

**TCEQ COMMISSION MEETING  
AGENDA  
NOVEMBER 8, 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 642-532-179

By Telephone: (631) 992-3221  
Access Code 884-411-583

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**AGENDA ITEMS**

**PROPOSAL FOR DECISION**

**Item 1**      [TCEQ Docket No. 2022-1700-MWD; SOAH Docket No. 582-23-15497.](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of Phau-Lockhart 450, LLC for new Texas Pollutant Discharge Elimination System Permit No. WQ0016107001, to authorize discharge of treated domestic wastewater pursuant to rules of the Texas Commission on Environmental Quality and Texas Water Code Chapters 5 and 26. The proposed facility will be located at approximately 0.75 miles southeast of the intersection of Clark Loop and State Highway 142, Caldwell County, Texas. 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. (Michael Parr)

Adopt the ALJ's Proposed Order, as revised by the ALJ's letter dated September 25, 2023, regarding Findings of Fact Nos. 9 and 25, and with the following changes: A) Revise Finding of Fact No. 12 to state, "A Tier 2 antidegradation review has preliminarily determined that water quality will not be lowered by more than a de minimis extent in Clear Fork Plum Creek, which has been identified as having high aquatic life use, and that existing uses will be maintained and protected," in order to be consistent with the rule language in 30 Texas Administrative Code section 307.5(B)(2); B) Revise Ordering Provision No. 2 to state, "The Commission adopts the Executive Director's Response to Public Comment in accordance with 30 Texas Administrative Code Section 50.117 to the extent that it does not conflict with the Commission's Order," in order to provide clarity that the Commission's Order prevails over any conflicts with the Executive Director's Response to Comments; and C) Correct the misnumbered Ordering Provisions; Issue the Executive Director's Draft Permit; and Adopt the Executive Director's Response to Comments to the extent it is consistent with the Commission's Final Order. JN/BJ; all agree.

**Item 2**      [TCEQ Docket No. 2020-0255-PST-E; SOAH Docket No. 582-22-08384.](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties against A S K C-Stores, Inc. dba Amigo Mart, RN101284024, in Galveston County, Texas, regarding underground storage tank violations pursuant to statutes in Texas Water Code Chapter 26 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions, and replies. (Benjamin Pence)

Adopt the Administrative Law Judge's Proposed Order with the following changes: 1) Amend the Respondent's name to reflect the capitalization, as it appears in the registration filed with the Secretary of State, as recommended by the ED in her Exceptions; 2) Remove the word "Preliminary" from Findings of Fact 12 and 13, as recommended by both the ED and the ALJ; 3) Replace "The UST at the Facility is not" with "The USTs at the Facility are not" in Conclusion of Law No. 4, as recommended by both the ED and the Administrative Law Judge; 4) To illustrate one of the ways in which the Respondent failed to use an approved method of leak detection, as recommended by the Executive Director in her Exceptions, included by reference to the violation of 30 TAC Section 334.50(b)(1)(A), and tried by consent during the hearing, add new Conclusion of Law No. 7.a to state: "The UST system owner or operator must take appropriate steps to assure that they receive an analysis report from the entity which actually performs the SIR analysis for the 30-day period in no more than 15 calendar days following the last day of the 30-day period for which the analysis is performed. 30 Texas Administrative Code Section 334.50(d)(9)(A)(iii)." ; 5) To more accurately reflect the record evidence, replace the word "provided" with the word "performed" in Findings of Fact 6 and 7; and 6) To accurately reflect the date that the Chief Clerk mailed notice of the hearing, replace "August 31, 2022" with "August 24, 2022" in Finding of Fact 15. JN/EL; all agree

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

#### **Item 3**      [Docket No. 2023-1406-DIS.](#)

Consideration of a petition by Miskimon Management III, LLC and Buffalo Hills Development, LLC (Petitioners) for the creation of Brahman Ranch Municipal Utility District of Ellis County and Johnson County (District). The Petitioners request 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 438.7 acres within Ellis and Johnson Counties. The Commission will consider the timely filed hearing requests and related responses and replies. (Dennis Mostowy, Kayla Murray) (TCEQ Internal Control No. D-02212023-061)

Grant the hearing request of the City of Midlothian in Ellis County; Deny all remaining hearing requests; Refer the petition to SOAH for a contested case hearing; and Refer the matter to the Commission's Alternative Dispute Resolution Program to run concurrently with SOAH's scheduling process. EL/BJ; all agree.

#### **Item 4**      [Docket No. 2023-1410-DIS.](#)

Consideration of a petition by Buffalo Hills Development, LLC (Petitioner) for the creation of Buffalo Hills Municipal Utility District of Johnson County (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 589.1 acres within Johnson County. The Commission will consider the timely filed hearing requests and related responses and replies. (Dennis Mostowy, Kayla Murray) (TCEQ Internal Control No. D-02152023-058)

Deny all hearing requests; Grant the petition for creation of Buffalo Hills Municipal Utility District of Johnson County; Find that 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; Appoint the following five people to serve as temporary directors until permanent directors are elected and qualified: Amy Brock, Chris Barthell, Morgan Potter, Tyler Boyd, Riley Herlihy; and Adopt the Executive Director's Proposed Order. BJ/EL; all agree.

**Item 5**            [Docket No. 2023-0955-MWD.](#)

Consideration of the application by South Central Water Company for a new wastewater permit, proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016060001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day. The facility will be located approximately 4,300 feet north of the intersection of Farm-to-Market Road 1863 and Stahl Lane, in Comal County, Texas 78163. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's response to comments. (Cole Malley and Abdur Rahim)

Grant the hearing requests of the Greater Edwards Aquifer Alliance, the Bulverde Neighborhood Alliance, Eric Evans, Steve Hunsicker, and Anit Kaur; Deny all remaining hearing requests; Refer the application to SOAH for a contested case hearing on the following six issues: 1) 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 TAC Chapter 307; 2) Whether the draft permit is protective of groundwater in the area, including the Edwards Aquifer contributing zone; 3) Whether the draft permit is protective of aquatic life and terrestrial wildlife, including in the immediate vicinity of the proposed facility and discharge route; 4) Whether the draft permit is protective of the health of residents in the immediate vicinity of the proposed facility and discharge route; 5) Whether the draft permit complies with applicable unsuitable site characteristics and the requirements to abate and control nuisance odors, as set forth in 30 TAC Section 309.13; and 6) 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; Set a hearing duration of 180 days from the date of the preliminary hearing until the Proposal for Decision is issued; and Deny the City of Bulverde's request for reconsideration. EL/BJ; all agree.

### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

**Item 6**            [Docket No. 2019-1364-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Buckeye Texas Hub LLC in Nueces County; RN103914974; 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. (Yuliya Dunaway, Michael Parrish)

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

**Item 7**            [Docket No. 2021-0426-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Mauser USA, LLC in Harris County; RN100211002; 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. (Danielle Porras, Michael Parrish)

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

**Item 8**            [Docket No. 2023-0418-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of J & S Materials, LLC in Comal County; RN110872991; 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. (Yuliya Dunaway, Michael Parrish)

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

### **AIR QUALITY ENFORCEMENT DEFAULT ORDERS**

**Item 9**      [Docket No. 2018-0962-AIR-E.](#)

Consideration of a Default Order assessing administrative penalties against IWR Operating, LLC in Fort Bend County; RN110142809; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Clayton Smith, Katherine McKenzie)

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

**Item 10**      [Docket No. 2022-0444-AIR-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Mark Alvarez in El Paso County; RN105809016; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (William Hogan, Katherine McKenzie)

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

### **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER**

**Item 11**      [Docket No. 2021-1536-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Bridge City in Orange County; RN101199966; for public drinking water and water quality violations pursuant to Tex. Health & Safety Code ch. 341, 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. (Epifanio Villarreal, Michael Parrish)

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

### **MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

**Item 12**      [Docket No. 2021-1246-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Jacob Martinez and Maria Chavira in El Paso County; RN111267555; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Erandi Ratnayake, Katherine McKenzie)

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

### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

**Item 13**      [Docket No. 2022-0203-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rose City in Orange County; RN109046458; 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. (Samantha Smith, Michael Parrish)

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

**Item 14**      [Docket No. 2021-0835-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Stonetown Pleasant Oaks, LLC in Johnson County; RN102095106; 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. (Cheryl Thompson, Michael Parrish)

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

## **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

### **Item 15**      [Docket No. 2023-0403-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of C.V.W.S., Inc. in Harrison County; RN102691219; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Christiana McCrimmon, Michael Parrish)

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

### **Item 16**      [Docket No. 2022-0303-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of RON STURGEON REAL ESTATE, L.P. dba Box Office Warehouse Suites in Tarrant County; RN111414199; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ronica Rodriguez Scott, Michael Parrish)

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

## **WATER QUALITY ENFORCEMENT AGREED ORDER**

### **Item 17**      [Docket No. 2022-0340-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Higbie Ventures of Texas, Inc. in Harris County; RN111214474; 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. (Monica Larina, Michael Parrish)

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

## **RULE MATTERS**

### **Item 18**      [Docket No. 2023-1229-RUL.](#)

Consideration for publication of, and hearing on, proposed new sections of 30 Texas Administrative Code Chapter 321, Control of Certain Activities by Rule, Subchapter B, Concentrated Animal Feeding Operations. The proposed rulemaking would implement House Bill 692, 88<sup>th</sup> Texas Legislature, 2023, Regular Session, by adding new 30 Texas Administrative Code Sections 321.48 and 321.49 that would allow dairy operations to land apply dairy waste directly to land application areas, dispose of dairy waste in a control facility, including a lagoon or playa, and irrigate dairy waste from a control facility to land application areas under certain emergency conditions. (Shannon Gibson, Michael Parr; Rule Project No. 2023-139-321-OW)

Continued to the 11/29/2023 Commissioners' Agenda by the Office of General Counsel on 11/2/2023.

## **QUADRENNIAL RULE REVIEWS**

### **Item 19**      [Docket No. 2023-0047-MIS.](#)

Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 101, General Air Quality Rules. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their

rules every four years. The Notice of Intention to Review was published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2864). (Jamie Zech, Booker Harrison) (Non-Rule Project No. 2023-063-101-AI)

Joint Motion for Items 19-22.

Adopt the rule reviews and readopt the rules in 30 Texas Administrative Code Chapters 101, 113, 291, and 304 without amendment; and Initiate a rulemaking to evaluate the repeal or amendment of sections of Chapter 101 that were identified as potentially obsolete or outdated, as recommended by the Executive Director. BJ/EL; all agree.

**Item 20**      [Docket No. 2023-0038-MIS.](#)

Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The proposal was published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2864). (Michael Wilhoit, Terry Salem) (Non-Rule Project No. 2023-065-113-AI)

Joint Motion for Items 19-22.

Adopt the rule reviews and readopt the rules in 30 Texas Administrative Code Chapters 101, 113, 291, and 304 without amendment; and Initiate a rulemaking to evaluate the repeal or amendment of sections of Chapter 101 that were identified as potentially obsolete or outdated, as recommended by the Executive Director. BJ/EL; all agree.

**Item 21**      [Docket No. 2023-0034-MIS.](#)

Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 291, Utility Regulations. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The proposal was published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2864). (Avery Nguyen, Kayla Murray) (Non-Rule Project No. 2023-061-291-OW)

Joint Motion for Items 19-22.

Adopt the rule reviews and readopt the rules in 30 Texas Administrative Code Chapters 101, 113, 291, and 304 without amendment; and Initiate a rulemaking to evaluate the repeal or amendment of sections of Chapter 101 that were identified as potentially obsolete or outdated, as recommended by the Executive Director. BJ/EL; all agree.

**Item 22**      [Docket No. 2023-0033-MIS.](#)

Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 304, Watermaster Operations. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The proposal was published in the June 2, 2023, issue of the *Texas Register* (48 TexReg 2865). (Jade Rutledge, Harrison Malley) (Non-Rule Project No. 2023-062-304-OW)

Joint Motion for Items 19-22.

Adopt the rule reviews and readopt the rules in 30 Texas Administrative Code Chapters 101, 113, 291, and 304 without amendment; and Initiate a rulemaking to evaluate the repeal or amendment of sections of Chapter 101 that were identified as potentially obsolete or outdated, as recommended by the Executive Director. BJ/EL; all agree.

## **PUBLIC COMMENT SESSION**

### **Item 23      Docket No. 2023-0005-PUB.**

The Commission will receive comments from the public on any matters within the jurisdiction of the Texas Commission on Environmental Quality in accordance with Texas Water Code Section 5.112, except for pending permitting matters or other contested cases, which are subject to the ex parte prohibition found in Texas Government Code Section 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. Please note that the Commission's discussion of subjects for which public notice has not been given are limited to statements of specific factual responses and recitation of existing policy.

No action taken.

## **EXECUTIVE MEETING**

### **Item 24      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 25      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 26      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.

No action taken.

### **Item 27      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**

Members of the public may listen to the meeting telephonically by calling, toll-free, (631) 992-3221 and entering Access Code 884-411-583. The public may also view live TCEQ meetings on the TCEQ YouTube Channel at no cost at:

<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 642-532-179. 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/ Elaine Lucas  
Assistant General Counsel  
Elaine Lucas

November 17, 2023  
Date