

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** October 30, 2009

Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: Richard Hyde, P.E., Deputy Director
Office of Permitting and Registration

Subject: Consideration of a Petition for Proposed Rulemaking

Docket No.: 2009-1586-RUL

Rule Project No. 2010-002-PET-NR

Who Submitted the Petition:

On September 25, 2009, the TCEQ received a petition for rulemaking from Lloyd Gosselink Rochelle & Townsend, P.C. on behalf of the City of Granite Shoals and the City of Leander (petitioners). The petition included certifications of support from the City of Marble Falls and Kingsland Municipal Utility District.

What the Petitioner Requests:

The petitioners seek the repeal of 30 TAC Chapter 311, Subchapters A, B, and F, and the subsequent allowance to discharge treated effluent (reclaimed waters) into the watersheds of the Highland Lakes.

Recommended Action and Justification:

- Deny the petition and initiate a stakeholder process. The ED's staff recommend a stakeholder process that would examine the framework for water quality protection in the Highland Lakes watersheds, which may include modifying the Highland Lakes watershed rules. The ED's staff further recommends that this stakeholder process should be initiated following the adoption of the revisions to 30 TAC Chapter 307 (Texas Surface Water Quality Standards) and to the Implementation Procedures in the summer of 2010. This will allow the Commission time to complete the current stakeholder/public comment process for the TSWQS and IPs and ensure that any action taken on the Highland Lakes watershed rules is consistent with the state-wide approach to nutrient criteria development and implementation.

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule
- 30 TAC §20.15, which provides such procedures specific to the commission
- Texas Water Code, §5.102 and §5.103, which authorize the Commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code
- Texas Water Code, §5.105, General Policy
- Texas Water Code, §5.120, which addresses conservation and quality of the environment
- Texas Water Code, §5.013(a)(3), which grants the commission jurisdiction over the state's water quality program, including the issuance of permits and other necessary authorizations
- Texas Water Code, §26.121, which regulates the discharge of pollutants into or adjacent to waters of the state

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- Texas Water Code, §26.027, which authorizes the commission to issue permits that regulate the discharge of pollutants into or adjacent to waters of the state
- Texas Water Code, §11.046(c), which authorizes the use and beneficial reuse of reclaimed water before discharge or disposal
- Texas Water Code, §11.002(8), which defines conservation as those practices, techniques and technologies that will improve the efficiency in the use of water
- Texas Water Code, §11.1271(e), which requires the commission to develop model water conservation programs that suggest best management practices for achieving the highest practicable levels of water conservation and efficiency
- The 2007 State Water Plan, *Water for Texas 2007*, which recognizes that reuse is an important water management strategy to meet the growing needs for water by the people of Texas

Affected Public:

Existing and potential new wastewater discharges within the Highland Lakes Watersheds. This includes cities, counties, utility districts, investor-owned utilities, any businesses using a wastewater treatment facility, and industries. All members of the public serviced by a new sewer system within the area designated by the rule will also be affected. Additionally, affected public include all persons that utilize the Highland Lakes for recreational purposes.

Affected Agency Programs:

- Water Quality Division, Office of Permitting and Registration
- Water Supply Division, Office of Permitting and Registration
- Water Quality Planning Division, Chief Engineers Office
- Regions 3, 8, 9, 11, and 13, Office of Compliance and Enforcement
- Environmental Law Division, Office of Legal Services

Agency Contacts:

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Attachment: Petition

cc: 5 copies to the Chief Clerk for distribution
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