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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

AGENDA

April 28, 2021

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

<https://www.gotomeeting.com/webinar/join-webinar> / Webinar ID 387-981-355
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PROPOSAL FOR DECISION

Item 1 [**TCEQ Docket No. 2019-0724-PST-E; SOAH Docket No. 582-20-3021.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties against DAY NIGHT FOOD MART LLC in Bexar County, Texas; RN101722619; regarding underground storage tank violations pursuant to Texas Water Code Chapters 7 and 26 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Ryan Rutledge)

Adopt the Administrative Law Judge's Proposed Order with the modifications recommended by the Executive Director's Exceptions and agreed to by the Administrative Law Judge's Reply dated March 11, 2021. BJ/EL; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 [**Docket No. 2020-1310-MWD.**](#)

Consideration of the application by Denton County Municipal Utility District No. 10 for new Texas Pollutant Discharge Elimination System Permit No. WQ0015803001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day. The facility will be located approximately 400 feet north and 400 feet west of the northwest corner of the intersection of Boss Range Road and Sam Reynolds Road, in Denton County, Texas 76247. (Michael Parr, Sonia Bhuiya)

Grant the hearing requests of Robert Boyer, Karen Hegarty, Kathy James, the Cope Trust, Cope Circle Rentals Incorporated, and the City of Justin; Deny all other hearing requests and requests for reconsideration; Refer the application to SOAH for an contested case hearing on the following issues: 1) Whether the draft permit is protective of water quality and the uses in the receiving water under the applicable surface water quality standards in 30 Texas Administrative Code Chapter 307; 2) Whether the draft permit complies with applicable requirements to abate and control nuisance orders as set forth in 30 Texas Administrative Code § 309.13; 3) Whether the

Commission should deny or alter the terms or conditions of the draft permit based on consideration of need under Texas Water Code § 26.0282, and the general policy to promote regional or area wide systems under the Texas Water Code § 26.081; 4) Whether the applicant substantially complied with all applicable public notice requirements; 5) Whether the draft permit is protective of ground water and nearby water well area; 6) Whether the draft permit is protective of the health of the requestors, their families, and of the other individuals who reside in the immediate vicinity of the proposed facility and discharge route; 7) Whether the draft permit is protective of aquatic, vegetation, livestock and wild life, in the immediate vicinity of the proposed facility and discharge route; 8) Whether the draft permit meets applicable siting and buffer zone requirements in 30 Texas Administrative Code § 309.13; Refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process; 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.

Item 3 **Docket No. 2021-0057-MWD.**

Consideration of the application by Kali Kate Services Inc., for new Texas Pollutant Discharge Elimination System Permit No. WQ0015843001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 34,300 gallons per day. The domestic wastewater treatment facility will be located approximately 0.3 mile northeast of the intersection of Farm-to-Market Road 1102 and Havenwood Boulevard, in Comal County, Texas 78130. 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, Celia Castro)

Grant the hearing request of Richard Ray Bentley; Deny the remaining hearing requests; Refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with the SOAH preliminary hearing scheduling efforts; Refer the matter to SOAH for a contested case hearing on the following issue: Whether the draft permit contains sufficient provisions to prevent nuisance odors; and Specify the maximum duration of the hearing is 150 days from the preliminary hearing to issuance of a Proposal for Decision. EL/BJ; all agree.

Item 4 **Docket No. 2021-0257-IWD.**

Consideration of the application by Falcon Development, LLC, which operates Big Brown Steam Electric Station, a steam-electric power generation facility, for a renewal of Texas Pollutant Discharge Elimination System Permit No. WQ0001309000, which authorizes the discharge of once-through cooling water and previously monitored effluent at a daily average flow not to exceed 1,015,000,000 gallons per

day via Outfall 001 and stormwater runoff and low-volume wastes on an intermittent and flow-variable basis via Outfall 002. The facility is located on the north bank of Fairfield Lake on Farm-to-Market Road 2570, approximately eleven miles northeast of the City of Fairfield, in Freestone County, Texas 75840. (Hollis Henley, Shannon Gibson)

Find that no right to a hearing exists on the application; Deny all hearing requests; Grant the renewal of TPDES Permit No. WQ0001309000 to Falcon Development, LLC, as recommended by the Executive Director, and Adopt the Executive Director's Response to Comments. BJ/EL; all agree.

Item 5 **Docket No. 2021-0403-AIR.**

Consideration of application by Black Mountain Sand Eagle Ford, LLC, for the issuance of Air Quality Permit No. 159610 to authorize an existing sand plant currently authorized under Permit by Rule. The plant is located at 1176 Merz Circle, Carrizo Springs, Dimmit County Texas, 78834. 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, Sierra Redding, Ashley Rich)

Grant the hearing requests filed by Patrick and Lisa Roark, Gerald and Donna Merz, Frank Peyton Dunn, Patsy Tatum, and Barrier Equipment Inc.; Refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with the SOAH scheduling efforts; Refer the application to SOAH for a contested case hearing on the following issues: 1) Whether the proposed plant will be protective of the health of the requestors, their families, and full-time residents, including sensitive subgroups, and physical property; 2) Whether the proposed plant will negatively affect air quality; 3) Whether the proposed plant will be protective of general welfare including vegetation, livestock, and the environment; 4) Whether the applicant has demonstrated that it will use Best Available Control Technology; 5) Whether the proposed permit will be protective against nuisance conditions in accordance with 30 Texas Administrative Code § 101.4; 6) Whether the emissions from the proposed plant will comply with the National Ambient Air Quality Standards; and 7) Whether the modeling and analysis performed for the application sufficiently account for cumulative impacts in accordance with applicable TCEQ statutes, rules, and guidance; and Set the hearing duration of 180 days from the date of the preliminary hearing to issuance of the Proposal for Decision. EL/BJ; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 6 **Docket No. 2020-0824-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Bayport Polymers LLC in Harris

County; RN100909373; 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. (Richard Gaza, Michael Parrish)

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

Item 7 **Docket No. 2019-1527-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Chevron Phillips Chemical Company LP in Harris County; RN103919817; 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. JN/BJ; all agree.

Item 8 **Docket No. 2020-0687-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Moss Bluff Hub, LLC in Liberty County; RN100217256; 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. JN/BJ; all agree.

Item 9 **Docket No. 2020-0939-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Sekisui Specialty Chemicals America, LLC in Harris County; RN103012183; 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. JN/BJ; all agree.

Item 10 [Docket No. 2020-0879-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Garland in Dallas County; RN103049490; 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. JN/BJ; all agree.

**INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT
AGREED ORDER**

Item 11 [Docket No. 2018-1027-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Texas Turbine, LLC in Lubbock County; RN110394731; for industrial solid and/or hazardous 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. (Jess Robinson, Janice Hernandez)

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

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED
ORDER**

Item 12 [Docket No. 2020-0515-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ameriforge Corporation in Harris County; RN102075686; 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. (Stephanie Frederick, Michael Parrish)

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

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED
ORDERS**

Item 13 [Docket No. 2019-1587-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Conroe in Montgomery County; RN101607257; 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. JN/BJ; all agree.

Item 14 [**Docket No. 2020-0711-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Quadvest, L.P. in Montgomery County; RN107834962; 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. (Katelyn Tubbs, Michael Parrish)

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

Item 15 [**Docket No. 2020-0018-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of RANCHO DEL LAGO, INC. in Blanco County; RN106482029; 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. (Stephanie Frederick, Michael Parrish)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 16 [**Docket No. 2020-0358-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DNR BUSINESS, INC. dba Sunmart 121 in Austin County; RN102461290; 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. JN/BJ; all agree.

Item 17 **Docket No. 2020-0363-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of LALINDA LLC dba Shell Quick Stop in Dallas County; RN101532620; 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. (Ken Moller, Michael Parrish)

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

Item 18 **Docket No. 2020-0983-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Leander Independent School District in Williamson County; RN101492627; 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. (Karolyn Kent, Michael Parrish)

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

Item 19 **Docket No. 2020-0679-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ricardo Gamboa in Gregg County; RN101444347; 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. (Tyler Richardson, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 20 **Docket No. 2019-0597-WQ-E.**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Kickin' A Inc. in Hood County; RN107114142; for water quality violations pursuant to Tex. Water Code chs. 7, 26, and 28A and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jess Robinson, Janice Hernandez)

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

MONTHLY ENFORCEMENT REPORT

Item 21 **[Docket No. 2021-0102-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 22 **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 23 **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 24 **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 25 **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 26 **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.

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TO ADDRESS THE COMMISSION AT THE MEETING:

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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/ Dinniah Tadema
Assistant General Counsel
Dinniah Tadema

May 3, 2021
Date