapter 328, Waste Minimization and Recycling, as recommended by the Executive Director. BJ/EL; all agree.

PUBLIC COMMENT SESSION

Item 19 **Docket No. 2021-0005-PUB.**

The Commission will receive comments from the public on any matters within the jurisdiction of the Texas Commission on Environmental Quality in accordance with Texas Water Code Section 5.112, except for 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.

Cathy Fulton addressed the Commission. No action taken.

EXECUTIVE MEETING

Item 20 Docket No. 2021-0001-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 21 Docket No. 2021-0002-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 22 Docket No. 2021-0003-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 23 Docket No. 2021-0004-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 FIVE (5) 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.

TO WATCH OR LISTEN TO THE MEETING:

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TO ADDRESS THE COMMISSION AT THE MEETING:

MEMBERS OF THE PUBLIC WHO WOULD LIKE TO ADDRESS THE COMMISSION ON AN ITEM FOR WHICH THE COMMISSION IS ACCEPTING COMMENT, MUST REGISTER AS INDICATED BELOW AND

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ASSISTANCE IN ACCESSING THE MEETING TELEPHONICALLY.**

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AS/COMM/AGENDAREGISTRATIONFORM.DOCX](http://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/agendaregistrationform.docx) OR PROVIDE THE
FOLLOWING INFORMATION: 1. AGENDA ITEM NUMBER; 2. NAME; 3.
AFFILIATION; 4. ADDRESS; 5. PHONE NUMBER; 6. WHOM YOU
REPRESENT (SELF OR COMPANY/CLIENT); AND 7. WHETHER YOU
WISH TO ADDRESS THE COMMISSION, ARE AVAILABLE FOR
QUESTIONS FROM THE COMMISSION, OR WOULD LIKE TO BE NOTED
AS PRESENT FOR THE RECORD.**

**REGISTRATION FOR AGENDA WILL CONCLUDE AT 9:30 A.M. PLEASE
REGISTER BEFORE THIS TIME. LATE REGISTRATION COULD RESULT
IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.
FINALLY, THE COMMISSIONERS MAY DISCUSS OR CONSIDER POSTED
ITEMS IN AN ORDER OTHER THAN THE ORDER POSTED.**

/s/ Ron Olson
Assistant General Counsel
Ron Olson

March 23, 2021
Date