

Texas Commission on Environmental Quality



DECISION OF THE COMMISSION REGARDING THE PETITION FOR RULEMAKING FILED BY STATE REPRESENTATIVE BETTY BROWN, DISTRICT 4.

Docket No. 2009-1142-RUL

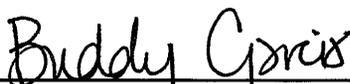
On August 26, 2009, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the petition for rulemaking filed by Betty Brown, State Representative, District 4. The petition, filed on July 6, 2009, requested that the agency amend 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation, to require adjacent landowner notification where the TCEQ issues a registration for the land application of water treatment plant sludge. **IT IS THE DECISION OF THE COMMISSION** pursuant to Administrative Procedure Act (APA), Texas Government Code, § 2001.021 and Texas Water Code, § 5.102 to deny the petition.

Water Treatment plant sludge is an inert silt material that is collected from the treatment of raw water at public water supply facilities. Existing TCEQ rules are in place to ensure that land application of this material will not result in environmental impacts or nuisance conditions. The petitioner seeks to require adjacent landowner notification so that adjacent property owners are notified of a commission issued registration that would devalue their property. Texas Water Code, § 26.027 authorizes TCEQ to issue permits and other authorizations to control the discharge of wastes or pollutants into or adjacent to state waters and to protect the water quality of the state's rivers, lakes and coastal waters. The permitting process is limited to controlling the discharge of pollutants into the air or into state waters. The TCEQ does not have jurisdiction under the Texas Water Code to consider property values and the marketability of adjacent property, in its determination of whether to issue a permit or other authorization.

This Decision constitutes the decision of the Commission required by the Administrative Procedure Act, § 2001.021(c).

Issued date: **AUG 31 2009**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY


Buddy Garcia, Chairman