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Chairman H.S. Buddy Garcia  
Commissioner Larry R. Soward  
Commissioner Bryan W. Shaw, Ph.D. Wednesday, August 12, 2009

## AGENDA

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

#### **PROPOSALS FOR DECISION**

Item 1. [TCEQ Docket No. 2007-1117-MWD-E; SOAH Docket No. 582-08-2379](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **The Fort Worth Boat Club** in **Tarrant County**, Texas; Permit No. WQ0011123001; RN101193811; regarding water quality violations pursuant to 30 Tex. Admin. Code ch. 305 and Tex. Water Code chs. 7 and 26. The Commission will also consider timely filed exceptions and replies. (Kari Gilbreth)

Adopt the ALJ's Proposal for Decision and Order, as revised to include all of the suggested exceptions and modifications recommended by the Executive Director and amend Finding of Fact No. 6 by substituting "January 23, 2008" for the "January 3, 2008" date mentioned in that finding. BS/LS; all agree.

Item 2. [TCEQ Docket No. 2008-1303-PWS-E; SOAH Docket No. 582-09-2143](#). Consideration of the Administrative Law Judge's Proposal for Decision and Default Order assessing administrative penalties against **Dolores A. Luke dba Little Big Horn Services** in **Hardin County**, Texas; PWS Registration No. 1000071; RN101228740; regarding public water system violations pursuant to 30 Tex. Admin. Code Chapter 290 and Tex. Health & Safety Code Chapter 341. The Commission will also consider timely filed exceptions and replies. (Tammy L. Mitchell)

Adopt the ALJ's Proposal for Decision and proposed Default Order with the following changes: 1) Modify the Respondent's name in the second sentence of Ordering Provision No. 1 on page six to read "Dolores A. Luke" and 2) Delete paragraph seven in the Ordering Provisions. LS/BS; all agree.

- Item 3. [TCEQ Docket No. 2008-1760-AIR; SOAH Docket No. 582-09-1236](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **K & K Tank Cleaning Systems, Inc.** for the renewal of Air Quality Permit No. 31434 pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 116. The facility is located at 2450 Cold Springs Road, Fort Worth, in **Tarrant County**, Texas. The Commission will also consider timely public comments, the application and related filings, exceptions and replies. (Tim Eubank)

Adopt the ALJ's Proposal for Decision and proposed Order with the Executive Director's proposed exceptions. BS/LS; all agree.

### HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

- Item 4. [Docket No. 2009-0590-AGR](#). Consideration of the application by **Gerben Leyendekker** to convert State Registration No. WQ0003259000 to a Texas Pollution Discharge Elimination System (TPDES) individual permit for a Concentrated Animal Feeding Operation (CAFO) and for a major amendment to expand the existing dairy cattle facility from 700 head to a maximum capacity of 999 head, of which 999 head are milking cows. The facility is located on the south side of County Road 261 approximately 3 miles east of the intersection of County Road 261 with Farm-to-Market Road 219 in **Erath County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment and the Executive Director's Response to Comments. (Robert Brush, James Moore)

Deny the Bosque River Coalition's hearing request; revise the Executive Director's Response to Public Comments to refer to "Special Provision X.P." rather than "Special Provision X.Q." and to include the text of X.P.4. as set out in the corrected copy of the proposed permit; X.P.4. provides that channelized flow leaving the grass waterway is prohibited in this permit; adopt the revised Response to Comments as the Commissioners' Response to Public Comment; and issue the draft permit filed by the Executive Director on 7/23/2009 in the Office of the Chief Clerk. BS/BG; LS opposed.

- Item 5. [Docket No. 2009-0709-AGR](#). Consideration of the application by **Randy Earl Wyly** for a major amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0003160000, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicant to expand an existing Dairy facility from 1,500 head to a maximum capacity of 3,000 head, of which 3,000 head are milking cows. The facility is located on the west side of County Road 209, approximately 1.5 miles south of the intersection of County Road 209 and U.S. Highway 67. This intersection is approximately 7 miles southeast of Stephenville, in **Erath 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. (Michael T. Parr, James Moore)

Deny the Bosque River Coalition's hearing request; adopt the Executive Director's Response to Comments; and issue the draft permit as recommended by the Executive Director in Response to Public Comments. BS/LS; all agree.

- Item 6. [Docket No. 2009-0680-AGR](#). Consideration of the application by **Cottonwood Auction Barn, L.L.C.** for renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. 04136, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicant to

operate an existing auction barn facility at a maximum capacity of 1,800 head. The facility is located on the south side of State Highway 6 approximately four and two tenths (4.2) miles east of the intersection of Farm-to-Market Road 219 and State Highway 6 in Dublin, **Erath 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. (Alicia Lee, James Moore)

Find that there is no right to a hearing in this matter pursuant to TWC § 26.028(d) and 30 TAC § 55.201(i)(5); deny all hearing requests based on the finding that there is no right to a hearing in this matter; revise the Executive Director's Response to Comments as follows: 1) Revise references in Response 27 from "Section VII.A.8.e.(5)(i)" to "Section VII.A.7.e.(5)(i)" as set out on page 14 in the draft permit; and 2) Revise the reference in Response 32 from "Special Provision X.I." to "Special Provision X.H." as set out on page 28 of the draft permit; adopt the revised Response to Comments as the Commission's Response to Comments; and issue the Executive Director's draft permit. BS/LS; all agree.

Item 7. **Docket No. 2009-0545-SLG**. Consideration of the application by the **City of Gatesville** for a renewal of TCEQ Permit No. 04464, which authorizes the land application of sewage sludge and water treatment plant sludge for beneficial use. The current permit authorizes land application of sewage sludge and water treatment plant sludge for beneficial use on 25 acres. This permit will not authorize a discharge of pollutants into waters in the State. The land application site is located on the Gatesville Airport property, approximately one mile southwest of the intersection of State Highway 116 and U.S. Highway 84 in **Coryell 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, Kellie Crouch-Elliott)

Grant the hearing request of Don Strieber; refer the matter to SOAH to consider the following issues: 1) Whether there will be migration of pollutants or sludge contaminated rain water from the permitted facility that will affect water quality in nearby water ways or on the requester's land; 2) Whether the proposed activity satisfies regulatory requirements intended to address nuisance odor; and 3) Whether issuance of the permit will have long-term health affects on the requester or his family; deny the remaining issues; deny the request for reconsideration of Debra Sloane; direct the Executive Director to participate in the hearing; and set a maximum hearing duration of nine months. LS/BS; all agree.

### **CERTIFIED QUESTIONS**

Item 8. **TCEQ Docket Nos. 2008-0091-UCR, 2008-0093-UCR, and 2008-1645-UCR; SOAH Nos. 582-08-1700, 582-08-2863, and 582-09-1168**: Consideration of three Administrative Law Judges' joint request to answer certified questions regarding: 1) the petition of ratepayers appealing rates established by Clear Brook City Municipal Utility District; 2) the petition of West Travis County Municipal Utility District No. 3 to review raw water charges by the Lower Colorado River Authority; and 3) the appeal of retail water and sewer rates of Lower Colorado River Authority. The Administrative Law Judges have certified the following six questions under Title 30, Section 80.131 of the Texas Administrative Code to the Commission for interpretation: 1) Is Texas Water Code Section 49.2122 so inconsistent with Texas Water Code Section 13.043(j) that the two statutory provisions cannot be harmonized?; 2) Does Texas Water Code Section 49.2122(b) create a presumption that rates set by a district are properly established absent a showing that the district action setting the rates was arbitrary and capricious?; 3) Does

Texas Water Code Section 49.2122(b) only create a presumption that customer classes established by a district are properly established absent a showing that the district action setting the rates was arbitrary and capricious?; 4) If the answer to Question No. 2 is YES, does Texas Water Code Section 49.2122(b) require the petitioner to make an initial showing that the district action setting the rates was arbitrary and capricious?; 5) If the answer to Question No. 4 is YES, in the circumstance that there is no showing that the district action setting the rates was arbitrary and capricious and the rates are therefore presumed to be properly established, is there any further inquiry required into whether the rates themselves are valid? If so, what is the standard under which the rates themselves must be judged?; and 6) If the answer to Question No. 2 is YES, is the petitioner required to make an initial showing that the districts rate-setting action was arbitrary and capricious whether the rate affected is for retail service, wholesale service, or raw water? The Commission will also consider the briefs timely-filed by the parties. (Shana Horton)

Answer the questions certified by ALJ's:

Is Texas Water Code Section 49.2122 so inconsistent with Texas Water Code Section 13.043(j) that the two statutory provisions cannot be harmonized? No.

Does Texas Water Code Section 49.2122(b) create a presumption that rates set by a district are properly established absent a showing that the district action setting the rates was arbitrary and capricious? No. A district whose ratepayers have appealed under Texas Water Code § 13.043(b) must still demonstrate that its rates are just and reasonable. See Texas Water Code § 13.043(j) and 30 Texas Administrative Code §§ 291.12 and 291.41(i).

Does Texas Water Code Section 49.2122(b) only create a presumption that customer classes established by a district are properly established absent a showing that the district action establishing the classes was arbitrary and capricious? Yes.

Decline to answer questions 4, 5, and 6. LS/BS; all agree.

## **AUTHORIZATION TO CONSTRUCT**

Item 9. [Docket No. 2009-1086-MWD](#). Consideration of an application by the **City of Hidalgo (City)** for Authorization to Construct the proposed expansion to its wastewater treatment facility, pursuant to Sections 26.019 and 26.027(c) of the Tex. Water Code. The City has applied to amend Texas Pollutant Discharge Elimination System Permit No. WQ0011080001 to authorize an increase in discharge of treated domestic wastewater from an annual average flow not to exceed 1,200,000 gallons per day to an annual average flow not to exceed 2,700,000 gallons per day. The City has requested an Authorization to Construct before the issuance of its permit in order to secure grant funds from the Texas Water Development Board through the Clean Water State Revolving Fund-American Recovery and Reinvestment Act. The plant site is located east of the City of Hidalgo, approximately 0.5 mile north of U.S. Highway 281 and 0.5 mile east of Farm-to-Market Road 336 in **Hidalgo County**, Texas. The treated effluent is discharged to Hidalgo County Drainage Ditch along Hidalgo County Improvement District No. 2 Canal; then to Arroyo Colorado above Tidal in Segment No. 2202 of the Nueces-Rio Grande Coastal Basin. An order granting this application for Authorization to Construct would not constitute permit issuance or a future guarantee of permit issuance, and would not authorize operation of, or

disposal of, effluent from the facility until it obtains a permit from the Commission. (John Williams, Michael Redda)

Adopt the Executive Director's proposed Order and direct the General Counsel to amend the Chairman's signature block to read "Texas Commission on Environmental Quality" above the signature and "Buddy Garcia, Chairman for the Commission" under the signature. BS/LS; all agree.

#### **DISTRICTS MATTER**

Item 10. [Docket No. 2008-1743-DIS](#). Consideration of an application from the Board of Directors of the **Comal County Water Control and Improvement District No. 1 ("District")** for the conversion of the District to a Municipal Utility District; for the acquisition of road powers; and to change the name of the District, pursuant to the Texas Water Code, Chapters 49 and 54, and Title 30, Sections 293.15, 293.102, and 293.201 - 293.202 of the Texas Administrative Code. The District is comprised of approximately 767.32 acres of land, save and except three tracts totaling 19.08 acres for a net total of 748.24 acres in **Comal County**, Texas. (Ruth Takeda, Ruben Soto, Jr.)

Continued to the August 26, 2009 agenda. LS/BS; all agree.

#### **MISCELLANEOUS MATTERS**

Item 11. [Docket No. 2009-0387-MIS](#). Discussion of the Mercury-Impaired Waters Advisory Group's input on addressing mercury impairments in Texas. (Kelly Keel, Robert Brush)

No action taken.

Item 12. [Docket No. 2009-1130-MIS](#). Discussion of the Monthly Enforcement Report.

No action taken.

Item 13. [Docket No. 2009-1128-BGT](#). Consideration for Approval of the Agency's FY 2010 Recommended Operating Budget.

Approve the Texas Commission on Environmental Agency's Fiscal Year 2010 Operating Budget as recommended by the Executive Director. LS/BS; all agree.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDER**

Item 14. [Docket No. 2009-0415-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Nico Jaap de Boer dba Hilltop Jersey Farm in Henderson County**; RN103920385; 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. (Lauren Smitherman, Cari-Michel La Caille)

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

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

Item 15. [Docket No. 2007-1345-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lehigh Cement Company** in **McLennan County**; TCEQ ID No. RN100218254; 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. (Anna M. Treadwell, Lena Roberts)

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

Item 16. [Docket No. 2004-1279-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Citgo Refining and Chemicals Company, L.P.** in **Nueces County**; TCEQ ID No. RN102555166; 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. (Kathleen Decker, Lena Roberts)

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

Item 17. [Docket No. 2009-0297-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MillerCoors LLC** in **Tarrant County**; RN102649399; 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, Cari-Michel La Caille)

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

Item 18. [Docket No. 2009-0330-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Huntsman Petrochemical Corporation** in **Jefferson County**; RN100219252; 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, Cari-Michel La Caille)

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

Item 19. [Docket No. 2008-1092-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shell Oil Company and Shell Chemical LP** in **Harris County**; RN100211879; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 20. [Docket No. 2009-0264-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Honeywell International, Inc.** in **Orange County**; RN100217405; 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 Benoit, Cari-Michel La Caille)

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

- Item 21. [Docket No. 2002-0290-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Citgo Refining and Chemicals Company, L.P.** in **Nueces County**; TCEQ ID Nos. RN102555166 and RN100238799; 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. (Kathleen Decker, Lena Roberts)

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

- Item 22. [Docket No. 2009-0298-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Viridis Energy (Texas), LP** in **Chambers and Harris Counties**; RN102495421 and RN102663085; 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, Cari-Michel La Caille)

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

- Item 23. [Docket No. 2009-0140-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sabina Petrochemicals LLC** in **Jefferson County**; RN100216977; 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, Cari-Michel La Caille)

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

- Item 24. [Docket No. 2009-0115-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Seminole Pipeline Company** in **Harris County**; RN104473343; 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, Cari-Michel La Caille)

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

- Item 25. [Docket No. 2009-0209-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **INEOS NOVA LLC** in **Harris County**; RN100542224; 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, Cari-Michel La Caille)

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

- Item 26. [Docket No. 2008-0153-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation** in **Jefferson County**; TCEQ ID No. 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 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Lena Roberts)

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

Item 27. [Docket No. 2009-0331-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Eagle Rock Field Services, L.P. in Moore County**; RN100220557; 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. (Danielle Porras, Cari-Michel La Caille)

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

Item 28. [Docket No. 2007-1985-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation in Harris County**; TCEQ ID Nos. RN102579307, RN102574803 and RN102212925; 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. (Kathleen C. Decker, Lena Roberts)

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

Item 29. [Docket No. 2009-0446-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Equalizer, Inc. in McLennan County**; RN105020903; 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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 30. [Docket No. 2009-0121-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Flint Hills Resources, LP in Jefferson County**; RN100217389; 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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 31. [Docket No. 2008-1466-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KANEKA TEXAS CORPORATION in Harris County**; RN100218841; 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, Cari-Michel La Caille)

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



Item 32. [Docket No. 2009-0211-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Magellan Terminals Holdings, L.P.** in **Harris County**; RN102180486; 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, Cari-Michel La Caille)

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

Item 33. [Docket No. 2009-0123-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP** in **Hansford County**; RN100219955; 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. (Terry Murphy, Cari-Michel La Caille)

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

#### **DRY CLEANER ENFORCEMENT AGREED ORDER**

Item 34. [Docket No. 2006-1468-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Denison Snow White Laundry, LLC dba Shaffer Cleaners and dba Snow White aka Snow White Laundry** in **Grayson County**; TCEQ ID Nos. RN104097787 and RN104097795; for dry cleaner registration violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 374, and the rules of the Texas Commission on Environmental Quality. (Dinniah M. Chahin, Lena Roberts)

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

#### **DRY CLEANER ENFORCEMENT DEFAULT ORDER**

Item 35. [Docket No. 2006-0992-DCL-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **James C. Dunn, Jr. dba Fillmore Cleaners** in **Potter County**; TCEQ ID No. RN104029194; for dry cleaner registration violations pursuant to Tex. Water Code chs. 5 and 7, Tex. Health & Safety Code ch. 374, and the rules of the Texas Commission on Environmental Quality. (Tommy Tucker Henson II, Lena Roberts)

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

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

Item 36. [Docket No. 2008-0583-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **B & M Marshall Road, Ltd.** in **Bexar County**; TCEQ ID No. RN105468375; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

## FIELD CITATIONS

Item 37. [Docket No. 2009-0618-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Producers Cooperative Association in Brazos County**; RN102493111; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Keith Frank, Cari-Michel La Caille)

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

Item 38. [Docket No. 2009-0567-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Jose Oliveros in Bexar County**; RN105691760; 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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 39. [Docket No. 2009-0642-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Haciendas Adobe Development, LP in El Paso County**; RN105401772; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Cari-Michel La Caille)

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

Item 40. [Docket No. 2009-0641-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **ABC Custom Homes, Inc. in Ector County**; RN105698963; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Cari-Michel La Caille)

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

Item 41. [Docket No. 2009-0619-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of the **City of Edinburg in Hidalgo County**; RN102217734; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Cari-Michel La Caille)

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

Item 42. [Docket No. 2009-0640-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **5 & 1 Investors, Ltd. in Bell County**; RN105705271; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Cari-Michel La Caille)

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

- Item 43. [Docket No. 2009-0620-WR-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Sand Hill Foundation, LLC** in **Shelby County**; RN105681332; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Cari-Michel La Caille)

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

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

- Item 44. [Docket No. 2007-0516-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties against **Leading Edge Aviation Services Amarillo, Inc.** in **Potter County**; TCEQ ID No. RN100611201; for industrial hazardous waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

- Item 45. [Docket No. 2009-0199-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **East Texas Precast Co., Ltd.** in **Waller County**; RN104750963; 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. (Carlie Konkol, Cari-Michel La Caille)

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

#### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER**

- Item 46. [Docket No. 2007-1137-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Casey Layne Vickrey** in **Travis County**; TCEQ ID No. RN105193163; 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. (Rudy Calderon, Lena Roberts)

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

#### **LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDER**

- Item 47. [Docket No. 2007-1797-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Sixto Nava Alvarado dba Alvarado's Lawn and Maintenance Service** in **Dallas County**; TCEQ ID No. RN105300594; 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. (Anna M. Treadwell, Lena Roberts)

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

## MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 48. [Docket No. 2007-1813-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Valero Refining-Texas, L.P.** in **Nueces County and Galveston County**; TCEQ ID Nos. RN100211663 and RN100238385; for industrial hazardous waste, water quality, and air quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health and Safety Code chs. 361 and 382, 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.

Item 49. [Docket No. 2008-0614-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kenneth Campbell** in **Shelby County**; TCEQ ID No. RN105232722; 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, Lena Roberts)

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

Item 50. [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, Cari-Michel La Caille)

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

Item 51. [Docket No. 2009-0252-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sam's Truck Stop Business, Inc.** in **Culberson County**; RN101377620; for on-site sewage disposal and public drinking water violations pursuant to Tex. Health & Safety Code chs. 341 and 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Yuliya Dunaway, Cari-Michel La Caille)

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

## MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 52. [Docket No. 2009-0417-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Linda Kay Torres** in **Johnson County**; RN105606453; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Keith Frank, Cari-Michel La Caille)

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

## MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 53. [Docket No. 2008-1552-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cedar Park in Williamson County**; RN102845914; 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. (Danielle Porras, Cari-Michel La Caille)

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

Item 54. [Docket No. 2007-1211-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **D & M Water Supply Corporation in Nacogdoches County**; TCEQ ID No. RN102287604; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

Item 55. [Docket No. 2009-0375-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Houston in Harris County**; RN101518298; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Cari-Michel La Caille)

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

Item 56. [Docket No. 2008-1725-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **Town of Flower Mound in Denton County**; RN102074663; 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, Cari-Michel La Caille)

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

Item 57. [Docket No. 2008-1810-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Jacksonville in Cherokee County**; RN101613305; 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, Cari-Michel La Caille)

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

Item 58. [Docket No. 2008-0884-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lochinvar Golf Club in Harris County**; RN101607885; 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, Cari-Michel La Caille)

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

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

Item 59. [Docket No. 2008-0724-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mohammad A. Swati in Orange County**; TCEQ ID No. RN101773232; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Stephanie Frazee, Lena Roberts)

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

Item 60. [Docket No. 2008-1318-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GENE'S GO TRUCK STOP, INC. in Kimble County**; TCEQ ID No. RN102247251; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Phillip M. Goodwin, Lena Roberts)

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

Item 61. [Docket No. 2009-0455-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **CAL-MOD ENTERPRISES, LLC dba Hempstead Truck Stop in Harris County**; RN101787638; 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, Cari-Michel La Caille)

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

Item 62. [Docket No. 2009-0231-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **KORI SERVICES, LTD. dba Lakeway Valero in Travis County**; RN101491678; 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. (Mike Pace, Cari-Michel La Caille)

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

Item 63. [Docket No. 2009-0393-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dallas Texas Properties, Inc. dba Howdy Doody #11 in Tarrant County**; RN101533529; 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. (Judy Kluge, Cari-Michel La Caille)

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

Item 64. [Docket No. 2009-0378-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brian Kwon dba 7 Station** in **Harris County**; RN100881564; 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. (Rajesh Acharya, Cari-Michel La Caille)

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

Item 65. [Docket No. 2009-0229-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Loop 12 Investment Corporation dba R Bar R Food Mart** in **Hunt County**; RN104208939; 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, Cari-Michel La Caille)

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

Item 66. [Docket No. 2008-1860-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **PEACE PARTNERS CAR WASH, L.L.C. dba Super Stop 28** in **El Paso County**; RN100813682; 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. (Steven Lopez, Cari-Michel La Caille)

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

Item 67. [Docket No. 2007-0943-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ruth Ann Smith dba Smiths Hardware & More** in **Panola County**; TCEQ ID No. RN102263332; 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 68. [Docket No. 2008-1266-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Denny Oil Company dba North Street Texaco** in **Nacogdoches County**; RN102381845; 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, Cari-Michel La Caille)

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

Item 69. [Docket No. 2009-0319-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **ASH CORPORATION dba One Stop Shop** in **Dallas County**; RN102228327; 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. (Wallace Myers, Cari-Michel La Caille)

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

- Item 70. [Docket No. 2009-0528-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **NAPM ENTERPRISES INC. dba Citgo Food Mart in Bexar County**; RN102791118; 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, Cari-Michel La Caille)

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

- Item 71. [Docket No. 2007-1300-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Lancaster Mini Mart Inc. dba Lancaster Mini Mart in Tarrant County**; TCEQ ID No. RN102378999; 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. (Rudy Calderon, Lena Roberts)

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

- Item 72. [Docket No. 2008-1436-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **LOZANO, LTD. dba Lozano Store in Zapata County**; TCEQ ID No. RN102450343; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Phillip M. Goodwin, Lena Roberts)

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

- Item 73. [Docket No. 2008-0475-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mohammad Sultan in Orange County**; TCEQ ID No. RN102401809; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Stephanie J. Frazee, Lena Roberts)

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

- Item 74. [Docket No. 2003-1144-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **MBE, Inc. dba Bryans 2 in San Augustine County**; TCEQ ID No. RN102375557; 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 Agreed Order. BS/LS; all agree.

- Item 75. [Docket No. 2008-1872-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats in Hidalgo County**; RN102249299; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Cari-Michel La Caille)



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

- Item 76. [Docket No. 2007-1778-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ludivinia Granados dba Venicias Bar** in **Hidalgo County**; TCEQ ID No. RN103002887; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rudy Calderon, Lena Roberts)

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

- Item 77. [Docket No. 2009-0348-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Hieu Vo dba Gulfway Foodmart** in **Jefferson County**; RN101762219; 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. (Judy Kluge, Cari-Michel La Caille)

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

- Item 78. [Docket No. 2009-0335-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Avali Enterprise, Inc. dba Super Food Mart** in **Harris County**; RN102242567; 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. (Mike Pace, Cari-Michel La Caille)

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

- Item 79. [Docket No. 2008-1549-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dumas Used Cars, Inc.** in **Calhoun County**; RN101780740; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Cari-Michel La Caille)

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

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

- Item 80. [Docket No. 2008-0377-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Hector Silva, Sr.** in **Frio County**; TCEQ ID No. RN101737773; 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. (Barham A. Richard, Lena Roberts)

Remanded to the Executive Director. BS/LS; all agree.

- Item 81. [Docket No. 2008-0011-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Larry G. Moore** in **Panola County**; TCEQ ID No. RN101736494; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26

and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Steven M. Fishburn, Lena Roberts)

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

Item 82. [Docket No. 2008-1071-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Grupo Victoria Corporation dba Los Tejanos Meat Market in Webb County**; TCEQ ID No. RN101433282; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tammy L. Mitchell, Lena Roberts)

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

Item 83. [Docket No. 2008-1706-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Javier Hernandez in Hidalgo County**; TCEQ ID No. RN101677920; 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. (Rebecca M. Combs, Lena Roberts)

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

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

Item 84. [Docket No. 2008-0835-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Copperas Cove MHC, L.L.C. dba Cedar Grove Mobile Home Park in Coryell County**; RN101186724; 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, Cari-Michel La Caille)

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

Item 85. [Docket No. 2009-0284-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Del Rio in Val Verde County**; RN101215978; 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. (Epifanio Villarreal, Cari-Michel La Caille)

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

Item 86. [Docket No. 2007-1711-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David Fenoglio dba Sunset Water System in Montague County**; TCEQ ID No. RN102693579; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jacquelyn Boutwell, Lena Roberts)

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

Item 87. [Docket No. 2009-0197-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Maverick County** in **Maverick County**; RN101253565; 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. (Rebecca Clausewitz, Cari-Michel La Caille)

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

Item 88. [Docket No. 2009-0413-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **North San Saba Water Supply Corporation** in **San Saba County**; RN101225613; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Cari-Michel La Caille)

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

Item 89. [Docket No. 2008-1557-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wolfe City** in **Hunt County**; RN101387579; 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, Cari-Michel La Caille)

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

Item 90. [Docket No. 2009-0494-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Bogata** in **Red River County**; RN101180263; 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, Cari-Michel La Caille)

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

Item 91. [Docket No. 2009-0030-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of La Joya** in **Hidalgo County**; RN101276863; 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, Cari-Michel La Caille)

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

Item 92. [Docket No. 2009-0333-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Eagle Pass Water Works System** in **Maverick County**; RN101387710; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Cari-Michel La Caille)

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

Item 93. [Docket No. 2007-1494-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Roofing Supply, L.L.C.** in **Harris County**; TCEQ ID No. RN101210458; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

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

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

Item 94. [Docket No. 2008-1712-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Value Family Properties - Denton, L.P.** in **Denton County**; RN101269611; 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., Cari-Michel La Caille)

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

Item 95. [Docket No. 2008-0586-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **D. L. Finney Investments, Inc.** in **Lampasas County**; TCEQ ID No. RN104968474; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

Item 96. [Docket No. 2009-0080-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Douglas Meier dba Meier Recycle Center** in **Ellis County**; RN105447460; 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, Cari-Michel La Caille)

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

Item 97. [Docket No. 2009-0440-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nanu Patel** in **Robertson County**; RN101669026; 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. (Pamela Campbell, Cari-Michel La Caille)

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

#### **WATER QUALITY ENFORCEMENT DEFAULT ORDER**

Item 98. [Docket No. 2008-1578-WQ-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Arnold Trucking, Inc.** in **Harrison County**; TCEQ ID No. RN105483317; for water quality violations pursuant to Tex. Water Code chs. 7 and 26

and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca M. Combs, Lena Roberts)

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

## **RULE MATTERS**

Item 99. [Docket No. 2008-1394-RUL](#). Consideration of the adoption of the repeal of Sections 106.101, 106.103, 106.121, 106.123, 106.228, 106.282, 106.291, 106.312, and 106.413 of **30 TAC Chapter 106**, Permits by Rule. The adoption would repeal nine permits by rule that were added with no change to the list of De Minimis Facilities or Sources in order to eliminate duplication and provide a clear regulatory structure. The proposed repeals were published in the March 27, 2009, issue of the *Texas Register* (34 TexReg 2091). (Johnny Bowers, Chrissie Angeletti) (Rule Project No. 2008-029-106-PR)

Adopt the repeal of 30 TAC Sections 106.101, 106.103, 106.121, 106.123, 106.228, 106.282, 106.291, 106.312, and 106.413 as recommended today by the Executive Director. BS/LS; all agree.

Item 100. [Docket No. 2009-0338-RUL](#). Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 117**, Control of Air Pollution from Nitrogen Compounds, 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, Section 117.403, and corresponding revisions to the state implementation plan. The proposed rulemaking would 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 at major sources of nitrogen oxides (NOX) in the Dallas-Fort Worth (DFW) ozone nonattainment area. The proposed changes would expand the existing exemption in Section 117.403(a)(12) for similar units operated in these specific types of manufacturing in the DFW nonattainment area. (Bogdan Slomka, Chisum Cooke) (Rule Project No. 2009-023-117-EN)

Approve for publication of, and hearing on, proposed amendment and corresponding SIP revisions as recommended by the Executive Director. LS/BS; all agree.

Item 101. [Docket No. 2009-0800-RUL](#). Consideration for publication of, and hearing on, proposed amended Section 297.27 and repealed Section 297.30 of **30 TAC Chapter 297**, Water Rights, Substantive. The proposed rulemaking would implement Senate Bill (SB) 1711, 81st Legislature, 2009, Regular Session, relating to sediment control ponds. This proposed rulemaking would provide an exemption from the water rights permitting process for the use of state water from sediment control ponds to satisfy environmental and safety regulations for fire or dust suppression as applicable to surface coal mining operations. (Ronald L. Ellis, Shana Horton) (Rule Project No. 2009-031-297-PR)

Approve the amended and repealed Section of Chapter 297 for publication and hearing as recommended by the Executive Director. BS/LS; all agree.

Item 102. [Docket No. 2009-0819-RUL](#). Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 290**, Public Drinking Water, Sections 290.38, 290.39, 290.44-

290.47 and **30 TAC Chapter 291**, Utility Regulations, new Sections 291.160-291.162. The proposed rulemaking would implement Senate Bill (SB) 361 from the 81st Legislature, 2009, Regular Session, relating to the requirement that certain water service providers ensure emergency operations during an extended power outage. This proposed rulemaking would require water service providers located in counties of 3.3 million or greater and adjacent counties of 400,000 or greater to submit to the Executive Director, adopt, and implement an Emergency Preparedness Plan. SB 361 gives the Commission the authority to regulate some water service providers that have not previously been regulated by the Commission. (Reyna Holmes, Christiaan Siano) (Rule Project No. 2009-032-290-PR)

Approve for publication of, and hearing on, proposed amendments 30 TAC Chapter 290 and 291 to implement SB 361 as recommended by the Executive Director but modified to include preamble language that indicates the counties that would currently fall under the provision in the rule and solicit comments as to whether any or all of those should be included on the coverage of the rule. LS/BS; all agree.

### **EXECUTIVE MEETING**

Item 103. **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 104. **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 105. **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/tmrcc.cgi](http://www.texasadmin.com/cgi-bin/tmrcc.cgi)**

/s/ Shannon Strong  
Assistant General Counsel,  
Shannon Strong

08/25/2009  
Date