Lloyd Gosselink
ATTORNEYS AT LAW

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THE LONE STAR CURRENT

A Publication of Lloyd Gosselink Rochelle & Townsend, P.C., for the Benefit of Its Clients & Friends

WELCOME 2022! HOW ARE YOU DOING?

by Lauren J. Kalisek

It's been almost two years since the World Health Organization confirmed COVID-19 as a global pandemic, and we've all been through a lot during this unprecedented time. We each have our stories of the things we withstood, managed, and moved through as we dealt with shutdowns, health risks, and economic uncertainty. The previously simple question of "How are you doing?" has evolved into something a little more complicated to answer. Now, as we begin 2022, we look forward to a new year with the benefit of effective vaccines. We still face the challenge of a variant impacting hospitals, schools, and workplaces at the start of this year, and our resiliency continues to be tested. But there is reason to be optimistic about 2022.

As we begin this new year, the work of our communities and organizations goes on regardless of the lingering pandemic as reflected in the updates provided in this newsletter. We have important articles from our Water Practice Group on complex federal and state law water and wastewater certificates of convenience and necessity ("CCN") issues and from our Employment Law Group on Texas Employment Law updates, along with our standing Muncipal Courts, Agency Highlights, and In the Courts columns to keep you up to speed.

Over the pandemic, one of the more fun projects we launched was our podcast "Listen In With Lloyd Gosselink" where you can listen to our attorneys do deeper dives into the legal and regulatory issues weare monitoring. We are working on dropping our third season early this year, and we hope you enjoy tuning in as much as we enjoy putting these episodes together.

But probably most exciting as we start off this new year, and as highlighted in the Firm News column, our firm is celebrating the onboarding of several new attorneys, some newly licensed and just starting their careers, and the election of one of our senior associates, Gabrielle Smith, to Principal. Seeing our coworkers achieve their career goals with our firm is one of the most rewarding aspects of what we do.

We at Lloyd Gosselink continue to be grateful for the opportunity to work with all the clients, friends and colleagues that make up our newsletter list. Our wish for you for 2022 is that your answer to "How are you doing?" becomes simpler, easier, and brighter with each passing day!

Lauren Kalisek is the Managing Director and leads our Firm's Districts Practice Group. If you would like additional information or have questions related to this article or other matters, please contact Lauren at 512.322.5847 or lkalisek@lglawfirm.com.

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Lloyd Gosselink Rochelle & Townsend, P.C., provides legal services and specialized assistance in the areas of municipal, environmental, regulatory, administrative and utility law, litigation and transactions, and labor and employment law, as well as legislative and other state government relations services.

Based in Austin, the Firm's attorneys represent clients before major utility and environmental agencies, in arbitration proceedings, in all levels of state and federal courts, and before the Legislature. The Firm's clients include private businesses, individuals, associations, municipalities, and other political subdivisions.

The Lone Star Current reviews items of interest in the areas of environmental, utility, municipal, construction, and employment law. It should not be construed as legal advice or opinion and is not a substitute for the advice of counsel.

To receive an electronic version of The Lone Star Current *via e-mail, please contact Jeanne Rials at 512.322.5833 or jrials@lglawfirm.com. You can also access* The Lone Star Current *on the Firm's website at www.lglawfirm.com.*

FIRM NEWS

We are pleased to announce that **Gabrielle C. Smith** has been elected as a Principal of the Firm effective January 1, 2022. Gabrielle represents clients in litigation matters in state and federal courts. She provides guidance to clients as they navigate through the steps of the process at both the trial and appellate levels. She has experience in alternative dispute resolution, exploring options through both pre-litigation and litigation routes. She works to determine assessment of risk, potential outcomes, and cost-efficient solutions. Gabrielle previously represented federal government employees in their discrimination complaints and appeals of adverse personnel actions before the Equal Employment Opportunity Commission and Merit Systems Protection Board. She has also represented Texas public school districts in the areas of employment law, student discipline, and school board governance. Gabrielle received her doctor of jurisprudence from the University of Texas School of Law and her bachelor's from Texas A&M University.

Rashmin Asher has joined the Firm's Energy and Utility Practice Group as a new Associate. Rashmin's practice focuses on administrative law in the area of public utility regulation. She represents utilities and municipalities in proceedings before the Public Utility Commission of Texas, the Railroad Commission of Texas, the Texas Commission on Environmental Quality, and the State Office of Administrative Hearings. Prior to joining the Firm, Rashmin worked as a Managing Attorney and Staff Attorney at the Public Utility Commission of Texas, where she represented Staff of the Public Utility Commission of Texas in a wide variety of electric and water administrative and contested case proceedings. Her experience included base rate cases, change of control proceedings, CCNs, sale/transfer/merger proceedings, and various other regulatory proceedings. Additionally, Rashmin served as Assistant District Attorney for Brazos County, where she gained extensive appellate litigation experience. Rashmin received her doctor of jurisprudence from Ohio State University Moritz College of Law and her bachelor's from Texas A&M University.

Wyatt Z. Conoly has joined the Firm's Litigaton Practice Group as a new Associate. Wyatt served as judicial extern to the Hon. Brantley D. Starr, United States District Judge for the Northern District of Texas, during law school. Wyatt served as a judicial intern for the Hon. David S. Morales, United States District Judge for the Southern District of Texas, during the summer of 2020. He was a member of the *SMU Law Review* and received an oral advocacy award in 2019 for his performance in the Mack Kidd moot court tournament. Wyatt received his doctor of jurisprudence from Southern Methodist University Dedman School of Law and his bachelor's from the University of Arizona Honors College.

Roslyn M. Dubberstein has joined the Firm's Energy and Utility Practice Group as a new Associate. Roslyn's practice focuses on administrative law in the area of public utility regulation. She represents utilities and municipalities in proceedings before the Railroad Commission of Texas, the Public Utility Commission of Texas, the Texas Commission on Environmental Quality, and the State Office of Administrative Hearings. Prior to joining the Firm, Roslyn worked as an Enforcement attorney in the Litigation Division at the Texas Commission on Environmental Quality, where she pursued violations of administrative rules and regulations on behalf of the Executive Director. Her experience includes a wide variety of environmental media, such as public water systems, municipal solid waste, water quality permitting, and petroleum storage tanks. Roslyn received her doctor of jurisprudence from Southern Methodist University Dedman School of Law and her bachelor's from Oklahoma State University.

Jonathan L. Glusband has joined the Firm's Litigation Practice Group as a new Associate. Jonathan represents clients in litigation matters in state and federal courts. An experienced litigator, Jonathan was most recently the Staff Attorney for the Honorable Dustin M. Howell in the 200th and 455th District Courts of Texas. Prior to moving to Austin, Jonathan served as an Assistant District Attorney in the Brooklyn District Attorney's Office where he handled felony cases. Jonathan received his doctor of jurisprudence from the George Washington University Law School and his bachelor's from Hamilton College.

Jessica A. Maynard has joined the Firm's Employment Practice Group as a new Associate. She aids employers in developing policies and practices to improve their workplace environments. She also strives to keep employers up-to-date on new and evolving topics in employment law. In law school, Jessica was a member of the Women's Law Caucus, the Public Interest Law Association, and the Texas Intellectual Property Law Journal. She also participated in the Human Rights Clinic. Some of her favorite classes in law school include: Employment Law; Employment Discrimination; Americans with Disabilities; Changing American Schools; and Academic Freedom, The First Amendment, and the American University. Jessica received her doctor of jurisprudence from the University of Texas School of Law and her bachelor's from Texas Christian University.

Jessie M. Spears has joined the Firm's Water and Compliance and Enforcement Practice Groups as a new Associate. Jessie's practice involves working with environmental matters at the federal, state, and local levels. As a member of the Water Practice Group, Jessie assists clients with water quality matters, water resources development, regulatory compliance, permitting, enforcement, and litigation. During law school, Jessie further developed her interest in environmental law by interning with the Texas Railroad Commission, the Texas General Land Office, and other private law firms. Prior to joining the Firm, Jessie was a staff attorney at the Texas Commission on Environmental Quality in the Environmental Law Section. Jessie received her doctor of jurisprudence from Southern Methodist University Dedman School of Law and her bachelor's from the University of Colorado at Boulder.

Sarah Glaser will be presenting "HR Compliance Update: COVID-19 in 2022" at the Austin SHRM Webinar on January 19.

Sarah Glaser will be giving a "Lunch and Learn" at the Association of Legal Administrators, Austin Chapter on January 27 in Austin.

Sheila Gladstone will be discussing "Workplace Law and Legal Liabilities" at the Sam Houston State University New Probation Chief's Development Program on February 4 in Huntsville.

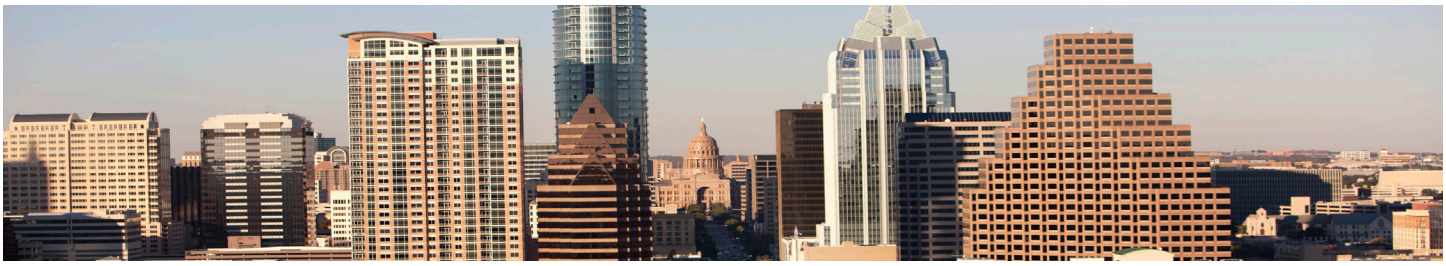
Sheila Gladstone will be giving an "Overview of Employment Law, Performance Management, and Legal Liabilities" at the New Chief's Conference on February 6 in Huntsville.

Mike Gershon and **James Muela** will be co-presenting a "Case Law Update" at the Texas Alliance of Groundwater Districts Quarterly Business Meeting on February 9 in Austin.

James Muela will provide a "Case Law Update" at the Changing Face of Water Rights - State Bar CLE on February 17 in San Antonio.

Sheila Gladstone will present "2022 Employment Law: Overview and Update" at the Certified Public Manager Course, at Texas State University on March 25 in San Marcos.

MUNICIPAL CORNER



Texas Water Code § 49.103 provides for certain district board of directors, including a conservation district established prior to the enacted provision, to change the terms of the district's board of directors from two years to four years. Tex. Att'y Gen. Op. No. KP-389 (2021).

In a recent opinion, the Office of the Attorney General addressed whether a conservation district had the authority to change the terms of office for its board of directors from two to four years. The Office of the Attorney General concluded that such entities could do so.

The Opinion first discusses the background of the specific entity, Trinity Bay Conservation District (the "District"), which was established by the Texas Legislature in 1949 as a conservation and reclamation district under Article XVI, Section 59, of the Constitution. The 1949 Act established a five-person board of directors with each serving a two-year term elected in staggered elections. The District previously sought to amend the 1949 Act in 1991; however, no legislation passed. In 2016, the District issued an order successfully changing its elections from May to November. The order states "those positions to have appeared on the May 2016 ballot will appear on the November 2016 ballot and will be 4-year terms."

Next, the Opinion addresses whether the District board of directors possessed the authority to change members' terms from two years to four years. Because the 1949 Act establishing the District and the two-year term of office system for the board of directors was unchanged by any amendment, the Attorney General looked to other applicable law to determine whether the District board of directors' terms remain established as two-year terms. The Attorney General agreed with the District's interpretation that Section 49.103 of the Texas Water Code establishes a staggered four-year term for district board of directors, and in addition, includes a choice-of-conflicting-law provision that resolves any conflict with prior statutory enactments about Directors' terms in favor of the four-year term. This Opinion concludes that Section 49.103 governs the length of the directors' terms, despite the conflicting language in the enabling legislation.

Legislation passed in the most recent Texas Legislative Session goes into effect on January 1, 2022 regarding eminent domain authority.

House Bill 2730 amends the Texas Government and Property Codes relating to eminent domain authority, which go into effect on January 1, 2022. Under Section 21.0113(b) of the Property Code, as amended by the bill, an entity with eminent domain authority must include in its written initial *bona fide* offer to a property owner the following:

- A copy of the landowner's bill of rights statement prescribed by Section 402.031, of the Texas Government Code, including the addendum prescribed by Section 402.031(c-1);
- A statement, in bold print and a larger font than other portions of the offer, indicating whether the compensation being offered includes (1) damages to the remainder, if any, of the property owner's remaining property, or (2) an appraisal of the property, including damages to the remainder if any, prepared by a certified appraiser certified to practice as a certified general appraiser under Chapter 1103 of the Texas Occupations Code;
- An instrument of conveyance, provided that if the entity is a private entity as defined by Section 21.0114(a), the instrument must comply with Section 21.0114, as applicable unless: (1) the entity has previously provided an instrument complying with Section 21.0114, (2) the property owner desires to use an instrument that differs from one complying with Section 21.0114 and consents in writing to use a different instrument, or (3) the property owner provided the entity with the instrument prior to the issuance of the initial offer; and
- The name and telephone number of a representative of the entity who is (1) an employee of the entity, (2) an employee of an affiliate providing services on behalf of the entity, (3) legal counsel of the entity, or (4) an individual designated to represent the day-to-day operations of the entity, if the entity does not have employees.

Newly enacted Section 21.0114 defines "private entity" as (1) a for-profit entity, as defined by Section 1.002 of the Texas Business Organizations Code, authorized to exercise the power of eminent domain to acquire private property for public use, or (2) a corporation organized under Chapter 67 of the Texas Water Code, such as a water supply corporation, that has a for-profit entity, however organized, as the sole or majority member. Section 21.0114 applies only to a deed, agreement, or other instrument of conveyance for a pipeline right-of-way easement or an

electric transmission line right-of-way easement that is included with an offer to acquire a property interest for public use, subject to certain exceptions. Such deeds, agreements, or instruments of conveyance made by a private entity with eminent domain authority to acquire the property interest to be conveyed must address the specific terms relating to the easements and negotiations of the terms and conditions, as outlined in the Section. A private entity must also notify the property owner that they may negotiate for specified general terms to be included in the deed, agreement, or instrument of conveyance.

Additionally, House Bill 2730 amends Section 402.031 of the Texas Government Code relating to the landowner's bill of rights statement prepared by the Office of the Attorney General, including the notification requirement that a property owner may file a written complaint with the Texas Real Estate Commission ("TREC") regarding any alleged misconduct by a registered easement or right-of-way agent acting on behalf of the entity exercising eminent domain authority. Under Section 402.031, the landowner's bill of rights will now include an addendum of the terms required for an instrument of conveyance under Section 21.0114(c) of the Property Code, and the terms a property owner may negotiate under Section 21.0114(d), relating to a pipeline right-of-way easement or an electric transmission line right-of-way easement.

"Municipal Corner" *is prepared by Kathryn Thiel. Kathryn is an Associate in the Firm's Districts Practice Group. If you would like additional information or have questions related to these or other matters, please contact Kathryn at 512.322.5839 or kthiel@lglawfirm.com.*

LEGISLATIVE UPDATES IN TEXAS EMPLOYMENT LAW

by Sheila B. Gladstone, Sarah T. Glaser, and Jessica A. Maynard

The 87th Texas Legislature passed a number of bills affecting Texas employers. This article summarizes the most noteworthy new employment laws and outlines key takeaways for Texas employers. Note, all of the bills discussed below went into effect on September 1, 2021. If you do not already have policies in compliance with these new laws, contact Lloyd Gosselink's Employment Law Practice Group.

Sexual Harassment

The Legislature passed three bills modifying the Texas Labor Code's provisions on sexual harassment:

House Bill 21 extends the statute of limitations for state law sexual harassment claims to 300 days. Complainants now have 300 days, rather than 180 days after the date of the alleged misconduct, to file a complaint of sexual harassment with the Texas Workforce Commission (TWC). Before filing a lawsuit alleging harassment under federal or state discrimination laws, a complainant must first exhaust administrative remedies by filing a charge of discrimination with either the TWC or the Equal Employment Opportunity Commission (EEOC). H.B. 21 brings the TWC deadline in line with the EEOC's existing 300-day filing deadline, but only for complaints of sexual harassment. For claims based on any other protected class under the Texas Labor Code (race, color, national origin, gender, age, etc.), the 180-day statute of limitations still applies. Employees who do not timely file an administrative complaint of sexual harassment with the TWC or the EEOC lose their ability to bring a sexual harassment lawsuit.

Senate Bill 45 expands liability for sexual harassment to all Texas employers, no matter the size. Previously, only employers with at least 15 employees were covered under sexual harassment laws. S.B. 45 also creates personal liability for agents and supervisors who do not take immediate and appropriate corrective action if they know or should have known that sexual harassment is occurring in the workplace. Supervisors and other agents of an employer can now be named individually in sexual harassment complaints and held personally liable for damages.

Senate Bill 282 prohibits use of public money to "settle or pay" for sexual harassment claims against members of the executive, legislative or judicial branch. Public employers can still settle sexual harassment claims, but settlements must be structured to clarify that public funds are being paid to settle claims only against the public entity, and not individual officials.

In light of these new sexual harassment laws, Texas employers should take the following steps:

- *Update Anti-Harassment Policies*. Personnel policies should clearly set forth reporting procedures and designate individual(s) whom employees can contact with complaints.
- *Training*. Sexual harassment training is recommended for all employees, though we encourage employers to host specific sessions for managers and supervisors focused on the new potential for individual liability, and how to recognize and report sexual harassment and respond to employee complaints.
- *Investigations*. Employers need to have a plan in place to expeditiously investigate reported harassment, either internally or via a third-party independent investigator. If evidence of harassment or other wrongdoing is found, the employer should take prompt disciplinary action and keep the complainant informed of remedial actions taken.

COVID-19 Exposure and Vaccine Mandates

Senate Bill 6, the Pandemic Liability Protection Act, protects businesses, including employers, from liability for injury or death caused by having exposed any individual (employee or not) to a pandemic disease during a pandemic related emergency. However, S.B. 6 does not provide absolute immunity for

employers. Claims can still be brought if the business: (1) knowingly failed to warn of, or to remediate, a condition it knew was likely to result in exposure; or (2) knowingly refused to comply with government standards or guidance intended to lower the likelihood of exposure. S.B 6's pandemic liability limitations will remain in effect until Governor Abbott terminates the pandemic disaster declaration.

Senate Bill 968 prohibits businesses from requiring customers to show proof of COVID-19 vaccination as a condition of entering or interacting with a business. Notably, S.B. 968 does not prohibit employee vaccine mandates, or limit employers from determining employees' vaccine status. Governor Abbott's Executive Orders (EO-39 and EO-40) place some restrictions on an employer's ability to mandate vaccines amongst employees. For OSHA-covered employers, federal rules may override the Governor's Orders, depending on the outcome of ongoing litigation.

Texas employers should continue to monitor the COVID-19 requirements and best practices coming from the federal and state authorities, and communicate them to employees. If Texas employers want to mandate vaccinations, make sure to include language that accounts for reasonable medical and religious accommodations and "any other legal basis for accommodation."

Mandatory Paid Leave

House Bill 1589 provides an additional seven days of paid leave for public employees engaged in military service in response to a federally declared disaster. This leave is in addition to the 15 days of paid leave provided for public employees who must miss work for training or military duty under existing Texas law. While on military leave, an employee may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

House Bill 2073 requires paid quarantine leave for peace officers, firefighters, and EMTs of a political subdivision who have to isolate or quarantine as a result of the COVID-19 virus (i.e., a positive test result or exposure to someone who has tested positive).

Senate Bill 1359 mandates that law enforcement agencies adopt a paid mental health leave policy program providing officers paid mental health leave after experiencing a traumatic work event. Under S.B. 1359, employers must:

- Provide clear and objective guidelines for use of the mental health leave;
- Make the leave available without a deduction in compensation;
- State the number of leave days available; and
- Detail the limit of anonymity for a peace officer taking such leave.

Senate Bill 44 grants up to 10 hours of paid leave for State employees per year for volunteering during a state-declared disaster. S.B. 44 requires that the State provide this paid volunteer time without deductions in salary or loss of vacation time. The employee may use this leave only with prior employer approval. To be eligible, employees can volunteer with any volunteer organization included on Texas' Voluntary Organizations Active in Disaster list.

Medical Low-THC Cannabis and Employer Drug Policies

House Bill 1535 expands the eligibility for medical use of low-THC cannabis to patients with certain medical conditions including all forms of cancer, medical conditions approved for certain research programs, and Post-Traumatic Stress Disorder. H.B. 1535 does not provide for employment protections to applicants or employees who qualify for medical use; however, employers should be prepared for a rise in disability accommodation requests from users of medical low-THC cannabis.

If you receive a request for accommodation, employers should first ask for a copy of the employee's medical marijuana prescription to confirm authorized medical use under Texas law. If the employee has a valid prescription, the employer should consider whether an accommodation can be provided, such as allowing the prescribed medical THC use, but prohibiting the employee from consuming THC at work or coming to work while under the influence (this would be analogous to workplace restrictions for other prescribed controlled substances and alcohol).

Despite H.B. 1535, marijuana is still illegal federally, even for medical use, and courts around the country are split on whether allowing an employee to violate the federal Controlled Substances Act is a reasonable accommodation under the ADA. The EEOC has not provided guidance on whether employers are obligated to accommodate an employee's use of an illegal drug that is legal in the state they are in. Also, for employers with federal grants, it's possible that allowing employee use of marijuana could jeopardize grants, as grant recipients are obligated to follow federal law, including the federal Drug Free Workplace Act, which prohibits marijuana use. As the interaction of federal law and H.B. 1535 is still unclear, we recommend you consult with an employment attorney if faced with a request for an accommodation to use medical low-THC cannabis.

New Open Carry Law and Firearms in the Workplace

House Bill 1927, commonly referred to as the "constitutional" or "permitless" carry law, authorizes law-abiding individuals age 21+ to carry a handgun openly (in a holster) or concealed in non-prohibited places without having to obtain a license to carry. Importantly, H.B. 1927 does not affect an employer's ability to prohibit employees from carrying on work premises or while on duty. However, remember the parking lot exception, which requires employers to allow employees to keep their legal firearms secured in a personal vehicle in the work-provided parking area.

Lloyd Gosselink's Employment Law Practice Group: Sheila Gladstone, Sarah Glaser, and Jessica Maynard. If you would like more information, please contact Sheila at 512.322.5863 or sgladstone@lglawfirm.com, Sarah at 512.322.5881 or sglaser@lglawfirm.com, or Jessica at 512.322.5807 or jmaynard@lglawfirm.com.

VISUALIZING 2022: PERSPECTIVES ON WATER / WASTEWATER CCNS

by David J. Klein

While the 2021 headlines focused on the Public Utility Commission's ("PUC's") attention to electric issues in response to Winter Storm Uri, the reality is that PUC also dedicated significant time and efforts to addressing issues concerning water and sewer certificates of convenience and necessity ("CCN") last year. CCNs are permits that provide a retail public utility with the exclusive right to provide retail water and/or sewer service to customers located within a defined geographic area. CCNs are regulated by the PUC, where the agency routinely processes applications for new CCNs, amendments to existing CCNs – either by adding or removing land to/from the service boundaries, and transferring CCNs from one service provider to another.

Texas experienced tremendous population growth in 2021, with several municipalities topping national lists of the fastest growing cities in the United States. With such urban expansion, water and sewer service areas have been expanding, necessitating all water and wastewater providers to re-examine their CCN boundaries and capital improvements plans.

So, as everyone stands atop the plateau in January, gazing out over the landscape to anticipate what 2022 will bring, economic indicators and growth rates suggest that this year will likely be another year of high growth and development throughout Texas. From a long-term perspective, the 2022 Texas State Water Plan, released on July 7, 2021, projects that in the next 50 years, the state's population will grow 73% (from 29.7 to 51.5 million people), while the existing water supplies will decline by 18%. With such expected rapid and prolonged growth, the need for reliable water and sewer services will continue to be in high demand by developers, home builders, and commercial and industrial companies. This need could include the short term as well. In that case, challenges will likely arise for all entities in all phases of land development. For example, these entities would not only find difficulty in securing water supplies and wastewater capacity, but also in designing, procuring, financing, and constructing the necessary utility infrastructure to expand their utility systems. With those challenges, CCN service area boundary fights will likely be in the spotlight at the PUC in 2022.

These CCN fights will likely entail several contested issues that are consistently being litigated. For instance, as the PUC processes CCN applications that propose creating new or modify existing water and sewer service area boundaries, its Staff will likely be facing questions regarding whether the requested CCN service area change itself is needed. To that end, a narrow interpretation of need could cause the regulated community to file more CCN applications, requesting service area changes on a project-by-project basis. Consequently, more applications could create a backlog of service requests, resulting in longer application processing times. Second, with more applications to amend CCNs, which often entail applications to decertify/remove land from the existing CCN holder's service area boundaries, the PUC will likely face questions regarding what should be proper compensation to that decertified CCN holder. While the Texas Legislature has established and subsequently tweaked a process and compensation methodology for the PUC to implement, it is rare for an application to be contested to the fullest extent possible. But in a high growth arena, with many CCN decertification applications being filed, it is entirely possible that there will be more fights on what would be proper compensation. Next, with more CCN applications being filed because of expansion into previously undeveloped or rural land, the PUC may receive more applications for dual CCNs. A dual CCN is a situation where two or more entities both possess CCNs over the same tract(s) of land. There are benefits to a dual CCN, where the parties can decide the conditions and scenarios whereby each entity would serve customers on the land. (i.e., low v. high population density on that tract of land). Last, as CCNs are conveyed from one service provider to another, questions may arise regarding the rates and fees that can be charged to the customers of those transferred utility systems. In particular, there appears to be a renewed interest at the PUC in examining the fees listed on the rate tariffs of for-profit utilities.

Ultimately, the growth in Texas will likely create an increase in the quantity of CCN-related applications filed at the PUC, but hopefully 2022 will be a productive year for all of the regulated community!

David Klein is a Principal in the Firm's Districts and Water Practice Groups. If you have any questions regarding CCNs or other water or wastewater system issues, please contact David at 512.322.5818 or dklein@lglawfirm.com.

ASK SHEILA

Dear Sheila:

We have a policy in place that prohibits employees from bringing guns to work. After reading the new Texas legislation on unlicensed carry that went into effect in September 2021, we are a bit confused. Is our policy still legal?

Sincerely,
Firearm-Free Workplace

Dear Firearm-Free:

Yes, your policy is still legal. HB 1927 does not change a public or private employer's ability to prohibit a person from carrying a gun on their premises regardless of whether that person has a license to carry. The new law did not change § 52.062(b) of the Labor Code, which establishes that a public or private employer may prohibit both an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, and an employee *who otherwise lawfully possesses a firearm*, from possessing a firearm on the premises of the building or other work areas.

This prohibition should be reflected in your policies, and should state that it applies whether the employee is licensed or unlicensed. Don't forget the "parking lot exception" though (§ 52.061 of the Labor Code), which does not allow Texas employers to prohibit employees from transporting or storing legal firearms and ammunition (licensed or unlicensed) in their own locked vehicles, even if the vehicle is parked on the employer's property. We have interpreted this "parking lot exception" to disallow firearm prohibitions in the employee's own vehicle even when the employee uses the vehicle for the employer's business and/or is receiving mileage reimbursement, so long as the firearm is secured and not being brandished or carried out of the vehicle while working. So your policy should reflect both the workplace prohibition and the parking lot exception.

It may be useful to reassert your workplace prohibition if there are any rumblings in your workplace about whether the weapons policy still applies after HB 1927. Please contact us if you need assistance with this or other employment policy matters.

"Ask Sheila" *is prepared by Sheila Gladstone, Chair of the Firm's Employment Law Practice Group. If you would like additional information or have questions related to this article or other employment matters, please contact Sheila at 512.322.5863 or sgladstone@lglawfirm.com.*

IN THE COURTS

Water Cases

Mississippi v. Tennessee, 142 S. Ct. 31 (2021).

This opinion stemmed from a 2014 bill of complaint filed by the State of Mississippi against the State of Tennessee, the City of Memphis, and Memphis Light, Gas and Water ("MLGW"), alleging that MLGW "forcibly siphoned into Tennessee… groundwater owned by Mississippi" resulting in "a substantial drop in pressure and corresponding drawdown" in the Middle Claiborne Aquifer in Mississippi. Mississippi claimed an absolute "ownership" right to all groundwater beneath its surface—even after the water has crossed its borders into Tennessee, arguing that Tennessee's pumping amounted to a tortious taking of property and seeking at least $615 million in damages.

In response to the bill of complaint, the Supreme Court appointed a Special Master to oversee the dispute and issue a recommendation. He determined that the Middle Claiborne Aquifer is an interstate water resource, that the Aquifer was a "single hydrogeological unit," that Tennessee's pumping affected groundwater beneath Mississippi, and that prior to such pumping, "groundwater flowed between Mississippi and Tennessee"—a fact Mississippi did not dispute. The Special Master concluded that, because the aquifer is an interstate water resource, equitable apportionment was the appropriate remedy. Under the doctrine of equitable apportionment, the United States Supreme Court is empowered to judicially allocate rights to a disputed interstate water resource. Because Mississippi's complaint did not

seek equitable apportionment, however, the Special Master recommended dismissal. He also recommended that the Court grant Mississippi leave to file an amended complaint seeking apportionment. Mississippi and Tennessee objected to the Special Master's recommendation, prompting the Court to conduct an independent review.

The Supreme Court relied on the Special Master's report and held that the waters of the Middle Claiborne Aquifer are subject to equitable apportionment. Although the Supreme Court had never applied equitable apportionment to an interstate aquifer, the Court determined that equitable apportionment of the Middle Claiborne Aquifer would be "sufficiently similar" to past applications of the doctrine for three reasons. First, equitable apportionment had only ever been applied when transboundary resources were at issue, and here the Court concluded that the Middle Claiborne Aquifer's multistate character seemed beyond dispute. Second, all past equitable apportionment cases had involved water or fish that flowed naturally between states, and here all parties acknowledge that there was natural transboundary flow within the Middle Claiborne Aquifer. Finally, interstate effects caused by the acts of one state are "a hallmark of… equitable apportionment cases," and here the Court observed that Tennessee's actions clearly "reached through the agency of natural laws." The Court denied Mississippi leave to amend its complaint because Mississippi had not requested leave to amend, and because Mississippi had staunchly rejected the application of the equitable apportionment doctrine.

The Court denied Mississippi's argument that it has sovereign ownership of all groundwater beneath its surface, stating that while it is true that "each State has full jurisdiction over the lands within its borders, including the beds of streams and other waters," such jurisdiction does not confer unfettered "ownership or control" of flowing interstate water themselves. When a water resource is shared between several States, each one "has an interest that should be respected by the other."

Litigation Cases

Phillips v. McNeill, 19-0831, 2021 WL 5750554 (Tex. Dec. 3, 2021).

In *Phillips v. McNeill*, the Supreme Court of Texas held that a state official acts *ultra vires*, and therefore is not entitled to immunity, when she fails to provide a statutorily required case hearing.

In this case, John McNeill, a Corpus Christi pharmacist, contracted with the Health and Human Services Commission to provide services for patients enrolled in state health-care programs. After a 2012 audit, the Commission determined that McNeill had been overpaid. After some back and forth between McNeil and the Commission, the Commission ultimately issued a final notice requiring McNeill to repay the overpaid amount, placing a vendor hold on his account until a payment plan was agreed to.

McNeill requested a hearing, arguing that the Commission's audit was an "abuse investigation" under the Texas Recoupment-Appeal Statute and, as a result, he was entitled to a contested case hearing before the State Office of Administrative Hearings. The Commission denied the request. McNeil then sued the Commission's Inspector General, seeking a declaration that he was entitled to a contested case hearing under the Recoupment-Appeal Statute.

The issue before the Supreme Court of Texas was whether McNeill was entitled to an administrative contested case hearing of his challenge to the results of the Commission's audit. In reviewing the issue, the Court determined that the Texas Recoupment-Appeal Statute entitled McNeill to a contested case hearing. Consequently, the Commission officials' failure to provide a statutorily required contested case hearing was *ultra vires* and thus she was not shielded by sovereign immunity.

The Court noted that the Court of Appeals should never have reached the constitutional due-process issue—stating: "as a rule, we only decide constitutional questions when we cannot resolve issues on nonconstitutional grounds." Having decided the case on statutory grounds, the Court refused to discuss the Constitutional question.

Von Dohlen v. City of San Antonio, No. 04-20-00071-CV.

On October 28, 2021, the Supreme Court of Texas heard oral arguments in the case of *Von Dohlen v. City of San Antonio*. The decision has yet to be announced, but it will likely provide guidance on what type of lawsuits are barred by governmental immunity under a relatively new state law prohibiting governmental entities from discriminating against companies based on their membership or support of a religious organization.

In 2019, the San Antonio City Council passed a concession agreement that prohibited a Chick-fil-A restaurant from opening in the San Antonio International Airport. Council members objected to the inclusion of Chick-fil-A in the agreement, arguing that Chick-fil-A has a legacy of anti-LGBTQ behavior. Subsequently, the Texas Legislature passed Government Code Chapter 2400, which prohibits governmental entities from taking any adverse action against any business based on support provided to a religious organization. After the legislation took effect, Von Dohlen and other San Antonio residents filed a lawsuit alleging that the City was violating Chapter 2400 of the Government Code by excluding Chick-fil-A.

In hearing the case on appeal, the San Antonio Court of Appeals cited case precedent in determining that while such a suit does not generally implicate governmental immunity, governmental immunity will preclude a suit if its purpose or effect is to cancel or nullify a contract made for the benefit of the state. Accordingly, the San Antonio Court held that Von Dohlen's lawsuit was barred by governmental immunity because the only plausible remedy was to invalidate the concession agreement passed by the city council. The issue now before the Supreme Court of Texas is whether the San Antonio

residents have standing to sue the City of San Antonio for excluding Chick-fil-A from doing business at the San Antonio airport.

Jones v. Turner, 617 S.W. 2d. (Tex. App.-Houston [14th Dist.] 2020, pet. granted).

The Supreme Court of Texas recently granted review of *Jones v. Turner*. The Court will hear oral arguments in February of 2022. The ultimate decision will provide guidance on when residents have standing to challenge an alleged level of underfunding within a city's budget. City of Houston residents filed suit challenging the City's allocation of funds to a newly established drainage fund. Residents argue that the drainage fund was underfunded based on the required funding formula provided in the City's charter.

To have standing to pursue a lawsuit, a plaintiff must show that they suffered a particularized injury distinct from the general public. Houston residents assert they have standing under a narrow exception to the particularized-injury rule. The rule allows a taxpayer to sue to stop the illegal expenditure of public funds without asserting a particularized injury. To assert the exception, residents must show that the public funds are expended on the alleged illegal activity. In reviewing the case on appeal, the Houston Court of Appeals found the residents did not show that the City's underfunding was illegal. As a result, the residents lack standing to pursue the lawsuit. Now the Supreme Court of Texas will decide whether there is enough evidence to establish that the City's alleged underfunding constituted illegal activity and whether that activity is sufficient to establish the residents' standing.

Air and Waste Cases

TJFA, L.P. v. TCEQ and 130 Environmental Park, LLC, 632 S.W.3d 660 (Tex. App.—Austin 2021, pet. filed Dec. 8, 2021).

As reported in the October edition of *The Lone Star Current*, on July 23, 2021 the Third District Court of Appeals in Austin rendered a decision in *TJFA, L.P. v. TCEQ* and *130 Environmental Park, LLC* concerning whether TCEQ erred in issuing a municipal solid waste ("MSW") permit to 130 Environmental Park, LLC ("130 EP") to construct and operate a new Type I MSW landfill in Caldwell County. The appellate court found in favor of TCEQ and 130 EP after examining a range of issues raised by the plaintiff-appellant, TJFA, L.P. ("TJFA").

TJFA has since filed a Petition for Review to the Texas Supreme Court on December 8, 2021. One of the issues raised in the Petition for Review concerns whether filing a Parts I/II MSW permit application effectively grandfathers an application from a later enacted county siting ordinance. The Third District Court of Appeals ruled that if a Parts I/II permit application is declared administratively complete before a siting ordinance is enacted, it is sufficient to grandfather the application from the later enacted county siting ordinance. The Third District Court of Appeals also found in favor of TCEQ and 130EP on issues related to alleged spoliation of evidence, drainage, and land use. TJFA raised these issues in its Petition for Review, as well. The Texas Supreme Court's ruling on the siting ordinance issue will be especially important for future MSW applicants to consider.

Utility Cases

PUC Exclusive Jurisdiction and ERCOT Sovereign Immunity Remain Hot Topics Following Panda II.

As we addressed in the July publication, the Texas Supreme Court issued a decision in March 2021 refusing to decide whether the Electric Reliability Council of Texas ("ERCOT") should benefit from sovereign immunity and whether the Public Utility Commission ("PUC") has exclusive jurisdiction over claims concerning ERCOT. *Elec. Reliability Council of Tex., Inc. v. Panda Power Generation Infrastructure Fund, LLC*, 619 S.W.3d 628 (Tex. 2021) ("*Panda II*"). The Court determined that procedural considerations barred it from ruling on the substantive issues presented. Given the outages resulting from Winter Storm Uri, the unaddressed issues from *Panda II* have great significance for the public's ability to pursue claims against ERCOT. As such, the case received considerable attention and four justices dissented.

On March 12, 2021, near the time the Supreme Court was issuing its decision in *Panda II*, CPS Energy ("CPS"), a municipally owned utility, filed suit against ERCOT and several of its board members and executives in the 285th District Court in Bexar County. *CPS Energy v. Electric Reliability Council of Texas, Inc. and William L. Magness*, No. 2021-CI-04574 (285th Dist. Ct., Bexar County, Tex. Mar. 12, 2021). During Winter Storm Uri, ERCOT raised the per-megawatt hour price of electricity to $9,000 in order to account for supply scarcity. CPS's petition was filed in response to that spike and included claims such as breach of contract, negligence, and violations of the Texas Constitution. CPS argued that ERCOT kept prices at the raised rate for longer than required, resulting in considerable overcharges to market participants. CPS alleged that ERCOT owed the utility money and that ERCOT's "Default Uplift Invoices" plan for recouping funds from insolvent market participants will improperly reduce the amount owed to CPS, resulting in an unconstitutional taking and an unconstitutional extension of credit to cover the debt of private entities.

CPS eventually nonsuited its claims against all individual defendants except for former ERCOT CEO, William Magness. ERCOT filed a jurisdictional plea based on sovereign immunity and exclusive jurisdiction and a motion to transfer venue to Travis County. The trial court denied both motions.

In June 2021, ERCOT filed an interlocutory appeal in the Fourth District Court of Appeals to challenge the trial court's denial of its plea to the jurisdiction. *In re Electric Reliability Council of Texas, Inc. and William L. Magness*, No. 04-21-00244-CV, 2021 WL 2814899 (Tex. App.—San Antonio Jul. 7, 2021, pet. filed). CPS filed a motion to dismiss for lack of appellate jurisdiction.

In September 2021, while the Court of Appeals case was ongoing, ERCOT filed a Petition for Writ of Mandamus before the Texas Supreme Court raising the same jurisdictional and immunity questions the Court confronted in *Panda II*.

On December 13, 2021, the Court of Appeals issued an order denying CPS's

motion to dismiss as to ERCOT and granting as to William Magness. The Court reversed the trial court's order denying ERCOT's plea to the jurisdiction and dismissed CPS's claims against ERCOT. In doing so, the Court relied on the ERCOT regulatory scheme laid out in the Public Utility Regulatory Act ("PURA") and found that the PUC has exclusive jurisdiction over both the common law and constitutional claims at issue. CPS must first exhaust its administrative remedies.

Importantly, the Court of Appeals was faced with determining whether ERCOT is a "governmental unit." Eligibility for seeking an interlocutory appeal is dependent on whether an entity is a governmental unit. If an entity is not a governmental unit, it may only seek relief for an adverse ruling through mandamus. The Supreme Court has not yet rendered a decision on ERCOT's governmental-unit status. The Court of Appeals found that ERCOT satisfies relevant statutory prongs for "governmental unit" and was therefore eligible to file an interlocutory appeal. This is a significant finding because it conflicts with other decisions from fellow Texas appeals courts.

As of December 30, 2021, CPS requested that the Supreme Court pause ruling on ERCOT's petition until after the January 27, 2022 deadline for CPS to appeal the Court of Appeals' decision.

Texas Supreme Court to Evaluate the Application of Statutory Canons of Construction to Final Agency Orders.

On November 29, 2021, the Public Utility Commission ("PUC" or "Commission") and Southwestern Electric Power Company ("SWEPCO") (collectively "Petitioners") filed a Petition for Review in the Texas Supreme Court against Texas Industrial Energy Consumers ("TIEC"), *et al. PUC and SWEPCO v. Texas Industrial Energy Consumers, Et. Al.*, No. 21-0817 (Tex. Sep. 20, 2021).

The case originally arises out of SWEPCO's 2008 Certificate of Convenience and Necessity ("CCN") proceeding for a coal plant. Utilities must apply for a CCN or a CCN amendment to initiate service in a new area. The utility must show that a certificate is necessary for the service, accommodation, convenience, or safety of the public, and complies with statutory requirements. When the PUC approved the CCN amendment for SWEPCO in 2008, the PUC set a cap on "capital costs" that could be included in SWEPCO's rate base. In a later 2012 rate case, PUC Docket No. 40443, SWEPCO sought to include the costs of constructing the plant in its rates. The Commission allowed inclusion of the coal plant construction costs in SWEPCO's rates, up to the permitted cap from the CCN docket. The decision required a determination as to whether carrying costs were to be included in the cap. The Commission found the 2008 CCN order ambiguous on whether carrying costs were included in the cap and instead relied on evidence from the administrative record in finding the cap was not intended to include carrying costs. The trial court affirmed the PUC final order. The Third Court of Appeals then reversed and remanded to the PUC for further proceedings.

Petitioners ask the Court to address two issues: (1) whether contested-case orders are to be evaluated under the same rules of construction used by courts to interpret statutes and administrative rules, and (2) whether the 2008 CCN final order included carrying costs in the cap on construction costs.

Petitioners argue for the inclusion of the carrying costs by attacking the Third Court of Appeal's use of the "plain meaning" rule in interpreting a contested-case order. Rather, Petitioners argue that contested-case orders are products of a quasi-judicial process and should therefore consider the record in rendering a decision. Additionally, Petitioners argue that the use of the "plain meaning" rule controverts the Administrative Procedure Act ("APA") because the APA "requires a link between the evidence and the agency's ultimate decision in a contested case."

Alternatively, Petitioners argue that even if traditional statutory interpretation rules do apply, the Third Court of Appeals misapplied the principles to the PUC order at issue. In short, Petitioners' argument is that other canons of construction can be employed without a threshold finding of ambiguity, and the PUC and trial court were correct to look to the surrounding facts in the record.

All Respondents waived the opportunity to file a response. This case is pending.

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AGENCY HIGHLIGHTS

United States Environmental Protection Agency ("EPA")

EPA Guidance Regarding the Clean Water Act ("CWA") Section 401 Rule Vacatur. The U.S. District Court for the Northern District of California issued an order on October 21, 2021 remanding and vacating EPA's Trump-era CWA 401 Certification Rule, which had nationwide ramifications. The order required a temporary return to EPA's 1971 Rule until it finalizes a new certification rule. EPA has since issued a guidance document on the effects of the vacatur, generally clarifying that it does not expect to revisit certifications it made while the rule was in effect. The guidance states that pending certification requests will be processed in accordance with the 1971 Rule and certification modifications are permitted under the 1971 Rule. EPA will continue the rulemaking process that was announced in May 2021 and expects to propose a new CWA Section 401 rule in Spring 2022. EPA's Q&A guidance is available at https://www.epa.gov/cwa-401/qa-2020-rule-vacatur.

EPA Considers Numeric Drinking Water Limits or Treatment Standard for Two Per- and Poly-fluoroalkyl Substances ("PFAS"). EPA previously announced that it plans to propose a national primary drinking water regulation for perfluorooctanoic acid ("PFOA") and perfluorooctane sulfonic acid ("PFOS") in Fall 2022, with a final rule in Fall 2023. The agency has acknowledged that establishing a numeric drinking water limit could be precluded by technical or economic feasibility constraints. Specifically, EPA is examining whether a treatment technique is more appropriate for the two PFAS rather than a maximum contaminant limit ("MCL"). A treatment technique is an enforceable procedure or level of technological performance that a public water system must follow to ensure control of a contaminant. EPA is waiting on the review of key documents by its Science Advisory Board to determine what type of enforceable drinking water limit to set. These documents include a framework for estimating non-cancer risks from exposure to PFAS, the proposed approaches for establishing MCLs for PFOA and PFOS, and analysis of reductions in cardiovascular disease risks from reductions in PFOA and PFOS exposures. While EPA has proposed health-based reference doses for PFOA and PFOS, it has not yet calculated MCL goals.

New Lead and Copper Rule ("LCR") Takes Effect, EPA Plans New Line-Replacement Mandates. On December 16, 2021, the Trump-era LCR revisions took effect after the Biden Administration concluded that the rule increases public health protections. The Biden Administration still has concerns about the trigger and action levels in the LCR and lack of a mandate for 100 percent removal of lead service lines ("LSLs"). Therefore, EPA plans to propose a new rule with stricter requirements for LSL replacements. This is part of the Lead Pipe and Paint Action Plan, which details how nearly $3 billion from the bipartisan infrastructure law funding will be allocated to states for LSL replacements and how $350 billion in funding from the American Rescue Plan can be used for LSL and lead faucet and fixture replacement. EPA is allocating $2.9 billion in 2022 for LSL replacement. The agency plans to finalize its new rule by 2024. In the meantime, EPA is committing to developing plans to ensure equitable distribution of funds, committing to oversight and technical assistance to communities with high lead levels, improving risk communication through additional guidance, and encouraging full LSL replacement and discouraging partial LSL replacement.

EPA Finalizing Safe Drinking Water Act ("SDWA") Monitoring Rule on Unregulated PFAS. The White House Office of Management and Budget completed pre-publication review of EPA's SDWA monitoring rule on December 3, 2021, setting EPA up to issue the final version of the rule. The proposed version of the fifth unregulated contaminant monitoring rule ("UCMR5") includes 30 contaminants, 29 PFAS and lithium, with verified test methods. The first set of data collected under UCMR5 will be publicly available in mid-to-late 2023.

EPA Begins New Rulemaking on Waters of the United States ("WOTUS"). EPA and the Army Corps of Engineers ("Corps") are working on an additional rule to define WOTUS beyond the recently proposed interim rule. This proposed interim rule interprets WOTUS to mean waters defined by EPA and Corps regulations ("1986 Regulations") with amendments reflecting the agencies' interpretations on the limits of the scope of WOTUS as informed by recent U.S. Supreme Court decisions, such as *Rapanos v. United States*. The interpretation includes: traditional navigable waters, interstate waters, the territorial seas, and their adjacent wetlands; most impoundments of WOTUS; tributaries to traditional navigable waters, interstate waters, the territorial seas, and impoundments that meet either the relatively permanent standard or significant nexus standard; wetlands adjacent to impoundments and tributaries, that meet either the relatively permanent or significant nexus standard; and "other waters" that meet either the relatively permanent standard or significant nexus standard. The proposed second rule would

include revisions reflecting additional stakeholder engagement and implementation consideration, scientific development, and environmental justice values. EPA plans to propose the second rule in February 2022.

Deadlines for SDWA Consumer Confidence Rule ("CCR"). EPA and the Natural Resource Defense Counsel ("NRDC") have settled on deadlines for EPA to propose and finalize changes to its CCR regulations. EPA intends to sign proposed revisions by March 15, 2023, and sign the final rule no later than March 15, 2024. EPA and NRDC's agreement allows EPA to seek an extension on the proposal deadline for good cause, but also allows NRDC to oppose such extension. EPA intends to seek recommendations from its National Drinking Water Advisory Council on rule revisions by May 2, 2022.

EPA Releases Strategic PFAS Roadmap. On October 18, 2021, EPA released a "Strategic PFAS Roadmap," outlining agency actions to address PFAS into 2024. The overarching goals of the Roadmap are to (1) invest in research towards understanding exposure, toxicities, and effective interventions, (2) develop a comprehensive approach to restrict PFAS from entering the environment, and (3) expand and accelerate the cleanup of PFAS contamination. According to the Roadmap, EPA intends to implement regulations to designate PFOA and PFOS (the two main PFAS categories) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). Doing so will potentially make landfills and other solid waste disposal facilities liable under the Superfund program for remediation costs associated with PFAS contamination. EPA intends on proposing these regulations in spring 2022 with plans to finalize them by summer 2023.

Related to the PFAS Roadmap, EPA has also recently announced plans to initiate a future rulemaking to regulate PFOA and PFOS under the Resource Conservation and Recovery Act ("RCRA"). EPA announced these plans on October 26, 2021 in response to a petition from New Mexico Governor Lujan Grisham. The future proposed rulemaking will aim to regulate PFAS as a hazardous substance under RCRA and also seek to require parties to investigate PFAS contamination under RCRA's Corrective Action Program.

EPA Issues National Recycling Strategy. On November 15, 2021, EPA issued a finalized "National Recycling Strategy" to advance the national municipal solid waste recycling system. The Strategy identifies the following objectives, aims to create a stronger, more resilient and cost-effective recycling system and outlines a series of stakeholder-led actions to accomplish them:

- Improve Markets for Recycling Commodities;
- Increase Collection and Improve Materials Management Infrastructure;
- Reduce Contamination in the Recycled Materials Stream;
- Enhance Policies to Support Circularity; and
- Standardize Measurement and Increase Data Collection.

The Strategy underwent a major revision from the draft version introduced in October 2020. It is now part of a larger 10-year vision and strategic direction for the EPA's Sustainable Materials Management Program. The Strategy frames recycling as one component of a waste and materials management system that includes reduction, reuse, redesign, composting, biological recycling, and consideration of chemical/advanced recycling. It also now includes an emphasis on climate change and environmental justice priorities. EPA plans to implement the Strategy in conjunction with the National Recycling Goal to increase the national recycling rate to 50 percent by 2030.

EPA Announces Potential Future Rulemaking on Pyrolysis and Gasification Units. On September 8, 2021, EPA announced an advanced notice of proposed rulemaking ("ANPRM") to assist in the development of Clean Air Act regulations for pyrolysis and gasification units that are used to convert solid or semi-solid feedstocks, including solid waste, to useful products such as energy, fuels, and chemical commodities. Potentially regulated entities include solid waste combustion units, decomposing municipal solid waste, oil and gas exploration operations, commercial waste disposal companies, and manufactures of certain products (e.g., wood, pulp, paper, furniture, plastics, cement). According to EPA, the ANPRM is necessary in order to clear up confusion in the regulated community regarding the applicability of Clean Air Act Section 129 to pyrolysis and gasification units. The comment period closed on the ANPRM on December 23, 2021.

EPA Rescinds 2020 Clean Air Act SSM Policy. On September 30, 2021, EPA released a guidance document rescinding an October 2020 guidance document, which allowed exemptions for Startup, Shutdown, and Malfunction ("SSM") emissions from larger sources. The 2020 guidance document, titled "Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans," was based on EPA's previous determination that State Implementation Plans ("SIPs") were permitted to contain SSM exemptions for a limited period and still meet the requisite National Ambient Air Quality Standards ("NAAQS"). In rescinding the 2020 guidance, EPA has now reinstated the 2015 policy, which provides that the inclusion of SSM exemptions or affirmative defense provisions in state SIPS will "generally be viewed as inconsistent" with the federal Clean Air Act. Notably, the September 2021 guidance document identifies plans to revisit Texas's SIP, among other state SIPs, to determine whether it complies with the new policy, as Texas's SIP contains provisions based on the 2020 guidance.

EPA Issues Proposed Rulemaking to Reduce GHG and VOC Emissions from Oil and Natural Gas Activities. On November 15, 2021, EPA published a proposed rulemaking outlining three distinct groups of actions under the federal Clean Air Act ("CAA"), which are collectively intended to significantly reduce emissions of greenhouse gases ("GHGs") and other air pollutants from the Crude Oil and Natural Gas source category. First, EPA proposes to revise the new source performance standards ("NSPS") for GHGs and volatile organic compounds ("VOCs") for the Crude

Oil and Natural Gas source category under the CAA to reflect the agency's most recent review of the feasibility and cost of reducing emissions from these sources. Second, EPA proposes nationwide emissions guidelines ("EG") under the CAA for states to follow in developing, submitting, and implementing state plans to establish performance standards to limit GHGs from existing sources in the Crude Oil and Natural Gas source category. Third, EPA is proposing to take several related actions stemming from the joint resolution of Congress, adopted on June 30, 2021 under the Congressional Review Act ("CRA"), disapproving EPA's final rule titled "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review" (2020 Policy Rule). EPA issued this proposed rulemaking in response to President Biden's January 29, 2021 Executive Order, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis." The public comment period closes on January 31, 2022.

Texas Commission on Environmental Quality ("TCEQ")

TCEQ Adopts Final Rule Increasing IHW Generator and Management Fees. On November 3, 2021, TCEQ adopted a final rule regarding industrial solid waste and municipal hazardous waste generator and management fee increases. Specifically, the final rule (1) increases the Industrial and Hazardous Waste ("IHW") generation fee schedule from $0.50 to a maximum of $2.00 per ton for non-hazardous waste generation; (2) increases the fee schedule from $2.00 to a maximum of $6.00 per ton for hazardous waste generation; and (3) allows the Executive Director the ability to adjust the actual IHW generator fee at or below the new fee schedule amounts. TCEQ initially proposed the fee increases because of the declining balance in the waste management account fund (Fund 0549) and the fees have not been adjusted since 1994. TCEQ will implement the fee increases based on a phased fee schedule, beginning on March 1, 2022. The fee schedule is posted on TCEQ's website and the agency announced that it will also be sending notices to regulated entities of the fee schedule before its implementation.

TCEQ Adopts Final Rule to Amend ISW and MHW Rules to Maintain Equivalency with RCRA Revisions. In the October 2021 edition of *The Lone Star Current*, we reported on a proposed TCEQ rulemaking to amend, repeal, and replace a number of sections of 30 Texas Administrative Code ("TAC") Chapter 335, Industrial Solid Waste ("ISW") and Municipal Hazardous Waste ("MHW"), in order to maintain equivalency with Resource Conservation and Recovery Act ("RCRA") revisions promulgated by EPA. During the January 12, 2022 Commission agenda, the TCEQ Commissioners adopted the final rule designed to update Chapter 335 to include federal rule changes set forth in parts of RCRA Clusters XXIV – XXVII. The most notable of the proposed changes involve:

- Revising the existing hazardous waste generator regulatory program by (1) reorganizing the regulations to improve their usability by the regulated community and by (2) providing greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner;
- Revising existing regulations regarding the export and import of hazardous wastes from and into the United States by applying a confidentiality determination such that no person can assert confidential business information claims for documents related to the export, import, and transit of hazardous waste;
- Revising rules to adopt EPA's methodology for determining the user fees applicable to the electronic and paper manifests to be submitted to the e-Manifest system;
- Revising rules to prohibit disposal of hazardous waste pharmaceuticals into the sewage system and codify the exemption for unused pharmaceuticals that are expected to be legitimately reclaimed from being classified as a solid waste; and
- Adding rules to add hazardous waste aerosol cans to the universal waste program.

TCEQ is holding workshops on January 20 and 25 about the new rule, and it will go into effect on February 3, 2022.

TCEQ Proposes Rulemaking on Compliance History. On December 15, 2021, TCEQ proposed a rulemaking to revise the agency's compliance history rules in 30 TAC Chapter 60. More specifically, the proposed rulemaking aims to add a new Section 60.4 of 30 TAC Chapter 60, which would allow the Executive Director to designate and reclassify the compliance history classification for a site involved in an emergency event that causes or results in exigent circumstances. The new section would provide a process for the Executive Director to initially designate a site's compliance history classification as "under review" and then later reclassify it to "suspended" if the Executive Director determines that exigent circumstances exist due to an event at a site, such as a major explosion or fire, that significantly impacts the surrounding community and environment, causes emergency response efforts by federal or state authorities to address pollutants, contaminants, or other materials regulated by the agency, and results in certain urgent or grave consequences. TCEQ is holding a public hearing on the proposed rulemaking on January 27, 2022. The public comment period closes February 1, 2022. TCEQ anticipates adopting a final rule on June 1, 2022.

TCEQ Adopts Final Rule to Clarify Composting Notice Process. During the January 12, 2022 Commission agenda, the TCEQ Commissioners adopted a final rule to clarify and update existing notice language and requirements for composting facility applications. The final rule aims to provide clarity on who will receive notice for certain compost authorizations, and to remove other vague mailing requirements. TCEQ is revising sections of 30 TAC 332 (Composting) to clarify that the registration tier facilities have the same notice requirements as the notification tier facilities. TCEQ also changed the notice rule for notification tier facilities (30 TAC § 332.22) to make clear that the landowner list includes only properties bordering the facility.

In addition, the final rule incorporates applicability, fees, and reporting requirements from 30 TAC Chapter 330, Subchapter P into sections for registered and permitted facilities. The final

rule also makes revisions to various citations and addresses typographical issues. The final rule goes into effect February 3, 2022.

TCEQ Releases MSW Year in Review Report. On October 1, 2021, TCEQ released its 2020 "Municipal Solid Waste in Texas: A Year in Review" report. The report shows an increase in active landfills and recycling efforts. For example, according to the report, between 1995 and 2021, the number of active landfills in Texas averaged about 187, and by 2020, that number increased to 198 facilities. The increase was largely the result of the addition of a new type of landfill (monofills), which was established in 2013 for the disposal of demolition waste from properties with nuisance and abandoned buildings that are owned or controlled by a county or municipality. The number of monofills contributing to the total landfill count increased from 4 in 2014 to 11 in 2020.

Additionally, the report shows that in 2019, 12.9 million tons of solid waste was recycled, up from 9.17 million in 2015. Based on the tons of recycling reported, the 2019 municipal solid waste ("MSW") recycling rate for Texas was 27.5 percent and represents $4.8 billion for the Texas economy. The report further indicates that the total remaining MSW landfill capacity in Texas at the end of 2020 was approximately 1.96 billion tons or about 2.89 billion cubic yards. The statewide net remaining tons capacity increased by approximately 30.5 million tons or about 1.6 percent from the 2019 capacity. The statewide remaining cubic yards capacity increased by approximately 82.8 million cubic yards or approximately 3.0 percent from the 2019 capacity.

TCEQ Releases 2021 Recycling Market Development Plan. In August 2021, TCEQ released the 2021 "Recycling Market Development Plan" as a follow up to the 2017 Study on the Economic Impacts of Recycling in Texas. The 2021 plan by Burns & McDonnell studies the use of recyclable materials as feedstock in processing and manufacturing and includes an update of economic impacts for the recycling industry. The 2021 plan indicates that the recycling industry currently represents $4.8 billion of the Texas economy. The plan also discusses tools and mechanisms that can be used for material specific and cross-material strategies and opportunities to increase market development, decrease barriers, and promote recycling in the State of Texas.

Texas Water Development Board ("TWDB")

TWDB Invites Applications for Clean and Drinking Water State Revolving Funds ("SRF") Program Funding. TWDB is inviting entities to submit information on projects to be included in the upcoming fiscal year's SRF program's Intended Use Plans. Entities must submit a completed Project Information Form through TWDB's online application, https://ola.twdb.texas.gov/, or submit a Microsoft Word version. Project Information Forms must be received by midnight CST on March 4, 2022. The Infrastructure Investment and Jobs Act provided additional funds for SRF programs, including appropriations available for all eligible activities in the SFY 2023 Intended Use Plan, along with funds restricted to special eligibilities such as LSL replacement or emerging contaminants. TWDB offers principal forgiveness to entities that qualify as disadvantaged communities or small/rural disadvantaged systems, for projects with green components, for urgent need situations, or for emergency preparedness. Project Information Forms submitted last year must be updated to be included in the SFY 2023 Intended Use Plan list.

Public Utility Commission of Texas ("PUC")

Five New Appointees Named to the ERCOT Board of Directors. Five new appointees have been named to the Electric Reliability Council of Texas ("ERCOT") Board of Directors, leaving only three seats vacant.

The first two new appointments — Paul Foster and Carlos Aguilar — were announced on October 12, 2021 by the ERCOT Board Selection Committee, which was created in accordance with Senate Bill 2 from the most recent legislative session. An additional three directors — U.S. Congressman Bill Flores, business executive Elaine Mendoza and renewable energy businessman Zin Smati — were named on November 1, 2021. The ERCOT Selection Committee also designated Mr. Flores to serve as Vice Chair of the ERCOT board. The newest members will join the Public Utility Commission Chair, the Public Utility Counsel and the ERCOT CEO. The ERCOT Board Selection Committee members are Arch "Beaver" Aplin, G. Brint Ryan, and Bill Jones. These members were respectively appointed by the Governor, Lieutenant Governor, and Speaker in accordance with Senate Bill 2, passed in the 87th regular session.

Market Redesign Moves Along Slower than Anticipated. Reforming the Texas power market remains a top priority at the PUC with debate continuing over possible new capacity mandates, adjustments to an existing price-ladder system and the creation of new cost requirements for renewable energy generators. The PUC is making changes to improve reliability in response to last February's winter storm. The agency's intense focus on these highly technical issues and others comes in response to last February's statewide energy crisis that left 4 million Texans without power. The PUC has conducted multiple workshops and has called upon market participants to provide recommendations — all with the goal of getting new policies in place by the year's end.

The Commissioners, however, remain divided on key issues, and the path ahead remains unclear. Much of the debate so far has veered between two broad priorities: on the one hand, resolving operational issues that contributed to last February's outages; on the other, overhauling the ERCOT power market to incentivize new investment. Many of the stakeholders weighing in during the proceedings have urged the Commissioners to address operational issues first, and then move to broader market issues later on.

The Commissioners have created a market redesign roadmap with scheduled workshops and various other milestones. One

of the first steps came on October 20, when PUC Chair Peter Lake issued a detailed memo outlining his reform priorities. PUC staff released a set of 16 stakeholder questions a few days later and then received 53 sets of responses to those questions. The Commission also conducted work sessions throughout October, November, and December. Commission Staff issued the 2nd strawman of the Final Blueprint on December 6, which included both Phase I and Phase II changes. At its December 16 meeting, the Commissioners voted to adopt the blueprint as it applies to Phase I.

Weather Preparation Rules Approved. In October, Texas regulators adopted weather preparation rules and standards for electric generators and transmission and distribution utilities, and set quick deadlines for implementation.

The new rules and standards were included in a 100-page plus document prepared by PUC Staff, under Docket No. 51840 on the agency's website. The PUC adopted the rules and standards by a 4-0 vote on Oct. 21.

That vote, however, represented only a first step in a two-phase weatherization effort now underway at the agency. During the second phase, the agency will develop performance standards based on a weather study that remains under development by ERCOT in consultation with the State Climatologist (information about ERCOT's weather study can be found in PUC Project No. 52691).

The basic elements of the 51840 weatherization rules and standards adopted on Oct. 21 are as follows:

- Generation Resources must implement winter weather readiness recommendations included in a 2012 document, the Report on Extreme Weather Preparedness Best Practices by Quanta Technology.
- Transmission Service Providers must implement key recommendations contained in a 2011 document, the Report on Outages and Curtailments during the Southwest Cold Weather Event on February 1-5, 2011, jointly prepared by the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation.
- Generation Resources and Transmission Service Providers must fix any known, acute issues that arose from winter weather conditions during the 2020-2021 winter weather season.
- ERCOT must develop a program to conduct on-site readiness inspections of Generation Resources and Transmission Service Provider facilities.
- Entities that have experienced repeated or major weather-related forced service interruptions must hire an outside professional engineer to assess its weather emergency preparation measures.

The new standards and rules also included very tight compliance deadlines, including a December 1 deadline for generation units to implement weather emergency preparation measures; to install various weatherization devices; to conduct weather preparation training; and to submit to ERCOT and the PUC a winter weather report that includes a notarized attestation by each entity's highest-ranking officer with binding authority. ERCOT also has committed to completing hundreds of on-site inspections by the end of 2021.

Update on PUC Rulemaking Projects. The PUC continues to implement market redesign changes required by the 87th Texas Legislature. PUC Staff has opened various new rulemaking projects and has published a rulemaking calendar in Project No. 51715, providing insight about the rulemaking and implementation process the agency will undertake to address the recently enacted legislation. The PUC has published the following list of upcoming, pending, or completed rulemakings, among others:

- Project No. 51830, *Review of Certain Retail Electric Customer Protection Rules*
- Project No. 51840, *Rulemaking to Establish Weatherization Standards*
- Project No. 51841, *Review of 16 TAC § 25.53 Relating to Electric Service Emergency Operations Plans*
- Project No. 51871, *Review of the ERCOT Scarcity Pricing Mechanism*
- Project No. 51888, *Review of Critical Load Standards and Processes*
- Project No. 52287, *Power Outage Alert Criteria*
- Project No. 52301, *ERCOT Governance and Related Issues*
- Project No. 52312, *Review of Administrative Penalty Authority*
- Project No. 52313, *Review of Statutory Definitions*
- Project No. 52322, *Application of ERCOT for a Debt Obligation Order to Finance Uplift Balances Under PURA Chapter 39, Subchapter N, and For a Good Cause Exception*
- Project No. 52345, *Critical Natural Gas Facilities and Entities*
- Project No. 52367, *RFP for Consulting Services with Respect to the Structure and Pricing of Securities Related to Securitized Financing of System Restoration Costs*
- Project No. 52373, *Review of Wholesale Electric Market Design*
- Project No. 52631, *Review of 25.505*
- Project No. 52682, *Project for Commission-Ordered Transmission Facilities*
- Project No. 52683, *Petition of ERCOT for Expedited Approval of Bylaws Amendment*
- Project No. 52691, *Project for ERCOT Weather Study to Implement Reliability Standards Under PURA 35.0021 and 38.075*
- Project No. 52757, *Review of Chapter 25- Rules Applicable to Electric Service Providers*
- Project No. 52785, *ERCOT Comprehensive Checklist Forms Pursuant to 16 TAC § 25.55(C)(3)*
- Project No. 52786, *ERCOT Compliance Reports of Generation Resource Winter Readiness Pursuant to 16 TAC § 25.55(C)(4)*
- Project No. 52787, *ERCOT Compliance Reports of*

Transmission System Winter Readiness Pursuant to 16 TAC § 25.55(F)(3)

Update on Project Number 51841: Review of 16 TAC § 25.53 *Relating to the Electric Service Emergency Operations Plan*. On November 30, 2021, the Commission approved Staff's Proposal for Publication in this Project. By approving Staff's Proposal for Publication, the Commission repeals the old version of 16 TAC § 25.53 and replaces it with the new version. The Commission is accepting comments on this proposal through January 4, 2022.

This rule applies to the following entities: (1) electric utilities; (2) transmission and distribution utilities; (3) power generation companies; (4) municipally owned utilities; (5) electric cooperatives; (6) retail electric providers; and (7) ERCOT. The rule requires all entities to annually file an Emergency Operations Plan ("EOP") with the Commission under this rule. In 2022, the EOP must be filed by April 1, 2022, and every following year the EOP must be filed by February 15th of that year. To be satisfactory, the EOP must adhere to several requirements listed in the new rule, including filing an updated EOP with the Commission and submitting it to ERCOT when the entity makes a significant change to the EOP that would have a material impact on how the entity responds to an emergency. Several other changes include the timeliness of the filings, the high level of detail required in each EOP, and the transparency in the common operational functions used for every type of emergency or instances of hazards and threats.

The additional reporting and testing requirements distinguish the newly revised rule from the previous version. Commission Staff is expected to conduct a hearing on this rulemaking on January 11, 2022; however, if no such hearing is requested, it will be canceled.

Energy Advisory Panel Appointments. Gov. Greg Abbott announced four appointments to a new energy advisory panel that will issue market reform recommendations for the Texas Legislature.

The panel — the State Energy Plan Advisory Committee — was created as part of Senate Bill 3 ("SB 3"), which state lawmakers adopted this year in response to February's power crisis. Under SB 3, the committee must prepare a comprehensive state energy plan by September 2022, and that in turn could set the stage for additional market reform legislation during the 2023 regular session. According to the governor's office, the new appointees are Daniel Hall of Oncor, Castlen Moore Kennedy of the Apache Corporation, Phil Wilson of the Lower Colorado River Authority, and Joel Mickey, a power consultant. Eventually the committee will have 12 members, with the lieutenant governor and House speaker also making four appointments each.

The governor's office did not set term lengths for the four new appointees, but rather said that they will serve at the governor's pleasure.

PUC Adopts Alternative Ratemaking Mechanisms for Water and Sewer Utilities and the System Improvement Charge. On November 30, 2021, the Commission adopted 16 TAC §§ 24.75, 24.76:

16 TAC § 24.75

The alternative ratemaking methodologies for utilities that provide water and sewer service presented in this rule are multi-step rates, the cash needs method for establishing a utility's revenue requirement, and adding new customer classes outside the filing of a rate change proceeding. This rule allows the adoption of multi-step rates, or implementing one or more rates over time without filing multiple rate applications. A water or sewer utility can implement multi-step rates only as established in a comprehensive rate proceeding or by the Commission on its own motion or at the request of the utility or another interested party. If the multi-step rate is established in a comprehensive rate proceeding, it will replace any multi-step rates already in effect or previously approved by the Commission.

For Class C and D utilities, the Commission may approve the use of the cash needs method to establish a utility's revenue requirement in a comprehensive rate change proceeding.

16 TAC § 24.76

This new Commission rule allows water and sewer utilities to recover a portion of the utility's eligible plant that is not already included in the utility's rates, ensuring timely recovery of infrastructure investments. There are a few basic requirements in applying to establish or amend a System Improvement Charge ("SIC"). First, the utility must only have one SIC in effect for water and one SIC in effect for sewer for each of its rate schedules at any given time. Also, a utility can only apply to establish or amend a SIC once a calendar year and must apply to establish or amend multiple SIC in a calendar year in a single application. The time of year this application may be filed is limited to a specific quarter that is dependent on the last two digits of the utility's certificate of convenience and necessity ("CCN"). If the utility has multiple CCNs, it can file an application in any quarter that it is eligible. Additionally, a utility cannot apply to establish or amend a SIC while it has a comprehensive rate proceeding pending before the Commission.

The scope of a SIC proceeding should not include a prudence evaluation, unless good cause exists to address prudence. However, costs recovered through the SIC are subject to reconciliation in the next comprehensive rate proceeding. If the Commission files an order approving a utility's request for a SIC, the utility must file a comprehensive rate case proceeding within the following timelines from the date of the final order approving the SIC: Class A utility—4 years; Class B utility—6 years; Class C and D utilities—8 years.

Additional application requirements exist for the SIC, as well as applying a specific formula to obtain the SIC revenue requirement.

Railroad Commission of Texas ("RRC")

Critical Infrastructure Rule and Amendment Adopted. At its open meeting on November 30, 2021, the RRC adopted new rule 16 TAC § 3.65 and amendments to 16 TAC § 3.107 regarding critical infrastructure designation pursuant to SB 3 and House Bill ("HB") 3648 from the 87th Legislative Session. The rule and amendments were effective as of December 20, 2021. In this rulemaking, the RRC took into consideration many of the comments from stakeholders. Several of the changes to the initially proposed rule, based upon stakeholder comments, include adopting the PUC definition of energy emergency, narrowing the criteria for designation as critical, identifying some customer categories not eligible for an exception, and revising the reporting form and requirement of where the form must be filed.

Proposed Changes to Curtailment Rule. The RRC put in motion proposed changes to a long-standing curtailment rule, § 7.455. The proposed rule establishes that firm deliveries have a higher priority than interruptible deliveries, allows a utility to provide interruptible deliveries to human needs customers, and removes current language, citing that interstate pipelines and Natural Gas Policy Act, § 311(b) pipelines are subject to the jurisdiction of the Federal Energy Regulatory Commission. Comments for these proposed changes are due by January 7, 2022.

Gas Securitization Update. Following up from the last issue on the fallout from Winter Storm Uri and House Bill 1520, and after months of negotiations and discussions, the parties in the 7061 Docket reached a settlement. On November 10, 2021, the Railroad Commission unanimously approved that settlement, which allows eight gas companies to regain close to $3.4 billion due to lost revenue from Winter Storm Uri over a defined period of time. This affects customers throughout the state, where the gas companies will have the ability to raise costs of customers' monthly bills to help regain these funds. The costs that customers will see vary by gas utility, but the increase was reduced from the initial companies' requests, due to the efforts of several city groups which negotiated fiercely to lower the costs for customers throughout the state. According to the newly passed law, the Railroad Commission has 90 days to submit a financing order to the Texas Public Finance Authority ("TPFA"), directing it to issue bonds. Once the TPFA receives this directive, the TPFA has 180 days to issue bonds. This timeline could reach into mid-2022.

"Agency Highlights" *is prepared by Danielle Lam in the Firm's Water and Districts Practice Groups; Sam Ballard in the Firm's Air and Waste Practice Group; and Taylor Denison in the Firm's Energy and Utility Practice Group. If you would like additional information or have questions related to these agencies or other matters, please contact Danielle at 512.322.5810 or dlam@lglawfirm.com, Sam at 512.322.5825 or sballard@lglawfirm.com, or Taylor at 512.322.5874 or tdenison@lglawfirm.com.*

Lloyd Gosselink Rochelle & Townsend, P.C. wrapped up its second season of Listen In With Lloyd Gosselink: A Texas Law Firm in July, completing seven episodes featuring various topics/attorneys throughout the Firm's practice groups. You can listen to the previous seasons by visiting lg.buzzsprout.com or on our website at lglawfirm.com.

Launching early this year, Season Three will be out and available on your favorite streaming platforms and all your smart devices. Follow us on Twitter, LinkedIn, and Facebook to be notified when the latest episode is out.

We are interested in the topics you want to hear. Please send your requests to editor@lglawfirm.com to let us know topics of interest to you. You can also send us an email at that same address to be added to the podcast distribution list.

The episode lineup and projected topics for 2022 below:

Season Three (listed in no particular order):

- Federal Water Issue Update | Nathan Vassar and Lauren Thomas
- Legislative Updates in Texas Employment Law | Jessica Maynard and Shelia Gladstone
- CCN Corner – Providing Updates on Certificates of Convenience and Necessity | David Klein
- Career Reflections at Lloyd Gosselink | Lambeth Townsend
- MSW Year in Review | Sam Ballard
- Agency Perspective and Best Practices | Multiple Attorneys

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