

TCEQ COMMISSION MEETING

AGENDA

July 28, 2021

9:30 A.M.

By Computer/Por computadora: <https://www.gotomeeting.com/webinar/join-webinar>
Webinar ID 264-324-395

By Telephone/por teléfono: (914) 614-3221
Access Code 405-026-224

Important information about this agenda, including how to watch it online or listen to it by phone, how to register to speak, how to ask for special accommodations, how to obtain an interpreter for your presentation, how to read this document, and more is available in the [General Information section](#).

Se incluye información importante sobre esta agenda, que incluye cómo verla en línea o escucharla por teléfono, cómo registrarse para hablar, cómo solicitar adaptaciones especiales, cómo obtener un intérprete para su presentación, cómo leer este documento y más. disponible en [la sección de Información general](#).

Chairman Jon Niermann
Commissioner Emily Lindley
Commissioner Bobby Janecka

AGENDA ITEMS/ELEMENTOS DE LA AGENDA

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 1 [Docket No. 2021-0306-WR.](#)

Consideration of Application No. 13488 by Aethon Energy Operating, LLC for a temporary water use permit to divert a maximum of 3,351.2 acre-feet of water within a period of three years from the Attoyac River, Neches River Basin, at a maximum rate of 8.42 cubic feet per second (3,780 gallons per minute) for mining purposes in Nacogdoches County, . The Commission will consider all timely filed hearing requests and related responses and replies. (Ruth Takeda, Joshua Schauer)

Deny all hearing requests and issue Application No. 13488 to Aethon Energy Operating, LLC, as recommended by the Executive Director. BJ/EL; all agree.

Item 2 [Docket No. 2021-0307-WR.](#)

Consideration of Application No. 13487 by Aethon Energy Operating, LLC for a temporary water use permit to divert a maximum of 3,351.2 acre-feet of water within a period of three years from the Attoyac River, Neches River Basin, at a maximum rate of 8.42 cubic feet per second (3,780 gallons per minute) for mining purposes in Nacogdoches County. The Commission will consider all timely filed hearing requests and related responses and replies. (Ruth Takeda, Joshua Schauer)

Deny all hearing requests and issue Application No. 13487 to Aethon Energy Operating, LLC, as recommended by the Executive Director. BJ/EL; all agree.

Item 3 [Docket No. 2021-0440-IWD.](#)

Consideration of the application by Equistar Chemicals, LP, which operates the Equistar Chemicals Corpus Christi Complex, which manufactures, stores, and ships ethylene, propylene, benzene, butadiene, and fuel products, for a major amendment and renewal of Texas Pollutant

Discharge Elimination System (TPDES) Permit No. WQ0002075000 to authorize the installation and operation of a high-rate diffuser for Outfall 001; increase effluent limitations for water quality-based regulated parameters (free cyanide, total copper, and total zinc) at Outfall 001 (final phase based on the aforementioned diffuser); increase the daily maximum limitation for temperature at Outfall 001 (final phase based on the aforementioned diffuser); include a provision to allow for the development and implementation of site-specific minimum analytical levels; authorize the intermittent and flow-variable discharge of construction stormwater via Outfalls 001, 002, and 003; and change the waste-stream listed as “treated utility wastewater” to “utility wastewater” as an authorized waste-stream discharged via Outfall 001. The draft permit authorizes the discharge of treated process wastewater, utility wastewater, treated domestic sewage, treated landfill return water, treated stormwater, and stormwater from construction activities at a daily average flow not to exceed 2,000,000 gallons per day via Outfall 001; and stormwater runoff and stormwater from construction activities on an intermittent and flow-variable basis via Outfalls 002 and 003. The facility is located at 1501 McKinzie Road, approximately two miles south of the intersection of McKinzie Road and State Highway 407 (Leopard Street) near the City of Corpus Christi, in Nueces County, Texas 78410. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director’s response to comments. (Kathy Humphreys, Michael Sunderlin)

Deny all hearing requests; Grant the renewal and major amendment of TPDES Permit No. WQ0002075000 to Equistar Chemicals, LP, as recommended by the Executive Director; and Adopt the Executive Director’s Response to Comments. EL/BJ; all agree.

SUPERFUND MATTER

Item 4 [Docket No. 2021-0635-SPF.](#)

Consideration of an Administrative Order, as authorized under Subchapter F of the Texas Solid Waste Disposal Act, Tex. Health & Safety Code §§ 361.001-.992, with additional authorities from Subchapters I, K, and L of the Act, for the McBay Oil and Gas state Superfund site, RN105172886. The Order includes the description of the selected remedial action and a determination of responsible parties. The Order also requires the responsible parties to remediate the site. The groundwater at the site is contaminated with semi-volatile compounds, volatile organic compounds, total petroleum hydrocarbons, and residual non-aqueous phase liquids. The proposed remedy for on-site and off-site groundwater is a Plume Management Zone which will control and prevent the use of or exposure to the groundwater. The proposed remedy for groundwater also includes monitoring to ensure plume stability. The site is located on an approximately 20-acre tract on Farm to Market (FM) Road 1272, two miles west of the intersection with FM 2968 (North Olive Street), near Grapeland, Texas, in Houston County. (Terry Andrews, P.G., Marc Sebo)

Adopt the Executive Director’s proposed Administrative Order concerning the McBay Oil and Gas state Superfund site. BJ/EL; all agree.

TOTAL MAXIMUM DAILY LOAD MATTER

Item 5 [Docket No. 2020-0499-TML.](#)

Consideration for adoption of Two Total Maximum Daily Loads (TMDLs) for Indicator Bacteria at Corpus Christi Bay Beaches, Cole Park and Ropes Park, of the Nueces-Rio Grande Coastal Basin, in Nueces County. Notice of a public meeting to receive comments on the draft TMDLs was published in the September 4, 2020 issue of the *Texas Register* (45 TexReg 6262). (Kerry Niemann, Stefanie Skogen) (Project No. 2020-035-TML-NR)

Adopt the Two Total Maximum Daily Loads for Indicator Bacteria in Corpus Christi Bay Beaches, Cole Park and Ropes Park, in the Nueces-Rio Grande Coastal Basin, as recommended by the Executive Director. EL/BJ; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 6 [Docket No. 2020-0963-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ascend Performance Materials Texas Inc. in Brazoria County; RN110008216; 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. (Toni Red, Michael Parrish)

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

Item 7 [Docket No. 2020-0304-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against BP Amoco Chemical Company in Galveston County; RN102536307; 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. 2020-0614-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against LoneStar Fiberglass Components of Texas, LLC in Guadalupe County; RN104314273; 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. (Yuliya Dunaway, Michael Parrish)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 9 [Docket No. 2020-0112-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against JACAM Chemicals 2013, LLC dba JACAM Southwest in Sutton County; RN107788721; for industrial and hazardous waste 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.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER

Item 10 [Docket No. 2020-0527-IHW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of TFW Industrial Supply & CNC Machine, LLC in Johnson County; RN110835048; 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. (Taylor Pearson, Elisa Guerra)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 11 [Docket No. 2020-0425-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against KIMBERLY-CLARK CORPORATION in Lamar County; RN102177912; 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. (Steven Van Landingham, Michael Parrish)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 12 [Docket No. 2020-0139-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Sugar Land in Fort Bend County; RN102097284; 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. EL/BJ; all agree.

Item 13 [Docket No. 2019-1764-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Deer Park in Harris County; RN101719839; 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. EL/BJ; all agree.

PUBLIC WATER SUPPLY ENFORCEMENT AGREED ORDER

Item 14 [Docket No. 2020-0946-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Debbie Sharp dba Chipper Point Apartments and Ronnie W. Sharp dba Chipper Point Apartments in Lubbock County; RN105068431; 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. EL/BJ; all agree.

PUBLIC WATER SUPPLY ENFORCEMENT DEFAULT ORDERS

Item 15 [Docket No. 2019-0273-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Ell A. Kramer, Cinda L. Kramer Usener, and Gary W. Kramer, trustees of Ell Kramer Living Trust in Kerr County; RN109916817; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (John S. Mercurief II, Elisa Guerra)

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

Item 16 [Docket No. 2019-1098-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of KOUNTRY RENTALS LLC in Jefferson County; RN110493772; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (John S. Mercurief II, Elisa Guerra)

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

WASTE DISPOSAL WELL ENFORCEMENT AGREED ORDER

Item 17 [Docket No. 2019-1476-WDW-E](#)

Consideration of an Agreed Order assessing administrative penalties against Solvay Specialty Polymers USA, L.L.C. in Hutchinson County; RN107829640 and RN110737921; 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. (Stephanie McCurley, Michael Parrish)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 18 [Docket No. 2020-0829-WQ-E](#)

Consideration of an Agreed Order assessing administrative penalties against Holiday Acres Victoria Property, LLC in Victoria County; RN109837690; 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. EL/BJ; all agree.

MONTHLY ENFORCEMENT REPORT

Item 19 [Docket No. 2021-0099-MIS](#)

Consideration of the Texas Commission on Environmental Quality Monthly Enforcement Report, submitted for discussion in accordance with Texas Water Code § 7.003. (Susan M. Jablonski, P.E., Melissa Cordell)

No action taken.

MONTHLY PUBLIC WATER SYSTEM REPORT

Item 20 **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 21 **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 22 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 23 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 24 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.

GENERAL INFORMATION/LA INFORMACIÓN GENERAL

How to watch or listen to the meeting

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<https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html>.

Cómo ver o escuchar la reunión

Los miembros del público pueden escuchar la reunión por teléfono llamando sin cargo al (914) 614-3221 e ingresando el código de acceso 405-026-224. El público también puede ver las reuniones de la TCEQ en vivo en el canal de YouTube de la TCEQ sin costo en:

<https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html>.

How to register and 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 264-324-395. Those without internet access may call (512) 239-3313 before the meeting begins for assistance in accessing the meeting telephonically.

To register, you may provide information via the Public Participation Form at: https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/AgendaRegistrationForm.docx. If you have challenges with the Public Participation Form, you may call (512) 239-3313 or email agenda@tceq.texas.gov and 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. Late registration could result in your missing the opportunity to comment on your item. Please note that the Commissioners may discuss or consider posted items in an order other than the order posted.

Cómo registrarse y dirigirse a la Comisión en la reunión

Los miembros del público que deseen dirigirse a la Comisión sobre un tema sobre el cual la Comisión está aceptando comentarios, deben registrarse como se indica a continuación y acceder a la reunión a través de un webcast navegando a: <https://www.gotomeeting.com/webinar/join-webinar> e ingresando el ID del seminario web 264-324-395. Aquellos sin acceso a Internet pueden llamar al (512) 239-3313 antes de que comience la reunión para recibir ayuda para acceder a la reunión por teléfono.

Para registrarse, puede proporcionar información a través del Formulario de participación pública en: https://www.tceq.texas.gov/assets/public/comm_exec/agendas/comm/AgendaRegistrationForm.docx. Si tiene problemas con el Formulario de participación pública, puede llamar al (512) 239-3313 o enviar un correo electrónico a agenda@tceq.texas.gov y proporcionar la siguiente información: 1. Número de artículo de la agenda; 2. Nombre; 3. Afiliación; 4. Dirección; 5. Número de teléfono; 6. a quién representa (usted mismo o empresa / cliente); y 7. si desea dirigirse a la Comisión, si está disponible para las preguntas de la Comisión o si desea que se le anote como presente para que conste en acta.

El registro para la Agenda concluirá a las 9:30 a.m. El registro tardío podría resultar en que pierda la oportunidad de comentar sobre su artículo. Tenga en cuenta que los Comisionados pueden discutir o considerar los artículos publicados en un orden diferente al pedido publicado.

How to ask for accommodations

Persons with disabilities who may 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 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.

Cómo solicitar adaptaciones

Se solicita a las personas con discapacidades que planeen asistir a la Agenda de la TCEQ y que puedan necesitar ayudas o servicios auxiliares, como intérpretes para personas sordas o con problemas de audición, lectores, letra grande o braille, que se comuniquen con la Oficina del Secretario en Jefe al (512) 239-3300 al menos cinco (5) días hábiles antes de la agenda, para que se puedan hacer los arreglos apropiados.

How to ask for an interpreter

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 Chief Clerk at (512) 239-3300 at least five (5) work days prior to the Agenda so that appropriate arrangements may be made.

Cómo pedir un intérprete

Se solicita a las personas que deseen la asistencia de un intérprete junto con su presentación oral en esta Agenda de la TCEQ que se comuniquen con la Oficina del Secretario en Jefe al (512)

239-3300 al menos cinco (5) días hábiles antes de la Agenda para que los arreglos apropiados puede hacerse.

Open Meetings Act during the pandemic

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.

Ley de reuniones abiertas durante la pandemia

El 16 de marzo de 2020, de acuerdo con la sección 418.016 del Código de Gobierno de Texas, el gobernador Abbott suspendió varias disposiciones de la Ley de Reuniones Abiertas que requieren que los funcionarios del gobierno y los miembros del público estén físicamente presentes en un lugar de reunión específico. De conformidad con esa suspensión, el público no podrá asistir a la Agenda en persona, pero podrá asistir telefónicamente o vía webinar o ver la reunión en la web sin costo alguno.

How to read the Agenda document

The Agenda document above 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)]. Updates to backup documents will be noted under the hyperlinks.

Cómo leer el documento de la Agenda

El documento de la Agenda anterior incluye hipervínculos (números de expediente resaltados en azul) que permiten al usuario ver los documentos de respaldo de la agenda [documentos relacionados con un asunto en particular que se han presentado en la Oficina del Secretario en Jefe (OCC)]. Las actualizaciones de los documentos de respaldo se anotarán debajo de los hipervínculos.

Handguns Prohibited

Section 46.035 of the Texas Penal Code prohibits handgun licensees from carrying their handguns at government meetings such as this one. The prohibition applies to both concealed carry and open carry handgun licensees.

Prohibidas las pistolas

La sección 46.035 del Código Penal de Texas prohíbe a los titulares de licencias de armas de fuego portar sus armas en reuniones gubernamentales como esta. La prohibición se aplica tanto a los titulares de licencias de portar armas ocultas como abiertas.

/s/ Colleen Ford
Assistant General Counsel
Colleen Ford

August 9, 2021
Date