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Chairman H.S. Buddy Garcia                      OLD BUSINESS AGENDA  
Commissioner Larry R. Soward  
Commissioner Bryan W. Shaw, Ph.D.    Wednesday, January 28, 2009

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the January 14, 2009 agenda.

Item 1. [Docket No. 2008-0515-RUL](#). Consideration of the adoption of amendments to Sections 291.3 and 291.144, and new Section 291.147 of **30 TAC Chapter 291**, Utility Regulations. The adoption would implement House Bill 149, 80th Legislature, 2007, Regular Session, relating to retail public water and sewer utilities. This rulemaking would add the definition of a nonfunctioning system and allow a retail public utility that takes over a nonfunctioning utility to charge reasonable temporary rates and give the retail public utility a reasonable period of time to bring the nonfunctioning system into compliance with commission rules before the commission assesses penalties. The proposed rules were published in the August 22, 2008 issue of the *Texas Register* (33 TexReg 6736). (Tammy Benter, Ross Henderson) (Rule Project No. 2008-014-291-PR)

Approve the adoption of the proposed amendments to 30 TAC Chapter 291, Utility Regulations implementing TWC § 13.046 replacing the phrase "retail public utility subject to the original rate jurisdiction of the Commission" with "retail public utility other than a municipally owned utility or a water and sewer utility subject to the original rate jurisdiction of the municipality"; in proposed Section 291.147(a), modify the Response to Comments section of the preamble on page 10 to clarify that municipalities have original jurisdiction over water and sewer utilities with TWC § 13.042 and not retail public utilities, and include any other changes the Executive Director deems necessary to implement this carve out. BS/LS; all agree.

## AGENDA

Wednesday, January 28, 2009

### 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. 2005-2089-UCR; SOAH Docket No. 582-06-1367.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of the **City of Meridian** to amend its Certificate of Convenience and Necessity Nos. 10884 and 20349 to increase its certificated areas in **Bosque County**, Texas, for providing retail water and sewer utility service. The Commission will also consider the application and related filings, exceptions, and replies. (Kamal Adhikari, Stefanie Skogen)

Adopt the ALJ's Proposal for Decision and Order with the Executive Director's exceptions with regard to Finding of Fact Nos. 7, 26, 28 and Conclusion of Law Nos. 3 and 7 and Ordering Provision No. 2 and deny all other exceptions; and also 1) amend Conclusion of Law No. 7 to state "Meridian's water and sewer CCN amendment application should be granted for the proposed areas set out in the water and sewer CCN maps in Attachment JEH-11 to the City's exhibit APP-2A"; 2) amend Ordering Provision No. 2 to state that "The CCNs shall include the proposed areas set out in the water and sewer CCN maps in Attachment JEH-11 to the City's exhibit APP-2A"; 3) amend Ordering Provision No. 1 to state that "The application of the City of Meridian to amend its Certificate of Convenience and Necessity Nos. 10884 and 20349 in Bosque County, Texas, as amended during the hearing and reflected in the proposed areas set out in the water and sewer CCN maps in Attachment JEH-11 to the City's exhibit APP-2A is granted"; 4) add as new Finding of Fact No. 43 "While all parties participated in the hearing, the City participated most extensively and benefited most directly from the transcript given its citations to the record, and it has the demonstrated financial ability to pay all of the transcription costs"; 5) add as new Conclusion of Law No. 8 "Allocating 100% of the transcription costs to the City is a reasonable allocation in light of the factors set forth in 30 TAC § 80.263(d)." 6) add as new Ordering Provision No. 3 "The City of Meridian is allocated all of the costs for the transcripts that it ordered with regard to the SOAH hearing"; and 7) renumber the remaining ordering provisions accordingly. LS/BS; all agree.

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

- Item 2. [Docket No. 2008-1010-MWD.](#) Consideration of the application by **Aransas County Municipal Utility District No. 1** for a major amendment of TCEQ Permit No. WQ0011624001, to authorize the discharge of treated domestic wastewater to a receiving body of water and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 88,000 gallons per day via irrigation to a daily average flow not to exceed 131,500 gallons per day in the Interim II phase and to a daily average flow not to exceed 263,000 gallons per day in the Final phase via discharge to a receiving body of water. The facility is located approximately 1,100 feet south of

8th Street and approximately 500 feet west of Park Road 13 (Palmetto Drive) in the Lamar Peninsula in **Aransas 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. (John Williams, Julian Centeno, Jr.)

1) Grant the hearing requests of Emil Broz, Stephen M. Carelton, Jim Collins, Pam Collins, Donald Gyorog, Patricia Gyorog, Marjorie Greeson, Beth Hester, Bob Humble, SHERALYN Humble, Thomas McChesney, Robert A. Nelson, Jr. Patrick W. Pollok, and Jane Wicker; 2) refer to SOAH as a preliminary matter for a determination on the associational standing of Holiday Beach Property Owners Association and Protect Lamar Peninsula, the Commission directs that only Mr. William Schmidt's status as an affected person for the Holiday Beach Property Owners Association and Neil Adams, Mr. and Mrs. Lightman, and Ken Ballard as affected persons for the Protect Lamar Peninsula are to be relied upon initially for purpose of establishing associational standing those two associations, the Commission further directs that only if the ALJ determines that they are affected persons may the ALJ conclude that the HBPOA and the PLP have satisfied the associational requirements; 3) refer to SOAH as a preliminary matter for a determination on the affected party status of the following persons; Neil Adams, Ken Ballard, Richard Caldwell, Jim Collins, Pam Collins, David Gill, Marshal Lightman, Victoria Lightman, and William Schmidt; 4) refer to SOAH for a contested case hearing the following issues: 1) Whether the proposed effluent limits in the draft permit meet Texas Surface Water Quality Standards in 30 TAC Chapter 307; 2) Whether the proposed discharge meets anti-degradation requirements in 30 TAC § 307.5 and TCEQ's anti-degradation policy and implementation procedures; 3) Whether the facility meets buffer zone requirements in 30 TAC § 309.13(e) for the abatement and control of nuisance odors; 4) Whether there is a need for the expanded capacity based on design requirements in 30 TAC § 217.32; 5) Whether there are adequate contingency plans for plant failure, including emergency holding or retention facilities, as required by 30 TAC § 217.16(b); 6) Whether the Applicant's compliance history requires special conditions in the draft permit as required by Texas Water Code § 26.0281; 7) Whether the proposed discharge violates the rules of the Texas Coastal Zone Management Program as required by 30 TAC Chapter 505; 8) Whether existing water quality uses will be impaired by placing treated wastewater into two unnamed holding ponds; 9) Whether the proposed discharge presents a hazard to human health and safety and public waters; 10) Whether increasing the volume of the discharge as proposed will have an adverse impact on algae growth and other pollution in Aransas Pass or Copano Bay; 11) Whether nutrients in the proposed discharge will have an adverse impact on submerged seagrass; 12) Whether sufficient studies have been performed and whether sufficient technical data has been obtained to determine possible impacts of the proposed discharge on human health and safety and marine wildlife; and 13) Whether the receiving waters have sufficient circulation to provide an adequate mixing zone for the proposed discharge of effluent; 5) set a hearing during of 10 months from the preliminary hearing to issuance of the Proposal for Decision; 6) direct the Executive Director to participate in the contested case hearing; 7) deny the remaining hearing requests and requests for reconsideration; and 8) deny the remaining issues. BS/LS; all agree.

Item 3. [Docket No. 2008-1082-MWD](#). Consideration of the application by **RMD Construction, Inc. and City of Pflugerville** for a major amendment of TPDES Permit No. WQ0014642001, to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 950,000 gallons per day to an annual average flow not to exceed 3,000,000 gallons per day. The facility will be located 2,500 feet east of the intersection of Farm-to-Market Road 973 and New Sweden Church Road in **Travis 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. (Celia Castro, Julian Centeno, Jr.)

Grant the hearing request of Ismael Guzman, refer to SOAH the following two issues: 1) whether the Applicants have shown a need for the proposed flow increase and 2) whether the requested discharge volume is appropriate for the carrying capacity of the specific receiving stream, offer a concurrent referral to ADR, deny all remaining issues, and set the maximum duration of the hearing as 9 months. LS/BS; all agree.

#### **USE DETERMINATION MATTER**

Item 4. [Docket Nos. 2007-0724-MIS-U, 2007-0732-MIS-U, 2007-0733-MIS-U, 2007-0734-MIS-U, 2007-0735-MIS-U, 2007-0736-MIS-U, 2007-0737-MIS-U, 2007-0738-MIS-U, 2007-0739-MIS-U, 2007-0740-MIS-U.](#) Consideration of the appeals filed by **Valero Refining – Texas, L.P., Diamond Shamrock Refining Company, L.P., and The Premcor Refining Group, Inc.** with regard to ten use determinations issued by the Executive Director regarding Valero Corpus Christi Refinery (**Nueces County**), Valero Houston Refinery (**Harris County**), Diamond Shamrock McKee Refinery (**Moore County**), Valero Port Arthur Refinery (**Jefferson County**), and Valero Texas City Refinery (**Galveston County**). The use determinations were assigned Application Numbers 06-10268, 06-10270 and 06-10271, and 06-10279 through 06-10285. The Commission will also consider all responses and reply briefs.

Item continued to a future agenda.

#### **EMERGENCY ORDER**

Item 5. [Docket No. 2008-1634-UCR-E.](#) Consideration of whether to modify, affirm, or set aside the Emergency Order issued on November 17, 2008, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341,f and the rules of the Texas Commission on Environmental Quality to address the abandonment of a retail public utility (Utility) by **Richard Hodges dba Ancar Water System and Lester Saucier dba Ancar Water System**, in **Orange County**; TCEQ ID No. RN105234819; to ensure continued operation of the Utility, and to provide continuous and adequate service to the customers. The Emergency Order appointed Mark Foust as temporary manager of the Utility. (Dinniah M. Chahin)

Affirm the Executive Director's Emergency Order against Richard Hodges and Lester Saucier dba Ancar Water System. LS/BS; all agree.

#### **MISCELLANEOUS MATTERS**

Item 6. [TCEQ Docket No. 2007-1011-UCR.](#) Consideration of a request for a Commission order approving a contract designating service areas between the **Mount Zion Water Supply Corporation** ("Mount Zion"), water certificate of convenience and necessity ("CCN") No. 10088, and the City of Fate ("City"), water CCN No. 12889, in **Rockwall County**, Texas pursuant to section 13.248 of the Texas Water Code. Currently, Mount Zion holds a CCN that includes the approximate 24.328 acres in question. Under the Agreement, Mount Zion will transfer the portion of its CCN that covers this area to the City. No customers or facilities are proposed to be transferred. (Ron Olson, Lisa Fuentes)

Approve the contract between Mount Zion Water Supply Corporation and the City of Fate under TWC § 13.248 which will result in the transfer of approximately 24.328 acres to Fate's CCN No. 12889 and issue the Executive Director's revised proposed Order. BS/LS; all agree.

Item 7. [Docket No. 2008-1348-IWD](#). Consideration of issuance of a renewed **General Permit No. TXG530000**, which authorizes the discharge of wastewater from on-site treatment systems from single family residences located within the San Jacinto River Basin in **Harris County**, Texas into or adjacent to water in the state subject to specific effluent limitations. This permit specifies which residences may be covered under this general permit. (Yvonna Miramontes, Alicia Lee)

Adopt the Executive Director's proposed resolution approving the issuance of amended and renewed General Permit No. TXG530000. BS/LS; all agree.

### **AGRICULTURAL ENFORCEMENT AGREED ORDERS**

Item 8. [Docket No. 2008-1171-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Caprock Dairy, L.L.C.** in **Lamb County**; RN101524999; 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. (Steve Villatoro, Bryan Sinclair)

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

Item 9. [Docket No. 2008-1020-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jon Klemme dba Klemme Dairy** in **Hutchinson County**; RN104479043; 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.

### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 10. [Docket No. 2008-0409-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alcoa World Alumina LLC** in **Calhoun County**; RN100242577; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, Bryan Sinclair)

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

Item 11. [Docket No. 2008-1272-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **LDH Energy Mont Belvieu L.P.** in **Chambers County**; RN102575925; 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. (Thomas Jecha, Bryan Sinclair)

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

Item 12. [Docket No. 2008-1222-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Flint Hills Resources, LP** in **Nueces County**; RN100235266; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Bryan Sinclair)

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

Item 13. [Docket No. 2008-1053-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Oxy Vinyls, LP** in **Harris County**; RN100224674; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Bryan Sinclair)

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

Item 14. [Docket No. 2008-0821-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation** in **Jefferson County**; RN102450756; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, Bryan Sinclair)

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

Item 15. [Docket No. 2008-1341-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Valero Refining-Texas, L.P.** in **Galveston County**; RN100238385; 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 16. [Docket No. 2007-1080-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company LP** in **Harris County**; TCEQ ID No. RN103919817; 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. (Laurencia Fasoyiro, Lena Roberts)

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

Item 17. [Docket No. 2007-0286-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP** in **Brazoria County**; TCEQ ID No. RN100825249; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Lena Roberts)

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

Item 18. [Docket No. 2007-1981-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **The Dow Chemical Company** in **Brazoria County**; TCEQ ID No. RN100225945; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jim Sallans, Lena Roberts)

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

Item 19. [Docket No. 2008-1074-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **INEOS USA LLC** in **Brazoria County**; RN102326972; 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 20. [Docket No. 2008-1011-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Holly Energy Partners - Operating, L.P.** in **El Paso County**; RN101049195; 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. (Jeremy Escobar, Bryan Sinclair)

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

Item 21. [Docket No. 2008-0431-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ConocoPhillips Company** in **Hutchinson County**; RN102495884; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Bryan Sinclair)

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

Item 22. [Docket No. 2008-0805-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Building Materials Corporation of America** in **Dallas County**; RN100788959; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, Bryan Sinclair)

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

Item 23. [Docket No. 2008-0782-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Long Beach Shavings Co., Inc. dba TexPak** in **Montgomery County**; RN100885813; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Miriam Hall, Bryan Sinclair)

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

Item 24. [Docket No. 2008-1342-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Johnson County Pipe, Inc. in Johnson County**; RN103900858; 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. (Carlie Konkol, Bryan Sinclair)

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

Item 25. [Docket No. 2008-1111-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shell Pipeline Company LP in Jefferson County**; RN102027174; 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 26. [Docket No. 2008-1271-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Douglas Wayne Harris dba MO-ROCK in Hamilton County**; RN104967492; 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. (Carlie Konkol, Bryan Sinclair)

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

Item 27. [Docket No. 2008-1384-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Trinity Industries, Inc. in Tarrant County**; RN100225226; 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. (Jorge Ibarra, P.E., Bryan Sinclair)

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

Item 28. [Docket No. 2007-0214-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Exxon Mobil Corporation in Harris County**; TCEQ ID No. RN102579307; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Oloko, Lena Roberts)

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

Item 29. [Docket No. 2007-0837-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shell Chemical LP and Shell Oil Company in Harris County**; TCEQ ID No. RN100211879; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Lena Roberts)

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



Item 30. [Docket No. 2008-0883-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kuraray America, Inc.** in **Harris County**; RN100212216; 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 31. [Docket No. 2008-1411-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Atlas Roofing Corporation** in **Morris County**; RN101633287; 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 32. [Docket No. 2008-0995-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Matrix Metals LLC** in **Fort Bend County**; RN100218205; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Bryan Sinclair)

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

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

Item 33. [Docket No. 2008-1241-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **IH-10/Loop 1604 Partners, Ltd.** in **Bexar County**; RN105504161; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lanae Foard, Bryan Sinclair)

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

#### **FIELD CITATIONS**

Item 34. [Docket No. 2008-1789-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **City of Austin** in **Travis County**; RN103153987; 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 35. [Docket No. 2008-1791-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Red River Biodiesel, Ltd.** in **Bowie County**; RN105186548; 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 36. [Docket No. 2008-1798-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Image Homes, Ltd.** in **Bexar County**; RN105635056; 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 HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS**

- Item 37. [Docket No. 2007-0507-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Opti-Blast, Inc.** in **Cherokee County**; RN102157856; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Bryan Sinclair)

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

- Item 38. [Docket No. 2007-1695-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties against **Itasca Landfill TX, LP** in **Hill County**; RN100213412; for industrial hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Shelton, Bryan Sinclair)

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

### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

- Item 39. [Docket No. 2008-0981-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Campbell Soup Supply Company L.L.C.** in **Lamar County**; RN100216753; 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. (Steve Villatoro, Bryan Sinclair)

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

- Item 40. [Docket No. 2008-0788-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TIN Inc.** in **Orange County**; RN100214428; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lanae Foard, Bryan Sinclair)

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

## LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDER

- Item 41. [Docket No. 2006-1905-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **John R. Limas** in **Randall County**; TCEQ ID No. RN103929220; for landscape irrigation installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Dinniah M. Chahin, Lena Roberts)

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

## MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

- Item 42. [Docket No. 2008-1112-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **State Service Co., Inc.** in **San Patricio County**; RN102566429; for air quality and industrial and hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 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. (John Muennink, Bryan Sinclair)

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

- Item 43. [Docket No. 2008-0904-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **LUFKIN CREOSOTING CO., INC.** in **Angelina County**; RN101638906; for public drinking water and industrial and hazardous waste violations pursuant to Tex. Health & Safety Code chs. 341 and 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Bryan Sinclair)

Item remanded to the Executive Director.

- Item 44. [Docket No. 2008-0853-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lonzo Gale dba Lass Utility Service Company** in **Waller County**; RN102691995; for public drinking water and water utilities violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Bryan Sinclair)

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

- Item 45. [Docket No. 2008-1221-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Victoria** in **Victoria County**; RN102352168; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Bryan Sinclair)

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

Item 46. [Docket No. 2008-0729-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **San Pedro Canyon Water Company in Val Verde County**; RN102673167; for public drinking water and public water utilities violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

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

Item 47. [Docket No. 2008-0683-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Piertsje Deboer Vanderlei and Kornelis Wilt Vanderlei dba 5 Star Dairy in Lamb County**; RN101516631; for industrial and hazardous waste and water quality violations pursuant to Tex. Health & Safety Code chs. 361 and 366, 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.

#### **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 48. [Docket No. 2007-0679-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties against **San Antonio Disposal Interests, L.P. dba Target Brush and Grinding LLC in Bexar County**; TCEQ ID No. RN103760864; 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. (Lena Roberts)

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

Item 49. [Docket No. 2005-1908-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties against **Ricardo Aguero dba Aguero's Trucking in Webb County**; TCEQ ID No. RN104154562; 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. (Xavier Guerra, Lena Roberts)

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

#### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 50. [Docket No. 2008-1199-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Byers in Clay County**; RN101720415; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steve Villatoro, Bryan Sinclair)

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

Item 51. [Docket No. 2008-0869-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County Municipal Utility District No. 82** in

**Harris County**; RN102183696; 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.

- Item 52. [Docket No. 2008-0533-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Orange in Orange County**; RN101613644; 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 53. [Docket No. 2008-1141-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Syed N. Hyder in Brazos County**; RN102097789; 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. (Steve Villatoro, Bryan Sinclair)

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

- Item 54. [Docket No. 2008-1183-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **1977 Kindred II, L.P. in Harris County**; RN101522522; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lanae Foard, Bryan Sinclair)

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

- Item 55. [Docket No. 2008-0983-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County in Harris County**; RN102079423; 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. (Steve Villatoro, Bryan Sinclair)

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

#### **PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

- Item 56. [Docket No. 2008-1184-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Pasha Sajjad dba King Food Citgo in Montgomery County**; RN101804441; 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 57. [Docket No. 2008-1381-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **AWAD ENTERPRISES INC dba A Madco Food Store in Harris County**; RN102045598; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, Bryan Sinclair)

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

Item 58. [Docket No. 2008-0965-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U-2 STORES, INC. dba New Era Food Mart in Harris County**; RN101885564; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Bryan Sinclair)

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

Item 59. [Docket No. 2008-1235-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Jafar Hakimzadeh dba Memorial Park Shell in Harris County**; RN101444073; 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. (Wallace Myers, Bryan Sinclair)

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

Item 60. [Docket No. 2008-1207-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Santos Barcenas dba Buckets Convenience Store in Tom Green County**; RN101446680; 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, Bryan Sinclair)

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

Item 61. [Docket No. 2008-1087-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MOHSIN INC. dba Green Acre Mart in Jim Wells County**; RN102345162; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, Bryan Sinclair)

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

Item 62. [Docket No. 2008-1302-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **PostOak Retailer's Inc. dba Welcome Food Mart in Harris County**; RN102372299; 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, Bryan Sinclair)

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

Item 63. [Docket No. 2008-1078-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Methodist Hospital, Plainview, Texas dba Covenant Hospital Plainview** in **Hale County**; RN101745941; 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 64. [Docket No. 2006-1860-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jack R. Wade dba J & S Grocery** in **Houston County**; TCEQ ID No. RN101908846; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tracy Chandler, Lena Roberts)

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

Item 65. [Docket No. 2008-1245-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **FAIRWAY ENTERPRISES, INC. dba 1st Choice Food Store 1** in **Harris County**; RN102252590; 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, Bryan Sinclair)

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

Item 66. [Docket No. 2006-0048-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kamal Kassira dba East Food Mart** in **Tarrant County**; TCEQ ID No. RN102045739; 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. (Jacquelyn Boutwell, Lena Roberts)

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

#### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 67. [Docket No. 2006-2220-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Millenium Gasoline Corporation dba Teasley Shell** in **Denton County**; TCEQ ID No. RN101556694; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 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. (Tracy Chandler, Lena Roberts)

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

Item 68. [Docket No. 2006-1473-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Classic Convenience Inc. dba Step In Food** in **Harris County**; TCEQ ID No. RN102365392; 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. (Dinniah M. Chahin, Lena Roberts)

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

### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDER**

Item 69. [Docket No. 2006-0322-PST-E](#). Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of **David McBirnie dba Little Papas in Culberson County**; TCEQ ID No. RN102032901; 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. (Jacquelyn Boutwell, Lena Roberts)

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

### **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 70. [Docket No. 2008-0967-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cottonwood Creek MHP, L.P. in Dallas County**; RN101442259; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Bryan Sinclair)

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

Item 71. [Docket No. 2008-1391-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Boyd R. Freitag dba Friday's General Store in Blanco County**; RN104711163; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Bryan Sinclair)

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

Item 72. [Docket No. 2008-1280-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Mount Vernon in Franklin County**; RN101391399; 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 73. [Docket No. 2008-1213-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Greenwood Ventures Inc. in Midland County**; RN102689213; 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 74. [Docket No. 2008-0988-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lawn in Taylor County**; RN101406916; 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.

#### **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 75. [Docket No. 2006-1060-PWS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **D.W. Subdivision\_ Water Supply Corporation in Washington County**; TCEQ ID No. RN101259075; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Dinniah M. Chahin, Lena Roberts)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 76. [Docket No. 2008-0978-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Central Texas Water Supply Corporation in Bell County**; RN102673480; 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. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

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

Item 77. [Docket No. 2008-1106-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **New West Construction, LLC in Ellis County**; RN105509194; 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. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

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

#### **RULE PETITIONS**

Item 78. [Docket No. 2008-1882-RUL](#). Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality on December 3, 2008 by two individuals. The petitioners request the adoption of a requirement in **Title 30 of the Texas Administrative Code** that private water wells have a testable backflow prevention assembly or air gap installed downstream of the well pump and upstream of any other appurtenances or branches. (Joel Klumpp, Stefanie Skogen) (Rule Project No. 2009-010-PET-NR)

Adopt the Executive Director's revised proposed Order denying the petition for rulemaking based on a lack of jurisdiction. BS/LS; all agree.

Item 79. [Docket No. 2008-1914-RUL](#). Consideration of a petition for rulemaking submitted by Elk Corporation of Texas under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petitioner is requesting an exemption from **30 TAC Chapter 117**, Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas, Division 4, Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources. The petitioner is requesting amendments to Section 117.403(a)(12) to exempt low temperature drying and curing ovens used in mineral wool-type fiberglass manufacturing and wet-laid, non-woven fiber mat manufacturing in which nitrogen-containing resins or other additives are used. (Bogdan Slomka, Chisum Cooke) (Rule Project No. 2009-012-PET-NR)

Initiate rulemaking to consider including an exemption as flows from the request in the petition. LS/BS; all agree.

### **RULE MATTER**

Item 80. [Docket No. 2008-0863-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 336**, Radioactive Substance Rules, Sections 336.1, 336.101, 336.103, 336.105, 336.107, 336.1105, 336.1109, 336.1113, 336.1125, and 336.1235; new Sections 336.114, 336.208, 336.210, 336.1301, 336.1303, 336.1305, 336.1307, 336.1309, 336.1311, 336.1313, 336.1315, and 336.1317. The commission also adopts amendments to **30 TAC Chapter 37**, Financial Assurance, Sections 37.9001, 37.9030, 37.9035, 37.9040, 37.9045, and 37.9050; **30 TAC Chapter 39**, Public Notice, Sections 39.403, 39.651, 39.653, 39.702, 39.703, and 39.707; new Section 39.655; amendment to **30 TAC Chapter 55**, Request for Reconsideration or Contested Case Hearings; Public Comment, Section 55.201; amendments to **30 TAC Chapter 305**, Consolidated Permits, Sections 305.49, 305.62, and 305.127; amendments to **30 TAC Chapter 331**, Underground Injection Control, Sections 331.2, 331.7, 331.13, 331.45, 331.46, 331.82, 331.84 -331.86, 331.103 - 331.107, and 331.143; and new Sections 331.87, 331.108, 331.109, 331.220 - 331.225. The adoption would implement Senate Bill (SB) 1604, 80th Legislature, 2007, Regular Session, House Bill 3838, 80th Legislature, 2007, Regular Session, and House Bill 1567, 78th Legislature, 2003, relating to radioactive material licensing, including uranium mining. SB 1604 also addresses the TCEQ's underground injection control program for regulation of in situ uranium mining and requires the TCEQ to establish and administer a new state fee for the disposal of radioactive wastes other than low-level radioactive waste. In addition, the rulemaking would establish the remaining technical requirements, application processing requirements, public notice requirements, licensing and application fees, low-level radioactive waste disposal fees, and financial assurance requirements for radioactive material licensing, including those programs transferred from the Department of State Health Services to the TCEQ. The proposed rules were published in the September 5, 2008 issue of the *Texas Register* (33 TexReg 7422). (Susan Jablonski, Don Redmond, Amie Richardson) (Rule Project No. 2007-029-336-PR)

Item continued to the February 11, 2009 agenda.

### **MISCELLANEOUS MATTERS**

Item 81. [Docket No. 2008-1340-RES](#). Consideration of a Resolution to extend the existence of the **Water Utility Operator Licensing Advisory Committee** ("Committee") until August 31, 2012, and to appoint six members to the Water Utility Operator Licensing Advisory Committee of the Texas Commission on Environmental Quality. The Committee advises the Commission on

matters related to the training and licensing of water and wastewater operators. These new members would replace five members whose terms expired on August 31, 2008 and one new member to complete the unexpired term of a member who passed away. Staff further requests the terms of four current and one new member be extended one additional year. The extension will allow the Commissioners to appoint new members to the Committee every other year. (Noreen Helmle, Trey Jackson)

Adopt the Executive Director's proposed revised Resolution continuing the existence of the Committee until August 31, 2012, extending the terms of Carol V. Batterton, Ms. Carola G. Serrato, Ginger C. Laird, Robert Rowell, and David Sanders for an additional year and making the following appointments: Matthew Boober, James Fischer, William F. Quinn, Jr., Ghulam Sumdani, and Michael Vollmar to expire on August 31, 2012 and Mark W. Routon to serve the remainder of Mr. Sanders' term which will conclude on August 31, 2010. BS/LS; all agree.

Item 82. [Docket No. 2009-0059-RES.](#) Consideration of a resolution delegating certain duties and authorities to the General Counsel, including the authority to manage requests for reconsideration and the authority to make clerical and clarification changes to documents adopted by the Commission, pursuant to Texas Water Code Section 5.110.

Adopt the Resolution concerning the delegation of certain duties and authorities to the General Counsel as reflected by Docket No. 2009-0059-RES. LS/BS; all agree.

### **PUBLIC COMMENT SESSION**

Item 83. 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 84. **Docket No. 2009-0001-EXE.** The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director and General Counsel, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 85. **Docket No. 2009-0002-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open

meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 86. **Docket No. 2009-0003-EXE.** The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

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

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

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

/s/ Tracy Gross  
Assistant General Counsel,  
Tracy Gross

02/10/2009  
Date