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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**

November 2, 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. 2009-1925-UCR; SOAH Docket No. 582-10-1944.\*\*](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the petition and appeal of Navarro County Wholesale Ratepayers to review the wholesale rate increase imposed by the City of Corsicana under Certificate of Convenience and Necessity No. 10776 in Navarro County, pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapters 80 and 291 and Texas Water Code, Chapters 11 and 12. The Commission will also consider the petition, record, timely related filings, exceptions and replies. (Ron Olson, Dinniah Tadema)

Adopt the ALJ's Proposed Order denying the Ratepayers' petition, with the inclusion of the Executive Director's proposed change to Finding of Fact No. 79, as agreed to by the ALJ in his letter dated September 27, 2011; and modification of Conclusion of Law No. 17 to read: "The public-interest inquiry set out in 30 TAC Section 291.133(a)(1)-(4) does not include a comparison of the protested rate's impacts on wholesale and retail customers." BG/CR; all agree.

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

Item 2 [\*\*Docket No. 2011-1565-IWD.\*\*](#)

Consideration of the application by Dos Republicas Coal Partnership for renewal of Texas Pollutant Discharge Elimination Permit (TPDES) Permit No.

WQ0003511000, which authorizes the discharge of storm water and mine seepage from active mining areas on an intermittent and flow variable basis via Outfalls 001 through 013. The site is located on the northeast side of State Highway 1588, three miles northeast of U.S. Highway 277, and approximately five miles northeast of the City of Eagle Pass, Maverick 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, Melinda Luxemburg)

Deny all the hearing requests pursuant to Tex. Water Code Section 26.028(d), deny all requests for reconsideration; issue the renewal of TPDES Permit No. WQ0003511000 to Dos Republicas Coal Partnership; and adopt the Executive Director's Response to Comments. CR/BG; all agree.

Item 3 **Docket No. 2011-1469-IWD.**

Consideration of the application by Rio Grande Mining Company for a major amendment without renewal of its existing Texas Land Application Permit (TLAP) Permit No. WQ0004297000 to change its method of disposal from surface and sub-surface irrigation to the direct discharge of wastewater to waters in the state at a daily average flow not to exceed 360,000 gallons per day via a Texas Pollutant Discharge Elimination System (TPDES) discharge permit. The current permit authorizes the disposal of mine dewatering water via surface and subsurface irrigation at a daily average flow not to exceed 360,000 gallons per day. The facility is located west of U.S. Highway 67, approximately one mile west of the Shafter townsite, Presidio 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. (Christiaan Siano, Tres Koenings)

Deny the hearing request filed by the Honorable Judge Paul Hunt; issue amended Permit No. WQ0004297000 to Rio Grande Mining Company; and adopt the Executive Director's Response to Comments. BG/CR; all agree.

**EMERGENCY ORDER**

Item 4 **Docket No. 2011-0436-UCR-E.**

Consideration of whether to affirm, modify, or set aside the Emergency Order issued on September 16, 2011 by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Utility) by Andreas Johnson d/b/a Sellers Estates Mobile Home Community in Harris County; TCEQ ID No. RN102671443; CCN12288 to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order renewed the appointment of Lonzo Gale as temporary manager of the Utility. (Peipey Tang)

Affirm the renewal of the Executive Director's Emergency Order against Andreas Johnson d/b/a Sellers Estates Mobile Home Community appointing Lonzo Gale as temporary manager of the

Utility; issue the Proposed Commission Order but modify the Order to provide that the Emergency Order was delivered to Mr. Johnson's home and not Mr. Johnson personally. CR/BG; all agree.

### **GENERAL PERMITS**

Item 5 [\*\*Docket No. 2010-1650-MIS.\*\*](#)

Consideration of the adoption of the pesticides general permit. The adoption would establish the pesticides general permit to authorize the application of pesticides into, over or near waters of the United States in accordance with the Clean Water Act as determined by the Sixth Circuit Court of Appeals. The proposed draft permit was published in the December 17, 2010, issue of the *Texas Register* (35 TexReg 283). (Robert Brush, Charles Maguire) (Rule Project No. 2010-042-OTH-NR)

Adopt the pesticides general permit, as recommended by the Executive Director and adopt the Executive Director's Response to Comments. BG/CR; all agree.

Item 6 [\*\*Docket No. 2011-0780-MIS.\*\*](#)

Consideration of the adoption of a general permit, permit number TXG110000. This proposed adoption is a renewal with minor changes of a general permit authorizing the discharge of process wastewater and storm water associated with industrial activities from ready-mixed concrete plants, concrete products plants, and their associated facilities. The renewal will replace the current permit which expires on November 7, 2011. Notice of the proposed draft general permit was published in the July 8, 2011, issue of the *Texas Register* (36 TexReg 4445). (Robert Brush, Yvonna Miramontes) (Rule Project No. 2011-008-OTH-NR)

Adopt the resolution renewing and issuing general permit number TXG110000, as recommended by the Executive Director. CR/BG; all agree.

### **MISCELLANEOUS ENFORCEMENT MATTERS**

Item 7 [\*\*Docket No. 2011-1917-MIS.\*\*](#)

Consideration of potential changes to the Commission's field citation enforcement program under Texas Water Code Chapters 5, 7 and 11, including the potential for additions of violation types eligible for field citations, additional categories for eligible violations, and amendments to the applicable penalties associated with field citation violations. (David Van Soest)

Approve the additions and amendments to the eligible violations and penalty amounts of the field citation program, as recommended by the Executive Director. BG/CR; all agree.

Item 8 [\*\*Docket No. 2011-1918-MIS.\*\*](#)

Consideration of rulemaking regarding potential revisions to 30 Texas Administrative Code Chapter 70 concerning the Commission's general enforcement policy, including the potential for the establishment in rule of a

general philosophy of enforcement, criteria for corrective action orders, criteria for findings orders, criteria for Attorney General referrals, economic benefit policies, culpability policies, good faith effort to comply policies, compliance history effects, penalty deferral policies, and other factors policies. (Bryan Sinclair)

No Action Taken.

**AGRICULTURAL ENFORCEMENT AGREED ORDER**

Item 9 **[Docket No. 2011-0740-AGR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ronnie West dba R&D Dairy in Johnson County; RN104411087; 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. (Jennifer Graves, Debra Barber)

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

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 10 **[Docket No. 2011-0622-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Hidalgo County in Hidalgo County; RN105335459; 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 11 **[Docket No. 2011-0212-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of LDH Energy Mont Belvieu L.P. in Harris County; RN105231831; 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.

Item 12 **[Docket No. 2011-0581-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Dow Chemical Company in Brazoria County; RN100225945; 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. (Heather Podlipny, Debra Barber)

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

Item 13 [\*\*Docket No. 2011-0548-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enbridge Pipelines (East Texas) L.P. in Freestone County; RN100225127; 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. (Heather Podlipny, Debra Barber)

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

Item 14 [\*\*Docket No. 2011-0658-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Waste Management of Texas, Inc. in Comal County; RN100218676; 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.

Item 15 [\*\*Docket No. 2010-1036-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Exxon Mobil Corporation in Harris County; RN102579307; 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 16 [\*\*Docket No. 2011-0547-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ballard Exploration Company, Inc. in Liberty County; RN106063001; 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. (Todd Huddleson, Debra Barber)

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

Item 17 [\*\*Docket No. 2011-0510-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. (Miriam Hall, Debra Barber)

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

Item 18 [\*\*Docket No. 2011-0523-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ConocoPhillips Pipe Line Company in Gaines and Ector Counties; RN100212778 and RN100213313; 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.

**EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

Item 19 [\*\*Docket No. 2011-0209-EAQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of J & N Development, Inc. in Williamson County; RN105031363; 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. (Harvey Wilson, Debra Barber)

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

**FIELD CITATIONS**

Item 20 [\*\*Docket No. 2011-1269-WQ-E.\*\*](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of XTO Energy, Inc. in Shelby County; RN106149339; 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 21 [\*\*Docket No. 2011-1268-WQ-E.\*\*](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of Black Canyon Construction Company in Kendall County; RN106163736; 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 22 [Docket No. 2011-1267-WR-E.](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of Fluid Disposal Specialties, Inc. in San Augustine County; RN106145279; 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 ORDER**

Item 23 [Docket No. 2011-0556-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Falcon International, Incorporated in Ector County; RN105682512; 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. (Mike Pace, Debra Barber)

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

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 24 [Docket No. 2011-0615-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against BP Products North America Inc. in Galveston County; RN102535077; 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, Debra Barber)

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

Item 25 [Docket No. 2011-0717-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Magellan Terminals Holdings, L.P. in Harris County; RN102180486; 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.

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER**

Item 26 [Docket No. 2010-0909-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of The Premcor Refining Group Inc., Diamond Shamrock Refining Company, L.P., and Valero Refining-Texas, L.P. in Jefferson, Moore, Harris, Nueces, and Galveston Counties; RN102584026, RN100210517, RN100219310, RN100211663, RN100214386, RN100238385; for air quality and water quality 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. (Trina Grieco, Debra Barber)

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

**MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER**

Item 27 [Docket No. 2010-1109-MLM-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Aldine Community Care Center, Inc. in Harris County; RN102186889; for water quality and public drinking water violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 341, 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. 2011-0801-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against TX Energy Services, LLC in Jim Wells County; RN106080344; 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. (Jorge Ibarra, P.E., Debra Barber)

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

Item 29 [Docket No. 2011-0605-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Crosbyton in Crosby County; RN106111503; 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. (Mike Pace, Debra Barber)

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

Item 30 [Docket No. 2011-0611-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MDLS, INC. dba DLS Environmental Services in Gregg County and Rusk County; RN106102601; 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. (Philip Aldridge, Debra Barber)

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

Item 31 [Docket No. 2011-0007-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Industrial Scrap Materials, Inc. in Tarrant County; RN105078679; 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. (Steven M. Fishburn, Lena Roberts)

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

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 32 [Docket No. 2011-0907-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Murchison in Henderson County; RN101720530; 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 33 [Docket No. 2011-0585-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Pearland in Brazoria County; RN101613446; 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 Agreed Order. CR/BG; all agree.

Item 34 [Docket No. 2011-0723-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of WHITE OAK UTILITIES, INC. in Montgomery County; RN102335825; 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. (Marty Hott, Debra Barber)

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

Item 35 [\*\*Docket No. 2011-0810-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Harker Heights in Bell County; RN101920395; 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.

Item 36 [\*\*Docket No. 2011-0230-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aqua Development, Inc. dba Aqua Texas, Inc. in Travis County; RN102343035; 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.

Item 37 [\*\*Docket No. 2010-1891-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Sonora in Sutton County; RN102806411; 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.

Item 38 [\*\*Docket No. 2011-0551-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Gilmer in Upshur County; RN101918761; 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 Agreed Order. CR/BG; all agree.

Item 39 [\*\*Docket No. 2011-0743-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Byers in Clay County; RN101720415; 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.

**PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 40 **[Docket No. 2011-0640-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Hurst-Eules-Bedford ISD in Tarrant County; RN101545952; 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 41 **[Docket No. 2011-0545-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against MARTY MECHANICAL, INC. dba One Stop 70 in Denton County; RN102225455; 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 42 **[Docket No. 2011-0692-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against JWK AUTO GROUP, INC. in Tarrant County; RN102039229; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Debra Barber)

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

Item 43 **[Docket No. 2011-0901-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against STEWART DELIVERY SERVICE, INC. in Tarrant County; RN101554004; 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. 2011-0745-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Nizar Yousef dba Sunshine in Tom Green County; RN101894889; 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, Debra Barber)

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

Item 45 [\*\*Docket No. 2010-1782-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Nam Bui d/b/a Ball Park Shell in Harris County; RN104533989; 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 Gilbreth, Lena Roberts)

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

Item 46 [\*\*Docket No. 2011-0072-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Dixie Mart, Inc. d/b/a Dixie Mart in Tarrant County; RN102957156; 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, P.G., Lena Roberts)

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

Item 47 [\*\*Docket No. 2011-0923-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against STAR HOUSTON, INC. dba Star Motor Cars in Harris County; RN100602598; 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. (Theresa Hagood, Debra Barber)

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

Item 48 [\*\*Docket No. 2011-0613-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Senter Investments, LLC dba A & A Quickstop in Dallas County; RN106108988; 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 49 [\*\*Docket No. 2011-0673-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of JOHNSON SUPPLY AND EQUIPMENT CORPORATION in Harris County; RN102279288; 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 50 [\*\*Docket No. 2011-0612-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kashmir Singh dba Express EZ Mart in Grayson County; RN102347879; 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 51 [\*\*Docket No. 2010-1220-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Mona Enterprises, Inc. d/b/a Shop In Market in Harris County; RN101782282; 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.

Item 52 [\*\*Docket No. 2011-0572-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Abdul Ali Tejani dba FM Express Mart in Tarrant County; RN102367117; 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. (Andrea Park, Debra Barber)

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

Item 53 [\*\*Docket No. 2011-0828-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Sai Shiva Incorporated dba Barton Springs Food Mart in Travis County; RN102362126; 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. (Clinton Sims, Debra Barber)

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

Item 54 [\*\*Docket No. 2011-0674-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against A

A B INVESTMENT, INC. dba Wayside Texaco in Harris County; RN100907633; 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 55 [\*\*Docket No. 2011-0587-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kurio Interests, L.L.C. in Harris County; RN101869550; 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 56 [\*\*Docket No. 2011-0770-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against HEERJI CORPORATION dba Al's Texaco in Dallas County; RN101473353; 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 57 [\*\*Docket No. 2011-0628-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Texan Convenience, Inc. dba On The Go Food Mart in Tarrant County; RN100741636; 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 Park, Debra Barber)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 58 [\*\*Docket No. 2011-0411-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Noel A. Zamora in Hidalgo County; RN101446854; 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, P.G., Lena Roberts)

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

Item 59 [\*\*Docket No. 2011-0270-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of PATHAN INVESTMENTS, INC. D/B/A TIME OUT 1 in Jefferson County; RN102890407; 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. (Phillip M. Goodwin, P.G., Lena Roberts)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDERS**

Item 60 [\*\*Docket No. 2010-0965-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Shariq Hussain DBA Speedee Mart in Harris County; RN102372810; 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. (James Sallans, Lena Roberts)

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

Item 61 [\*\*Docket No. 2010-0881-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of RICKY INVESTMENTS INC. d/b/a Speedway in Polk County; RN101913606; 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, P.G., Lena Roberts)

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

Item 62 [\*\*Docket No. 2010-1888-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of SPURG, LLC DBA The Place in Jefferson County; RN101729275; 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. (Tammy L. Mitchell, Lena Roberts)

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

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 63 **[Docket No. 2011-0796-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Brush Country Development Corporation in Duval County; RN106103765; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

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

Item 64 **[Docket No. 2011-0435-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Dave's Roofing, Siding and Metal Buildings, LLC in Lubbock County; RN101190007; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephanie Frazee, Lena Roberts)

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

Item 65 **[Docket No. 2011-0708-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Menard in Menard County; RN101214070; 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 66 **[Docket No. 2011-0927-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against South Lake Park Services, Inc. in Tarrant County; RN101199123; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

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

Item 67 **[Docket No. 2010-1918-PWS-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Dora Medina dba Montana Hideaway Bar in El Paso County; RN105865828; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Andrea Linson, Debra Barber)

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

Item 68 [\*\*Docket No. 2011-0958-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Anson in Jones County; RN101385094; 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 69 [\*\*Docket No. 2011-0752-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Stanton in Martin County; RN101392082; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

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

Item 70 [\*\*Docket No. 2011-0686-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of VILLAGE FARMS, L.P. in Jeff Davis and Presidio Counties; RN100818087 and RN100817873; 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 71 [\*\*Docket No. 2011-1008-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. 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.

**UTILITIES ENFORCEMENT AGREED ORDER**

Item 72 [\*\*Docket No. 2011-0836-UTL-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lake Municipal Utility District in Harris County; RN102680675; for affected utilities violations pursuant to Tex. Health & Safety

Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Katy Schumann, Debra Barber)

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

**WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT AGREED ORDER**

Item 73 [Docket No. 2011-0324-WOC-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Lorenzo E. Mata in Webb County; RN105968192; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Andrea Byington, Debra Barber)

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

**WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 74 [Docket No. 2011-0243-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Deberry Forestry & Wildlife Management, L.L.C. dba DeBerry Mine in Upshur County; RN105807697; 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 Frazee, Lena Roberts)

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

**RULE MATTERS**

Item 75 [Docket No. 2011-0988-RUL.](#)

Consideration for publication of, and hearing on, proposed new Subchapter J of 30 Texas Administrative Code (TAC) Chapter 328, Waste Minimization and Recycling, comprising proposed new sections 328.161, 328.163, 328.165, 328.167, 328.169, 328.171, 328.173, 328.175, 328.177, 328.179, 328.181, 328.183, 328.185, 328.187, 328.189, 328.191, 328.193, 328.195, and 328.197. The proposed rulemaking would implement Senate Bill 329 from the 82nd Legislature, Regular Session, 2011, relating to a program for the recycling of certain television equipment. (Tim Reidy, Cynthia Carter) (Rule Project No. 2011-028-328-AS)

Approve publication of, and hearing on, proposed new Subchapter J of 30 TAC Chapter 328, as recommended by the Executive Director. BG/CR; all agree.

Item 76 [Docket No. 2011-1249-RUL.](#)

Consideration for publication of, and hearing on, proposed amendments to Section 50.139 in Chapter 50, Action on Applications and Other Authorizations; Sections 55.103, 55.201, 55.203, and 55.256 in Chapter 55, Requests for

Reconsideration and Contested Case Hearings; Public Comment; and Sections 80.17, 80.108, 80.109, 80.115, 80.117, 80.131, 80.151, 80.257, and 80.261 in Chapter 80, Contested Case Hearings, of 30 TAC. The proposed rulemaking would implement House Bill 2694, TCEQ Sunset Legislation, from the 82nd Legislature, 2011, Regular Session, Article 10, Contested Case Hearings, which amends the Texas Water Code by adding new Section 5.315, amending Section 5.115(b) and Section 5.228(c) and (d), and by repealing Section 5.228(e), and revises the contested case hearings process. (Janis Hudson) (Rule Project No. 2011-030-080-LS)

Approve publication of, and hearing on, proposed amendments to 30 TAC Chapters 50, 55 and 80, as recommended by the Executive Director at agenda. CR/BG; all agree.

Item 77 **Docket No. 2011-1261-RUL.**

Consideration for publication of, and hearing on, proposed amended Sections 334.5(b), and 334.84, and new Section 334.19, of 30 TAC Chapter 334, Underground and Aboveground Storage Tanks. The proposed rulemaking would implement House Bill 2694, TCEQ Sunset Legislation, from the 82nd Legislature, 2011, Regular Session, pertaining to Petroleum Storage Tank regulation. (Cullen McMorrow, Jonathan Walling) (Rule Project No. 2011-038-334-WS)

Approve the publication of, and hearing on, the proposed amendments to 30 TAC Sections 334.5 and 334.84 and the addition of new Section 334.19, as recommended by the Executive Director. BG/CR; all agree.

Item 78 **PUBLIC COMMENT SESSION**

The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code §2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour.

No Action Taken

**EXECUTIVE MEETING**

Item 79 **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 80 **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 81 **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/ Elaine Lucas  
Assistant General Counsel,  
Elaine Lucas

\_\_\_\_\_  
11/4/2011  
Date