

## Texas Environmental Update

By: Tim Wilkins, John A. Riley, Christopher C. Thiele, Tracy D. Hester, Kevin A. Ewing, Jeffrey R. Holmstead, Jason B. Hutt, Richard Alonso, and Michael D. Olsen.

November 1, 2011

### Bracewell & Giuliani News Release

#### **John A. Riley and Christopher C. Thiele Join Bracewell & Giuliani's Environmental Strategies Practice in Austin**

*Bracewell & Giuliani Web Site, November 1, 2011*

"John and Chris further strengthen our ability to represent the energy, manufacturing, upstream shale, refining and waste industries in Texas and across the nation. In particular, we are pleased to bring aboard their extensive experience in contested case hearings for industrial clients," said Tim Wilkins, head of Bracewell & Giuliani's environmental practice.

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

### BRACEWELL & GIULIANI ALERTS AND PUBLICATIONS

#### **ISS Requests Comments on Proposed Hydraulic Fracturing Policy**

*Bracewell & Giuliani Web Site, October 28, 2011*

"Institutional Shareholder Services recently proposed a new policy that clarifies its support for shareholder proposals requesting greater disclosure of a company's natural gas hydraulic fracturing operations and efforts to manage and mitigate the potential impacts of those operations. As background for the new policy, ISS notes the increasing media and public policy attention on hydraulic fracturing operations, the high level of support hydraulic fracturing proposals received in 2010 and 2011 and ISS's recommendation of votes in favor of each of those proposals. The ISS release on its proposed policy [...]"

#### **Offshore Winds Blowing in New Directions**

*Bracewell & Giuliani Energy Legal Blog, October 18, 2011*

"In the aftermath of the offshore wind industry's recently completed annual get-together in Baltimore last week,

there are many signs of success on the ocean blue's horizon. While those possibilities shine brightly in a number of key areas, the industry is also facing some difficult challenges. First, the good news. The industry still continues to [...]"

[top](#)

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - AGENDAS AND WORK SESSIONS

### [Commissioners' November 2, 2011 Meeting Agenda](#)

*TCEQ Web Site*

### [Commissioners' October 18, 2011 Agenda Meeting Webcast](#)

*TexasAdmin.com*

[top](#)

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY - NEWS REPORTS

### Enforcement

#### [TCEQ Approves Fines Totaling \\$ 1,177,565](#)

*TCEQ Web Site, October 18, 2011*

"The Texas Commission on Environmental Quality today approved penalties totaling \$1,177,565 against 66 regulated entities for violations of state environmental regulations."

[top](#)

### Regulatory Developments

#### [What's New in TCEQ Rules](#)

*TCEQ Web Site, October 21, 2011*

#### [Environmental Flows Rulemaking](#)

*TCEQ Web Site*

"House Bill (HB) 3 and Senate Bill (SB) 3, 80th Legislature, 2007, require the Texas Commission on Environmental Quality (TCEQ) to adopt by rule appropriate environmental flow standards for each river basin and bay system in the state."

[top](#)

## Water

### Denial of BRA Request for Water Recommended

*Brenham Banner-Press, October 29, 2011*

"An environmental group has praised a recommendation that the Brazos River Authority not be allowed to take another billion gallons of water a day from the Brazos River."

### Parched Texas Looks Way Ahead

*The Bond Buyer, October 25, 2011*

"DALLAS - With its population expected to nearly double to 46 million in 50 years, Texas is confronting one factor that could impede that growth: a shortage of water and the money needed to keep it flowing."

### LCRA Settles Suit Over Canceled Water Deal, Approves Drought Plan

*Austin American-Statesman, October 20, 2011*

"The Lower Colorado River Authority's board on Wednesday unanimously approved a \$30 million settlement to end a lawsuit over a nearly decade-old Central Texas water-sharing deal."

*top*

## BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

### Guidance on the Development, Implementation and Maintenance of a Safety and Environmental Management Systems (SEMS) Program for Outer Continental Shelf (OCS) Oil, Gas and Sulphur Operations

*BSEE Web Site, October 21, 2011*

*top*

## DEPARTMENT OF THE INTERIOR

### Regulators Prepare to Update Fracturing Rules

*Houston Chronicle, October 31, 2011*

"WASHINGTON - The Interior Department is on track to impose new rules on hydraulic fracturing of natural gas and oil on public lands early next year, with required disclosure of chemicals and water use at the sites."

*top*

## EPA

### **EPA Grants Clean Air Act Petition to Improve Air Quality in New Jersey**

*EPA Web Site, October 31, 2011*

"WASHINGTON - The U.S. Environmental Protection Agency (EPA) today granted a petition submitted by the New Jersey Department of Environmental Protection to limit sulfur dioxide (SO<sub>2</sub>) emissions from a Pennsylvania power plant that are adversely impacting air quality in Warren, Sussex, Morris and Hunterdon counties in New Jersey."

### **Permian Basin Will Be Watching New Wastewater Disposal Rules Carefully**

*MyWestTexas.com, October 28, 2011*

"Permian Basin operators will be watching closely as the Environmental Protection Agency begins to craft new nationwide standards for disposing of wastewater from hydraulic fracturing, a process expected to take about three years."

### **Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews; Extension of Comment Period Closing Date**

*76 Federal Register 66886, October 28, 2011*

### **Notice of Extension of Comment Period, Guidance for 1-Hour SO<sub>2</sub> SIP Submissions**

*76 Federal Register 66925, October 28, 2011*

### **Notice of Final 2010 Effluent Guidelines Program Plan**

*76 Federal Register 66286, October 26, 2011*

### **Advanced Notice of Proposed Rulemaking, New Source Performance Standards (NSPS) Review**

*76 Federal Register 65653, October 24, 2011*

### **Proposed Rule, Certain High Production Volume Chemicals; Test Rule and Significant New Use Rule; Fourth Group of Chemicals**

*76 Federal Register 65580, October 21, 2011*

### **Final Rule, Testing of Certain High Production Volume Chemicals; Third Group of Chemicals**

*76 Federal Register 65385, October 21, 2011*

### **Texans Say Softened EPA Rule Could Still Cause Blackouts**

*San Antonio Express-News, October 19, 2011*

"WASHINGTON - Although the Environmental Protection Agency recently relaxed an upcoming power-plant emissions rule, it still threatens the reliability of Texas' electric power grid, most of the state's U.S. House delegation contended Wednesday."

[top](#)

## EPA REGION 6

### [Proposed Reissuance of the NPDES General Permit for Facilities Related to Oil and Gas Extraction in the Territorial Seas of Texas](#)

*76 Federal Register 65723, October 24, 2011*

[top](#)

## FISH AND WILDLIFE SERVICE

### [Draft Environmental Assessment and Draft Habitat Conservation Plan for Lower Colorado River Authority Transmission Services Corporation in Central Texas](#)

*76 Federal Register 65744, October 24, 2011*

[top](#)

## TEXAS RAILROAD COMMISSION

### [RRC Commissioners: 'EPA's Proposed Air Emission Rules Will Harm Texas-the Nation's Top Energy Producer'](#)

*Railroad Commission Web Site, October 27, 2011*

"AUSTIN - Railroad Commissioners this week approved sending a letter and comments on a draft U.S. Environmental Protection Agency rule regarding oil and gas air emissions that the Commissioners say could harm energy production in Texas."

[top](#)

## OTHER TEXAS ENVIRONMENTAL NEWS

### [Feds Urge Oil, Gas Sites to Protect Kids from Blasts](#)

*Houston Chronicle, October 27, 2011*

"WASHINGTON - Dozens of teenagers and children have been killed by explosions at oil and gas storage tanks over the past three decades, according to federal investigators who on Thursday urged companies to better secure the sites."

### [Red Tide Closes Texas Oyster Harvest](#)

*Houston Chronicle, October 26, 2011*

"SAN ANTONIO - Gulf oyster lovers may have to suck it up and settle for oysters from other regions to get their fix."

### **Earthquake In South Texas: Fracking Fluid at Fault?**

*KUT News, October 20, 2011*

"A 4.6 magnitude earthquake struck an area of South Texas today that is a center point for natural gas and oil production in the Eagle Ford Shale."

*top*

## **REPORTS**

### **Maritime Security: Coast Guard Should Conduct Required Inspections of Offshore Energy Infrastructure**

*Government Accountability Office Web Site, October 2011*

"The U.S. Coast Guard - a component of the Department of Homeland Security (DHS) - is the lead federal agency for maritime security, including the security of offshore energy infrastructure."

### **Analysis of Impacts of a Clean Energy Standard**

*House Committee on Science, Space, and Technology Web Site, October 2011*

"This report responds to a request from Chairman Ralph M. Hall for an analysis of the impacts of a Clean Energy Standard (CES)."

*top*

Bracewell & Giuliani LLP makes this information available for educational purposes. This information does not offer specific legal advice or create an attorney-client relationship with the firm. Do not use this information as a substitute for specific legal advice. Attorney advertising.