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Chairman H.S. Buddy Garcia                      OLD BUSINESS AGENDA  
Commissioner Larry R. Soward  
Commissioner Bryan W. Shaw, Ph.D.    Wednesday, August 20, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the August 6, 2008 agenda

Item 1. [Docket No. 2008-0863-RUL](#). Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 336**, Radioactive Substance Rules, Sections 336.1, 336.101, 336.103, 336.105, 336.107, 336.1105, 336.1109, 336.1113, 336.1125, and 336.1235; proposed new Sections 336.114, 336.208, 336.210, 336.1301, 336.1303, 336.1305, 336.1307, 336.1309, 336.1311, 336.1313, 336.1315, and 336.1317. The commission also proposes amendments to **30 TAC Chapter 37**, Financial Assurance, Sections 37.9001, 37.9030, 37.9035, 37.9040, 37.9045, and 37.9050; **30 TAC Chapter 39**, Public Notice, Sections 39.403, 39.651, 39.653, 39.702, 39.703, and 39.707; new Section 39.655; amendment to **30 TAC Chapter 55**, Request for Reconsideration or Contested Case Hearings; Public Comment, Section 55.201; amendments to **30 TAC Chapter 305**, Consolidated Permits, Sections 305.49, 305.62, and 305.127; amendments to **30 TAC Chapter 331**, Underground Injection Control, Sections 331.2, 331.7, 331.13, 331.45, 331.46, 331.82, 331.84 - 331.86, 331.103 - 331.107, and 331.143; and new Sections 331.87, 331.108, 331.109, 331.220 - 331.225. The rulemaking would implement Senate Bill (SB) 1604, 80th Legislature, 2007, Regular Session, House Bill 3838, 80th Legislature, 2007, Regular Session, and House Bill 1567, 78th Legislature, 2003, relating to radioactive material licensing, including uranium mining. SB 1604 also addresses the TCEQ's underground injection control program for regulation of in situ uranium mining and requires the TCEQ to establish and administer a new state fee for the disposal of radioactive wastes other than low-level radioactive waste. In addition, the rulemaking would establish the remaining technical requirements, application processing requirements, public notice requirements, licensing and application fees, low-level radioactive waste disposal fees, and financial assurance requirements for radioactive

material licensing, including those programs transferred from the Department of State Health Services to the TCEQ. (Susan Jablonski, Don Redmond, Amie Richardson) (Rule Project No. 2007-029-336-PR)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 336, Radioactive Substance Rules, Sections 336.1, 336.101, 336.103, 336.105, 336.107, 336.1105, 336.1109, 336.1113, 336.1125, and 336.1235; proposed new Sections 336.114, 336.208, 336.210, 336.1301, 336.1303, 336.1305, 336.1307, 336.1309, 336.1311, 336.1313, 336.1315, and 336.1317. The commission also proposes amendments to 30 TAC Chapter 37, Financial Assurance, Sections 37.9001, 37.9030, 37.9035, 37.9040, 37.9045, and 37.9050; 30 TAC Chapter 39, Public Notice, Sections 39.403, 39.651, 39.653, 39.702, 39.703, and 39.707; new Section 39.655; amendment to 30 TAC Chapter 55, Request for Reconsideration or Contested Case Hearings; Public Comment, Section 55.201; amendments to 30 TAC Chapter 305, Consolidated Permits, Sections 305.49, 305.62, and 305.127; amendments to 30 TAC Chapter 331, Underground Injection Control, Sections 331.2, 331.7, 331.13, 331.45, 331.46, 331.82, 331.84 - 331.86, 331.103 - 331.107, and 331.143; and new Sections 331.87, 331.108, 331.109, 331.220 - 331.225 as recommended by the ED with the inclusion of appropriate preamble language suggested by Commission Soward at the dais. LS/BS; all agree.

## AGENDA

Wednesday, August 20, 2008

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

#### **HEARING REQUESTS/REQUESTS FOR RECONSIDERATION**

- Item 1. [Docket No. 2008-1009-AIR](#). Consideration of application by **Block Creek Concrete Products, LLC** for a Standard Permit for Concrete Batch Plants (Permit No. 83958) to authorize the construction of a specialty concrete batch plant facility. The proposed facility is located at 444 Old No. 9 Highway #A, in Comfort, **Kendall County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Shelley Stratmann, Alicia Lee)

Deny the request for hearing filed by Jerry Winakur and the requests for reconsideration filed by Mr. Winakur and Dennis Spinelli; refer to SOAH the hearing requests of Mickey V. Bush and Dennis Spinelli for a determination of their affectedness in accordance with the distance requirement in Texas Clean Air Act Section 382.058(c) with direction that the ALJ shall not consider any other individuals or persons for purposes of standing when making this determination; and only if the ALJ finds that Mickey V. Bush or Dennis Spinelli's residence satisfies the distance requirement, then proceed with a hearing on the following issues: 1. Does the Applicant's compliance history warrant denial of its application; 2. Will air emissions from operation of the specialty concrete batch plant adversely impact the health of the requesters or their families or their livestock, pets, or crops; and 3. Will air emissions from operation of the specialty concrete batch plant create a nuisance or otherwise interfere with the requesters' and their families' use and enjoyment of their property. The Commission also established the maximum hearing duration at 6 months, directed the Executive Director to participate in the hearing, instructed the Office of General Counsel and the Office of Chief Clerk to work with SOAH to expeditiously proceed with the adjudicative hearing; and respectfully requested the ALJ to prepare and submit to the Commission a Proposal for Decision on any and all findings made by the ALJ with regard to the matters referred to SOAH.

- Item 2. [Docket No. 2008-0495-WR](#). Consideration of an application by **HRC Cherokee Tree Farm, LP** for Water Use Permit No. 12047 to construct and maintain two dams and two reservoirs with a combined surface area of 384.9 acres and impound therein a combined total of 3,849.5 acre-feet of water on Flat Creek, tributary of the Neches River, Neches River Basin, for in-place recreational purposes in **Cherokee County**. South Lake will have a surface area of 287.8 acres and impound 2,869 acre-feet of water. North Lake will have a surface area of 97.1 acres and impound 980.5 acre-feet of water. The Commission will also consider requests for hearing, and related responses to the requests, and replies thereto. (Erin Selvera, Craig Mikes)

Deny all hearing requests and grant the permit as proposed by the Executive Director. BS/BG; all agree.

Item 3. [Docket No. 2006-2246-MSW](#). Consideration of an application by **US Oil Recovery, LP.**, for new MSW Permit No. 2336 to authorize operation of a Type V liquid waste processing facility. The facility is located at 400 North Richey Street, in Pasadena, **Harris County**, Texas, and currently has authorization to process grease and grit trap waste under MSW Registration No. 43020. If the permit is issued, the permit will authorize the facility to process up to 200,000 gallons per day of grease and grit trap, and septage waste. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Public Comment. (Eric Beller, Diane Goss)

Grant the hearing request of Harris County on the issues of: 1. whether the applicant's compliance history warrants denial or modification of the proposed permit; 2. whether the application and draft permit satisfy requirements for wastewater discharge found in 30 TAC §§ 330.29(b)(2),(b)(3), and (d)(4)(h); 3. whether the application and draft permit satisfy regulatory requirements for surface water quality, flood plain, and flooding requirements, and if there will be adequate containment at the facility's loading and unloading areas as required in 30 TAC §§ 301.34(6), and 330.55(b)(7)(B). 4. whether specificity and detail of waste activities described in the application and draft permit satisfy regulatory requirements; 5. whether the application and draft permit satisfy regulatory requirements for faulting; 6. whether the application and draft permit satisfy regulatory requirements for odor and vectors; 7. whether personnel qualifications in the application and draft permit satisfy evidence of competency requirements found in 30 TAC §§ 30.213(a); 8. whether the waste acceptance and rejection procedures in the application and draft permit satisfy regulatory requirements; 9. whether notice provided by the public copy of the application satisfies requirements found in 30 TAC §39.405(g)(2); 10. whether the level of detail in the application imparts adequate enforceability. Deny all other hearing requests and issues; refer the matter to SOAH for a maximum hearing duration of 12 months; direct the Executive Director to participate in the hearing; and request the ALJ to submit Findings of Fact, Conclusions of Law, and Ordering Provisions with the Proposal for Decision. BS/LS; all agree.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDERS**

Item 4. [Docket No. 2007-0850-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Horizon Dairy in Hamilton County**; TCEQ ID No. RN102334661; for dairy operation water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including 30 Tex. Admin. Code ch. 60. (Barham A. Richard, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

Item 5. [Docket No. 2007-1891-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dale Gold dba Gold Egg Farm in Lavaca County**; RN101981785; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 6. [Docket No. 2006-1577-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Mannesmann DMV Stainless USA, Inc. fka DMV Stainless USA, Inc.** in

**Harris County**; TCEQ ID No. RN100210962; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tracy Chandler, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

Item 7. [Docket No. 2008-0303-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Arkema Inc.** in **Jefferson County**; RN100216373; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 8. [Docket No. 2008-0378-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Tony Rhett Dickey** in **Wise County**; RN105093991; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 9. [Docket No. 2008-0214-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Owens Corning Composite Materials, LLC** in **Randall County**; RN100222140; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Bryan Elliott, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 10. [Docket No. 2008-0239-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southern Star Concrete, Inc.** in **Collin County**; RN101970465; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 11. [Docket No. 2007-1957-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southwest Convenience Stores, LLC** in **El Paso County**; RN102048592, RN100824010, RN102396702, RN102390028, RN102395274, RN102394756, RN102398112, RN102399094, RN102393980, RN102391331, RN102204195, RN102383965, and RN105204283; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 12. [Docket No. 2008-0024-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southwest Convenience Stores, LLC in El Paso County**; RN102017068; RN102017241; RN102023058; RN102034436; RN102053402; RN102390507; RN102396173; RN102387396; RN102393170; RN102384666; RN102384260; RN100823913; RN102389228; RN102388816; RN102390960; RN101463321; RN100942085; and RN102209822; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 13. [Docket No. 2008-0490-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Weatherford in Parker County**; RN105426910; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 14. [Docket No. 2008-0414-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Total Petrochemicals USA, Inc. in Harris County**; RN100212109; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 15. [Docket No. 2008-0319-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Quala Systems, Inc. in Brazoria County**; RN102169950; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 16. [Docket No. 2008-0217-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ISP Technologies Inc. in Galveston County**; RN100825272; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 17. [Docket No. 2007-2044-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **E. I. du Pont de Nemours and Company in Jefferson County**; RN100216035;

for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Aaron Houston, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 18. [Docket No. 2008-0010-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Copano Processing, L.P. in Colorado County**; RN101271419; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 19. [Docket No. 2008-0311-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alvin Chemical, Inc. in Brazoria County**; RN100914613; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Jecha, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **AIR QUALITY ENFORCEMENT DEFAULT ORDER**

Item 20. [Docket No. 2008-0076-AIR-E.](#) Consideration of a Default Order assessing administrative penalties against **KM Aviation, Inc. in Dallas County**; TCEQ ID No. RN104372990; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna M. Cox, Jennifer Cook)

Remanded to the ED. LS/BS; all agree.

#### **DRY CLEANER ENFORCEMENT AGREED ORDERS**

Item 21. [Docket No. 2006-1290-DCL-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Andres E. Pascual dba DCSC Market and dba 125 Dry Clean Super Center in Harris County**; TCEQ ID Nos. RN104952189 and RN100909738; for dry cleaner registration violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 374, and the rules of the Texas Commission on Environmental Quality. (Benjamin O. Thompson, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

Item 22. [Docket No. 2006-1123-DCL-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Tidwell Super Cleaners, Inc. in Harris County**; RN103987962; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

## **DRY CLEANER ENFORCEMENT DEFAULT ORDER**

- Item 23. [Docket No. 2006-1382-DCL-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Hyeshin Han Bouwhuis dba Uptown Cleaners in Harris County**; TCEQ ID No. RN104096292; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Tracy Chandler, Jennifer Cook)

Approve the Default Order. LS/BS; all agree.

## **EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

- Item 24. [Docket No. 2007-1720-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Paintbrush 290 GP, LLC in Hays County**; RN105354765; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

## **FIELD CITATIONS**

- Item 25. [Docket No. 2008-0085-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **SB All Seasons, Inc. in Harris County**; RN102314002; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

- Item 26. [Docket No. 2008-0040-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **River Oaks Country Club in Harris County**; RN100907674; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

- Item 27. [Docket No. 2008-0170-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Dave Singh dba Lake Stop Store in Bosque County**; RN102245594; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 28. [Docket No. 2008-0084-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Kash 'N' Karry, Inc. dba Magic Texaco in Tarrant County**; RN101542330; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 29. [Docket No. 2008-0028-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Joshua Investments, L.L.C. dba Regalado Exxon in Webb County**; RN100534346; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 30. [Docket No. 2008-0248-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **USA IDOL Inc dba Stop & Go 6 in Webb County**; RN105370274; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 31. [Docket No. 2008-0082-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Aradhana Texas, Inc. dba Mr. Convenience in Tarrant County**; RN101558765; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 32. [Docket No. 2008-0029-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **16303 Food Store Associates, Inc. dba Sunrise Super Stop 15 in Fort Bend County**; RN103146536; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 33. [Docket No. 2008-0185-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Raymond Allen in Randall County**; RN105379150; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 34. [Docket No. 2008-0118-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Ruben Gutierrez in Brooks County**; RN105362834; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 35. [Docket No. 2008-0187-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Ross B. Harbaugh in Randall County**; RN103653168; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 36. [Docket No. 2008-0086-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Tim M. Swanson in Harris County**; RN105367643; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 37. [Docket No. 2008-0031-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Tony Parrish in Hunt County**; RN103310173; for occupational license violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 38. [Docket No. 2008-0087-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Clearstream Wastewater Systems, Inc. in Hardin County**; RN105198444; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 39. [Docket No. 2008-0186-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Dewberry Investments, Ltd. dba Dewberry Investments Monterrey Hills in Bastrop County**; RN105384077; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 40. [Docket No. 2008-0348-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Babin Machine Works, Inc.** in **Jefferson County**; RN100569425; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 41. [Docket No. 2008-0030-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Nabors Well Services Ltd.** in **Pecos County**; RN105359624; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 42. [Docket No. 2008-0168-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **The Aermotor Company** in **Tom Green County**; RN101637676; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 43. [Docket No. 2007-2008-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Somerset Custom Homes, Ltd.** in **Tarrant County**; RN105363691; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 44. [Docket No. 2008-0081-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Smart Materials, Inc. dba Baytown Sand Pit** in **Chambers County**; RN105367767; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 45. [Docket No. 2008-0323-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **R.E.E. Holding, Inc. dba Tool Tech** in **Jefferson County**; RN102953296; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 46. [Docket No. 2008-0026-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Option 1 Realty Group, LP dba Farmers Row Development** in **Nueces County**; RN105331284; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

Item 47. [Docket No. 2008-0119-WR-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Adexco Operating Company** in **Parker County**; RN105371868; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. LS/BS; all agree.

#### **INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 48. [Docket No. 2008-0144-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pilgrim's Pride Corporation** in **Nacogdoches County**; RN104306501; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Jecha, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 49. [Docket No. 2008-0067-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Red River Redevelopment Authority** in **Bowie County**; RN101274231; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDERS**

Item 50. [Docket No. 2005-1928-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jarrod Meyer** in **Smith County**; TCEQ ID No. RN104786652; for landscape irrigator installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Jacquelyn Boutwell, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

Item 51. [Docket No. 2007-1559-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dornal L. Foust** in **Tarrant County**; RN103484259;

for landscape irrigator occupational license violations pursuant to Tex. Water Code ch. 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 52. [Docket No. 2007-2037-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **McMullen County Water Control & Improvement District No. 1** in **McMullen County**; RN101398261; for public drinking water and water rights violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 11, and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 53. [Docket No. 2007-1905-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Neal's Lodges, Inc.** in **Uvalde County**; RN101882397; for petroleum storage tank and Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 54. [Docket No. 2008-0263-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties against **Mario Hernandez dba KK Busters Plumbing** in **Cameron County**; RN103162673; for municipal solid waste and water quality violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Andrew Hunt, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 55. [Docket No. 2007-1798-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Azle** in **Tarrant County**; RN101609873; for water quality and stormwater violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 56. [Docket No. 2008-0462-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Brazos Country** in **Austin County**; RN101180883; for public drinking water and public water utility violations pursuant to Tex. Water Code ch. 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

## MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

- Item 57. [Docket No. 2007-0449-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Michael Lantz O'Neill dba Frontier Park Resort and Marina** in **Sabine County**; TCEQ ID Nos. RN101278034 and RN105161889; for water quality and wastewater operator license violations pursuant to Tex. Water Code chs. 7, 26, and 37, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

Approve the Default Order. LS/BS; all agree.

## MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 58. [Docket No. 2007-0154-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Kenedy** in **Karnes County**; TCEQ ID No. RN102097839; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tracy Chandler, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

- Item 59. [Docket No. 2008-0204-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Oceanering International, Inc.** in **Harris County**; RN101718773; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lauren Smitherman, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 60. [Docket No. 2007-1984-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Houston** in **Harris County**; RN101607596; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 61. [Docket No. 2007-2032-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Bells** in **Grayson County**; RN101920809; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Andrew Hunt, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 62. [Docket No. 2008-0116-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Crowell** in **Foard County**; RN101612380;

for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Brister, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 63. [Docket No. 2007-1582-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Munday in Knox County**; RN103016192; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 64. [Docket No. 2008-0158-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Godley in Johnson County**; RN101919397; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lauren Smitherman, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 65. [Docket No. 2008-0411-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Fort Bend County Municipal Utility District No. 130 in Fort Bend County**; RN102342391; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Brister, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT AGREED ORDER**

Item 66. [Docket No. 2008-0340-OSS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jimmy Espinosa in Concho County**; RN105089288; for on-site sewage disposal violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Andrew Hunt, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 67. [Docket No. 2008-0114-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nitrous Express, Inc. dba Rorabaugh Mechanical Company in Wichita County**; RN101894046; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 68. [Docket No. 2008-0075-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KOODALOR CORPORATION dba Sunny Food Store 3** in **Fort Bend County**; RN101786259; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 69. [Docket No. 2008-0383-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **J. Griffin** in **Cass County**; RN101839173; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ross Fife, Bryan Sinclair)

Approve the Agreed Order; fine lowered as justice may require. LS/BS; all agree.

- Item 70. [Docket No. 2008-0424-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DAVIS AND WARDLAW OIL CO., INC.** in **Baylor and Collin Counties**; RN105457196; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 71. [Docket No. 2007-1990-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Luz Diaz dba Chula Vista Grocery** in **Cameron County**; RN101679504; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

- Item 72. [Docket No. 2005-0343-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **K & M Michael, Inc. dba Kilgore Food and More** in **Gregg County**; TCEQ ID No. RN102959558; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including 30 Tex. Admin. Code ch. 60. (Richard A. Barham, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

- Item 73. [Docket No. 2007-0212-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pak-Baderia Enterprises, Inc. dba M & M Superette** in **Jefferson County**; TCEQ ID No. RN102789617; for petroleum storage tank violations

pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tracy Chandler, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

Item 74. [Docket No. 2006-0657-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Herndon Marine Products, Inc.** in **Aransas County**; TCEQ ID No. RN101526804; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

Approve the Agreed Order. LS/BS; all agree.

Item 75. [Docket No. 2008-0134-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nasa Oil, Inc. dba Nasa Food Mart** in **Harris County**; RN101432599; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 76. [Docket No. 2006-1099-PST-E](#). Consideration of a Default Order assessing administrative penalties against **Anna Enterprises Inc. dba Charlies Food Mart 2** in **Harris County**; TCEQ ID No. RN102256211; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mary Hammer, Jennifer Cook)

Approve the Default Order. LS/BS; all agree.

Item 77. [Docket No. 2005-1945-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **B & F and Sons, LLC dba B & F Exxon** in **Ellis County**; TCEQ ID No. RN101532984; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jacquelyn Boutwell, Jennifer Cook)

Approve the Default Order. LS/BS; all agree.

Item 78. [Docket No. 2006-1789-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Martin Adelakun dba National Mini Mart** in **Harris County**; TCEQ ID No. RN101735496; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mary Hammer, Jennifer Cook)

Approve the Default Order. LS/BS; all agree.

## **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 79. [Docket No. 2008-0285-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Buchanan Lake Village, Inc.** in **Llano County**; RN101224988; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Christopher Keffer, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 80. [Docket No. 2008-0264-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Houston County Water Control and Improvement District No. 1** in **Houston County**; RN101201002; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 81. [Docket No. 2007-1755-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **E.I. du Pont de Nemours and Company** in **Orange County**; RN100542711; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 82. [Docket No. 2008-0308-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Roscoe** in **Nolan County**; RN101430924; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 83. [Docket No. 2008-0128-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kempner Water Supply Corporation** in **Lampasas County**; RN101197549; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

## **UNDERGROUND INJECTION CONTROL ENFORCEMENT AGREED ORDER**

Item 84. [Docket No. 2007-2015-UIC-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Environmental Processing Systems, L.C.** in **Liberty County**; RN102316817; for underground injection control violations pursuant to Tex. Water Code chs. 7 and 27 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ross Fife, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

### **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 85. [Docket No. 2007-1776-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Arlington in Tarrant County**; RN104950134; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 86. [Docket No. 2008-0487-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Ray French Land Company, Ltd. in Parker County**; RN105119721; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 87. [Docket No. 2008-0460-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Royce Homes, L.P. in Harris County**; RN103894788; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Brister, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 88. [Docket No. 2008-0183-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John M. Graul in Travis County**; RN105367866; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 89. [Docket No. 2007-2043-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Value Family Homes - Denton, L.P. dba Denton Mobile Home Community in Denton County**; RN101269611; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 90. [Docket No. 2008-0129-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas H2O, Inc. in Hood County**; RN101274991; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas

Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Tom Jecha, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 91. [Docket No. 2008-0585-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **OK Concrete Company in Baylor County**; RN102430592; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

Item 92. [Docket No. 2008-0274-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Grady Harris dba Lakehurst Meadows in Kaufman County**; RN105297873; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **WATER RIGHT ENFORCEMENT AGREED ORDER**

Item 93. [Docket No. 2008-0108-WR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Carr Land Development LLC in Wood County**; RN104949680; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Bryan Sinclair)

Approve the Agreed Order. LS/BS; all agree.

#### **MISCELLANEOUS MATTER**

Item 94. [TCEQ Docket No. 2008-0476-UCR](#). TCEQ Docket No. 2008-0476-UCR. Consideration of a request for a Commission Order approving a contract designating service areas between the **City of Fair Oaks Ranch**, water certificate of convenience and necessity (CCN) No. 11246, and the **City of Bulverde**, water CCN No. 12864, in **Comal, Kendall, and Bexar Counties**, Texas, pursuant to section 13.248 of the Texas Water Code. The City of Bulverde holds the CCN for the approximate 1402.25 acre tract in question and there are currently no customers in the area. The Cities of Fair Oaks Ranch and Bulverde have agreed to dually certificate the 1402.25 acre tract. (Kayla Murray, Heidi Graham)

Approve the request for a Commission Order approving a contract designating service areas between the City of Fair Oaks Ranch and the City of Bulverde. BS/LS; all agree.

#### **TMDL MATTERS**

Item 95. [Docket No. 2008-0221-TML](#). Consideration for adoption of one final TMDL for bacteria in the **Lower San Antonio River** (Segment 1901), of the San Antonio River Basin, in **Karnes, Goliad,**

**Refugio, Dewitt, Wilson, Victoria, and Guadalupe Counties**, as a certified update to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber, Marc Friberg)

Approve the adoption of one final TMDL for bacteria in the Lower San Antonio River (Segment 1901), of the San Antonio River Basin with changes submitted by the ED. BS/LS; all agree.

Item 96. [Docket No. 2008-0222-TML](#). Consideration for adoption of six final TMDLs bacteria in waters of the **Upper Gulf Coast** (Segments 2421, 2422, 2423, 2424, 2432, and 2439), in the Galveston Bay System (Upper Galveston Bay, Trinity Bay, East Bay, West Bay, Chocolate Bay, and Lower Galveston Bay) along the Texas Upper Gulf Coast near Houston and Galveston, in **Brazoria, Galveston, Chambers, and Harris Counties**, as a certified update to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber, Marc Friberg)

Approve the adoption of six final TMDLs for bacteria in waters of the Upper Gulf Coast (Segments 2421, 2422, 2423, 2424, 2432, and 2439), in the Galveston Bay System. BS/LS; all agree.

## **RULE MATTERS**

Item 97. [Docket No. 2008-0057-RUL](#). Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 117**, Control of Air Pollution from Nitrogen Compounds: Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas; Division 1, Beaumont-Port Arthur Ozone Nonattainment Area Major Sources; Sections 117.140 and 117.145; Division 3, Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources; Sections 117.340 and 117.345; and Subchapter D, Combustion Control at Minor Sources in Ozone Nonattainment Areas; Division 1, Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources; Sections 117.2035 and 117.2045, and corresponding revisions to the state implementation plan. The proposed rulemaking would allow for an output-based monitoring alternative to the fuel flow meter requirement for stationary internal combustion engines and gas turbines at major sources of nitrogen oxides (NOX) in the Beaumont-Port Arthur ozone nonattainment area and major and minor sources of NOX in the Houston-Galveston-Brazoria ozone nonattainment area. The proposed changes would add monitoring flexibility for owners and operators of engines and turbines and are consistent with an option currently allowed under Chapter 117 for similar units in the Dallas-Fort Worth eight-hour ozone nonattainment area. (Ray Schubert, Timothy Eubank) (Rule Project No. 2008-008-117-EN)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 117. LS/BS; all agree.

Item 98. [Docket No. 2008-0048-RUL](#). Consideration for adoption of amendments to Sections 30.231, 30.240, 30.242, 30.245, and 30.247 of **30 TAC, Chapter 30**, Occupational Licenses and Registrations, and adoption of amendments to Sections 285.2 - 285.5, 285.8, 285.13, 285.21, 285.30, 285.32 - 285.34, 285.50, 285.60 - 285.65, 285.70, 285.71, 285.90 and 285.91, the repeal of Section 285.7 and new Section 285.7 of **30 TAC, Chapter 285**, On-site Sewage Facilities. The Commission will also consider the withdrawal of the proposed amendment to 30 TAC Section 285.6, which was published in the April 4, 2008 issue of the Texas Register (33 TexReg 2776). The adoption implements House Bill 2482, 80th Legislature, 2007, Regular Session, addresses a

petition from the Texas Environmental Health Association and revises and updates several areas within Chapter 285 and Chapter 30. The adopted rules address homeowner maintenance of aerobic treatment and disposal systems; develop a new licensing and registration program for persons who maintain aerobic treatment units for compensation; address a petition concerning conflict of interest for designated representatives; clarify siting, design, setback, permitting, and leak testing requirements for on-site sewage facilities; amend or create definitions for direct supervision, testing and reporting and maintenance technician, and phase out the definition of maintenance company; and clean up errata and inconsistencies in the rules. The proposed rules were published in the April 4, 2008 issue of the Texas Register (33 TexReg 2776). (Joseph Strouse, Alicia Lee) (Rule Project No. 2007-033-285-CE)

Approve for adoption of amendments to Sections 30.231, 30.240, 30.242, 30.245, and 30.247 of 30 TAC, Chapter 30, Occupational Licenses and Registrations, and adoption of amendments to Sections 285.2 - 285.5, 285.8, 285.13, 285.21, 285.30, 285.32 - 285.34, 285.50, 285.60 - 285.65, 285.70, 285.71, 285.90 and 285.91, the repeal of Section 285.7 and new Section 285.7 of 30 TAC, Chapter 285; and approve the withdrawal of the proposed amendment to Section 285.6. LS/BS; all agree.

Item 99. [Docket No. 2008-0184-RUL](#). Consideration of the adoption of amended Sections 11.1 and 11.3 of **30 TAC Chapter 11**, Contracts. The adoption would reflect the implementation of House Bill 3560, 80th Legislature, Regular Session, 2007. The adopted rulemaking relates to the transfer of Historically Underutilized Business program responsibilities from the Texas Building and Procurement Commission to the Texas Comptroller of Public Accounts, Texas Procurement and Support Services. In addition, this adopted rulemaking reflects the transfer of authority for bid opening and tabulation from Texas Building and Procurement Commission to the Texas Comptroller of Public Accounts, Texas Procurement and Support Services. The proposed rules were published in the May 23, 2008, issue of the Texas Register (33 TexReg 4123). (Joe McGill, Greg Dickenson) (Rule Project No. 2008-009-011-AS)

Approve the adoption of amended Sections 11.1 and 11.3 of 30 TAC Chapter 11. BS/LS; all agree.

Item 100. [Docket No. 2008-1144-RUL](#). Consideration of a petition for rulemaking under Section 20.15 of **30 TAC Chapter 20**, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality on July 9, 2008, by Lowerre, Frederick, Perales & Allmon, Attorneys at Law on behalf of the Texas Campaign for the Environment. The petitioner requests an amendment to **30 TAC Chapter 305**, Consolidated Permits, Subchapter D, Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits, Section 305.70(k)(13) that would require public notice before permit issuance rather than after issuance. (Ellette H. Vinyard, Anthony Tatu) (Rule Project No. 2008-027-PET-NR)

Deny the petition for rulemaking in accordance with 30 TAC Section 20.15. BS/LS; all agree.

## **EXECUTIVE MEETING**

Item 101. **Docket No. 2008-0001-EXE**. The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director and General Counsel, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also

meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 102. **Docket No. 2008-0002-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 103. **Docket No. 2008-0003-EXE.** The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

**REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. AND WILL CONTINUE UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

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OLD BUSINESS AGENDA

Wednesday, August 20, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the December 5, 2007, March 19, 2008 & June 18, 2008 agendas

- Item 1. [TCEQ Docket No. 2004-0565-MWD-E; SOAH Docket No. 582-06-0662.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against the **City of Normangee** in **Leon County**, Texas; TCEQ ID No. WQ0010356001; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. The Commission will also consider timely filed exceptions and replies. (Shawn A. Slack)

Continued to the November 5, 2008 agenda.

Item continued from the March 19, 2008, May 21, 2008, June 18, 2008 & August 6, 2008 agendas

- Item 2. [TCEQ Docket Nos. 2004-1120-UCR, 2004-1671-UCR; SOAH Docket Nos. 582-05-2770, 582-05-2771.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Aqua Development Company and Aqua Utilities, Inc., dba Aqua Texas, Inc.** ("Applicant"), to change water and sewer tariffs and rates in various counties throughout Texas pursuant to Texas Water Code Chapter 13 and the Commission's rules, including 30 TAC Chapters 80 and 291. The Applicant sought new tariffs and rates in four regional territories for its water and sewer service provided under Certificate of Convenience and Necessity Nos. 11157, 12902, 20453 and 20867, including North Water, North Sewer, Southeast Water, Southeast Sewer, Southwest Water, Southwest Sewer and Ingram Water. The Commission will also consider the application and related filings, the exceptions and the replies. (**Anderson, Bandera, Bastrop, Bexar, Bosque, Brazoria, Burnet, Camp, Chambers, Cherokee, Comal, Cooke, Denton, Erath, Fort Bend, Grayson, Gregg, Grimes, Harris, Hays, Henderson, Hood, Hunt, Jefferson, Johnson, Kendall, Kerr, Llano, Liberty, Live Oak, Marion, McLennan, Medina, Montgomery, Nueces, Orange, Parker, Polk, Rockwall, San Jacinto, Smith, Somervell, Tarrant, Taylor, Travis, Trinity, Victoria, Wharton, Williamson, Wilson, Wise, and Wood Counties**) (Todd Galiga)

Adopt the ALJs' revised proposed Order submitted on July 17, 2008; incorporate the changes proposed in the ALJs' August 8, 2008 letter; incorporate the new revised Schedule A; and modify Ordering Provision Number 2 to include the statement; "The surcharge for the rate case expenses shall be discontinued at the end of 24 months or once the total amount of rate case expenses (\$2,751,170.50) is recovered, whichever occurs first." LS/BS; all agree.

## AGENDA

Wednesday, August 20, 2008

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

- Item 1. [Docket No. 2007-0879-UCR, SOAH Docket No. 582-07-3473](#). Consideration of the Administrative Law Judge's request to answer a Certified Question regarding the Petition of **Flagship Hotel, Ltd.**, to review the denial by the **City of Galveston** of a request to refund past due water bills in **Galveston County**, Texas, pursuant to Texas Water Code Chapter 13 and the Commission's rules. The Administrative Law Judge seeks a Commission answer to the following certified question: "Whether the Commission, pursuant to Texas Water Code Section 13.042(d), has exclusive appellate jurisdiction to review orders of a governing municipality, including those orders pertaining to the municipality's own water and sewer service customers." The Commission will also consider the timely-filed briefs by the parties. (Brian MacLeod)

Answer the Administrative Law Judge's request to answer a Certified Question regarding the Petition of Flagship Hotel, Ltd., to review the denial by the City of Galveston of a request to refund past due water bills in Galveston County in the negative based on the following findings: 1. The amended Petition of the Flagship Hotel is a "rate proceeding" as those two terms are defined in Texas Water Code §§13.002 (16) and (17); 2. Texas Water Code §13.042(d) only gives the Commission appellate jurisdiction to review the orders or ordinances of a municipality involving the rates, operations, or services of water and sewer utilities within the municipality's corporate limits; 3. The City of Galveston is a "municipal owned utility" and a "retail public utility" under Texas Water Code §§13.002 (13) and (19) respectively. The City of Galveston is not a "water and sewer utility," "public utility," or "utility" as defined in Texas Water Code §13.002(23); 4. Texas Water Code §13.042(f) explicitly states that the Commission does not have the power or jurisdiction to regulate or supervise the rates or service of a utility owned and operated by a municipality, directly or through a municipally owned corporation, within its corporate limits to affect or limit the power, jurisdiction, or duties of a municipality that regulates land and supervises water and sewer utilities within its corporate limits, except as provided by the Texas Water Code; 5. Texas Water Code §13.043(a) explicitly states that its appeal provisions do not apply to a municipally owned utility; 6. Texas Water Code §§13.043(b) expressly limits the right of ratepayers to appeal the decision of a municipality affecting their water, drainage, or sewer rates to the Commission to five specific ratepayer categories. A ratepayer inside the corporate limits of a municipality is not one of the expressly authorized categories; 7. The Flagship Hotel is a customer/ratepayer of the City of Galveston, located inside the corporate limits of the City of Galveston; 8. No other provision of the Texas Water Code authorizes ratepayers within the corporate limits of a municipality to appeal the decision of the municipality affecting their water, drainage, or sewer rates to the Commission; 9. Texas Water Code §13.082 expressly limits the Commission's jurisdiction over municipally owned utilities by providing that "if a municipality does not surrender its jurisdiction, local utility service within the boundaries of the municipality shall be exempt from regulation by the commission under this chapter to the extent that this chapter applies to local service."; 10. There is no documentation available to the Commission to indicate that the City of Galveston has surrendered its jurisdiction over local utility service within its corporate boundaries; 11. Practice, guidance documents, decisions and orders of the Commission have regularly and routinely denied appellate jurisdiction over appeals made by customers

residing within a municipality's corporate boundaries of rate decisions pertaining to a municipally owned utility; and 12. No appellate court has overruled a decision or order of the Commission that denied appellate jurisdiction over appeals made by customers residing within a municipality's corporate boundaries of rate decisions pertaining to a municipally owned utility. LS/BS; all agree.

Item 2. [Docket No. 2008-0650-WR](#). Consideration of the public notice required for the **City of Abilene's** application for an amendment to Certificate of Adjudication No. 12-4150. The City of Abilene's certificate of Adjudication (COA) 12-4150 presently authorizes the Owner to maintain an existing dam and reservoir, known as Lake Kirby, on Cedar Creek, tributary of Elm Creek, tributary of the Clear Fork Brazos River, tributary of the Brazos River, Brazos River Basin and to impound therein not to exceed 8,500 acre-feet of water. Owner is authorized to divert and use not to exceed 115 acre-feet of water per year at a maximum diversion rate of 2.2 cfs (1000 gpm) from the dam outlet structure and from any point on the perimeter of the reservoir for agricultural purposes to irrigate land within the environs of the City of Abilene. Owner is also authorized to divert and use 3,765 acre-feet of water per year at a maximum diversion rate of 10 cfs (4500 gpm) from the dam outlet structure for municipal purposes in **Taylor County**. The City seeks a modification to use the entire authorized 3,880 acre-feet of water per year for municipal, industrial, and agricultural purposes, and authorize the diversion from any point on the perimeter of Lake Kirby, which would increase the amount of the diversion authorized to be taken from Lake Kirby to a combined maximum rate of 12.2 cubic feet per second (5,500 gallons per minute). The modification would not result in a net increase in water authorized for diversion under the COA. The priority date is October 10, 1927. The executive director recommends that no public notice be required for this amendment. (Kellye Rila, Todd Chenoweth, Robin Smith)

Find that no notice is required for the amendment to the City of Abilene's application for an amendment to Certificate of Adjudication No. 12-4150. BS/ BG; LS opposed.

Item 3. [Docket No. 2008-0651-WR](#). Consideration of the public notice required for the application of **Samuel G. and Kathleen G. Preece** for an amendment to Certificate of Adjudication No. 21-3149 to add industrial use to the authorized agricultural use. The Preece's currently own a portion of Certificate of Adjudication No. 21-3149, which authorizes the Preece's to divert and use not to exceed 6.19 acre-feet of water per year at a maximum diversion rate of 1.33 cubic feet per second (600 gallons per minute) from the East Frio River, tributary of the Frio River, tributary of the Nueces River, Nueces River Basin for agricultural (irrigation) purposes on a 20.63 acre tract in **Real County**. The Executive Director recommends that no notice be required for this application. (Kellye Rila, Todd Chenoweth, Robin Smith)

Find that no notice is required for the application of Samuel G. and Kathleen G. Preece for an amendment to Certificate of Adjudication No. 21-3149. BS/ BG; LS opposed.

Item 4. [Docket No. 2008-0652-WR](#). Consideration of the public notice required for **Herbst Holdings, Ltd.'s** application for an amendment to Certificate of Adjudication No. 21-3149 to add industrial use to its authorized agricultural use. Herbst Holdings' Certificate of Adjudication No. 21-3149 authorizes the Owner to divert and use not to exceed 20.69 acre-feet of water per year at a maximum diversion rate of 1.33 cubic feet per second (600 gallons per minute) from the East Frio River, tributary of the Frio River, tributary of the Nueces River, Nueces River Basin for agricultural (irrigation) purposes on a 61.025 acre tract in **Real County**. The Executive Director recommends that no notice be required for this application. (Kellye Rila, Todd Chenoweth, Robin

Smith)

Find that no notice is required or Herbst Holdings, Ltd.'s application for an amendment to Certificate of Adjudication No. 21-3149. BS/ BG; LS opposed.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

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/s/ Celeste Baker  
Assistant General Counsel,  
Celeste Baker

9/8/2008  
Date