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*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  
June 2, 2010

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. 2008-1481-UCR; SOAH Docket No. 582-09-0660.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **North San Saba Water Supply Corporation** to change its water rates under Certificate of Convenience and Necessity No. 11227 in **San Saba County** pursuant to the rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 291 and Tex. Water Code Chapter 13. The Commission will also consider timely related filings, exceptions and replies. (Heidi Graham, Kayla Murray)

Adopt the ALJ's Proposed Order granting the ratepayers' appeal of the retail water rates of North San Saba Water Supply Corporation with the following modifications: Modify Ordering Provision No. 4 to state, "The refund shall be made as a monthly credit to customer bills beginning the fourth monthly cycle following the effective date of this Order;" renumbering of the Order to occur as necessary. CR/BG; all agree.

- Item 2. [TCEQ Docket No. 2009-1691-AIR; SOAH Docket No. 582-10-2070.](#) Consideration of the application by **East Texas Precast Co., Ltd.** for registration to use the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 86593 which would authorize the construction of a permanent concrete batch plant. The plant is currently permitted as a specialty concrete batch plant under the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 50702. The plant site is located at 44855 Old Houston Hwy, Hempstead, **Waller 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. (Catherine Chinni, Amy Browning)

Continued to the June 16, 2010 agenda.

- Item 3. [TCEQ Docket No. 2009-1483-AIR; SOAH Docket No. 582-10-1698](#). Consideration of the application by **Quality Ready Mix, Ltd., L.L.P.** for new Air Quality Standard Permit Registration No. 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 timely public comments and the Executive Director's Response to such comments; the application, and related filings, timely exceptions and replies.

Adopt the ALJ's Proposed Order with the following changes: Add new Ordering Provision No. 2 which shall read: "Quality Ready Mix shall amend its permit application to include 2010 survey map (Applicant Exhibit No. 2) within 10 days of the effective date of this Commission Order and shall construct the facility consistent with the location represented in Applicant Exhibit No. 2. In no event shall Quality Ready Mix construct the concrete batch any closer than 1,767 feet from the existing Tate/Robertson residence."; and correct the name of the applicant in two places on page 1 to read "Quality Ready Mix, Ltd., L.L.P." BG/CR; all agree.

#### **MISCELLANEOUS MATTER**

- Item 4. [Docket No. 2010-0552-UCR](#). Consideration of a request for a Commission Order approving a contract designating service areas between **City of Palestine** (City), Certificate of Convenience and Necessity (CCN) No. 12135, and **Four Pines Rural Water Supply Corporation** (WSC), CCN No. 11239, in **Anderson County**, Texas, pursuant to Texas Water Code Section 13.248. On or about November 9, 2009, the City and the WSC executed a contract regarding an approximately 6.28 acre tract subject to the WSC's CCN. Under the contract, the City will provide water service to the approximate 6.28 acre tract and the area will be transferred to the City's CCN. No facilities will be transferred under the contract. The WSC had three customers in the approximately 6.28 acre tract. The three customers requested retail water service from the City and will be transferred under the contract. (Ruth Takeda, Heidi Graham)

Approve the contract between Four Pines Rural Water Supply Corporation and City of Palestine under Tex. Water Code Section 13.248 which will result in the transfer of approximate 6.28 acres of Palestine's water CCN and issue the Executive Director's proposed Order but delete the phrase "and sewer" from the second sentence in second paragraph. CR/BG; all agree.

#### **TMDL MATTERS**

- Item 5. [Docket No. 2009-0725-TML](#). Consideration to adopt eight final Total Maximum Daily Loads (TMDLs) for indicator bacteria in **Greens Bayou Above Tidal and Tributaries** (Segments 1016, 1016A, 1016B, 1016C, and 1016D), of the San Jacinto River Basin, in **Harris County** to satisfy federal water quality management planning requirements.

Adopt the eight final TMDLs for indicator bacteria in Greens Bayou Above Tidal and Tributaries Segments 1016 and 1016A –D of the San Jacinto River Basin. BG/CR; all agree.

Item 6. [Docket No. 2009-1619-TML](#). Consideration for approval to publish and solicit public comment on Thirteen Draft TMDLs for indicator bacteria in **Eastern Houston Watersheds**, Segments 1006F, 1006H, 1007F, 1007G, 1007H, 1007I, 1007K, 1007M, 1007O, and 1007R of the San Jacinto River Basin, in **Harris County**.

Approve publication of, and solicitation of public comment on the Thirteen Draft TMDLs for indicator bacteria in Eastern Houston Watersheds, Segments 1006F and H, 1007F, G, H, I, K, M, O and R of the San Jacinto River Basin. BG/CR; all agree.

Item 7. [Docket No. 2009-1618-TML](#). Consideration for approval to publish and solicit public comment on four draft TMDLs for indicator bacteria in **Halls Bayou and Tributaries**, Segments 1006D, 1006I, and 1006J of the San Jacinto River Basin, in **Harris County**.

Approve publication of, and solicitation of public comment on the four draft TMDLs for indicator bacteria in Halls Bayou and Tributaries, Segments 1006D, I and J of the San Jacinto River Basin. BG/CR; all agree.

Item 8. [Docket No. 2009-0757-TML](#). Consideration for approval to publish and solicit public comment on five draft TMDLs for indicator bacteria in **Brays Bayou Above Tidal and Tributaries** (Segments 1007B, 1007C, 1007E, and 1007L), of the San Jacinto River Basin, in **Fort Bend and Harris Counties**.

Approve publication of, and solicitation of public comment on the five draft TMDLs for indicator bacteria in Brays Bayou Above Tidal and Tributaries, Segments 1007B, C, E and L of the San Jacinto River Basin. BG/CR; all agree.

Item 9. [Docket No. 2009-1620-TML](#). Consideration for approval to publish and solicit public comment on four draft TMDLs for indicator bacteria in **Sims Bayou Above Tidal and Tributary**, (Segments 1007D, and 1007N), of the San Jacinto River Basin, in **Harris and Fort Bend Counties**.

Approve the four draft TMDLs for indicator bacteria in Sims Bayou Above Tidal and Tributary, Segments 1007D and N of the San Jacinto River Basin. BG/CR; all agree.

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

Item 10. [Docket No. 2009-2016-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Daniel Viss** in **Erath County**; RN102065463; 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, Laurie Eaves)

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

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

Item 11. [Docket No. 2009-2025-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Baytown Asphalt Materials, Ltd.** in **Chambers**

**County**; RN102834678; for air quality violations pursuant to Tex. Health & Safety Code 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, Laurie Eaves)

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

Item 12. [Docket No. 2009-1833-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. (John Muennink, Laurie Eaves)

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

Item 13. [Docket No. 2009-2024-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, LP** in **Harris County**; RN100210319; 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, Laurie Eaves)

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

Item 14. [Docket No. 2009-1338-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Vopak Terminal Deer Park, Inc.** in **Harris County**; RN100225093; 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, Laurie Eaves)

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

Item 15. [Docket No. 2006-0861-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **K & K Tank Cleaning Systems, Inc.** in **Tarrant County**; RN100789197; 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. (Barham A. Richard, Lena Roberts)

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

Item 16. [Docket No. 2010-0091-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Martin Sanchez dba Martins Paint and Body Shop** in **Dallas County**; RN105387864; 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, Laurie Eaves)

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

Item 17. [Docket No. 2009-1990-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Sunoco Pipeline L.P. in Scurry County**; RN100215128; 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, Laurie Eaves)

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

Item 18. [Docket No. 2010-0008-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Enterprise Products Operating LLC in Polk County**; RN100228998; 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. (Raymond Marlow, P.G., Laurie Eaves)

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

Item 19. [Docket No. 2009-1976-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, LP in Harris County**; RN102926920; 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, Laurie Eaves)

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

Item 20. [Docket No. 2009-1854-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rhodia Inc. in Harris County**; RN100211317; 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, Laurie Eaves)

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

Item 21. [Docket No. 2009-2035-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Garry Morris dba Alright Auto in Grayson County**; RN105833404; 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, Laurie Eaves)

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

Item 22. [Docket No. 2009-0561-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Invista S.a r.l. in Orange County**; RN104392626; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna M. Treadwell, Lena Roberts)

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

Item 23. [Docket No. 2009-1043-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Motiva Enterprises LLC** in **Jefferson County**; RN100209451; 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, Laurie Eaves)

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

Item 24. [Docket No. 2009-1789-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shell Chemical LP** in **Harris County**; RN100211879; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Laurie Eaves)

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

Item 25. [Docket No. 2009-1371-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **WTG Gas Processing, L.P.** in **Howard County**; RN100211473; 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, Laurie Eaves)

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

#### **AIR QUALITY ENFORCEMENT DEFAULT ORDER**

Item 26. [Docket No. 2009-0286-AIR-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Amarillo Road Company, L.P.** in **Hale County**; RN102568516; 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. (Jim Sallans, Lena Roberts)

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

#### **FIELD CITATIONS**

Item 27. [Docket No. 2010-0071-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Rio Grande Regional Hospital, Inc. dba Rio Grande Regional Hospital** in **Hidalgo County**; RN100680529; 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, Laurie Eaves)

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

Item 28. [Docket No. 2010-0127-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Jefferson County Drainage District 6** in **Jefferson County**; RN105834006; 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, Laurie Eaves)

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

- Item 29. [Docket No. 2010-0101-WR-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **M. J. Sheridan of Texas, Inc.** in **Harris County**; RN105828560; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Laurie Eaves)

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

#### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDERS**

- Item 30. [Docket No. 2009-1863-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Phillip B. Hunter** in **Comal County**; RN103386405; 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. (Rajesh Acharya, Laurie Eaves)

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

- Item 31. [Docket No. 2009-1638-LII-E](#). Consideration of an Agreed Order assessing administrative penalties against **David Martinez** in **Dallas County**; RN105767156; 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. (Rajesh Acharya, Laurie Eaves)

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

- Item 32. [Docket No. 2009-0175-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Marc Alpert** in **Travis County**; RN105678155; 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 Agreed Order. CR/BG; all agree.

#### **LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDERS**

- Item 33. [Docket No. 2009-0344-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mike Norris** in **Hays County**; RN105624779; for landscape irrigation installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

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

Item 34. [Docket No. 2009-0902-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mark William Dailey** in **Bexar** and **Guadalupe Counties**; RN103281267; 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. (Gary K. Shiu, Lena Roberts)

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

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

Item 35. [Docket No. 2008-0640-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **William S. Crouch dba Value Cleaners** in **Bowie County**; RN102215704; for industrial and hazardous waste and dry cleaner violations pursuant to Tex. Health & Safety Code chs. 361 and 374, 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 36. [Docket No. 2009-1956-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Timberwood Development Company, L.P.** in **Bexar County**; RN105813364; for Edwards Aquifer and 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., Laurie Eaves)

Remanded to the Executive Director.

Item 37. [Docket No. 2009-0918-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Austin Equipment Company, LC** in **Williamson County**; RN104543780; 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. (Phillip M. Goodwin, P.G., Lena Roberts)

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

Item 38. [Docket No. 2009-1693-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BIXBY ENTERPRISES, INC. dba Out on a Limb** in **Bexar County**; RN102837382; for municipal solid waste and Edwards Aquifer violations pursuant to Tex. Health & Safety Code ch. 361, 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. (Clinton Sims, Laurie Eaves)

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

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

Item 39. [Docket No. 2007-1857-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Crowell** and **Foard County** in **Foard County**; RN101478261; 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. (Laurencia Fasoyiro, Lena Roberts)

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

Item 40. [Docket No. 2009-2002-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Phillip England** in **Hunt County**; RN105728588; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Keith Frank, Laurie Eaves)

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

Item 41. [Docket No. 2009-1081-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Juan Chavez** in **Hidalgo County**; RN105729727; 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. (John Shelton, Laurie Eaves)

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

Item 42. [Docket No. 2009-1391-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **George Henry Dearborn** in **Orange County**; RN103074415; 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. (John Shelton, Laurie Eaves)

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

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

Item 43. [Docket No. 2009-1442-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **K & H Holdings, LLC** in **Tarrant County**; RN101266922; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lauren Smitherman, Laurie Eaves)

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

Item 44. [Docket No. 2010-0103-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cleveland** in **Liberty County**; RN102179892; 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, Laurie Eaves)

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

- Item 45. [Docket No. 2009-1146-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Austwell in Refugio County**; RN101608347; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Jecha, Laurie Eaves)

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

- Item 46. [Docket No. 2009-1831-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Harris County Municipal Utility District No. 238 in Harris County**; RN102359981; 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. (Jeremy Escobar, Laurie Eaves)

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

- Item 47. [Docket No. 2010-0109-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Canton in Van Zandt County**; RN101610574; 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, Laurie Eaves)

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

- Item 48. [Docket No. 2009-1889-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Celina in Collin County**; RN102336567; 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, Laurie Eaves)

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

- Item 49. [Docket No. 2009-1772-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Circle Bar Truck Corral, Inc. in Crockett County**; RN102844669; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Jecha, P.G., Laurie Eaves)

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

- Item 50. [Docket No. 2009-2088-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Colorado City in Mitchell County**; RN102182557; 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, Laurie Eaves)

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

- Item 51. [Docket No. 2009-1327-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Is Zen Center in Montgomery County**; RN104072335; 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. (Jeremy Escobar, Laurie Eaves)

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

- Item 52. [Docket No. 2009-0866-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rio Grande City in Starr County**; RN102777661; 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., Laurie Eaves)

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

- Item 53. [Docket No. 2010-0128-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chambers County Improvement District No. 1 in Chambers County**; RN104788914; 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. (Jordan Jones, Laurie Eaves)

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

- Item 54. [Docket No. 2009-1911-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Eagle Lake in Colorado County**; RN102181195; 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, Laurie Eaves)

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

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

- Item 55. [Docket No. 2007-1997-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kea Investments, Inc. in Henderson County**; RN101781615; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tracy Chandler, Lena Roberts)

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

- Item 56. [Docket No. 2008-0801-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Eluterio Elizondo in Duval County**; RN103992962; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and rules of the Texas Commission on

Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Stephanie J. Frazee, Lena Roberts)

Remanded to the Executive Director. CR/BG; all agree.

Item 57. [Docket No. 2009-1721-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **J & Z C-STORE, INC. dba Citgo Food Store** in **Harris County**; RN102432838; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Laurie Eaves)

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

Item 58. [Docket No. 2009-1881-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **James D. Satterwhite dba Dannys Automotive** in **Ellis County**; RN104488648; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Laurie Eaves)

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

Item 59. [Docket No. 2009-1870-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nhan Thi Tran dba Time Out Grocery** in **Jefferson County**; RN101890853; 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, Laurie Eaves)

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

Item 60. [Docket No. 2009-1629-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ali Murad Plasticwala** in **Dallas County**; RN101566826; 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, Laurie Eaves)

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

Item 61. [Docket No. 2009-2043-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **NUECES ELECTRIC COOPERATIVE, INC.** in **Nueces County**; RN100692862; 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, Laurie Eaves)

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

Item 62. [Docket No. 2009-1542-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Elvan Management Inc. dba Elvan's Granbury Chevron** in **Hood County**; RN102445491; 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, Laurie Eaves)

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

Item 63. [Docket No. 2009-1996-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SMHS 1, INC. dba Cherry Food Mart in Tarrant County**; RN102348182; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Laurie Eaves)

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

Item 64. [Docket No. 2009-0514-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **R.C. McBryde Oil Company in Kimble County**; RN101617074; 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. (Kari L. Gilbreth, Lena Roberts)

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

Item 65. [Docket No. 2008-1893-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rod C. Oliver in Live Oak County**; RN101783389; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rudy Calderon, Lena Roberts)

Remanded to the Executive Director. CR/BG; all agree.

Item 66. [Docket No. 2007-1725-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tim Judd and Shelley Judd in Haskell County**; RN101804086; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rudy Calderon, Lena Roberts)

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

Item 67. [Docket No. 2009-1708-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **SH & PN Investment Group Inc. dba PNJ Food Mart in Harris County**; RN101192136; 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, Laurie Eaves)

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

Item 68. [Docket No. 2009-1437-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lino Z. Donato dba Donato Auto Supply** in **Atascosa County**; RN102719648; 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, Laurie Eaves)

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

Item 69. [Docket No. 2009-1951-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **CHUP Corporation, Inc. dba Sid's Food Mart** in **Dallas County**; RN101562643; 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, Laurie Eaves)

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

Item 70. [Docket No. 2009-2060-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **ZAFAR, INC. dba SW Fondren Shell** in **Harris County**; RN100711639; 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. (Tate Barrett, Laurie Eaves)

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

Item 71. [Docket No. 2010-0141-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Jay Maharaj Corporation dba Jay Food Stop** in **Montgomery County**; RN102904323; 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. (Danielle Porras, Laurie Eaves)

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

Item 72. [Docket No. 2009-1945-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Deer Horn Aviation Ltd. Co. dba Avion Flight Centre** in **Midland County**; RN102851771; 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, Laurie Eaves)

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

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

Item 73. [Docket No. 2009-1805-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Devin Borjas** in **Hale County**; RN101905164; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Steven M. Fishburn, Lena Roberts)

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

- Item 74. [Docket No. 2009-0816-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Donald Stewart dba Riviera Truck & Auto Service in Kleberg County**; RN101680528; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Lena Roberts)

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

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

- Item 75. [Docket No. 2009-2009-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ross Water Supply Corporation in McLennan County**; RN102682168; 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, Laurie Eaves)

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

- Item 76. [Docket No. 2010-0009-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hilco United Services, Inc. in Bosque County**; RN101451094; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Anna Meier, Laurie Eaves)

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

- Item 77. [Docket No. 2009-1033-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Nora Ghani dba Airline Square and Naji Ahmad dba Airline Square in Harris County**; RN102436250; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Phillip M. Goodwin, P.G., Lena Roberts)

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

- Item 78. [Docket No. 2010-0112-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hudson Water Supply Corporation in Angelina County**; RN101455954; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Anna Meier, Laurie Eaves)

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

- Item 79. [Docket No. 2009-2061-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Moore Station Water Supply Corporation in Henderson County**; RN101231256; 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, Laurie Eaves)

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

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

Item 80. [Docket No. 2009-1326-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Williamson County and Ranger Excavating, L.P.** in **Williamson County**; RN104854765; 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. (Jeremy Escobar, Laurie Eaves)

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

Item 81. [Docket No. 2008-1660-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Downstream Environmental, L.L.C.** in **Harris County**; RN101662617; 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. (Anna Treadwell, Lena Roberts)

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

### **WATER RIGHT ENFORCEMENT AGREED ORDER**

Item 82. [Docket No. 2009-1849-WR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Applied Materials, Inc.** in **Travis County**; RN105147995; for water quality violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Thomas Jecha, Laurie Eaves)

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

### **RULE MATTERS**

Item 83. [Docket No. 2009-1469-RUL](#). Consideration of the adoption of amended Sections 115.322 - 115.326, 115.352 - 115.357, 115.781, 115.782, and 115.786 - 115.788 and new Sections 115.358 and 115.784 of **30 Texas Admin. Code (TAC) Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan. The adoption would revise the Chapter 115 leak detection and repair rules in Subchapter D, Divisions 2 and 3, and Subchapter H, Division 3 to allow an optional alternative work practice to detect fugitive emission leaks using optical gas imaging instruments. The proposed rules were published in the December 25, 2009, issue of the *Texas Register* (34 TexReg 9315). (Robert Gifford, Janis Hudson) (Rule Project No. 2009-030-115-EN)

Adopt the proposed amendments to 30 TAC Chapter 115 and proposed new 30 TAC Sections 115.358 and 115.784 and approve the corresponding revisions to the SIP. BG/CR; all agree.

Item 84. [Docket No. 2009-0203-RUL](#). Consideration of the adoption of new sections 101.150, 101.151, 101.153, and 101.155 of **30 TAC Chapter 101**, General Air Quality Rules. The adoption would implement House Bill 1526 from the 80th Legislature, 2007, Regular Session, relating to incentives for owners or operators implementing a voluntary supplemental leak detection program using innovative technology. The proposed rules were published in the December 25, 2009 issue of the *Texas Register* (34 TexReg 9311). (Joe Janecka, Janis Hudson) (Rule Project No. 2007-040-101-CE)

Adopt new Sections 101.150, 101.151, 101.153 and 101.155 of 30 TAC Chapter 101 as recommended by the Executive Director. CR/BG; all agree.

Item 85. [Docket No. 2009-1541-RUL](#). Consideration of the adoption of an amendment to **30 TAC Chapter 101**, General Air Quality Rules, Subchapter A, General Rules, Section 101.27, Emissions Fees. The adoption will simplify the applicability requirements for determining if the owner or operator of a regulated entity is subject to being assessed an emissions fee and will simplify the rule language establishing the basis for determining the amount of the emissions fee. The proposed rules were published in the December 25, 2009, issue of the *Texas Register* (34 TexReg 9305). (Michael De La Cruz, Amy Browning) (Rule Project No. 2008-025-101-EN)

Adopt the amendments to 30 TAC Section 101.27. BG/CR; all agree.

Item 86. [Docket No. 2009-0991-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 291**, Utility Regulations, Sections 291.106 and 291.124. The adopted rulemaking would implement House Bill 1295 from the 81st Legislature, 2009, Regular Session, regarding notice for an application made to the Texas Commission on Environmental Quality to obtain or amend a Certificate of Convenience and Necessity. The statute requires that notice be given to each county and groundwater conservation district that is wholly or partially included in the area to be certificated. The adopted rulemaking would also implement Senate Bill 2126 from the 81st Legislature, 2009, Regular Session, to allow owners or managers of apartment houses to add up to a nine percent service charge to the water and wastewater portions of the tenants' utility bills in submetered apartment dwelling units. The proposed rules were published in the January 29, 2010 issue of the *Texas Register* (35 TexReg 575). (Tammy Benter, Kayla Murray) (Rule Project No. 2009-039-291-OW)

Adopt the amendments to 30 TAC Chapter 291. BG/CR; all agree.

Item 87. [Docket No. 2009-1907-RUL](#). Consideration of the adoption of an amendment to Section 116.160 of **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification and corresponding revisions to the state implementation plan. The adoption would include references to 40 Code of Federal Regulations (CFR) Section 52.21(b)(12), the federal definition of best available control technology (BACT), 40 CFR Section 52.21(r)(4), the federal requirement that ensures sources or modifications which become major as a result of the relaxation of an enforceable limitation are subject to prevention of significant deterioration requirements, and 40 CFR Section 52.21(j), the federal requirement to use control technology that is equivalent or more stringent than BACT. The proposed rules were published in the January 29, 2010 issue of the *Texas Register* (35 TexReg 569). (Blake Stewart, Janis Hudson) (Rule Project No. 2010-005-116-PR)

Adopt the proposed amendments to 30 TAC Section 116.160 and approve the corresponding SIP revisions as recommended by the Executive Director. CR/BG; all agree.

Item 88. [Docket No. 2009-1777-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 39**, Public Notice; Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; Chapter 60, Compliance History; and Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; and corresponding revisions to the state implementation plan (SIP). The rulemaking would adopt the repeal of Sections 39.402, 39.404 and 39.606; adopt new Section 39.402; and also adopt the amendments to Sections 39.106, 39.403, 39.405, 39.409, 39.411, 39.418 - 39.420, 39.501, 39.551, 39.601 - 39.605, 39.651, 39.653, 39.709, 55.152, 55.154, 55.156, 55.210, 60.1., 116.114 and 116.194.

The following new and amended sections would be submitted to the United States Environmental Protection Agency (EPA) as revisions to the SIP: Sections 39.402(a)(1) - (6), (8), and (10) - (12), 39.405(f)(3) and (g), (h)(1)(A) - (4), (6), (8) - (11), (i) and (j), 39.409, 39.411(e)(1) - (4)(A)(i) and (iii), (4)(B), (5)(A) and (B), (6) - (10), (11)(A)(i) and (iii) and (iv), (11)(B) - (F), (13) and (15), and (f)(1) - (8), (g) and (h), 39.418(a), (b)(2)(A) and (c), 39.419(e), 39.420(c)(1)(A) - (D)(i)(I) - (II), (D)(ii), (c)(2), (d) - (e), and (h), 39.601, 39.602, 39.603, 39.604, and 39.605, 55.152(a)(1), (2), (5) and (6), 55.154(a), (b), (c)(1) - (3) and (5), and (d) - (g), 55.156(a), (b), (c)(i), (e) and (g), 116.114 and 116.194. In addition, §§39.411(a) and 55.152(b) as adopted in 1999, and amended §39.418(b)(3), submitted in 1999 as §39.418(b)(4), would not be withdrawn as revisions to the SIP and therefore remains for EPA review and consideration.

In addition, Sections 39.407 and 55.150 would be submitted to the EPA as revisions to the SIP. The proposed order requests EPA to update the SIP to reflect that amended §§39.411(f)(7)(A) and 39.605(1)(D) make enforceable the commitments in Paragraph 7 in the Order of the Texas Air Control Board, predecessor agency to the Texas Commission on Environmental Quality, dated July 17, 1987 adopting commitments regarding the Prevention of Significant Deterioration (PSD) permit program in the Texas SIP.

Consideration of the adoption of the withdrawal of new and amended rules which were previously submitted to EPA as revisions to the SIP on October 25, 1999, July 31, 2002 and March 9, 2006. The sections submitted in 1999 were Sections 39.201; 39.401; 39.403(a) and (b)(8) - (10); 39.405(f)(1) and (g); 39.409; 39.411(a), (b)(1) - (6) and (8) - (10) and (c)(1) - (6) and (d); 39.413(9), (11), (12), and (14); 39.418(a) and (b)(3) and (4); 39.419(a), (b), (d), and (e); 39.420(a), (b), and (c)(3) and (4); 39.423(a) and (b); 39.601; 39.602; 39.603; 39.604; and 39.605. The sections submitted in 2002 were new Section 39.404, and amended Sections 39.411, 39.419, 39.420; 39.603, 39.604, and 39.606. The sections submitted in 2005, were amended Sections 39.403(b)(8) - (10) and new (f), 39.411(a), (b)(1) - (6), (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4). In 2005, the commission also proposed to submit the repeal of Section 39.404, and the newly adopted Section 39.404, and to withdraw Sections 39.411, 39.419, and 39.420 as submitted in 2002. The commission would also adopt the withdrawal of the following rules which were submitted as revisions to the SIP on October 25, 1999: Sections 55.1; 55.21(a) - (d), (e)(2), (3) and (12), (f) and (g); 55.101(a), (b), (c)(6) - (8); 55.103; 55.150; 55.152(a)(1), (2), and (5); 55.154; 55.156; 55.200; 55.201(a) - (h); 55.203; 55.205; 55.209; and 55.211. In addition, §§39.411(a) and 55.152(b) as adopted in 1999, and

amended §39.418(b)(3), submitted in 1999 as §39.418(b)(4), would not be withdrawn as revisions to the SIP.

The adopted rulemaking would address EPA's evaluation of Texas' SIP and corresponding rules regarding public participation for New Source Review permits, and EPA's November 26, 2008, proposed limited approval and limited disapproval of submitted rules in Chapters 39 and 55. This rulemaking is intended to address EPA's concerns and correct the deficiencies identified by EPA in the rules to obtain full SIP approval. The proposed rules were published in the January 15, 2010, issue of the *Texas Register* (35 TexReg 306). (Janis Hudson, Margaret Ligarde) (Rule Project No. 2010-004-039-LS)

Adopt proposed amendments to 30 TAC Chapters 39, 55, 60 and 116 and approve the corresponding SIP revisions. BG/CR; all agree.

Item 89. **Docket No. 2009-2064-RUL**. Consideration for publication of, and public hearing on a proposed amendment to Section 37.9105 of **30 TAC Chapter 37**, Financial Assurance. The proposed rulemaking would remove the requirement that the environmental impairment insurance policy required of Class B sewage sludge operators must provide an automatic renewal option to the insured. (Rob Norris, Anthony Tatu) (Rule Project No. 2010-014-037-AD)

Approve the publication of, and hearing on, amendment to 30 TAC Section 37.9105 as recommended by the Executive Director. CR/BG; all agree.

### **EXECUTIVE MEETING**

Item 90. **Docket No. 2010-0001-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 91. **Docket No. 2010-0002-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 92. **Docket No. 2010-0003-EXE**. The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission

may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The Commission did not meet in an Executive Meeting.

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

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

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

/s/ Anne Rowland  
Assistant General Counsel,  
Anne Rowland

6/15/10  
Date