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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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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 access the meeting via webcast by navigating to:

<https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 603-961-579. Those without internet access may call (512) 239-3313 before the meeting begins for assistance in accessing the meeting telephonically.

To register, please call (512) 239-3313 or email agenda@tceq.texas.gov. Please complete the Public Participation Form at:

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

AGENDA

March 31, 2021

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

<https://www.gotomeeting.com/webinar/join-webinar> / Webinar ID 603-961-579
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PROPOSAL FOR DECISION

Item 1 [**TCEQ Docket No. 2019-1471-MWD; SOAH Docket No. 582-20-3486.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of Victor Dee Turley and Alexis Hill Turley, for new TPDES Permit No. WQ0015728001 pursuant to rules of the Texas Commission on Environmental Quality and Texas Water Code chs. 5 and 26. The proposed facility would be located approximately 2,000 feet south of the intersection of FM 2268 and Gooseneck Road on Gooseneck Road in Bell County Texas. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the record, timely related filings, exceptions, and replies. (Celia Castro)

Adopt the ALJ's Proposed Order with the following modifications: 1) In Conclusion of Law No. 7, replace the word "irrefutable" with "unrefuted," to reflect the correct legal standard in Texas Government Code § 2003.047(i-2); 2) In Conclusion of Law No. 7, remove the word "following" to correct a typographical error; 3) Include Applicants' full names "Victor Dee Turley" and "Alexis Hill Turley," in both the introductory paragraph and Ordering Provisions for clarity and consistency; Grant the permit application of Victor Dee Turley and Alexis Hill Turley for Texas Pollutant Discharge Elimination System Permit No. WQ0015728001; and Adopt the Executive Director's Response to Comments. JN/EL; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 [**Docket No. 2021-0051-AIR.**](#)

Consideration of application by Holcim (US) Inc. for the amendment of Air Quality Permit No. 8996 to authorize the as-built construction and performance of the Line 2 Regenerative Thermal Oxidizer and increased flexibility in the usage of petroleum coke as a fuel relative to coal. The Portland cement plant is located at 1800 Dove Lane, Midlothian, Ellis County, Texas 76065. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public

comment, and the Executive Director's Response to Comments. (Joel Stanford, Amy Browning)

Deny all hearing requests; Issue Air Quality Permit Nos. 8996 and PSDTX454M5, to Holcim (US) Inc., as requested by the Executive Director; and Adopt the Executive Director's Response to Comments. EL/BJ; all agree.

Item 3 **Docket No. 2020-1325-AIR.**

Consideration of application by Citgo Refining and Chemical Company L.P. for the renewal and amendment of Air Quality Permit Nos. 3857A and NE0027V to correct and adjust marine loading operations and emissions. The refinery's east plant docks are located at 1801 Nueces Bay Blvd, Corpus Christi, Nueces County, Texas 78407. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Jeff Greif, Ashley Rich)

Grant the hearing request of the Citizens Alliance for Fairness and Progress in Corpus Christi; Refer the application to SOAH for a contested case hearing on the following issues: 1) Whether the draft permit contains adequate conditions to protect the health and safety of the Alliance's members and their families in the immediate vicinity of this facility; 2) Whether operations under the draft permit's terms will adversely affect air quality; 3) Whether the draft permit is adequate to protect against nuisance conditions from air contaminants affecting Alliance members' properties during facility operations; 4) Whether the applicant substantially complied with all applicable requirements regarding the public availability of the application in accordance with 30 TAC § 39.405(g); 5) Whether the draft permit requires the facility to utilize appropriate emission control technology; 6) Whether the draft permit contains adequate monitoring and reporting requirements to demonstrate compliance with its material terms; and 7) Whether the application properly calculated and addressed potential emission sources, emission rates, and background concentrations to establish appropriate concentrations in the draft permit; and Set a hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued. BJ/EL; all agree.

Item 4 **Docket No. 2021-0054-AIR.**

Consideration of application by Martin Marietta Materials Southwest, LLC, for the renewal and amendment of Air Quality Permit No. 41849, to authorize the continued operation and modification of an existing permitted rock and concrete crushing plant located at 5529 Highway 27 Center Point, Kerr County, Texas. Modifications include removing equipment, increasing stockpile acreage, and updating emission rates for existing sources. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and

the Executive Director's Response to Comments. (Kristyn Jacher, Betsy Peticolas)

Grant the hearing requests requested by Mary Matthews; Refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling efforts; Deny the remaining hearing requests and requests for reconsideration; Refer the application to SOAH for a contested case hearing on the following seven issues: 1) Whether the plant will negatively affect air quality; 2) Whether the plant will negatively affect the health of the requesters, including sensitive groups, or physical property; 3) Whether the plant will negatively affect welfare, including vegetation, animals, and the environment in the surrounding area; 4) Whether cumulative impacts were adequately considered in accordance with applicable rules; 5) Whether the draft permit contains adequate provisions to protect against nuisance dust emissions; 6) Whether the draft permit contains adequate monitoring and recordkeeping requirements to ensure compliance with applicable rules; and 7) Whether the air dispersion modeling was adequately conducted in accordance with applicable rules; and Set the hearing duration at 180 days from the date of the preliminary hearing to the issuance of the Proposal for Decision. EL/BJ; all agree.

Item 5 **Docket No. 2021-0059-AIR.**

Consideration of the application by HEP Javelina Company, LLC, formerly known as MarkWest Javelina Company LLC, for the renewal of Air Quality Permit No. 19296 to authorize continued operations at an existing permitted gas processing plant. The gas processing plant is located at 5314 Interstate Highway 37, Corpus Christi, Nueces County, Texas 78407-1410. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Jeff Greif, Sierra Redding)

Find that there is no right to a hearing on this application pursuant to Texas Health and Safety Code § 382.056, and TCEQ's rules; Deny the hearing request; Issue the renewal of Air Quality Permit No. 19296, to HEP Javelina Company, LLC, as recommend by the Executive Director; and Adopt the Executive Director's Response to Comments. BJ/EL; all agree.

Item 6 **Docket No. 2021-0052-MWD.**

Consideration of the application by City of Rhome, for a major amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0010701001, to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 100,000 gallons per day to a daily average flow not to exceed 400,000 gallons per

day. The domestic wastewater treatment facility is located approximately 1,600 feet northwest of the intersection of the Burlington Northern Railroad and State Highway 114, in Wise County, Texas 76078. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Tong Li, Harrison Cole Malley)

Deny all hearing requests; Grant the major amendment of Texas Pollutant Discharge Elimination System Permit No. WQ0010701001 to the City of Rhome; and Adopt the Executive Director's Response to Comments. EL/BJ; all agree.

MISCELLANEOUS MATTERS

Item 7 **Docket No. 2020-0696-MIS.**

Consideration of the adoption of a renewal with amendment of Texas Pollutant Discharge Elimination System (TPDES) General Permit TXG130000, authorizing discharges into or adjacent to water in the state by aquaculture facilities and other activities related to aquaculture. Public notice of the proposed general permit was published in the October 2, 2020 issue of the *Texas Register* (45 TexReg 7058). (Laurie Fleet, Hollis Henley) (Non-Rule Project No. 2020-020-OTH-NR)

Adopt the renewal with amendments of Texas Pollutant Discharge Elimination System General Permit TXG130000, as recommend by the Executive Director. BJ/EL; all agree.

Item 8 **Docket No. 2020-1600-RES.**

Consideration for the appointment of three nominees to the Irrigators Advisory Council (Council) to replace three members whose terms expired on February 1, 2021, and to extend the existence of the Council until February 1, 2027 (See 30 Texas Administrative Code Section 5.2 and Section 344.80(e)). The Request for Nominations for Appointment to Serve on the Irrigator Advisory Council was published in the October 30, 2020, issue of the *Texas Register* (45 TexReg 7746). (Shannon Frazier, Alicia Ramirez) (Project No. 2021-002-RES-NR)

Adopt the Executive Director's recommended Resolution extending the existence of Irrigator Advisory Council until February 1, 2027, and fill in the vacancies on the Irrigator Advisory Council as followed: 1) Appoint Jimmy Burgdorf, effective March 31, 2021, for a term to expire February 1, 2027; 2) Appoint James Garvin, effective March 31, 2021, for a term to expire February 1, 2027; nd a3) Appoint Mark A.

Peterson, effective March 31, 2021, for a term to expire February 1, 2027. EL/BJ; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 9 **[Docket No. 2019-1697-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Performance Materials NA, Inc. in Orange County; RN100542711; 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. BJ/EL; all agree.

Item 10 **[Docket No. 2019-1794-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Phillips 66 Company in Brazoria County; RN101619179; 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. BJ/EL; all agree.

Item 11 **[Docket No. 2020-0861-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Republic Plastics, Ltd. in Guadalupe County; RN100851211; 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. BJ/EL; all agree.

AIR QUALITY ENFORCEMENT DEFAULT ORDERS

Item 12 **[Docket No. 2018-0401-AIR-E.](#)**

Consideration of a Default Order assessing administrative penalties against Ted Gillis in Fort Bend County; RN105936660; 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. (Benjamin Warms, Janice Hernandez)

Remand to the Executive Director. BJ/EL; all agree.

Item 13 [**Docket No. 2018-0387-AIR-E.**](#)

Consideration of a Default Order assessing administrative penalties against Paveloc Industries LLC in Fort Bend County; RN105936660; 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. (Benjamin Warms, Janice Hernandez)

Remand to the Executive Director. BJ/EL; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 14 [**Docket No. 2020-0306-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shell Chemical LP in Harris County; RN100211879; 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. BJ/EL; all agree.

Item 15 [**Docket No. 2020-0950-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Venator Chemicals LLC in Brazoria County; RN101502128; 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. BJ/EL; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDERS

Item 16 [Docket No. 2019-0332-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Calvin Corkran in Orange County; RN110379880; 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. (Benjamin Warms, Janice Hernandez)

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

Item 17 [Docket No. 2020-0191-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Scott Wilson in Gonzales County; RN110743945; 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. (Taylor Pearson, Janice Hernandez)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 18 [Docket No. 2019-1709-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of PINEYWOODS BAPTIST ENCAMPMENT in Trinity County; RN101524643; 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. BJ/EL; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 19 [Docket No. 2019-1658-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Cypress Valley Water Supply Corporation in Harrison County; RN101184745; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Miles Wehner, Michael Parrish)

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

Item 20 [**Docket No. 2020-0980-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of HB Estates Water Supply Corporation in Galveston County; RN101240851; 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. (Samantha Salas, Michael Parrish)

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

Item 21 [**Docket No. 2020-0990-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Rayburn Country Municipal Utility District in Jasper County; RN101213890; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Aaron Vincent, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 22 [**Docket No. 2020-1228-WQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Texas A & M University in Brazos County; RN103670659; 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. BJ/EL; all agree.

MONTHLY ENFORCEMENT REPORT

Item 23 **Docket No. 2021-0103-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.

MONTHLY PUBLIC WATER SYSTEM REPORT

Item 24 **Docket No. 2021-0309-MIS.**

Consideration of agency post-incident response actions related to the February 2021 severe winter storm, including plans to evaluate factors that impacted public water system response and recovery actions.

No action taken.

EXECUTIVE MEETING

Item 25 **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 closed session.

Item 26 **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 closed session.

Item 27 **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 closed session.

Item 28 **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 closed 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.

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[HTTPS://WWW.TCEQ.TEXAS.GOV/AGENCY/DECISIONS/AGENDAS/WEBCASTS.HTML](https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html).

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 ACCESS THE MEETING VIA WEBCAST BY NAVIGATING TO:

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[HTTP://WWW.TCEQ.TEXAS.GOV/ASSETS/PUBLIC/COMM_EXEC/AGENDAS/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/ Elaine Lucas
Assistant General Counsel
Elaine Lucas

4/7/2021
Date