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Chairman H.S. Buddy Garcia OLD BUSINESS AGENDA
Commissioner Larry R. Soward
Commissioner Bryan W. Shaw, Ph.D. Wednesday, July 9, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the June 18, 2008 agenda.

Item 1. [Docket No. 2007-1897-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Monarch Utilities I L.P.** in **Henderson County**; RN102177458; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Brister, Bryan Sinclair)

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

AGENDA

July 9, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUEST(S)/REQUEST(S) FOR RECONSIDERATION

- Item 1. [Docket No. 2007-2033-AIR](#). Consideration of the application by **Bexar Quarry Services, LLC** for the renewal of Air Quality Permit No. 43957 to authorize the continued operation of its rock crushing plant. The plant is located at 18394 FM 1283 near Mico, **Medina 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. (Larry Buller, Tim Eubank)

Application withdrawn.

- Item 2. [Docket No. 2008-0421-IWD](#). Consideration of the application by **Taiwan Shrimp Village Association Inc. and Arroyo Aquaculture Association, Inc.**, which operate an aquaculture facility which produces shrimp, for a major amendment to TPDES Permit No. WQ0003596000 to remove the prohibition of discharge from the facility during the months of January through March and to revise the Arroyo Colorado Water Quality Study requirement to reduce influent and effluent sampling frequencies. The current permit authorizes the discharge of process wastewater (aquaculture pond effluent) at a combined daily average flow not to exceed 100,000,000 gallons per day via Outfalls 001 and 002. The facility is located on the south side of Farm-to-Market Road 2925 and approximately 1.4 miles east of the intersection of Farm-to-Market Road 2925 and Farm-to-Market 1897 in the City of Arroyo City, **Cameron 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. (Scott Shoemaker, David Galindo)

Grant the hearing requests of Robert O. Collier, M.D., James R. Green, Norman Green, Hugh R. and Linda Koch, Bobbie and Billy Scaife, and Gene C. Yates. Refer the following issues: 1. whether the draft permit satisfies applicable regulatory requirements intended to protect human health, water quality, wildlife, existing uses including recreational uses, and the environment; 2. whether the draft permit adequately requires the regulated activity to preclude odors; 3. whether the draft permit appropriately revised the applicable water quality study requirements; 4. whether the Applicant's compliance history raises issues as to whether it can comply with a material term of the draft permit as amended, or warrants denial or alteration of the proposed permit; 5. whether the impact of the discharge at the discharge point has been analyzed; 6. whether the application should be denied on the basis that no discharge should be allowed; and 7. whether the discharge will result in a violation of 30 TAC § 307.4(b). Deny all other hearing requests, and the request for reconsideration; refer the matter to SOAH to have a maximum hearing duration of nine months with an initial referral to ADR for four to six weeks. Direct the Executive Director to participate as

a party and request the ALJ to submit Findings of Fact, Conclusions of Law, and Ordering Provisions with the Proposal for Decision. BS/LS; all agree.

Item 3. [Docket No. 2008-0423-IWD](#). Consideration of the application by **H Bowers, Inc.**, which proposes to operate a shrimp and catfish processing facility, for a new permit, Proposed Permit No. WQ0004815000, to authorize the disposal of process wastewater from a fish and shrimp processing facility at a daily average flow not to exceed 102,740 gallons per day via irrigation of 36.5 acres of Coastal Bermuda and Rye grasses. The application rate shall not exceed 3.2 acre-inches/acre-irrigated/month. This permit will not authorize a discharge of pollutants into water in the State. The facility is located 3.5 miles north of the City of Palacios on Highway 35, 1000 feet south of the intersection of Highway 35 and FM 521, **Matagorda 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. (Scott Shoemaker, David Galindo)

Grant the hearing requests of Thelma Lee Rackley, Geraldine Batchelder, Wesley & Jeanette Batchelder, Stephen & Kimberly Cooper, Jaime Alanis, Danny & Julie Sliva, Carolyn Into, David & Suzanne Salinas, Charles & Mary Parker, Gloria & Mike Hunter, and Daniel & Sandra Tucker on the issues of: 1 whether the draft permit satisfies regulatory requirements intended to protect human health, water quality, and the environment; 2. whether the draft permit adequately provides for the abatement of odor associated with the facility's storage and irrigation of the wastewater; 3. whether the Applicant met applicable regulatory requirements related to providing a map showing the location of adjacent landowners; 4. whether operations according to the draft permit would prevent effluent runoff from the land application area; 5. whether the land application process will adversely affect wildlife; 6. whether notice for the proposed activity satisfies applicable regulatory requirements intended to provide public notice; 7. whether the Applicant has shown an inability to comply with material terms of the permit by proceeding with constructing without authorization; 8. whether the proposed activity will attract vectors to the land application area; 9. and whether the Applicant's activities will result in the loss of the use and enjoyment of the requestors' property. Deny all other hearing requests and issues; refer the matter to SOAH with a maximum hearing duration of nine months; direct the Executive Director to participate as a party in the hearing, and request the ALJ file Findings of Fact, Conclusions of Law, and Ordering Provisions with the Proposal for Decision. BS/LS; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 4. [Docket No. 2008-0035-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tapia Brothers, Inc. dba Tapia Dairy #2** in **Tom Green County**; RN102954666; 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. (Lynley Doyen, Bryan Sinclair)

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

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 5. [Docket No. 2006-1312-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Circle K Stores, Inc.** in **El Paso County**; TCEQ ID No. RN102777497; 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. (Jacquelyn Boutwell, Jennifer Cook)

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

Item 6. [Docket No. 2006-0984-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Centurion Pipeline L.P. in Midland County**; TCEQ ID No. RN100216456; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Justin Lannen, Jennifer Cook)

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

Item 7. [Docket No. 2005-1580-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **City Concrete, Inc. in Wichita County**; TCEQ ID No. RN101293041; 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. (Jacquelyn Boutwell, Jennifer Cook)

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

Item 8. [Docket No. 2008-0284-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Denton in Denton County**; RN102212685; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Bryan Sinclair)

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

Item 9. [Docket No. 2008-0096-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP in Panola County**; RN100825439; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Bryan Sinclair)

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

Item 10. [Docket No. 2007-2025-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company LP in Harris County**; RN102018322; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Bryan Sinclair)

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

Item 11. [Docket No. 2007-1991-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Daniel R. Harris and D. Patricia Harris dba Desert Hills Car Wash & Convenience Store in El Paso County**; RN100816123; 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. (Sidney Wheeler, Bryan Sinclair)

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

Item 12. [Docket No. 2007-2040-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Eastman Chemical Company in Harrison County**; RN100219815; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Bryan Sinclair)

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

Item 13. [Docket No. 2008-0037-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **E. I. du Pont de Nemours and Company in Orange County**; RN100542711; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Aaron Houston, Bryan Sinclair)

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

Item 14. [Docket No. 2007-1982-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **El Paso Independent School District in El Paso County**; RN102523354; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Aaron Houston, Bryan Sinclair)

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

Item 15. [Docket No. 2007-1954-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Refining LP in Harris County**; RN100218130; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kimberly Morales, Bryan Sinclair)

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

Item 16. [Docket No. 2008-0033-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Trunkline Gas Company, LLC in Harris County**; RN100225556; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Bryan Sinclair)

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

Item 17. [Docket No. 2008-0162-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **TOTAL PETROCHEMICALS USA, INC. in Harris County**; RN100212109;

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

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

Item 18. [Docket No. 2008-0260-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Petrochemicals LP** in **Harris County**; RN100219526; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Bryan Sinclair)

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

Item 19. [Docket No. 2008-0043-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Petrochemicals LP** in **Jefferson County**; RN104964267; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Bryan Sinclair)

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

Item 20. [Docket No. 2008-0240-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **PYCO Industries, Inc.** in **Lubbock County**; RN100213693; 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. (Harvey Wilson, Bryan Sinclair)

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

Item 21. [Docket No. 2008-0058-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Prism Gas Systems I, L.P.** in **Harrison County**; RN102558939; 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. (Audra L. Ruble, Bryan Sinclair)

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

Item 22. [Docket No. 2007-2023-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **National Oilwell Varco, L.P.** in **Harris County**; RN100213024; 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. (Audra L. Ruble, Bryan Sinclair)

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

Item 23. [Docket No. 2008-0266-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **INEOS USA LLC** in **Brazoria County**; RN100238708; for air quality

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

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

Item 24. [Docket No. 2007-1901-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DuPont Performance Elastomers L.L.C. in Jefferson County**; RN100218239; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Aaron Houston, Bryan Sinclair)

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

DRY CLEANER ENFORCEMENT AGREED ORDERS

Item 25. [Docket No. 2006-1380-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties against **HAB, Inc. dba New Village Cleaners aka New Village Cleaner aka Village Cleaners in Harris County**; TCEQ ID No. RN104028626; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Tracy Chandler, Jennifer Cook)

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

Item 26. [Docket No. 2006-1450-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties against **Elite Drycleaners, Inc. dba Liberty Cleaners in Harris County**; RN103970794; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Bryan Sinclair)

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

Item 27. [Docket No. 2007-1764-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties against **Santiago Guzman, Jr. and Josephine Guzman dba Guzman Quality Cleaners in Cameron County**; RN101681799; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (John Shelton, Bryan Sinclair)

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

DRY CLEANER ENFORCEMENT DEFAULT ORDER

Item 28. [Docket No. 2006-1333-DCL-E](#). Consideration of a Default Order assessing administrative penalties against **Mohammed Sadiq Ali dba Dry Clean Super Station in Dallas County**; TCEQ ID No. RN104160924; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Mary Hammer, Jennifer Cook)

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

FIELD CITATIONS

Item 29. [Docket No. 2008-0536-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Gutierrez Oil Company dba La Bodega 1 in Hidalgo County**; RN105440978; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

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

Item 30. [Docket No. 2008-0471-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **First Texas Homes, Inc. in Collin County**; RN105447536; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

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

Item 31. [Docket No. 2008-0459-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **First Texas Homes, Inc. in Collin County**; RN105447544; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Bryan Sinclair)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 32. [Docket No. 2008-0021-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lattimore Materials Company, L.P. in Collin County**; RN101741163; 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, Bryan Sinclair)

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

Item 33. [Docket No. 2008-0053-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Goodyear Tire & Rubber Company in Tom Green County**; RN100572551; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Bryan Sinclair)

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

LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDER

Item 34. [Docket No. 2007-0518-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Corby Hicks** in **Travis County**; TCEQ ID No. RN103393344; for a landscape irrigator installer violation pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Anna Cox, Jennifer Cook)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 35. [Docket No. 2008-0244-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties against **Ivan's Pumping Service, Inc.** in **El Paso County**; RN103149456; for water quality and municipal solid 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. (Rebecca Johnson, Bryan Sinclair)

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

Item 36. [Docket No. 2008-0023-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rockdale** in **Milam County**; RN101190189; for water rights and public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 11, and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Bryan Sinclair)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDERS

Item 37. [Docket No. 2007-0840-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **George Williams** in **Bexar County**; TCEQ ID No. RN105189526; for municipal solid waste and air quality 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. (Benjamin O. Thompson, Jennifer Cook)

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

Item 38. [Docket No. 2007-0756-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Richard K. Song dba KS Cleaners** in **Denton County**; TCEQ ID No. RN103955639; for hazardous waste and dry cleaner registration violations pursuant to Tex. Water Code chs. 5, 7, and 26, 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. (Lena Roberts, Jennifer Cook)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 39. [Docket No. 2007-1752-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wichita Falls in Wichita County**; RN103049557; 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. (Cynthia McKaughan, Bryan Sinclair)

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

Item 40. [Docket No. 2005-1752-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Morgan Michael and Deven Michael dba M & M Tire in Orange County**; TCEQ ID No. RN104442256; 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 Tex. Admin. Code ch. 60. (Jacquelyn Boutwell, Jennifer Cook)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 41. [Docket No. 2008-0309-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **AMC Facilities, LP in Harris County**; RN101515773; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Andrew Hunt, Bryan Sinclair)

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

Item 42. [Docket No. 2008-0045-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Bynum in Hill County**; RN101612943; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Andrew Hunt, Bryan Sinclair)

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

Item 43. [Docket No. 2008-0149-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Fort Worth in Tarrant County**; RN100942259; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Bryan Sinclair)

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

Item 44. [Docket No. 2007-1999-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Archer City in Archer County**; RN101721587; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the

rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Bryan Sinclair)

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

Item 45. [Docket No. 2007-1855-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **Town of Windom in Fannin County**; RN103014619; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Jecha, Bryan Sinclair)

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

Item 46. [Docket No. 2007-1059-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Seminole in Gaines County**; RN102077955; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Bryan Sinclair)

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

Item 47. [Docket No. 2007-1594-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Pottsboro in Grayson County**; RN101920072; 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. (Lynley Doyen, Bryan Sinclair)

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

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

Item 48. [Docket No. 2005-1478-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mohinder Mashiana aka Mohinder Singh dba Lovely Food Mart in Denton County**; TCEQ ID No. RN102240769; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mary E. Coleman, Jennifer Cook)

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

Item 49. [Docket No. 2005-0570-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Good Brothers, Inc. dba Zoom In 5 in Tarrant County**; TCEQ ID No. RN102343399; 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. (Xavier Guerra, Jennifer Cook)

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

Item 50. [Docket No. 2007-1742-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Victor Ballas in Dallas County**; RN101552339; 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. (Shontay Wilcher, Bryan Sinclair)

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

Item 51. [Docket No. 2008-0006-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Zee Smoke Inc dba Lucky Stop in Jefferson County**; RN102784451; 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. (Thomas Greimel, Bryan Sinclair)

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

Item 52. [Docket No. 2007-1965-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Swati Holding, Company dba Ellinger Shell in Fayette County**; RN105068209; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Wallace Myers, Bryan Sinclair)

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

Item 53. [Docket No. 2007-1412-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Ben Kahlig in Falls County**; RN104590450; 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 DeFrancesco, Bryan Sinclair)

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

Item 54. [Docket No. 2007-2012-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **HICKS OIL & BUTANE CO. in Willacy County**; RN102958287; 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. (Shontay Wilcher, Bryan Sinclair)

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

Item 55. [Docket No. 2007-2038-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Farmersville Texaco, Inc. dba Farmersville Shell in Collin County**; RN102224474; 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, Bryan Sinclair)

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

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS

Item 56. [Docket No. 2006-2066-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Dennis Sparks in Palo Pinto County**; TCEQ ID No. RN102271350; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

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

Item 57. [Docket No. 2005-1479-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Anusha, Inc. dba Citgo Food Store in Harris County**; TCEQ ID No. RN102432838; 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. (Robert Mosley, Jennifer Cook)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 58. [Docket No. 2007-1569-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Buckholts in Milam County**; RN101234573; 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, Bryan Sinclair)

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

Item 59. [Docket No. 2007-1381-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alexander Moulding Mill Company in Hamilton County**; RN100828805; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Bryan Sinclair)

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

Item 60. [Docket No. 2007-1850-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cross Country Water Supply Corporation in McLennan County**; RN101439438; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Bryan Sinclair)

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

Item 61. [Docket No. 2007-2014-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rincon Water Supply Corporation in San Patricio County**; RN101458776 and RN101250538; for public drinking water violations pursuant to Tex.

Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality.
(Yuliya Dunaway, Bryan Sinclair)

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

Item 62. [Docket No. 2007-1851-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Post Oak Special Utility District in Navarro County**; RN101452209; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Bryan Sinclair)

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

Item 63. [Docket No. 2007-1595-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Point in Rains County**; RN101391407; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Christopher Keffer, Bryan Sinclair)

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

Item 64. [Docket No. 2007-1863-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Peachleaf Associates Venture #1, L.P. in Harris County**; RN101183499; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Christopher Keffer, Bryan Sinclair)

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

Item 65. [Docket No. 2007-1263-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of New Home in Lynn County**; RN101389146; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Bryan Sinclair)

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

Item 66. [Docket No. 2008-0159-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **JRS Mart, Inc. dba J C Korner in Brazoria County**; RN101264810; 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, Bryan Sinclair)

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

Item 67. [Docket No. 2007-1877-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Eastex Lumber & Supply, LLC in Harris County**; RN100677285; 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, Bryan Sinclair)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 68. [Docket No. 2005-1965-PWS-E](#). Consideration of a Default Order assessing administrative penalties against **Tempe Water Supply Corporation** in **Polk County**; TCEQ ID No. RN101456762; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Dinniah M. Chahin, Jennifer Cook)

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

WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT AGREED ORDER

Item 69. [Docket No. 2008-0073-WOC-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Randal Paul Manus** in **Tarrant and Parker Counties**; RN103617379; 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. (Christopher Keffer, Bryan Sinclair)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 70. [Docket No. 2008-0226-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Allco, Inc.** in **Jefferson County**; RN105373047; 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. (Lynley Doyen, Bryan Sinclair)

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

Item 71. [Docket No. 2007-0889-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Plano** in **Collin County**; RN103099156; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Bryan Sinclair)

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

Item 72. [Docket No. 2008-0121-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Austin** in **Travis County**; RN102077328; 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, Bryan Sinclair)

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

- Item 73. [Docket No. 2008-0089-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Gainesville in Cooke County**; RN101918050; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, Bryan Sinclair)

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

TMDL MATTER

- Item 74. [Docket No. 2008-0250-TML](#). Consideration for approval of the final Implementation Plan for one TMDL for dissolved oxygen in **Lake O' the Pines** (Segment 0403) of the Cypress Creek Basin, in **Camp, Marion, Morris, and Upshur Counties**.

Approve the final Implementation Plan for one TMDL for dissolved oxygen in Lake O' the Pines. BS/LS; all agree.

POST CLOSURE MATTER

- Item 75. [Docket No. 2006-0348-IHW](#). Consideration of the application by **Texas Tank Car Works, Inc.** for issuance of a post-closure order to authorize post-closure care of two hazardous waste landfill units pursuant to Tex. Health & Safety Code ch. 361; Tex. Water Code ch. 7; 40 Code of Federal Regulations Parts 264, 265, 270 and 271; and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 335. The facility is located at 2021 East 28th Street, San Angelo, **Tom Green County**, Texas. (Scott Gronewald, Susan Jere White, and John Williams)

Approve the application by Texas Tank Car Works, Inc. for issuance of a post-closure order to authorize post-closure care of two hazardous waste landfill units with amendments as outlined by the Executive Director at the agenda. BS/LS; all agree.

MISCELLANEOUS MATTERS

- Item 76. [Docket No. 2006-0407-UCR](#). Consideration of a request for a Commission order approving a contract designating service areas between the **City of Waco** (Waco), sewer Certificate of Convenience and Necessity (CCN) No. 20010, and the **City of Woodway** (Woodway), sewer CCN No. 20014, in **McLennan County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The parties seek the Commission's approval of their contract, which would result in the Commission amending the parties' sewer CCNs to dually certify Waco and Woodway as the sewer service providers to an approximately 22 acre tract that is currently within Woodway's CCN No. 20014. (Christiaan Siano, Lisa Fuentes)

Approve the contract between the City of Waco and the City of Woodway under TWC § 13.248, which will result in dual certification of approximately 22 acres previously certificated to Woodway; and issue the ED's proposed Order; with an additional sentence identifying the church tract as approximately 22 acres. BS/LS; all agree.

Item 77. [Docket No. 2008-0942-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 Texas Government Code, concerning acceptance of gifts by certain state agencies. (David Timberger)

Approve staff recommendations as reflected in the adopted Resolution including Exhibit A, which contains the names of the donors and descriptions and statements of the purposes of the gifts and which is attached to and incorporated in these minutes. BS/LS; all agree.

STATE IMPLEMENTATION PLAN

Item 78. [Docket No. 2008-0686-SIP](#). Consideration for publication of, and hearing on, proposed Eight-Hour Ozone Redesignation Request and Maintenance Plan State Implementation Plan Revision for the **Beaumont-Port Arthur** (BPA) area. The proposed SIP revision would request that the United States Environmental Protection Agency redesignate the BPA area to attainment for the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS) and provide a Maintenance Plan that will ensure the area remains in attainment of the NAAQS through 2021. (Walker Williamson, John Minter) (Rule Project No. 2008-006-SIP-NR)

Approve the publication of, and hearing on, proposed Eight-Hour Ozone Redesignation Request and Maintenance Plan State Implementation Plan Revision for the Beaumont-Port Arthur area. BS/LS; all agree.

STANDARD PERMIT MATTERS

Item 79. [Docket No. 2008-0824-AIR](#). Consideration for issuance of a new air quality standard permit for permanent rock and concrete crushers under 30 TAC Chapter 116, Subchapter F, Standard Permits. The new standard permit will be effective July 31, 2008. The issuance of the air quality standard permit for permanent rock and concrete crushers would replace the current permit by rule for rock crushers. Notice of the proposed new standard permit was published in the February 15, 2008, issue of the *Texas Register* (33 TexReg 1413). (Blake Stewart, Erin Selvera)

Approve issuance of a new air quality standard permit for permanent rock and concrete crushers under 30 TAC Chapter 116, Subchapter F, Standard Permits. BS/BG; LS present.

Item 80. [Docket No. 2008-1031-AIR](#). Consideration for issuance of amendments to the air quality standard permit for temporary rock and concrete crushers under 30 TAC Chapter 116, Subchapter F, Standard Permits. The amended standard permit will be effective July 31, 2008. The amendments to the air quality standard permit for temporary rock and concrete crushers would provide additional flexibility for facilities located at public works projects and provide consistency with the air quality standard permit for permanent rock and concrete crushers. Notice of the amended standard permit was published in the February 15, 2008, issue of the *Texas Register* (33 TexReg 1413). (Blake Stewart, Erin Selvera)

Approve issuance of amendments to the air quality standard permit for temporary rock and concrete crushers under 30 TAC Chapter 116, Subchapter F, Standard Permits. BS/BG; LS present.

RULE MATTERS

Item 81. [Docket No. 2008-0919-RUL](#). Consideration of a petition for rulemaking under **30 Texas Administrative Code, Chapter 20**, Rulemaking, Section 20.15. The petition requests rulemaking changes to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operational Controls of Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations. The National Armored Car Association is requesting that an exemption for armored vehicles from idling restrictions be added to the current list of exemptions under §114.517. (Theodore Kosub, John Minter) (Rule Project No. 2008-023-PET-NR)

Approve the petition for rulemaking under 30 Texas Administrative Code, Chapter 20. BS/LS: all agree.

Item 82. [Docket No. 2008-0600-RUL](#). Consideration for publication of, and hearing on, the proposed repeal of §§299.1-299.5, 299.11-299.18, 299.21-299.31, 299.51, and 299.61; and proposed new §§299.1-299.7, 299.11-299.17, 299.21-299.33, 299.41-299.46, 299.51, 299.52, 299.61, 299.62, 299.71, and 299.72 of **30 TAC Chapter 299**, Dams and Reservoirs. The proposed rule repeals the existing rule. The proposed rule relates to dam design; construction plans and specifications; construction; operation and maintenance; inspections; removal; emergency management; and site security. The proposed rule updates existing criteria to make them more consistent with current engineering practices. The proposed rule adds requirements for emergency action plans, gate operating plans, security plans, and better defines the dam owner responsibilities. The proposed rule requires new dams to meet certain design standards and requires additional nonstructural requirements of existing dams. The proposed rule removes small and intermediate-size, low-hazard dams from the periodic inspection schedule, and establishes an inspection frequency of five years for high and significant-hazard dams and large, low-hazard dams. The proposed rule allows inspections by the owner or the owner's representative in lieu of agency inspections. The proposed rule changes the definition of "dam", thus reducing the number of small, low-hazard dams under the regulation of the agency. The proposed rule updates all relevant cross-references and citations. (Warren D. Samuelson, Robin Smith) (Rule Project No. 2008-005-299-CE)

Approve for publication of, and hearing on, the proposed repeal of §§299.1-299.5, 299.11-299.18, 299.21-299.31, 299.51, and 299.61; and proposed new §§299.1-299.7, 299.11-299.17, 299.21-299.33, 299.41-299.46, 299.51, 299.52, 299.61, 299.62, 299.71, and 299.72 of 30 TAC Chapter 299 with amendments as outlined by the Executive Director. BS/LS; all agree.

Item 83. [Docket No. 2007-1043-RUL](#). Consideration of the adoption of amended Sections 335.6 and 335.25 of **30 TAC Chapter 335**, Industrial Solid Waste and Municipal Hazardous Waste. The adoption would implement House Bills 1457 and 1719, 80th Legislature, 2007, Regular Session. The adoption would eliminate the requirement for landowners to notify the Commission of on-site burial of animal carcasses provided they have an approved water quality management plan for that site. The adopted rule would also eliminate the use of poultry carcasses as swine food. The proposed rules were published for comment in the February 1, 2008 issue of the *Texas Register* (33 TexReg 895). (Tom Weirich, Tim Reidy) (Rule Project No. 2007-042-335-PR)

Adopt amended Sections 335.6 and 335.25 of 30 TAC Chapter 335. BS/LS; all agree.

Item 84. [Docket No. 2007-0996-RUL](#). Consideration of the adoption of amended Sections 293.11, 293.32, 293.41, 293.63, 293.201, and 293.202 of **30 TAC Chapter 293**, Water Districts. The

adoption would implement House Bill (HB) 576, HB 1127, HB 1886, HB 2984, HB 3378, HB 3770, and Senate Bill 657, 80th Legislature, 2007, relating to water districts. The adopted rulemaking would require that a district must accept a bid bond if a contract is over \$250,000; allow certain districts within Montgomery County to issue bonds supported by taxes to fund recreational facilities; allow a defined local governmental entity limited use of a design-build process to construct certain civil works projects; revise the qualifications to be a supervisor on the board of a Fresh Water Supply District (FWSD); allow a city with a certain population, when consenting to the creation of a district, to require that a district's water system meets the fire flow requirements adopted by the city; allow a petitioner seeking creation of a Municipal Utility District (MUD) to also request road powers at the time of creation; delete the requirement that a MUD have taxing authority before acquiring road powers; delete the requirement that a MUD have preliminary plan approval of proposed roads by the Texas Transportation Commission when obtaining road powers; define the types of roads that a MUD can finance and convey to a third party for operation and maintenance; increase the thresholds for bidding on district projects; and, allow the board of a special law district to elect to contract in accordance with Texas Water Code, Section 49.273, even if it conflicts with provisions in the district's special law. The proposed rules were published in the February 29, 2008 issue of the *Texas Register* (33 TexReg 1749). (Randy Nelson, Shana Horton) (Rule Project No. 2007-047-293-PR)

Adopt amended Sections 293.11, 293.32, 293.41, 293.63, 293.201, and 293.202 of 30 TAC Chapter 293. BS/LS; all agree.

Item 85. [Docket No. 2007-0995-RUL](#). Consideration of the adoption of amended Sections 230.1 - 230.3 and 230.9 of **30 TAC Chapter 230**, Groundwater Availability Certification for Platting. The adoption would implement Senate Bill (SB) 662, 80th Legislature, 2007. SB 662 requires the commission, in consultation with the Texas Water Development Board (TWDB), by rule, to require a plat applicant for the subdivision of a tract of land for which the intended water source is groundwater to provide the TWDB and any applicable groundwater conservation district (GCD) additional information required under Local Government Code, Sections 212.0101 or 232.0032, useful in performing GCD activities, conducting regional water planning, maintaining the TWDB's groundwater database, or conducting state studies on groundwater. In addition to the SB 662 changes, the adopted rulemaking would update citations to the Local Government Code and reference to the authority for laboratory accreditation and certification, arrange the definitions in alphabetical order, update the reference on state aquifers to reflect the most recent State Water Plan, and add definitions for "applicable groundwater conservation district or districts" and "executive administrator." The proposed rules were published in the February 29, 2008 issue of the *Texas Register* (33 TexReg 1744). (Kelly Mills, Ross Henderson) (Rule Project No. 2007-045-230-PR)

Adopt amended Sections 230.1 - 230.3 and 230.9 of 30 TAC Chapter 230. BS/LS; all agree.

Item 86. [Docket No. 2007-1808-RUL](#). Consideration of the adoption of the proposed repeal of **30 TAC Chapter 106**, Permits by Rule, Sections 106.142, Rock Crushers, 106.147, Asphalt Concrete Plants, and 106.223, Saw Mills. The adoption would repeal the permits by rule (PBRs) for rock crushers, asphalt concrete plants, and sawmills. The asphalt concrete plant PBR has not been available for use since 2003, and the rock crusher and sawmill PBRs are being replaced with standard permits. The proposed rules were published in the February 15, 2008 issue of the *Texas Register* (33 TexReg 1235). (Blake Stewart, Tim Eubank) (Rule Project No. 2007-011-106-PR)

Adopt the proposed repeal of 30 TAC Chapter 106 Sections 106.142, 106.147, and 106.223. BS/BG; LS oppose.

Item 87. **Docket No. 2008-1928-RUL**. Consideration of the adoption of the repealed **Sections 335.401-335.403 and 335.405-335.412 and new Sections 335.401-335.405, 335.407, 335.409, 335.411, 335.413, 335.415, 335.417, and 335.419**. The rulemaking would update requirements for the collection and disposal of household hazardous waste. The adoption would change the name of the subchapter; add and expand exclusions; allow the executive director to waive requirements if needed for disasters or emergencies; update requirements for notifications to the commission on collections; require reports on waste collected (date changed from proposal); remove the requirement to submit operation plans to the commission and require that the plans be followed during collections and used for training; specify who is responsible for meeting certain requirements; update provisions for proper transportation and disposal of wastes; provide provisions for the use of mobile collection units, and revise provisions for point of generation pick-up services; note other federal and state regulations that may apply to collections; clarify and augment training requirements for specific collection duties; remove requirements for permitted hazardous waste facilities accepting hazardous household waste, except for reporting on waste received directly from households; and clarify that household hazardous waste that is offered for reuse remains household hazardous waste if it is disposed rather than accepted for reuse. The proposed rules were published in the February 15, 2008 issue of the *Texas Register* (33 TexReg 1239). (Joseph Thomas, Diane Goss) (Rule Project No. 2007-005-335-AD)

Adopt the repealed Sections 335.401-335.403 and 335.405-335.412 and new Sections 335.401-335.405, 335.407, 335.409, 335.411, 335.413, 335.415, 335.417, and 335.419. BS/LS; all agree.

EXECUTIVE MEETING

Item 88. **Docket No. 2008-0001-EXE**. The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director and General Counsel, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 89. **Docket No. 2008-0002-EXE**. The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 90. **Docket No. 2008-0003-EXE**. The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of

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

The commission did not meet in an executive meeting.

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

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

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

OLD BUSINESS AGENDA

Wednesday, July 9, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

Item continued from the June 4, 2008 agenda.

- Item 1. [TCEQ Docket No. 2004-0507-PST-E; SOAH Docket No. 582-08-1241](#). Consideration of the Administrative Law Judge's Proposal for Decision and Default Order assessing administrative penalties and requiring certain actions of **Armaan Enterprises Inc. dba Stop N to Go** in **Tarrant County**, Texas; RN102385887; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. The Commission will also consider any timely filed exceptions and replies. (Xavier Guerra)

Item remanded to SOAH.

AGENDA

Wednesday, July 9, 2008

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. [TCEQ Docket No. 2006-1661-PST-E; SOAH Docket No. 582-07-2361](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **C.B. Express, Inc., dba Discount Beer & Cigarettes** in **Denton County**, Texas; RN101274389; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. The Commission will also consider timely filed exceptions and replies. (Benjamin O. Thompson)

Adopt the ALJ's Order with exceptions 1-2, 4-7, 10-11, & 13 as offered by the Executive Director. BS/LS; all agree.

- Item 2. [Docket No. 2008-0860-WR](#). Consideration of the Motion to Overturn filed by **GSHS Customer Service Building 1, Ltd.**("Movant"), which requests that the Commission overturn the Executive Director's issuance of Permit No. 12225 to the Movant because of discrepancies over the term of the permit and the river basin description contained on Page 3 of the signed permit. The ED issued the uncontested permit in accordance with Chapter 11 of the Texas Water Code and Chapter 50 of the Commission's rules. Permit No. 12225 is a water use permit issued to the Movant to authorize the impoundment of 15.5 acre-feet of water and a surface area of 2.69 acres for recreation purposes on an unnamed tributary of Grace Creek, tributary of the Sabine River in **Gregg County**. The Commission will also consider the response brief filed by the Executive Director, which recommends that the Commission grant the motion and issue Permit No. 12225 to the Movant with a new Page 3 containing different special conditions. (Robin Smith)

Grant the Motion to Overturn and issue the corrected permit. BS/LS; all agree.

- Item 3. [Docket No. 2008-0941-BGT](#). Consideration and Approval of the Agency's FY 2009 Recommended Operating Budget.

Approve the Agency's FY 2009 Recommended Operating Budget. BS/LS; all agree.

(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 12:30 P.M. AND WILL CONTINUE UNTIL 1:00 P.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.

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

/s/ Shannon Strong
Assistant General Counsel,
Shannon Strong

October 20, 2008
Date