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Updates to backup documents will be noted by a purple indicator. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white. Finally, parties are still required to submit an original and 7 copies of documents filed for Commission consideration (30 TAC § 1.10(d)).

Chairman Bryan W. Shaw, Ph.D. OLD BUSINESS AGENDA
Commissioner H.S. Buddy Garcia
Commissioner Carlos Rubinstein Wednesday, December 9, 2009

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the November 18, 2009 Agenda

Item 1. [TCEQ Docket Nos. 2007-1820-AIR and 2008-1210-AIR; SOAH Docket Nos. 582-08-0861 and 582-08-4013](#). Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of **NRG Texas Power LLC** for Air Quality Permit No. 79188, Prevention of Significant Deterioration Air Quality Permit No. PSD-TX-1072, and Hazardous Air Pollutant Major Source Permit No. HAP-14 pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 116 and the Texas Clean Air Act, Texas Health and Safety Code Chapter 382, to construct a new 800 megawatt coal-fired electric generating unit and associated facilities. The unit would be located at the existing Limestone Electric Generating Station, on FM 39, approximately nine miles north of Jewett, in **Limestone County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to such comments; the application, and related filings, exceptions and replies. (Booker Harrison)

Deny the motion for continuance. BG/CR; all agree.

Approve the issuance of the revised Order filed by NRG on November 25, 2009 in the Office of the Chief Clerk and the revised permits filed by the Executive Director with the following changes to Ordering Provisions No. 7 and No. 9: Amend Ordering Provision No. 7 on page 51 to read as follows: "The effective date of this Order is the date of its issuance as indicated below"; and Amend Ordering Provision No. 9 on page 52, to substitute for the words "Response to Comment" in sentence 1, "Responses to Public Comment"; and to substitute for "Responses to Comment" in sentence 2, "Responses to Public Comment"; Substitute for the text of Special Condition 43 in Ordering Provisions 1.b in the order, the text of Special Condition 43 as set out on page 17 of NRG's exceptions; Direct the Executive Director to file a revised page 22 of the NSR/PSD Permit in the Office of the Chief Clerk so that the substituted text of Special

Condition 43 is correctly reflected in the issued NSR/PSD Permit attached to the Commission's final Order; and direct the Office of General Counsel to amend the explanation of changes to state the Commission has revised the text of Special Condition 43 to accurately reflect the exact language agreed to in the settlement agreement between NRG and Texas Clean Air Cities Coalition. CR/BG; all agree.

AGENDA

Wednesday, December 9, 2009

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. 2009-1691-AIR](#). Consideration of the application by **East Texas Precast Co., Ltd.** for registration to use the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 86593 which would authorize the construction of a permanent concrete batch plant. The plant is currently permitted as a specialty concrete batch plant under the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 50702. The plant site is located at 44855 Old Houston Hwy, Hempstead, **Waller 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. (Catherine Chinni/Tucker Henson)

Refer to the State Office of Administrative Hearings the requests of Esel D. Bell, Marshall V. Brown, P.E., Luther V. Francis and Clifton and Hazel Gilliard for preliminary determination of their respect to effectiveness in accordance with the distance requirement in TCCA Section 382.058(c). Deny all remaining hearing requests. If a requestors residence as previously referred is determined to satisfy the distance requirement, then proceed with the hearing with the following issues: 1) Will emissions from the proposed facility negatively affect the requestors' health; 2) Will emissions from the proposed facility negatively affect the requestors' use and enjoyment of their property; 3) Will emissions from the proposed facility create nuisance conditions; Set the maximum duration of the hearing at six months and direct the Executive Director to participate in the hearing. BG/CR; all agree.

- Item 2. [Docket No. 2009-0363-MWD](#). Consideration of the application by **Fannett Sewer Service and Water Supply Corporation** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014867001, which would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day. The facility will be located 6,200 feet south of the intersection of Farm-to-Market Road 365 and Gauling Road in **Jefferson 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. (Robert Brush, Michael Redda)

Grant the hearing requests of Lloyd and Chris Betar, Barbara and Roland Blanchard, Janette and Earl Callahan, Hope Colston, Ronnie and Debbie Colston, Joyce Sewell Hankamer, Sharon Harvey, Jackie and Jerry Jordan, G.C. Kessler, Glenn and Lindsey Kiker, Joe and Dorothy Kubicek, Chris Matak, Beth and James McGown, Candy Melancon, Cathy Pennell, Charlotte Rainey, Mr. and Mrs. Bobby Thorton, Missy and Eric Viator and James Walsh; refer the following issues to the State Office of Administrative Hearings for contested case hearing: 1) Whether the quality or quantity of the discharge of treated wastewater from the facility will adversely affect the health or quality of life of the requestors and their families; 2) Whether

the Applicant will meet the rule requirements intended to minimize nuisance odor; 3) Whether the Applicant can meet the facility siting requirements of 30 TAC § 309.13(a) and(c) and 4) Whether the Applicant provided adequate notice of the application and permit documents as required by Chapter 39 of TCEQ rules; set a hearing duration of 9 months from preliminary hearing issuance of the Proposal for Decision, direct the Executive Director to participate in the contested case hearing and deny the remainder of the Hearing Requests and Requests for Reconsideration. BG/CR; all agree.

MOTION TO OVERTURN

Item 3. [Docket No. 2009-1704-DIS](#). Consideration of a Motion to Overturn filed by Randal A. Hendricks, Trustee, regarding the Executive Director's September 18, 2009 Order approving an Engineering Project and the Issuance of \$8,340,000 in Unlimited Tax Bonds for **Harris County Fresh Water Supply District No. 61** in **Harris County**. The Commission will also consider timely filed responses and replies to the Motion to Overturn.

Grant the Motion to Overturn, set aside the Executive Director's September 18, 2009 Order approving an engineering project in the issuance of \$8,340,000 of limited tax bond repairs in Harris County Fresh Water Supply District No. 61 and Remand the matter to the Executive Director for further review. CR/BG; all agree.

EMERGENCY ORDER

Item 4. [Docket No. 2009-1599-UCR](#). Consideration of whether to affirm, modify or set aside the Emergency Order compelling the **City of Columbus** ("Columbus") to provide an emergency interconnection for temporary sewer service to **Glidden Fresh Water Supply District No. 1** ("Glidden") in **Colorado County**, Texas, pursuant to Texas Water Code Section 13.041 and Title 30, Section 291.14 of the Texas Administrative Code. On September 29, 2009, Glidden filed a petition with the Commission requesting that the Commission issue an emergency order requiring Columbus to continue providing wastewater service to Glidden. Glidden alleged that Columbus had indicated that it intended to prevent the piping of Glidden's wastewater to Columbus' wastewater treatment plant by sealing the piping with concrete. Glidden also alleged that alternative options were not available for treatment of Glidden's wastewater. On October 1, 2009, the Commission conducted an emergency agenda hearing and issued an Emergency Order requiring Columbus to continue to provide continuous and adequate sewer service to Glidden and authorizing Columbus to charge Glidden for the cost of sewer service according to the rates and conditions set out in the "Interim agreement for sewer treatment services" entered into by Glidden and Columbus on February 6, 2009. The Commission issued the Emergency Order for a term of 90 days. On November 30, 2009, Glidden submitted an additional request for an emergency order extension that would require Columbus to continue providing wastewater service to Glidden beyond the expiration of the Commission's Emergency Order. The Commission may also consider whether to issue a renewal or a second emergency order compelling Columbus to provide an emergency interconnection for temporary sewer service to Glidden pursuant to Texas Water Code Section 13.041 and Title 30, Section 291.14 of the Texas Administrative Code. (Tammy Holguin-Benter, Stefanie Skogen)

Affirm the Commission's Emergency Order; but modify Finding of Fact No. 3 to identify "Glidden and Columbus" instead of "[T]he cities." BG/CR; all agree.

USE DETERMINATION

- Item 5. [Docket No. 2009-1598-MIS-U](#). Consideration of the appeal filed by the Dallas Central Appraisal District regarding a positive use determination issued by the Executive Director for **American Marazzi Tile, Inc.**'s new clay storage facility (**Dallas County**). The use determination application was assigned number 13868. The Commission will also consider all responses and reply briefs.

Deny the appeal for Use Determination Application No. 13868 and affirm the Executive Director's positive Use Determination. BG/CR; all agree.

GENERAL PERMIT

- Item 6. [Docket No. 2009-1690-IHW](#). Consideration of the issuance of **General Permit No. WDWG010000** which would authorize the disposal of nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals into a Class I well. This general permit implements rules adopted as a result of House Bill (HB) 2654, 80th Legislature, 2007. This permit is a single statewide general permit covering all qualifying Class I injection wells that meet the permit's performance standards for injection of nonhazardous desalination concentrate or nonhazardous drinking water treatment residuals. This permit specifies which Class I injection wells may be authorized under the general permit and establishes requirements in order to obtain and maintain such authorization. The Commission will also consider public comment and the Executive Director's Response to Public Comment. Notice of the proposed general permit was published in the April 24, 2009 issue of the *Texas Register* (34 *TexReg* 2615). (Kathryn Flegal, Shana Horton)

Adopt the Revised Proposed Resolution issuing General Permit No. WDWG010000 and approving the Executive Director's Response to Comments. CR/BG; all agree.

POST-CLOSURE ORDER

- Item 7. [Docket No. 2008-1402-IHW](#). Consideration of the application of **American Ecology Environmental Services Corporation** (formerly Gibraltar Waste Injection Facility) for issuance of a post-closure order to authorize post-closure care of solid and hazardous waste units pursuant to Tex. Health & Safety Code ch. 361; Tex. Water Code ch. 7; 40 Code of Federal Regulations Parts 264, 265, 270 and 271; and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Ch. 335. The facility is located 11 miles east of Tyler near Winona, in **Smith County**, Texas. (Susan Jere White and Sri Venkat)

Approve the Post-Closure Order between the Commission and American Ecology Environmental Services Corporation. BG/CR; all agree.

TMDL MATTER

- Item 8. [Docket No. 2009-0725-TML](#). Consideration for approval to publish and solicit public comment on eight draft TMDLs for indicator bacteria in **Greens Bayou Above Tidal and Tributaries** (Segments 1016, 1016A, 1016B, 1016C, and 1016D), of the San Jacinto River Basin, in **Harris County**. (Ron Stein, Robert Brush)

Approve publication and solicitation of public comment on eight draft TMDLs for indicator bacteria in Greens Bayou Above Tidal and Tributaries (Segments 1016, 1016A, 1016B, 1016C and 1016D) of the San Jacinto Basin. CR/BG; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 9. [Docket No. 2009-1020-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Amanda Koller, Christina Koller, and Johnny Minze Koller dba Koller Dairy** in **Camp County**; RN102792306; 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. (Thomas Jecha, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 10. [Docket No. 2009-0181-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Refining LP** in **Harris County**; RN100218130; 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. (Kimberly Morales, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 11. [Docket No. 2009-0935-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Kaneka Texas Corporation** in **Harris County**; RN100683291; 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. (Martina Kusniadi, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 12. [Docket No. 2009-0931-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Paris Generation LP** in **Lamar County**; RN100216555; 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. (Suzanne Walrath, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 13. [Docket No. 2009-1287-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **South Texas Aggregates, Inc.** in **Maverick County**; RN100850288; 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. (Trina Grieco, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 14. [Docket No. 2009-1225-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **PVR Gas Resources, LLC** in **Ochiltree County**; RN100222785; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 15. [Docket No. 2009-0891-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rohm and Haas Texas Incorporated** in **Harris County**; RN100223205; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 16. [Docket No. 2009-0510-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Valero Refining-Texas, L.P.** in **Nueces County**; RN100211663; 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. (John Muennink, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 17. [Docket No. 2008-0923-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, LP** in **Harris County**; RN102926920; 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. (Samuel Short, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 18. [Docket No. 2009-1004-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Mansfield Plumbing Products LLC** in **Rusk County**; RN100217041; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 19. [Docket No. 2009-1143-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Eagle Rock Field Services, L.P.** in **Carson County**; RN102533981; 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. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 20. [Docket No. 2009-1077-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Eagle Rock Field Services, L.P. in Hemphill County**; RN100225002; 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. (Terry Murphy, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 21. [Docket No. 2009-0916-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Flint Hills Resources, LP in Jefferson County**; RN100217389; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 22. [Docket No. 2009-1156-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ConocoPhillips Company in Hutchinson County**; RN102495884; 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. (Trina Grieco, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 23. [Docket No. 2009-0553-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **United States Department of the Army in Bexar County**; RN101060101; 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. (Lauren Smitherman, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

FIELD CITATIONS

- Item 24. [Docket No. 2009-1644-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Joseph M. Meyers in San Jacinto County**; RN103385639; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37 and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Field Citation. BG/CR; all agree.

- Item 25. [Docket No. 2009-1642-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Michael R. Horn in Newton County**; RN103401709;

for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 27, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Cari-Michel La Caille)

Approve the Field Citation. BG/CR; all agree.

- Item 26. [Docket No. 2009-1656-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **George Welch Custom Homes LLC in Rockwall County**; RN105794028; 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, Cari-Michel La Caille)

Approve the Field Citation. BG/CR; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

- Item 27. [Docket No. 2009-0767-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Thomas Redi-Mix Company, Inc. in Potter County**; RN105495535; 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. (Samuel Short, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER

- Item 28. [Docket No. 2009-0941-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Luis Ornelas in Harris County**; RN105731830; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Ross Fife, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDER

- Item 29. [Docket No. 2009-0849-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Erasmus Aranda in Dallas County**; TCEQ ID No. RN105619886; for landscape irrigation 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. (Steven M. Fishburn, Lena Roberts)

Approve the Default Order. BG/CR; all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

- Item 30. [Docket No. 2008-0362-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Weldon W. Alders dba Fairfield Estates, dba**

Meadow Glen Crystal Springs Water, dba Woodway Subdivision Water System, dba Woodlands Hills Water Company, dba Lakeview Water System, and dba Southampton Subdivision in **Liberty County**; TCEQ ID Nos. RN101206795, RN101220580, RN101220929, RN101177483, RN101458750, and RN101239887; for public drinking water and public water utility violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Jim Sallans, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

Item 31. [Docket No. 2009-0807-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MANITEX, INC.** in **Williamson County**; RN101641884; for industrial and hazardous waste, Edwards Aquifer, and used oil violations pursuant to Tex. Health & Safety Code chs. 361 and 371, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 32. [Docket No. 2009-0652-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Charles Mullins dba C & J Tree Service in Kaufman County**; RN105425623; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Martina Kusniadi, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 33. [Docket No. 2007-1807-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ray Carpenter dba Carpenter Dirt Work in Lampasas County**; TCEQ ID No. RN105114946; for municipal solid waste and water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

Item 34. [Docket No. 2007-1881-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dowd & Sons Automobile Salvage Company, Inc. aka Dowd & Sons, Inc.** in **Navarro County**; TCEQ ID No. RN101531887; for petroleum storage tank and occupational 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. (Jennifer Cook, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

Item 35. [Docket No. 2007-0748-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ice Melt Products, L.L.C.** in **Borden County**; TCEQ ID No. RN103004867; for water quality and industrial hazardous waste violations pursuant to

Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Barham A. Richard, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

- Item 36. [Docket No. 2009-0851-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **L & M Woodwaste Recycling, Inc.** in **Travis County**; RN105659221; for municipal solid waste and air quality violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ross Fife, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDERS

- Item 37. [Docket No. 2006-0531-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Joseph Sandoval dba Plaza Mobile Home Park** in **Bexar County**; TCEQ ID No. RN104942107; for public drinking water and water utilities violations pursuant to Tex. Water Code chs. 5, 7, and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

Approve the Default Order. BG/CR; all agree.

- Item 38. [Docket No. 2008-1140-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Ruby McPike** in **Jefferson County**; TCEQ ID No. RN105508394; for municipal solid waste and air quality violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Stephanie J. Frazee, Lena Roberts)

Approve the Default Order. BG/CR; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

- Item 39. [Docket No. 2007-0471-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Earth Haulers, Inc.** in **Tarrant County**; TCEQ ID No. RN100950989; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jim Sallans, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

- Item 40. [Docket No. 2009-0906-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Richard C. Apodaca and Willie Jenkins** in **El Paso County**; RN105595235; for municipal solid waste violations pursuant to Tex. Health & Safety

Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Clinton Sims, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 41. [Docket No. 2009-0825-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **O. B. Barnes in Swisher County**; RN105715346; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Clinton Sims, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

- Item 42. [Docket No. 2008-0646-MSW-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jesus Garcia in Jim Wells County**; TCEQ ID No. RN104688874; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, Lena Roberts)

Approve the Default Order. BG/CR; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 43. [Docket No. 2009-1041-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Airstream Harbor, Inc. in Angelina County**; RN103014445; 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. (Lanae Foard, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 44. [Docket No. 2009-0878-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Trinity Bay Conservation District in Chambers County**; RN102077393; 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. (Samuel Short, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 45. [Docket No. 2009-1179-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Meadow in Terry County**; RN101920015; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 46. [Docket No. 2009-1114-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Olney in Young County**; RN101610335; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 47. [Docket No. 2009-1256-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Petersburg in Hale County**; RN101453942; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 48. [Docket No. 2009-0659-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Palestine in Anderson County**; RN102183233; 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. (Samuel Short, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 49. [Docket No. 2009-0877-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Transportation in Ellis County**; RN102076296; 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. (Lanae Foard, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

- Item 50. [Docket No. 2009-1189-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **V & SS ENTERPRISES, L.L.C. dba Handi Stop 35 in Fort Bend County**; RN101781821; 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. (Rajesh Acharya, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 51. [Docket No. 2009-1097-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Dhukani Investments, Inc. dba Easy Lane in Montgomery County**; RN105711873; 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. (Danielle Porras, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 52. [Docket No. 2009-0731-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SAJIDA CORPORATION dba Beach Mobil in Galveston County**; RN100535863; 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. (Michael Meyer, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 53. [Docket No. 2009-0788-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **SALIMA ROHEEN, INC dba Willies Mart 3 in Tarrant County**; RN102382835; 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. (Mike Pace, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 54. [Docket No. 2009-0870-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Munir Nasah dba Express Mart in McLennan County**; RN102454402; 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. (Judy Kluge, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 55. [Docket No. 2009-1105-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kenneth Haddad and Maynard Haddad dba H & H Car Wash in El Paso County**; RN100961473; 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. (Judy Kluge, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 56. [Docket No. 2009-0854-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chong C. Park dba Dans Long Point Texaco in Harris County**; RN102789815; 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. (Wallace Myers, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 57. [Docket No. 2009-1050-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **HAPPY CENTER, LLC** in **Harris County**; RN101906485; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 58. [Docket No. 2009-0939-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **A&S PETROLEUM LLC dba Main Street Food Mart 2** in **Tarrant County**; RN102386711; 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. (Elvia Maske, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 59. [Docket No. 2009-1101-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **DDMRK Management, Inc. dba Rumpy's Convenience Store** in **Cooke County**; RN104499223; 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. (Danielle Porras, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 60. [Docket No. 2009-0834-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **US CAPITAL INVESTMENTS LLC. dba Shell on Western** in **Tarrant County**; RN101532075; 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. (Michael Meyer, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 61. [Docket No. 2009-1211-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **TWISTER INVESTMENT, INC. dba 149 Exxon** in **Montgomery County**; RN104089305; 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. (Mike Pace, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 62. [Docket No. 2009-0753-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Grecoair, Inc.** in **El Paso County**; RN102827920; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 63. [Docket No. 2009-1051-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **BERT SCHRANK, INC.** in **Hamilton County**; RN101661007; 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. (Brianna Carlson, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 64. [Docket No. 2008-0416-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **B.K. Trading, Inc.** in **Titus County**; TCEQ ID No. RN101875177; 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. (Tracy Chandler, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

- Item 65. [Docket No. 2008-0793-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nisar Ahmad dba Mesa Coastal and aka Tahira Company LLC** in **Harris County**; TCEQ ID No. RN101805448; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Stephanie J. Frazee, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

- Item 66. [Docket No. 2009-0857-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **HOOVER VALLEY COUNTRY STORE, L.L.C. dba Hoover Valley Country Store** in **Burnet County**; RN101383073; 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. (Brianna Carlson, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

- Item 67. [Docket No. 2009-0933-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nazlin A. Virani** in **Bexar County**; RN102713773; 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. (Mike Pace, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 68. [Docket No. 2009-0971-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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 69. [Docket No. 2005-2035-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Marlin** in **Falls County**; TCEQ ID No. RN102886892; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

Item 70. [Docket No. 2009-1236-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Melrose Water Supply Corporation** in **Nacogdoches County**; RN102689346; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 71. [Docket No. 2009-0826-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Trinity** in **Trinity County**; RN101218105; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 72. [Docket No. 2009-1279-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Beechwood Water Supply Corporation** in **Sabine County**; RN101199404; 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, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 73. [Docket No. 2009-1030-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision** in **Harris County**; RN101230282; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 74. [Docket No. 2009-0312-PWS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Custom Water Co., L.L.C. in Montague County**; TCEQ ID No. RN101260115; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tracy Chandler, Lena Roberts)

Approve the Default Order. BG/CR; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 75. [Docket No. 2009-0675-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Killeen Majestic Homes, Inc. in Bell County**; RN105696611; 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. (Carlie Konkol, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 76. [Docket No. 2008-1838-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brothers Paving, LLC in Webb County**; TCEQ ID No. RN105537534; 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. (Benjamin O. Thompson, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

Item 77. [Docket No. 2008-1852-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Brazos Valley Construction, Incorporated in Brazos County**; RN105191167; 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. (Jeremy Escobar, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

Item 78. [Docket No. 2009-0294-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Milos Bednar in Montgomery County**; TCEQ ID No. RN105352249; 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. (Kari L. Gilbreth, Lena Roberts)

Approve the Agreed Order. BG/CR; all agree.

Item 79. [Docket No. 2009-0541-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hampton-Kelley Investments, LLC in Parker County**; RN105636195; 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. (Lanae Foard, Cari-Michel La Caille)

Approve the Agreed Order. BG/CR; all agree.

RULEMAKING PETITIONS

Item 80. [Docket No. 2009-1711-RUL](#). Consideration of three petitions for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petitioners request amendments to **30 TAC Chapter 290**, Public Drinking Water, concerning the rules and regulations which govern cross-connection control and backflow prevention. The petition concerning reporting of backflow incidents seeks to require public water systems to report all confirmed backflow incidents to the Commission; and clarify language found in Section 290.46(j)(2) that authorizes public water systems to terminate a customer's water service based on the presence of a health hazard(s) at the customer's residence/facility. The petition concerning recognition as a superior or approved public water system seeks to add a requirement to the existing criteria for the "Superior Public Water System" designation found in Section 290.47(a)(1). The new criterion would require a public water system to have an approved backflow prevention program in order to be eligible to be recognized as a "Superior Public Water System." The petition concerning sample service agreements seeks to require all public water systems to adopt a customer service agreement and a state-approved plumbing code or regulations by amending Section 290.46(i) and defining the term "customer" in the Sample Service Agreement found in Section 290.47(b) to extend the authority of the agreement to apply to all customers of a public water system. (Joel Klumpp, Ruth Takeda) (Rule Project No. 2010-003-PET-NR)

Adopt the Executive Director's Order that denies the three petitions for rulemaking. BG/CR; all agree.

Item 81. [Docket No. 2009-1778-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 October 30, 2009 by Quadvest, Inc.; SJWTX, Inc.; Southern Utilities Company, and Southwest Water Company (Petitioners). The Petitioners request a rulemaking to **30 TAC Chapter 291**, Utility Regulations, to add an allowable component to rate base for investor owned utilities. The Petitioners indicated that the proposed rulemaking would implement Senate Bill 2306 from the 81st Legislature, 2009, Regular Session, regarding the accounting treatment of accumulated depreciation for investor owned utilities in utility ratemaking. (Tammy Benter, Brian MacLeod) (Rule Project No. 2010-010-PET-NR)

Deny the petition for rulemaking and issue the Executive Director's proposed Order. CR/BG; all agree.

RULE MATTERS

Item 82. [Docket No. 2009-0203-RUL](#). Consideration for publication of, and hearings on, proposed new sections 101.150, 101.151, 101.153, and 101.155 of **30 TAC Chapter 101**, General Air Quality Rules. The proposed rulemaking would implement House Bill 1526 from the 80th Legislature, 2007, Regular Session, relating to incentives for owners or operators implementing a voluntary supplemental leak detection program using innovative technology. (Joe Janecka, Janis Hudson) (Rule Project No. 2007-040-101-CE)

Approve the publication of, and hearings on, amendments to 30 TAC Chapter 101 as recommended by the Executive Director. BG/CR; all agree.

Item 83. [Docket No. 2009-1541-RUL](#). Consideration for publication of, and hearing on, an amendment to **30 TAC Chapter 101**, General Air Quality Rules, Subchapter A, General Rules, Section 101.27, Emissions Fees. The proposed rulemaking would simplify the applicability requirements for determining if the owner or operator of regulated entity is subject to being assessed an emissions fee and would simplify the rule language establishing the basis for determining the amount of the emissions fee. (Michael De La Cruz, Amy Browning) (Rule Project No. 2008-025-101-EN)

Approve publication of, and hearing on, amendments to 30 TAC Chapter 101, General Air Quality Rules, Subchapter A, General Rules, Section 101.27, Emissions Fees as recommended by the Executive Director. CR/BG; all agree.

Item 84. [Docket No. 2009-0497-RUL](#). Consideration of the adoption of the amendments to Section 39.551 of **30 TAC Chapter 39**, Public Notice; Section 281.17 of **30 TAC Chapter 281**, Applications Processing; and Sections 295.151 and 295.158 of **30 TAC Chapter 295**, Water Rights, Procedural. The adoption would address the situation that arises when notices are mailed long before the application is acted upon, and there are new entities that may be potentially affected but are not reflected on the landowner or other mailing list. The rules will only apply to water quality and water right applications. Proposed Section 39.551 would state that for a water quality application, if the Notice of Application and Preliminary Decision (NAPD) is being mailed more than two years after the Notice of Receipt and Intent to obtain a permit was mailed, the applicant must prepare an updated landowner list for the NAPD. Proposed Section 281.17 would change the date that notice will be mailed for a water rights permit from after administrative completeness to after technical completeness. For water rights, the proposed amendments to Sections 295.151 and 295.158 would change the time that notice is provided from after administrative review to after technical review is completed. The proposed rules were published in the July 24, 2009 issue of the *Texas Register* (34 TexReg 4827). (Robin Smith, Sherry Smith, Ron Ellis) (Rule Project No. 2009-028-295-LS)

Adopt the proposed amendments to 30 TAC Chapter 39, 281 and 295 as recommended by the Executive Director. BG/CR; all agree.

Item 85. [Docket No. 2009-1469-RUL](#). Consideration for publication of, and hearings on, amended Sections 115.322 - 115.326, 115.352 - 115.357, 115.781, 115.782, and 115.786 - 115.788 and proposed new Sections 115.358 and 115.784 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan. The proposed rulemaking would revise the Chapter 115 leak detection and repair rules in Subchapter D, Divisions 2 and 3, and Subchapter H, Division 3 to allow an optional alternative work practice to detect fugitive emission leaks using optical gas imaging instruments. (Robert Gifford, Janis Hudson) (Rule Project No. 2009-030-115-EN)

Approve publication of, and hearings on, proposed amendments to 30 TAC Sections 115.322 - 115.326, 115.352 - 115.357, 115.781, 115.782, and 115.786 - 115.788 and proposed new 30 TAC Section 115.358 and 115.784 and the corresponding revisions to the SIP as recommended by the Executive Director. CR/BG; all agree.

Item 86. [Docket No. 2009-0800-RUL](#). Consideration of the adoption of amended Section 297.27 and repealed Section 297.30 of **30 TAC Chapter 297**, Water Rights, Substantive. The adoption would implement Senate Bill (SB) 1711, 81st Legislature, 2009, Regular Session, relating to sediment control ponds. This adopted rulemaking would provide an exemption from the water rights permitting process for the use of state water from sediment control ponds to satisfy environmental and safety regulations for fire or dust suppression as applicable to surface coal mining operations. The proposed rules were published in the August 28, 2009 issue of the *Texas Register* (34 TexReg 5887). (Ronald L. Ellis, Shana Horton) (Rule Project No. 2009-031-297-PR)

Adopt amended Section 297.27 and repealed Section 297.30 implementing Senate Bill 1711 as recommended by the Executive Director. BG/CR; all agree.

Item 87. [Docket No. 2009-1777-RUL](#). Consideration for the publication of, and hearing upon, proposed amendments to **30 TAC Chapter 39**, Public Notice; Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; Chapter 60, Compliance History; and Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; and corresponding revisions to the state implementation plan (SIP).

The Texas Commission on Environmental Quality (TCEQ or commission) proposes the repeal of Sections 39.402, 39.404 and 39.606; proposes new Section 39.402; and also proposes amendments to Sections 39.106, 39.403, 39.405, 39.409, 39.411, 39.418 - 39.420, 39.501, 39.551, 39.601 - 39.605, 39.651, 39.653, 39.709, 55.152, 55.154, 55.156, 55.210, 60.1, 116.114 and 116.194.

The following new and amended sections will be submitted to the United States Environmental Protection Agency (EPA) as revisions to the SIP: Sections 39.402 (a)(1) - (3) and (5) - (9), 39.405(f)(3) and (g), (h)(1)(A) - (4), (6), (8) - (11), (i), and (j), 39.409, 39.411(e)(1) - (5)(B) and (6) - (10), (11)(A)(i), (iii) and (iv), 12, 15, and (f) - (h), 39.418(a), (b)(2)(A) and (c), 39.419(e), 39.420 (c) - (e), and (h), 39.601, 39.602, 39.603, 39.604, 39.605, 55.152(a)(1), (2), (5) and (6), 55.154(a), (b), (c)(1) - (3) and (5), and (d) - (g), 55.156, 116.114 and 116.194.

In addition, Sections 39.407 and 55.150 will be submitted to the EPA as revisions to the SIP.

The commission also proposes the withdrawal of new and amended rules which were previously submitted to EPA as revisions to the SIP on October 25, 1999, July 31, 2002 and March 9, 2006. The sections submitted in 1999 were Sections 39.201; 39.401; 39.403(a) and (b)(8) - (10); 39.405(f)(1) and (g); 39.409; 39.411(a), (b)(1) - (6) and (8) - (10) and (c)(1) - (6) and (d); 39.413(9), (11), (12), and (14); 39.418(a) and (b)(3) and (4); 39.419(a), (b), (d), and (e); 39.420(a), (b), and (c)(3) and (4); 39.423(a) and (b); 39.601; 39.602; 39.603; 39.604; and 39.605. The sections submitted in 2002 were new Section 39.404, and amended Sections 39.411, 39.419, 39.420; 39.603, 39.604, and 39.606. The sections submitted in 2005, were amended Sections 39.403(b)(8) - (10) and new (f), 39.411(a), (b)(1) - (6), (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4). In 2005, the commission also proposed to submit the repeal of Section 39.404, and the newly adopted Section 39.404, and to withdraw Sections 39.411, 39.419, and 39.420 as submitted in 2002. The commission also proposes to withdraw the following rules which were submitted as revisions to the SIP on October 25, 1999: Sections 55.1; 55.21(a) - (d), (e)(2), (3) and (12), (f) and (g); 55.101(a), (b), (c)(6) - (8); 55.103;

55.150; 55.152(a)(1), (2), and (5) and (b); 55.154; 55.156; 55.200; 55.201(a) - (h); 55.203; 55.205; 55.209; and 55.211.

The proposed rulemaking addresses EPA's evaluation of Texas' SIP and corresponding rules regarding public participation for New Source Review permits, and EPA's November 26, 2008 proposed limited approval and limited disapproval of submitted rules in Chapters 39 and 55. This rulemaking is intended to address EPA's concerns and correct the identified deficiencies in the rules to obtain full SIP approval from EPA. (Janis Hudson, Margaret Ligarde) (Rule Project No. 2010-004-039-LS)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapters 39, 55, 60, 116 and corresponding revisions to the state implementation plan (SIP) as recommended by the Executive Director. BG/CR; all agree.

EXECUTIVE MEETING

Item 88. **Docket No. 2009-0001-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 89. **Docket No. 2009-0002-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 90. **Docket No. 2009-0003-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.

THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: [HTTP://WWW.TEXASADMIN.COM/cgi-bin/tnrcc.cgi](http://www.texasadmin.com/cgi-bin/tnrcc.cgi)

/s/ Shannon Strong
Assistant General Counsel,
Shannon Strong

12/21/09
Date