

**WHITE  
MARQUEZ  
SOWARD**

**MARKED AGENDA**

Friday, February 25, 2005

Texas Commission on Environmental Quality

9:30 a.m.  
Room 201S, Building E  
12100 Park 35 Circle

- 1. Discussion of the Monthly Enforcement Report.** Ann McGinley presented this issue from the backup materials. No action taken.

**Action: No action taken.**

- 2. Consideration of issues relating to reuse of water in water rights permitting.** Robin Smith, Environmental Law Division, and Todd Chenoweth, Water Supply Division, presented this issue. The Commissioners took no action at work session. Instead, the Commissioners invited stakeholders to submit comments or legal briefs to the Chief Clerk, directed to the attention of the General Counsel, on the reuse of water in water rights permitting not later than April 15, 2005. If comments or briefs are filed, eleven copies are to be filed in the Office of the Chief Clerk. The Commissioners also directed staff to inform applicants who file applications for reuse after February 25, 2005, that the Commission's reuse policy may change during the next 6 months and the changed policy may be applied to their applications. The OCC has assigned TCEQ Docket Number 2005-0382-WR to this matter. The following individuals registered to speak:

Doug Coroom, representing various municipalities, districts, and river authorities  
Mary Kelly, representing Environmental Defense  
Lawrence Bellatti, representing Chocolate Bayou Water Co.  
Ben Vaughn, representing Coastal Conservation Assoc. of Texas  
Norman Johns, representing National Wildlife Federation  
Steve Kosub, representing San Antonio Water System  
Lyn Dean, representing Lower Colorado River Authority  
Carolyn Ahrens, representing Booth, Ahrens, and Werkenth PC  
Ken Kramer, representing Lone Star Chapter, Sierra Club

**Action: No action taken.**

- 3. Consideration of issues relating to agency compliance and enforcement policies and practices.** Glenn Shankle, Executive Director; John Steib, Deputy Director, Office of Compliance and Enforcement; Lydia Gonzalez Gromatzky, Deputy Director, Office of Legal Services; Ann McGinley, Division Director, Enforcement Division; and John Racanelli, Financial Assurance

Division presented this issue from the backup materials. The Commissioners favored the Steering Committee recommendations regarding the three pending issues from Table 3. Staff proposed to provide written biweekly implementation status updates to the Commissioners and to provide individual briefings or return to work session, as necessary.

**Action: Adopt the Steering Committee Recommendations, with changes discussed by the Commissioners over the course of the last several work sessions. RM/KW: All agree.**

4. **DOCKET No. 2005-0294-RUL Consideration of a request to submit 30 TAC Chapter 114, Subchapter K, Division 3, Diesel Emission Reduction Incentive Program for On-Road and Non-Road Vehicles, part of the Texas Emission Reduction Plan (TERP) adopted by the commission on August 22, 2001 (Docket No. 2001-0736-RUL) to EPA for inclusion in the Texas SIP. SIP revisions were previously adopted identifying TERP as a control measure for Houston-Galveston-Brazoria on September 26, 2001 (Docket No. 2001-0408-RUL) and on December 13, 2002 (Docket No. 2002-0687-SIP); Beaumont-Port Arthur on October 27, 2004 (Docket No. 2004-0475-RUL); Dallas-Fort Worth on August 22, 2001 (Docket No. 2001-0738-RUL) and March 5, 2003 (Docket No. 2002-1190-SIP); and on November 17, 2004, Austin (Docket No. 2004-0870-RUL), San Antonio (Docket No. 2004-0873-RUL), and Northeast Texas (Docket No. 2004-0832-RUL.) Revisions to 30 TAC Chapter 114, Subchapter K, Division 3, were adopted by the commission on January 28, 2004 (Docket No. 2003-0754-RUL), and were previously submitted to EPA for inclusion in the Texas SIP. Kelly Keel with the Air Quality Planning and Implementation Division and David Schanbacher, the Chief Engineer, presented this matter.**

**Action: Approve the submittal of 30 TAC Chapter 114, Subchapter K, Division 3, Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles adopted by the Commission on August 22, 2001 to EPA as a SIP Revision. RM/KW: All agree.**

5. **Discussion of activities associated with the State Implementation Plan and issues related to recommendations regarding PM 2.5, ozone, and carbon monoxide. This issue was not discussed.**
6. **Discussion of state and federal legislative issues potentially affecting the TCEQ. The commission may consider legislative proposals and federal rulemakings, as well as other state actions and state's participation in federal legislative and regulatory activities. The commission may also meet in closed meeting to receive legal advice regarding these matters, or any of the above matters, as authorized by Section 551.071 of the Open Meetings Act, Chapter 551 of the Government Code. Any commission action, decision, or vote on these matters will be made in open meeting in accordance with Section 551.102 of the Open Meetings Act, Chapter 551 of the Government Code. Lennie Olsen, Division Director Intergovernmental Relations, presented this issue without backup.**

**Action: No action taken.**

7. **PUBLIC COMMENT SESSION: The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the *ex parte* prohibition found in Texas Government Code §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. No person registered to speak to the Commissioners.**

8. **Planning for the next Commissioners' Work Session.** The next work session is March 11 at 9:30. New discussion items will include a Pollution Prevention Advisory Committee update and the definition of "affected person" under HB 801. The work session agenda will also continue to include all of the standing items except for Items 3 and 5, which concern the agency's enforcement policies and practices and the State Implementation Plan. These items will be brought back as necessary.
9. **Closed Session:** The Commission met in closed session.

**Action: No action taken.**