

**TCEQ COMMISSION MEETING  
AGENDA  
OCTOBER 25, 2023  
9:30 A.M.**

In person: 12100 Park 35 Circle  
Building E, Room 201S

By Computer: <https://www.gotomeeting.com/webinar/join-webinar>  
Webinar ID 384-412-707

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Access Code 981-388-773

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**AGENDA ITEMS**

**PROPOSAL FOR DECISION**

**Item 1**      [TCEQ Docket No. 2021-1000-MSW; SOAH Docket No. 582-22-0844.](#)

Consideration of the Administrative Law Judge's Proposal for Decision, Supplemental Proposal for Decision on Remand, and Proposed Order regarding the application of Diamond Back Recycling and Sanitary Landfill, LP for new Municipal Solid Waste Permit No. 2404, to authorize construction and operation of a Type I MSW landfill, with both Type I and Type IV disposal cells, pursuant to rules of the Texas Commission on Environmental Quality and 30 Texas Administrative Code Chapter 330. The proposed landfill facility will be located at 2301 South FM 866, Odessa, Ector County, Texas 79763. The Commission will also consider the application; timely public comments and the Executive Director's Response to Public Comments; the record; and timely related filings, exceptions, and replies. (Anthony Tatu)

Adopt the ALJ's Proposed Order, as amended by the ALJ in her June 16, 2023 Supplemental Proposal for Decision following remand, including deleting proposed Finding of Fact Nos. 63, 64, and 65 and Conclusion of Law Nos. 16 and 22 from the original Proposed Order, adding the ALJ's new Findings of Fact and Conclusions of Law, and renumbering the Findings of Fact and Conclusions of Law in the Order to accommodate the new findings and conclusions; In addition, make the following modifications to the Proposed Order: A) Modify proposed Ordering Provision No. 1 to indicate that the application is granted and that the Commission hereby issues MSW Permit No. 2404; B) Modify Finding of Fact No. 3 to state that the facility is located at 2301 South FM 866, Odessa, Ector County; C) Correct the date of the NORI in Finding of Fact No. 8 to read October 30, 2019, consistent with the evidentiary record; D) Modify renumbered Finding of Fact No. 42 (former Finding of Fact No. 36) to cross-reference Finding of Fact No. 40 rather than Finding of Fact No. 33 to accommodate renumbered Findings of Fact; E) Delete renumbered Finding of Fact No. 127 (former Finding of Fact No. 113) relating to prevailing issues, as it is not one of the factors that is considered by the Commission in evaluating the allocation of transcript costs in accordance with 30 Texas Administrative Code Section 80.23(d); and F) Modify renumbered Finding of Fact No. 127 (former Finding of Fact No. 114), renumbered Conclusion of Law No. 29 (former Conclusion of Law No. 25), and Ordering Provision No. 2 to provide that the applicant must pay 50% of the transcript costs and

Knox/Harrington must pay 50% of the transcript costs, as the parties both benefited from the transcripts; Grant the permit application of Diamond Back Recycling and Sanitary Landfill, LP for MSW Permit No. 2404; and Adopt the Executive Director's Response to Comments. JN/EL; all agree.

**Item 2**      [TCEQ Docket No. 2022-0532-DIS; SOAH Docket No. 582-22-07138.](#)

[Chairman's Motion](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order regarding the petition by Highland Lakes Midlothian I, LLC for the creation of Highland Lakes Municipal Utility District No. 1 of Ellis County (District) pursuant to the rules of the Texas Commission on Environmental Quality and Texas Water Code Chapters 49 and 54. The proposed District contains approximately 2,153.6 acres located in Ellis County, Texas. Approximately 1,270 acres are located in the extraterritorial jurisdiction (ETJ) of the City of Waxahachie, and approximately 883 acres are in the ETJ of the City of Midlothian. The Commission will also consider the record and timely related filings, exceptions, and replies. (Bobby Salehi)

Adopt the motion circulated by Chairman Jon Niermann. EL/BJ; all agree.

**Item 3**      [TCEQ Docket No. 2022-0063-PWS-E; SOAH Docket No. 582-23-05477.](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties against Ranch Hand Apartments, LLC, RN108863192, in Randall County, Texas, regarding public water system violations pursuant to statutes in Texas Health and Safety Code Chapter 341 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Megan Grace)

Adopt the ALJ's Proposed Order with modifications recommended by the ED's Exceptions and agreed to by the ALJ's Reply. BJ/EL; all agree.

## **EMERGENCY ORDER**

**Item 4**      [Docket No. 2023-1075-UCR-E.](#)

Consideration of whether to affirm, modify, or set aside the Emergency Order Appointing a Temporary Manager of a Water Utility issued on September 1, 2023, by the Interim Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code Chapters 5 and 13, Tex. Health & Safety Code Chapter 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Utility) by Linda Royall, Robert Watts, Peggy Parlin, Mitchell Watts, and Shane Watts; RN102676350; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Utility is located at 114 Salt Lake Road, Luling, Guadalupe County, Texas. The Emergency Order appointed Jaime Ovalle, Sr. as temporary manager of the Utility. (Benjamin Warms, Katherine McKenzie)

Affirm the Interim Executive Director's Emergency Order Appointing a Temporary Manager of a Water Utility, located at 114 Salt Lake Road, Luling, Guadalupe County; and Issue the Executive Director's Proposed Commission Order. JN/EL; all agree.

## **HEARING REQUEST/REQUEST FOR RECONSIDERATION**

**Item 5**      [Docket No. 2023-0850-MWD.](#)

Consideration of the application by Megatel Homes, L.L.C., for a new wastewater permit, proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016162001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 1,000,000 gallons per day. The facility will be located approximately one mile southwest of the intersection of Bedford Street and North Farm-to-Market Road 157, in Johnson County, Texas

76084. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's response to comments (Deba P. Dutta, P.E. and Bobby Salehi)

Grant the hearing request of the City of Mansfield; Refer the application to SOAH for a contested case hearing on the following two issues: 1) Whether the Commission should deny or alter the terms and conditions of the draft permit based on consideration of need, under Texas Water Code Section 26.0282 and the general policy to promote regional or area-wide systems, under Texas Water Code Section 26.081; and 2) Whether the draft permit is protective of water quality and the existing uses in the receiving waters under the applicable surface water quality standards in 30 Texas Administrative Code Chapter 307; and Set the hearing duration of 180 days from the day of the preliminary hearing until the Proposal for Decision is issued. EL/BJ; all agree.

**Item 6**            [Docket No. 2023-0954-MWD.](#)

Consideration of the application by Camden Parc Municipal Utility District of Rockwall County for a new Texas Pollutant Discharge Elimination System Permit No. WQ0016036001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 550,000 gallons per day. The facility will be located approximately 0.85 of a mile northeast of the intersection of Farm-to-Market Road 548 and North Munson Road, in Rockwall County, Texas 75891. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Venkata S Kancharla and Kathy Humphreys)

Grant the hearing requests of North Texas Municipal Water District and David and Karen Milan; Deny remaining hearing requests and all requests for reconsideration; Refer the matter to the TCEQ's Alternative Dispute Resolution Program to run concurrently with SOAH preliminary hearing scheduling efforts; Refer the application to SOAH for a contested case hearing on the following issues: A) Whether the draft permit is protective of the requesters' and their families health, wildlife, livestock, and the environment, in accordance with applicable regulations, including the Texas Surface Water Quality Standards; B) Whether the draft permit adequately protects against nuisance odors, in accordance with 30 Texas Administrative Code Section 309.13; and C) Whether the draft permit should be altered or denied based on the Commission's regionalization policy, pursuant to the Texas Water Code Sections 26.081(a) and 26.0282; and Set a hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued. BJ/EL; all agree.

**Item 7**            [Docket No. 2023-0845-DIS.](#)

Consideration of a petition by Samuel Sparkman Brindley Trust (Petitioner) for the creation of Johnson County Municipal Utility District No. 1 (District). The Petitioner requests that the Commission create the District pursuant to Article XVI, Section 59, of the Texas Constitution, Chapters 49 and 54, Texas Water Code; and Chapter 293, Title 30 Texas Administrative Code. The proposed District would contain approximately 333.32 acres, located in Johnson County. The proposed district is entirely within the extraterritorial jurisdiction of the Mansfield. The Commission will consider all timely filed hearing requests and related responses and replies. (Justin Taack, Harrison Cole Malley) (TCEQ Internal Control No. D-07202022-033)

Grant the hearing requests of the City of Mansfield and Johnson County Special Utility District; and Refer the matter to SOAH for a contested case hearing on the petition. EL/BJ; all agree.

**Item 8**            [Docket No. 2023-0847-DIS.](#)

Consideration of a petition by Cipriani Island Laguna Azure, LLC (Petitioner) for the creation of Johnson County Municipal Utility District No. 2 (District). The Petitioner requests that the Commission create the District pursuant to Article XVI, Section 59, of the Texas Constitution, Chapters 49 and 54, Texas Water Code; and Chapter 293, Title 30 Texas Administrative Code.

The proposed District would contain approximately 184.30 acres, located in Johnson County. The proposed district is entirely within the extraterritorial jurisdiction of the Mansfield. The Commission will consider all timely filed hearing requests and related responses and replies. (Justin Taack, Harrison Cole Malley) (TCEQ Internal Control No. D-10132022-026)

Grant the hearing request of the City of Mansfield; and Refer the matter to SOAH for a contested case hearing on the petition. BJ/EL; all agree.

**Item 9**            [Docket No. 2023-0575-DIS.](#)

Consideration of a petition by Vale Building Group LLC (Petitioner) for the creation of Williamson County Municipal Utility District No. 38 (District). The Petitioner requests that the Commission create the District pursuant to Article XVI, Section 59, of the Texas Constitution, Chapters 49 and 54, Texas Water Code; and Chapter 293, Title 30 Texas Administrative Code. The proposed District would contain approximately 145.17 acres, located in Williamson County. The proposed district is not within the corporate limits or extraterritorial jurisdiction of any City. The Commission will consider all timely filed hearing requests and related responses and replies. (Justin Taack, Harrison Cole Malley) (TCEQ Internal Control No. D-05312022-043)

Deny all hearing requests; Grant the petition for creation of Williamson County Municipal Utility District No. 38; Find the petition satisfies all applicable statutory and regulatory requirements and the District is feasible, practicable, and necessary and would be a benefit to the land to be included in the District; Approve the District's request for road powers, in accordance with Texas Water Code Section 54.234; and Appoint the five following people to serve as temporary directors until permanent directors are elected and qualified: Mr. Timothy Noble, Mr. Travis Hanson, Ms. Amanda Santos, Mr. Erik Lara, and Ms. Lorie Renegar. EL/BJ; all agree.

### **MISCELLANEOUS MATTER**

**Item 10**            [Docket No. 2023-1227-MIS.](#)

Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (Yen Tran)

Approve issuance of the resolution acknowledging the Executive Director's acceptance of the gifts and donations contained in the TCEQ Interoffice Memorandum to the Commissioners dated October 6, 2023, identified as Docket No. 2023-1227-MIS. BJ/EL; all agree.

### **AIR QUALITY ENFORCEMENT AGREED ORDER**

**Item 11**            [Docket No. 2021-0555-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shell USA, Inc. f/k/a Shell Oil Company in Harris County; RN100211879; 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. (Mackenzie Mehlmann, Michael Parrish)

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

### **MUNICIPAL WASTEWATER DISCHARGE ENFORCEMENT AGREED ORDERS**

**Item 12**            [Docket No. 2021-0987-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Cinco Southwest Municipal Utility District No. 1 in Fort Bend County; RN103215042; 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. (Harley Hobson, Michael Parrish)

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

**Item 13**      [Docket No. 2023-0551-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Pool Brothers, LLC in Johnson County; RN109927756; 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. (Harley Hobson, Michael Parrish)

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

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

**Item 14**      [Docket No. 2020-1500-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Joseph Gaber dba Cody's Market in Parker County; RN101230654; for petroleum storage tank 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. (Karolyn Kent, Michael Parrish)

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

**Item 15**      [Docket No. 2022-0965-PST-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ferguson Food Mart LLC dba EZ Stop 3 in Dallas County; RN110581154; for petroleum storage tank 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. (Karolyn Kent, Michael Parrish)

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

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER**

**Item 16**      [Docket No. 2021-0964-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against SOFIYASHANU ENTERPRISES INC dba 1604 Corner Store in Bexar County; RN101436475; for petroleum storage tank 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. (Katherine Keithley, Katherine McKenzie)

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

**PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

**Item 17**      [Docket No. 2021-0549-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of A & K ENTERPRISES, INC. dba Country Food Store in Wharton County; RN101183861; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and Tex. Water Code ch. 5 and the rules of the Texas Commission on Environmental Quality. (Benjamin Pence, Katherine McKenzie)

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

**WASTE DISPOSAL WELLS ENFORCEMENT AGREED ORDER**

**Item 18**      [Docket No. 2022-0806-WDW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against US Ecology Texas, Inc. in Nueces County; RN101445666; 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. (Karolyn Kent, Michael Parrish)

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

## **MONTHLY ENFORCEMENT REPORT**

### **Item 19**      [Docket No. 2023-0013-MIS.](#)

Consideration of the Texas Commission on Environmental Quality Monthly Enforcement Report, submitted for discussion in accordance with Texas Water Code § 7.003. (Melissa Cordell, Michael Parrish)

No action taken.

## **EXECUTIVE MEETING**

### **Item 20**      **Docket No. 2023-0001-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.

No action taken.

### **Item 21**      **Docket No. 2023-0002-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.

No action taken.

### **Item 22**      **Docket No. 2023-0003-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 on this item.

### **Item 23**      **Docket No. 2023-0004-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.

No action taken.



## **GENERAL INFORMATION**

### **How to watch or listen to the meeting**

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<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 384-412-707. 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](#). If you have challenges with the Public Participation Form, you may call (512) 239-3313 or email [agenda@tceq.texas.gov](mailto: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.

### **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.

### **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.

### **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.

### **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.

/s/ Colleen Ford  
Assistant General Counsel

November 6, 2023  
Date