

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 18, 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 Nos. 2007-1820-AIR and 2008-1210-AIR; SOAH Docket Nos. 582-08-0861 and 582-08-4013](#). Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of **NRG Texas Power LLC** for Air Quality Permit No. 79188, Prevention of Significant Deterioration Air Quality Permit No. PSD-TX-1072, and Hazardous Air Pollutant Major Source Permit No. HAP-14 pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 116 and the Texas Clean Air Act, Texas Health and Safety Code Chapter 382, to construct a new 800 megawatt coal-fired electric generating unit and associated facilities. The unit would be located at the existing Limestone Electric Generating Station, on FM 39, approximately nine miles north of Jewett, in **Limestone 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. (Booker Harrison)

Amend Finding of Fact No. 304 on page 39 by substituting "0.12" for "0.15" as the CO MACT emission level; adopt NRG's exceptions with regard to Finding of Fact Nos. 32, 291, 292, 293 and 294; Conclusion of Law No. 43 and Ordering Provision No. 3; adopt the revisions the ALJs recommended to their order in their 9/9/09 letter, except for their recommendation to include Sierra Club's Findings of Fact and amended Conclusion of Law No. 228 with regard to required use of a PM CEMS; amend ALJs' Finding of Fact No. 13 on page 3 to refer to "Order No. 9" rather than to "Order No. 8"; and rather than substitute "metal" for "non-metal" in Finding of Fact No. 308 as the ALJs recommended in their 9/9/09 letter, substitute instead "non-mercury" as requested and agreed to by the ALJs during agenda; amend Ordering Provision No. 9 to read as follows: "The Executive Director's Responses to Comment concerning NRG's Hazardous Air Pollutant Major Source Permit HAP-14 and its Air Quality Permit No. 79188 and PSD Permit No. PSD-

TX-1072 are adopted and approved. If there is any conflict between the Commission's Order and the Executive Director's two Responses to Comments, the Commission's Order prevails"; direct the Executive Director to file revised permits in the Office of Chief Clerk and serve copies on the parties concurrent with the filing; direct Office of General Counsel to attach copies of the revised permits to the Order; and direct the Office of General Counsel to include an additional Ordering Provision stating that the permits take effect on the date of issuance of the Order. BS/CR; all agree.

Continue this item until the December 9th meeting. Direct the Applicant, NRG in this case, to bring back a revised order explaining the changes by noon on Wednesday, November 25, and direct that the other parties are allowed to submit response letters by 5 o'clock on Tuesday, December 1st and the continued item will be considered by the Commission on December 9th during the Agenda scheduled for that date. BS/CR; all agree.

Item 2. [TCEQ Docket No. 2008-1599-IHW; SOAH Docket No. 582-09-1971.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **U.S. Ecology Texas, Inc.**, for a Class 3 Modification to IHW Permit No. 50052 and Compliance Plan No. 50052 pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapters 305, and 335, and Tex. Health & Safety Code, Chapter 361, to expand hazardous and non-hazardous industrial solid waste disposal capacity through addition of a landfill cell, and to plug and abandon, relocate, and install monitor wells. The hazardous and non-hazardous industrial solid waste facility is located on a 240-acre tract of land located at 3277 County Road 69, near the City of Robstown, in **Nueces 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. (Diane Goss)

Adopt the ALJ's Proposed Order granting U.S. Ecology's Class 3 Modification application; approve issuance of the Class 3 Modification to U.S. Ecology's IHW Permit and Compliance Plan No. 50052-001 in the form set forth in Exhibits ED-7 and ED-11; and adopt the Executive Director's Response to Comments in accordance with 30 TAC §§ 50.117 and 80.126. BG/CR; all agree.

Item 3. [TCEQ Docket No. 2009-0504-UCR; SOAH Docket No. 582-09-3642.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Buena Vista Water System in Burnet County**, Texas, to change its rates and tariff pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 291 and Tex. Water Code Chapter 13. The Commission will also consider the application and related filings, exceptions and replies. (Ron Olson)

Adopt the Administrative Law Judge's Proposal for Decision and Proposed Order. BG/CR; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 4. [Docket No. 2009-1483-AIR.](#) Consideration of the application by **Quality Ready Mix, LTD** for New Air Quality Permit 85181 to authorize the construction of a permanent concrete batch plant. The proposed plant site is located one mile north of Farm-to-Market 3377 on County Road 441/15, Mathis, **San Patricio 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. (Shelley Stratmann, Chisum Cooke)

Grant the Hearing Request filed by Mary Jane Robertson and Ronald Tate and refer Michael T. Lumpkin to SOAH for preliminary determination of his affectedness in accordance with distance requirements in the Texas Clean Air Act Section 382.058(c); deny the Request for Reconsideration; refer the matter to SOAH with a concurrent referral to ADR program on the following issues: 1) Whether emissions from the proposed facility will have adverse effects on air quality; 2) Whether emissions from the proposed facility will have adverse effects on human health and safety, including children, elderly, and other individuals with existing health conditions such as lung conditions and other breathing disorders; 3) Whether emissions from the proposed facility will cause adverse public welfare effects such as harm to wildlife, pets, livestock, vegetation, and agricultural land; 4) Whether the emissions from the proposed facility will adversely affect the use and enjoyment of nearby homes and property; and 5) If the ALJ determines that Michael T. Lumpkin is affected, then the Commission refers whether the plant's design and operation will include appropriate safeguards, controls procedures that will ensure protectiveness of human health, welfare and the environment and that we set the maximum duration of the hearing at six months. CR/BG; all agree.

Item 5. [Docket No. 2009-1606-AGR](#). Consideration of the application by **Two Sisters Dairy, LLC** for a New Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004866000, for a Concentrated Animal Feeding Operation (CAFO), which would authorize the applicant to operate a new dairy cattle facility at a maximum capacity of 5,500 head, of which 4,000 head will be milking cows. The facility is located on the west side of County Road 209 approximately four miles south of the intersection of County Road 209 and US Highway 67, said intersection is located seven miles east of Stephenville in **Erath County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment and the Executive Director's Response to Comments. (Michael Parr, James Moore).

Grant the Hearing Request filed by the Bosque River Coalition and refer the matter to SOAH with the concurrent referral to the ADR program on issues 3, 6, 16, 20, 21, 38, 39 and 41 from the vote table worded as follows: Issue 3) Whether the draft permit meets the requirements in 30 TAC § 321.38 regarding inclusion of the standards for quality of soils used in the construction of Retention Control Structures; Issue 6) Whether the nutrient management plan adequately identifies soil test locations and timing; Issue 16) Whether sampling of wastewater and manure under the draft permit is adequate to protect water quality; Issue 20) Whether agronomic rates are properly calculated in the nutrient management plan and are protective of water quality; Issue 21) Whether the draft permit sufficiently restricts the application of phosphorus to be adequately protective of water quality; Issue 38) Whether the Applicant's process-generated wastewater estimate of 15 gallons/head/day is properly calculated; Issue 39) Whether the draft permit is designed to adequately protect against runoff being directed into Retention Control Structure No. 1; Issue 41) Whether Retention Control Structure embankment design, testing, and construction requirements in the draft permit are sufficiently protective of water quality and set the maximum duration of the hearing at 9 months and direct the Executive Director to participate in the contested case hearing at SOAH. BG/CR; all agree.

Item 6. [Docket No. 2009-1634-AGR](#). Consideration of the application by **Joseph Wilson Osinga, Jennifer Sheree Osinga, Bert Marcel Velsen & Heidi Velsen dba Osve Dairy** for a Major Amendment of, and conversion to an individual Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0003682000, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicant to expand an existing dairy cattle facility from 850 head to a maximum capacity of 1,600 head of which 700 head are milking cows. The facility is located on the east side of US Highway 281, approximately 10 miles south of the city limits sign for Stephenville in

Erath County, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment and the Executive Director's Response to Comments. (Michael Parr, James Moore)

Remanded to the Executive Director.

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 7. [Docket No. 2009-0724-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tjitte Tuinier dba Allrounder Dairy and Allrounder Dairy 2** in **Hopkins County**; RN102336807 and RN102286325; 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.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 8. [Docket No. 2009-0893-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **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. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 9. [Docket No. 2009-0958-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Exxon Mobil Corporation** in **Nacogdoches County**; RN100211077; 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 10. [Docket No. 2009-0749-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TOTAL PETROCHEMICALS USA, INC.** in **Harris County**; RN100212109; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Cari-Michel La Caille)

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

Item 11. [Docket No. 2009-0733-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Land O'Lakes Purina Feed LLC** in **Deaf Smith County**; RN102458338; 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 12. [Docket No. 2009-0844-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sunoco Partners Marketing & Terminals L.P. in Jefferson County**; RN100214626; 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 13. [Docket No. 2009-1171-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Watson, Incorporated in Tarrant County**; RN100567155; 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 14. [Docket No. 2009-0810-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Excalibur Collision Center, Inc. in Dallas County**; RN100755347; 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 15. [Docket No. 2009-0875-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP in Hutchinson County**; RN100216613; 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. CR/BG; all agree.

Item 16. [Docket No. 2008-0979-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **WTG Jameson, L.P. in Coke County**; TCEQ ID No. RN101246478; 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. (Tracy Chandler, Lena Roberts)

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

Item 17. [Docket No. 2009-0647-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **DCP Midstream, LP in Midland County**; RN102229572; 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. 2009-0821-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Edinburg in Hidalgo County**; RN102217734; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 19. [Docket No. 2009-0592-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southern Union Gas Services, Ltd. in Winkler County**; RN100238633; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 20. [Docket No. 2009-0490-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **INEOS Americas LLC in Jefferson County**; RN104620083; 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. CR/BG; all agree.

Item 21. [Docket No. 2009-0129-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ConocoPhillips Company in Hutchinson County**; RN102495884; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, Cari-Michel La Caille)

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

Item 22. [Docket No. 2009-0128-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Affiliated Foods, Inc. in Randall County**; RN100694819; 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 23. [Docket No. 2009-0820-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **WTG Jameson, LP in Coke County**; RN101246478; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 24. [Docket No. 2009-0993-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **North American Steel Corporation in Tarrant County**; RN104982137; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Cari-Michel La Caille)

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

Item 25. [Docket No. 2009-0734-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Davis Gas Processing, Inc. in Crockett County**; RN100245182; 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. CR/BG; all agree.

Item 26. [Docket No. 2009-0809-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP in Jim Wells County**; RN100210822; 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. CR/BG; all agree.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 27. [Docket No. 2009-1124-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Hays Consolidated Independent School District in Hays County**; RN105720361; 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. (Jennifer Graves, Cari-Michel La Caille)

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

FIELD CITATIONS

Item 28. [Docket No. 2009-1480-OSI-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Doug Holder in Tarrant County**; RN103911996; 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 29. [Docket No. 2009-1559-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **RVR INVESTMENTS INC. dba Kwik Way Food Store 201** in **Dallas County**; RN101546232; 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. CR/BG; all agree.

Item 30. [Docket No. 2009-1516-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Oscar de Luna** in **Willacy County**; RN105774319; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 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.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

Item 31. [Docket No. 2008-1555-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Dow Chemical Company** in **Brazoria County**; RN100225945; 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.

Item 32. [Docket No. 2009-0760-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **W-TEK, INC.** in **Dallas County**; RN101130755; 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. (Judy Kluge, Cari-Michel La Caille)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 33. [Docket No. 2009-0880-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Easher Corporation** in **Palo Pinto County**; RN102342672; 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. CR/BG; all agree.

- Item 34. [Docket No. 2009-0766-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ameriforge Corporation** in **Harris County**; RN102075686; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Cari-Michel La Caille)

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

- Item 35. [Docket No. 2009-0923-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Halliburton Energy Services, Inc.** in **Harris County**; RN101720241; 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 36. [Docket No. 2009-0865-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Weatherford U.S., L.P.** in **Harris County**; RN102586088; 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.

LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER

- Item 37. [Docket No. 2009-0811-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Juan Gervacio Gonzalez** in **Johnson and Hood Counties**; RN105725519; 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. (Keith Frank, Cari-Michel La Caille)

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

LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDERS

- Item 38. [Docket No. 2009-0251-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jose Antonio Camacho** in **Harris County**; TCEQ ID No. RN105624696; 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. (Kari L. Gilbreth, Lena Roberts)

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

- Item 39. [Docket No. 2009-0345-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Humberto Saldaña** in **Tarrant County**; TCEQ ID

No. RN105640874; 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. (Steven M. Fishburn, Lena Roberts)

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

Item 40. [Docket No. 2009-0270-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Andre C. Cormier in Tarrant County**; TCEQ ID No. RN103507133; 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. (Steven M. Fishburn, Lena Roberts)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 41. [Docket No. 2009-0977-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **JUMA PALLETS, INC. in El Paso County**; RN105497606; for air and water 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. (Jennifer Graves, Cari-Michel La Caille)

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

Item 42. [Docket No. 2009-0112-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **A-1 Lufkin Rental Center, Inc. dba A-1 Johnny Portable Toilets in Angelina County**; TCEQ ID No. RN103149076; for water quality and municipal solid waste violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Sharesa Y. Alexander, Lena Roberts)

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

Item 43. [Docket No. 2008-0036-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Double Diamond Utilities Co. in Palo Pinto County and Hill County**; TCEQ ID Nos. RN102328515, RN102329802, and RN101265213; for public drinking water and water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 341, 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. CR/BG; all agree.

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 44. [Docket No. 2005-1711-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Joseph Piazza dba Exxon Northgate in El Paso**

County; TCEQ ID No. RN100612456; for air quality and 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. (Gary K. Shiu, Lena Roberts)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 45. [Docket No. 2008-1188-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Joe E. Panagopoulos dba Metro Materials in Bexar County**; TCEQ ID No. RN105225106; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Stephanie J. Frazee, Lena Roberts)

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

Item 46. [Docket No. 2009-0838-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ANACONDA DISPOSAL LLC in Bexar County**; RN105720007; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Clinton Sims, Cari-Michel La Caille)

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

Item 47. [Docket No. 2008-1818-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Steve Clabaugh dba Discount Materials in Midland County**; RN105228365; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Cari-Michel La Caille)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 48. [Docket No. 2009-1021-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Canadian in Hemphill County**; RN101613313; 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 49. [Docket No. 2009-0814-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Karnes City in Karnes County**;

RN101610111; 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 50. [Docket No. 2009-1048-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Magnolia Independent School District in Montgomery County**; RN102077583; 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. CR/BG; all agree.

Item 51. [Docket No. 2009-1044-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Celeste in Hunt County**; RN101919439; 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 52. [Docket No. 2009-0626-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of San Benito in Cameron County**; RN103935599; 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 53. [Docket No. 2009-0629-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Valley View in Cooke County**; RN101524338; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Cari-Michel La Caille)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 54. [Docket No. 2009-0863-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Spanky's Wrecker Service Incorporated dba Spanky's Wrecker in Jefferson County**; RN101898575; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Mike Pace, Cari-Michel La Caille)

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

Item 55. [Docket No. 2009-0928-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials** in **Bexar County**; RN105487805; 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 56. [Docket No. 2009-1147-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **EASTEX HARDY PROPERTIES, LLC. dba Diamond Foods** in **Harris County**; RN103051892; 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. CR/BG; all agree.

Item 57. [Docket No. 2009-0984-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **B & S Enterprise, Inc. dba Chevron Food Mart** in **Navarro County**; RN101835015; 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. (Michael Meyer, Cari-Michel La Caille)

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

Item 58. [Docket No. 2009-0835-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Texas Petroleum Group LLC dba TPG 255 05** in **Harris County**; RN102227592; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Cari-Michel La Caille)

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

Item 59. [Docket No. 2009-1098-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Kidane Mariam dba Hatcher Convenience Store** in **Dallas County**; RN101565315; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Mike Pace, Cari-Michel La Caille)

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

Item 60. [Docket No. 2009-0706-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **El Paso Surgery Centers, L.P. dba Surgical Center of El Paso** in **El Paso County**; RN101656403; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Cari-Michel La Caille)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 61. [Docket No. 2008-1815-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Aamson Enterprises Inc dba Cullen Food Mart in Harris County**; TCEQ ID No. RN101735496; 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. (Rebecca M. Combs, Lena Roberts)

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

Item 62. [Docket No. 2008-1444-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Bill Bearden dba Ovilla Road Citgo in Ellis County**; TCEQ ID No. RN102058997; 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 Default Order. CR/BG; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 63. [Docket No. 2009-1148-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Upper Leon River Municipal Water District in Comanche County**; RN101189264; 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 64. [Docket No. 2008-1829-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Larry O'Neill dba Lazy Acres Trailer Park in Bexar County**; TCEQ ID No. RN101653723; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jacquelyn Boutwell, Lena Roberts)

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

Item 65. [Docket No. 2009-1262-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wright City Water Supply Corporation in Smith County**; RN101238459; 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. 2009-0718-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cypress Springs Special Utility District in Franklin County**; RN101190726; 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 67. [Docket No. 2009-1174-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Frognot Water Supply Corporation in Collin County**; RN101193662; 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 68. [Docket No. 2009-0126-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **KBL Management, Inc. in Burnet County**; TCEQ ID No. RN102320991; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tammy L. Mitchell, Lena Roberts)

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

Item 69. [Docket No. 2009-1175-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Luella Special Utility District in Grayson County**; RN101456937; 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 70. [Docket No. 2009-1003-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kingsbridge Municipal Utility District in Fort Bend County**; RN102684727; 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 71. [Docket No. 2009-0996-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **King-Cottle Water Supply Corporation in Cottle County**; RN101458602; 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 72. [Docket No. 2009-0972-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rio Water Supply Corporation in Starr County**; RN101456689; 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.

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 73. [Docket No. 2009-0459-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **EL MODENO GARDENS, INC., P&E Groot Family Trust, and SEVILLE FARMS, INC.** in **Smith County**; RN103777488; 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 74. [Docket No. 2009-0362-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **River City Ready Mix, Inc. in Comal County**; TCEQ ID No. RN104332945; 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. CR/BG; all agree.

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 75. [Docket No. 2009-0685-WQ-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **George Sprague dba George's Tire Shop in Aransas County**; TCEQ ID No. RN105473672; 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. (Jennifer Cook, Lena Roberts)

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

WATER RIGHT ENFORCEMENT AGREED ORDER

Item 76. [Docket No. 2009-1134-WR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **James Construction Group, L.L.C. in Bell County**; RN105739114; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Heather Brister, Cari-Michel La Caille)

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

PETITION FOR RULEMAKING

- Item 77. [Docket No. 2009-1586-RUL](#). Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality by Lloyd Gosselink Rochelle & Townsend, P. C., on September 25, 2009 on behalf of the City of Granite Shoals and the City of Leander (petitioners). The petitioners seek the repeal of **30 TAC Chapter 311** (Watershed Protection), Subchapters A, B, and F, and the subsequent allowance to discharge reclaimed waters into the watersheds of the Highland Lakes. (Lynda Clayton, Kathy Humphreys) (Rule Project No. 2010-002-PET-NR)

Adopt the Executive Director's Proposed Order with the following changes: correct the spelling of "Granite" in the title; change the second paragraph to read "It is of the decision of the Commission pursuant to Administrative Procedure Act, Texas Government Code, § 2001.021 and Texas Water Code, § 5.102 to deny the petition". Change the third paragraph to read "Agency adoption of revisions of 30 Texas Admin. Code chapter 307 regarding Texas Surface Water Quality Standards and related changes to implementation plans are needed before further consideration of this issue to ensure consistency with the statewide approach to nutrient criteria development and implementation". CR/BG; all agree.

RULE MATTERS

- Item 78. [Docket No. 2009-1400-RUL](#). Consideration for publication of, and hearings on, proposed new Sections 101.100 - 101.105, 101.107 - 101.109, 101.112, and 101.114 - 101.122 of **30 TAC Chapter 101**, General Air Quality Rules, Subchapter B, Failure to Attain Fee, and corresponding revisions to the state implementation plan (SIP). The proposed rulemaking would implement the provisions of the Federal Clean Air Act (FCAA), Sections 182(d)(3) and (e) and 185, which require each SIP for ozone nonattainment areas classified as severe or extreme to include a requirement for the imposition of a penalty fee for major stationary sources of volatile organic compounds (VOC) located in the area if the area fails to attain the ozone National Ambient Air Quality Standard (NAAQS or standard) by the applicable attainment date. The rulemaking will also implement Section 182(f), which requires all SIP requirements that apply for VOC to also apply for emissions of nitrogen oxides (NOX). The Houston-Galveston-Brazoria (HGB) area was classified as severe for both the one-hour ozone NAAQS and the 1997 eight-hour ozone NAAQS. The rulemaking will also provide for alternative options for the fee obligation and baseline amount calculations. Major stationary sources are subject to paying a fee of \$5,000, as adjusted by the consumer price index, per ton in excess of 80 percent of a baseline amount of VOC or NOX (or both.) The fee is proposed to be due annually until the area is redesignated attainment or has three years of data demonstrating attainment. (Kathy Pendleton, Terry Salem) (Rule Project No. 2009-009-101-EN)

Approve the publication of, and hearing on, proposed new Sections of 30 TAC Chapter 101, General Air Quality Rules, Subchapter B, Failure to Attain Fee, and corresponding revisions of the state implementation plan as recommended by the Executive Director. BG/CR; all agree.

- Item 79. [Docket No. 2009-0819-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 290**, Public Drinking Water, Sections 290.38, 290.39, 290.44-290.47, and new Sections 291.160-291.162 of **30 TAC Chapter 291**, Utility Regulations. The adoption would implement Senate Bill (SB) 361 from the 81st Legislature, 2009, Regular Session, relating to the requirement that certain water service providers ensure emergency operations during an extended power outage. This rulemaking would require water service providers located in counties of 3.3 million or greater and adjacent counties of 400,000 or greater to submit to the Executive

Director, adopt, and implement an approved Emergency Preparedness Plan. SB 361 gives the commission the authority to regulate water service providers that have not previously been regulated by the Texas Commission on Environmental Quality. The proposed rules were published in the August 28, 2009 issue of the *Texas Register* (34 TexReg 5871). (Reyna Holmes, Christiaan Siano) (Rule Project No. 2009-032-290-PR)

Adopt the amendments of 30 TAC Chapter 290 and 291 to implement Senate Bill 361 as recommended by the Executive Director for adoption. CR/BG; all agree.

EXECUTIVE MEETING

Item 80. **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 81. **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 82. **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/ Elaine Lucas
Assistant General Counsel,
Elaine Lucas

11/30/2009
Date