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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.
Commissioner H.S. Buddy Garcia
Commissioner Carlos Rubinstein

AGENDA

October 5, 2011

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

PROPOSAL FOR DECISION

Item 1 [**TCEQ Docket No. 2009-1991-PST-E; SOAH Docket No. 582-10-5555.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of Old Tymer Enterprises, Inc. in Bexar County, Texas; RN102404399; 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. The Commission will also consider the record, timely related filings, exceptions and replies. (Gary Shiu)

Adopt the ALJ's Proposed Order. CR/BG; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 [**Docket No. 2011-1524-AIR.**](#)

Consideration of the application by J. R. Thompson, Inc. for New Air Quality Permit, 92504L001 to authorize the construction of a portable rock crushing plant. The proposed plant site is to be located on the east side of County Road 343 approximately two miles south of Farm-to-Market Road 1630, Muenster, Cooke 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. (Douglas Brown , Larry Buller)

Grant the hearing requests of Kenneth and Marilyn Bierschenk, Wayne and Cathy Luttmmer, Michelle Sandmann, and the Concerned Neighbors of Proposed Rock Crusher; refer the following issues for hearing: 1) Whether operation of the proposed facility will cause a violation of the National Ambient Air Quality Standards; 2) Whether air emissions from the proposed facility will adversely affect the requesters' human health and welfare; 3) Whether air emissions from the proposed facility will adversely affect the environment; 4) Whether the proposed facility will negatively impact requesters' land and personal property, including crops and livestock; 5) Whether the facility will adversely impact sensitive subgroups, such as the elderly and people with existing respiratory conditions; 6) Whether the Applicant has met TCEQ notice requirements for this proposed permit; 7) Whether operations of the proposed facility will create nuisance conditions; 8) Whether BACT emission levels were appropriately determined; 9) Whether the proposed facility will comply with all applicable distance requirements; 10) Whether the representations in Applicant's application are accurate; 11) Whether the air dispersion modeling performed by Applicant was performed appropriately; 12) Whether the draft permit conditions contained adequate monitoring, reporting and record keeping requirements to ensure permit compliance; 13) Whether Applicant's compliance history warrants denial of this permit; 14) How will production weights be measured and recorded; 15) How the permit for this proposed facility will be enforced and how violations will affect the proposed facility's operation; 16) Whether all proposed emissions were accurately determined; 17) Whether the planned operating schedule complies with TCEQ requirements; specify a hearing duration of 9 months and direct the Executive Director to participate at the hearing. BG/CR; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDERS

Item 3 [Docket No. 2010-0585-AGR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Peter H. Schouten d/b/a P & L Dairy and Nova D. Schouten d/b/a P & L Dairy in Erath County; RN102915873; 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. (James Sallans, Lena Roberts)

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

Item 4 [Docket No. 2011-0248-AGR-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Laurence Elmer Clowdus dba Clowdus Dairy in Hamilton County; RN102900511; 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, Debra Barber)

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

AGRICULTURAL ENFORCEMENT DEFAULT ORDER

Item 5 [**Docket No. 2010-1655-AGR-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Robert E. Hunt, III dba Trey Hunt Cutting Horses in Parker County; RN105897540; 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. (James Sallans, Lena Roberts)

Remanded to the Executive Director.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 6 [**Docket No. 2009-1515-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Albemarle Corporation in Harris County; RN100218247; for air quality 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. (Jeffrey Huhn, Lena Roberts)

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

Item 7 [**Docket No. 2011-0475-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shell Oil Company in Harris County; RN100211879; 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, Debra Barber)

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

Item 8 [**Docket No. 2011-0506-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Chevron Phillips Chemical Company LP in Brazoria County; RN100825249; 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. (Allison Fischer, Debra Barber)

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

Item 9 [**Docket No. 2011-0529-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Flint Hills Resources Corpus Christi, LLC in Nueces County; RN100235266; 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, Debra Barber)

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

Item 10 [**Docket No. 2011-0306-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Sand Hill Panola SWD #5 LLC in Panola County; RN105906119; 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, Debra Barber)

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

Item 11 [**Docket No. 2011-0449-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Oxy USA WTP LP in Winkler County; RN100216415; 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. (Raymond Marlow, P.G., Debra Barber)

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

EDWARDS AQUIFER ENFORCEMENT DEFAULT ORDER

Item 12 [**Docket No. 2009-0105-EAQ-E.**](#)

Consideration of a Default Order assessing administrative penalties against Diamond T Ranch Development, Inc. in Bexar County; RN105371462; 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. (Jennifer Cook, Lena Roberts)

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

FIELD CITATIONS

Item 13 [**Docket No. 2011-1091-WQ-E.**](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of Bentina Homes Ltd in Bell County; RN106093685; 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, Debra Barber)

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

Item 14 [**Docket No. 2011-1094-WR-E.**](#)

Consideration of a Field Citation assessing administrative penalties and

requiring certain actions of Knife River Corporation South in Kaufman County; RN106132228; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Debra Barber)

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

Item 15 [Docket No. 2011-1092-WR-E.](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of R. K. Hall Construction, Ltd. in Grayson County; RN102885662; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Debra Barber)

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

INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

Item 16 [Docket No. 2011-0511-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of E. J. Lewis, Sr. dba Lewis' Acres Service Inc. in Jefferson County; RN106049885; for industrial and hazardous 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. (Michael Meyer, Debra Barber)

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

Item 17 [Docket No. 2010-1443-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Conner Steel Products Inc. in Tom Green County; RN102602307; for industrial hazardous 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. (Jeffrey Huhn, Lena Roberts)

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

INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER

Item 18 [Docket No. 2010-1620-IHW-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Cecil L. McKnight and Mable McKnight in Liberty County; RN105765796; for industrial and 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. (Jennifer Cook, Lena Roberts)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 19 [Docket No. 2011-0531-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Llano Ready Mix, Inc. in Llano County; RN105830434; 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, Debra Barber)

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

Item 20 [Docket No. 2011-0253-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Clean Harbors Deer Park, LLC in Harris County; RN102184173; 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. (JR Cao, Debra Barber)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT DEFAULT ORDER

Item 21 [Docket No. 2010-1960-IWD-E.](#)

Consideration of a Default Order assessing administrative penalties against Head Family Partnership, Ltd. in Harrison County; RN102380474; 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. (James Sallans, Lena Roberts)

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

IRRIGATION LICENSING ENFORCEMENT AGREED ORDER

Item 22 [Docket No. 2010-1907-LII-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of John Sartor in Victoria County; RN103526190; for landscape irrigation installation 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 Agreed Order. CR/BG; all agree.

IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDER

Item 23 [Docket No. 2011-0227-LII-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Jon M. Huddleston in Bell County; RN104374665; for landscape irrigation installation 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. CR/BG; all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 24 [Docket No. 2010-0706-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Vacation Home Builders, Inc. in Polk County; RN102685393; for municipal solid waste, water quality, and air violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code chs. 361 and 382, 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. CR/BG; all agree.

Item 25 [Docket No. 2011-0366-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of J MAC TOOL INC in Tarrant County; RN105205033; for water quality and 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. (Cheryl Thompson, Debra Barber)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDERS

Item 26 [Docket No. 2011-0453-MLM-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Timothy Mannan in Johnson County; RN106053127; for air quality and municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Phillip Goodwin, P.G., Lena Roberts)

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

Item 27 [Docket No. 2010-1673-MLM-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Gary Blue in Winkler County; RN106003452; for air quality and municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tammy L. Mitchell, Lena Roberts)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 28 [Docket No. 2011-0264-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of J & J WELL SERVICE INC in Tom Green County; RN104662614; 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. (Danielle Porras, Debra Barber)

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

Item 29 [Docket No. 2011-0491-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lee Ann Potter dba Lees Pit Stop in Travis County; RN105919740; 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. (Cara Windle, Debra Barber)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 30 [Docket No. 2011-0476-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Calvert in Robertson County; RN102185972; 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, Debra Barber)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT DEFAULT ORDER

Item 31 [Docket No. 2011-0193-MWD-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of South Fort Worth RV Ranch, LLC in Johnson

County; RN104813605; 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. (Stephanie J. Frazee, Lena Roberts)

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

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

Item 32 **[Docket No. 2011-0398-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of COMMERCE QUICK STOP, INC. in Hunt County; RN102717154; 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. (Rajesh Acharya, Debra Barber)

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

Item 33 **[Docket No. 2011-0693-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Budhwani & Virani, Inc. dba Que Paso Food Store in Tarrant County; RN101564805; 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. (Keith Frank, Debra Barber)

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

Item 34 **[Docket No. 2011-0553-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Donald Mayo Sr. dba Donald Mayo Texaco in Harris County; RN101732576; 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, Debra Barber)

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

Item 35 **[Docket No. 2011-0652-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against IRKASA INC. dba Grapevine Market 1 in Tarrant County; RN101561561; 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. (Philip Aldridge, Debra Barber)

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

Item 36 [**Docket No. 2011-0675-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against COMPASS USA ENTERPRISES, INC. dba Sunrise Super Stop in Harris County; RN102468303; 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, Debra Barber)

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

Item 37 [**Docket No. 2010-1306-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Robert N. Gates in Tyler County; RN101728012; 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. (Phillip M. Goodwin, Lena Roberts)

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

Item 38 [**Docket No. 2011-0827-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against KAML INC. dba Mini Mart 110 in Galveston County; RN102965001; 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, Debra Barber)

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

Item 39 [**Docket No. 2011-0633-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DIPERT TRAVEL & TRANSPORTATION, LTD. dba Dan Dipert Coaches in Tarrant County; RN101560332; 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. (Cara Windle, Debra Barber)

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

Item 40 [**Docket No. 2011-0642-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Texas Christian University in Tarrant County; RN102793700; 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. (Jorge Ibarra, P.E., Debra Barber)

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

Item 41 [**Docket No. 2011-0734-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against H.K.R.G., Inc. dba Cedar Park Quick Mart in Williamson County; RN102782612; 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. (Andrea Linson, Debra Barber)

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

Item 42 [**Docket No. 2011-0376-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Sherman in Grayson County; RN102348638; 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. (Michael Meyer, Debra Barber)

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

Item 43 [**Docket No. 2011-0473-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against SUREN SIMON OF CLEBURNE, INC. dba Simons Grocery & Deli in Johnson County; RN101562536; 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, Debra Barber)

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

Item 44 [**Docket No. 2010-0997-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Carolyn Fink in Jasper County; RN104579990; 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. (Steven M. Fishburn, Lena Roberts)

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

Item 45 [**Docket No. 2010-1940-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Addison Enterprises Inc. DBA C-Store Royal in Dallas County; RN102755287; 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. (Tammy L. Mitchell, Lena Roberts)

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

Item 46 [**Docket No. 2010-0949-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Don Finley in Johnson County; RN101554731; 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. (Kari L. Gilbreth, Lena Roberts)

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

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS

Item 47 [**Docket No. 2010-1168-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Robbie Mosley in Lamb County; RN101830685; 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. (Jeff Huhn, Lena Roberts)

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

Item 48 [**Docket No. 2010-0773-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Phuong Cong Huynh d/b/a P & H Food 2; Tam Mai d/b/a P & H Food 2; and Le Hein d/b/a P & H Food 2 in Harris County; RN101434199; 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. (Steven M. Fishburn, Lena Roberts)

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

Item 49 [**Docket No. 2011-0266-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Mohammad Adil Aqil in Chambers County; RN102044336; 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. (Stephanie J. Frazee, Lena Roberts)

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

Item 50 [**Docket No. 2011-0275-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of WE ARE CRAZY, INC. d/b/a Country Pantry 10 in Orange County; RN102855947; 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 Frazee, Lena Roberts)

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

Item 51 [**Docket No. 2010-2039-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Frankie Willis, Executor of the Estate of Clovis Willis, Deceased in Limestone County; RN102839396; 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. (Philip M. Goodwin, P.G., Lena Roberts)

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

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDERS

Item 52 [**Docket No. 2010-2006-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Haider A., Inc. DBA Stop In Food Mart in Harris County; RN102867678; 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. (Tammy L. Mitchell, Lena Roberts)

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

Item 53 [**Docket No. 2010-2052-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of S & S Conveniences Inc. d/b/a C D Kwik Stop II in Tarrant County; RN102781150; 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. (Steven M. Fishburn, Lena Roberts)

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

Item 54 [**Docket No. 2010-1302-PST-E.**](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Abass Sayegh and Ray Sanjib d/b/a David's Exxon in Williamson County; RN101489730; 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. (Kari L. Gilbreth, Lena Roberts)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 55 [**Docket No. 2010-1634-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SAVS Investments, Inc. d/b/a Friday's General Store in Blanco County; RN104711163; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

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

Item 56 [**Docket No. 2010-1954-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Darin Borders d/b/a Loma Linda Subdivision and Matt Boren d/b/a Loma Linda Subdivision in Shelby County; RN105878870; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

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

Item 57 [**Docket No. 2011-0318-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Mirando City Water Supply Corporation in Webb County; RN101195360; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Debra Barber)

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

Item 58 [**Docket No. 2011-0488-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Pallet Companies, Inc. dba IFCO Systems North America in Harris County; RN103134201; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 5 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Epifanio Villarreal, Debra Barber)

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

Item 59 [**Docket No. 2011-0535-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of OCP -Tres Rios LLC in Somervell County; RN101241735; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Byington, Debra Barber)

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

Item 60 [**Docket No. 2009-1295-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3 in Lubbock County; RN102817038 and RN101264372; for public drinking water violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

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

Item 61 [**Docket No. 2010-1070-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Janet Green and Jaycee's Children Center, Inc. in Harris County; RN104375852; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sharesa Y. Alexander, Lena Roberts)

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

Item 62 [**Docket No. 2011-0651-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Heart O' Texas Council of the Boy Scouts of America dba Longhorn Council, Boy Scouts of America in Bell County; RN101260065; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michaelle Sherlock, Debra Barber)

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

Item 63 [**Docket No. 2011-0696-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CLARA HILLS CIVIC ASSOCIATION in Burleson County; RN101208882; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Byington, Debra Barber)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 64 **[Docket No. 2011-0596-PWS-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of John C. Moore d/b/a Moore's Water System of Beaver Lake, Inc. (a/k/a Moore's Water System); John L. Moore d/b/a Moore's Water System of Beaver Lake, Inc. (a/k/a Moore's Water System); and Moore's Water System of Beaver Lake, Inc. (a/k/a Moore's Water System) in McLennan County; RN102682291; for public drinking water violations pursuant to Tex. Water Code chs. 5 and 7, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Stephanie J. Frazee, Lena Roberts)

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

SLUDGE ENFORCEMENT DEFAULT ORDER

Item 65 **[Docket No. 2010-0097-SLG-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Ronald Triplette d/b/a AAA Triplette Environmental Vacuum Truck in Harris County and Brazos County; RN105378673; for water quality and municipal solid 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. (Sharesa Y. Alexander, Lena Roberts)

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

UTILITIES ENFORCEMENT AGREED ORDERS

Item 66 **[Docket No. 2011-0497-UTL-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Bammel Forest Utility Company in Harris County; RN101202935; for affected 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. (Jeremy Escobar, Debra Barber)

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

Item 67 **[Docket No. 2011-0589-UTL-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Sequoia Improvement District in Harris County; RN101452274; for affected 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. (Michaëlle Sherlock, Debra Barber)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 68 [**Docket No. 2009-1305-WQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Advantage Asphalt Products, Ltd. in Armstrong County; RN104416722; 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. (Jennifer Cook, Lena Roberts)

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

Item 69 [**Docket No. 2011-0634-WQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Killeen in Bell County; RN103174306; 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, Debra Barber)

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

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 70 [**Docket No. 2010-1267-WQ-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of J. B. Services Construction, Inc. in Brazoria County; RN105964035; 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 Default Order. CR/BG; all agree.

RULE MATTERS

Item 71 [**Docket No. 2011-0997-RUL.**](#)

Consideration for publication of, and hearing on, proposed new Section 116.128, Permit Amendment Application, Public Notice and Contested Case Hearing Procedures for Certain Electric Generating Facilities, of 30 Texas Administrative Code (TAC) Chapter 116, Control of Air Pollution by Permits for New Construction or Modification, and corresponding revisions to the state implementation plan. The proposed rulemaking would implement §§4.27 and 4.30 of House Bill 2694, 82nd Legislature, 2011, Regular Session by establishing public notice, comment, and contested case hearing (CCH) procedures for permit amendment applications for electric generating facilities (EGFs) to comply with the Federal Clean Air Act (FCAA), §112. (Janis Hudson, Beecher Cameron) (Rule Project No. 2011-029-116-AI)

Approve the publication of, and hearing on, proposed new 30 TAC Section 116.128 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. BG/CR; all agree.

Item 72 [**Docket No. 2011-0845-RUL.**](#)

Consideration for publication of, and hearing on, the proposed repeal of 30 TAC Chapter 101, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 5, System Cap Trading, Sections 101.380, 101.382, 101.383, and 101.385; and proposed amendments to Chapter 117, Control of Air Pollution from Nitrogen Compounds, Sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800, and corresponding revisions to the state implementation plan. The proposed rulemaking would repeal all rules pertaining to the System Cap Trading program specified in Chapter 101, Subchapter H, Division 5, Sections 101.380, 101.382, 101.383, and 101.385. In addition, Sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800 would be amended to remove references to the Chapter 101 System Cap Trading program rules. (Amy Browning, Shantha Daniel) (Rule Project No. 2011-018-101-EN)

Approve the publication of, and hearing on, the proposed repeal of 30 TAC Sections 101.380, 101.382, 101.383, and 101.385 and the proposed amendments to Sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800, and the corresponding revisions to the state implementation plan, as recommended by the Executive Director. CR/BG; all agree.

Item 73 [**Docket No. 2010-2068-RUL.**](#)

Consideration of the adoption of the repeal of 30 TAC Chapter 101, General Air Quality Rules, Subchapter A, General Rules, Section 101.30, and corresponding revisions to the state implementation plan (SIP). The adoption would repeal the general conformity requirements in 30 TAC §101.30, which mirror the federal requirements in 40 Code of Federal Regulations (CFR) Part 93, Subpart B and Part 51, Subpart W, and specifically reference the now repealed Part 51, Subpart W. Amended 40 CFR Part 93, Subpart B continues to subject certain federal actions to general conformity requirements without the need for identical state rules and SIP revisions. The proposed repeal was published in the May 6, 2011, issue of the Texas Register (36 TexReg 2817). (John Minter, Amy Muttoni,) (Rule Project No. 2010-047-101-EN)

Joint Motion for Item 73 and 74.

Adopt the proposed repeal of 30 TAC Section 101.30 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. BG/CR; all agree.

STATE IMPLEMENTATION PLAN MATTERS

Item 74 [**Docket No. 2010-2074-SIP.**](#)

Consideration of the adoption of the proposed revisions to the General Conformity State Implementation Plan (SIP) revision. The adoption would remove the references in the SIP to the now repealed 40 CFR Part 51, Subpart W and would reference the amended 40 CFR Part 93, Subpart B. (John Minter,

Amy Muttoni,) (Project No. 2011-002-SIP-NR)

Joint Motion for Item 73 and 74.

Adopt the proposed repeal of 30 TAC Section 101.30 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. BG/CR; all agree.

Item 75 **Docket No. 2011-0331-SIP.**

Consideration of the adoption of the FCAA, Section 110(a)(1) and (2) Infrastructure Demonstration SIP Revision for the 2008 Lead National Ambient Air Quality Standard (NAAQS). The adopted SIP revision will meet the infrastructure requirements of the FCAA, Section 110(a)(1) and (2) under the 2008 lead NAAQS. This revision will document how each infrastructure element is currently addressed in the Texas SIP by outlining the requirements in FCAA, Section 110(a)(2)(A) through (M) and the Texas statutes and rules that allow Texas to meet each requirement. This revision, once adopted and submitted to the United States Environmental Protection Agency, will fulfill Texas' obligation to submit an infrastructure SIP revision for the 2008 lead NAAQS as required by Section 110(a)(1) and (2) of the FCAA. (Amy Browning, Shelley Naik) (Non-Rule Project No. 2011-016-SIP-NR)

Adopt the Infrastructure Demonstration SIP Revision for the 2008 Lead NAAQS, as recommended by the Executive Director. CR/BG; all agree.

EXECUTIVE MEETING

Item 76 **Docket No. 2011-0001-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 77 **Docket No. 2011-0002-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 78 **Docket No. 2011-0003-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/tceqa.shtml](http://www.texasadmin.com/tceqa.shtml)**

/s/ Jim Rizk
Assistant General Counsel,
Jim Rizk

10/13/2011
Date