

128

TEXAS REGISTER

IN THIS ISSUE

Volume 19, Number 48 June 28, 1994

Page 4999-5066

Office of the Attorney General

Request for Opinions

RQs 699-701 5009

Texas Ethics Commission

Opinions

AOR 244-245 5011

Proposed Sections

State Finance Commission

Banking Section

7 TAC §3.91 5013

7 TAC §3.92 5013

Banking Department of Texas

Practice and Procedure

7 TAC §13.104 5016

Orders of the Commissioner

7 TAC §§15.1-15.3 5017

7 TAC §15.1 5017

7 TAC §15.2 5017

7 TAC §§15.11-15.13 5018

Texas Natural Resource Conservation Commission

Underground Injection Control

30 TAC §§331.2, 331.9, 331.15 5019

30 TAC §331.36 5020

30 TAC §§331.43, 331.44, 331.45 5020

30 TAC §331.45 5022

30 TAC §§331.61-331.66, 331.68 5022

30 TAC §331.62 5026

30 TAC §331.121, §331.122 5027

30 TAC §§331.142-331.144 5027

30 TAC §§331.163, 331.164, 331.167, 331.171 5029

Texas Department of Insurance

Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L 5030

Contents Continued Inside



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How to Use the Texas Register

Information Available: The 10 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after the proposal publication date.

Adopted Rules - sections adopted following a 30-day public comment period.

Open Meetings - notices of open meetings.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 19 (1994) is cited as follows: 19 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "19 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 19 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the official compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC. West Publishing Company, the official publisher of the TAC, releases cumulative supplements to each printed volume of the TAC twice each year.

The TAC volumes are arranged into Titles (using

Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The *Official TAC* also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

The Titles of the TAC, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

Update by FAX: An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561

Withdrawn Sections

Texas Animal Health Commission

Tuberculosis
4 TAC §43.2..... 5033

Finance Commission of Texas

Banking Section
7 TAC §3.92..... 5033

**Children’s Trust Fund of Texas
Council**

Advisory Committees
40 TAC §§203.1-203.5..... 5033

Adopted Sections

Finance Commission of Texas

Banking Section
7 TAC §3.4..... 5035
7 TAC §3.21..... 5035
7 TAC §3.27..... 5035
7 TAC §3.33..... 5036
7 TAC §3.36..... 5036
7 TAC §3.45..... 5036

Currency Exchange
7 TAC §4.1..... 5036
7 TAC §4.7..... 5037

Banking Department of Texas

Miscellaneous
7 TAC §11.27..... 5037

Practice and Procedures
7 TAC §§13.1-13.12..... 5037
7 TAC §§13.1-13.20..... 5038
7 TAC §§13.21-13.26..... 5038
7 TAC §§13.31-13.35..... 5038
7 TAC §§13.41-13.44..... 5038
7 TAC §§13.50-13.56..... 5038
7 TAC §§13.51-13.55..... 5038
7 TAC §§13.61-13.71..... 5038
7 TAC §§13.81-13.89..... 5039
7 TAC §§13.101-13.106..... 5039
7 TAC §§13.101-13.103..... 5039
7 TAC §§13.121-13.131..... 5039

Rulemaking
7 TAC §§17.1-17.4..... 5039
7 TAC §§17.11-17.16..... 5039

**Texas Department of Human
Services**

Community Care for Aged and Disabled
40 TAC §48.6030..... 5040

**Children’s Trust Fund of Texas
Council**

Advisory Committees
40 TAC §§203.1-203.5..... 5040

Open Meetings Sections

Texas Department of Agriculture..... 5041
Texas Commission on Children and Youth..... 5041
Texas Department of Criminal Justice..... 5041
Texas State Board of Dental Examiners..... 5041
Texas General Land Office..... 5042
Texas House of Representatives..... 5042
Texas Department of Insurance..... 5042
Texas Juvenile Probation Commission..... 5042
Board of Law Examiners..... 5043
Texas Council on Offenders with Mental Impairments..... 5043
Texas Natural Resource Conservation Commission..... 5043
Board of Nurse Examiners..... 5043
Texas Board of Pardons and Paroles..... 5043
Texas State Board of Pharmacy..... 5044
Texas State Board of Examiners of Psychologists..... 5044
Public Utility Commission of Texas..... 5044
Railroad Commission of Texas..... 5045
Texas Southern University..... 5045
Texas Woman’s University, Board of Regents..... 5045
Texas Department of Transportation..... 5045
Texas Workers’ Compensation Insurance Fund..... 5046
Regional Meetings..... 5046

In Addition Sections

**Texas Alcoholic Beverage
Commission**

Correction of Error..... 5049

Texas Bond Review Board

Bi-Weekly Report on the 1994 Allocation of the State
Ceiling on Certain Private Activity Bonds..... 5049

Texas Education Agency
Correction of Error..... 5049
Requests for Proposals..... 5049

Texas Department of Health
Correction of Error..... 5051
Notices of Emergency Cease and Desist Order..... 5051
Notice of Intent to Revoke a Certificate of Registration..... 5052
Notices of Intent to Revoke Radioactive Material Licenses 5052
Notice of Rescission of Order..... 5053

The Texas Health Benefits Purchasing Cooperative
Request for Proposal/Carrier Proposal Requests..... 5053

Texas Department of Human Services
Notice of Public Hearing..... 5053
Public Notice of Open Solicitation 5053

State Board of Insurance
Company Licensing.. 5054

Texas Natural Resource Conservation Commission
Notices of Application for Authorization to Proceed in Federal Bankruptcy..... 5054
Notices of Application for Permits to Appropriate Public Waters of the State of Texas..... 5056
Notices of Receipt of Applications and Declaration for Administrative Completeness for Sludge Registrations..... 5057
Public Notice 5057

Texas Public Finance Authority
Request for Proposal for Insurance Policy 5065

State Securities Board
Correction of Error 5065

Southwest Texas State University
Fund Raising Counsel..... 5065

Texas State Technical College
Notice of Consultant Contract..... 5066

Texas Department of Transportation
Request for Proposals..... 5066

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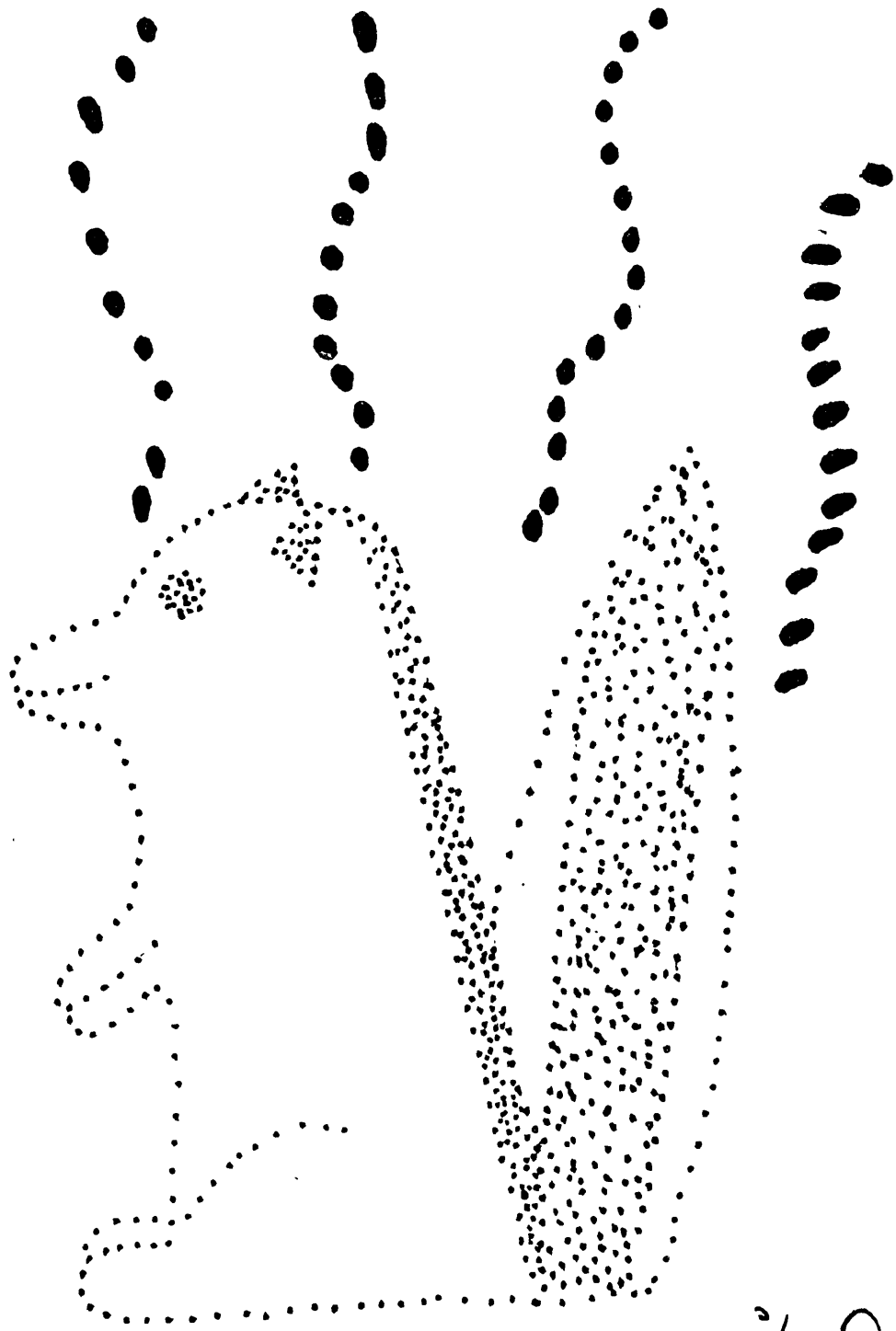




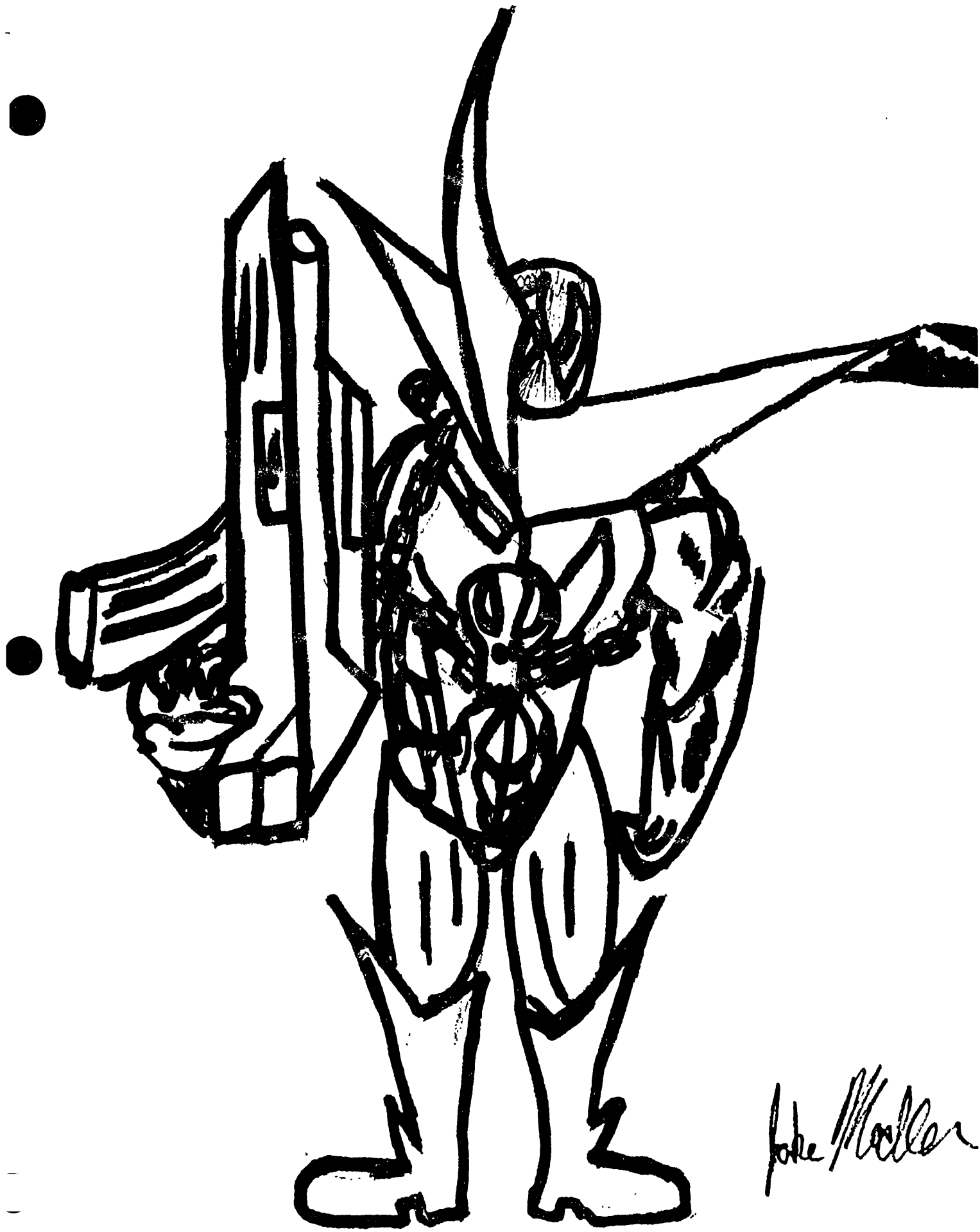
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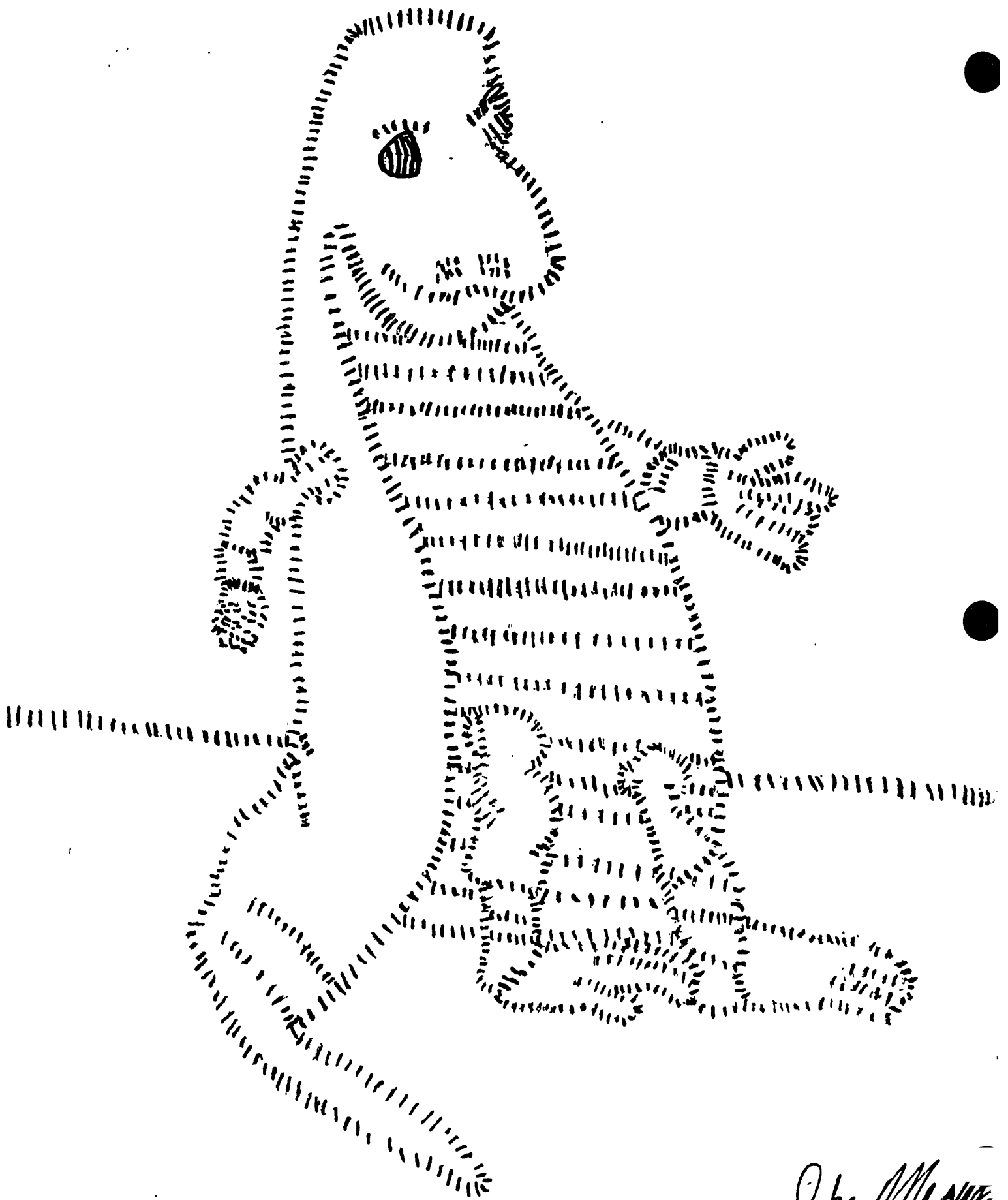
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Joke Miller



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ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Requests for Opinions

RQ-699. Requested by Honorable John B Holmes, Harris County District Attorney, 201 Fannin, Suite 200, Houston, Texas 77002-1901 Concerning whether an off-duty peace officer or a security guard may carry a firearm at a racetrack, in lieu of the Penal Code, §46 04

RQ-700. Requested by: Honorable David Counts, Chair, Committee on Natural Resources, Texas House of Representatives, P O Box 2910, Austin, Texas 78768-2910. Concerning whether the fee that a municipal utility district may assess under Water Code, §54 774, may be imposed only upon actual users of its recreational facilities

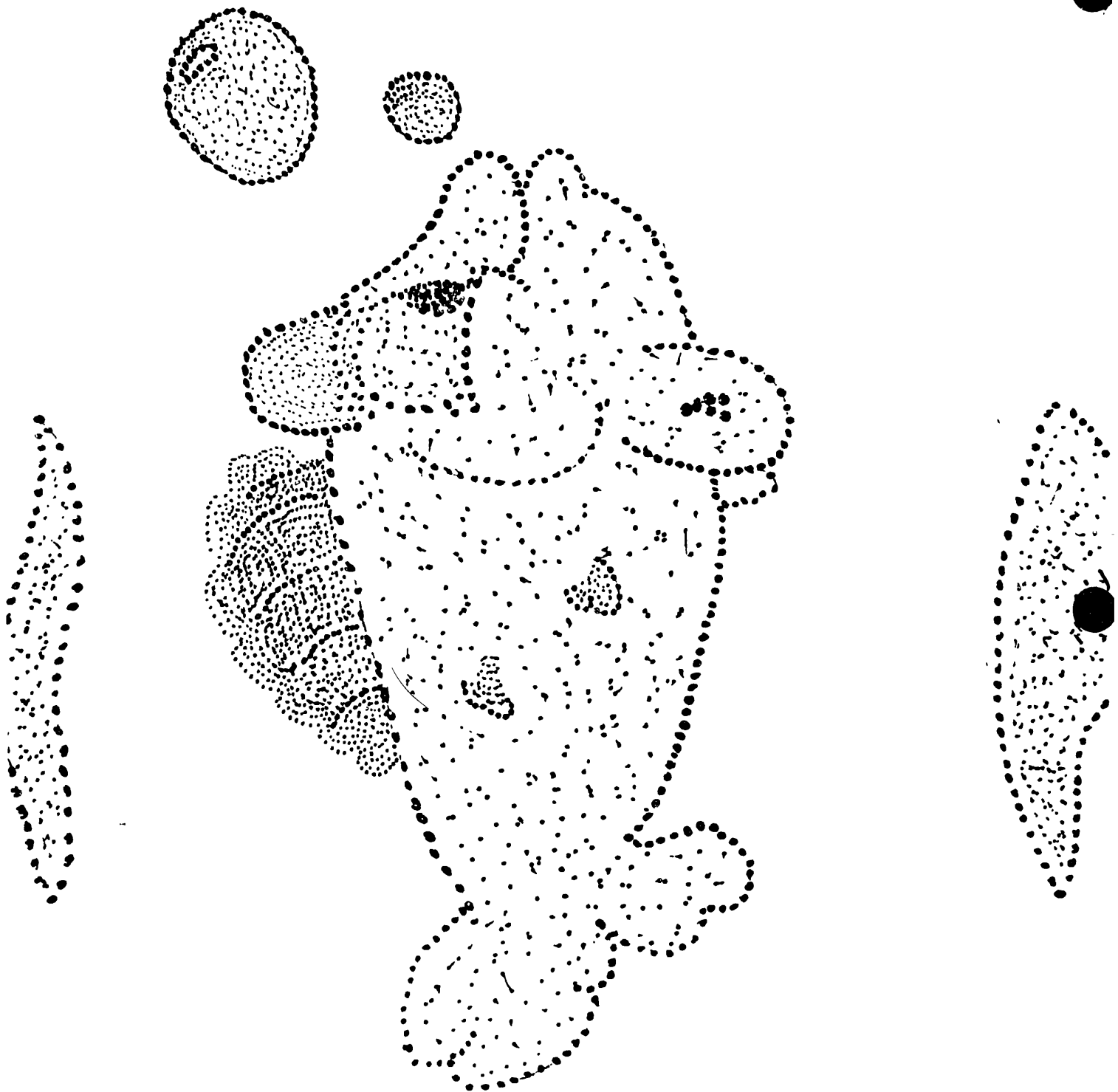
RQ-701. Requested by: Honorable James E Nugent, Chair, Railroad Commission of Texas, P O Box 12967, Austin, Texas 78711-2967 Concerning whether the Railroad Commission is required to pay certain fees requested by county clerks

Issued in Austin, Texas, on June 14, 1994

TRD-9442376 Jerry Benedict
Assistant Attorney General
Office of Attorney General

Filed June 14, 1994





TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Texas Ethics Commission

Opinions

AOR-244. The Texas Ethics Commission has been asked about a situation involving a state agency that is anticipating litigation against a bank. The bank is the trust for a pension and profit-sharing plan for a professional corporation established by a member of the board of a state agency. The question is whether the board member has a "personal or private interest in a measure, proposal, or decision" pending before the board for purposes of the Government Code, §572.058

AOR-245. The Texas Ethics Commission has been asked to consider whether, in a particular fact situation, the Health and Safety Code, §361.0885 prevails over the revolving door prohibition in the Government Code, §572.054.

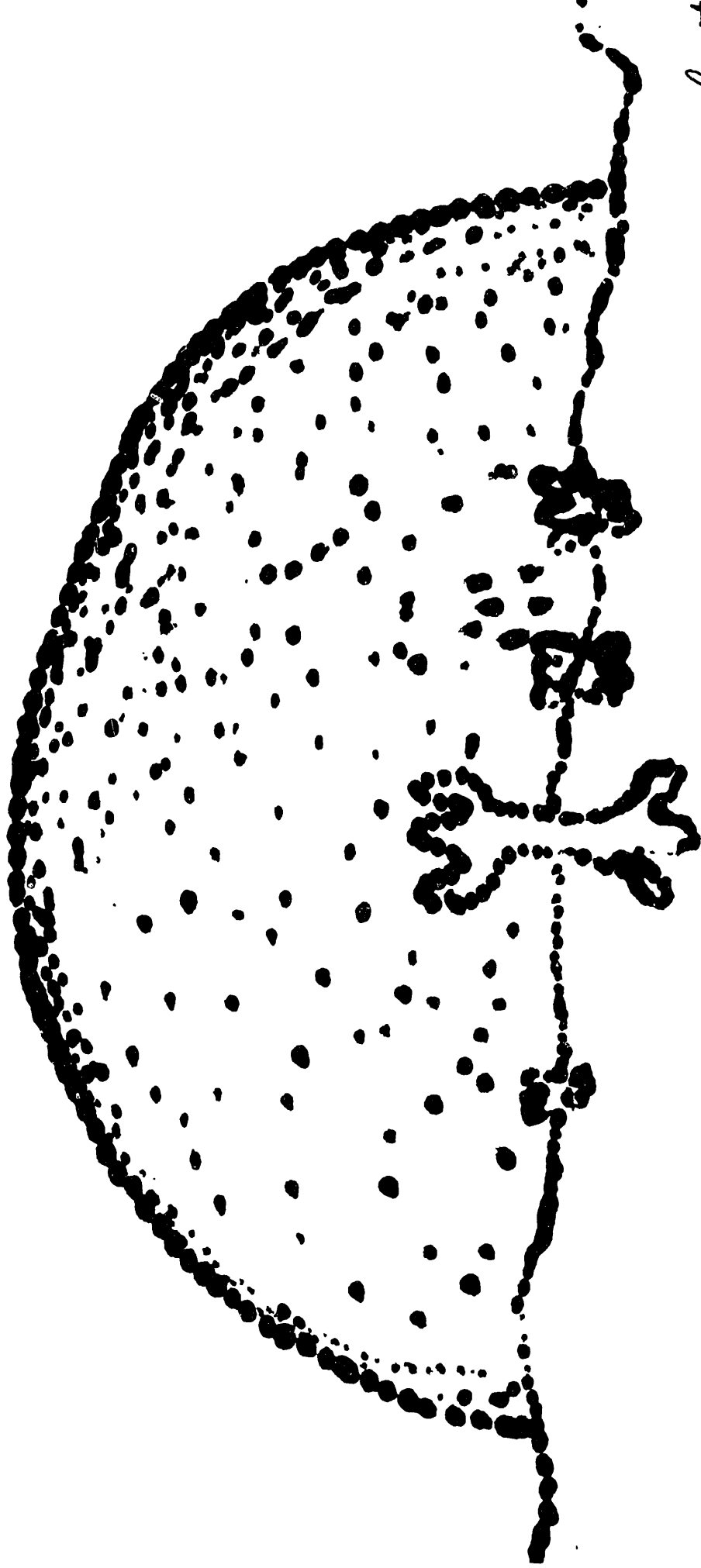
Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on June 17, 1994

TRD-9442792 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed June 21, 1994





Mark Barts
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Coelamb. Intermediate

PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section

Subchapter E. Banking House and Other Facilities

Banking House and Other Facilities

• 7 TAC §3.91

The Finance Commission of Texas (the Commission) proposes an amendment to §3.91, concerning the application of a state bank to establish a branch facility pursuant to Texas Civil Statutes, Article 342-903, in order to conform and cross-reference §3.91 to the proposed amendment to §3.92 as published in this issue of the *Texas Register*

Everette D. Jobe, general counsel, Texas Department of Banking, has determined that, for the first five-year period the section as proposed will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering this section

Mr. Jobe also has determined that, for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing or administering this section is the enhanced ability to cross-reference applicable regulations and thereby be fully informed. There will be no effect on small businesses. No economic cost will result to persons as a result of complying with the proposed section

Comments on the proposal may be submitted to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294

The new amendment is proposed under Texas Civil Statutes, Article 342-903, §1(c), which empower the Commission to promulgate standards and procedures for branch applications

The following are the articles and sections that are affected by the proposed amendment to §3.91 Texas Civil Statutes, Article 342-903, and proposed new §3.92 as published in this issue of the *Texas Register*

§3.91. Establishment and Closing of a Branch Facility

(a)-(d) (No change.)

(e) Public Notice.

(1) Simultaneously with or within a reasonable period of time following initial submission of its application, the applicant shall publish notice of the application, together with the statement set forth in paragraph (2) of this subsection, in a newspaper of general circulation in the community where the proposed branch is to be located and, if applicable, shall mail notice of the application as provided in §3.92(g) of this title (relating to Naming and Advertising of Branch Facilities). The applicant will furnish the Department with a copy of the published notice, [and] a publisher's affidavit attesting to the date of its publication and, if applicable, a copy of the mailed notice and a list of recipients pursuant to §3.92(g) of this title.

(2) (No change.)

(f) Public Comment and Protest. For a period of 14 days after publication of notice or such longer period as the Commissioner may allow for good cause shown, the public may submit written comments or protests regarding the application. Persons submitting comments will not be charged any fees or costs but will not be entitled to further notice of or participation in the branch application proceedings, although [but] all comments submitted will be considered by the Commissioner. Each protestant will have the rights and responsibilities set forth in subsections (h) and (i) of this section. **Banks submitting protests solely pursuant to §3.92(g) of this title, regarding the name chosen for the proposed branch, will not be charged any fees or costs pursuant to this section and will be permitted to participate in any hearing held as provided in §3.92 of this title, but will not be entitled to further notice of or participation in the branch application proceedings except upon compliance with subsections (h) and (i) of this section.**

(g)-(n) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on June 21, 1994.

TRD-9442827

Everette D. Jobe
General Counsel

State Finance Commission

Proposed date of adoption August 19, 1994

For further information, please call: (512) 475-1300

• 7 TAC §3.92

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Finance Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Finance Commission of Texas (the Commission) proposes the repeal of §3.92, concerning identification of bank facilities, to be replaced by proposed new §3.92, published for comment in this issue of the *Texas Register*. Repeal of §3.92 was originally proposed in the November 16, 1993 issue of the *Texas Register* (18 TexReg 8438) but was withdrawn because of the passage of time. Repeal of existing §3.92 is necessary to prevent inconsistent rules regarding the naming and advertising of bank branch facilities. Existing §3.92 contains several ambiguities that have made enforcement of its provisions difficult. The proposed new §3.92 is intended to eliminate these ambiguities

Everette D. Jobe, general counsel, Texas Department of Banking, has determined that, for the first five-year period the repeal as proposed will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal

Mr. Jobe also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of enforcing or administering this repeal is the elimination of ambiguous and inconsistent regulations regarding the naming and advertising of bank branch facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons

who are required to comply with the repeal as proposed

Comments on the proposed repeal may be submitted to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294

The repeal is proposed under Texas Civil Statutes, Article 342-103(A)(1), which provide the Commission with the authority to adopt rules and determine general policies for the regulation of state banks, and Article 342-903(1)(c), which provides the Commission with the authority to adopt standards for the approval of branch offices

The following are the articles and sections that are affected by the proposed repeal of existing §3.92 Texas Civil Statutes, Articles 342-903 and 342-917, and proposed new §3.92, proposed in this issue of the *Texas Register*

§3.92 Identification of Bank Facilities

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on June 21, 1994

TRD-9442829 Everette D. Jobe
General Counsel
State Finance Commission

Proposed date of adoption August 19, 1994

For further information, please call (512) 475-1300



The Finance Commission of Texas (the Commission) re-proposes new §3.92, concerning the naming and advertising of bank branch facilities pursuant to Texas Civil Statutes, Article 342-917. Section 3.92 was originally proposed in the November 16, 1993 issue of the *Texas Register* (18 TexReg 8438), and later withdrawn in connection with the publication of a revised proposal in the March 8, 1994 issue of the *Texas Register* (19 TexReg 1616). That version of proposed §3.92 is withdrawn in this issue of the *Texas Register*.

Existing §3.92 was proposed for repeal in the November 16, 1993 issue of the *Texas Register* (18 TexReg 8438), the repeal to be adopted when the proposed new §3.92 is adopted. Because any specific proposal may only be outstanding for six months, the proposed repeal was withdrawn and is re-proposed in this issue of the *Texas Register*.

The Banking Code, Article 342-917 generally provides that a bank may not use any form of advertising that implies or tends to imply that a branch facility is a separate bank. In the enabling legislation, effective August 28, 1989, banks were given until June 1, 1990, to comply with the new statutory mandate, subject to a six-month hardship extension that could be granted by the Commission. To clarify specific applications of Article 342-917, the Commission adopted existing §3.92 in early 1989. Unfortunately, existing §3.92 contains several ambiguities that have made enforcement of its provisions difficult. The originally

proposed new §3.92 was intended to eliminate these ambiguities, but as the many of the 37 comments received made clear, the proposal created additional ambiguities. As a result, the Commission published a revised proposal for comment, the proposal that is now being withdrawn in favor of further revisions.

The Department of Banking (the Department) on behalf of the Commission mailed a copy of the revised proposal to all state banks and to all commenters on the previous proposal, and received a total of 15 comments, ten from state banks, three from national banks, and two from banking trade associations. Nine of the 13 responding banks believe that use of an acquired bank's name by a successor institution that reopens the acquired bank as a branch is a misleading and unfair competitive practice and should be prohibited. Only one bank thought use of a predecessor bank name could be permitted, but only if the signage clearly identified the facility as a branch. Seven responding banks thought all branches outside the domicile of the branching bank should be labeled as branches on the facility signs.

The trade associations offered a number of helpful comments regarding exempting a bank from being subject to the rule near its domicile, clarifying the application of assumed name statutes, revising the operation of provisions designed to deal with competing banks of the same or substantially similar names, and extending branch identification requirements to out-of-county branches.

The Department has seriously considered all comments and redrafted the rule proposal in a manner that should address the concerns most recently raised. Two important and substantive purposes are served in regulating identification of branch facilities. The Legislature was primarily concerned with the unfair and misleading competition that could result if a failed bank is taken over by another institution which continues to represent and advertise the resulting branch as the original failed institution. Second, depositors could exceed the limits of Federal Deposit Insurance Corporation insurance coverage by unintentionally depositing excess amounts in two branches of the same bank which they perceive to be different banks. Regulation of branch identification will sometimes conflict with the understandable desire of a bank to identify with the community in which a branch facility is located by naming the facility after that community combined with the term bank or by retaining the name of a merged bank as the branch name.

The new section as revised and proposed generally prohibits advertising of a branch facility in a manner that implies, tends to imply, or tends to foster a perception that the branch facility is a separate bank, and provides specific guidance in certain situations identified as misleading. The section would require the legal name of the bank or a unique identifying logo, trademark or service mark to be placed on signs directing the public to a branch facility.

If a logo, trademark or service mark is used in lieu of the legal name of the bank, or if a separate identifying name is used for the

branch facility that either contains the word bank or does not contain the word branch and further does not contain a clearly visible phrase identifying the facility as a branch of the bank, an additional sign at the branch facility must identify the legal name of the bank and identify the facility as a branch. This additional sign is anticipated to be inexpensive, and could, for example, consist of lettering on a glass entrance door. Further, the bank would be required to make a prominent written disclosure of the status of a branch facility in relation to the bank to customers opening new accounts at the branch facility, which disclosure may be included in the depository contract, unless the bank uses a standardized depository contract containing the legal name of the bank at all of its bank facilities.

A separate name for the branch facility may be used on a sign but is not required, although the use of a predecessor bank name by a successor institution that reopens the acquired bank as a branch is a misleading and unfair competitive practice and is prohibited. The legal name of the bank plus a geographic branch identifier is generally not considered a separate branch name; rather, the geographic designation itself is viewed as the separate branch name.

A bank without a unique name that seeks to open a branch outside its city of domicile, in a location that is within the same city as or within a 30-mile radius of a pre-existing bank facility bearing the same name, will be required to either disclose its city of domicile on all signs identifying the branch facility, or give specific, written notice to all such pre-existing bank facilities to allow them the opportunity to protest the name of the proposed branch.

Banks are expected to comply with and may to a limited extent take advantage of the Texas Business and Commerce Code, Chapter 36, the Assumed Business and Professional Name Act. A bank that wishes to use an assumed name must use the assumed name uniformly on all bank facilities and notify the Banking Commissioner of its intent to use an assumed name. If the Banking Commissioner does not object within 30 days, the assumed name filing may be made. Although the possibility of multiple assumed names is left open for appropriate circumstances, multiple names are generally not permitted, and a bank will in any event be expected to use the same name on all deposit-taking facilities.

The proposal also contains a provision giving banks 12 months after the effective date to comply with its requirements, subject to a six-month hardship extension that could be granted by the Banking Commissioner. While the statutory grace period for compliance expired in 1990, the Commission believes that a further grace period is appropriate to avoid adverse impacts on banks that were unaware of these requirements because of previous difficulties and laxity in enforcement.

The proposal by its terms applies to national banks with enforcement power ceded to the Office of the Comptroller of the Currency (OCC). The Department is expressly seeking an opinion from the OCC regarding the applicability of the proposed rule to national banks and the OCC's enforcement intentions.

Everette D. Jobe, general counsel, Texas Department of Banking, has determined that, for the first five-year period the section as proposed will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering this section. While some banks in violation of Article 342-917 will incur costs to comply, that cost was imposed in 1989 by the statute and not by the proposed section.

Mr. Jobe also has determined that, for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing or administering this section are the prevention of unfair and misleading competition among banks and the prevention of loss to depositors due to lack of deposit insurance in those situations where a depositor of more than \$100,000, spread among two or more facilities of the same bank, mistakenly believes the deposits to be in separate banks. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294. Commenters are expressly requested to compare the burden of compliance with existing §3.92 with the burdens imposed by proposed §3.92.

The new section is proposed under Texas Civil Statutes, Article 342-103(A) (1), which provide the Commission with the authority to adopt rules and determine general policies for the regulation of state banks, and Article 342-903, §1(c), which provides the Commission with the authority to adopt additional standards for the approval of branch offices.

The following are the articles and sections that are affected by the proposed new §3.92 Texas Civil Statutes, Articles 342-903 and 342-917, and existing §3.92, proposed for repeal in this issue of the *Texas Register*.

§3.92 Naming and Advertising of Branch Facilities

(a) Definitions. For purposes of this section, the following terms have the meanings indicated unless the context clearly indicates otherwise:

(1) Bank—A state or national bank domiciled in this state.

(2) Bank facility—An approved business location for the bank to receive deposits, pay checks or lend money, generally the principal banking house of a bank, any of such bank's branch facilities, or a related drive-in facility.

(3) Branch facility—A branch as defined in §3.91(a) of this title (relating to Establishment and Closing of a Branch Facility).

(4) Legal name—The full name of the bank as reflected in the bank's charter, provided that the bank may omit or exclude that portion of its formal legal name that is

a geographic description or modifier identifying its domicile, except as otherwise provided by this section.

(5) Separate identifying name—Any term or phrase used to identify a branch facility that is not the legal name of the bank, including a geographic description or modifier that is not a part of the legal name of the bank.

(6) Unique identifying logo, trademark or service mark—A federally registered, state registered, or common law trademark or service mark of a bank that is not used in identical or substantially similar form by any other bank in this state, or to which the bank has a clearly superior right of use that the bank intends to actively defend against infringing banks.

(b) General Prohibition on Misleading Advertising. Notwithstanding any other provision in this section, a bank shall not use any advertising or representation, including, but not limited to, any sign, print advertisement or statement, electronic media broadcast advertisement or statement, official bank documentation, or any other representation, which, in the opinion of the Commissioner, implies, tends to imply, or tends to foster a belief that a branch facility is a separately chartered or organized bank.

(c) Acquired Banks as Branches. Upon acquisition of a bank to serve as a branch facility of the acquiring bank, use of the prior name of the extinguished bank to identify the acquired bank facility is prohibited.

(d) Signage. Any sign displayed to direct attention to a branch facility must comply with all of this subsection except as expressly provided otherwise. A sign in technical compliance with this subsection may not be used if the sign in its entirety, in the opinion of the Commissioner, incorrectly implies or tends to imply that the branch facility is a separately chartered or organized bank.

(1) A sign for the purpose of directing the public to a branch facility must contain either the legal name of the bank or a unique identifying logo, trademark or service mark of the bank, or both, subject to paragraph (2) of this subsection. If a separate identifying name is used on a sign for the branch facility, the separate identifying name must contain the word "branch" and may not contain the word "bank" except as provided in paragraph (2) of this subsection.

(2) If a unique identifying logo, trademark or service mark is used on a sign to direct the public to a branch facility and the legal name of the bank is omitted, or if a sign displays a separate identifying name for the branch facility that does not contain the word "branch," or contains the word "bank" and does not include on the sign a clearly

visible phrase identifying the facility as a branch of the bank, then the bank must:

(A) display another plainly visible sign in or on the branch facility containing the legal name of the bank and clear identification of the facility as a branch of the bank, which sign may be in the form of lettering on the entrance door or on a plainly visible front window or may be in the form of a sign prominently featured in the lobby of the facility, and

(B) unless the bank uses a standardized depository contract at all bank facilities, disclose the status of the branch facility as a branch of the bank in writing to every customer opening a new account at the branch facility.

(3) The legal name of the principal bank followed by a geographic designation of the community or area in which the branch facility is located is permissible for a branch facility sign. The geographic designation is the separate identifying name of the branch facility and must comply with paragraph (2) of this subsection.

(e) Common Bank Names

(1) A bank without a unique legal name (e.g., First State Bank or First National Bank) that proposes to establish a branch facility, other than a branch facility within the bank's domicile, within the same city as or within a 30-mile radius of a pre-existing bank facility of a bank with the same or substantially similar legal name, disregarding geographic modifiers in the legal name, shall either:

(A) undertake to disclose the city of its domicile on all signs for the purpose of directing the public to the branch facility, or

(B) perform a search for the purpose of identifying all pre-existing bank facilities of other banks within the same banking market as the proposed branch location, presumed for purposes of this section to be the same city or within a 30-mile radius of the proposed branch location, that have the same or substantially similar legal name, disregarding geographic modifiers in the legal name, and give notice of its branch application pursuant to §3.91 of this title to each bank facility so identified by first class mail, specifically advising the recipient of the name to be used in connection with the proposed branch facility.

(2) With regard to any proposed branch subject to paragraph (1)(B) of this subsection, any bank with the same or substantially similar legal name as the branching bank may file a protest with the Commissioner regarding the name for the

proposed branch facility, but must demonstrate that the location of the proposed branch facility is within its trade territory as defined for purposes of the Community Reinvestment Act, 12 United States Code §2901 et seq. In the exercise of discretion, the Commissioner will consider granting a hearing on the proposed branch facility name at the request of either the applicant or a protestant. The Commissioner may order a hearing even if no hearing has been requested by the parties, but may not be compelled to hold a hearing. Any decision regarding the application for the branch facility must be made pursuant to §391 of this title.

(f) Texas Business and Commerce Code, Chapter 36 (The Texas Assumed Business or Professional Name Act), is applicable to banks. An assumed name may be used by a bank in lieu of its legal name in accordance with the requirements of other applicable law if such name is not presently being used by any bank within this state and is used uniformly for all bank facilities. In special circumstances, it may be possible for a bank to use an assumed name for limited purpose bank facilities and continue to use its legal name for other bank facilities, but use of multiple names by a bank is generally discouraged. Any bank that proposes to use an assumed name shall submit a letter to the Commissioner identifying its legal name, the proposed assumed name, the facilities where the assumed name will be used, and the steps that will be taken to adequately and appropriately inform the general public and its customers that the assumed name facilities are part of the bank and to guard against opening more than one account for a customer that may be under the mistaken belief that the multiple accounts are at separate banks. The bank may file its assumed name certificate in accordance with Texas Business and Commerce Code chapter 36 if the Commissioner does not either ask for additional information or deny the request within 30 days of the date the letter is received by the Commissioner.

(g) Official Bank Documents. Each official bank document used by and within the control of a branch facility, including but not limited to an item of stationery, checks, cashier's checks, loan applications, depository contracts and certificates of deposit, must bear the legal name of the principal bank.

(h) Application to National Banks. This section applies to national banks as does the Banking Code, Article 342-917; provided, however, that all enforcement authority shall reside with the Comptroller of the Currency. For purposes of this section, a national bank need not include N. A. or National Association as part of its legal name on any sign used for the purpose of directing the public to a branch facility unless the bank is otherwise directed to do so under federal law.

(i) No effect on rights. This section and any decisions of the Commissioner hereunder do not establish the relative priority of legal rights for purposes of federal or state law governing tradenames, trademarks, or service marks.

(j) Effective date. This section shall become effective immediately, however, banks which on the effective date of this section have signs or documents which do not comply with this section shall have 12 months from the effective date to comply, and may be granted a further extension not to exceed an additional six months if the Banking Commissioner determines, on the basis of a written application with supporting documentation, that an extension is necessary to prevent undue hardship.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442830

Everette D. Jobe
General Counsel
State Finance Commission

Proposed date of adoption: August 19, 1994

For further information, please call (512) 475-1300

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Part II. Banking

Department of Texas

Chapter 13. Practice and Procedure

• 7 TAC §13.104

The Finance Commission of Texas (the Commission) proposes new 7 TAC §13.104, concerning conduct of hearings for the purpose of receiving public comment on proposed rules. The section is being proposed as part of a comprehensive revision and recodification of all Commission, State Banking Board, Banking Commissioner, and Department of Banking practice and procedure rules related to matters regulated by the Department of Banking. New rules for Chapter 13 of Title 7 are adopted in this issue of the *Texas Register*.

Proposed §13.104 revises and replaces §17.3, repealed in this issue of the *Texas Register* and inadvertently omitted from the new rules in Chapter 13 regarding rulemaking procedures.

Everette D. Jobe, general counsel of the Texas Department of Banking, has determined that, for each year of the first five years the proposed section will be in effect, there will be no fiscal implications for state or local government.

Mr. Jobe also has determined that, for each year of the first five years the proposal will be in effect, the public benefit anticipated is a rule better organized and easier to follow and apply than the repealed rule. There will be no effect on small businesses. There is no anticipated economic cost to persons who are re-

quired to comply with the section as proposed.

Comments on the proposal should be submitted to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under the Government Code, §2001.004(1) which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The following are the articles and sections affected by the proposed repeal and recodification. Chapter 2001, Subchapter B, of the Government Code.

§13.104 Hearings on Proposed Rules

(a) Pursuant to the Texas Government Code, §2001.029(b) the Finance Commission or the Commissioner as the rulemaking agency shall grant an opportunity for a public hearing before adoption of any substantive rule proposed by the rulemaking agency if a public hearing is requested by

- (1) at least 25 persons,
- (2) a governmental subdivision or agency, or
- (3) an association having at least 25 members

(b) The hearing, whether on behalf of the Finance Commission or the Commissioner as the rulemaking agency, will be held before the Commissioner or a hearing officer designated by the Commissioner.

(c) The person conducting the hearing may, in the exercise of discretion, impose reasonable time limits on presentation of evidence and argument at such public hearings, determine the order of the presentations; and conduct the hearings in a manner the person considers most suitable to the particular proceeding. Public hearings on proposed rules are neither contested cases nor full legal adversary proceedings.

(d) The person conducting the hearing shall make the transcript of the hearing available to members of the rulemaking agency absent from the public hearing. Neither findings of fact nor conclusions of law are required.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 21, 1994

TRD-9442845

Everette D. Jobe
General Counsel
Banking Department of
Texas

Proposed date of adoption: August 19, 1994

For further information, please call (512) 475-1300

Chapter 15. Orders of the Commissioner

The Finance Commission of Texas (the Commission) proposes the repeal of §§15.1-15.3 and §§15.11-15.13 (comprising all of Chapter 15 of Title 7), concerning supervision and conservation and cease and desist orders respectively. These sections are being repealed as part of a comprehensive revision and recodification of all Commission, State Banking Board, Banking Commissioner, and Department of Banking practice and procedure rules relating to matters regulated by the Department of Banking.

The sections proposed for repeal contain provisions which, on the whole, merely restate statutory language or are inaccurate and, therefore, should be repealed. However, the Commission proposes to adopt new §15.1 and §15.2 in conjunction with this repeal. New §15.1 supplements Texas Civil Statutes, Article 342-801a, in regard to Banking Commissioner review of actions or proposed actions of supervisors or conservators. New §15.2 construes the law with respect to the conflicting sections of Texas Civil Statutes, Article 342-412, adopted by the Texas Legislature and incorporates the portion of existing §15.12 that clarifies the Finance Commission was formerly the Banking Section of the Finance Commission. These new proposed sections are published for comment in this issue of the *Texas Register*.

Sharon Gillespie, assistant general counsel, Texas Department of Banking, has determined that, for the first five-year period the sections will be repealed, there will be no fiscal implications for state or local government as a result thereof.

Ms. Gillespie also has determined that, for each year of the first five-year period the sections will be repealed, the public benefit anticipated will be that these sections, which, on the whole, are duplicative or contradictory of statutory law, will be eliminated. There will be no effect on small businesses. No economic cost will result to entities as a result of the repeal of these sections.

Comments on the proposed repeal may be submitted to Sharon Gillespie, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

Supervision and Conservatorship

• 7 TAC §§15.1-15.3

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Banking Department of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Repeals are proposed pursuant to rule-making authority under Article 342-103 of the Texas Banking Code, which gives the Commission the authority to "adopt rules and determine general policies for the regulation of state banks, state associations, savings banks, and the consumer credit industry of the state."

Texas Civil Statutes, Articles 342-412 and 342-801a, are affected by the proposed re-

peals.

§15.1. Failure to Comply

§15.2. Request for Review

§15.3. Appeal

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 21, 1994

TRD-9442847 Everette D Jobe
General Counsel
Banking Department of
Texas

Proposed date of adoption: August 19, 1994

For further information, please call: (512) 475-1300

• 7 TAC §15.1

The Finance Commission of Texas proposes new §15.1, concerning Banking Commissioner review of actions or proposed actions of supervisors or conservators. Existing §§15.1-15.3 of this title, which govern the same actions, are proposed for repeal in this issue of the *Texas Register*.

Proposed §15.1 incorporates those portions of existing §15.2 pertaining to the request for review pursuant to Texas Revised Civil Statutes, Article 342-801a. The balance of the existing rules are considered unnecessary in that they duplicate provisions of Article 342-801a.

Sharon Gillespie, assistant general counsel, Texas Department of Banking, has determined that, for the first five-year period the section as proposed will be in effect, there will be no fiscal implications for state or local government as a result of amending this section.

Ms. Gillespie also has determined that, for each year of the first five-year period the section as proposed will be in effect, the public benefit anticipated as a result of the section will be that this section will accurately and succinctly reflect the law and departmental procedures regarding supervision and conservation. There will be no effect on small businesses. No economic cost is anticipated to result to entities as a consequence of the adoption of §15.1.

Comments on the proposal may be submitted to Sharon Gillespie, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Revised Civil Statutes, Article 342-103A(1), which empower the Finance Commission to adopt rules for the regulation of state banks.

Texas Civil Statutes, Article 342-801a, is affected by the proposed section.

§15.1 Supervision and Conservation Request for Review To obtain review of an action or proposed action by a supervisor or

conservator, the affected bank must submit a written request for review to the Commissioner. The request must identify the action or proposed action with specificity and state why the action is not in the best interest of the bank. Any decision of the Commissioner is effective immediately and need not be in writing.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442848 Everette D Jobe
General Counsel
Banking Department of
Texas

Proposed date of adoption: August 19, 1994

For further information, please call: (512) 475-1300

• 7 TAC §15.2

The Finance Commission of Texas proposes new §15.2, concerning removal of bank officers, directors or employees from office. Existing §§15.11-15.13 of this title, which govern the same matters, are proposed for repeal in this issue of the *Texas Register*. Proposed §15.2 construes the law with respect to two conflicting sections of Texas Civil Statutes, Article 342-412, adopted by the Texas Legislature, and incorporates the portion of §15.12 that clarifies the Finance Commission was formerly the Banking Section of the Finance Commission. The balance of the existing rules are considered unnecessary in that they contain only provisions found in Article 342-412 or information that is inaccurate.

Sharon Gillespie, assistant general counsel, Texas Department of Banking, has determined that, for the first five-year period the section as proposed will be in effect, there will be no fiscal implications for state or local government as a result of amending this section.

Ms. Gillespie also has determined that, for each year of the first five-year period the section as proposed will be in effect, the public benefit anticipated as a result of the section will be that this section will accurately and succinctly reflect the law and departmental procedures regarding supervision and conservation. There will be no effect on small businesses. No economic cost is anticipated to result to entities as a consequence of the adoption of §15.2.

Comments on the proposal may be submitted to Sharon Gillespie, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 342-103A(1), which empower the Finance Commission to adopt rules for the regulation of state banks, and under Texas Civil Statutes, Article 342-412(4), which provides that the Finance Commission may adopt such rules or procedure as may be necessary to govern the fair hearing and adjudication of the questions appealed.

Texas Civil Statutes, Article 342-412, is affected by the proposed section.

§15.2. Removal from Office.

(a) Statutory Construction. Pursuant to the Code Construction Act, the Finance Commission recognizes the text of §3, as amended by Acts 1989, 71st Legislature, Chapter 1196, §4, to be the legitimate text of Texas Civil Statutes, Article 342-412(3), and will implement it as law.

(b) Appeal of Order. An order of removal from office under Texas Civil Statutes, Article 342-412, may be appealed to the Finance Commission, formerly the Banking Section of the Finance Commission.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on June 21, 1994

TRD-9442849
Everette D Jobe
General Counsel
Banking Department of
Texas

Proposed date of adoption: August 19, 1994

For further information, please call. (512) 475-1300

Cease and Desist

• 7 TAC §§15.11-15.13

(Editor's note The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Banking Department of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin)

The repeals are proposed pursuant to rule-making authority under the Texas Banking Code, Article 342-103, which gives the Finance Commission the authority to "adopt rules and determine general policies for the regulation of state banks, state associations, savings banks, and the consumer credit industry of the state."

§15.11 Effective Date and Appeal

§15.12 Removal from Office

§15.13 Disposition of Order

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on June 21, 1994.

TRD-9442850
Everette D Jobe
General Counsel
Banking Department of
Texas

Proposed date of adoption August 19, 1994

For further information, please call. (512) 475-1300

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 331. Underground Injection Control

The Texas Natural Resource Conservation Commission proposes the repeal of §§331.45, 331.62, amendments §§331.2, 331.9, 331.36, 331.43-331.44, 331.61-331.66, 331.68, 331.121-331.122, 331.142-331.144, 331.163-331.164, 331.167, 331.171 and new 331.15, 331.45, 331.62, Subchapters A, B, C, D, G, I, and J, concerning underground injection control. The amendments and new sections are proposed to ensure consistency with Title 40 Code of Federal Regulations (CFR) Part 146 regarding Underground Injection Control Program. Criteria and Standards.

The amendments also incorporate requirements and definitions as mandated by the Texas Solid Waste Disposal Act (TSWDA), Texas Health and Safety Code, Chapter 361.

Section 331.2 of this title regarding Definitions, is proposed to be amended by the addition of definitions as well as amendments of definitions of specific terms currently used in this chapter. These changes include the following: the addition of the definition of "captured facility" which is derived from the language of TSWDA, §361.003(5); the amendments of the definitions of "commercial UIC Class I well facility" and "Commercial Well" which are derived from TSWDA, §361.003(5), the addition of the definition of "new waste stream" to clarify the term as used in §331.65 regarding Reporting Requirements for commercial facilities, the amendment of the definition of "Non-commercial well" which is derived from the language of TSWDA, §361.003(5), the addition of the definition of "transmissive fault or fracture" is derived from 40 CFR Part 146.61(b); and the addition of the definition of "underground injection control" which is derived from 40 CFR Part 144.3.

Section 331.9 of this title regarding Injection Authorized by Rule, proposes to change the term "plugging and abandonment" to "Closure" for purpose of consistency with §331.46, and adds specific references to the financial assurance requirements of §§331.141-331.147.

A new §331.15 is proposed concerning Financial Assurance Requirements. This new section clarifies the requirements for financial assurance for Class I and Class III wells before injection can occur.

Changes to §331.36 of this title regarding Financial Assurance, propose to add specific references to the requirements of §§331.141-331.147.

Changes to §331.43(c) and (d) of this title regarding Mechanical Integrity Standards serve to clarify requirements of salt cavern integrity standards.

An addition to §331.44 of this title regarding Corrective Action Standards, proposes to add language authorizing the executive director to require corrective action for Class I wells that fail to comply with the proposed performance standard in §331.62(d), for construction and cementing. The proposed language also allows the executive director to require the amendment of a permit to incorporate additional testing and monitoring. The proposed language would also authorize the Commission to order closure of any wells failing to comply with the performance standard.

A new §331.45 of this title regarding Approval of Construction and Completion, is proposed to correct the numbering and to clarify the information that staff must review prior to granting approval of construction and completion of Class I and Class III wells. Among the additions proposed are requirements for Class I wells (including salt cavern disposal wells), to submit all logging, coring and testing data collected by the permittee, not just the minimum data required by regulation, and to review the data for compliance with the construction and cementing performance standard of §331.62(4) and cementing standard of §331.62(5).

Changes to §331.61 of this title regarding Applicability, clarify that all Class I wells are affected by the section, unless specifically exempted.

In compliance with §331.5 regarding Prevention of Pollution, a new §331.62 is proposed concerning Construction Standards which meets or exceeds the requirements of 40 CFR, Part 146.65. The following changes are proposed: revisions to the design criteria, including a prohibition of the use of fluid seal systems, inclusion of a construction and cementing performance standard for all Class I injection wells; a revision of cementing standards for new wells, including wells converting to Class I status, and inclusion of the recommendations of United States Environmental Protection Agency's (EPA's) Groundwater Program Guidance Number 22 regarding Changes to Construction Plans Occurring During the Drilling of a Well. The revised design criteria emphasizes that wells are to be designed, constructed, and completed to prevent the movement of fluids that could result in the pollution of an underground source of drinking water (USDW). There are two possible routes of contamination of a USDW directly from a well: a leak from the well tubing and casing, and vertically between the casing and the bore hole. The annulus system is the primary protective barrier for preventing leaks from the well. By prohibiting the use of fluid seal systems and adding the requirement that the annulus system be designed, constructed, and operated to prevent leaks from the well, the certainty that such wells will provide an effective means of pollution prevention will be strengthened. Cement is the primary protective barrier for vertical fluid flow along the wellbore. To protect USDWs from vertical fluid flow along the wellbore, it is proposed to increase the minimum amount of cement pumped from 120% to 150% of the calculated volume, require the

development and implementation of construction plans that anticipate lost circulation zones and other adverse subsurface conditions; and require that the casing and cementing program be designed and implemented to meet the performance standard. The proposed language emphasizes greater detail on quality planning and implementation. This new emphasis will discourage construction practices that emphasize speed and cost cutting over environmental protection, and which often lead to flawed cementing that requires expensive remediation. Changes to paragraph (6) regarding logs and tests, adds a requirement that an operator submit the results of all logs and tests and not just those required by this chapter. New language also would authorize the executive director to allow the use of alternative logs when the alternative log would provide equivalent or better information. Changes to paragraph (7), regarding construction supervision, proposes that the supervisor of well constructions and workovers be a professional engineer with current registration pursuant to the Texas Engineering Practice Act, to provide consistency with §331.65(1).

Changes to §331.63 of this title regarding Operating Requirements, serve to clarify operating requirements and to emphasize that Class I wells are to be operated to prevent the movement of fluids that could result in the pollution of an underground source of drinking water and to prevent leaks from the well. The annulus system would be required, in most cases, to maintain a pressure of at least 100 psi greater than the injection pressure and to be operated to prevent leaks from the well into unauthorized zones, as well as to detect well malfunctions. A new provision is added to require that mechanical integrity of the well be maintained at all times, as in 40 CFR Part 146.

Changes to §331.64 of this title regarding Monitoring and Testing Requirements, propose to incorporate specific language from 40 CFR §146.67 and §146.68 regarding Operating Requirements and Testing and Monitoring Requirements, including a removal of the language allowing for extensions of the 12-month interval requirement for mechanical integrity demonstrations.

Changes to §331.65 of this title regarding Reporting Requirements, clarify that the pre-operation report requirement is for new wells, including wells converting to Class I status, and to change the term "certification" to "approval" as in 40 CFR Part 146.

Changes to §331.66 of this title regarding Additional Requirements and Conditions, propose to change the term "plugging and abandonment plan" to "closure plan" for purposes of consistency.

Changes to §361.68 of this title regarding Post-Closure Care, propose to clarify the language of the rule and to specifically reference Chapter 331, Subchapter I regarding Financial Responsibility.

Changes to §331.121 of this title regarding Class I Wells, propose to clarify the intent of the rule, to specifically reference Chapter 331, Subchapter I regarding Financial Responsibility, and to incorporate language from TSWDA, §361.114 and Texas Water Code,

§27.051, regarding Disposal of Hazardous Waste into Salt Domes.

Changes to §331.122 of this title regarding Class III Wells, propose to provide specific reference to §§331.141-331.147 regarding Financial Responsibility.

Changes to §331.144 of this title regarding Financial Assurance for Plugging and Abandonment, are as follows: delete references to Class IV and V wells, delete the term "hazardous", thereby making the rule applicable to all Class I and III wells, include Class I salt cavern disposal wells and associated salt caverns, add an effective date for all financial assurance, and add a deadline for financial assurance for converted wells and other previously constructed wells. In addition, clarifications have been made to make the financial assurance options the same for all types of underground injection wells. The entire subchapter is republished here because it was incorrectly published in the *Texas Register* on October 2, 1992 and November 13, 1992.

Changes to §331.163 of this title regarding Well Construction Standards for salt cavern disposal wells, change the term "certification" to "approval" as in 40 CFR, Part 146.

Changes to §331.164 of this title regarding Cavern Construction Standards for salt cavern disposal wells, change the term "certification" to "approval" as in 40 CFR, Part 146.

Changes to §331.167 of this title regarding Reporting Requirements for salt cavern disposal wells, change the term "certification" to "approval" as in 40 CFR, Part 146.

Changes to §331.171 of this title regarding Post-Closure Care, specifically reference Chapter 331, Subchapter I regarding Financial Responsibility and clarify a reference to §§331.141-331.147. In addition, the term "certification" has been changed to "approval" to mirror the language of 40 CFR, Part 146.

Stephen Minick, division of budget and planning, has determined that for the first five years these sections as proposed are in effect there will be fiscal implications as a result of enforcement and administration of the sections. Any cost implications for state government are anticipated to be minor and will be met within the agency's existing budgeted resources. There are no effects anticipated for local governments or small businesses. These sections are proposed to be adopted in order to achieve consistency between state and federal regulations governing underground injection control facilities or to clarify or correct existing rules. The sections as proposed, therefore, do not generally represent incremental fiscal implications for facility operators. Additional technical requirements for cementing could result in increased costs of well development, depending on individual circumstances of casing size, casing interval, and other site specific conditions. These costs are not anticipated to be a major cost of well completion. Additional provisions related to detailed planning of drilling and completion, however, should mitigate many of the possible costs, particularly long term potential costs of remediation resulting from inadequate planning. The proposed ban on fluid seal systems is not anticipated to affect any

well currently operating. The additional requirements related to corrective action standards may represent potential cost increases. The proposed language is more specific and may reflect a more strongly-worded requirement than existing regulations, however, it is not anticipated that this section represents significant costs that could not conceivably have resulted from application of the more general standards for prevention of pollution under §331.5 (relating to Prevention of Pollution). Proposed requirements related to mechanical integrity of underground injection control facilities will have probable cost implications. These requirements are proposed, however, to make the state's regulations consistent with the existing federal regulations and do not represent costs in excess of those required to comply with federal rules.

Mr. Minick also has determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the consistency between state and federal regulations governing underground injection control, the design, construction, and operation of underground injection control facilities, and the protection of the quality of the groundwater resources of the state. There are no additional costs anticipated for any persons required to comply with these sections as proposed.

Comments on the proposal may be submitted to Kathleen Vail, Geologist, Underground Injection Control Team, UIC Uranium and Radioactive Waste Section, Industrial and Hazardous Waste Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5:00 p.m., 30 days following publication of this proposal.

Subchapter A General Provisions

• 30 TAC §§331.2, 331.9, 331.15

The repeal, new and amended sections are proposed pursuant to the Texas Water Code, §5.103 and §5.105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27 and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024 which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

§ 331.2 Definitions. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

Captured facility. A manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex.

Commercial UIC Class I well facility Any waste management facility that accepts hazardous or nonhazardous industrial solid waste, for disposal in a UIC Class I injection well, for a charge, except a captured facility or a facility that accepts waste only from other facilities owned or effectively controlled by the same person. [A Class I permittee who operates one or more commercial injection wells]

Commercial well A UIC Class I injection well which disposes of hazardous or nonhazardous industrial solid wastes, for a charge, except for a captured facility or a facility that accepts waste only from facilities owned or effectively controlled by the same person, [that are generated both on site and off-site]

New waste stream A waste stream not permitted. Changes in the physical or chemical characteristics of waste streams already permitted, which do not fall outside the ranges for these parameters, do not constitute new waste streams.

Non commercial UIC Class I well facility A UIC Class I permittee which operates only non-commercial wells.

Non commercial well A UIC Class I injection well which disposes of wastes that are generated [entirely] on site, at a captured facility or from other facilities owned or effectively controlled by the same person, and where there is no charge

Transmissive fault or fracture A fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

Underground injection control (UIC) The program under Part C of the federal Safe Drinking Water Act, including the approved Texas state program.

§331.9 Injection Authorized by Rule

(a) Injection into any Class I and Class III well or group of Class I and Class III wells for which the commencement of construction began prior to January 1, 1982, is authorized by virtue of this rule, provided compliance with any permit issued before January 1, 1982, is maintained, provided compliance with the following rules of this chapter is achieved within one year from January 1, 1982, and provided mechanical integrity is demonstrated within two years from January 1, 1982, for each individually authorized Class I and III well.

(1) financial responsibility §§331.141-331.147 [§305.153] of this title (relating to Financial Responsibility),

(2) (4) (No change)

(3) notice of abandonment §331.46(b) of this title (relating to Closure [Plugging and Abandonment] Standards),

(6) Closure [Plugging and Abandonment] Plan and Standards §331.46

of this title (relating to Closure [Plugging and Abandonment] Standards), and

(7)-(8) (No change)

(b) (No change)

(c) Plugging and abandonment of a well authorized by rule at any time after January 1, 1982, shall be accomplished in accordance with the standards of §331.46 of this title (relating to Closure [Plugging and Abandonment] Standards)

(d)-(i) (No change)

§331.15 Financial Assurance Required Injection is prohibited for Class I and III wells which lack financial assurance as required by this chapter

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on June 22, 1994

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Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

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For further information, please call (512) 239-6087

Subchapter B. Jurisdiction Over In Situ Uranium Mining

• 30 TAC §331.36

The amended section is proposed pursuant to the Texas Water Code, §5 103 and §5 105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27 and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes

§331.36 Financial Assurance

(a) Requirements for financial security (as required by §§331.141-331.147 of this title (relating to Financial Responsibilities)) for decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive materials of the below and aboveground site to specified radiological and chemical levels shall be established jointly by the TNRCC [TWC] and the Texas Department of Health (TDH). Posting of financial security with the TDH

shall include funds for restoration as agreed with the TNRCC [TWC]

(b) (c) (No change)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

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Subchapter C. General Standards and Methods

• 30 TAC §§331.43, 331.44, 331.45

The amended sections are proposed pursuant to the Texas Water Code, §5 103 and §5 105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27, and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes

§331.43 Mechanical Integrity Standards

(a) (b) (No change)

(c) A salt cavern has integrity if it

(1) (No change)

(2) has no pressure communication or fluid flow between other caverns or formations outside the salt stock [Except as authorized by subsection (d) of this section.] The [the] tests to show salt cavern integrity shall consist of cavern pressure and sonar tests, or other tests approved by the executive director, to determine the geometric shape of the unfilled cavern.

(d) The executive director may allow the use of a test to demonstrate mechanical integrity other than those listed in subsection [subsections] (b) [and (c)(2)] of this section with the written approval of the administrator of the United States Environmental Protection Agency or his authorized representative. To obtain approval, the executive director shall submit a written request to the United States Environmental Protection Agency administrator, which shall set forth the proposed test and all technical data supporting its use. The United States Environmental Protection Agency administrator shall approve the re-

quest if it will reliably demonstrate the mechanical integrity of wells for which its use is proposed. Any alternate method approved by the United States Environmental Protection Agency administrator shall be published in the Federal Register and may be used unless its use is restricted at the time of approval by the United States Environmental Protection Agency administrator.

(e) (No change.)

§331.44 Corrective Action Standards

(a) (No change.)

(b) Additional corrective action standards for Class I wells

(1) (6) (No change.)

(7) If at any time, the operator cannot assure the continuous attainment of the performance standard in §331.62(4) of this title (relating to Construction Standards), the executive director may require a corrective action plan and compliance schedule. The operator must demonstrate compliance with the performance standard, as a condition for receiving approval of continued operation of the well. The executive director also may require permit changes to provide for additional testing and/or monitoring of the well to insure the continuous attainment of the performance standard. The commission may order closure of the well if the operator fails to demonstrate, to the executive director's satisfaction, that the performance standard is satisfied.

§331.45 Executive Director Approval of Construction and Completion The executive director may grant approval of the construction and completion for an injection well or project which is designed, constructed, and completed in compliance with the requirements of this chapter and the permit. In making a determination whether to grant approval, the following shall be reviewed:

(1) for Class I wells, other than salt cavern disposal wells and associated salt caverns

(A) actual as-built drilling and completion data on the well,

(B) all logging and testing data on the well,

(C) a demonstration of mechanical integrity,

(D) anticipated maximum pressure and flow rate at which the permittee will operate,

(E) results of the injection zone and confining zone testing program as required in §331.62(6) of this title (relating to Construction Standards) and §331.65(a) of this title (relating to Class I Wells),

(F) the actual injection procedure,

(G) the compatibility of injected wastes with fluids in the injection zone and minerals in both the injection zone and the confining zone and materials used to construct the well,

(H) the calculated area of review and cone of influence based on data obtained during logging and testing of the well and the formation, and where necessary, revisions to the information submitted under §331.121 of this title (relating to Class I Wells),

(I) the status of corrective action required for defective wells in the area of review,

(J) compliance with the casing and cementing performance standard in §331.62(4) of this title (relating to Construction Standards), and where necessary, changes to the permit to provide for additional testing and/or monitoring of the well to insure the continuous attainment of the performance standard, and

(K) compliance with the cementing requirements in §331.62(5),

(2) for salt cavern disposal wells and associated salt caverns

(A) actual as-built drilling and completion data on the well,

(B) all logging, coring, and testing program data on the well and salt pilot hole,

(C) a demonstration of mechanical integrity of the well,

(D) the anticipated maximum wellhead and casing seat pressures and flow rates at which the well will operate during cavern development and cavern waste filling,

(E) results of the salt cavern injection zone and salt cavern confining zone testing program as required in §331.163(e)(3) of this title (relating to salt cavern solid waste disposal wells)

(F) the injection and production procedures for cavern development and cavern waste filling,

(G) the compatibility of injected materials with the contents of the salt cavern injection zone and the salt cavern confining zone, and with the materials of well construction,

(H) land subsidence monitoring data and groundwater quality monitoring data, including determinations of baseline conditions for such monitoring throughout the area of review,

(I) the status of corrective action required for defective wells in the area of review,

(J) actual as-built specifications of the well's surface support and monitoring equipment, and

(K) conformity of the constructed well system with the plans and specifications of the permit application

(3) for Class III wells

(A) logging and testing data on the well,

(B) a satisfactory demonstration of mechanical integrity for all new wells, excluding monitor wells,

(C) anticipated operating data,

(D) the results of the formation testing program,

(E) the injection procedures, and

(F) the status of corrective action required for defective wells in the area of review

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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For further information, please call (512) 239-6087

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Subchapter C. General Standards and Methods

• **30 TAC §331.45**

(Editor's note The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Natural Resource Conservation Commission or in the Texas Register office Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repealed section is proposed pursuant to the Texas Water Code, §5 103 and §5 105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27, and other laws of this state, and pursuant to the Texas Health and Safety Code, §361 017 and §361 024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes

§331.45 Certification of Construction and Completion

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

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Subchapter D. Standards for Class I Wells Other than Salt Cavern Solid Waste Disposal Wells

• **30 TAC §§331.61-331.66, 331.68**

The new and amended sections are proposed pursuant to the Texas Water Code, §5 103 and §5 105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27 and other laws of this state, and pursuant to the Texas Health and Safety Code, §361 017 and §361 024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes

§331.61 Applicability The sections of this subchapter apply to all [new] Class I injection wells, other than salt cavern wells, unless otherwise noted [and to all existing Class I wells authorized by rule to the extent required by §331 9 of this title (relating to Injection Authorized by Rule)]

§331.62 Construction Standards All Class I wells shall be designed, constructed and completed to prevent the movement of fluids that could result in the pollution of an underground source of drinking water

(1) Design criteria Casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well, including the post closure care period The well shall be designed and constructed to prevent potential leaks from the well, prevent the movement of fluids along the wellbore into or between Underground Source of Drinking Waters (USDWs), to prevent the movement of fluids along the wellbore out of the injection zone, to permit the use of appropriate testing devices and workover tools, and to permit continuous monitoring of injection tubing, long string casing and annulus, as required by this chapter All well materials must be compatible with fluids with which the materials may be expected to come into contact A well shall be deemed to have compatibility as long as the materials used in the construction of the well meet or exceed standards developed for such materials by the American Petroleum Institute (API), The American Society for Testing Materials (ASTM), or comparable standards acceptable to the executive director

(A) Casing design Surface casing shall be set to a minimum subsurface depth, as determined by the executive director, which extends into the confining bed below the lowest formation containing a USDW or freshwater aquifer At least one long string casing, using a sufficient number of centralizers, shall extend to the injection interval In determining and specifying casing and cementing requirements, the following factors shall be considered

- (i) depth of lowermost USDW or freshwater aquifer,
- (ii) depth to the injection interval,
- (iii) injection pressure, external pressure, internal pressure, and axial loading,
- (iv) hole size,
- (v) size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material),
- (vi) the maximum burst and collapse pressures, and tensile stresses

which may be experienced at any point along the length of the casings at any time during the construction, operation, and closure of the well,

(vii) corrosive effects of injected fluids, formation fluids, and temperatures,

(viii) lithology of injection and confining intervals,

(ix) presence of lost circulation zones or other subsurface conditions that could affect the casing and cementing program,

(x) types and grades of cement, and

(xi) quantity and chemical composition of the injected fluid.

(B) Tubing and packer design All Class I injection wells shall inject fluids through tubing with a packer, set at a depth specified by the executive director Fluid seal systems will not be approved by the commission. The annulus system shall be designed and constructed to prevent the leak of injection fluids into any unauthorized zones In determining and specifying requirements for tubing and packer, the following factors shall be considered

- (i) depth to the injection zone,
- (ii) characteristics of injection fluid (chemical content, corrosiveness, temperature and density),
- (iii) injection pressure,
- (iv) annular pressure,
- (v) rate (intermittent or continuous), temperature, and volume of injected fluid,
- (vi) size of casing, and
- (vii) tensile, burst, and collapse strengths of the tubing

(2) Plans and specifications Except as specifically required in the terms of the disposal well permit, the drilling and completion of the well shall be done in accordance with the requirements of this chapter and all permit application plans and specifications

(3) Changes to plans and specifications Any proposed changes to the plans and specifications must be approved in writing by the executive director that said changes provide protection standards equivalent to or greater than the original design criteria

(A) If during the drilling and/or completion of the well, the operator proposes to change the setting depth or cementing of the surface casing, the execu

tive director shall require a written description of the proposed change, including any additional data necessary to evaluate the request. The operator may not execute the change until the executive director gives written approval.

(B) If the operator proposes to change the injection interval to one not reviewed during the permit application process, the operator shall submit an application to amend the permit. The operator may not inject into any unauthorized zone.

(C) Any other changes, including but not limited to, the number of casing strings, changes in the size or material of intermediate and production casings, changes in the completion of the well, changes in the exact setting of screens or injection intervals within the permitted injection zone, and changes in the type of cement used, or method of cementing shall be considered minor changes. If minor changes are requested, the executive director may give immediate oral and subsequent written approval or written approval for those changes. The operator is required to submit a detailed written description of all minor changes, along with the information required in §331.65 of this title (relating to Reporting Requirements), before approval for operation of the well may be granted.

(4) Construction performance standard. All Class I wells shall be cased and all casings shall be cemented to prevent the movement of fluids into or between USDWs or freshwater aquifers, and to prevent movement of fluids out of the injection zone.

(5) Cementing requirements, for all Class I wells constructed after the promulgation of this rule, including wells converting to Class I status.

(A) Cementing shall be by the pump and plug or other method approved by the executive director. Cementing may be accomplished by staging. Cement pumped shall be of a volume equivalent to at least 150% of the volume calculated necessary to fill the annular space between the hole and casing and between casing strings to the surface of the ground. The executive director may require more than 150% when the geology or other circumstances warrant it.

(B) If lost circulation zones or other subsurface conditions are anticipated and/or encountered, which could result in less than 100% filling of the annular space between the casing and the borehole or the casings, the owner/operator shall implement the approved contingency plan submitted according to §331.121(a)(2) (O) of this title (relating to Class I Wells).

(6) Logs and tests

(A) Integrity testing. Appropriate logs and other tests shall be conducted during the drilling and construction of Class I wells. All logs and tests shall be interpreted by the service company which processed the logs or conducted the test, or by other qualified persons, and submitted to the executive director within the completion report required in §331.65(a)(1) of this title (relating to Reporting Requirements). At a minimum, the following logs and tests shall be conducted.

(i) deviation checks on all holes, conducted at sufficiently frequent intervals to assure that avenues for fluid migration in the form of diverging holes are not created during drilling;

(ii) for surface casing

(I) spontaneous potential, resistivity, natural gamma, and caliper logs before the casing is installed, and

(II) cement bond with variable density log, and temperature logs after casing is set and cemented; and

(III) and any other test required by the executive director,

(IV) the executive director may allow the use of an alternative to subclauses (I) and (II) of this subparagraph when an alternative will provide equivalent or better information, and

(iii) for intermediate and long string casing

(I) spontaneous potential, resistivity, natural gamma, compensated density and/or neutron porosity, dipmeter/fracture finder, and caliper logs, before the casing is installed, and

(II) a cement bond with variable density log, casing inspection, and temperature logs after casing is set and cemented, and an inclination survey,

(III) any other test required by the executive director,

(IV) the executive director may allow the use of an alternative to the subclauses (I) and (II) of this subparagraph when an alternative will provide equivalent or better information, and

(iv) a mechanical integrity test consisting of

(I) a pressure test with liquid or gas,

(II) a radioactive tracer survey,

(III) a temperature, noise and/or oxygen activation log,

(IV) a casing inspection log, if required by the executive director, and

(V) any other test required by the executive director

(B) Pressure tests. Surface casing shall be pressure tested to 1,000 psig for at least 30 minutes, and long string casing shall be tested to 1,500 psig for at least 30 minutes, unless otherwise specified by the executive director.

(C) Core samples. Full-hole cores shall be taken from selected intervals of the injection zone and lowermost overlying confining zone, or, if full-hole coring is not feasible or adequate core recovery is not achieved, side-wall cores shall be taken at sufficient intervals to yield representative data for selected parts of the injection zone and lowermost overlying confining zone. Core analysis shall include a determination of permeability, porosity, bulk density, and other necessary tests. The executive director may require the operator to core other formations in the borehole.

(D) Injectivity tests. After completion of the well, injectivity tests shall be performed to determine the well capacity and reservoir characteristics. Surveys shall be performed to establish preferred injection intervals. Prior to performing injectivity tests, the bottom hole pressure, bottom hole temperature, and static fluid level shall be determined, and a representative sample of formation fluid shall be obtained for chemical analysis. Information concerning the fluid pressure, temperature, fracture pressure and other physical and chemical characteristics of the injection and confining zones shall be determined or calculated.

(7) Construction and workover supervision. All phases of well construction and all phases of any well workover shall be supervised by a professional engineer, with current registration pursuant to the Texas Engineering Practice Act, who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

(8) The executive director shall have the opportunity to witness all cementing of casing strings, logging and testing. The owner or operator shall submit a schedule of such activities to the executive director at least 30 days prior to commencing drilling of the well. The executive director shall be given at least 24 hour notice before each activity in order that a representative of the executive director may be present.

(9) Surface facilities

(A) The injection pump system shall be designed to assure that the surface injection pressure limitations authorized by the well permit shall not be exceeded.

(B) Instrumentation shall be installed to continuously monitor changes in annulus pressure and annulus fluid volume for the purpose of detecting well malfunctions and/or leaks.

§331.63 Operating Requirements

(a) All Class I wells shall be operated to prevent the movement of fluids that could result in the pollution of an underground source of drinking water and to prevent leaks from the well into unauthorized zones.

(b)(a) Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate new fractures or propagate existing fractures in the confining zone, or cause movement of fluid out of the injection zone that may pollute USDWs, and fresh or surface water.

(c)(b) Injection between the outermost casing protecting USDWs, and fresh or surface water and the wellbore is prohibited.

(d)(c) The annulus between the tubing and long string casing [tubing long string casing annulus] shall be filled with a non-corrosive or corrosion-inhibiting fluid approved by the commission. The annulus pressure shall be at least 100 psi [A positive pressure] greater than the injection tubing pressure [shall be maintained on the annulus] to prevent leaks from the well into unauthorized zones and to detect well malfunctions, unless the executive director determines that such a requirement might harm the integrity of the well.

(e)(d) Monthly average and maximum instantaneous rates of injection, and annual and monthly volumes of injected fluids shall not exceed limits specified by the commission.

(f)(e) All gauges, pressure sensing, and recording devices shall be tested and calibrated quarterly.

(g)(f) Any chemical or physical characteristic of the injected fluids shall be maintained within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the facility.

(h)(g) The permittee shall notify the executive director before commencing any workover operation or corrective maintenance which involves taking the injection well out of service. The notification shall be in writing and shall include plans for the proposed work. The executive director may grant an exception of the prior written notification when immediate action is required. Approval by the executive director shall be obtained before the permittee may begin any workover operation or corrective maintenance that involves taking the well out of service. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

(i)(h) Mechanical integrity shall be demonstrated following any major operations which involve removal of the injection tubing, recompletions, or unseating of the packer.

(j)(i) For workovers or testing operations on hazardous waste disposal wells, all hazardous fluids shall be flushed from the wellbore with a non-hazardous fluid before conducting any portion of the operations which would result in the exposure of the hazardous wastes to the environment or the public.

(k)(j) An owner or operator of a Class I well who ceases injection operations temporarily, may keep the well open provided he

(1) has received written authorization from the executive director, and

(2) has described actions or procedures, satisfactory to the executive director, that the owner or operator will take to ensure that the well will not endanger USDWs, and fresh or surface water during the period of temporary disuse. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells, including mechanical integrity [, unless waived by the executive director].

(l)(k) The owner or operator of a well that has ceased operations for more than two years shall notify the executive director 30 days prior to resuming operation of the well.

(m) The owner or operator shall maintain mechanical integrity of the injection well at all times.

§331.64 Monitoring and Testing Requirements

(a) Injection fluids shall be sampled and analyzed with a frequency sufficient to yield representative data of their characteristics.

(1) The owner or operator shall develop and follow an approved written waste analysis plan that describes the procedures to be carried out to obtain a detailed chemical and physical analysis of a representative sample of the waste, including the quality assurance procedures used. At a minimum, the plan shall specify:

(A) the parameters for which the waste will be analyzed and the rationale for the selection of these parameters;

(B) the test methods that will be used to test for these parameters; and

(C) the sampling method that will be used to obtain a representative sample of the waste to be analyzed.

(2) The owner or operator shall repeat the analysis of the injected wastes as described in the waste analysis plan and when process or operating changes occur that may significantly alter the characteristics of the waste stream.

(3) The owner or operator shall conduct continuous or periodic monitoring of selected parameters as required by the executive director.

(4) The owner or operator shall assure that the plan remains accurate and the analyses remain representative.

(b) Pressure gauges shall be installed and maintained, at the wellhead, in proper operating conditions at all times on the injection tubing and on the annulus between the tubing and long-string casing, [tubing-long string casing annulus] and/or annulus between the tubing and liner [tubing-liner annulus, at the wellhead].

(c) Continuous recording devices shall be installed and used, and maintained in proper operating condition at all times to record injection tubing pressures, injection flow rates, injection fluid temperatures, injection volumes, tubing-long string casing annulus pressure and volume, and any other data specified by the permit. The instruments shall be housed in weatherproof enclosures. The owner or operator shall also install and use

(1)-(2) (No change)

(3) If an automatic alarm or shutdown is triggered, the owner or operator shall immediately investigate and identify as expeditiously as possible the cause of the alarm or shutoff. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under subsection (c) of this section otherwise indicates that the well may be lacking mechanical integrity, the owner or operator shall:

(A) immediately cease injection of waste fluids unless authorized by the executive director to continue or resume injection;

(B) take all necessary steps to determine the presence or absence of a leak; and

(C) notify the executive director within 24 hours after the alarm or shutdown.

(4) If the loss of mechanical integrity is discovered pursuant to subsection (b) of this section or during periodic mechanical integrity testing, the owner or operator shall:

(A) immediately cease injection of waste fluids;

(B) take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;

(C) notify the executive director within 24 hours after the loss of mechanical integrity is discovered;

(D) notify the executive director when injection can be expected to resume; and

(E) restore and demonstrate mechanical integrity to the satisfaction of the executive director prior to resuming injection of waste fluids.

(5) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone;

(A) the owner or operator shall immediately cease injection of waste fluids, and;

(i) notify the executive director within 24 hours of obtaining such evidence;

(ii) take all necessary steps to identify and characterize the extent of any release;

(iii) propose a remediation plan for executive director review and approval;

(iv) comply with any remediation plan specified by the executive director;

(v) implement any remediation plan approved by the executive director; and

(vi) where such release is into a USDW or freshwater aquifer currently serving as a water supply, within 24 hours, notify the local health authority, place a notice in a newspaper of general circulation, and send notification by mail to adjacent landowners.

(B) the executive director may allow the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs or freshwater aquifers.

(d) Mechanical integrity must be demonstrated within 12 month intervals[, or within extended intervals not to exceed 15 months upon approval of the executive director, during the operating life of the well]. A temperature log, noise log, oxygen activation log or other approved log shall be required by the executive director at least once every five years to test for fluid movement along the borehole [, and a] A casing inspection, casing evaluation, or other approved log shall be run whenever the owner or operator conducts a workover in which the injection string is pulled, unless the executive director waives this requirement due to well construction or other factors which limit the test's reliability, or based upon the satisfactory results of a casing inspection log run within the previous five years. [by the executive director to determine the condition of the casing.] The executive director may require that a casing inspection log be run every five years, if there is sufficient reason to believe that the integrity of the long string casing of the well may be adversely affected by naturally occurring or man-made events.

(e)-(h) (No change.)

§331.65. Reporting Requirements.

(a) Pre-operation reports. For new wells, including wells converting to Class I status the requirements are as follows.

(1) Completion report. Within 90 days after the completion or conversion of the well, the permittee shall submit a Completion Report to the executive direc-

tor. The report shall include [addressing the considerations and standards in §331.45(1) of this title (relating to Certification of Construction and Completion) and §331.62 of this title (relating to Construction Standards), and including] a surveyor's plat showing the exact location and giving the latitude and longitude of the well. The report will also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the well, the well permit number, and its permitted waste streams. The permittee shall also include in the report, the following, prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act: The permittee shall integrate the data obtained into adjusted formation pressure increase calculations, fluid front calculations and updated cross-sections of the injection zone and include these items in the completion report]

(A) actual as-built drilling and completion data on the well;

(B) all logging and testing data on the well;

(C) a demonstration of mechanical integrity;

(D) anticipated maximum pressure and flow rate at which the permittee will operate;

(E) results of the injection zone and confining zone testing program as required in §331.62 of this title (relating to Construction Standards) and subsection (a) of this section;

(F) adjusted formation pressure increase calculations, fluid front calculations and updated cross-sections of the confining and injection zones, based on the data obtained during construction and testing;

(G) the actual injection procedure;

(H) the compatibility of injected wastes with fluids in the injection zone and minerals in both the injection zone and the confining zone and materials used to construct the well;

(I) the calculated area of review and cone of influence based on data obtained during logging and testing of the well and the formation, and where

necessary, revisions to the information submitted under §331.121 of this title (relating to Class I Wells);

(J) the status of corrective action required for defective wells in the area of review;

(K) a Well Data Report on forms provided by the executive director;

(L) compliance with the casing and cementing performance standard in §331.62(4) of this title; and

(M) compliance with the cementing requirements in §331.62(5) of this title.

(2) Local authorities. The permittee shall provide written notice to the executive director, in a manner specified by the executive director, that a copy of the permit has been properly filed with the health and pollution control authorities of the county, city, and town where the well is located.

(3) Start-up date and time. The permittee shall notify the executive director in writing of the anticipated well start-up date. Compliance with all pre-operation terms of the permit must occur prior to beginning injection operations. The permittee shall notify the executive director at least 24 hours prior to beginning drilling operations.

(4) Approval of construction and completion. Prior to beginning operations, the permittee must obtain written approval from the executive director, according to §331.45 of this title (relating to Executive Director Approval of Construction and Completion).

[(2) Well data report. Within 90 days after the completion of the well, the permittee shall submit to the executive director a Well Data Report on forms provided by the executive director.

[(3) Local authorities. The permittee shall provide written notice to the executive director in a manner specified by the executive director that a copy of the permit has been properly filed with the health and pollution control authorities of the county, city, and town where the well is located.

[(4) Start-up date and time. The permittee shall notify the executive director in writing of the anticipated well start-up date. Compliance with all pre-operation terms of the permit must occur prior to beginning injection operations. The permittee shall notify the executive director at least 24 hours prior to beginning drilling operations.

[(5) Certification of construction and completion. Prior to beginning operations, the permittee shall obtain written certification from the executive director which states that the construction and completion of the well is in compliance with the applicable provisions of the disposal well permit. To obtain certification, the permittee shall submit to the executive director the following reports prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

[(A) Final construction, "as-built" plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion).

[(B) Construction of the well and associated facilities has been completed in accordance with the provisions of the disposal well permit and with the design and construction specifications of the permittee's application.

[(C) Actual reservoir data obtained will not result in a change in the operating parameters specified in the permit.]

(b)-(c) (No change.)

§331.66. Additional Requirements and Conditions.

(a) A permit for a Class I well shall include expressly or by reference the following conditions.

(1)-(4) (No change.)

(5) The obligation to implement the closure [plugging and abandonment] plan and the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

(b) (No change.)

§331.68. Post-Closure Care.

(a) The owner or operator of a Class I hazardous well shall prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) of this section, and is acceptable to the executive director.

(1) (No change.)

(2) The owner or operator shall submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the clo-

sure [plugging and abandonment] report required under §331.46 of this title (relating to Closure [Plugging and Abandonment] Standards).

(3) The plan shall assure financial responsibility as required in §§331.141-331.147 [305.153] of this title (relating to Financial Responsibility). The owner or operator shall demonstrate and maintain financial responsibility for post-closure by using a trust fund, surety bond, letter of credit, financial test, insurance or corporate guarantee, that meets the specifications for the mechanisms and instruments revised as appropriate to cover closure and post-closure care in §§331.141-331.147 of this title. The amount of the funds available shall be no less than the amount identified in subparagraph (F) of this section.

(4)-(5) (No change.)

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 22, 1994.

TRD-9442866

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: July 29, 1994

For further information, please call: (512) 239-6087

◆ ◆ ◆
• 30 TAC §331.62

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Natural Resource Conservation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repealed section is proposed pursuant to the Texas Water Code, §5.103 and §5.105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27, and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

§331.62. Construction Standards.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 22, 1994.

Earliest possible date of adoption: July 29, 1994

For further information, please call: (512) 239-6087

◆ ◆ ◆
**Subchapter G. Consideration
 Prior to Permit Issuance**

• 30 TAC §§31.121, §31.122

The amended section is proposed pursuant to the Texas Water Code §§5.103 and §5.105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27 and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

§31.121. *Class I Wells.*

(a) The commission shall consider the following before issuing a Class I Injection Well Permit:

(1) (No change.)

(2) all information in the Technical Report submitted with the application for permit in conformance with Chapter 305 of this title (relating to Consolidated Permits) including, but not limited to:

(A)-(F) (No change.)

(G) proposed operating data:

(i)-(v) (No change.)

(vi) for salt cavern waste disposal, the results of tests performed on the waste to demonstrate that the waste will remain solid under cavern conditions; and

(vii) (No change.)

(H)-(N) (No change.)

(O) construction procedures including a cementing and casing program, contingency cementing plan for managing lost circulation zones and other adverse subsurface conditions, well materials specifications and their life expectancy, logging procedures, deviation checks, and a drilling, testing, and coring program;

(P) (No change.)

(3) whether the applicant will assure, in accordance with §§31.141-31.147 of this title (relating to Financial Responsibility), through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well and/or waste disposal cavern as required.

(4)-(5) (No change.)

(b)-(f) (No change.)

(g) Before issuing a permit for a hazardous waste injection well in a solution-mined salt dome cavern, the commission by order must find that there is an urgent public necessity for the hazardous waste injection well. The commission, in determining whether an urgent public necessity exists for the permitting of the hazardous waste injection well in a solution-mined salt dome cavern, must find that:

(1) the injection well will be designed, constructed, and operated in a manner that provides at least the same degree of safety as required of other currently operating hazardous waste disposal technologies;

(2) consistent with the need and desire to manage the state hazardous wastes generated in the state, there is a substantial or obvious public need for additional hazardous waste disposal capacity and the hazardous waste injection well will contribute additional capacity toward servicing that need;

(3) that the injection well will be constructed and operated in a manner so as to safeguard public health and welfare and protect physical property and the environment;

(4) the applicant has demonstrated that groundwater and surface waters, including public water supplies, will be protected from the release of hazardous waste from the salt dome waste containment cavern; and

(5) any other criteria required by the commission to satisfy that the test of urgency has been met.

§31.122. *Class III Wells.* The commission shall consider the following before issuing a Class III Injection Well or Area Permit:

(1) -(2) (No change.)

(3) whether the applicant will assure, in accordance with §§31.141-31.147 of this title (relating to Financial Responsibility), through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well;

(4) the closure [plugging and abandonment] plan, in accordance with §31.146 of this title (relating to Closure Standards), submitted in the Technical Report accompanying the application;

(5) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 22, 1994.

TRD-9442867

Mary Ruth Holder
 Director, Legal Division
 Texas Natural Resource
 Conservation
 Commission

Earliest possible date of adoption: July 29, 1994

For further information, please call: (512) 239-6087

◆ ◆ ◆
Subchapter I. Financial Responsibility

• 30 TAC §§31.142-31.144

The amended sections are proposed pursuant to the Texas Water Code §§5.103 and §5.105, which authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27 and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes.

§31.142. *Financial Responsibility.*

(a) The permittee shall secure and maintain a performance bond or other equivalent form of financial assurance or guarantee approved by the commission as identified in §31.144 of this title (relating to Financial Assurance for Plugging and Abandonment) to ensure the closing, plugging, abandonment, and post-closure care of the injection operation in the manner prescribed by the commission. The assurance may cover more than one well or operation. For new Class I and Class III [hazardous waste disposal] injection wells, and Class I salt cavern disposal wells and associated salt caverns, financial security shall be provided [obtained] at least 60 days prior to the commencement of drilling operations for the well. All assurance shall be effective before commencement of drilling operations. For converted wells and other previously constructed wells, financial security shall be provided at least 30 days prior to permit issuance and be effective upon permit issuance. [For other injection wells, financial security shall be obtained prior to the injection of fluids.]

(b) (No change.)

§331.143 Cost Estimate for Plugging and Abandonment.

(a) (No change)

(b) The owner or operator must adjust the plugging and abandonment cost estimate for inflation within 30 days after each anniversary of the date on which the first plugging and abandonment cost estimate was prepared. The adjustment must be made as specified in paragraphs (1) and (2) of this section, using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the United States Department of Commerce in its **Survey of Current Business**. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(2) (No change.)

(c)-(e) (No change.)

§331.144 Financial Assurance for Plugging and Abandonment An owner or operator of each facility must establish financial assurance for the plugging and abandonment of each existing and new Class I, Class III injection well, and Class I salt cavern disposal well and associated salt cavern. [III, IV, and/or V well(s) haz-

ardous waste injection well.] For new wells and/or salt caverns, financial security shall be provided [obtained] at least 60 days prior to the commencement of drilling operations for the well. All assurance shall be effective before commencement of drilling operations. For converted wells and other previously constructed wells, financial security shall be provided at least 30 days prior to permit issuance and be effective upon permit issuance. [For the other injection wells, financial security shall be obtained at least 60 days prior to the injection of fluids.] The owner or operator [He] may choose from the options as specified in paragraphs (1) -(6) of this section

(1) Plugging and abandonment trust fund.

(A) An owner or operator may satisfy the requirements of this section by establishing a plugging and abandonment trust fund which conforms to the requirements of this paragraph and by submitting an originally signed duplicate of the trust agreement to the executive director. An owner or operator of any of the previously referenced wells in this section [a Class I well injecting hazardous waste] must provide [submit] the originally signed duplicate of the trust agreement to the executive director at least 60 days prior to the commencement of drilling operations for the well. [with the permit application or for approval to operate under rule.] For converted wells and other previously constructed wells, the originally signed duplicate of the trust agreement must be provided to the executive director at least 30 days prior to permit issuance. The trustee must be an entity which has the

authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency

(B) (No change.)

(C) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the injection well as estimated in the plugging and abandonment plan, whichever period is shorter, this period is hereafter referred to as the "pay-in period." The payments into the plugging and abandonment trust fund must be made as follows.

(i) For a new well, the first payment must be made before the commencement of drilling operations [initial injection of waste(s)]. A receipt from the trustee for this payment must be submitted by the owner or operator to the executive director before commencement of drilling operations [60 days before this initial injection of waste(s)]. For converted wells and other previously constructed wells, the first payment must be made and a receipt from the trustee for this payment must be submitted by the owner or operator to the executive director before permit issuance. The first payment must be at least equal to the current plugging and abandonment cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula.

PE-CV

Next payment = Y

where PE is the current plugging and abandonment cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) (No change.)

(D)-(K) (No change.)

(2) Surety bond guaranteeing payment into a plugging and abandonment trust fund.

(A) An owner or operator must satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the executive director with the application for a permit or for approval to operate under rule. The bond must be provided [effective] at least 60 days before the commencement of drilling of a new well. [initial injection of hazard-

ous waste.] The bond must be effective before commencement of drilling operations. For converted wells and other previously constructed wells, the bond shall be provided at least 30 days prior to permit issuance and be effective upon permit issuance. The bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the United States Department of Treasury.

(B)-(I) (No change.)

(3) Surety bond guaranteeing performance of plugging and abandonment

(A) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and by submitting the bond to the executive director. An owner or operator of a new facility must submit the bond to the executive director with the permit application or for approval to operate under rule. The bond must be provided [effective] at least 60 days before commencement of the drilling of a new well. [before injection of waste(s) is started.] The bond must be effective before commencement of drilling operations. For converted wells and other previously constructed wells, the bond shall be provided at least 30 days prior to permit issuance and be effective upon permit issuance. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the United States Department of the Treasury.

(B) The wording of the surety bond must be identical to the wording specified in §331.147(c)(d) of this title (relating to Wording of the Instruments)

(C)-(J) (No change.)

(4) Plugging and abandonment letter of credit.

(A) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable stand-by letter of credit which conforms to the requirements of this paragraph and by submitting the letter to the executive director. An owner or operator of an injection well must submit the letter of credit to the executive director during submission of the permit application or for approval to operate under rule. The letter of credit must be provided at least 60 days before the commencement of drilling of a new well. [effective before initial injection of waste(s).] The letter of credit must be effective before commencement of drilling operations. For converted wells and other previously constructed wells, the letter of credit shall be provided at least 30 days prior to permit issuance and be effective upon permit issuance. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

(B)-(I) (No change.)

(J) The executive director will return the letter of credit to the issuing institution for termination when:

(i) an owner or operator substitutes and receives approval from the executive director of the commission [TWC] for alternate financial assurance as specified in this section; or

(ii) (No change.)

(5) Plugging and abandonment insurance.

(A) An owner or operator may satisfy the requirements of this section by obtaining plugging and abandonment insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the executive director. An owner or operator of a new injection well must submit the certificate of insurance to the executive director with the permit application or for approval to operate under rule. The insurance must be provided [effective] at least 60 days before the commencement of drilling of a new well. [before injection starts.] The insurance must be effective before commencement of drilling operations. For converted wells and other previously constructed wells, the insurance shall be provided at least 30 days prior to permit issuance and be effective upon permit issuance. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(B)-(J) (No change.)

(6)-(9) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 22, 1994.

TRD-9442868

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: July 29, 1994

For further information, please call (512) 239-6087

◆ ◆ ◆
Subchapter J. Standards for
Class I Salt Cavern Solid
Waste Disposal Wells

• 30 TAC §§331.163, 331.164,
331.167, 331.171

The amended sections are proposed pursuant to the Texas Water Code, §5.103 and §5.105, which authorizes the Texas Nat-

ural Resource Conservation Commission to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27 and other laws of this state, and pursuant to the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the Texas Natural Resource Conservation Commission to promulgate rules necessary to manage industrial solid and municipal hazardous wastes

§331.163. Well Construction Standards

(a) Plans and specifications. Except as specifically required in the terms of the disposal well permit, drilling and completion of the well shall be done in accordance with all permit application plans and specifications. Any proposed changes to the plans and specifications must be approved [certified] in writing by the executive director that said changes provide protection standards equivalent to or greater than the original design criteria.

(b)-(c) (No change)

(d) Well annulus system factors for consideration. All elements of the design of the well's tubing-longstring casing annulus system, including the outer tubing and packer, shall be approved by permit or by the executive director's approval [certification] that any proposed modifications to the plans and specifications in the permit application will provide protection equivalent to or greater than the original plans and specifications. In determining and specifying requirements for a tubing and packer system, the following factors shall be considered

(1) -(7) (No change)

(e)-(h) (No change)

(i) Approval [Certification] of completion of the well construction stage. Prior to beginning cavern construction, the permittee shall obtain written approval [certification] from the executive director which states that the well construction is in compliance with the applicable provisions of the permit. To obtain approval [certification], the permittee shall submit to the executive director within 90 days of completion of well construction, including all logging, coring, and testing of the pilot hole, the following reports and certifications prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act

(1) final construction, "as-built" plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Approval [Certification] of Construction and Completion);

(2)-(3) (No change.)

§331.164. *Cavern Construction Standards.*

(a)-(e) (No change.)

(f) Reports and approval [certification].

(1) (No change.)

(2) Approval [Certification] of completion of the cavern construction stage. Within 90 days of completion of cavern construction, including configuration of the well for waste disposal, and prior to beginning waste emplacement, the permittee shall obtain written approval [certification] from the executive director which states that the cavern construction is in compliance with the applicable provisions of the permit. To obtain approval [certification], the permittee shall submit to the executive director the following reports and certifications prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

(A) final construction, "as-built" plans and specifications, injection and confining zone data, and an evaluation of the considerations set out in §331.45(2) of this title (relating to Approval [Certification] of Construction and Completion);

(B)-(D) (No change.)

§331.167 *Reporting Requirements*

(a) Pre-operation reports

(1) Well completion report. Within 90 days after the completion of the well, the permittee shall submit a Well Completion Report to the executive director addressing the considerations and standards in §331.45(2) of this title (relating to Approval [Certification] of Construction and Completion) and §331.163 of this title (relating to Construction Standards), and including a completed copy of the commission's Well Data Form, and a surveyor's plat showing the exact location and giving the latitude and longitude of the well. The report will also include a certification that a notation on the deed to the

(3)-(4) (No change.)

(5) Approval [Certification] of construction and completion. Prior to beginning operations, the permittee shall obtain written approval [certification] from the executive director which states that the constructions and completions of the well and cavern are in compliance with the applicable provisions of the salt cavern solid waste disposal well permit. To obtain certification, the permittee shall submit to the executive director the following reports and certifications prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the well, and the well permit number. The permittee shall integrate the data obtained into adjusted injection zone fluid transport calculations and updated cross-sections of the injection zone and include these items in the completion report.

(2) Cavern completion report. Within 90 days after the completion of the cavern, the permittee shall submit a Cavern Completion Report to the executive director addressing the considerations and standards in §331.45(2) of this title (relating to Approval [Certification] of Construction and Completion) and §331.164 of this title (relating to Construction Standards), and including a surveyor's plat showing the exact location and giving the latitude and longitude of the cavern. The report will also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the cavern, the well permit number, the depth of the cavern floor and ceiling, the cavern diameter, the dates of operation, and its permitted waste streams. The permittee shall integrate the data obtained into adjusted injection zone waste transport calculations, waste front calculations and updated cross-sections of the injection zone and include these items in the completion report.

(A) final construction, "as-built" plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(2) of this title (relating to Approval [Certification] of Construction and Completion);

(B)-(C) (No change.)

(b) (No change.)

§331.171. *Post-Closure Care.*

(a) The owner or operator of a Class I salt cavern solid waste disposal well shall prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) of this section, and that is acceptable to the executive director.

(1)-(2) (No change.)

(3) The plan shall assure financial responsibility as required in §§331.141-331.147 [305.153] of this title (relating to Financial Responsibility). The amount of the funds available shall be no less than the amount identified in paragraph (4)(F) of this subsection.

(4) (No change.)

(5) At the request of the owner or operator, or on his own initiative, the executive director may modify the post-closure plan after submission of the closure [plugging and abandonment] report following the procedures in §331.46 of this title (relating to Closure [Plugging and Abandonment] Standards).

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 22, 1994.

TRD-9442869

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: July 29, 1994

For further information, please call: (512) 239-6087

Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note. As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas

Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The Commissioner of Insurance of the Texas Department of Insurance, at a meeting held at 9:00 a.m., June 20, 1994 in Room 100 of

the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, adopted an amendment proposed by Staff to the Texas Automobile Rules and Rating Manual (the Manual), consisting of new and/or adjusted 1991-1994 model Private Passenger Automobile Physical Damage Rating Symbols. Staff's petition (Reference Number A-0494-10-1) was published in the May 10, 1994, issue of the *Texas Register* (19 TexReg 3573).

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the various model years of the listed vehicles. Staff has endeavored to delete from the attached exhibit the symbols developed by Insurance Services Office, Inc. (ISO) for utility vehicles and trucks, in accordance with existing departmental methodology. However, in the event that any such symbols were inadvertently included in the exhibit, the Commissioner does not adopt any symbols for utility vehicles and trucks.

In compliance with ISO's request to Staff, distribution of the Manual will include on the first and last page of the symbol section the following statement:

"The symbols in this manual are copyrighted by Insurance Services Office, Inc. Permission to use these symbols in Texas is limited to any insurer writing auto insurance in Texas. Use of the symbols outside of Texas requires the specific written permission of the copyright owner."

The amendment as adopted by the Commissioner of Insurance is shown in an exhibit on file with the Chief Clerk under Reference Number A-0494-10-1, which is incorporated by reference into Commissioner's Order Number 94-0695.

The Commissioner of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.96, 5.98, and 5.01.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it

from the requirements of the Administrative Procedure Act.

Consistent with the Texas Insurance Code, Article 5.96(h), the Department will notify all insurers writing automobile insurance of this adoption by letter summarizing the Commissioner's action.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

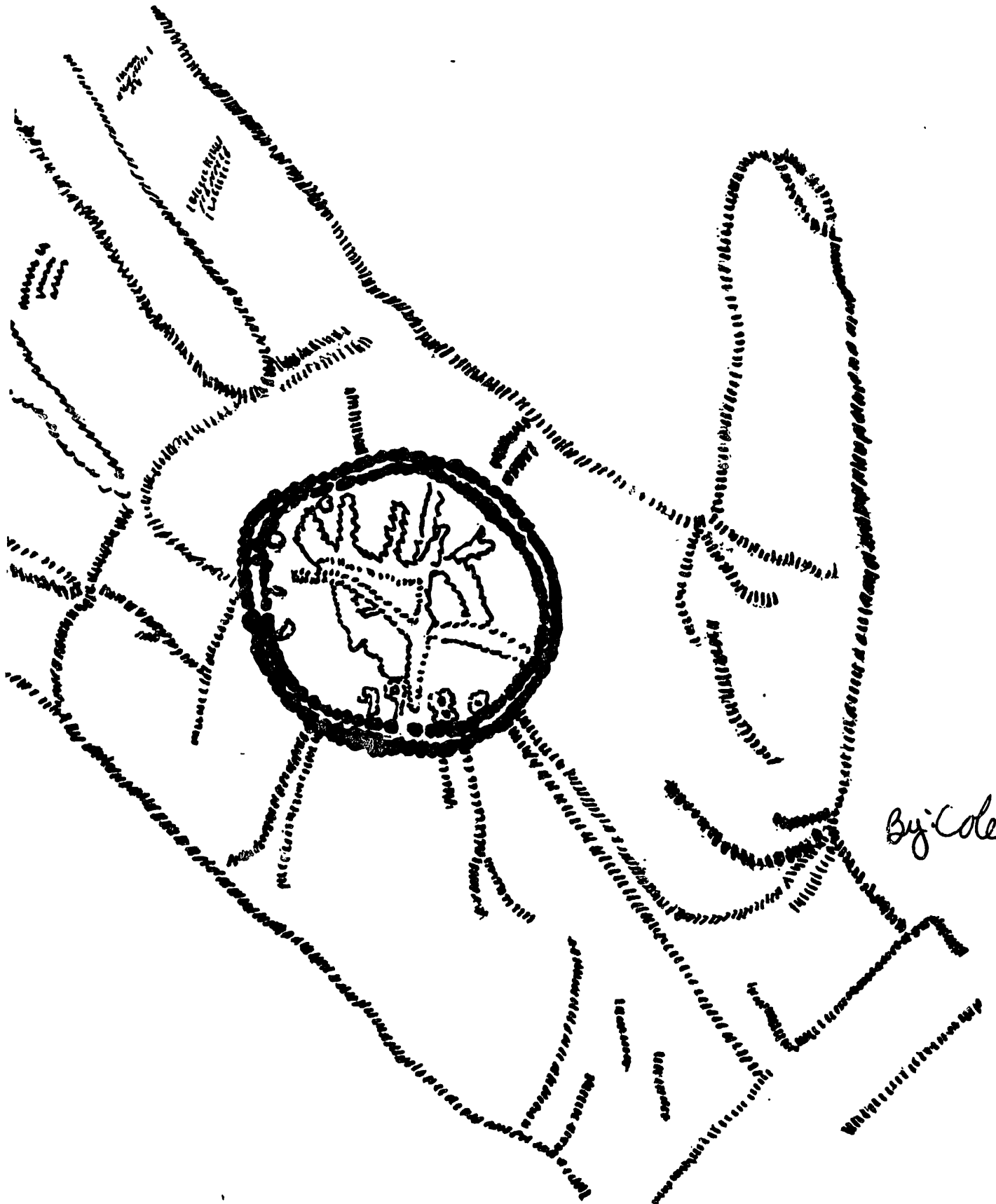
Issued in Austin, Texas, on June 22, 1994.

TRD-9442881

D. J. Powers
Legal Counsel to the
Commissioner
Texas Department of
Insurance

For further information, please call: (512) 463-6328

◆ ◆ ◆



By Cole H.

WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the **Texas Register**. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the **Texas Register**, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the **Texas Register**.

TITLE 4. AGRICULTURE

Part II. Texas Animal Health Commission

Chapter 43. Tuberculosis

Subchapter A. Cattle

• 4 TAC §43.2

The Texas Animal Health Commission has withdrawn from consideration for permanent adoption a proposed amendment to §43.2, which appeared in the June 21, 1994, issue of the *Texas Register* (18 TexReg 9809). The effective date of this withdrawal is June 21, 1994.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442816 Terry Beals, DVM
Executive Director
Texas Animal Health
Commission

Effective date: June 21, 1994

For further information, please call: (512) 719-0714



TITLE 7. BANKING AND SECURITIES

Part I. Finance

Commission of Texas

Chapter 3. Banking Section

Subchapter E. Banking House and Other Facilities

• 7 TAC §3.92

The Finance Commission of Texas has withdrawn from consideration for permanent adoption a proposed new §3.92, which appeared in the March 8, 1994, issue of the *Texas Register* (19 TexReg 1616). The effective date of this withdrawal is June 28, 1994.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442828 Everette D. Jobe
General Counsel
Finance Commission of
Texas

Effective date: June 28, 1994

For further information, please call: (512) 475-1300



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VIII. Children's Trust Fund of Texas Council

Chapter 203. Advisory Committees

• 40 TAC §§203.1-203.5

The Children's Trust Fund of Texas Council has withdrawn the emergency effectiveness of new §§203.1-203.5, concerning advisory committees. The text of the emergency new §§203.1-203.5 appeared in the March 25, 1994, issue of the *Texas Register* (19 TexReg 2115). The effective date of this withdrawal is July 12, 1994.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442803 Sue Marshall
Manager, Policy and
Planning
Children's Trust Fund of
Texas Council

Effective date: July 12, 1994

For further information, please call: (512) 458-1281





ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 7. BANKING AND SECURITIES

Part I. Finance

Commission of Texas

Chapter 3. Banking Section

Subchapter A. Securities Activities and Subsidiaries

• 7 TAC §3.4

The Finance Commission of Texas (the Commission) adopts an amendment to §3.4, concerning foreign banking, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3205). Section 3.4 was originally adopted by the Commission in 1985 to permit state banks to engage in foreign banking as allowed for national banks, in an effort to achieve competitive equality in the dual banking system.

The language of the rule in fact tracks the language used in 12 United States Code §601, the provision authorizing national banks to engage in foreign banking. However, in connection with the recent passage of the North American Free Trade Agreement (NAFTA), questions have arisen regarding the interpretation of §3.4(a)(2) and whether it overrides the 10% investment limitation of Texas Civil Statutes, Article 342-513(a)(1).

Terms used in the rule and the statute are similar but not identical because the rule tracks federal law without regard to terms used in the state statute, leading to some confusion.

Specifically, a person has questioned whether §3.4(a)(2) authorizes an investment of up to 25% of a state nonmember bank's capital and surplus in a foreign bank subsidiary as would be permitted by the Federal Deposit Insurance Corporation (the FDIC), 12 Code of Federal Regulations, §347.4. National banks (and state member banks) are not subject to any percentage limitation as the Board of Governors of the Federal Reserve System (the Fed) apparently chose to restrict and regulate specific activities rather than limit the amount of investment, 12 Code of Federal Regulations, Part 211, Subpart A. In any event, a state nonmember bank would be required to obtain FDIC approval to invest in a foreign bank, and would be subject to the FDIC investment limitation. A state member

bank would be subject to Fed activity restrictions. The purpose of §3.4 is to facilitate foreign banking by state banks to the extent permitted by federal banking regulators, and the adopted amendment to §3.4 should forward that purpose.

The amendment to §3.4 clarifies that the investment limitations of Article 342-513(a)(1) do not apply to investments authorized by the section, broadens the Commissioner's discretion, forwards the original purpose of the rule, and facilitates the implementation of NAFTA.

The Texas Bankers Association submitted a letter expressing no opposition to the proposed amendment.

The amendment is adopted under Texas Civil Statutes, Article 342-113(4), which provide the Commission with the authority to promulgate general rules and regulations to permit state banks to transact their affairs in any manner which they could do were they organized and operating as national banks.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994

TRD-9442821 Everette D Jobe
General Counsel
State Finance Commission

Effective date. July 13, 1994

Proposal publication date April 29, 1994

For further information, please call (512) 475-1300

Subchapter B. General

• 7 TAC §3.21

The Finance Commission of Texas (the Commission) adopts the repeal of §3 21, concerning the exemption of vehicles (automobiles) owned by the Texas Department of Banking (the Department) from state vehicle identification requirements and the use and operation of exempt vehicles, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3205). Pursuant to Senate Bill 1, 70th Legislature, Second Called Session (General Appropriations Act), the Legislature provided that none of the funds appropriated could be used by the Department "for the

purchase and/or maintenance of any additional or replacement automobiles during the biennium." The biennium was for the period from September 1, 1987 to August 31, 1989. Subsequent appropriations acts have contained the same prohibition. Further, Senate Bill 1, as enacted by the 70th Legislature, provided that it was the intent of the Legislature that the Department's fleet of vehicles be "phased out over a period not to exceed three years, and that the agency begin reimbursing its personnel on a standard mileage basis."

The Department has completed this phase-out process and no longer owns any automobiles or other vehicles. As there is no longer an underlying statutory basis for §3 21, it should be repealed.

The repeal will eliminate obsolete provisions from the Texas Administrative Code.

The Texas Bankers Association submitted a letter expressing no opposition to the proposed repeal.

Repeal of this section is adopted pursuant to the Banking Code, Article 342-103, which gives the Commission the authority to "adopt rules and determine general policies for the regulation of state banks, state associations, savings banks, and the consumer credit industry of the state."

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994

TRD-9442822 Everette D Jobe
General Counsel
State Finance Commission

Effective date July 13, 1994

Proposal publication date April 29, 1994

For further information, please call (512) 475-1300

• 7 TAC §3.27

The Finance Commission of Texas (the Commission) adopts the repeal of §3 27 concerning the enforcement of final judgment against state banks, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3206).

Section 3.27, effective January 12, 1988, provided that no attachment, injunction or execu-

tion against a state bank or its property would be effective if issued before a final judgment. This rule has been codified in the Banking Code, Article 342-609, effective June 16, 1989, which provides that no attachment, injunction, or execution issued on or after September 1, 1989 shall be enforced against a financial institution until all appeals have been exhausted or foreclosed by law. As §3.27 has been superseded by the Banking Code, Article 342-609, which covers the same subject matter, §3.27 should be repealed.

The repeal will eliminate a rule that is duplicative of a statutory provision.

The Texas Bankers Association submitted a letter expressing no opposition to the proposed repeal.

The repeal is adopted pursuant to the Banking Code, Article 342-103, which authorizes the Commission to "adopt rules and determine general policies for the regulation of state banks, state associations, savings banks, and the consumer credit industry in the state."

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442823 Everette D. Jobe
General Counsel
State Finance Commission

Effective date July 13, 1994

Proposal publication date April 29, 1994

For further information, please call. (512) 475-1300

◆ ◆ ◆
• 7 TAC §3.33

The Finance Commission of Texas (the Commission) adopts the repeal of §3.33, concerning notice and processing times for certain applications by banks and trust companies, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3206).

Section 3.33 contained provisions regarding notice and processing times for foreign bank agencies which would be more appropriately located in Subchapter C of this chapter. Accordingly, the Commission has adopted a new §3.45 in this issue of the *Texas Register* that establishes notice and processing times for foreign bank agency applications. In addition, §3.33 included notice and processing times for applications other than those to engage in a business. Because such applications do not fall within the parameters of Texas Government Code, §2005.003 and §2005.006, provisions in §3.33 relating to them are not required by law and should be repealed.

The repeal of §3.33 will eliminate burdensome requirements that are unnecessary under law.

The Texas Bankers Association submitted a letter expressing no opposition to the proposed repeal.

The repeal is adopted pursuant to the rulemaking authority under Texas Government Code, §2005.003, which requires a state agency that issues permits to "adopt procedural rules for processing permit applications and issuing permits," and pursuant to the Texas Banking Code, Article 342-103, which gives the Commission the authority to "adopt rules and determine general policies for the regulation of state banks, state associations, savings banks, and the consumer credit industry of the state."

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442824 Everette D. Jobe
General Counsel
State Finance Commission

Effective date: July 13, 1994

Proposal publication date: April 29, 1994

For further information, please call: (512) 475-1300

◆ ◆ ◆
• 7 TAC §3.36

The Finance Commission of Texas (the Commission) adopts the repeal of §3.36, concerning the operation of banks and trust companies under the same conditions as national banks, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3207).

Section 3.36 was adopted effective March 26, 1992 in order to resolve the potential conflict between Article XVI, §16(c) of the Constitution of the State of Texas which provides, in part, that state banks shall have "the same rights and privileges that are or may be granted to national banks of the United States" domiciled in Texas and the Banking Code, Article 342-910a, which established mandatory legal holidays for state banks and trust companies. National banks are permitted to close or remain open on any state designated holiday unless the Comptroller of the Currency directs otherwise by written order, and the purpose of §3.36 was to put state banks in parity with national banks in terms of holiday closings. The Banking Code, Article 342-910a, was repealed effective September 1, 1993. As there are no longer mandatory state bank holidays, §3.36 should be repealed.

The repeal will eliminate obsolete provisions from the Texas Administrative Code.

The Texas Bankers Association submitted a letter expressing no opposition to the proposed repeal.

The repeal is adopted pursuant to the Banking Code, Article 342-103, which authorizes the Commission to "adopt rules and determine general policies for the regulation of state banks, state associations, savings banks, and the consumer credit industry in the state."

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442825 Everette D. Jobe
General Counsel
State Finance Commission

Effective date: July 13, 1994

Proposal publication date: April 29, 1994

For further information, please call: (512) 475-1300

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Subchapter C. Foreign Bank Agencies

• 7 TAC §3.45

The Finance Commission of Texas adopts new §3.45, concerning notice and processing times for license applications by foreign bank agencies, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3207).

Existing §3.33, which contains similar information, is repealed in this issue of the *Texas Register*.

Adopted §3.45 incorporates those portions of §3.33 which pertain to foreign bank agencies, clarifies and corrects them as necessary, and places the new provisions with other rules on foreign bank agencies.

The Texas Bankers Association submitted a letter expressing no opposition to the proposed section.

The new section is adopted pursuant to the rulemaking authority under Texas Government Code, §2005.003, which requires a state agency that issues permits to adopt procedural rules for processing permit applications and issuing permits.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442826 Everette D. Jobe
General Counsel
State Finance Commission

Effective date: July 13, 1994

Proposal publication date: April 29, 1994

For further information, please call. (512) 475-1300

◆ ◆ ◆
Chapter 4. Currency Exchange

• 7 TAC §4.1

The Finance Commission of Texas adopts the repeal of §4.1, concerning the issuance of provisional licenses under the Currency Exchange Act, Texas Civil Statutes, Article 350 (the Act), without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3208).

Section 4.1, effective March 26, 1992, provided that the Banking Commissioner of

Texas (the Commissioner) may grant a provisional license to any person who has filed a completed application with the Department of Banking on or before December 31, 1991. It also allowed the Commissioner to issue a provisional license to any person who makes a good faith effort to comply with the Act. The purpose of this section was to allow the Commissioner to issue provisional licenses to businesses already in operation as of the effective date of the Act, January 1, 1992, to prevent disruption or interruption of the activities of these businesses and the services they provided to the public.

The Act has been in effect for more than two years. The purpose served by this section has been fulfilled and no provisional licenses are in effect at this time. Section 4.1 is therefore repealed to eliminate obsolete and potentially confusing regulation.

No comments were received regarding the proposed repeal.

The repeal is adopted pursuant to Texas Civil Statutes, Article 350, §7, which authorizes the Finance Commission to adopt rules necessary to implement Article 350.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442831
Everette D. Jobe
General Counsel
State Finance Commission

Effective date: July 13, 1994

Proposal publication date: April 29, 1994

For further information, please call: (512) 475-1300

◆ ◆ ◆
• 7 TAC §4.7

The Finance Commission of Texas adopts an amendment to §4.7, concerning bonding requirements under the Currency Exchange Act, Texas Civil Statutes, Article 350 (the Act), without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3208). Pursuant to the Act, §10, the Banking Commissioner of Texas (the Commissioner) is required to determine the appropriate level of bonding for a licensee. Existing §4.7 was adopted to set forth the method for setting bond amounts under the Act, and subsection (e) provided that the Commissioner will review the bond amount each year when the license is renewed, or at any time after there is a change in the manner in which the licensee conducts business or a change in the ownership or management of the licensee's business. Experience has proven that the Commissioner needs the flexibility, in situations where licensees have underestimated or understated their volume of business, to change the required amount of the bond to ensure the public is adequately protected in the event of a violation of law or a defalcation by a licensee.

The section as amended gives the Commissioner the power to reset or adjust the re-

quired bond amount during or subsequent to an examination of a licensee or after a review of the quarterly reports submitted by a licensee, if the bond is found to be inadequate based on findings of the examination or review of the quarterly reports.

No comments were received on the proposal.

The amendment is adopted under Texas Civil Statutes, Article 350, §7, which require the Commission to adopt rules necessary to implement Article 350, and under §10, which gives the Commissioner the power to set the bond amount.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442832
Everette D. Jobe
General Counsel
State Finance Commission

Effective date: July 13, 1994

Proposal publication date: April 29, 1994

For further information, please call: (512) 475-1300

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Part II. Banking
Department of Texas

Chapter 11. Miscellaneous

General

• 7 TAC §11.27

The Texas Commissioner of Banking and the Finance Commission adopts new §11.27, to establish procedures and fees for inspection and photocopying of public records under the Texas Government Code, Chapter 552, commonly known as the Texas Open Records Act, without changes to the proposed text as published in the April 29, 1994, issue of the *Texas Register* (19 TexReg 3211).

Pursuant to Acts 1993, 73rd Legislature, Chapter 428, §5, and amendments to the Government Code, Chapter 552 made therein (see text following Government Code §552.261), each agency must adopt rules specifying its charges in an effort to recover the agency's full cost of providing copies of public records. Adoption of §11.27 accomplishes this objective. Standard size copies of public records will cost \$0.10 for each page, to which is added postage or delivery charges. For copies of more than 50 pages, or if more than 30 minutes must be spent redacting confidential information to prepare the records for public release, personnel charges of \$15 per hour of time spent on the request will be added. Regardless of the number of copies, if more than 30 minutes must be spent redacting confidential information to prepare the records for public release, a \$3.00 per hour overhead charge plus \$0.50 per minute of computer time will be added to copy, personnel, and delivery charges.

No comments were received.

The new rule is adopted under the provisions of Acts 1993, 73rd Legislature, Chapter 428, and Government Code, §§552.230, 552.261, and 552.263, which authorize the agency to promulgate reasonable rules of procedure under which public records may be inspected efficiently, safely and without delay, and which require the agency to prescribe rules specifying the charges the agency will make for copies of public records.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442833
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: April 29, 1994

For further information, please call: (512) 475-1300

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Chapter 13. Practice and
Procedures

The Finance Commission of Texas (the Commission) adopts the repeal of §§13.1-13.12, 13.21-13.26, 13.31-13.35, 13.41-13.44, 13.51-13.55, 13.61-13.71, 13.81-13.89, 13.101-13.106, and 13.121-13.131 (the entirety of Chapter 13 of Title 7), concerning practice and procedure before the Commission and the Banking Commissioner, without changes to the proposed text as published in the May 3, 1994, issue of the *Texas Register* (19 TexReg 3313).

The sections are repealed as part of a comprehensive revision and recodification of all Commission, State Banking Board, Banking Commissioner, and Department of Banking practice and procedure rules related to matters regulated by the Department of Banking. This revision and recodification will result in the deletion of some sections, the adoption of new sections, and the revision and reenactment of other sections with new section numbers assigned. The repeal is necessary to permit adoption of and avoid conflict with the new sections for Chapter 13 of Title 7, adopted in this issue of the *Texas Register*.

No comments were received on the proposed repeal.

Subchapter A. Hearing Procedures

General Provisions

• 7 TAC §§13.1-13.12

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442834

Everette D Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

The Finance Commission of Texas (the Commission) adopts new §§13.1-13.20 (Subchapter A), §§13.50-13.56 (Subchapter B), and §§13.101-13.103 (Subchapter C), concerning practice and procedure before the Commission, the Banking Commissioner, and the Texas Department of Banking, without changes to the proposed text as published in the May 3, 1994, issue of the *Texas Register* (19 TexReg 3314). However, two references to the Department of Banking were changed to refer to the Department to conform to the use of defined terms.

The sections are being adopted as part of a comprehensive revision and recodification of all Commission, Banking Commissioner, State Banking Board, and Department of Banking practice and procedure rules related to matters regulated by the Department of Banking. This revision and recodification will result in the deletion of some sections, the adoption of new sections, and the revision and reenactment of others with new section numbers assigned. Existing §§13.1-13.12, 13.51-13.55, and 13.101-13.103 are repealed, together with the remainder of Chapter 13 of Title 7, in this issue of the *Texas Register*.

The sections set forth modern administrative procedure and incorporate the provisions of Government Code, Chapter 2001 (the Administrative Procedure Act), where feasible, in order to maintain flexibility and adaptability in future years. The most noticeable enhancement is perhaps the incorporation of the methods of discovery from the Texas Rules of Civil Procedure.

Subchapter A. Hearing Procedures

• 7 TAC §§13.1-13.20

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994

TRD-9442835

Everette D Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Pleadings

• 7 TAC §§13.21-13.26

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442836

Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Parties

• 7 TAC §§13.31-13.35

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442837

Everette D Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Prehearing Procedures

• 7 TAC §§13.41-13.44

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442838

Everette D Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Subchapter B. Appeals to Finance Commission

• 7 TAC §§13.50-13.56

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442839

Everette D Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Discovery

• 7 TAC §§13.51-13.55

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442840

Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Hearings

• 7 TAC §§13.61-13.71

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442841
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

◆ ◆ ◆
Evidence

◆ ◆ ◆
• 7 TAC §§13.81-13.89

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442842
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

◆ ◆ ◆
Proposal for Decision and Orders

◆ ◆ ◆
• 7 TAC §§13.101-13.106

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442843
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

Subchapter C. Rulemaking

◆ ◆ ◆
• 7 TAC §§13.101-13.103

The new sections are adopted under Government Code, §2001.004(1) and §2001.021(b), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures and to adopt rules regarding petitions for adoption of rules.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442844
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

◆ ◆ ◆
Subchapter B. Appeals to Finance Commission

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• 7 TAC §§13.121-13.131

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994

TRD-9442846
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

◆ ◆ ◆
Chapter 17. Rulemaking

The Finance Commission of Texas (the Commission) adopts the repeal of §§17.1-17.4 and 17.11-17.16 (the entirety of Chapter 17 of Title 7), concerning rulemaking procedures, without changes to the proposed text as published in the May 3, 1994, issue of the *Texas Register* (19 TexReg 3319).

The sections are generally considered unnecessary because Government Code, §2001.021 et seq, provides comparable requirements regarding rulemaking procedures. Further, the sections are repealed as part of a

comprehensive revision and recodification of all Commission, State Banking Board, Banking Commissioner, and Department of Banking practice and procedure rules related to matters regulated by the Department of Banking.

This revision and recodification will result in the deletion of some sections, the adoption of new sections, and the revision and reenactment of other sections with new section numbers assigned. No sections have been proposed for Chapter 17 of Title 7 and the chapter will be reserved for future use.

The repeal is necessary to permit adoption of and avoid conflict with the new sections for Chapter 13 of Title 7 that deal with initiation of rulemaking proceedings, adopted in this issue of the *Texas Register*.

No comments were received.

Adoption of Rules

◆ ◆ ◆
• 7 TAC §§17.1-17.4

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on June 21, 1994

TRD-9442851
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call (512)
475-1300

◆ ◆ ◆
Petition for Rules

◆ ◆ ◆
• 7 TAC §§17.11-17.16

The repeals are adopted under Government Code, §2001.004(1), which requires all administrative agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442852
Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: July 13, 1994

Proposal publication date: May 3, 1994

For further information, please call: (512)
475-1300

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

1915(c) Medicaid Home and Community-Based Waiver Services for Aged and Disabled Adults Who Meet Criteria for Alternatives to Nursing Facility Care

Notice of Correction of Error

(Editor's Note) The Texas Department of Human Services (DHS) submitted an adoption preamble that contained an error as published in the May 20, 1994, issue of the Texas Register (19 TexReg 3956). On page 3956, the preamble stated that §48 6030 was adopted without changes, and, therefore, the section was not republished. The preamble should have stated that the section was adopted with changes and reads as follows:

§48 6030. Personal Assistance and Support Services General Contracting Requirements. To contract with the Texas Department of Human Services (DHS) to provide personal assistance and support services under the Nursing Facility Waiver Program, a legal entity or one of its divisions must

(1) be licensed by the Texas Department of Health (TDH) as a Home and Community Support Service agency to provide the following categories of service.

(A) licensed and certified home health services; and

(B) personal assistance services.

(2) be authorized by the secretary of state to do business in the State of Texas (if an out-of-state corporation),

(3) be certified for reimbursement under the Social Security Act, Titles XVIII and XIX; and

(4) be under contract with DHS to provide Primary Home Care Services

Issued in Austin, Texas, on June 21, 1994

Part VIII. Children's Trust Fund of Texas Council

Chapter 203 Advisory Committees

• 40 TAC §§203.1-203.5

The Children's Trust Fund of Texas Council adopts new §§203 1-203 5, without changes

to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 2115).

These sections comply with the provisions of Senate Bill 383 (73rd Legislature) requiring agencies to outline in rule form all advisory committees and for which expense reimbursement is sought.

The new sections provide the necessary policies and procedures for the advisory committees of the Children's Trust Fund of Texas Council.

No comments were received regarding adoption of the new sections

The new sections are adopted under the Human Resources Code, Title 3, Chapter 74, §74.003(a)(11), which provides the Children's Trust Fund of Texas Council with the authority to adopt rules governing the administration of the agency and its programs

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on June 8, 1994

TRD-9442802

Stuart Bowen
Assistant Attorney General,
Office of the Attorney
General
Children's Trust Fund of
Texas Council

Effective date July 12, 1994

Proposal publication date March 15, 1994

For further information, please call (512) 458 1281

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department of Agriculture

Thursday, July 14, 1994, 7:00 a.m.

Angora Room, Inn of the Hills, 1001 Junction Highway

Kerrville

According to the agenda summary, the Texas Sheep and Goat Commodity Board will hear opening remarks; review and approval; minutes of May meeting, fiscal affairs; discussion and action; new business—review of telephone messages and contacts with the office; unfinished business—review proposals from four wildlife management associations, review status of aerial flying proposal, Mason County Livestock and Wildlife Protection Association, Sterling County Wildlife Conservation Association, Pilot Program revisions, and feasibility of area wide "Hot Spots" program; report from Gary Nunley—Animal Damage Control; scheduling of next meeting; discussion other business; and adjourn

Contact: Minnie Savage, 233 West Twohig, San Angelo, Texas, 76902-3543, (915) 659-8777.

Filed: June 23, 1994, 9:50 a.m.

TRD-9442930



Texas Commission on Children and Youth

Wednesday, June 29, 1994, 10:00 a.m.

1600 West 38th Street, Suite 200, The Arc of Texas

Austin

According to the agenda summary, the Prevention/Intervention Commission Members' Work Group will hold a work group meeting.

Contact: Kay Ghahremani, P.O. Box 13106, Austin, Texas 78711, (512) 305-9056

Filed: June 21, 1994, 3:59 p.m.

TRD-9442815

Texas Department of Criminal Justice

Friday, July 1, 1994, 10:00 a.m.

TDCJ Staff Development Offices, 8100 Cameron Road, Building B, Suite 600

Austin

According to the agenda summary, the Board of Criminal Justice, Subcommittee on Community Justice Assistance Division will discuss prison allocation formula/transfer allocation formula, and community corrections program allocation formula.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: June 22, 1994, 1:34 p.m.

TRD-9442890

Friday, July 1, 1994, 1:00 p.m.

TDCJ Staff Development Offices, 8100 Cameron Road, Building B, Suite 600

Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Prison Names will discuss consideration and formulation of recommendations for facility names

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250

Filed: June 22, 1994, 1:34 p.m.

TRD-9442889

Texas State Board of Dental Examiners

Friday-Saturday, June 24-25, 1994, 8:00 a.m.

Stouffer Austin Hotel, 9721 Arboretum Boulevard (San Antonio Room)

Austin

Emergency Revised Agenda

According to the agenda summary, the Board discussed, consideration and nominations to the Dental Hygiene Advisory Committee on Steve Parrino, Consumer.

Reason for emergency: This request for consideration to the DHAC was just received in the TSBDE office for consideration at the Friday, June 24 Board Meeting; to be voted on by the full Board.

Contact: C. Thomas Camp, 333 Guadalupe, Tower 3 Suite 3800, Austin, Texas 78759, (512) 463-6400.

Filed: June 22, 1994, 10:47 a.m.

TRD-9442886

◆ ◆ ◆
Texas General Land Office

Monday, June 27, 1994, 3:30 p.m.

1700 North Congress Avenue, SFA Building, Room #831

Austin

Emergency Meeting

According to the complete agenda, the Veterans Land Board discussed approval of the May 13, 1994 minutes of the Veterans Land Board meeting and consideration of a resolution to approve the Bond Purchase Contract for State of Texas Veterans Housing Assistance Bonds, Series 1994 B-4 in the aggregate principal amount of \$35,000,000.

Reason for emergency: To take action to approve the Bond Purchase Contract in light of changing market conditions to amend the transactions structure to permit debt service savings.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: June 23, 1994, 9:50 a.m.

TRD-9442936

◆ ◆ ◆
Texas House of Representatives

Wednesday, June 29, 1994, 1:30 p.m.

7703 Floyd Curl Drive, UT Health Science Center, Lecture Room 409 L, Main Medical Building

San Antonio

According to the agenda summary, the Natural Resources Subcommittee on Migration of Property Rights will seek to identify conflicts between landowners' property rights and land use with federal and state policies for the protection of threatened/endangered species and habitat. Specific attention is to be directed to identifying incentives measures, but testimony is invited on private property rights, mitigation, and endangered species issues. All interested parties are invited to attend the hearing to testify (time may be limited), or written comments will be accepted.

Contact: John B. Hofmann, c/o Rep. Robert Turner, P.O. Box 2910, Austin, Texas 78768, (512) 463-0644.

Filed: June 21, 1994, 3:43 p.m.

TRD-9442808

Wednesday, July 13, 1994, 1:00 p.m.

Angelo State University, Recital Hall, Education and Fine Arts Building

San Angelo

According to the agenda summary, the Natural Resources Subcommittee on Mitigation of Property Rights will seek to identify conflicts between landowners' property rights and land use with federal and state policies for the protection of threatened/endangered species and habitat. Specific attention is to be directed to identifying incentives measures, but testimony is invited on private property rights, mitigation, and endangered species issues. All interested parties are invited to attend the hearing to testify (time may be limited), or written comments will be accepted.

Contact: John B. Hofmann, c/o Rep. Robert Turner, P.O. Box 2910, Austin, Texas 78768, (512) 463-0644.

Filed: June 21, 1994, 3:44 p.m.

TRD-9442809

Tuesday, August 9, 1994, 1:30 p.m.

Capitol Extension, Room E2.016

Austin

According to the agenda summary, the Natural Resources Subcommittee on Mitigation of Property Rights will seek to identify conflicts between landowners' property rights and land use with federal and state policies for the protection of threatened/endangered species and habitat. Specific attention is to be directed to identifying incentives measures, but testimony is invited on private property rights, mitigation, and endangered species issues. All interested parties are invited to attend the hearing to testify (time may be limited), or written comments will be accepted.

Contact: John B. Hofmann, c/o Rep. Robert Turner, P.O. Box 2910, Austin, Texas 78768, (512) 463-0644.

Filed: June 21, 1994, 3:44 p.m.

TRD-9442810

◆ ◆ ◆
Texas Department of Insurance

Wednesday, July 6, 1994, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502

Austin

According to the complete agenda, the Texas Department of Insurance will consider the application of Bernie L. Thompson, Garland, Texas, for a Group I, Legal Reserve Life Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 23, 1994, 9:48 a.m.

TRD-9442925

Tuesday, July 12, 1994, 1:30 p.m.

Gainesville Civic Center, 311 South Weaver

Gainesville

According to the complete agenda, the Commissioner of Insurance will hold a public hearing under Docket Number 2105 to discuss problems encountered by residents and small businesses in the immediate and surrounding areas in the purchase of insurance coverage. The meeting will conclude when all witnesses have had an opportunity to speak. Those wishing to present testimony are requested to complete a witness card which will be available at the meeting site prior to the hearing.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: June 21, 1994, 11:09 a.m.

TRD-9442798

◆ ◆ ◆
Texas Juvenile Probation Commission

Tuesday, June 28, 1994, 3:00 p.m.

Texas Juvenile Probation Commission, Conference Room, 2015 South IH-35

Austin

Emergency Meeting

According to the complete agenda, the TJPC/TYC Joint Subcommittee will call to order; approval of minutes; request for emergency funds—plan for excessive 1994 TYC commitments; joint policy statements on legislative issues, determinate sentencing, certification age, age of juvenile jurisdiction, agency consolidation, judicial discretion, confidentiality, continuation of committee, set next meeting; and adjourn.

Reason for emergency: Agenda items must be discussed and approved prior to both TJPC and TYC board meetings in July.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: June 22, 1994, 4:51 p.m.

TRD-9442915

Board of Law Examiners

Friday, July 8, 1994, 8:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

According to the complete agenda, the Hearings Panel will hold public hearings and conduct deliberations on character and fitness of applicants and/or declarants. (Character and fitness deliberations may be conducted in executive session, pursuant to §82.003(c), Texas Government Code.)

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: June 22, 1994, 10:06 a.m.

TRD-9442883

Texas Council on Offenders with Mental Impairments

Thursday, July 7, 1994, 8:30 a.m.

TDCJ-Pardons and Paroles Building, Board Room, 8610 Shoal Creek

Austin

According to the complete agenda, the Planning Committee will call the meeting to order; hear introductions; approve minutes; discuss a Memorandum Of Understanding (MOU), discuss an action plan for MOU implementation; discuss standardized release of information; old business; new business; and adjourn.

Contact: Dee Kifowit, 8610 Shoal Creek, Austin, Texas 78757, (512) 406-5406.

Filed: June 22, 1994, 8:32 a.m.

TRD-9442819

Texas Natural Resource Conservation Commission

Wednesday, June 29, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

Revised Agenda

According to the agenda summary, the Texas Natural Resource Conservation Commission will add to contested agenda, alternative fuels.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: June 21, 1994, 10:26 a.m.

TRD-9442796

Board of Nurse Examiners

Thursday, July 7, 1994, 9:30 a.m.

9101 Burnet Road, Suite 104

Austin

According to the agenda summary, the Nursing Practice Advisory Committee will call to order, roll call; approval of the minutes of April 13, 1994 meeting; review of minimum procedural standards; staff report of intern/preceptorships and discussion of graduate nurse entry requirements; lunch, re-entry requirements for RNs who have been out of practice for extended periods of time; additional topics from committee members; comments from observers; and adjourn.

Contact: Cady Crimson, MSN, RN, CNS, Box 140466, Austin, Texas 78714, (512) 835-8665.

Filed: June 21, 1994, 10:25 a.m.

TRD-9442794

Tuesday-Wednesday, July 12-13, 1994, 8:00 a.m.

1812 Centre Creek Drive, Room 203

Austin

According to the agenda summary, the Board of Nurse Examiners will receive the minutes from the May meeting; April and May financial statements; consider education matters; practice and compliance matters and receive a report from the executive director. An open forum will be held from 1:30-2:00 p.m. on Tuesday, July 12 to provide an opportunity for public comment. The board will receive reports from various committees; consider the adoption of two rules; consider an amendment to the inactive status rule; take action on 17 proposed board orders, two ALI proposals for decisions. The board will elect officers and set board meeting dates for 1995.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: June 22, 1994, 2:12 p.m.

TRD-9442900

Texas Board of Pardons and Paroles

Tuesday-Friday, July 5-8, 1994, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the

board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 23, 1994, 9:51 a.m.

TRD-9442931

Tuesday-Wednesday, July 5-6, 1994, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407

Filed: June 23, 1994, 9:52 a.m.

TRD-9442934

Tuesday-Friday, July 5-8, 1994, 1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 23, 1994, 9:51 a.m.

TRD-9442933

Thursday-Friday, July 7-8, 1994, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles

composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 23, 1994, 9:52 a.m.

TRD-9442935

Thursday-Friday, July 7-8, 1994, 1:00 p.m. and 9:00 a.m. respectively.

Route 5, Box 258-A

Gatesville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 23, 1994, 9:51 a.m.

TRD-9442932

Texas State Board of Pharmacy

Tuesday, July 19, 1994, 1:00 p.m.

One Capitol Square, 300 West 15th Street, Fourth Floor, Room 502

Austin

According to the complete agenda, the Office of Administrative Hearings will conduct a disciplinary hearing in the matter of Texas State Board of Pharmacy vs. Seth Lane Pakchar, R.Ph.

Contact: Carol Fisher, 8505 Cross Park Drive, #110, Austin, Texas 78754-4594, (512) 832-0661.

Filed: June 23, 1994, 9:50 a.m.

TRD-9442929

Texas State Board of Examiners of Psychologists

Friday, July 8, 1994, 11:00 a.m.

William P. Hobby Airport, 7300 Airport Boulevard (Main Cafeteria)

Houston

According to the complete agenda, the Search Committee will call to order; public comments; review and discuss search for the position of executive director; adjourn.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: June 22, 1994, 4:10 p.m.

TRD-9442912

Public Utility Commission of Texas

Tuesday, July 5, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division has scheduled a joint prehearing conference in the following dockets-Docket Number 13126-inquiry of the General Counsel into the operation and management of the South Texas Nuclear Project; and Docket Number 12065-complaint of Kenneth D. Williams against Houston Lighting and Power Company; and Docket Number 12820-petition of the General Counsel for an inquiry into the reasonableness of the rates and services of Central Power and Light Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: June 21, 1994, 3:59 p.m.

TRD-9442814

Thursday, July 7, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 13102-application of Lower Colorado River Authority for sale, transfer, merger of 17.8 mile, 69 KV transmission line from Bandera Electric Cooperative.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 22, 1994, 1:34 p.m.

TRD-9442888

Monday, July 11, 1994, 2:00 p.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a joint prehearing conference in Docket Numbers 13090 and 13091: Docket Number 13090-application of GTE Southwest, Inc. to provide redundancy for the 911 network; and Docket Number 13091-application of Contel of Texas, Inc. to provide redundancy for the 911 network.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 22, 1994, 2:52 p.m.

TRD-9442909

Tuesday, August 9, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Consolidated Docket Number 12784-application of Southwestern Bell Telephone Company, Contel of Texas, Inc., and GTE Southwest, Inc. to restructure rates and pricing of the local transport and directory transport categories of their switched access service tariffs.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 23, 1994, 9:48 a.m.

TRD-9442924

Monday, October 31, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing in Docket Number 12792-joint petition of Southwestern Bell Telephone Company to provide extended area calling service from the Cuero Exchange to the Victoria Exchange.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 22, 1994, 2:49 p.m.

TRD-9442908

Monday, November 14, 1994, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division has scheduled a hearing on the merits in Docket Number 12862-joint petition for extended area service between Southwestern Bell Telephone

Company's Center Exchange and its San Augustine Exchange.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 22, 1994, 4:52 p.m.

TRD-9442917

◆ ◆ ◆
Railroad Commission of Texas

Wednesday, June 22, 1994, 3:00 p.m.

1701 North Congress Avenue, 12th Floor Conference Room 12-126

Austin

Emergency Revised Agenda

According to the agenda summary, the Railroad Commission of Texas held its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Reason for emergency: The commission had duly posted the above-noted meeting for 2:00 p.m. on June 22. After the posting deadline a reasonably unforeseeable situation arose in that a commission employee passed away and his funeral was scheduled for 2:00 p.m. tomorrow. The commission plans on attending his funeral; therefore, the above meeting had to be rescheduled for 3:00 p.m. on June 22, 1994.

Contact: Polly McDonald, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7009.

Filed: June 21, 1994, 3:59 p.m.

TRD-9442813

◆ ◆ ◆
Texas Southern University

Thursday, June 28, 1994, 3:30 p.m.

Texas Southern University, 3100 Cleburne/Hannah Hall Room 111

Houston

According to the complete agenda, Board of Regents, the Personnel, Student Service and Academic Affairs Committee will meet to consider: reports progress of academic activities and programs; personnel actions.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: June 22, 1994, 9:45 a.m.

TRD-9442879

**Texas Woman's University;
Board of Regents**

Wednesday, June 29, 1994, 9:00 a.m.

14th Floor, Administration Conference Tower, TWU Denton Campus

Denton

According to the complete agenda, the Finance and Audit Committee will consider approval of the minutes of the committee meeting of March 25, 1994; consider recommending approval of personnel additions and changes, the capital improvement calendar, gifts and grants, contracts and agreements; allocation of federal funds, renewal and extension of insurance; a Certificate of Substantial Completion on carpeting for the ACT Building Project, fiscal 1995 budget guidelines, and purchase of property located at 1124 Austin Street, Denton, Texas, subject to Coordinating Board approval; receive the 1993-1994 fourth quarter internal audit activity report; and report of the committee chair.

Contact: Patricia A. Sullivan, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: June 22, 1994, 2:14 p.m.

TRD-9442904

Wednesday, June 29, 1994, 9:30 a.m.

14th Floor, Administration and Conference Tower, TWU Denton Campus

Denton

According to the complete agenda, the Academic Affairs Committee will consider approval of the minutes of the committee meeting of March 25, 1994; consider recommending approval of the TWU Faculty Grievance Policy; report on activities of the Office of Academic Affairs, including tenure and promotion overview and faculty searches. Report of the committee chair.

Contact: Patricia A. Sullivan, P.O. Box 23925, Denton, Texas 76204, (817) 893-3201.

Filed: June 22, 1994, 2:14 p.m.

TRD-9442901

Wednesday, June 29, 1994, 10:00 a.m.

14th Floor, Administration and Conference Tower, TWU Denton Campus

Denton

According to the complete agenda, the Student Affairs Committee will consider approval of the minutes of the committee meeting of March 25, 1994; consider approval of an increase in the Student Service Fee and approval of Student Service Fee allocations; report on activities of the Office of Student Life; and report of the committee chair.

Contact: Patricia A. Sullivan, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: June 22, 1994, 2:14 p.m.

TRD-9442903

Wednesday, June 29, 1994, 10:30 a.m.

14th Floor, Administration and Conference Tower, TWU Denton Campus

Denton

According to the complete agenda, the Committee on Institutional Advancement will consider approval of the minutes of the committee meeting of March 25, 1994; report on alumnae relations, development, and public information activities of the Office of Institutional Advancement; report of the committee chair.

Contact: Patricia A. Sullivan, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: June 22, 1994, 2:14 p.m.

TRD-9442902

Wednesday, June 29, 1994, 2:00 p.m.

16th Floor, Administration and Conference Tower, TWU Denton Campus

Denton

According to the agenda summary, the Texas Woman's University, Board of Regents will meet in executive session; consider approval of minutes of the board meetings of March 25, 1994, May 11, 1994, and May 19, 1994; consider approval of personnel additions and changes, the capital improvement calendar, gifts and grants, contracts and agreements, allocation of federal funds, renewal and extension of insurance, a Certificate of Substantial Completion, fiscal 1995 budget guidelines, purchase of property, faculty for tenure, promotion, and emeritus status; the TWU Faculty Grievance Policy, an increase in the Student Service Fee and approval of Student Service Fee allocations; reports of the committee chairs; and report from the interim president.

Contact: Patricia A. Sullivan, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: June 22, 1994, 2:14 p.m.

TRD-9442905

◆ ◆ ◆
Texas Department of Transportation

Thursday, June 30, 1994, 9:00 a.m.

200 East Riverside Drive, Room 101

Austin

According to the agenda summary, the Texas Transportation Commission will approve minutes. Appearance and remarks by Representative Irma Rangel concerning El

Paso Court of Inquiry. Staff briefing on highway lettings electronic bulletin board. Contract awards/rejections. Programs: 1994 Governor's Community Achievement Awards; Governor's antilitter program support; and Traffic Light Synchronization III. Routine minute orders. District/division reports. Environmental issues. Interstate, U.S., State, and FM Road projects. Transportation planning: 1994-1996 Statewide Transportation Plan revisions and modifications of Victoria MPO boundaries. Multimodal transportation projects. Rulemaking: 43 TAC Chapters 1, 4, 21, 23, 27, and 31. Consider temporary closure of IH 30 North/IH 35 East frontage road for Dallas Grand Prix Auto Race. Authorize pay schedule of hourly-paid maintenance and marine technicians. Authorize the executive director to act for commission on contracts by Harris County for construction of a toll facility. Staff report on contract management manual. Executive session for legal counsel and land acquisition matters. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630

Filed: June 22, 1994, 2:39 p.m.

TRD-9442907

Monday, July 11, 1994, 1:00 p.m.

200 East Riverside Drive, Room 102

Austin

According to the agenda summary, the Public Transportation Advisory Committee will approve minutes. Briefing on Commission meetings. Update on needs assessment for \$9, Operators. Review of proposed revised \$16, Grant Program Rules. Public transportation legislative issues. Briefing on State Transportation Plan.

Contact: Richard Christie, 125 East 11th Street, Austin, Texas 78701, (512) 483-3650

Filed: June 22, 1994, 2:38 p.m.

TRD-9442906

Texas Workers' Compensation Insurance Fund

Wednesday, June 29, 1994, 8:30 a.m.

100 Congress Avenue, Suite 600

Austin

According to the agenda summary, the Board of Directors will call to order; swearing in of new board member; roll call; review and approval of minutes of the May 18, 1994, board meeting; report of the audit committee; report of the administrative committee; report of the finance committee; fund status report; financial report; consid-

eration of policy regarding charitable donations; public participation; executive session; action items resulting from executive session deliberations; announcements; and adjourn.

Contact: Beth Naylor, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3886. TRD-9442812.

Filed: June 21, 1994, 3:45 p.m.

TRD-9442812

Regional Meetings

Meetings Filed June 21, 1994

The Falls County Appraisal District Appraisal Review Board met at the Interstate of Highway 6 and 7, Falls County Courthouse-First Floor, Marlin, June 27, 1994, at 9:00 a.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, (817) 883-2543. TRD-9442804.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, June 28, 1994, at 9:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9442805.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, June 29, 1994, at 9:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9442811.

The Lower Rio Grande Valley Development Council Hidalgo County Metropolitan Planning Organization met at the TxDOT District Office, 600 West Expressway U.S. 83, Pharr, June 23, 1994, at 7:00 p.m. The emergency revised agenda was needed to release request for proposal for advertisement. Information may be obtained from Edward L. Molitor, 4900 North 23rd Street, McAllen, Texas, (210) 682-3481. TRD-9442797.

The Region V Education Service Center Board of Directors will meet in the ESC Boardroom, 2295 Delaware Street, Beaumont, June 29, 1994, at 1:00 p.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212. TRD-9442801.

The Region IX Education Service Center Board of Directors will meet at the Region IX Education Service Center, 301 Loop 11, Wichita Falls, June 29, 1994, at 12:30 p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9442795.

The Wise County Appraisal District Appraisal Review Board will meet at 206 South State Street, Decatur, June 28, 1994, at 9:00 a.m. Information may be obtained from LaReesea North, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9442807.

The Wise County Appraisal District Appraisal Review Board will meet at the Decatur City Hall, 201 East Walnut, Decatur, July 1, 1994, at 10:00 a.m. Information may be obtained from LaReesea North, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9442806.

Meetings Filed June 22, 1994

The Atascosa County Appraisal District Appraisal Review Board will meet at Fourth and Avenue J, Poteet, June 28, 1994, at 8:00 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9442911.

The Austin-Travis County MHMR Center (Emergency revised agenda.) Board of Trustees met at 1430 Collier Street-Board Room, Austin, June 23, 1994, at 9:30 a.m. The emergency status was necessary due to an item that was added to agenda that needs board action. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9442918.

The Bandera County Appraisal District Appraisal Review Board of the Bandera County Appraisal District will meet at 1116 Main Street former Bandera Bulletin Building, Bandera, July 5, 1994, at 9:00 a.m. Information may be obtained from P. H. Coats, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, or Fax: (210) 796-3672. TRD-9442885.

The Brazos River Authority Joint meeting of Administrative Policy and Water Utilization Committees, Board of Directors will meet at 4400 Cobbs Drive, Waco, June 29, 1994, at 9:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9442874.

The Brazos Student Finance Corporation (Rescheduled from June 22, 1994) Executive Committee will meet in the Conference Room of the Offices of Fulbright and Jaworski, 2200 Ross Avenue, Suite 2800, Dallas, June 29, 1994, at 4:00 p.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9442878.

The Brazos Valley Development Council Regional Overall Economic Development Program (OEDP) will meet in the BVDC Conference Room, 1706 East 29th Street, Bryan, June 28, 1994, at Noon. Information may be obtained from Gary Basinger, P.O.

Drawer 4128, Bryan, Texas 77805-4128. TRD-9442884.

The Coryell County Appraisal District Appraisal Review Board will meet at the Coryell County Appraisal District Office 113 North Seventh Street, Gatesville, June 28, 1994, at 9:30 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9442916.

The Dawson County Central Appraisal District Appraisal Review Board will meet at Lamesa Branch Howard College, 1810 Lubbock Highway, Lamesa, June 28-29, 8:30 a.m. and 9:00 a.m., respectively. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79831, (806) 872-7060. TRD-9442887.

The Edwards Central Appraisal District Appraisal Review Board will meet at the New County Annex Building, Rocksprings, July 8, 1994, at 8:30 a.m. Information may be obtained from Natalie Pruitt, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189. TRD-9442875.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, July 6, 1994, at 8:40 a.m. Information may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442894.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, July 7, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442895.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, July 11, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442896.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, July 12, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442897.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, July 18, 1994, at 9:00 a.m. Infor-

mation may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442898.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, July 19, 1994, at 9:00 a.m. Information may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9442899.

The Leon County Central Appraisal District Board of Directors met at the Corner of Highway 7 and Highway 75, Leon County Central Appraisal District Office, Gresham Building, Centerville, June 27, 1994, at 7:00 p.m. Information may be obtained from Donald G. Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252 or Fax: (903) 536-2377. TRD-9442820.

The Mills County Appraisal Review Board met at the Mills County Appraisal District Office, Mills County Courthouse, Goldthwaite, June 27, 1994, at 1:00 p.m. Information may be obtained from Cynthia Partin, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253. TRD-9442876.

The Texas Panhandle Mental Health Authority Board of Trustees, TPMHA will meet at 7201 I-40 West, Second Floor, Amarillo, June 30, 1994, at 10:30 a.m. Information may be obtained from Shirley Hollis, P.O. Box 3250, Amarillo, Texas 79116-3250, (806) 353-3699, Fax (806) 353-9537. TRD-9442910.

The Tarrant County Appraisal District Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, July 1, 2, 5-9, 11-16, 18-29, 1994, at 8:00 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9442893.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, July 7, 1994, at 5:00 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9442861.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, July 7, 1994, at 5:30 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9442860.

Meetings Filed June 23, 1994

The Brazos Valley Quality Work Force Planning Committee will meet at 101 North Texas Avenue, Bryan, June 28, 1994, at 11:30 a.m. Information may be obtained from Patty Croff, 301 Post Office Street, Bryan, Texas 77801, (409) 823-4988. TRD-9442923.

The Golden Crescent Regional Planning Commission Executive Committee will meet in Room Six, 2705 Houston Highway, Holiday Inn, Victoria, June 29, 1994, at 4:30 p.m. Information may be obtained from Rhonda Stastny, P. O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9442919.

The Golden Crescent Regional Planning Commission Board of Directors will meet in Room Six, 2507 Houston Highway, Holiday Inn, Victoria, June 29, 1994, at 5:00 p.m. Information may be obtained from Rhonda G. Stastny, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9442937.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron Street, Rockdale, June 27, 1994, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9442926.

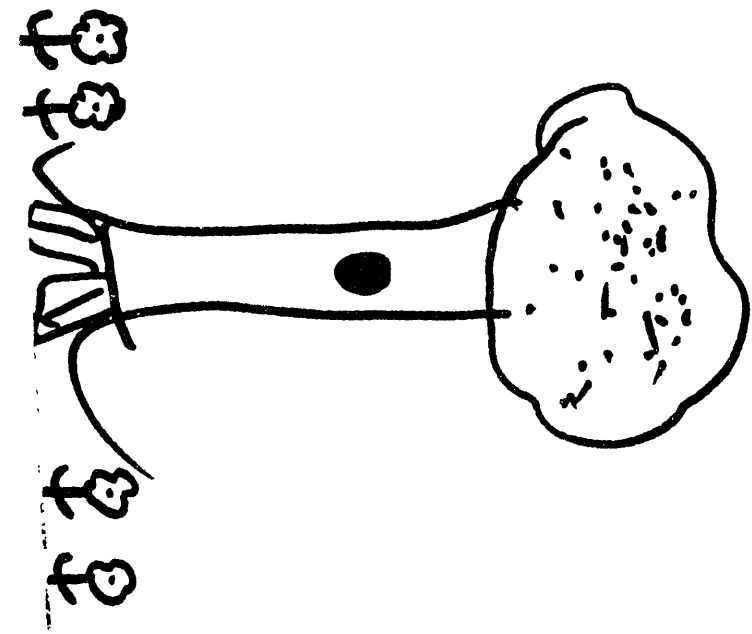
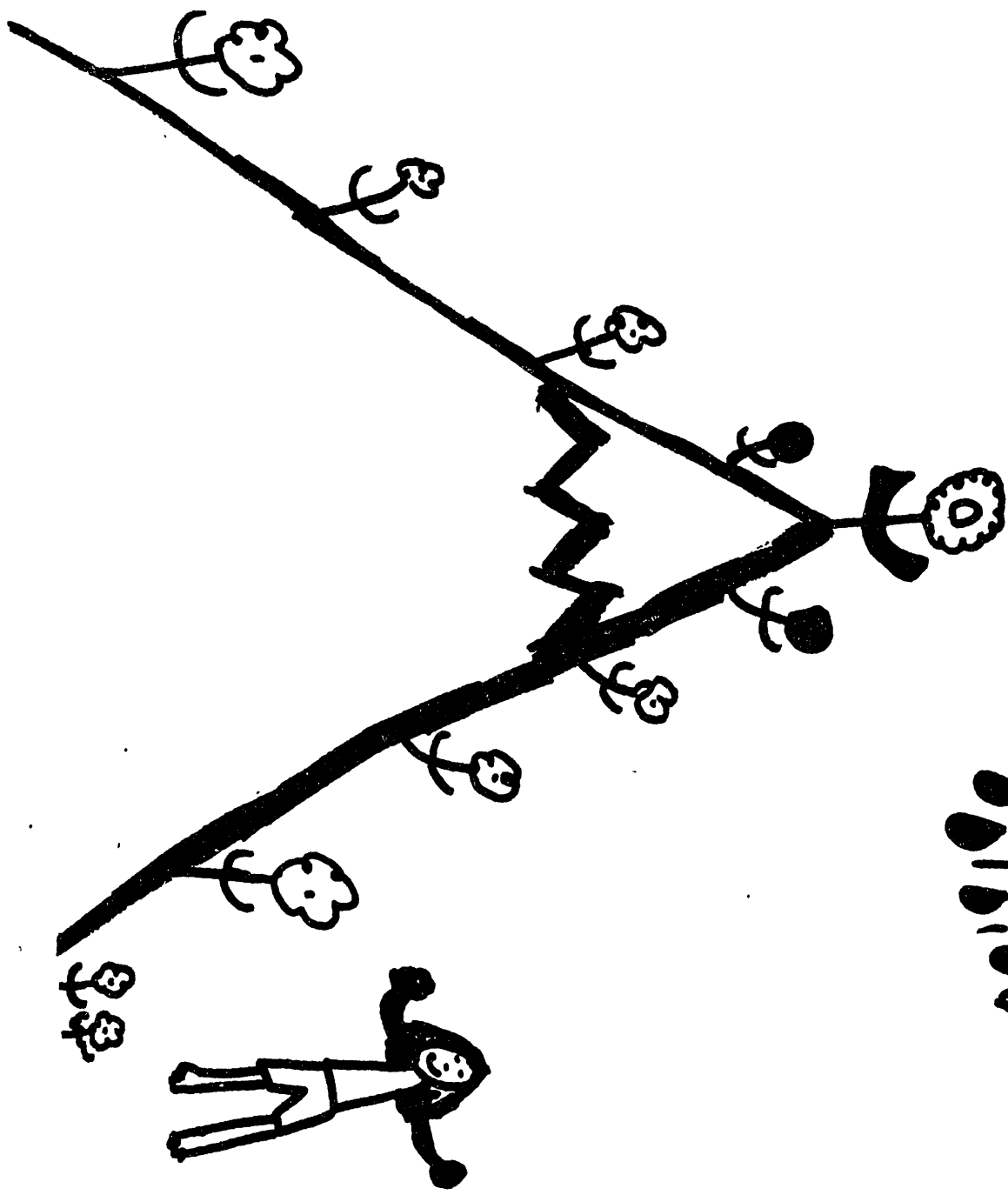
The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, June 29, 1994, at 10:00 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9442927.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, June 30, 1994, at 9:00 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9442928.

The Wood County Appraisal District Appraisal Review Board will meet in the Conference Room, 217 North Main, Quitman, June 28-29, 1994, at 9:00 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9442922.

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IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Alcoholic Beverage Commission Correction of Error

The Texas Alcoholic Beverage Commission proposed new §31.5, concerning Alcoholic Beverage Commission Charge Schedule. The rule appeared in the May 24, 1994, issue of the *Texas Register* (19 TexReg 4004).

Due to submission the document contained errors. The corrections are as follows.

In §31.5(a) it should read "The following changes will be made for providing copies of public information by the Texas Alcoholic Beverage Commission."

In §31.5(a)(11)(A) it should read "local \$ 10 per page."

In §31.5(b)(5) it should read "telephone number of requestor."

In §31.5(b)(8) it should read "total charges to requestor."

Texas Bond Review Board

Bi-Weekly Report on the 1994 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of June 4-17, 1994.

Total amount of state ceiling remaining unreserved for the \$252,434,000 subceiling for qualified mortgage bonds under the Act as of June 17, 1994: \$85,434,000.

Total amount of state ceiling remaining unreserved for the \$157,771,250 subceiling for state-voted issues under the Act as of June 17, 1994: \$47,770,363.96.

Total amount of state ceiling remaining unreserved for the \$67,616,250 subceiling for qualified small issues under the Act as of June 17, 1994: \$45,366,250.

Total amount of state ceiling remaining unreserved for the \$45,077,500 subceiling for residential rental project issues under the Act as of June 17, 1994: \$6,672,500.

Total amount of state ceiling remaining unreserved for the \$378,651,000 subceiling for all other bonds requiring an allocation under the Act as of June 17, 1994: \$0.

Total amount of the \$901,550,000 state ceiling remaining unreserved as of June 17, 1994: \$185,243,113.96.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from June 4-17, 1994. San Antonio HFC, Atrium One Apartments, Residential Rental, \$7,750,000, Orange County

Navigation and Port District IDC, Coastal Films, Inc., Manufacturing Facility, \$7,000,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from June 4-17, 1994: Travis County HFC, Prime MFP L. P. Housing Foundation, Bent Oaks Apartments, \$4,400,000, Gulf Coast Waste Disposal Authority, Amoco Oil Company, Pollution Control, \$50,000,000.

Following is a comprehensive listing of applications which were either withdrawn or cancelled pursuant to the Act from June 4-June 17, 1994: San Antonio HFC, Atrium One, Residential Rental, \$7,750,000.

Following is a comprehensive listing of applications which released a portion of their reserved amount pursuant to the Act from June 4-17, 1994: Travis County HFC, Prime MFP L. P./Bent Oaks Apartments, \$2,100,000, McKinney IDC, Leon's Texas Cuisine, \$50,000.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442786 Albert L. Bacansse
Executive Director
Texas Bond Review Board

Filed June 20, 1994.

Texas Education Agency

Correction of Error

The Texas Education Agency submitted a Notice of Public Hearings in the "In Addition" section. The notice appeared in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4215).

An error as published appears in the notice. The paragraph that should appear before the second to last paragraph of the notice (beginning "Speakers are encouraged...") was omitted. The paragraph should read as follows.

"Speakers needing translation services or other special accommodations should notify the Office of Policy Planning and Evaluation by 5:00 p.m. at least five working days prior to the public hearing at which they wish to speak."

Request for Proposals

Request for Proposals-State Engineering and Science Recruitment (SENSR) Fund.

RFP #701-94-030. This request for proposals (RFP #701-94-030) is filed under the Texas Education Code, §51.601, Engineering and Science Recruitment Fund.

Eligible Proposers: The Texas Education Agency (TEA) is requesting proposals from organizations that qualify for exemption from federal income tax under the Internal Revenue Code, §501(c)(3), and that do not distribute net earnings to any private shareholder or other individual. The organization must serve groups of women or minority group members who, considering their percentages of the Texas population, are under-represented at institutions of higher education in programs of engineering, applied science, and technology.

Description: The objective of this project is to allocate funds to eligible organizations to establish or operate educational programs. The programs will support the recruitment of women and members of ethnic minority groups to assist them in preparing for, or participating in, programs leading to an undergraduate degree in engineering or science from an institution of higher education. Funding also shall be used to disseminate information concerning career opportunities in engineering and science, as well as information about these programs that are funded under the requirements of the legislative authority noted previously.

Dates of Project. The State Engineering and Science Recruitment (SENSR) Fund project will be implemented during school year 1994-1995. Proposers should plan for a starting date of no earlier than September 3, 1994, and an ending date of no later than August 31, 1995.

Project Amount: For fiscal year 1994-1995 this project will distribute a total amount of approximately \$400,000, subject to the availability of funds and approval of the commissioner of education. Funding will be provided to eligible nonprofit, tax-exempt organizations receiving contributions from other sources. For any one program, funds provided under this RFP may not exceed \$25,000 or 50% of the contributions received by the program in the preceding fiscal year, whichever is less. Initial funding to eligible organizations shall be allocated in proportion to the percentage of women and under-represented minority students or teachers participating in eligible programs. After all grants have been awarded, funds may be allocated to establish or continue to operate eligible programs that have not received any contributions. The total amount budgeted by the contracting project organization for administration may be 11% or less of the total amount budgeted for all selected programs sponsored by that organization. Any money remaining on January 1 of each year may be allocated to funded organizations in proportion to each organization's calculated share as previously prescribed. Contributions are defined as gifts, grants, donations, and market value of in-kind contributions from public and private entities, including the federal government, but excluding state appropriations.

Selection Criteria. Proposals will first be considered based on the ability of each proposer to satisfy all requirements contained in the RFP. Preference shall be given to programs that stress the development of mathematical and scientific competence. Programs in the social sciences (e.g. psychology, sociology, etc.) will not be considered. The TEA reserves the right to select from the highest-ranking proposals those that would serve the most participants who are women and under-represented minority group members in the objectives specified. Other program quality indicators are specified throughout the RFP. To be approved for funding, programs offered by eligible organizations must meet certain guidelines. Each program must:

(1) use professional volunteers at each level of instruction;

(2) require parental involvement;

(3) coordinate with public school preparation for scientific and mathematical careers;

(4) coordinate with postsecondary education institutions;

(5) involve organizations of women and minority group members; and

(6) provide demonstrated professional leadership in educational activities for women and minority group members; and

(7) be compatible with state and federal laws governing education.

Requesting the proposal: A copy of the complete RFP may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to RFP #701-94-030 in your request.

Further Information: Proposers will be provided only one opportunity to publicly review, with the TEA project administrator, any requirements, documents, forms, etc., in the RFP and to be provided information about the scope of the SENSR Fund. This conference will be on Thursday, July 21, 1994, from 10:00 a.m. until noon, in Room 1-109 of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas. Each person attending will be required to sign a register setting out the representative's name, the firm or organization represented, and the organization's name, address, and telephone number.

For clarifying information about this request, contact Rebecca Patterson, Education Specialist, Office of Education of Special Populations and Adults, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9661.

Deadline for Receipt of Proposals: Proposals must be received in the Document Control Center of the Texas Education Agency no later than 5:00 p.m. Tuesday, August 9, 1994.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442873

Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: June 22, 1994

RFP #701-94-028. This request for proposals (RFP #701-94-028) is filed under the Texas Education Code, §13.302 and §13.303.

Eligible Proposers: The Texas Education Agency (TEA) is requesting proposals (RFP #701-94-028) from nonprofit organizations, institutions of higher education, private companies, or individuals for the development of a teacher appraisal system for the State of Texas.

Description: Using as a basis the teacher proficiencies outlined in *Learner-Centered Schools for Texas, A Vision of Texas Educators* and the "Requirements for an Educator Proficiency Appraisal System," approved by the State Board of Education, the contractor will provide to the Advisory Committee on Teacher Appraisal/Assessment a system for teacher appraisal.

Dates of Project: Proposers should plan for a starting date of no earlier than October 1, 1994, and an ending date of no later than August 31, 1997.

Project Amount: This project will receive a maximum of \$300,000 for the period beginning October 1, 1994, through August 31, 1995. Project funding for the period of September 1, 1995, through August 31, 1997, will be based on the availability of funds for the biennium beginning September 1, 1995.

Selection Criteria: Proposals will be selected based on the ability of each proposer to carry out all requirements contained in the RFP. The TEA will base its selection on, among other things, demonstrated competence and qualifications of the proposer. Where all other considerations are equal, preference will be given to a contractor whose primary place of business is in Texas or who will manage the project from one of its offices in Texas. The agency shall also give preference, among proposals that are otherwise comparable, to a proposal submitted by a historically underutilized business (HUB).

The TEA reserves the right to select from the highest-ranking proposals those that address all requirements in the request for proposal. The TEA is under no obligation to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before the contract is executed. The issuance of this RFP in no way obligates TEA to award a contract or pay any costs incurred in the preparation of a response.

Requesting the Proposal: A copy of the complete request for proposal (RFP #701-94-028) may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFP number in your request.

Further Information: For clarifying information about the RFP, contact Dr. Nolan Wood, Division of Educator Assessment and Appraisal, Texas Education Agency, at (512) 463-9525.

Deadline for Receipt of Proposals: Proposals must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m. on Friday, August 19, 1994, to be considered.

Issued in Austin, Texas, on June 21, 1994.

TRD-9442872 Lionel R. Meno
 Commissioner of Education
 Texas Education Agency

Filed: June 22, 1994

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Texas Department of Health
Correction of Error

The Texas Department of Health adopted amendments to §§141.1-141.6, 141.8, 141.10-141.13, 141.15-141.20, and 141.23. The rules appeared in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2760).

Concerning §141.13(b)(1)(B)(ii)(i), "ten0 hours" is wrong. The second sentence should read as follows: "Completion of 100 hours beyond the initial program at a proprietary school..."

Concerning §141.23(d)(4), "ten% refund" is wrong. The second sentence should read as follows: "The cancellation and refund policy shall provide for a 100% refund of all tuition and fees paid if..."

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Notice of Emergency Cease and Desist
Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Southern Petroleum Laboratories, Inc. (licensee-L04276 and registrant-R18415) of Houston to cease and desist from operating and using any source of radiation authorized by the license/certificate of registration in Texas until the licensee/registrant has radiation safety officers authorized by the license/certificate of registration or has terminated the license/certificate of registration. The bureau determined the possession and use of radioactive material and x-ray producing equipment by the licensee/registrant without radiation safety officers to ensure effective radiation safety programs is a real or potential threat to the health and safety of the citizens of Texas.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on June 22, 1994

TRD-9442855 Susan K. Steeg
 General Counsel
 Texas Department of Health
 Filed June 22, 1994

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Notice is hereby given that the Bureau of Radiation Control (bureau) ordered John Grinaldi, D.D.S. (registrant-R06659) of Dallas to cease and desist using the S.S. White dental x-ray unit, Model Number 2424-10Y, Serial Number M12044, the General Electric dental x-ray units located in operatories 1 and 2; and the General Electric dental x-ray units, Model Number 4615880G2, located in operatories 3 and 4 to perform dental intraoral x-ray procedures until all health-related violations found during a recent inspection of the facility are corrected. The bureau determined that continued radiation exposure to patients in excess of that required to produce a diagnostic image constitutes an immediate threat to public health and safety, and the existence of an emergency. The registrant is further required to provide evidence satisfactory to the bureau regarding the actions taken to correct these violations and the methods used to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on June 22, 1994.

TRD-9442856 Susan K. Steeg
 General Counsel
 Texas Department of Health
 Filed: June 22, 1994

Notice of Intent to Revoke a Certificate of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following registrant: Bruce M. Bumgardner, D.C., Deer Park, R14918. This notice originally appeared in 19 TexReg 3595 (May 10, 1994), and is being reissued due to the bureau obtaining a new mailing address for the registrant.

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of radiation machine(s); order the registrant to divest himself of such equipment; and order the registrant to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid and the items in the complaint are corrected within 30 days of the date of complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid or if the items in the complaint are not corrected, the certificate of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on June 22, 1994.

TRD-9442857
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 22, 1994

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: OHC Medical Center, Dallas, R07881; Peter B. Pederson, D.C., Pasadena, R13647; Jean D. Morency, D.M.D., Houston, R13912; Jeffrey C. Mann, D. C., Carrollton, R17228; Total Health Chiropractic, Pasadena, R17913; Mark A. Beaty, D.C., Nederland, R18681; Danny E. and Donald F. Wheat, D.P.M., Abilene, R18685; North Dallas Surgicare, Richardson, Z00817; Mary Kay Cosmetics, Dallas, Z00202; Methodist Hospital, Lubbock, Z00214.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on June 22, 1994.

TRD-9442854
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 22, 1994

Notice of Intent to Revoke Radioactive Material Licenses

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: El Paso Water Utilities, El Paso, L02272; Chief Inspection, Inc., Huffman, L03381; Exoxemis, Inc., San Antonio, L04479.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the licensees for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on June 22, 1994.

TRD-9442859
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 22, 1994

Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order and Notice of Violation issued March 11, 1994, to William J. Lawhorn, D.D.S., 3110 West Illinois, Dallas, Texas 75211, holder of Certificate of Registration Number R09816.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on June 22, 1994.

TRD-9442858

Susan K Steeg
General Counsel
Texas Department of Health
Filed: June 22, 1994

Texas Health Benefits Purchasing Cooperative

Request for Proposal/Carrier Proposal Requests

The Texas Health Benefits Purchasing Cooperative, doing business as the Texas Insurance Alliance (TIPA), is inviting bids from small employer health insurance carriers to provide coverage to small employers through TIPA. The participating carriers will provide health care coverage in compliance with TIPA's Rules of Participation.

Small employer carriers serving all regions of the state except the Gulf Coast Region are invited to bid on the regions they intend to serve at this time. TIPA has implemented its program in the Gulf Coast Region and will have coverage available in the other regions of the state this fall.

Bidding carriers must be certified with the Texas Department of Insurance as a Small Employer Carrier. They must also be of sound financial condition and have acceptable customer relations.

Bidders will be evaluated based on conformity to the Request for Proposal and benefit plan designs, premium competitiveness, fiscal solvency, commitment to customer service, quality and comprehensiveness of network coverage (if applicable), quality of claims administration, quality assurance measures, data reporting and electronic data transfer capabilities, and willingness to accept charges from school and community based clinics.

The bids submitted will be the basis for contract negotiations. Contracts will be awarded to carriers deemed most advantageous to TIPA based on the evaluation criteria.

The bid proposals must be received by 2:00 p.m. July 21, 1994. Two copies must be received by TIPA at the address below. Two copies must be received by Tony Guadiano at William M. Mercer, 2200 Ross Avenue, Suite 3500, Dallas, Texas 75201.

For more information or to obtain the complete Request for Proposal contact: Andrew McBath, Texas Insurance Purchasing Alliance, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956 or (512) 474-2507 (fax).

Issued in Austin, Texas, on June 21, 1994.

TRD-9442800

Rebecca Lightsey
Executive Director
The Texas Health Benefits Purchasing Cooperative

Filed: June 21, 1994

Texas Department of Human Services Notice of Public Hearing

The Texas Department of Human Services (TDHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rate for the ICF-MR Level V children's facilities. The hearing is held in compliance with 40 TAC §24.102(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on July 15, 1994, at 9:00 a.m. in the Room 651W of the John H. Winters Center (701 West 51st Street, Austin, Texas, sixth floor, West Tower). If you are unable to attend the hearing, but wish to comment on the rate, written comments will be accepted if received by 5:00 p.m. of the day of the hearing. Please address written comments to the attention of Glenn Hart. Written comments may be mailed to the address noted below, delivered to the receptionist in the lobby in the John H. Winters Center, or faxed to (512) 450-3014. Interested parties may request to have mailed to them or may pick up a briefing package concerning the proposed reimbursement rate on or after June 30, 1994, by contacting Sherri Williams, M/C W-425, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4817. Persons with disabilities planning to attend this hearing who may need auxiliary aids or services are asked to contact Sherri Williams (512) 450-4817 by July First, 1994, so that appropriate arrangements can be made.

Issued in Austin, Texas, on June 21, 1994

TRD-9442818

Nancy Murphy
Section Manager, Media and Policy Services
Department of Human Services

Filed: June 21, 1994

Public Notice of Open Solicitation

Pursuant to Title 2, Chapters 22 and 32 of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Menard County Number 164, identified in the May 13, 1994, issue of the *Texas Register* (19 TexReg 3791). Potential contractors desiring to construct a 90-bed nursing facility in the referenced county must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Certification, Provider Enrollment, and Billing Services, Long-Term Care-Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030 Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on June 21, 1994

TRD-9442817

Nancy Murphy
Section Manager, Media and Policy Services
Texas Department of Human Services

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State Board of Insurance
Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

- 1 Application for incorporation in Texas for Funeral Insurance Benefit Company, a domestic stipulated premium company. The home office is in Waco, Texas
- 2 Application for incorporation in Texas for Legal Access Plans of Texas, a domestic non-profit legal services corporation. The home office is in Houston, Texas.
- 3 Application for name change by EmShare Insurance Exchange, a domestic reciprocal insurance company. The proposed new name is Lawyers' Professional Liability Exchange. The home office is in Austin, Texas
- 4 Application for name change by Seguros Monterrey, S A, a foreign mexican casualty company. The proposed new name is Seguros Monterrey Aetna, S A. The home office is in Mexico
- 5 Application for incorporation in Texas for Printing Industries Association of Texas Benefit Trust, a domestic multiple employer welfare arrangement. The home office is in Dallas, Texas
- 6 Application for incorporation in Texas for Texas Society of Professional Surveyors Employees' Beneficiary Trust, a domestic multiple employer welfare arrangement. The home office is in Austin, Texas
- 7 Application for incorporation in Texas for Texas Propane Gas Association Employees' Beneficiary Trust, a domestic multiple employer welfare arrangement. The home office is in Austin, Texas
- 8 Application for incorporation in Texas for MDV Employee Welfare Benefit Trust, a domestic multiple welfare arrangement. The home office is in Arlington, Texas
- 9 Application for incorporation in Texas for Texas Association of Community Health Centers Employee Benefit Group, Inc., a domestic multiple welfare arrangement. The home office is in Austin, Texas
- 10 Application for admission to Texas for International Association of Entrepreneurs of America Benefit Trust, a foreign multiple welfare arrangement. The home office is in Nashville, Tennessee
- 11 Application for incorporation in Texas for Aviation & Marine Insurance Company of America, a domestic casualty insurance company. The home office is in Dallas, Texas

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Loretta Calderon, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701

Issued in Austin, Texas, on June 22, 1994

TRD-9442880 D J Powers
 Legal Counsel to the Commissioner
 Texas Department of Insurance

Filed June 22, 1994

For further information, please call (512) 463-6327

Texas Natural Resource Conservation Commission

Notice of Application for Authorization to Proceed in Federal Bankruptcy

The Texas Natural Resource Conservation Commission has received an application by Harris County Municipal Utility District Number 216 for Authorization to Proceed in Federal Bankruptcy, under Chapter 9 of the Federal Bankruptcy Code, 11 United States Code §901-941, as amended. The District is proposing to seek Bankruptcy Court approval of a plan of adjustment of the District's debts. The Commission shall investigate the financial condition of the District, including assets, liabilities and sources of revenues. If the Commission determines that the District cannot through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debt and other obligations as they mature, the Commission may authorize the District to proceed in bankruptcy.

No Public Hearing will be held on this application unless an affected person has requested a public hearing. Any person wishing to protest the application of the District is requested to file the protest in written form within 30 days of the issuance of the notice. The protest should contain the name, mailing address, and phone number of the person making the request; and a brief statement of the person's interest in the application and the reasons for the protest. If the Commission determines that the protest shows reason that the District is able to meet its debt and other obligations, or that an evidentiary public hearing would serve the public interest, the Commission may direct the Office of Hearing Examiners to conduct an evidentiary public hearing, after issuance of proper and timely notice of the hearing. Written protests should be submitted to the Water Utilities Division, Texas Natural Resource Conservation Commission, P O Box 13087, Austin, Texas 78711-3087, Attention: Susan Walton. A copy of the protest must also be furnished to the District.

Information concerning this application may be obtained by writing the Texas Natural Resource Conservation Commission at the previously mentioned address or by calling (512) 239-6170

The Texas Natural Resource Conservation Commission has received an application by Harris County Municipal Utility District Number 216 (the District), c/o James D Bonham, Smith, Murdaugh, Little and Bonham, 1100 Louisiana Street, Suite 400, Houston, Texas 77002 for Authorization to Proceed in Federal Bankruptcy. The application has been authorized by the Board of Directors of the District. A hearing will be held no less than 30 days from the date of this notice.

The District seeks to obtain Commission authorization to file for protection under Chapter 9 of the Federal Bankruptcy Code, 11 United States Code, §§901-941, as amended. The District is proposing to seek Bankruptcy Court approval of a plan of adjustment of the District's debts. The District's proposed plan of adjustment is outlined briefly as follows: the District's currently outstanding bonds would be converted to restructured term bonds. The District would then levy a marketable tax rate not to exceed \$1.50 per \$100 assessed valuation until the assessed valuation of the District increased to a level which would generate sufficient debt service revenue on an annual basis to allow payment of principal and interest.

assuming a twenty-year amortization of principal on the restructured term bonds.

The Commission shall investigate the financial condition of the District, including its assets, liabilities and sources of revenues, to determine if the District cannot, through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debt and other obligations as they mature. If the Commission determines that the District is not able to meet its debt and other obligations as they mature, the Commission may authorize the District to proceed in bankruptcy. If, however, the Commission determines the District is able to meet its debt and other obligations, the Commission shall deny the District's application.

Hearing Authority: the Texas Water Code, §50.060, and 30 TAC §293.88, Rules of the Texas Natural Resource Conservation Commission.

Any person wishing to protest the application of the District is requested to file a written notice of such protest with the Water Utilities Division of the Commission within 30 days of the date of this notice. The protest should specifically "request a public hearing," briefly state the person's interest in the application and the reasons for the protest. Written protests should be submitted to the Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, Attention: Susan Walton. If the Commission determines that the protest shows reason that the District is able to meet its debt and other obligations, or that an evidentiary public hearing would serve the public interest, the Commission may direct the Office of Hearing Examiners to conduct an evidentiary public hearing, after issuance of proper and timely notice of the hearing. Copies of the protest must be furnished to the District. Information concerning participation in hearings may be obtained by contacting the Public Interest Counsel at the same address or by telephone at (512) 239-6363

Persons with disabilities who plan to attend this hearing 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 Mamie M. Black in the Office of the Chief Clerk at (512) 463-8537 at least two work days prior to the hearing so that appropriate arrangements can be made.

Issued in Austin, Texas, on June 6, 1994

TRD-9442775 Glona A Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed: June 20, 1994



The Texas Natural Resource Conservation Commission has received an application by Montgomery County Municipal Utility District Number 42 for Authorization to Proceed in Federal Bankruptcy, under Chapter 9 of the Federal Bankruptcy Code, 11 United States Code §901-941, as amended. The District is proposing to seek Bankruptcy Court approval of a plan of adjustment of the District's debts. The Commission shall investigate the financial condition of the District, including assets, liabilities and sources of revenues. If the Commission determines that the District cannot through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debt and other obligations as they

mature, the Commission may authorize the District to proceed in bankruptcy.

No Public Hearing will be held on this application unless an affected person has requested a public hearing. Any person wishing to protest the application of the District is requested to file the protest in written form within 30 days of the issuance of the notice. The protest should contain: the name, mailing address, and phone number of the person making the request; and a brief statement of the person's interest in the application and the reasons for the protest. If the Commission determines that the protest shows reason that the District is able to meet its debt and other obligations, or that an evidentiary public hearing would serve the public interest, the Commission may direct the Office of Hearing Examiners to conduct an evidentiary public hearing, after issuance of proper and timely notice of the hearing. Written protests should be submitted to the Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, Attention: Susan Walton. A copy of the protest must also be furnished to the District.

Information concerning this application may be obtained by writing the Texas Natural Resource Conservation Commission at the previously mentioned address or by calling (512) 239-6170.

The Texas Natural Resource Conservation Commission has received an application by Montgomery County Municipal Utility District Number 42 (the District), c/o Marcia B Oliver, Coats, Rose, Yale, Holm, Ryman and Lee, 800 First City Tower, 1001 Fannin, Houston, Texas 77002-6707 for Authorization to Proceed in Federal Bankruptcy. The application has been authorized by the Board of Directors of the District. A hearing will be held no less than 30 days from the date of this notice.

The District seeks to obtain Commission authorization to file for protection under Chapter 9 of the Federal Bankruptcy Code, 11 United States Code, §901-941, as amended. The District is proposing to seek Bankruptcy Court approval of a plan of adjustment of the District's debts. The initial plan proposes to suspend interest payments, reduce interest rates on the bonds and increase the term for retiring the bonds. The District has levied a total tax rate of \$2.61 per \$100 assessed value of taxable property in the District with \$1.61 for debt service and \$1.00 for maintenance and operations

The Commission shall investigate the financial condition of the District, including its assets, liabilities and sources of revenues, to determine if the District cannot, through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debt and other obligations as they mature. If the Commission determines that the District is not able to meet its debt and other obligations as they mature, the Commission may authorize the District to proceed in bankruptcy. If, however, the Commission determines the District is able to meet its debt and other obligations, the Commission shall deny the District's application.

Hearing Authority: the Texas Water Code, §50.060, and 30 TAC §293.88, Rules of the Texas Natural Resource Conservation Commission.

Any person wishing to protest the application of the District is requested to file a written notice of such protest with the Water Utilities Division of the Commission within 30 days of the date of this notice. The protest should specifically "request a public hearing," briefly state

the person's interest in the application and the reasons for the protest. Written protests should be submitted to the Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, Attention: Mary Sultemeier. If the Commission determines that the protest shows reason that the District is able to meet its debt and other obligations, or that an evidentiary public hearing would serve the public interest, the Commission may direct the Office of Hearing Examiners to conduct an evidentiary public hearing, after issuance of proper and timely notice of the hearing. Copies of the protest must be furnished to the District. Information concerning participation in hearings may be obtained by contacting the Public Interest Counsel at the same address or by telephone at (512) 239-6363.

Persons with disabilities who plan to attend this hearing 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 Mamie M. Black in the Office of the Chief Clerk at (512) 463-8537 at least two work days prior to the hearing so that appropriate arrangements can be made.

Issued in Austin, Texas, on May 11, 1994.

TRD-9442774 Gloria A. Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed June 20, 1994

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Notices of Application for Permits to Appropriate Public Waters of the State of Texas For the Period June 1-June 17, 1994

Attached are notices of application for permits to appropriate Public Waters of the State of Texas, which were issued during the period of June 1-17, 1994.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the application number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application, a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application which would satisfy your concerns and cause you to withdraw your request for hearing.

If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice, or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a

written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to Bill Ehret, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Fort Worth Zoological Association; Application Number 5488 for a permit to construct a two-foot high overflow weir dam to create a reflection pool amenity impounding approximately 0.5 acre-feet of water. The location of the dam will be in Zoo Creek, tributary of Clear Fork Trinity River, tributary of West Fork Trinity River, tributary of the Trinity River, Trinity River Basin in Tarrant County, approximately 2.8 miles southwest from Fort Worth, Texas. The reservoir will have a surface area of 0.7 acres and a capacity of 0.5 acre-feet. Applicant states that if the permit is granted, construction will begin within three months of the date of issuance and the proposed work will be completed within 12 months of the date of issuance of the permit.

Billy J. Boles and Karan R. Boles; Application Number 5490 for a permit to divert and use ten acre-feet of water per annum from the Guadalupe River, Guadalupe River Basin, based on a Subordination Agreement between the applicant and the Guadalupe-Blanco River Authority. Diverted water will be used to irrigate eight acres of land out of a 32.9 acre tract located in Kendall County approximately 12.3 miles north-northeast of Boerne, Texas. Water will be diverted from the Guadalupe River at a rate of 2.23 cfs (1,000 gpm).

James B. Bonham Corporation; Application Number 14-1884A to amend Certificate of Adjudication Number 14-1884. Certificate of Adjudication Number 14-1884 was issued April 20, 1981 to Vivian Moore and authorized the diversion and use of 72 acre-feet of water per annum from Richland Creek, tributary of the San Saba River, tributary of the Colorado River, Colorado River Basin. Diverted water is authorized to be used to irrigate 68 acres of land out of a portion of a 148 acre tract in San Saba County, Texas. The applicant has acquired ownership of the water right. The applicant seeks to amend the certificate by moving the point of diversion and place of use to a new location adjacent to the Colorado River northeast of the original place of use and point of diversion, as well as by adding four additional acres to be irrigated. The original maximum diversion rate of 2.67 cfs (1,200 gpm) will not be increased. The 72 acres of land to be irrigated are located approximately 17 miles northwest of San Saba, in San Saba County, Texas.

Charles A. Norman and wife, Bettye V. Norman; Application Number 5486 to divert 70 acre-feet of water per annum from Gibbons Creek, tributary of the Angelina River, tributary of the Neches River, Neches River Basin, into seven off-channel reservoirs. Two of the off-channel reservoirs are existing reservoirs and five are proposed reservoirs. Water will be diverted from Gibbons Creek into the seven off-channel reservoirs for subsequent diversion to irrigate 77 acres of land out of two tracts totaling 130 acres located approximately 16 1/2 miles northwest of Nacogdoches, Texas. Water will be diverted at a maximum rate of 2.67 cfs (1,200 gpm).

L. Kenneth Evans; Application Number 5097A to amend Water Use Permit Number 5097. Water use under Permit Number 5097 is made possible by a water supply contract

between the applicant and Bexar-Medina-Atascosa Counties Water Control and Improvement District Number 1 (BMAWCID1). The contract, which expires February 3, 2017, limits the applicant to 20 acre-feet of water per year at a maximum diversion rate of 300 gpm. The contract has a provision which allows the parties to amend the contract, if the parties agree in writing. The applicant has provided a copy of a letter addressed to him from the BMAWCID1, dated February 28, 1994, agreeing to amend their water supply contract to include the additional water requested, with a limit of ten years on the terms of amended contract, subject to renewal by the BMAWCID1. The requested amendments to Permit Number 5097 are to increase the diversion volume from the current 20 acre-feet per year to 120 acre-feet per year, and increase the maximum diversion rate from the current 0.26 cfs (115 gpm) to 0.85 cfs (380 gpm). No other changes are requested. Any amendment granted will include a Special Condition clause indicating that the amendment will be valid only upon receipt by the TNRCC of a new, current, water supply contract between the applicant and the BMAWCID1 which allows the maximum diversion volume and rate that is being requested by the applicant in this amendment application.

Brian M. Swenson, Alan P. Swenson, and Sharon Swenson; Application Number 5487 for a permit to divert 43 acre-feet of water per annum from an unnamed tributary (locally called Ditch V-A-1, or Stone Ditch) of West Carancahua Creek, tributary of Carancahua Bay, tributary of Matagorda Bay, Colorado-Lavaca Coastal Basin. Thirty-five acre-feet of the diverted water will be used to irrigate 35 acres of land out of 430.24 acres in a group of tracts described in three deeds. Eight acre-feet will be diverted into an eight acre-foot, off-channel reservoir within the 430.24 acres, and impounded therein for wetland/waterfowl habitat purposes. The 430.24 acres are located approximately 18 miles southeast of Edna, Texas in Jackson County. The reservoir will have a total capacity of eight acre-feet and a total surface area of approximately eight acres.

Issued in Austin, Texas, on June 20, 1994.

TRD-9442776 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: June 20, 1994

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**Notices of Receipt of Applications and
Declaration for Administrative
Completeness for Sludge Registrations**

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of June 6-17, 1994.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding these applications should submit a written request to the Chief Clerk of

the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711. The request should contain: the name, mailing address and phone number of the person making the request; and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Compton Septic Company; located approximately 2.5 miles south of Brownsboro on FM 314, approximately 1.5 miles west on County Road 3606, in Henderson County, Texas; new beneficial sludge use site; 710271.

Harry Goudeau, Jr.; located approximately three miles north northeast of the intersection of FM 640 and FM 1161, adjacent to County Road 211, approximately 7.5 miles north northwest of the City of Wharton, Wharton County, Texas; new beneficial sludge use site; 710234.

Carl Leineweber; located approximately two miles southwest of the intersection of County Road 178 and County Road 179, near the City of Wimberly, Hays County, Texas; new beneficial sludge use site; 710063.

John J. Mackey, Jr.; located approximately .25 mile west of the intersection of FM 1954 and FM 2650, approximately 3.5 miles east of the City of Holiday, Wichita County, Texas; new beneficial sludge use site; 710692.

City of the Colony; located adjacent to the west side of County Road 80, approximately one mile east of State Highway 289, approximately one mile north of Prosper, Collin County, Texas; a new beneficial sludge use site; 710113.

Issued in Austin, Texas, on June 17, 1994.

TRD-9442644 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: June 17, 1994

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Public Notice

The Texas Natural Resource Conservation Commission (TNRCC) has received a petition to designate Barton Creek and Barton Springs as an Outstanding National Resource Water (ONRW). The petition was filed on April 25, 1994, on behalf of the Save Barton Creek Association, Hill Country Foundation, Save Our Springs Legal Defense Fund, and the Austin Sierra Club. The petition requests that the ONRW designation be made part of the 1994 triennial revisions to the Texas Surface Water Quality Standards (30 TAC §307). The purpose of this notice is to provide initial public comment, and it is not a proposal for rulemaking. TNRCC is asking for preliminary public comments on this petition, in order to consider whether this designation should be formally proposed as an addition to the standards.

TNRCC establishes and revises the Texas Surface Water Quality Standards, pursuant to the Texas Water Code, §26.023, as amended, and the Federal Clean Water Act, §303(c), as amended. The existing standards were adopted by the TNRCC on June 12, 1991, and subsequently approved by the United States Environmental Protection

Agency (EPA) on September 24, 1991

As required by EPA regulation, 40 CFR Part 131.12(a)(3), the Texas Surface Water Quality Standards contain an Antidegradation Policy. One provision of this policy states that "the quality of Outstanding National Resource Waters will be maintained and protected." Outstanding National Resource Waters (ONRWs) are described in the Texas Standards as "high quality waters within or adjacent to national parks and wildlife refuges, state parks, wild and scenic rivers designated by law, and other designated areas of exceptional recreational or ecological significance." ONRWs are provided the highest level of protection under the Antidegradation Policy.

The antidegradation policy means that no increase in pollutant loading that could cause degradation of water quality will be allowed to a waterbody which has been designated as an ONRW. Long-term degradation of water quality due to increased pollution from wastewater discharges or nonpoint-source runoff is also prohibited. Existing wastewater discharges or other potential pollutant sources are allowed to continue their existing level of pollutant loading. In practice, protection of ONRWs in other states has been implemented primarily through state and federal permitting of wastewater discharges and dredge-and-fill operations. However, other activities in or near an ONRW, and in waters adjacent to the ONRW, must also avoid degrading water quality in the ONRW.

This notice is an opportunity for the public to provide written comments on the petition for the review by TNRCC. Comments are encouraged to address whether or not this designation is appropriate, the specific provisions that might be included in the designation if proposed, and the environmental and economic impacts of this designation. TNRCC will consider these comments prior to any decision on whether or not to propose the ONRW designation as a rule. TNRCC will not be able to provide written responses to these comments, since substantial comment is anticipated.

In the event that this designation is formally proposed as an addition to the standards, the proposed designation will again be published in the Texas Register and in local newspapers. TNRCC will take public comment on the rule proposal and a public hearing will be scheduled at that time.

Comments on any aspect of this petition may be submitted in writing to "Comments On The Barton Creek Petition," Watershed Management Division, Texas Natural Resource Conservation Commission, P O Box 13087, Austin, Texas 78711. Please submit your comments no later than July 28th, 1994.

The text of the petition, as presented to TNRCC, is as follows: **Introduction**

This petition requests Outstanding National Resource Waters (ONRW) designation for Barton Creek and Barton Springs by Texas Natural Resource Conservation Commission as part of the 1994 triennial revisions to the Texas Water Quality Standards. Barton Creek and Barton Springs are among the most cherished waters of the State of Texas. Barton Creek, Barton Springs and their shores are used for swimming, fishing, hiking, biking, meditation and physical therapy by residents and visitors from Texas and the world.

The waters of Barton Creek and Barton Springs also provide exceptional habitat for fish and other aquatic animals and plants. The waters and watershed are home to

several endangered species including the Barton Springs Salamander. The presence of these special waters and their associated activities in the heart of an urban setting which is the Capital of Texas is unique. They deserve the protection of Outstanding National Resource Waters.

This petition is presented on behalf of the residents and visitors of Austin and the Texas hill country. The work to prepare and submit the petition is funded and sponsored by four environmental groups: Save Barton Creek Association, Hill Country Foundation, Save Our Springs Legal Defense Fund, and the Austin Sierra Club. The petition is based on supporting information developed by the Texas Natural Resources Conservation Commission (and predecessor agencies), the U. S. Geological Survey, the U. S. National Park Service, Texas Parks and Wildlife Department, the City of Austin, the Barton Springs/Edwards Aquifer Conservation District, the U.S. Fish and Wildlife Service, and others.

The petition includes proposed rule language for Outstanding National Resource Waters designation, a summary of relevant facts and a longer presentation. The longer presentation provides information regarding the recreational and ecological significance of Barton Creek and Barton Springs. It also presents a physical description of Barton Creek and Barton Springs, their geology and hydrology. Additional extensive information on Barton Creek and Barton Springs is available in the referenced documents.

PROPOSED RULE LANGUAGE

Section 307.5 (d) Outstanding National Resource Waters

(4) Barton Creek and the waters of Barton Springs (Segment 1430)

Boundary Description: From the Farm to-Market Road 12 bridge crossing over Barton Creek downstream to the confluence with the Colorado River, including the waters of Barton Springs. The total length is approximately 40 stream miles.

Provisions applicable to this designation include the following:

(A) Degradation of the water quality of Barton Creek and Barton Springs is prohibited, except for temporary, short-term changes. Temporary, short-term changes are those that do not significantly interfere with existing uses and which do not impair the natural systems of Barton Creek and Barton Springs.

(B) New or expanded discharges of pollutants directly to Barton Creek are prohibited.

(C) New or expanded discharges to adjacent waters shall not result in a reduction of water quality in Barton Creek or Barton Springs. Adjacent waters are those within the watershed of Barton Creek and the watersheds of Onion Creek, Bear Creek, Little Bear Creek, Slaughter Creek and Williamson Creek above the downstream limits of the outcrop of the Edwards Limestone.

(D) Increase in pollutant loading from indirect storm or other indirect discharges is prohibited.

(E) Wastewater effluent land application must result in no degradation to Barton Creek.

(F) Alterations of the recharge to Barton Springs through base flow in Barton Creek and contributing creeks to Barton Springs/Edwards Aquifer which may contribute to the degradation of these waters is prohibited.

Barton Creek and Barton Springs ONRW Petition

Summary

Barton Creek Background Information

Barton Creek is a high quality, pristine creek which originates in the Texas Hill Country of the Edwards Plateau, crosses the Balcones Fault Zone and discharges into the Colorado River in the heart of Austin. One-half mile upstream of the confluence of Barton Creek and the Colorado River, Creek flow is augmented by the cold, clear waters of Barton Springs.

For more than 10,000 years, Barton Creek and Barton Springs have played a significant role in the human history of its environs. Pecan trees and live oaks on its shores first sheltered Native Americans, then Spanish missionaries and pioneer Texans. More recently the shores of Barton Springs have nourished and cooled the discussers (if not the discussions of) J. Frank Dobie, Roy Bedichek and Walter Prescott Webb.

Geographic Boundaries

Barton Creek is defined by Segment 1430 from FM 12 in western Hays County to its confluence with the Colorado River at Town Lake in Austin. The 125 square mile watershed of Barton Creek includes one major tributary, Little Barton Creek. Williamson Creek, Slaughter Creek, Bear Creek, Little Bear Creek and Onion Creek are adjacent tributary waters through their contributions to the flow of Barton Springs.

Reasons for ONRW Status

Barton Springs is an historically important and sacred site for the people of Austin and of Texas. It has been a refuge and recreational area for native people for more than 10,000 years.

In the heart of an urban setting, and the Capital of Texas, Barton Springs remains remarkably clear and pristine

The citizens of Austin, through their City Government, have acquired greenbelt and park land along the banks of Barton Creek from its confluence to almost eight miles upstream. They have also approved bond money to purchase additional land for habitat conservation, recreation and water quality protection within the Barton Creek watershed. The total area of public land within the watershed is greater than that of many Texas State Parks.

The U. S. Fish and Wildlife Service has proposed to list the Barton Springs Salamander as an endangered species. Barton Creek is a major source of recharge water to Barton Springs, which is the home to this species. Protection of the water quality of Barton Creek and Barton Springs is key to protecting the habitat for the salamander. Other endangered and threatened species within the Barton Creek watershed are the golden-cheeked warbler, the black-capped vireo, Bee Creek Cave harvestman, bracted twistflower, and canyon mock orange

Fragile wetland areas are associated with the springs and creeks which are tributary to Barton Creek.

Barton Creek is a significant source of clean water to Town Lake during winter months, when irrigation water is not released from upstream reservoirs on the Colorado River. Its contribution to Town Lake during these months is significant to the operation of the City of Austin Green Water Treatment Plant and to the the health and water quality of Town Lake.

Protection for Barton Creek and Barton Springs has a tremendous amount of local public support, as evidenced

by all- night-long hearings on proposed development, City of Austin water quality ordinances, City of Austin Master Plan, passage of the citizen's Save Our Springs (SOS) initiative, and passage of bond money for land acquisition.

ONRW status for Barton Springs was originally proposed by State Senator Gonzalo Barrientos in 1991

Impacts of this Designation

There are currently no permitted point source wastewater discharges in Barton Creek. ONRW designation would eliminate the possibility of future permitted wastewater discharges.

ONRW designation for Barton Creek and Barton Springs may require revision of future no-discharge wastewater permits, if those are determined to contribute pollutants to the Creek or Springs

ONRW designation may result in a requirement for no increase in the average annual loads of permitted storm water discharges

ONRW designation may also affect storm water and nonpoint source discharges and activities contributing to these discharges.

Other Activities Potentially Detrimental to Barton Creek Water Quality

Highway and road construction by the Texas Department of transportation and other entities

Urban construction, development, and storm water runoff

Wastewater line and lateral leakage and construction.

Construction and operation of on-site and package wastewater treatment systems

Agricultural operations

Parties petitioning for Barton Creek and Barton Springs ONRW Designation

Save Barton Creek Association Hill Country Foundation

Save Our Springs Legal Defense Fund in 1991 Austin Sierra Club

ONRW Petition Supporting Information Recreational, Educational and Historical Significance Significance

Recreation

Barton Creek and Barton Springs have truly outstanding recreational significance to the citizens of Texas, the United States and to foreign travelers. Public swimming and recreation is currently most common in the lower eight miles of Barton Creek. These reaches are contained within the City of Austin's Zilker, Gus Fruh, and Barton Creek Greenbelt Parks. Public swimming, tubing, and hiking will expand into the upper reaches as the City of Austin acquires additional park land above Loop 360 and above Highway 71. Work is underway to extend the greenbelt hiking trail upstream to near Dripping Springs and ultimately to connect it with hiking trails at Pedernales Falls State Park and beyond. As population in Texas and the Austin area increases, the recreational value of Barton Creek and Barton Springs will continue to increase

Barton Springs Pool, located within the banks of Barton Creek approximately one-half mile above the confluence with the Colorado River, enjoys the highest number of swimmers. The springs and the constructed pool walls provide a year-round, well-maintained 990 foot-long swimming pool. Hundreds of thousands of visitors enjoy

swimming at Barton Springs each year. In the 1992-1993 season, 238,547 paid guests at Barton Springs were recorded. Many other swimmers and visitors use the pool during the winter and in the morning or late evening, when admission is free. Thousands more enjoy swimming in Barton Creek upstream and below the Barton Springs Pool dam.

Barton Springs pool and the Barton Creek greenbelt are used by many more people than just the citizens of Austin. A recent informal survey of Barton Springs swimmers on a sunny weekend found approximately 35 percent of visitors were from out of town, with many of these coming from other states and other countries. Many swimmers at Barton Springs are students at the University of Texas, St. Edwards, or other local colleges, and will move elsewhere after they complete their education here in Austin.

All of the creek which is accessible to the public is enjoyed by swimmers, waders, snorkelers, hikers, and picnickers. Favorite spots for public use are Campbell's Hole, the falls above Campbell's Hole, Gus Fruh pool, a large pool adjacent to Airman's Cave, Three Falls, the access at Loop 360, the access at MOPAC and the rope swings just down stream, Twin Falls, Sculptured Falls, the base of the access trail from Scottish Woods, and the high dam a short distance upstream. Dense aquatic vegetation and algae discourage swimming in the next few miles, where the Creek passes between the Lost Creek and Barton Creek Properties developments.

Barton Creek is used for tubing, canoeing, and kayaking at higher flows. When the waters are high, paddlers from all over Texas come to enjoy the whitewater on Barton Creek. Public access points for paddle or float trips of 2 to 25 miles are located at Spyglass, Gus Fruh, Loop 360, the low water bridge at Lost Creek, Highway 71, Fitzhugh Road and Highway 12. The City of Austin Parks and Recreation Department also operates a canoe rental operation on Barton Creek just below Barton Springs Pool.

All of Barton Creek and its tributaries additionally provides swimming and recreational opportunities to adjacent private landowners and their guests. These values would also be protected by ONRW designation.

Education

Governmental and private organizations utilize Barton Creek and Barton Springs for educational purposes. The City of Austin's "Sunshine Camp" for disadvantaged summer day campers is located within Zilker Park. The Sunshine Camp students both play in and learn the ecology of Barton Springs. Students from local schools use Barton Creek and Barton Springs as a field laboratory for the study of geology, hydrology, and biology. The Colorado River Watch Network trains high school students and other interested citizens in water quality monitoring and water pollution prevention on Barton Creek. The Hill Country Foundation and the Save Barton Creek Association sponsor educational tours at Barton Springs and along Barton Creek. Some University of Texas professors, especially Dr. Bassett McGuire, use the Creek and Springs for field studies and class visits.

Publications

Many publications have recognized the recreational, ecological, historic and other values of Barton Creek, Barton Springs, and the Barton Springs Edwards Aquifer. *Outside* magazine (June 1990), a leading international publication on outdoor tourism, recognized Barton Springs as one of the best inland swimming places in the

country. "The Inland Greats" (*Outside*, June 1990) notes that Barton Springs is "ranked by everybody as one of the South's top dunks." For many years the City of Austin, the Austin Chamber of Commerce, and other organizations have featured Barton Springs in their advertising and literature as a reason to visit, move to, or locate a business in Austin.

The 1992 publication *Hill Country Oasis*, co-published by the Save Barton Creek Association, the City of Austin Parks and Recreation Department, and the Barton Springs/Edwards Aquifer Conservation District provides a beautiful, succinct 30-page color photo and narrative description of the geology, hydrology, archeology, ecology, and recreational values of Barton Creek, Barton Springs, and the Barton Springs Edwards Aquifer. *Hill Country Oasis* also provides a brief summary of the threats to the water quality of the creek, aquifer, and springs. A copy of *Hill Country Oasis* is attached, and incorporated herein, as part of this petition for ONRW designation.

In 1992 the U.S National Park Service, in conjunction with the City of Austin Parks and Recreation Department, developed and published *Barton Creek Greenway Plan*. The Plan describes (in greater detail than here) the water, wildlife, recreational, and cultural resources of Barton Creek and provides recommendations for conservation and recreation management.

Most recently the Hill Country Foundation, in conjunction with Softshoe Publishing, published *Barton Springs Eternal: The Soul of a City*, edited by Marshall Frech and Turk Pipkin. The hard cover book of essays, oral histories, and historic and contemporary photographs documents the historic, recreational, spiritual, and community importance of Barton Springs to the people of Austin and Texas. The book contains contributing essays calling for the protection of Barton Springs by, among others, Governor Ann Richards, former U.S. Senator Ralph Yarborough, then U.S. Senator Lloyd Bentsen, TNRCC Chairman John Hall, Lower Colorado Fiver Authority General Manager Mark Rose, Austin Mayor Bruce Todd, actor/director Robert Redford, and writers James Michener, Daniel Quinn, Cactus Pryor, Lawrence Wright, Bud Shrake, Jim Hightower, Sarah Bird, and others.

Historical Significance

The historical significance of Barton Creek and Barton Springs also support their designation as Outstanding National Resource Waters. Brune and Duffin (1983) describe the following early utilization of the Barton Springs:

"Indians were the first to use springs as camp sites many years ago. Barton Springs was a stop on an old Comanche trail from Bandera County to Nacogdoches. The earliest white settlers established a trading post at the springs. Three Spanish missions were located here from 1730 to 1731. In 1839, the five commissioners named to select an area as the capital described Barton Springs as "perhaps the greatest and most convenient water power to be found in the Republic". A number of saw and grist mills used the water power of the springs. The springs were used as a stop on the Chisholm Cattle Trail from 1867 to 1895. They have always been popular for swimming and recreation. It is apparent that the springs, primarily Barton Springs, were a deciding factor in selecting Austin as the capital. However, recreation, instead of water power, has become the prime use of the springs. A small part of the spring flow is used for domestic livestock and irrigation

purposes. One important use of the springs is to furnish a large quantity of good quality water to Town Lake."

One of Texas' most important, relatively unexamined archaeological sites is located at Barton Springs. Signs of human enjoyment of Barton Springs date back approximately 10,000 years. Because of the vertical stratification of artifacts resulting from alluvial deposition at the Barton Creek-Colorado River confluence, the Barton Springs site provides one of the best known opportunities for studying prehistoric human activities in Central Texas.

The presence of Barton Springs and its clean, reliable flows, was also an important factor in the establishment of the capital city at what was then known as "Waterloo." In 1839 a capital selection committee wrote to Republic of Texas President Mirabeau B. Lamar that Spring Creek (as Barton Creek was known then) afforded "the greatest and most convenient flow of water to be found in the Republic." In an accompanying map drawn by William Sandusky suggesting the layout for the new capital city, Spring Creek and William Barton's nearby cabin are shown prominently.

Throughout the latter half of the 19th Century Barton Springs provided water for milling power, animal watering, drinking water, swimming, and fishing. The state's first fish hatchery was established at Barton Springs in 1881. In 1884 the *Austin Daily Statesman* noted some problems with nude bathers. That same year, 20 women of Austin formed a bathing club that enjoyed Barton Springs regularly. Throughout the late 1800s and early 1900s Barton Springs was a favored place for baptismal ceremonies.

In 1918 Colonel A.J. Zilker gave the land around Barton Springs to the Austin School District, with the understanding that the City would purchase the land from the School District for both water supply and recreation purposes. Colonel Zilker conditioned the gift with a requirement that the money paid by the City would be dedicated to vocational training. In this way, Colonel Zilker made Barton Springs not only an asset for public recreation and water supply, but also tied the Springs directly to education and the future of young people.

Ecological Significance

Barton Creek and Barton Springs are waters of exceptional ecological significance. The high quality waters and diversity of habitats in and along the Creek support an extremely diverse and unique assemblage of native plants and animals.

The Barton Springs Salamander, *Eurycea sosorum*, is perhaps the most significant biological resource. On February 17, 1994 the U.S. Fish & Wildlife Service formally proposed the listing of the Barton Springs Salamander as an endangered species under the federal Endangered Species Act. 59 *Federal Register*, page 7968. The Salamander had been a candidate for federal protection since December 30, 1982. The Service finally took action to list the Salamander in response to a formal petition for listing filed by Dr. Mark Kirkpatrick and Barbara Mahler.

As part of the listing proposal, the Service emphasized the sensitivity of the Barton Springs Salamander to reduced water quality. The Salamander's thin, porous skin and external gills make it vulnerable to pollution. Its extremely limited range—the aquifer waters and outflows of Barton Springs—make it susceptible to extinction from either catastrophic events or slow, chronic water quality deteriora-

tion. Also, "amphipods, which comprise most of the salamander's diet, are especially sensitive to water pollution." *Id.* at 7971.

Because it depends on high quality flows in Barton Springs, ONRW designation is important to the survival of this species. In proposing the endangered status for the Salamander, the Service stated the "primary threat to this species is contamination of the waters that feed Barton Springs due to the potential for catastrophic events (such as petroleum or chemical spills) and chronic degradation resulting from urban activities."

The Barton Springs Salamander's sensitivity to pollution makes clear that any degradation of water quality in Barton Springs should be prohibited. Protection of the high quality water required for Barton Springs Salamander survival requires a standard which is higher than "swimable/fishable". ONRW designation for this segment is completely consistent with the water quality requirements of this endangered species.

In addition to the Barton Springs Salamander, several rare aquatic snails occur within Barton Springs Pool and in the creek just below the pool. The Guadalupe Bass, the official State Fish, which is recognized as endangered by the Texas Parks and Wildlife Department, also has been recorded in Barton Creek.

Upstream from Barton Springs, the Barton Creek watershed provides habitat for the Black-capped Vireo and the Golden-cheeked Warbler, two federally-listed "endangered" migratory songbirds. Airman's Cave—and likely other caves along Barton Creek—contains the Bee Creek Cave harvestman, also an endangered species on the federal list. Many other extremely rare and only recently discovered species of cave dwelling organisms occur in the cave systems of the Barton Springs Edwards Aquifer.

The Canyon Mock Orange and Bracted Twistflower, two native plants recognized as extremely rare and as candidates for state and federal protection, occur along Barton Creek. The lower few miles of the Barton Creek canyon provide habitat for over 100 species of butterflies. Many of these species are residents, a few are extremely rare. Dr. Chris Durden of the Texas Memorial Museum has documented this incredible diversity of butterfly fauna.

Another important factor in the ecological significance of Barton Creek and Barton Springs is the biological resources which have not yet been discovered. Neither the Barton Creek watershed nor the Barton Springs Edwards Aquifer has been subject to significant biological surveys. New species and occurrences of other species not currently known are likely to be discovered in the Creek, in the aquifer and associated honeycombed limestone, and in the watershed. Many unique species have been discovered in the San Antonio portion of the Edwards Aquifer when qualified biologists have surveyed for new species in the aquifer. Similar surveys within Barton Springs and the Barton Springs Edwards Aquifer would also likely identify new and unique species.

Finally, Barton Creek and Barton Springs provide a large, dependable source of high quality water to Town Lake. Without the high quality waters from Barton Springs, the continued recovery of Town Lake as an important fish, wildlife, and recreation resource would be impossible. Funds to be expended by the City of Austin in retrofitting and clearing-up central Austin in order to protect and restore Town Lake are wasted if degradation

of Barton Creek and Barton Springs is allowed to continue.

Local Support for Protection

The City of Austin and its citizens have long been involved in efforts to protect Barton Creek and Barton Springs. These efforts include the following key events:

dedication of Zilker Park,

1970. A citizen urged the Austin City Council to preserve a greenbelt along Barton Creek from Zilker Park to Highway 71, testifying that Barton Creek is

"... a refuge of tranquility and relaxation for the public... an extraordinary enclave of wilderness so close to the heart of downtown; a free-flowing stream with rapids, with pools that reflect precipitous bluffs, a marvel of variety in colors, textures, and shapes, a place to see flowers rarely seen in a city, to hear bird songs rarely heard by city dwellers." (US National Park Service, et al., 1992)

1974. The City of Austin Environmental Board recommended that

"... development of the Barton Creek watershed should proceed in such a manner as to minimize impervious cover in order to control pollution of Barton Creek and the Edwards aquifer by urban runoff." (US National Park Service, et al., 1992)

1975. Local bonds were passed to purchase land for the Barton Creek greenbelt. The present greenbelt encompasses about 800 acres and is used by more than 30,000 visitors each year. (US National Park Service, et al., 1992)

1976. Austin City Council instructed City staff to conduct a Barton Creek watershed study with these purposes:

To preserve Barton Springs water quality to the greatest extent feasible for recreational use, and for use as part of the City of Austin water supply;

To preserve Barton Creek water quality for recreational use in the creek and to maintain Springs water quality; and

To preserve environmentally sensitive areas for recreational, scenic, and wildlife values.

1980. The Barton Creek Ordinance was passed to protect Barton Creek from nonpoint source pollution. This was the second nonpoint source ordinance in Texas. The first was Austin's Lake Austin watershed Ordinance of 1978.

1982. The Austin City Manager appointed a multi-department Barton Springs Task Force with these goals:

To maintain Barton Springs suitable for contact recreation;

To maintain the water quality of Barton creek and other creeks contributing to the aquifer; and

To maintain adequate year round spring flow.

1986. The City of Austin passed the Comprehensive Watersheds Ordinance providing for additional water quality protection for Barton Creek, contributing areas of Barton Springs, as well as other Austin watershed.

1991. The City of Austin passed strengthening amendments to the Comprehensive Watersheds Ordinance to provide additional water quality protection to meet a goal of nondegradation for the Barton Springs Zone.

1992. A committee of governmental agencies and citizens presented the final draft of the Balcones Canyonlands

Conservation Plan (BCCP). The purpose of the plan is to establish a regional habitat preserve system for species listed under the federal Endangered Species Act. Barton Creek is the second largest of the proposed habitat areas, with 9631 acres proposed.

In August the City of Austin passed, by voter initiative with almost 2 to 1 margin, an ordinance calling for additional water quality protection of Barton Creek and the Barton Springs Zone.

In the same election, voters authorize approximately \$42 million in bonds to purchase land for habitat and water quality preserves within Barton Creek and other watersheds.

1994. The City of Austin authorizes development of a master plan for retrofit designs to mitigate the water quality impacts of existing development in the Barton Creek watershed and contributing watersheds to Barton Springs.

Hydrogeologic Setting

Barton Creek drains 120 square miles of largely undeveloped Texas Hill Country terrain. Approximately two-thirds of the lower Barton Creek watershed is located in Travis County and the upper one-third is located in Hays County. The watershed is 25 miles long and 4 to 8 miles wide. The stream length is about 48.5 miles.

Climate

The Barton Creek watershed and contributing watersheds to Barton Springs straddle the Balcones Fault Zone in the Hill Country of Central Texas. This area experiences mild winters and hot summers. Average rainfall rates, based on 54 years of rainfall data at Mueller Airport, are 32.4 inches per year. This rainfall is fairly evenly distributed throughout each month of the year, with minor peak occurring in May, and another peak in September.

About half of the rainfall volume in Austin occurs during rainfall events of 1.5 inches or more, even though these events comprise only 10 percent of the total number of events in an average year. Very intense rainfall events may occur when saturated winds from the Gulf of Mexico are lifted into cooler, upper levels as they encounter the Balcones Fault Zone. These events may result in "flash flooding" of Barton and other area streams.

Vegetation

Vegetation in the Barton Creek watershed is typical of that found along the eastern portion of the Edwards Plateau. Mixed wooded growth occupies the hilly areas and bluffs of the Glen Rose and Edwards limestones. The thin loamy soils of the level areas may be grasslands, scrub, or wooded.

Principal species of the upland woodland areas are ashe juniper (*Juniperus ashei*), Texas oak (*Quercus texana*), live oak (*quercus fusiformis*), and hackberry (*Celtis laevigata*). Typical grasses are curly mesquite (*Hilaria belangeri*), bluestem (*Andropogon ssp.*) and hairy grama (*Bouteloua hirsuta*). Ashe juniper dominates higher canyon reaches, with occasional mountain laurel (*Sophora secundiflora*), flame-leaf sumac (*Rhus landeolata*), mesquite (*Prosopis glandulosa*), and live oak Dogwood (*Cornus drummondii*), yaupon (*Ilex vomitoria*), deciduous holly (*Ilex dicidua*), red bud (*Cercis canadensis*), cottonwood (*Populus deltoides*) pecan (*carya illinoensis*), and sycamore (*Platanu*

occidentalis), and others are found on lower canyon slopes and along the creek.

Geology

Approximately 94% of the Barton Creek watershed overlies the Glen Rose limestone and the remaining overlies the Edwards limestone. Both of the limestone formations are characterized by faults, fractures, and solution cavities through which groundwater migrates and is stored. In the subject area, the Edwards Limestone is much more highly dissolved and developed as an aquifer, although the Glen Rose has been developed for local domestic and livestock use.

The Glen Rose formation underlies Barton Creek watershed and contributing watersheds of Barton Springs west of the Balcones Fault zone. In the Austin area, this formation is approximately 600 feet thick, consisting of alternating strata of hard limestone and dolomite and softer, erodible marl. The contrasting erodibility of the hard and soft layers in the Glen Rose account for the characteristic stair step topography of the watershed. Hard ledges of limestone and dolomite form level terraces. Slopes between these ledges are formed from erosion of softer marls, which contributes sediment to Barton Creek.

The Edwards limestone underlies the lower portion of the Barton Creek Watershed, east of the Mount Bonnell Fault. This is a hard, slow-weathering limestone with four identified members. The first member is 200 feet of dolomite and dolomitic limestone with rudists and gray to black chert common. The second member is about 40 feet of thin-bedded, fine-grained dolomitic limestone with nodular chert. Ten to fifteen feet of soft burrowed limestone constitutes the third member. The fourth member consists of about 40 feet of flaggy limestone beds overlain by a rudist bed of about 3 feet, calcarenitic and dolomitic limestone.

Edwards limestones were originally deposited in a wide variety of carbonate environments: reef, lagoon, basin, shoal, and supratidal. Meteoric waters altered much of the limestone to dolomite shortly after deposition. These hard rock materials were cracked by faults and fractures during the active period of the Balcones Fault zone. Infiltration through these openings dissolved the limestone and formed the system of internal cavities and channels within the Edwards limestone that allows for high flow rates and recharge of the existing Edwards aquifer.

Other minor geological formation in the Barton Creek watershed are the erodible clays of the Del Rio formation and soft shales and clays of the Eagle Ford formation. The Burda limestone crops out on some hills, and St. Elmo bench deposits are also present at some high elevations. Alluvial deposits of gravel, sand, silt, and mud are common along Barton Creek, particularly associated with tributaries. These deposits are 20 feet thick, on average, and may act as a conduit for subsurface water seepage.

Land Use

Most of the present development in the Barton Creek watershed exists in the lower basin, within the boundaries of Loop 360. Development within this close-in area consists of a mix of residential and commercial. Commercial development includes Barton Creek Square Mall, with 86 acres of impervious cover, Brodie Oaks, and several office buildings.

Outside of Loop 360, development is primarily medium to low density residential land use. There are also two coun-

try clubs with associated buildings, tennis courts, and golf courses. Three golf courses are located adjacent to the creek and are used to land apply treated wastewater effluent. Above Highway 71, development is scattered rural, large lot residential, and ranching uses.

Virtually the entire watershed below US Highway 71 has been proposed for development in the City of Austin planning process. This proposed development will be required to meet one of several City of Austin water quality ordinances which regulate impervious cover, storm water treatment, and/or protection of the riparian zones and critical environmental features. Development in the Barton Creek watershed, under the latest ordinance (commonly identified as the SOS ordinance), must not exceed 20% impervious cover in the contributing zone and 15% impervious cover over the Edwards Aquifer recharge zone; with impervious cover percentages based on the land area which is both away from the creeks and tributaries, and not excessively steep.

Barton Creek

For most of the year Barton Creek sustains baseflow over the majority of its length. Between storm flows, the creek consists of a series of pools, formed by erosion and deposition of sediments. Pools are connected by gravel, sand, or bedrock riffles. During long dry periods, the creek may exhibit little or no surface flow between the pools as all of the water movement is through hydraulic connections in the subsurface. During these low flow periods, the pools continue to provide habitat for varied aquatic life and are often the only nearby source of water for local wildlife (Espey, Huston & Assoc., 1979).

The State of Texas Water Quality Inventory (1992) identified 7 permitted domestic wastewater treatment facilities in the Barton Creek watershed. These permitted facilities are "no discharge" package plants with land application of the effluent. There are no industrial outfalls. Water quality measurements reported in this inventory indicate that the quality of the water in Barton Creek generally exceeds applicable water quality standards (see attachment). Mean dissolved oxygen concentration were reported as 8.4 mg/l, compared to a criteria of 5.0 mg/l. A portion of the segment, downstream of Barton Springs pool does not meet the contact recreation due to elevated fecal coliform bacteria caused by an abundance of water fowl.

Barton Springs/Edwards Aquifer

Barton Creek is one watershed of a 354-square mile area that contributes recharging waters to Barton Springs.

Barton Springs is the fourth largest natural spring in Texas, with an average flow rate of 32 million gallons of water each day. Source waters of Barton Springs are groundwater within the Edwards Aquifer. The Edwards Aquifer is an underground water reservoir, stretching from Bell County southwest to Kinney County. It is divided into 3 sections. The Barton Springs segment is the middle segment. The Barton Springs segment of the Edwards Aquifer extends from a groundwater divide in Hays County north to its discharge point, which is Barton and associated springs.

The Barton Springs Edwards Aquifer is contained within the Edwards limestone formations. This segment of the aquifer is separated by hydrologic divides marked by the Colorado River to the north, the Mount Bonnell fault on the west, a potentiometric boundary to the south in Hays County, and a zone of decreased water circulation, the "bad water line," to the east. This karst aquifer is charac-

terized by sinkholes, springs, caves, loosing streams and solutionally enlarged conduits.

Recharge to the Barton Springs Edwards Aquifer occurs primarily as infiltration of stream flows conveyed in the creeks as they cross the outcrop of the Edwards limestone. Secondary recharge to the aquifer occurs from rainfall

infiltrating directly into the outcropped limestone and sub-surface inflows from adjacent formations. Approximately 85 percent of the aquifer recharge occurs through the streambeds of six creeks (Slade, 1986). Their recharge contributions and maximum recharge rates are estimated as follows:

Watershed	Percent of Total Recharge	Maximum Recharge Rate (cfs)
Barton Creek	28 percent	30 to 70 cfs
Williamson Creek	6	13
Slaughter Creek	12	52
Bear Creek	10	33
Little Bear Creek	10	30
Onion Creek	34	120

Based on 65 years of flow measurement documented by the USGS (Slade, 1986), the mean discharge at Barton Springs is about 50 cfs. The minimum and maximum recorded discharge rates are 10 and 166 cfs. Because their flow constitutes most of the recharge to Barton Springs, the water quality of these contributing creeks is a significant determining factor to the water quality of the segment proposed for designation

Conclusion

Barton Creek and Barton Springs clearly meet the criteria for Outstanding National Resource Water designation. They are truly outstanding recreational and ecologically-significant waters. No where else in Texas has a community so clearly and repeatedly called for the prohibition of water quality degradation which is assured by the ONRW designation as have the people of Austin called for the protection of Barton Creek and Barton Springs. The ONRW designation at this time is not only appropriate but also very important to providing the protection needed to preserve Barton Creek and Barton Springs for ourselves and for future generations

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Woodruff, C. Laura De La Garza, Fred Snyder. Lineament and the Edwards Aquifer, B.S. Segment Travis and Hays Counties. Edwards Aquifer research and Data Center, San Marcos, Texas, in cooperation with the City of Austin, 1989.

The copies of the Attachments from the State of Texas Water Quality Inventory can be requested by contacting the Office of the Chief Clerk at (512) 463-7898.

Issued in Austin, Texas, on June 22, 1994.

TRD-9442882

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: June 22, 1994

◆ ◆ ◆
Texas Public Finance Authority
Request for Proposal for Insurance
Policy

Texas Public Finance Authority Request for Proposals for Insurance Policy (Buildings Covered by Bond Issue)

The Texas Public Finance Authority (TPFA) is requesting proposals for insurance coverage with no coinsurance penalty, in the amount of 100% of the replacement value of each insurable building project on which bond issues are outstanding and business interruption (loss of rents) insurance as set forth in the Request for Proposals. The deadline for proposal submission is noon, August 8, 1994.

Selection will be based on lowest cost for the one year period provided that all criteria and specifications are met or exceeded.

Copies of the Request for Proposal may be obtained by calling or writing Pamela Scivicque, Texas Public Finance Authority, P.O. Box 12906, Austin, Texas 78711, (512) 463-5544.

Issued in Austin, Texas, on June 21, 1994

TRD-9442882

Anne L. Schwartz
Executive Director
Texas Public Finance Authority

Filed: June 22, 1994

◆ ◆ ◆
State Securities Board
Correction of Error

The State Securities Board proposed amendments to §§117.1-117.5, and §117.7, concerning administrative guidelines for registration of real estate programs. The rules appeared in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4059).

The rules as published contained errors.

In §117.4(c)(5)-On line two, the word "of" should be inserted between "paragraph (4)" and "this."

The State Securities Board proposed amendments to §§121.2-121.4, and 121. 10, concerning administrative guidelines for registration of oil and gas programs. The rules appeared in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4063).

The rules as published contained errors.

Section 121.10(d)-On line twelve, the space between "§121." and "6(a)-(c) " should be eliminated.

◆ ◆ ◆
The State Securities Board proposed amendments to §§141.3, concerning administrative guidelines for registration of equipment programs. The rules appeared in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4067).

The rules as published contained errors.

In §141.3(b)(1)(A)-On line two, the space between "\$45," and "000" should be eliminated.

◆ ◆ ◆
The State Securities Board proposed new §§143.1-143.8, concerning administrative guidelines for registration of real estate investment trusts. The rules appeared in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4069).

The rules as published contained errors.

In §143.1(b)(14)(A)(v)-On line three, the word "by" should be inserted between "advised" and "the."

In §143.1(b)(15)-On line four, the space between "§143." and "2(a)" should be eliminated.

◆ ◆ ◆
Southwest Texas State University
Fund Raising Counsel

Southwest Texas State University in San Marcos solicits proposals for its major gifts campaign.

The firm must have a proven track record assisting large state universities in Texas with similar campaigns.

The contractor must provide advice and guidance on research, cultivation solicitation and stewardship for private gifts to the university.

Assistance with the recruitment and training of volunteer leadership, goal setting, campaign accounting procedures, and overall assistance are also required.

Southwest Texas will give preferential consideration to firms who have previous experience working with Southwest Texas State University.

Contact: Gerald W. Hill, Vice President for University Advancement, Southwest Texas State University, San Marcos, Texas 78676-4612.

Closing Date: July 15, 1994, Contract will be awarded by the Board of Regents, Texas State University System, August 3, 1994, at its meeting in Alpine, Texas.

Issued in San Marcos, Texas, on June 15, 1994.

TRD-9442799

Gerald W Hill
Vice President for University Advancement
Southwest Texas State University

Filed June 21, 1994

◆ ◆ ◆
Texas State Technical College
Notice of Consultant Contract

Pursuant to Government Code, Subchapter B, §2254, Texas State Technical College-East Texas Center publishes this notice of a consultant contract award for providing service and assistance with the development of a model skills-based training system for Instrumentation Technology using a microcomputer-based expert curriculum development system

The consultant proposal request was published in the *Texas Register* on March 8, 1994, (19 TexReg 1706).

The contract has been awarded to Dr Doug Goodgame, Ed-Tech Systems, Inc., P.O. Box 994, College Station, Texas 77841.

The contract was executed June 17, 1994, and extends through June 30, 1994. The total costs of the contract will not exceed \$9,100.

Issued in Marshall, Texas, on June 17, 1994

TRD-9442791 Don Goodwin
President
Texas State Technical College
Waco/Marshall

Filed June 21, 1994

Texas Department of Transportation
Request for Proposals

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage a consultant pursuant to the Government Code, Chapter 2254, Subchapter A to provide services necessary to write the environmental assessment, develop the right of way map, and produce the construction documents (plans, specifications, and estimates) for various urban street projects in San Antonio, Texas. The projects are grouped into the following two separate contracts:

(1.) Contract 15-545P5003, Eisenhower Road (IH 35 to Midcrown) and Wurzbach Road (at IH 10).

(2.) Contract 15-545P5006, Blanco Road (at Jackson Keller), Evers Road (Glen Ridge to Daughtery) and Wurzbach Road (at Vance Jackson).

Mandatory Pre-proposal Meeting: A mandatory pre-proposal meeting will be held at the Texas Department of Transportation, District Office, 4610 N.W. Loop 410, Building Two (meeting room), San Antonio, Texas at 10:00 a.m. on Friday, July 8, 1994. TxDOT will not accept a proposal from a consultant who has failed for any reason to attend the pre-proposal meeting.

Agency Contract: Requests for additional information regarding this request proposals should be directed to Judy Friesenhahn, P.E., TxDOT Advance Project Development, P.O. Box 29928, San Antonio, Texas 78284, (210) 615-5814.

Issued in Austin, Texas, on June 22, 1994.

TRD-9442853 Diane L Northam
Legal Executive Assistant
Texas Department of Transportation

Filed June 22, 1994