

Texas Environmental Update

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The environmental practice of Bracewell & Giuliani LLP offers seamless, front-rank representation in local, state, national, and cross-border regulatory, enforcement, and litigation matters, as well as experienced counsel on the environmental aspects of transactions and operations across the country and around the world. We are dedicated to helping clients successfully navigate complex and costly environmental issues and to building longstanding client relationships founded on superior advice, integrity, and value. We are pleased to provide you with this issue of Bracewell's Texas Environmental Update, offering the latest news about permitting, enforcement, regulatory developments, and other matters of interest to the regulated community in Texas.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

Commissioners' February 22, 2012 Meeting Agenda

TCEQ Web Site

Commissioners' February 8, 2012 Agenda Meeting Webcast

TexasAdmin.com

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Enforcement

TCEQ Approves Fines Totaling \$636,190

TCEQ Web Site, February 8, 2012

"The Texas Commission on Environmental Quality today approved penalties totaling \$561,564 against 31 regulated entities for violations of state environmental regulations."

Regulatory Developments

What's New in TCEQ Rules

TCEQ Web Site, February 10, 2012

Water

Officials Study Regional Water Use and Need

Houston Chronicle, February 14, 2012

"Unprecedented drought conditions and increased consumption by municipalities upstream have government leaders across Brazoria County uniting to support a \$272,000 regional water study."

Opinion: LCRA Has Plan for Water That Works

Austin American-Statesman, February 12, 2012

"On Feb. 21 and 22, the Lower Colorado River Authority Board of Directors will consider a revised Water Management Plan that will determine how water in the Highland Lakes is managed for years to come."

Alice Hopes to Gain Revenue With Selling of Its Effluent Water

Corpus Christi Caller-Times, February 5, 2012

"ALICE - In an effort to gain revenue for Alice as well as ease the South Texas water supply in a time of drought, the city is looking to sell its effluent water to companies conducting hydraulic fracking."

Drought Tests Water Rights System

Longview News-Journal, February 5, 2012

"Early this past month, the Texas Commission on Environmental Quality issued a notice to a handful of East Texas groups in the Sabine River basin: Their rights to river water will be suspended because a Hawkins hunting and fishing club needs more water."

BUREAU OF LAND MANAGEMENT

Notice of Availability of the Draft Programmatic Environmental Impact Statement for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the Bureau of Land Management in Colorado, Utah, and Wyoming

77 Federal Register 5833, February 6, 2012

BUREAU OF OCEAN ENERGY MANAGEMENT

Notice of Intent to Prepare an Environmental Assessment, Commercial Wind Leasing and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore Massachusetts

77 Federal Register 5830, February 6, 2012

Notice of the Availability (NOA) of an Environmental Assessment (EA) and a Finding of No Significant Impact, Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf (OCS) Offshore New Jersey, Delaware, Maryland, and Virginia

77 Federal Register 5560, February 3, 2012

EPA

Proposed Rule; Extension of Comment Period; Revising Underground Storage Tank Regulations - Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training

77 Federal Register 8757, February 15, 2012

Eleven States Sue U.S. EPA to Force Stricter Soot Standards

Environment News Service, February 14, 2012

"NEW YORK, New York - Leading a coalition of 11 states, New York State Attorney General Eric Schneiderman filed a lawsuit Friday to compel the U.S. Environmental Protection Agency to revise national air quality standards for soot."

Proposed Rule, Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes

77 Federal Register 8197, February 14, 2012

Direct Final Rule, Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources

77 Federal Register 8160, February 14, 2012

EPA's FY 2013 Budget Proposal Focuses on Core Environmental and Human Health Protections

EPA Web Site, February 13, 2012

"WASHINGTON - Today the Obama Administration proposed a FY 2013 budget of \$8.344 billion for the U.S. Environmental Protection Agency (EPA)."

Notice of Workshop and Call for Information on Integrated Science Assessment for Oxides of Nitrogen

77 Federal Register 7149, February 10, 2012

EPA REGION 6

Final Reissuance of the NPDES General Permit for Facilities Related to Oil and Gas Extraction in the Territorial Seas of Texas

77 Federal Register 8855, February 15, 2012

FISH AND WILDLIFE SERVICE

Correction Notice for Deepwater Horizon Oil Spill; Draft Phase I Early Restoration Plan and Environmental Assessment

77 Federal Register 7174, February 10, 2012

Notice of Extension of Public Comment Period, Draft Policy on Interpretation of the Phrase 'Significant Portion of Its Range' in the Endangered Species Act's Definitions of 'Endangered Species' and 'Threatened Species'

77 Federal Register 6138, February 7, 2012

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Pipeline Safety: Notice of Public Meetings on Improving Pipeline Leak Detection System Effectiveness and Understanding the Application of Automatic/Remote Control Valves

77 Federal Register 6857, February 9, 2012

Advance Notice of Proposed Rulemaking; Extension of Comment Period; Pipeline Safety: Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other

Than Single-Family Residences

77 Federal Register 5472, February 3, 2012

Notice of Proposed Rulemaking; Extension of Comment Period; Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations

77 Federal Register 5472, February 3, 2012

TEXAS RAILROAD COMMISSION

Statement by Commissioner Barry Smitherman on the Announcement by Elizabeth Ames Jones That She Will Resign From the Texas Railroad Commission

Railroad Commission Web Site, February 14, 2012

RRC Sends Letter in Response to EPA Draft Report on Alleged Groundwater Contamination in Wyoming

Railroad Commission Web Site, February 9, 2012

Railroad Commission Candidates State Their Cases

MyWestTexas.com, February 9, 2012

"A need to educate the public about the oil and gas industry and the Railroad Commission."

Let's Really Study Water Supply vs. Demand

Corpus Christi Caller-Times, February 8, 2012

"CORPUS CHRISTI - One of our nation's founding fathers, Ben Franklin, once observed: 'When the well's dry, we know the worth of water.'"

OTHER TEXAS ENVIRONMENTAL NEWS

Texas Toad Feared to Be on the Brink

Austin American-Statesman, February 11, 2012

"BASTROP - Mike Forstner tromps along the mucky edge of a pond, trilling loudly as he sweeps the beam of his flashlight over the bank."

Stuck in the Middle

Denton Record-Chronicle, February 11, 2012

"Researchers have found a disparity in the proximity of gas wells to elementary schools in certain Barnett Shale neighborhoods, suggesting that, if there is a health or social cost to bear, some communities could be more affected than others."

Lt. Governor Issues Select Interim Charges Relating to Business & Commerce, Natural Resources and Government Organization

Office of the Lieutenant Governor Web Site, February 7, 2012

Sierra Club Files Lawsuit to Delay Trans Mountain Road Project

El Paso Times, February 7, 2012

"An environmental group has hauled the state and federal governments into court, alleging they haven't followed their own environmental rules as they've fast-tracked the expansion of Trans Mountain Road."

REPORTS

EPA Needs to Further Improve How It Manages Its Oil Pollution Prevention Program

EPA Office of Inspector General Web Page, February 6, 2012

"Although EPA has taken steps to improve its program to prevent oil spills from known facilities to waters of the United States, the Agency remains largely unaware of the identity and compliance status of the vast majority of CWA Section 311 regulated facilities."

Expect the Unexpected: Building Business Value in a Changing World

KPMG International, February 2012

"This report shows that population growth, exploitation of natural resources, climate change and other factors are putting the world on a development trajectory that is not sustainable."

EPA's Approaching Regulatory Avalanche 'A Regulatory Spree Unprecedented in U.S. History'

Texas Public Policy Foundation Web Site, February 2012

"EPA, under the Obama administration, is churning out new rules unprecedented in speed, number, scope, stringency and costs."

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