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Chairman H.S. Buddy Garcia  
Commissioner Bryan W. Shaw, Ph.D.  
Commissioner Carlos Rubinstein      Wednesday, September 9, 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. 2007-1774-MSW; SOAH Docket No. 582-08-2178](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **BFI Waste Systems of North America, LLC** to amend its municipal solid waste permit pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 330 and Tex. Health & Safety Code Chapter 361 to expand the landfill capacity by approximately 10.6 million cubic yards. The facility is located at 9912 Giles Lane, Austin in **Travis County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to such comments; the application, and related filings, exceptions and replies. (Steven Shepherd)

Adopt the ALJ's proposed Order granting BFI's permit amendment with the following changes: a) Adopt the Executive Director's proposed modifications to Finding of Facts Nos. 16, 19, 22, 35, and 104 and Conclusion of Law Nos. 2 and 4, as agreed to by the ALJ in his June 29, 2009 letter; b) Regarding operating hours, from the ALJ's June 29, 2009 letter: i) Adopt the ALJ's proposed modification to the Conclusion of Law No. 55; ii) Modify proposed Finding of Fact No. 286 to read "The evidence shows that the landfill's operating hours are appropriate."; iii) Modify proposed Conclusion of Law No. 7 to state "The burden of proof was on the Applicant in accordance with 30 TAC § 80.17(a). BFI met its burden with respect to all referred issues."; and iv) Modify proposed Conclusion of Law No. 55 to state "The operating hours proposed in the application are appropriate."; c) approve issuance of the Executive Director's revised draft permit in the form attached to the PFD; and d) adopt the Executive Director's Response to Comments pursuant to 30 TAC § 50.117. BS/CR; all agree.

- Item 2. [TCEQ Docket No. 2007-1765-MWD; SOAH Docket No. 582-08-2177](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **TCB Rental, Inc.** for a new Texas Pollutant Discharge Elimination System Permit No. WQ0014725001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 25,000 gallons per day. The proposed facility will be located at Farm-to-Market (FM) Road 50, approximately 1.5 miles south of the intersection of FM Road 50 and FM Road 1361 in **Burleson County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to such comments; the application, and related filings, exceptions and replies. (Chris Ekoh)

Adopt the ALJ's amended proposed Order with the following change: "Direct the Office of the General Counsel to insert a new ordering provision assigning 100 percent of the transcript cost to the Applicant." CR/BS; all agree.

- Item 3. [TCEQ Docket No. 2008-1234-MSW-E; SOAH Docket No. 582-09-1615](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Alan Black and Yolanda Black dba Black's Construction and Caliche Pit** in **Webb County**, Texas; RN104153705; regarding municipal solid waste violations pursuant to 30 Tex. Admin. Code Chapter 330 and Tex. Water Code Chapter 7. The Commission will also consider timely filed exceptions and replies. (Becky Combs)

Adopt the ALJ's proposed Order with the modifications recommended by the Executive Director. BS/CR; all agree.

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

- Item 4. [Docket No. 2009-0678-MWD](#). Consideration of the application by **Nueces County Water Control and Improvement District No. 5** for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011583001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The wastewater treatment facility is located at the crossing of Banquete Creek and County Road 40, which is approximately 1.25 miles east of Farm-to-Market Road 666 and 0.5 mile south of State Highway 44 near Banquete in **Nueces 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. (Anthony Tatu, Michael Redda)

Find that there is no right to a hearing under applicable law, Tex. Water Code § 26.028(d), and the agency rule, Section 55.201(i)(5); deny the hearing request based on the finding that there is no right to a hearing in this matter; revise the Executive Director's Response to Public Comments by: 1) Changing the second to last sentence in the first paragraph on page one of the Response to state "The Office of the Chief Clerk received timely filed public comments from Mr. Lionel Lopez of the South Texas Colonia Initiative, Inc. representing Colonia residents." and 2) Changing the last sentence on page two of the Response to Public Comments to state "The permit application, draft permit, statement of basis/technical summary, and ED's Preliminary Decision have been available for viewing and copying at the same location since publication of the NAPD."; adopt the revised Response to Public Comments as the Commission's Response to Public Comments; and approve the issuance of the renewal of TPDES Permit No. WQ0011583001 as recommended by the Executive Director. CR/BS; all agree.

Item 5. [Docket No. 2009-0869-MWD](#). Consideration of the application by **301 Lone Oak Partners, Ltd.** for a new wastewater permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014870001, to authorize the discharge of treated domestic wastewater with a daily average flow not to exceed 252,000 gallons per day. The wastewater treatment facility will be located approximately 2,800 feet south of Cypress Creek, north of Farm-to-Market Road 1960, 3,600 feet west of Cypresswood Drive in **Harris 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. (Daniel Ingersoll, Kent H. Trede)

Grant the hearing requests filed by Meggan Ardiff, Stephanie Fulton David, Steven David, Addy Ardiff-Fulton, Deenen P. Fulton, Dennis Fulton, Jr., Dennis Fulton, Sr., Ellie Ardiff-Fulton, Kristina J. Fulton, Peggy Fulton, S.D. Fulton, Scott A. Fulton, Tiffany Fulton, Tyler Fulton, and Jessica Lacy in her individual capacity; direct the ALJ to consider if the co-owners of 21414 Broze Road should be admitted as a group at the preliminary hearing; deny the remaining hearing requests; refer the following issues: a) Whether the draft permit contains adequate safeguards against accidental discharges or overflow of effluent from the proposed facility; b) Whether the proposed wastewater treatment facility will create runoff that will adversely affect groundwater; c) Whether the application properly accounts for water wells on nearby properties; d) Whether the Applicant properly provided notice to surrounding municipal utility districts in accordance with applicable regulatory requirements; e) Whether discharge from the proposed wastewater treatment facility would interfere with the safe use and enjoyment of downstream property; and f) Whether the draft permit contains adequate conditions to ensure that maintenance and upkeep of the facility is in accordance with regulatory requirements; specify a hearing duration of nine months; and direct the Executive Director to participate in the contested case hearing. BS/CR; all agree.

Item 6. [Docket No. 2009-0896-MWD](#). Consideration of the application by **Aqua Water Supply Corporation** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014833001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. The wastewater treatment facility will be located approximately 1.25 miles north of the intersection of Old 71 and Highway 71 in **Bastrop 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, Michael Redda)

Grant the hearing requests filed by Darren Carroll, Rick Clemens, William and Darlene Pendell, Bennie and Elizabeth Wallace, River Crossing Improvement Association (RCIA), and Lori Zimmerman; refer the matter to SOAH with concurrent referral to ADR on the following issues: 1) Whether the proposed effluent limits are protective of water quality and human health; 2) Whether the proposed activity would have adverse environmental impacts on wildlife and marine life in the area; 3) Whether the proposed activity satisfies regulatory requirements intended to address odor; and 4) Whether the proposed permit is protective with respect to an accidental discharge; set a hearing duration of six months; and direct the Executive Director to participate in the contested case hearing at SOAH. BS/CR; all agree.

Item 7. [Docket No. 2009-0913-MWD](#). Consideration of the application by **City of Patton Village** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014926001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day. The wastewater treatment facility will be located within the city limits of Patton Village, approximately 550 feet west of the intersection of

South Lakeview Drive and Lakeview Drive, in **Montgomery 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, Michael Redda)

Deny the Request for Reconsideration; grant the hearing requests filed by Adriana Casenave, Gloria Giarrusso, Gino Garza, and Tamara Garza; refer the matter to SOAH with concurrent referral to ADR on the following issues: a) Will the proposed discharge impact Peach Creek's ability to meet TCEQ water quality standards; b) Whether the proposed discharge would contribute to excess bacteria in Peach Creek and Lake Houston; and c) Will the proposed discharge impact the hearing requestors' use of Peach Creek for recreational purposes; specify a hearing duration of nine months; and direct the Executive Director to participate in the SOAH hearing on this matter. BS/CR; all agree.

### **EMERGENCY ORDER**

Item 8. [Docket No. 2009-1069-UCR-E](#). Consideration of whether to modify, affirm, or set aside the Emergency Order issued on July 16, 2009, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality to address the abandonment of a retail public utility (Utility) by **Cain Addition HomeOwners Association CAHA and John Lamar Cain**, in **Kleberg County**; TCEQ ID No. RN105504567; to ensure continued operation of the Utility, and to provide continuous and adequate service to the customers. The Emergency Order appointed Rio Bravo Resource Conservation & Development Corporation ("RC&D") as temporary manager of the Utility. (Dinniah C. Tadema)

Affirm the Executive Director's Emergency Order against Cain Addition HomeOwners Association (CAHA) and John Lamar Cain with the three minor modifications proposed by the Executive Director. BS/BG; CR abstained.

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

Item 9. [Docket No. 2009-0572-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **BASF Corporation** in **Brazoria County**; RN100218049; 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/CR; all agree.

Item 10. [Docket No. 2008-1012-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Destructors, Inc.** in **Limestone County**; TCEQ ID No. RN102824737; 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/CR; all agree.

Item 11. [Docket No. 2009-0622-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**; 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 Texas Administrative Code ch. 60. (Rebecca Johnson, Cari-Michel La Caille)

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

Item 12. [Docket No. 2009-0525-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **BASF Corporation** in **Harris County**; RN100225689; 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/CR; all agree.

Item 13. [Docket No. 2009-0288-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Valero Refining-Texas, L.P.** in **Nueces County**; RN100211663; 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, Cari-Michel La Caille)

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

Item 14. [Docket No. 2008-1835-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Flying J Inc.** in **El Paso County**; RN100814458; 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/CR; all agree.

Item 15. [Docket No. 2009-0396-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP** in **Hutchinson County**; RN102320850; 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/CR; all agree.

Item 16. [Docket No. 2009-0296-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rohm and Haas Texas Incorporated** in **Harris County**; RN100223205; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Cari-Michel La Caille)

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

Item 17. [Docket No. 2009-0301-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ConocoPhillips Company** in **Brazoria County**; RN101619179; 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, Cari-Michel La Caille)

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

Item 18. [Docket No. 2009-0073-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation** in **Harris County**; RN102579307; 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, Cari-Michel La Caille)

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

Item 19. [Docket No. 2009-0448-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, Cari-Michel La Caille)

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

Item 20. [Docket No. 2009-0489-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP** in **Jefferson County**; RN100209857; 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/CR; all agree.

Item 21. [Docket No. 2009-0352-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **American Airlines, Inc.** in **Tarrant County**; RN100222231; 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/CR; all agree.

Item 22. [Docket No. 2009-0389-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP** in **Jefferson County**; RN100209857; 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/CR; all agree.

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

- Item 23. [Docket No. 2008-1432-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Crescent NJK Corporation dba Grapevine Cleaners** in **Tarrant County**; RN104091574; for dry cleaner violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality. (Danielle Porras, Cari-Michel La Caille)

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

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**

- Item 24. [Docket No. 2009-0508-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Thomas M. Skelton and Phillis A. Skelton** in **Williamson County**; RN105688295; 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. (Samuel Short, Cari-Michel La Caille)

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

- Item 25. [Docket No. 2008-1842-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of San Marcos** in **Hays County**; RN105008692; 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. (Lauren Smitherman, Cari-Michel La Caille)

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

#### **EDWARDS AQUIFER ENFORCEMENT DEFAULT ORDER**

- Item 26. [Docket No. 2008-1496-EAQ-E](#). Consideration of a Default Order assessing administrative penalties against **Ocean2Ocean, LLC** in **Comal County**; TCEQ ID No. RN105354211; 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/CR; all agree.

#### **FIELD CITATIONS**

- Item 27. [Docket No. 2009-0742-OSI-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Brian King Sumner** in **Hardin County**; RN103743316; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code chs. 7 and 37, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Cari-Michel La Caille)

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

- Item 28. [Docket No. 2009-0769-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Delicias Restaurant - Store, LLC** in **Brooks County**; RN101212389; 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/CR; all agree.

- Item 29. [Docket No. 2009-0756-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Becky B. Burns** in **Navarro County**; RN104190079; 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/CR; all agree.

- Item 30. [Docket No. 2009-0873-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Flournoy Construction Company, L.L.C.** in **Bexar County**; RN105727838; 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/CR; all agree.

- Item 31. [Docket No. 2009-0957-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Rickey G. Bockmon** in **Lubbock County**; RN104466610; 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/CR; all agree.

- Item 32. [Docket No. 2009-0743-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Whitestone Custom Homes, Ltd.** in **Bexar County**; RN105703730; 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/CR; all agree.

- Item 33. [Docket No. 2009-0950-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Juan Michel** in **El Paso County**; RN103743530; 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/CR; all agree.

#### **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

- Item 34. [Docket No. 2008-0578-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Samuel Fachorn** in **Burleson County**; TCEQ ID No. RN105370001; for municipal solid waste and air quality 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 Tex. Admin. Code ch. 60. (Tommy Tucker Henson II, Lena Roberts)

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

- Item 35. [Docket No. 2008-1026-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Genesis Quality Aggregates, Ltd.** in **Maverick County**; TCEQ ID No. RN105456040; for air quality and water 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. (Tommy Tucker Henson II, Lena Roberts)

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

- Item 36. [Docket No. 2009-0226-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Leslie G. Perry dba Bilt Rite Portable Buildings** in **Orange County**; RN105662720 and RN105660179; for air quality and industrial and hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ross Fife, Cari-Michel La Caille)

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

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

- Item 37. [Docket No. 2009-0469-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Sabine River Authority of Texas** in **Orange County**; RN101528420; 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/CR; all agree.

- Item 38. [Docket No. 2009-0367-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **WHITE OAK UTILITIES, INC.** in **Montgomery County**; RN102335825; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jennifer Graves, Cari-Michel La Caille)

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

Item 39. [Docket No. 2007-2011-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Carrizo Waste, Inc.** in **Nacogdoches County**; TCEQ ID No. RN103729943; 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. (Kari L. Gilbreth, Lena Roberts)

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

Item 40. [Docket No. 2008-1648-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cacharel Texas Hawaii, Ltd.** in **Tarrant County**; RN101202836; 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. (Tom Jecha, Cari-Michel La Caille)

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

Item 41. [Docket No. 2009-0538-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Inverness Forest Improvement District** in **Harris County**; RN103786737; 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. (Evette Alvarado, Cari-Michel La Caille)

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

Item 42. [Docket No. 2009-0594-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Teague** in **Freestone County**; RN102181716; 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/CR; all agree.

Item 43. [Docket No. 2009-0595-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Aztec Cove Property Owners Association, Inc.** in **Trinity County**; RN101519189; 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, Cari-Michel La Caille)

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

Item 44. [Docket No. 2009-0305-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County Municipal Utility District No. 109** in **Harris County**; RN102178191; 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/CR; all agree.

Item 45. [Docket No. 2009-0462-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Criminal Justice in Brazoria County**; RN102412558; 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/CR; all agree.

Item 46. [Docket No. 2007-0410-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Creek Park Corporation in Johnson County**; TCEQ ID No. RN102915691; 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. (Kari L. Gilbreth, Lena Roberts)

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

Item 47. [Docket No. 2009-0527-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Scenic Point Northview, Inc. in Palo Pinto County**; RN101917458; 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. (Carlie Konkol, Cari-Michel La Caille)

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

Item 48. [Docket No. 2009-0434-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Transportation in Palo Pinto County**; RN102075744; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jennifer Graves, Cari-Michel La Caille)

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

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

Item 49. [Docket No. 2009-0565-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Elias Farah and Mansour Ghaith dba Henderson Deli in Tarrant County**; RN102323375; 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. (Keith Frank, Cari-Michel La Caille)

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

Item 50. [Docket No. 2008-0512-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Petroleum Wholesale, L.P. dba Sunmart 443 in Harris County**; TCEQ ID No. RN102050507; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Peipey Tang, Lena Roberts)

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

- Item 51. [Docket No. 2008-0503-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Petroleum Wholesale, L.P. dba Sunmart 168** in **Williamson County**; TCEQ ID No. RN102009602; 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. (Benjamin O. Thompson, Lena Roberts)

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

- Item 52. [Docket No. 2009-0026-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Glazer's Wholesale Drug Company, Inc.** in **Nueces County**; TCEQ ID No. RN102456753; 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 Agreed Order. BS/CR; all agree.

- Item 53. [Docket No. 2009-0707-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **LITTLE STAR INC. dba T & T Food Mart** in **Galveston County**; RN100884360; 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. (Thomas Greimel, Cari-Michel La Caille)

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

- Item 54. [Docket No. 2009-0559-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Dal-Tile Corporation** in **Dallas County**; RN100216779; 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/CR; all agree.

- Item 55. [Docket No. 2009-0736-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Center Convenience, Inc. dba Almeda Food Mart** in **Harris County**; RN102238565; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Cari-Michel La Caille)

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

- Item 56. [Docket No. 2009-0419-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Humberto Gonzalez** in **El Paso County**; RN101652824; 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 Texas Administrative Code ch. 60. (Mike Pace, Cari-Michel La Caille)

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

Item 57. [Docket No. 2009-0483-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Shareef I Enterprises, Inc. dba Beach Citgo in Galveston County**; RN100532001; 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/CR; all agree.

Item 58. [Docket No. 2009-0608-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Jeffrey H. Jeong dba A J All Seasons 1 in Harris County**; RN102714599; 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/CR; all agree.

Item 59. [Docket No. 2009-0436-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TMT, INC. dba Whip In 112 in Dallas County**; RN102406337; 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. (Keith Frank, Cari-Michel La Caille)

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

Item 60. [Docket No. 2009-0328-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Taisseer Al-Aqqad dba Best Food Store in Tarrant County**; RN101543593; 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. (Thomas Greimel, Cari-Michel La Caille)

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

Item 61. [Docket No. 2009-0581-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **DEWAN ENTERPRISES, INC. dba Marium Food Mart in Tarrant County**; RN102347812; 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/CR; all agree.

Item 62. [Docket No. 2009-0539-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **CLARA, INC. dba Clara's Store & Bakery** in **Bastrop County**; RN101497071; 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. (Elvia Maske, Cari-Michel La Caille)

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

Item 63. [Docket No. 2009-0391-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tim Kahir Helo** in **Howard County**; RN101852515; 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/CR; all agree.

Item 64. [Docket No. 2008-1374-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Tuan Nguyen dba AM Food Mart** in **Harris County**; TCEQ ID No. RN102653201; 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. (Anna M. Treadwell, Lena Roberts)

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

Item 65. [Docket No. 2009-0137-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **RAHISA UNITED, INC. dba A to Z Food & Fuel** in **Harris County**; RN104735493; 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, Cari-Michel La Caille)

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

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

Item 66. [Docket No. 2009-0392-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Houston Harrisburg Convenience Store, Inc. dba Harrisburg Citgo** in **Harris County**; TCEQ ID No. RN101727113; 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. (Steven M. Fishburn, Lena Roberts)

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

Item 67. [Docket No. 2005-1223-PST-E](#). Consideration of a Default Order assessing administrative penalties against **Nelco Distributing Company dba Nelco Corner** in **San Patricio County**; TCEQ ID No. RN104557921; 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. (Barham A. Richard, Lena Roberts)

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

Item 68. [Docket No. 2009-0692-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Afzal Shekhani dba Adams Plaza in Harris County**; TCEQ ID No. RN101283448; 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. (Barham A. Richard, Lena Roberts)

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

Item 69. [Docket No. 2008-1739-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jesus Guzman, Jr. in Starr County**; TCEQ ID No. RN101680981; 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 Order. BS/CR; all agree.

Item 70. [Docket No. 2008-1875-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Almeda, Inc. dba Downtown Tiger Mart in Harris County**; TCEQ ID No. RN102532801; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

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

Item 71. [Docket No. 2009-0439-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Curtis White dba El Pinon Estates Water System in San Augustine County**; RN102675303; 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, Cari-Michel La Caille)

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

Item 72. [Docket No. 2008-1488-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Highland Park Water Supply Corporation in Bosque County**; TCEQ ID No. RN101254407; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

Remanded to the Executive Director.

Item 73. [Docket No. 2009-0438-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U.S. Department of Agriculture in Angelina County**; RN101228625; for public drinking water violations pursuant to 42 U.S.C. § 300j-6, 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/CR; all agree.

Item 74. [Docket No. 2009-0655-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Blanco in Blanco County**; RN101389047; 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, Cari-Michel La Caille)

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

Item 75. [Docket No. 2009-0484-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Raymond C. Honke in Burnet County**; RN101198471; 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/CR; all agree.

Item 76. [Docket No. 2008-0915-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Elsa in Hidalgo County**; TCEQ ID No. RN101219665; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

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

Item 77. [Docket No. 2009-0458-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Petrolia in Clay County**; RN102677937; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Cari-Michel La Caille)

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

Item 78. [Docket No. 2008-1652-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Strawn in Palo Pinto County**; RN101424968; 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/CR; all agree.

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

Item 79. [Docket No. 2009-0320-PWS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Cain Addition Home Owners Association CAHA** in **Kleberg County**; TCEQ ID No. RN105504567; for public drinking water violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Rebecca M. Combs, Lena Roberts)

Approve the Default Order. BS/BG; CR abstained.

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

Item 80. [Docket No. 2009-0414-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **WRL General Contractors, Ltd.** in **Smith County**; RN105471155; 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, Cari-Michel La Caille)

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

Item 81. [Docket No. 2008-1018-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Devon Development Corporation** in **Parker County**; TCEQ ID No. RN105232490; 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. (Peipey Tang, Lena Roberts)

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

Item 82. [Docket No. 2008-0178-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Master Medical Equipment, Inc. dba The Living Stone** in **Llano County**; TCEQ ID No. RN100720218; 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. (Tammy L. Mitchell, Lena Roberts)

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

Item 83. [Docket No. 2009-0321-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sooners Group, LP** in **Collin County**; RN105577852; 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/CR; all agree.

Item 84. [Docket No. 2009-0161-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Reynolds & Kay, Ltd.** in **Smith County**; RN105396527; 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/CR; all agree.

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

- Item 85. [Docket No. 2008-1851-WQ-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Four D. Construction, Inc. in Dallas County**; TCEQ ID No. RN105372312; 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/CR; all agree.

### **MISCELLANEOUS MATTERS**

- Item 86. [Docket No. 2009-1067-BGT](#). Consideration of Fiscal Year 2010 Assessment of Annual Costs for Watermaster Operations in the **Rio Grande Water Division**. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 303.71 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2009, and ending August 31, 2010, for appropriators in the Rio Grande Water Division which extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers; and includes that portion of the Nueces-Rio Grande Coastal Basin lying in Hidalgo, Cameron, Willacy and Starr counties and approve \$676,176.00 as the amount to be assessed for annual costs. (Tracy Miller)

Adopt the South Texas, Concho River, and Rio Grande Watermaster operating budgets and assessments and issue the Executive Director's proposed Orders. BS/CR; all agree.

- Item 87. [Docket No. 2009-1068-BGT](#). Consideration of Fiscal Year 2010 Assessment of Annual Costs for Watermaster Operations in the **South Texas Water Division**. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2009, and ending August 31, 2010, for appropriators in the South Texas Water Division, which consists of the Nueces, San Antonio, Guadalupe, and Lavaca River Basins, as well as the Lavaca-Guadalupe Coastal Basin, the San Antonio-Nueces Coastal Basin, and the Nueces-Rio Grande Coastal Basin, except that part in Hidalgo, Cameron, Willacy, and Starr counties and approve \$560,853.00 as the amount to be assessed for annual costs. (Tracy Miller)

Adopt the South Texas, Concho River, and Rio Grande Watermaster operating budgets and assessments and issue the Executive Director's proposed Orders. BS/CR; all agree.

- Item 88. [Docket No. 2009-1066-BGT](#). Consideration of Fiscal Year 2010 Assessment of Annual Costs for Watermaster Operations in the **Concho River Watermaster Program**. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2009, and ending August 31, 2010, for appropriators in the Concho River Watermaster Program, which consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries,

downstream on the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County and approve \$158,994.00 as the amount to be assessed for annual costs. (Tracy Miller)

Adopt the South Texas, Concho River, and Rio Grande Watermaster operating budgets and assessments and issue the Executive Director's proposed Orders. BS/CR; all agree.

### STATE IMPLEMENTATION PLAN

Item 89. [Docket No. 2008-0335-SIP](#). Consideration for publication of, and hearing on, proposed revisions to the state implementation plan to implement revisions of the **Federal Clean Air Interstate Rule (CAIR) and Senate Bill 1672** of the 80th Texas Legislature, Regular Session in 2007. The proposed revisions incorporate federal changes to the CAIR program; methodology for allocation of CAIR nitrogen oxides (NOX) allowances as specified by Senate Bill 1672, 80th Texas Legislature, Regular Session; and non-substantive administrative changes. (Kim Herndon, Terry Salem) (Project No. 2007-051-SIP-NR)

Approve publication of the proposed amendments to 30 TAC Sections 101.502, 101.504, and 101.506, and corresponding changes to the state implementation plan. CR/BS; all agree.

### RULE MATTERS

Item 90. [Docket No. 2008-0334-RUL](#). Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 101**, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 7, Clean Air Interstate Rule, Sections 101.502, 101.504, and 101.506, and corresponding revisions to the state implementation plan. The proposed rulemaking would implement revisions to Texas Health and Safety Code, Section 382.0173 as required by Senate Bill 1672 from the 80th Legislature, 2007, Regular Session, which revises the methodology for allocation of Clean Air Interstate Rule nitrogen oxides allowances. The proposed revisions also incorporate federal changes to the Clean Air Interstate Rule and make non-substantive administrative changes. (Brandon Greulich, Amy Browning) (Rule Project No. 2007-053-101-EN)

Approve publication of the proposed amendments to 30 TAC Sections 101.502, 101.504, and 101.506, and corresponding changes to the state implementation plan. CR/BS; all agree.

Item 91. [Docket No. 2009-0845-RUL](#). Consideration for publication of, and hearing on, the proposed repeal of **30 TAC Chapter 101**, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 8, Clean Air Mercury Rule, Sections 101.601 and 101.602; the proposed amendments to Sections 122.10, 122.12, and 122.120 and the proposed repeal of Sections 122.440, 122.442, 122.444, 122.446, and 122.448 of **30 TAC Chapter 122**, Federal Operating Permits Program; and corresponding revisions to the Texas State Plan for the Control of Designated Facilities and Pollutants. The proposed rulemaking repeals state Clean Air Mercury Rule requirements that incorporated by reference the federal Clean Air Mercury Rule. The federal Clean Air Mercury Rule, cited in Texas Health and Safety Code, Section 382.0173, promulgated by House Bill 2481, 79th Legislature, 2005, was vacated by the courts and is no longer an enforceable federal requirement. Also proposed is a letter from the commission

notifying the United States Environmental Protection Agency of the withdrawal of the Texas State Plan for the Control of Designated Facilities and Pollutants, Plan for Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, Clean Air Mercury Rule, which was previously adopted by the commission on July 12, 2006. Because the rule is no longer enforceable and being repealed, the Texas State Plan for mercury must also be withdrawn. (Brandon Greulich, Amy Browning) (Rule Project No. 2007-054-101-EN)

Approve for publication of, and hearing on, the proposed repeal of and amended sections of Chapters 101 and 122 and the proposed withdrawal of the state plan. BS/CR; all agree.

### **EXECUTIVE MEETING**

Item 92. **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 93. **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 94. **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

09/16/2009  
Date