

Texas Environmental Update

April 3, 2012

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.

BRACEWELL & GIULIANI ALERTS AND PUBLICATIONS

Holmstead Discusses EPA's Proposed NSPS and Prospects for New Power Plants With E&E TV

Bracewell & Giuliani Energy Legal Blog, April 2, 2012

Bracewell & Giuliani partner and former EPA air chief Jeff Holmstead appeared on E&E TV's OnPoint program to discuss EPA's proposed New Source Performance Standards (NSPS). Holmstead and E&E TV managing editor Monica Trauzzi also reviewed EPA's latest air regulation and its probable impacts on the construction of new coal-fired power plants, coal and natural gas [...]

EPA's Attempt to Expand Authority Over Dredge-and-Fill Permitting Rejected

Bracewell & Giuliani Web Site, March 29, 2012

On March 23, the U.S. District Court for the District of Columbia rejected the Environmental Protection Agency's (EPA) unprecedented attempt to retroactively veto a "dredge-and-fill" permit issued by the Army Corps of Engineers (Corps) under section 404 of the Clean Water Act [...]

Disclosure Exemptions for Fracking Chemicals Under Fire in Wyoming

Bracewell & Giuliani Energy Legal Blog, March 27, 2012

Since 2010, companies involved in hydraulic fracturing in Wyoming have been subject to disclosure requirements related to the chemicals they use in the fracking process. However, a number of those chemicals have been exempted from disclosure due to their trade secret status. Environmentalists are pushing to chip away at this exemption, but as Jason Hutt, [...]



National Journal Panel Discusses Best Regulatory Environment for Boosting Shale Gas

Bracewell & Giuliani Energy Legal Blog, March 22, 2012

National Journal hosted a televised half-day briefing in Washington, D.C. on March 20 to discuss the role natural gas production should play in the United States' energy and economic future. Following keynote conversations with Senators Joe Manchin (D-WV) and Ron Wyden (D-OR), a panel debated the pros and cons of regulating natural gas production on [...]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

Commissioners' April 11, 2012 Meeting Agenda

TCEQ Web Site

Commissioners' March 28, 2012 Agenda Meeting Webcast

TexasAdmin.com

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

Enforcement

TCEQ Approves Fines Totaling \$766,015

TCEQ Web Site, March 28, 2012

"The Texas Commission on Environmental Quality today approved penalties totaling \$595,124 against 30 regulated entities for violations of state environmental regulations."

Federal Judge Orders Belvan Corporation to Pay \$500,000 for Violating Clean Air Act

KCBD, March 23, 2012

"LUBBOCK, Texas - At a sentencing hearing held this morning in federal court in Lubbock, Texas, U.S. District Judge Sam R. Cummings ordered Belvan Corporation to pay a \$500,000 fine following their guilty plea in December 2011 to a one-count felony information charging a violation of the Clean Air Act - failure to notify or report."



Permitting

Texas Wins Latest Round With EPA in Federal Court

Houston Chronicle, March 27, 2012

"SAN ANTONIO (AP) - A federal appeals court scolded the U.S. Environmental Protection Agency on Tuesday for rejecting a series of state pollution control projects in Texas that federal regulators said failed to satisfy requirements of the Clean Air Act."

Regulatory Developments

What's New in TCEQ Rules

TCEQ Web Site, March 30, 2012

Waste

Texas Officials OK Radioactive Waste Dump

Austin American-Statesman, March 23, 2012

"Radioactive waste from dozens of states could soon be buried in a Texas dump near the New Mexico border after state officials gave final approval Friday to rules allowing the shipments."

Water

Commentary: Adopt All Water-Flow Protections

San Antonio Express-News, March 27, 2012

"Fish, shrimp, oysters, wildlife, people and businesses all need water."

State Struggling to Find Funds for Water Plan

San Antonio Express-News, March 23, 2012

"AUSTIN - Last year's record drought was like an alarm sounding, lawmakers said Thursday, and Texans now must decide to respond by investing in the state's future water supplies."

BUREAU OF LAND MANAGEMENT

Notice of Availability of the Draft Integrated Activity Plan/Environmental Impact Statement for the National Petroleum Reserve - Alaska and Announcement of Public Subsistence-Related Hearings

77 Federal Register 19318, March 30, 2012



BUREAU OF OCEAN ENERGY MANAGEMENT

Notice of Public Scoping Meetings on an Environmental Impact Statement for Proposed Outer Continental Shelf Gulf of Mexico Eastern Planning Area Oil and Gas Lease Sales 225 and 226 77 Federal Register 16258, March 20, 2012

COAST GUARD

Notice of Intent to Finalize With Request for Comments, Discharge Removal Equipment for Vessels Carrying Oil

77 Federal Register 18151, March 27, 2012

EPA

Final Rule, Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur 77 Federal Register 20218, April 3, 2012

Notice of Availability and Request for Comments, Draft National Water Program 2012 Strategy: Response to Climate Change

77 Federal Register 19661, April 2, 2012

Notice of Extension of Public Comment Period, Draft Research Report: Investigation of Ground Water Contamination Near Pavillion, WY

77 Federal Register 19012, March 29, 2012

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

77 Federal Register 18709, March 28, 2012

EPA Carbon Rule for Utilities Expected To Continue Trend Toward Natural Gas Plants

Bloomberg BNA, March 28, 2012

"The Environmental Protection Agency will limit new fossil fuel-fired power plants to 1,000 pounds of carbon dioxide per megawatt-hour as part of a March 27 proposed rule setting the first source-specific greenhouse gas emissions standards."



Opponents Charge EPA-Proposed Carbon Caps Could Double Texas Power Bills

kuhf, March 27, 2012

"Opponents of an EPA proposal to limit carbon emissions from new power plants are saying the rule would dramatically raise electric bills for Texas consumers and businesses."

EPA Proposes First Carbon Pollution Standard for Future Power Plants

EPA Web Site, March 27, 2012

"WASHINGTON - Following a 2007 Supreme Court ruling, the U.S. Environmental Protection Agency (EPA) today proposed the first Clean Air Act standard for carbon pollution from new power plants."

Proposed Rule, National Uniform Emission Standards for Storage Vessel and Transfer Operations, Equipment Leaks, and Closed Vent Systems and Control Devices; and Revisions to the National Uniform Emission Standards General Provisions

77 Federal Register 17898, March 26, 2012

Request for Nominations to the Clean Air Act Advisory Committee

77 Federal Register 16548, March 21, 2012

EPA REGION 6

Proposal of NPDES General Permit Renewal, Draft NPDES General Permit for Discharges From the Oil and Gas Extraction Point Source Category to Coastal Waters in Texas (TXG330000)

77 Federal Register 19283, March 30, 2012

FISH AND WILDLIFE SERVICE

Notice of Availability, Fisheries and Habitat Conservation and Migratory Birds Programs; Final Land-Based Wind Energy Guidelines

77 Federal Register 17496, March 26, 2012

OCCUPATIONAL HEALTH AND SAFETY ADMINISTRATION

Final Rule, Hazard Communication

77 Federal Register 17574, March 26, 2012



OCEAN ENERGY MANAGEMENT BUREAU

Notice of Availability of a Draft Programmatic Environmental Impact Statement, Geological and Geophysical Exploration on the Atlantic Outer Continental Shelf (OCS)

77 Federal Register 19321, March 30, 2012

Notice of Availability, Environmental Documents Prepared for Proposed Oil, Gas, and Mineral Operations by the Gulf of Mexico Outer Continental Shelf (OCS) Region

77 Federal Register 18263, March 27, 2012

Request for Interest, Outer Continental Shelf (OCS), Alaska OCS Region, Cook Inlet Planning Area, Proposed Oil and Gas Lease Sale 244 for OCS Oil and Gas Leasing Program 2012-2017 77 Federal Register 18260, March 27, 2012

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Notice of Proposed Rulemaking, Pipeline Safety: Pipeline Damage Prevention Programs
77 Federal Register 19800, April 2, 2012

Pipeline Safety: Public Comment on Leak and Valve Studies Mandated by the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011

77 Federal Register 19414, March 30, 2012

Pipeline Safety: Cast Iron Pipe (Supplementary Advisory Bulletin)

77 Federal Register 17119, March 23, 2012

Issuance of Advisory Bulletin, Pipeline Safety: Implementation of the National Registry of Pipeline and Liquefied Natural Gas Operators

77 Federal Register 16471, March 21, 2012

TEXAS RAILROAD COMMISSION

Railroad Commissioners: 'EPA's Vacate Order in Range Case Confirms Railroad Commission Findings Based on Scientific Evidence'

Railroad Commission Web Site, March 30, 2012

"AUSTIN - Railroad Commissioners today said a decision by the U.S. Environmental Protection Agency



to vacate an emergency order against a natural gas operator, Range Resources, confirms the science and evidence presented at a January 2011 Railroad Commission hearing called after EPA issued its emergency order."

OTHER TEXAS ENVIRONMENTAL NEWS

Fracking Chemicals Disclosures Set Off Few Alarms

Houston Chronicle, April 1, 2012

"CARRIZO SPRINGS - Energy companies have disclosed some of the chemicals pumped into the ground to extract oil and gas at more than 1,700 locations across Texas in the first two months since the state began requiring the site-specific information."

EPA Drops Action Against Range Resources Over Parker County Water Wells

Fort Worth Star-Telegram, March 30, 2012

"In an about-face, the Environmental Protection Agency on Friday withdrew its 15-month-old emergency order against Range Resources that had blamed the Fort Worth-based drilling company for methane contamination in water wells and demanded that it supply safe drinking water to two Parker County homes."

REPORTS

Report to Congress on Black Carbon

EPA Web Site, March 2012

"Black carbon (BC) emissions have important impacts on public health, the environment, and the Earth's climate."

Collecting Data and Sharing Information on Federally Unregulated Gathering Pipelines Could Help Enhance Safety

Government Accountability Office Web Site, March 2012

"You requested that we review pipeline safety issues related to onshore gathering pipelines not regulated by PHMSA."

Wasting Our Waterways 2012: Toxic Industrial Pollution and the Unfulfilled Promise of the Clean Water Act

Environment Texas Web Site, Spring 2012



"Pollution from industrial facilities is a leading cause of water quality problems in our nation's rivers, streams, and lakes."

Interior Has Strengthened Its Oversight of Subsea Well Containment, but Should Improve Its Documentation

Government Accountability Office, February 2012

"Following the Deepwater Horizon incident, Interior strengthened its review plans and resources to contain a subsea well blowout; however, its internal oversight processes have not yet been fully documented."