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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 Carlos Rubinstein
Commissioner Toby Baker

AGENDA

January 30, 2013

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. 2009-0890-PWS-E; SOAH Docket No. 582-11-9499.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of Joe Menaldi d/b/a Ransom Canyon Center and Joseph Adam Corporation d/b/a Ransom Canyon Center in Lubbock County, Texas; RN104780432; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Kari Gilbreth)

Adopt the Administrative Law Judge's Proposed Order with the modification of Finding of Fact No. 21 to state that the record closed on September 28, 2012. TB/CR; all agree.

HEARING REQUEST/REQUEST FOR RECONSIDERATION

Item 2 [**Docket No. 2012-2222-MSW.**](#)

Consideration of the application by CCAA, LLC for municipal solid waste Type IV Landfill Permit No. 2376. The facility is proposed to be located approximately 1,300 feet northwest of the intersection of Stewarts Meadow and Farm to Market 60 (Raymond Stotzer Parkway) within the extraterritorial

jurisdiction of the City of College Station, Brazos 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. (Steven Shepherd, Steven Odil)

Grant the hearing request of Concerned Citizens for Safety, Health & Justice and refer the matter to SOAH, with a concurrent referral to the Alternative Dispute Resolution program during the pendency of the SOAH scheduling process, for a contested case hearing on the following issues: A) Whether the proposed landfill is located in the 100-year floodplain; B) Whether the Application and Draft Permit include adequate provisions to protect groundwater and surface water; C) Whether the existing roads are adequate to accommodate traffic from the landfill; D) Whether the landfill would be incompatible with land use in the surrounding area; E) Whether the Applicant provided public notice in compliance with TCEQ rules; F) Whether the landfill would be incompatible with the Brazos Valley Council of Governments' approved regional solid waste management plan; G) Whether the Application and Draft Permit include adequate provisions to prevent dust nuisances and control dust pursuant to the requirements in 30 TAC § 330.15(a)(2) in Chapter 330, Subchapter D; H) Whether the Application and Draft Permit include adequate provisions to prevent erosion and control drainage; and I) Whether visual screening is needed for the proposed facility pursuant to 30 TAC § 330.175; Specify the maximum duration of the hearing as nine months from the preliminary hearing to issuance of the Proposal for Decision; Deny all Requests for Reconsideration. CR/TB; all agree.

MISCELLANEOUS MATTERS

Item 3 **[Docket No. 2012-2421-WR.](#)**

Consideration of whether to affirm, modify, or set aside the Executive Director's Order, signed on January 8, 2013, modifying the Commission's Order dated December 12, 2012, suspending certain water rights in the Brazos River Basin pursuant to Texas Water Code Section 11.053 and 30 Tex. Admin. Code Chapter 36. On November 14, 2012, Dow Chemical Company submitted a senior call based on the February 15, 1942 priority date in Dow's Certificate of Adjudication No. 12-5328. The Executive Director issued a Suspension Order on November 19, 2012, which suspended certain water rights in the Brazos River Basin. The Order has a term of 180 days and was issued by the Executive Director without a hearing. Water rights for municipal, power, or domestic use in the basin were not curtailed by the Executive Director's Suspension Order. On December 5, 2012, the Commission conducted the hearing and determined to affirm but also modify the Suspension Order. The Executive Director's Order dated January 8, 2013, modifies the Commission's Suspension Order in order to allow diversion and impoundment by the suspended water rights holders during certain higher flow levels if conditions change to cause temporary higher flow levels in the Brazos River watershed during the term of the Suspension Order. The Order affects certain water rights in Austin, Bastrop, Bell, Bosque, Brazoria, Brazos, Brown, Burleson, Burnet, Callahan, Colorado, Comanche, Coryell, Eastland, Erath, Falls, Fayette, Fort Bend, Freestone, Grimes, Hamilton, Harris, Hill, Hood, Jack, Johnson, Lampasas, Lee, Leon, Limestone, Madison, McLennan, Milam, Mills, Palo Pinto, Parker, Robertson, Somervell,

Stephens, Travis, Waller, Washington, and Williamson Counties. (Kellye Rila, Robin Smith)

No Action Taken.

Item 4 **[Docket No. 2012-2421-WR.](#)**

Consideration of whether to affirm, modify, or set aside the Executive Director's Order, signed on January 15, 2013, modifying the Commission's Order dated December 12, 2012, suspending certain water rights in the Brazos River Basin pursuant to Texas Water Code Section 11.053 and 30 Tex. Admin. Code Chapter 36. On November 14, 2012, Dow Chemical Company submitted a senior call based on the February 15, 1942 priority date in Dow's Certificate of Adjudication No. 12-5328. The Executive Director issued a Suspension Order on November 19, 2012, which suspended certain water rights in the Brazos River Basin. On December 12, 2012, the Commission issued an Order to modify and affirm the Suspension Order.

The Executive Director's Order, signed on January 15, 2013, modifies the Commission's December Order to suspend or adjust several municipal use and power generation water rights based on water use, alternative sources, and need information received from the water right holders and information available to the Executive Director. The January 15, 2013 order also makes several corrections to the December order. Additionally, the January 15, 2013 Order incorporates, and supersedes an Order signed by the Executive Director on January 8, 2013, which allows suspended water rights to divert or store state water if the flow in the stream is at certain levels at certain gages throughout the lower Brazos River Basin. The Order affects certain water rights in Austin, Bastrop, Bell, Bosque, Brazoria, Brazos, Brown, Burleson, Burnet, Callahan, Colorado, Comanche, Coryell, Eastland, Erath, Falls, Fayette, Fort Bend, Freestone, Grimes, Hamilton, Harris, Hill, Hood, Jack, Johnson, Lampasas, Lee, Leon, Limestone, Madison, McLennan, Milam, Mills, Palo Pinto, Parker, Robertson, Somervell, Stephens, Travis, Waller, Washington, and Williamson Counties. (Kellye Rila, Robin Smith)

No Action Taken.

TMDL MATTER

Item 5 **[Docket No. 2011-1865-TML.](#)**

Consideration for final approval of a draft Implementation Plan for seventy-two Total Maximum Daily Loads for indicator bacteria in water bodies in the Houston-Galveston Region. Project No. 2012-009-TML-NR (Ron Stein, Robert Brush)

Approve the Implementation Plan for seventy-two TMDLs for indicator bacteria in the Houston-Galveston Region as recommended by the Executive Director. TB/CR; all agree.

MISCELLANEOUS MATTERS

Item 6 **TCEQ Docket No. 2012-0560-UCR.**

Consideration of a request for a Commission Order approving a Contract Service Agreement (“Agreement”) designating service areas between Northwest Grayson County WCID 1 (“NWGC”), Certificate of Convenience and Necessity (CCN) No. 12362, and Monarch Utilities I, LP (“Monarch”), CCN No. 12983, in Grayson County, Texas, pursuant to section 13.248 of the Texas Water Code. Currently, Monarch holds a CCN for the area in question. Under the Agreement, Monarch will transfer approximately 51.51 acres to NWGC. NWGC will be the sole retail water service provider in this area. There are no customers in this area and there will be no transfer of facilities under the Agreement. (Jessica Rogers, Sheresia Perryman)

Approve the contract designating service areas between Monarch Utilities I, LP and Northwest Grayson County WCID 1 under Texas Water Code section 13.248 which will result in the transfer of approximately 51.51 acres of service area to the District's water CCN and issue the Executive Director's revised Proposed Order. CR/TB; all agree.

Item 7 **Docket No. 2012-2417-MIS.**

Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (Beth West)

Approve the issuance of the resolution acknowledging the Executive Director's acceptance of these gifts. TB/CR; all agree.

MOTION TO VACATE DEFAULT ORDERS

Item 8 **Docket Nos. 2010-1752-UTL-E; 2010-1835-UTL-E; and 2010-1753-UTL-E.**

Consideration of the Executive Director's Motion to Vacate Default Orders and Consideration of Agreed Orders assessing administrative penalties against Krebs Utilities, Inc. d/b/a Estates Water Corp, RN101196897; Krebs Utilities, Inc. d/b/a Roving Meadows Water System, RN101268977; and Krebs Utilities, Inc. d/b/a K Lake Terrace, RN101261568; in Harris County; regarding public drinking water violations pursuant to Tex. Water Code ch. 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

Vacate the Default Orders and approve the Agreed Orders assessing penalties against Krebs Utilities, Inc. d/b/a Estates Water Corp, Roving Meadows Water System and K Lake Terrace as recommended by the Executive Director. CR/TB; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 9 **[Docket No. 2012-1173-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Guardian Industries Corp. in Navarro County; RN100221811; 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. (Amancio Gutierrez, Debra Barber)

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

Item 10 **[Docket No. 2012-0839-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BP Products North America Inc. in Galveston County; RN102535077; 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. (Jessica Schlidwachter, Debra Barber)

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

Item 11 **[Docket No. 2010-2073-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Pasadena Refining System, Inc in Harris County; RN100716661; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Debra Barber)

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

Item 12 **[Docket No. 2012-1047-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Southern Union Pipeline, Ltd. in Ward County; RN100215532; 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. (Amancio R. Gutierrez, Debra Barber)

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

Item 13 [**Docket No. 2012-1168-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Pecan Pipeline Company in Montague County; RN105476691; 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. TB/CR; all agree.

AIR QUALITY ENFORCEMENT DEFAULT ORDER

Item 14 [**Docket No. 2012-0601-AIR-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Lion Sarmiento DBA Unique Toyz in Angelina County; RN106084403; 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. (Tammy L. Mitchell, Lena Roberts)

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

INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

Item 15 [**Docket No. 2011-1744-IHW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Virgil Ponce in Brazos County; RN106192644; for industrial solid and/or 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. TB/CR; all agree.

Item 16 [**Docket No. 2011-1712-IHW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Exide Technologies in Collin County; RN100218643; for industrial solid 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. (Margaret Ligarde, Lena Roberts)

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

INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER

Item 17 **[Docket No. 2012-0813-IHW-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Absolute Fuels, LLC in Lamb County; RN105117253; for industrial solid and/or 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. (Rudy Calderon, Lena Roberts)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 18 **[Docket No. 2012-0948-MLM-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of New Birmingham Resources, LLC in Smith County; RN106065964; for water quality and water rights violations pursuant to Tex. Water Code chs. 7, 11, 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. TB/CR; all agree.

Item 19 **[Docket No. 2012-0586-MLM-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against COBRA STONE, INC. in Williamson County; RN105485460; for Edwards Aquifer 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. (Lanae Foard, Debra Barber)

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

Item 20 **[Docket No. 2012-0251-MLM-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Magnablend, Inc. in Ellis County; RN104603907; for air quality and industrial and hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Debra Barber)

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

Item 21 **[Docket No. 2011-1665-MLM-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Josephine Guzman DBA Guzman Quality Cleaners in Cameron County; RN101681799; for industrial hazardous waste and dry cleaner violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 374, 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. TB/CR; all agree.

Item 22 [**Docket No. 2012-0921-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Mineral Wells in Palo Pinto County; RN101610517; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Debra Barber)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 23 [**Docket No. 2012-0395-MSW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Donald R. Davis and Daniel L. Davis in Denton County; RN104256136; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jim Sallans, Lena Roberts)

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

Item 24 [**Docket No. 2012-0597-MSW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Duval County in Duval County; RN101921286; 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. (Keith Frank, Debra Barber)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 25 [**Docket No. 2012-0859-MSW-E.**](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Ernesto Garcia in Cameron County; RN105880603; 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.
(Rebecca M. Combs, Lena Roberts)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 26 [**Docket No. 2011-2342-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Gruver in Hansford County; RN101920254; 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. (Jim Sallans, Lena Roberts)

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

Item 27 [**Docket No. 2011-1381-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Hubbard in Hill County; RN101918480; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Debra Barber)

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

Item 28 [**Docket No. 2011-1214-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Montgomery County Municipal Utility District No. 89 in Montgomery County; RN102335346; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Debra Barber)

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

Item 29 [**Docket No. 2012-1213-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Shenandoah in Montgomery County; RN101916195; 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. (Jacquelyn Green, Debra Barber)

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

Item 30 [**Docket No. 2011-2330-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Mullin in Mills County; RN102186756; 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. (Jill Russell, Debra Barber)

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

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

Item 31 **Docket No. 2012-1005-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Varughese Philip dba Richwood Food Market in Harris County; RN102381936; 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. (David Carney, Debra Barber)

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

Item 32 **Docket No. 2011-2053-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Vance Jackson Retail, LLC dba Big Star Food Mart in Bexar County; RN102352788; 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. (Lanae Foard, Debra Barber)

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

Item 33 **Docket No. 2011-1915-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of A NUMAN, INC. d/b/a A Food Mart in Harris County; RN102057809; 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. TB/CR; all agree.

Item 34 **Docket No. 2012-0556-PST-E.**

Consideration of an Agreed Order assessing administrative penalties against John Platis d/b/a South Main Diamond in Harris County; RN103961546; 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 Goodwin, Lena Roberts)

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

Item 35 [**Docket No. 2012-1013-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against M.R.D. GROUP, INC. dba Shaver Food Mart in Harris County; RN105455901; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Mike Pace, Debra Barber)

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

Item 36 [**Docket No. 2011-2216-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ALIA ENTERPRISES, INC. d/b/a Monroe Texaco in Harris County; RN101832921; 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 Goodwin, Lena Roberts)

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

Item 37 [**Docket No. 2012-1280-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Hansford Hospital dba Hansford County Hospital District in Hansford County; RN102892585; 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. (Heather Brister, Debra Barber)

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

Item 38 [**Docket No. 2012-1164-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of New Delta Business LLC dba Delta Food Mart 2 in Orange County; RN101887891; 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. (David Carney, Debra Barber)

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

Item 39 [**Docket No. 2011-1890-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ROLLINS & ROLLINS ENTERPRISES, INC. dba Mr. Wills in Nacogdoches County; RN104459540; 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. (Rudy Calderon, Lena Roberts)

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

Item 40 [**Docket No. 2012-0954-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of New TelAir Inc dba Hobby Food Mart in Harris County; RN102971009; 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. TB/CR; all agree.

Item 41 [**Docket No. 2012-0678-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Federal Aviation Administration in Harris County; RN105513006; 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. TB/CR; all agree.

Item 42 [**Docket No. 2012-1208-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against J. & A. GROCERY, INC. dba Meyer's Kwik Stop in Hood County; RN102839248; 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. (Steven Van Landingham, Debra Barber)

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

Item 43 [**Docket No. 2012-0485-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MRV Corporation dba Tiger Stop 2 in Comal County; RN101781094; 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. (David Carney, Debra Barber)

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

Item 44 [**Docket No. 2012-0054-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of D & G STORE LLC dba ONE STOP in Ellis County; RN102254109; 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. (Heather Brister, Debra Barber)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 45 [**Docket No. 2012-0022-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lake Whitney Resorts, LLC in Hill County; RN105215651; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

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

Item 46 [**Docket No. 2012-0849-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Paula Reagan d/b/a Lucky Roadhouse BBQ in Denton County; RN106096514; 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. TB/CR; all agree.

Item 47 [**Docket No. 2012-1106-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Rosebud in Falls County; RN101392322; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Fisher, Debra Barber)

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

Item 48 [**Docket No. 2012-0762-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Leonard Denton in Blanco County; RN101283018; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mike

Fishburn, Lena Roberts)

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

Item 49 [**Docket No. 2011-2174-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Original Adventure Camp Inc in Kerr County; RN101194561; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Debra Barber)

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

Item 50 [**Docket No. 2012-1235-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Petrolia in Clay County; RN102677937; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jim Fisher, Debra Barber)

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

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 51 [**Docket No. 2012-0976-WQ-E.**](#)

Consideration of a Default Order assessing administrative penalties against central state shingle recycling LLC in Denton County; RN106192594 and RN101838456; 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. (Jeffrey Huhn, Lena Roberts)

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

RULE MATTERS

Item 52 [**Docket No. 2012-2126-RUL.**](#)

Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 297, Water Rights, Substantive. The proposed rulemaking would amend the definition of "Municipal Use" in Section 297.1(32) to allow use of return flows authorized under Texas Water Code, §11.042 for watering of parks, golf courses, and parkways as a municipal use, after that use of return flows has been authorized by the commission. The proposed rulemaking would also expand the authorized uses to include the watering of other public or recreational spaces. (Jennifer Allis, James Aldredge) (Rule Project No. 2012-039-297-OW)

Approve the publication of, and hearing on, the proposed amendments to 30 TAC Chapter 297 as recommended by the Executive Director. CR/TB; all agree.

Item 53 **Docket No. 2012-1530-RUL.**

Consideration of the adoption of amendments to Sections 305.50, 305.64, 305.69, and 305.122; and new Section 305.176 of 30 TAC Chapter 305, Consolidated Permits; amendments to Sections 324.1 - 324.4, 324.6, 324.7, and 324.11 - 324.16; and the repeal of Section 324.5 of 30 TAC Chapter 324, Used Oil Standards; and amendments to Sections 335.1, 335.2, 335.10 - 335.13, 335.19, 335.24, 335.61, 335.62, 335.69, 335.76, 335.78, 335.111, 335.112, 335.151, 335.152, 335.155, 335.168, 335.170, 335.213, 335.222, 335.251, 335.431, and 335.504; and new Section 335.79 of 30 TAC Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste. The adoption will establish notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country; establish an alternative set of generator requirements applicable to laboratories owned by eligible academic entities and address the specific nature of hazardous waste generation and accumulation in these laboratories; incorporate a number of technical corrections to the hazardous waste regulations in numerous final rules previously published in the Federal Register, such as typographical errors, incorrect or outdated citations, and omissions; remove "saccharin and its salts" from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded; incorporate technical corrections to 40 Code of Federal Regulations Part 262, Subpart K; include corrections to existing Used Oil Rules in 30 TAC Chapter 324; include corrections to existing Manifest Rules in 30 TAC Chapter 335; include corrections to previously adopted language from Checklists: 208, 213, 214, and 215; and require a new permit owner to provide acceptable financial assurance by the date of a permit transfer. The proposed rules were published in the October 5, 2012, issue of the Texas Register (37 TexReg 7871). (Cynthia Palomares, P.G., P.E., Susan White) (Rule Project No. 2012-038-335-WS)

Approve the adoption of amendments to 30 TAC Chapters 305, 324 and 335 as recommended by the Executive Director. TB/CR; all agree.

Item 54 **Docket No. 2012-2573-RUL.**

Consideration for publication of, and hearing on, the proposed new Section 336.227 of 30 TAC Chapter 336, Radioactive Substance Rules. The proposed rulemaking would exempt minimal amounts of licensed radioactive tracers used in the exploration, development or production of oil and gas resources from TCEQ low-level radioactive waste licensing and disposal requirements. (Hans Weger, Don Redmond) (Project No. 2013-010-336-WS)

Approve the publication of, and hearing on, proposed new Section 336.227 of 30 TAC Chapter 336 as recommended by the Executive Director. CR/TB; all agree.

PUBLIC COMMENT SESSION

- Item 55 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 56 **Docket No. 2013-0001-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 57 **Docket No. 2013-0002-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 58 **Docket No. 2013-0003-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 SIX (6) 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

2/11/2013
Date