

**Chairman Kathleen White**  
**Commissioner Ralph Marquez**  
**Commissioner Larry Soward**

**MARKED AGENDA**

Friday, April 15, 2005

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

**Item 1. Discussion of the Monthly Enforcement Report.**

The issue was presented by Anne Dobbs of the Enforcement Division and John Racanelli of the Financial Administration Division from the backup materials. Chairman White requested a quarterly report to include a list of the accounts paid, and Commissioners Marquez and Soward requested it include the number of accounts and amounts collected during the report period.

No action taken.

**Item 2. Discussion of Environmental Monitoring and Response System.**

The issue was presented by Steve Spaw, Director of Monitoring Operations Division, Ken Rozacky of Monitoring Operations, and David Bryner of the Monitoring Operations Division from the back up materials. The first portion of the presentation was the Water Pilot Project of the Environmental Monitoring and Response System (EMRS), and the Commissioners recommended that another monitor be placed on the Bosque River below Stephenville rather than moving the Greens Creek monitor; proceed along the lines of additional monitors; and look into partnering for the system.

The Houston Air Quality Pilot of the EMRS was also discussed. Steve Spaw, Director of Monitoring Operations Division, and Steve Smith representing the Houston Regional Monitoring Industrial consortium presented the issue from the back up materials. The Commissioners discussed proceeding as recommended, with encouragement of companies to participate in the project, mining the data, and with Commissioner Marquez stating he understood the need to change the trigger levels, but cautioned against doing it without learning more from the current ones. The Chairman requested information on how many of the non-participants were located in the area of 119 notifications.

No action taken.

**Item 3. Consideration for approval of the substitution of certain transportation control measures originally adopted in the December 2000 State Implementation Plan revision for the Houston-Galveston-Brazoria area.**

Approve the substitution of certain transportation control measures originally adopted in the December 2000 SIP revision for the Houston-Galveston-Brazoria area. RM/KW; all agree.

**4. 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.**

Leonard Olson did not have any additional information to add to the Commissioners' weekly updates.

No action taken.

- 5. 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.**

There were no registrants for this item.

No action taken.

- 6. Planning for the next Commissioners' Work Session.**

Brian Christian announced that the next work session is scheduled for Friday, May 13, 2005. In addition to the standing issues regarding state and federal legislation, the enforcement report, public comment session, and planning for subsequent work sessions, the May 13 work session will also include consideration of the 2004 303D List. Per Commissioner Soward's request, the 303D List is to be filed with OCC 19 days prior to the work session, which will be April 22, 2005. Chairman White also noted that briefs for the water reuse issue are due by close of business today, April 15, 2005, and no date has been set aside for the Commissioners to consider the briefs.

- 7. Closed Session:**

- a. The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.**

No action taken.

- b. The commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matter considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.**

The Commissioners meet to discuss the Blue Skies lawsuit versus the EPA, where the agency is an intervener. They discussed signing and submitting to the Plaintiffs a settlement agreement to address certain issues we have relating to the one hour DFW SIP lawsuit. The Attorney General's office was present to consult with the Commissioners on that and the Commissioners were provided with a settlement agreement draft to review. It is in final form with the exception of a couple of little typographical and non-substantive changes and the General Counsel recommended that the Commissioners direct the Executive Director to sign the agreement and forward it to the Plaintiffs with copies to the other parties on the agency's behalf today. The Commissioners moved to direct the Executive Director as outlined. RM/LS; all agree.

**c. The commission will conduct a closed session to discuss their duties, roles, and responsibilities as commissioners of the TCEQ pursuant to section 551.074 of the open meetings act, codified as chapter 551 of the government code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.**

No action taken.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ COMMISSIONERS' WORK SESSION 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 PAUL MUNGUIA IN THE OFFICE OF THE CHIEF CLERK AT (512) 239-1455 AT LEAST TWO (2) 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 PAUL MUNGUIA IN THE OFFICE OF THE CHIEF CLERK AT (512) 239-1455 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.) REGISTRATION FOR AGENDA STARTS AT 9:00 A.M. UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**