

The Agenda document below includes hyperlinks (docket numbers highlighted in blue) that enable the user to view agenda backup documents [documents pertaining to a particular matter that have been filed with the Office of the Chief Clerk (OCC)]. To view all agenda backup in person including those documents not found in the hyperlinks below, please visit OCC at 12100 Park 35 Circle, Building F, Suite 1101 (30 TAC § 1.10).

Updates to backup documents will be noted by a purple indicator. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white. Finally, parties are still required to submit an original and 7 copies of documents filed for Commission consideration (30 TAC § 1.10(d)).

Chairman Bryan W. Shaw, Ph.D.
Commissioner H.S. Buddy Garcia
Commissioner Carlos Rubinstein

AGENDA

Wednesday, November 4, 2009

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. 2008-0776-PST-E; SOAH Docket No. 582-09-1616**](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Mary Automotive Inc. dba Mary's Service Center** in **Dallas County**, Texas; PST Registration No. 41920; RN101547818; regarding petroleum storage tank violations pursuant to 30 Tex. Admin. Code chs. 115 and 334, Tex. Health & Safety Code ch. 382, and Tex. Water Code chs. 7 and 26. The Commission will also consider timely filed exceptions and replies. (Stephanie J. Frazee)

Adopt the ALJ's Order; adopt the Executive Director's exceptions; correct Ordering Provision No. 1 by adding "30" before Tex. Admin. Code; and correct the spelling of "counsel" as recommended by OPIC. BG/CR; all agree.

Item 2. [**TCEQ Docket No. 2008-0642-MLM-E; SOAH Docket No. 582-09-1256**](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Weirich Brothers, L.P.** in **Kimble County**, Texas; Air Account No. KG0017H; RN101935492; regarding air and industrial solid waste violations pursuant to 30 Tex. Admin. Code chs. 111 and 335, Tex. Health & Safety Code chs. 361 and 382, and Tex. Water Code ch. 7. The Commission will also consider timely filed exceptions and replies. (Tammy L. Mitchell)

Adopt the ALJ's Proposed Order, as revised by her October 14, 2009 letter, with corresponding changes to Conclusion of Law No. 18 and Ordering Provision No. 1 to correctly reflect that the assessed penalty is \$10,795.00 and direct the General Counsel to include a payment plan of up to 36 months. CR/BG; all agree.

- Item 3. [TCEQ Docket No. 2008-0901-PST-E; SOAH Docket No. 582-09-2246](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Kandy King** in **Nueces County**, Texas; RN105330732; regarding petroleum storage tank violations pursuant to 30 Tex. Admin. Code ch. 334 and Tex. Water Code chs. 7 and 26. The Commission will also consider timely filed exceptions and replies. (Phillip Goodwin)

Adopt the ALJ's proposed Order. BG/CR; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

- Item 4. [Docket No. 2009-0848-AIR](#). Consideration of application by **APAC-Texas, Inc.** for renewal of Air Quality Permit No. 8597 to authorize the continued operation of a hot mix asphalt plant. The plant is located at 14900 State Highway 121 in Frisco, **Collin 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. (Alex Berksan, Douglas Brown)

Deny all hearing requests pursuant to Tex. Health & Safety Code § 382.056(g); issue the permit renewal to Air Quality Permit No. 8597; and adopt the Executive Director's Response to Comments. CR/BG; all agree.

- Item 5. [Docket No. 2009-1323-IWD](#). Consideration of the application by **NRG Texas Power LLC** for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002430000, which authorizes the discharge of low volume wastewater, cooling tower blowdown, lignite pile runoff and bottom ash transport at a daily maximum flow not to exceed 2,304,000 gallons per day via Outfall 001; material handling area runoff, washdown and bottom ash transport water, and low volume wastewater on an intermittent and flow variable basis via Outfall 002; bottom ash transport water, low volume wastewater, and storm water runoff at a daily maximum flow not to exceed 510,000 gallons per day via Outfall 003; bottom ash transport water, low volume wastewater, and storm water runoff at a daily maximum flow not to exceed 432,000 gallons per day via Outfall 004; low volume wastewater, metal cleaning waste, bottom ash transport water, and utility wastewater at a daily maximum flow not to exceed 216,000 gallons per day via Outfall 005; treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day via Outfall 006; treated domestic wastewater at a daily average flow not to exceed 3,000 gallons per day via Outfall 007; and bottom ash transport water and low volume wastewater not to exceed a daily maximum flow of 72,000 gallons per day via Outfall 008. The facility is located adjacent to and west of Farm-to-Market Road 39, approximately 2.5 miles southeast of the City of Farrar in **Limestone 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. (Timothy Reidy, Monica Vallin-Baez)

Remanded to the Executive Director.

DISTRICTS MATTER

- Item 6. [Docket No. 2009-0487-DIS](#). Consideration of a petition from **Memorial Hills Utility District** ("District"), for conversion to a municipal utility district pursuant to the Texas Water Code, Chapters 49 and 54, and Title 30, Section 293.15 of the Texas Administrative Code. The District

is currently comprised of approximately 418.99 acres of land within the extra-territorial jurisdiction of the City of Houston in **Harris County**, Texas. (Alex (Skip) Ferris, Doug Brown)

Grant Memorial Hills Utility District's request for MUD conversion and adopt the Executive Director's proposed Order with the following changes: 1) add the following additional Finding of Fact No. 7 "The Commission after having considered the application of the Executive Director's memorandum, attached as Exhibit A, finds that conversion of the District into a municipal utility district will serve the best interests of the District and will be of benefit to land and property within its boundaries"; and 2) replace Ordering Provision No. 1 with "The District's request for a conversion to a municipal utility district is hereby granted". BG/CR; all agree.

USE DETERMINATION MATTER

Item 7. [Docket No. 2009-1468-MIS-U](#). Consideration of the appeal filed by **Sartomer Inc.** regarding a negative use determination issued by the Executive Director for its project to re-pack a cooling tower heat exchanger (**Harris County**). The use determination application was assigned number 13801. The Commission will also consider all responses and reply briefs.

Deny the appeal of use determination 13801 and affirm the Executive Director's negative use determination. CR/BG; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 8. [Docket No. 2009-0861-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **E. I. du Pont de Nemours and Company** in **Jefferson County**; RN100216035; 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. CR/BG; all agree.

Item 9. [Docket No. 2007-1480-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Elegant Craftworks, Inc. dba Allan Products** in **Dallas County**; TCEQ ID No. RN100215342; 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. (Anna M. Treadwell, Lena Roberts)

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

Item 10. [Docket No. 2009-0871-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Helena Chemical Company** in **Wichita County**; RN101297968; 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. CR/BG; all agree.

Item 11. [Docket No. 2009-1032-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Approach Operating LLC in Crockett County**; RN104256102; 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. CR/BG; all agree.

Item 12. [Docket No. 2009-0188-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sunoco, Inc. (R&M) in Harris County**; RN102888328; 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. CR/BG; all agree.

Item 13. [Docket No. 2009-0978-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MK1 Construction Services L.L.C. in Bexar County**; RN105750483; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Cari-Michel La Caille)

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

Item 14. [Docket No. 2009-0552-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lee-Var, Inc. dba Palmer of Texas in Andrews County**; RN100213594; 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. CR/BG; all agree.

Item 15. [Docket No. 2009-0758-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **INEOS USA LLC in Brazoria County**; RN100238708; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Martina Kusniadi, Cari-Michel La Caille)

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

Item 16. [Docket No. 2007-1544-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Diamond Shamrock Refining Company, L.P. in Moore County**; RN100210517; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Cari-Michel La Caille)

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

Item 17. [Docket No. 2009-0523-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP** in **Brazoria County**; RN100825249; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, Cari-Michel La Caille)

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

Item 18. [Docket No. 2009-0501-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Ash Grove Texas, L.P.** in **Ellis County**; RN100225978; 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. CR/BG; all agree.

AIR QUALITY ENFORCEMENT DEFAULT ORDER

Item 19. [Docket No. 2008-0076-AIR-E](#). Consideration of a Default Order assessing administrative penalties against **KM Aviation, Inc.** in **Dallas County**; TCEQ ID No. RN104372990; 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 Default Order. CR/BG; all agree.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 20. [Docket No. 2009-1063-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Capital Metropolitan Transportation Authority** in **Travis County**; RN104004593; 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. (Carlie Konkol, Cari-Michel La Caille)

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

FIELD CITATIONS

Item 21. [Docket No. 2009-1152-OSI-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Larry D. Stephens** in **Johnson County**; RN103814232; 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, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Cari-Michel La Caille)

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

- Item 22. [Docket No. 2009-1382-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Patrick D. Zavala in Dickens County**; RN105704506; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, 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. CR/BG; all agree.

- Item 23. [Docket No. 2009-1365-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Filiberto Barrera in Cameron County**; RN105751226; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, 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. CR/BG; all agree.

- Item 24. [Docket No. 2009-1345-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Randy Wilson in Harris County**; RN105749188; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, 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. CR/BG; all agree.

- Item 25. [Docket No. 2009-1423-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Claybar Construction, LLP in Orange County**; RN105788178; 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. CR/BG; all agree.

INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

- Item 26. [Docket No. 2004-0083-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John Popma dba Marketing Interface Company in Upshur County**; TCEQ ID No. RN103146049; 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. (Jim Sallans, Lena Roberts)

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

- Item 27. [Docket No. 2007-1845-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brenda Lewis in Jim Wells County**; TCEQ ID No. RN104634472; 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. (Gary K. Shiu, Lena Roberts)

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

- Item 28. [Docket No. 2009-0761-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties against **Disposal Properties, LLC** in **Bexar County**; RN100622570; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Clinton Sims, Cari-Michel La Caille)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 29. [Docket No. 2008-1177-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Huntsman Petrochemical Corporation, Huntsman International Fuels, L.P., ISP Water Management Services LLC, Huntsman Propylene Oxide Ltd., and Texas Petrochemicals LP** in **Jefferson County**; RN103123220; 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. CR/BG; all agree.

- Item 30. [Docket No. 2009-0853-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **LCY ELASTOMERS LP** in **Harris County**; RN102325974; 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. CR/BG; all agree.

LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER

- Item 31. [Docket No. 2009-0648-LII-E](#). Consideration of an Agreed Order assessing administrative penalties against **Homer V. Beltran** in **Jim Wells County**; RN103397188; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Danielle Porras, Cari-Michel La Caille)

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

LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDERS

- Item 32. [Docket No. 2009-0265-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Javier Godoy** in **Tarrant County**; TCEQ ID No. RN103365946; 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. (Sharesa Y. Alexander, Lena Roberts)

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

- Item 33. [Docket No. 2009-0466-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Garett Davis in Travis County**; TCEQ ID No. RN105565246; 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. (Sharesa Y. Alexander, Lena Roberts)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

- Item 34. [Docket No. 2008-1548-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Marshall in Harrison County**; RN105591150; for municipal solid waste, water quality, and air quality violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Keith Frank, Cari-Michel La Caille)

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

- Item 35. [Docket No. 2009-0482-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BRADY IMPLEMENT COMPANY in McCulloch County**; RN101649861; for used oil and underground injection control violations pursuant to Tex. Health & Safety Code ch. 371, Tex. Water Code chs. 7 and 27, 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. CR/BG; all agree.

- Item 36. [Docket No. 2008-0102-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties against **Rhodia Inc. in Harris County**; RN100220581; for industrial and hazardous 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 Texas Administrative Code ch. 60. (Thomas Greimel, Cari-Michel La Caille)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

- Item 37. [Docket No. 2007-0874-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **John R. Brickle, Jr. in Parker County**; TCEQ ID No. RN105093355; for air quality and municipal solid waste 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. (Shareesa Y. Alexander, Lena Roberts)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 38. [Docket No. 2009-0815-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Lower Colorado River Authority in Matagorda County**; RN102996642; 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. CR/BG; all agree.

Item 39. [Docket No. 2009-0662-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Victoria County Water Control and Improvement District 1 in Victoria County**; RN101516714; 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. CR/BG; all agree.

Item 40. [Docket No. 2009-0607-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Eagle Pass Water Works System in Maverick County**; RN102183001; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steve Villatoro, Cari-Michel La Caille)

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

Item 41. [Docket No. 2009-0627-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wellman in Terry County**; RN102074879; 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. CR/BG; all agree.

Item 42. [Docket No. 2009-0575-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County Municipal Utility District No. 148 in Harris County**; RN102180882; 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. CR/BG; all agree.

Item 43. [Docket No. 2009-0784-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Harris County Municipal Utility District No. 82** in **Harris County**; RN102183696; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Heather Brister, Cari-Michel La Caille)
Approve the Agreed Order. CR/BG; all agree.

Item 44. [Docket No. 2009-0859-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Warren Independent School District** in **Tyler County**; RN101512044; 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. CR/BG; all agree.

PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS

Item 45. [Docket No. 2009-0763-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **VICTORIA MOMIN, INC. dba Honey Stop 8** in **Harris County**; RN101444354; 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. CR/BG; all agree.

Item 46. [Docket No. 2008-0474-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Sarkis Janbazian dba 380 Chevron** in **Denton County**; RN101560191; 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. CR/BG; all agree.

Item 47. [Docket No. 2008-0527-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **To Nguyen and Quang Huynh, aka Quinn Huynh, dba Discount Grocery Store** in **Tarrant County**; TCEQ ID No. RN102226750; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tammy L. Mitchell, Lena Roberts)

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

Item 48. [Docket No. 2008-1363-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **AKJ Management, Inc. dba A & B Food Mart** in **Kaufman County**; TCEQ ID No. RN101539294; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Phillip M. Goodwin, P.G., Lena Roberts)

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

Item 49. [Docket No. 2009-0635-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **SL Horizon, LLC dba Town & Country Airport in Lubbock County**; RN102277076; 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. CR/BG; all agree.

Item 50. [Docket No. 2008-1175-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KABANI Corporation aka Silver Spring Enterprises, Inc. dba AGHA Convenience Store in Tarrant County**; TCEQ ID No. RN101569408; 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. (Laurencia Fasoyiro, Lena Roberts)

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

Item 51. [Docket No. 2009-1182-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Double V, Inc. dba Greens Shell in Harris County**; RN104617477; 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. CR/BG; all agree.

Item 52. [Docket No. 2009-1010-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DRJO ENTERPRISE INC. dba Crystal Car Wash in Dallas County**; RN101540466; 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 Agreed Order. CR/BG; all agree.

Item 53. [Docket No. 2009-0666-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral in Crockett County**; RN102010519; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Wallace Myers, Cari-Michel La Caille)

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

Item 54. [Docket No. 2008-0947-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SUPERIOR GROCERS, INC** in **Johnson County**; RN101549715; 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. CR/BG; all agree.

Item 55. [Docket No. 2008-1892-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **NN Business, Inc.** in **Nueces County**; TCEQ ID No. RN102357464; 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, P.G., Lena Roberts)

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

PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDER

Item 56. [Docket No. 2008-1825-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **SINDLO, INC. dba Rubys Food Store** in **Harris County**; TCEQ ID No. RN101872265; 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. (Stephanie J. Frazee, Lena Roberts)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 57. [Docket No. 2009-0754-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Beeville** in **Bee County**; RN101419133; 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. CR/BG; all agree.

Item 58. [Docket No. 2009-0755-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cameron** in **Milam County**; RN101392215; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Cari-Michel La Caille)

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

Item 59. [Docket No. 2007-1678-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of San Augustine** in **San Augustine County**; RN103779302; 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. CR/BG; all agree.

Item 60. [Docket No. 2009-0159-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Joe Thurman Lodge & Livery, Inc.** in **Mills County**; RN101380269; 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. CR/BG; all agree.

Item 61. [Docket No. 2009-1005-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kempner Water Supply Corporation** in **Lampasas County**; RN101197549; 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. CR/BG; all agree.

Item 62. [Docket No. 2008-1560-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **John Kiouis dba Tech Café** in **Lubbock County**; TCEQ ID No. RN101453561; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Xavier Guerra, Lena Roberts)

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

Item 63. [Docket No. 2009-1176-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rotan** in **Fisher County**; RN101428282; 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. CR/BG; all agree.

Item 64. [Docket No. 2009-0774-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Deadwood Water Supply Corporation** in **Panola County**; RN101442523; 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. CR/BG; all agree.

Item 65. [Docket No. 2009-1058-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Libby Water Supply Corporation** in **Nacogdoches County**; RN101458412; for public drinking water violations pursuant to Tex. Health & Safety

Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Cari-Michel La Caille)

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

- Item 66. [Docket No. 2008-1863-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Parks and Wildlife Department in Bell County**; TCEQ ID No. RN101252765; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca M. Combs, Lena Roberts)

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

SLUDGE ENFORCEMENT AGREED ORDER

- Item 67. [Docket No. 2009-0705-SLG-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Stallion Oilfield Services Ltd. in Wise County**; RN105233225; 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. (Harvey Wilson, Cari-Michel La Caille)

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

SLUDGE ENFORCEMENT DEFAULT ORDER

- Item 68. [Docket No. 2009-0673-SLG-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Connie Rogers dba Alamo Pumping BLU Site in Hidalgo County**; TCEQ ID No. RN103160156; for municipal solid waste violations pursuant to Tex. Water Code chs. 5 and 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. (Benjamin O. Thompson, Lena Roberts)

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

WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT AGREED ORDER

- Item 69. [Docket No. 2009-0795-WOC-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Guillermo Saenz in Zapata County**; RN105710776; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 37, and the rules of the Texas Commission on Environmental Quality. (Keith Frank, Cari-Michel La Caille)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

- Item 70. [Docket No. 2009-0805-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cal-Maine Foods, Inc. in Gonzales County**;

RN103886719; 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. CR/BG; all agree.

Item 71. [Docket No. 2009-1154-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Wichita Falls in Wichita County**; RN101611051; 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. CR/BG; all agree.

Item 72. [Docket No. 2009-0787-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mark Gibbs dba A&W Auto Repair and Used Parts in Victoria County**; RN104420849; 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. CR/BG; all agree.

Item 73. [Docket No. 2009-0900-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Fort Worth in Tarrant County**; RN101424687; 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. CR/BG; all agree.

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 74. [Docket No. 2008-0212-WQ-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Sendero Exteriors, Inc. in Collin County and Denton County**; TCEQ ID No. RN105233530; 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. (Benjamin O. Thompson, Lena Roberts)

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

PETITION FOR RULEMAKING

Item 75. [Docket No. 2009-1531-RUL](#). Consideration of a petition for rulemaking under Section 20.15 of 30 Tex. Admin. Code Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality by Bracewell & Giuliani LLP on behalf of K-3 Resources, LP on September 18, 2009. The petitioner (K-3 Resources, LP) requests that the Commission delete **30 Tex. Admin. Code Section 37.9105(b)(2)** concerning financial assurance

requirements for environmental impairment insurance at sewage sludge land application facilities. (Rob Norris, Anthony Tatu) (Rule Project No. 2010-001-PET-NR)

Adopt the Executive Director's Order that instructs the Executive Director to examine the issues in the petition and to initiate rulemaking and also denies the request for emergency rulemaking. BG/CR; all agree.

RULE MATTERS

Item 76. [Docket No. 2009-0337-RUL](#). Consideration of the adoption of an amendment to Section 309.3 of **30 Tex. Admin. Code Chapter 309**, Domestic Wastewater Effluent Limitations and Plant Siting; an amendment to Section 319.9 and the repeal of Section 319.10 of **30 Tex. Admin. Code Chapter 319**, General Regulations Incorporated into Permits; and an amendment to Section 210.33 of **30 Tex. Admin. Code Chapter 210**, Use of Reclaimed Water. The adoption would add bacteria limits to Texas Pollutant Discharge Elimination System domestic permits, specify the bacteria, set the frequency for testing, and allow flexibility for other bacteria testing. The proposed rules were published in the June 5, 2009 issue of the *Texas Register* (34 TexReg 3495). (Sherry Smith, Michael Parr) (Rule Project No. 2009-005-309-PR)

Adopt amendments to 30 Tex. Admin. Code Chapters 210, 309, 319 as recommended by the Executive Director for adoption. CR/BG; all agree.

Item 77. [Docket No. 2009-0988-RUL](#). Consideration for publication of, and hearing on, proposed amendments to Sections 295.13, 295.155, and 295.161 and proposed new Section 295.114 of **30 Tex. Admin. Code Chapter 295**, Water Rights, Procedural, and proposed amendments to Sections 297.16 and 297.18 of **30 Tex. Admin. Code Chapter 297**, Water Rights, Substantive. The proposed rulemaking would implement House Bill 4231, 81st Legislature, 2009, Regular Session, relating to the conveyance or transfer in Texas of water imported into Texas from a source located outside the state. (Ron Ellis, Robin Smith) (Rule Project No. 2009-040-295-PR)

Approve for publication of, and hearing on, proposed new Section 295.114 and the proposed new amendments to Chapters 295 and 297 as recommended by the Executive Director. BG/CR; all agree.

EXECUTIVE MEETING

Item 78. **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.

No action taken.

Item 79. **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.

No action taken.

Item 80. **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.

No action taken.

(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

11/9/2009
Date