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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

September 15, 2010

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

### **PROPOSAL FOR DECISION**

- Item 1. [TCEQ Docket No. 2009-0290-MWD; SOAH Docket No. 582-09-5727](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the Petition to Revoke TCEQ Water Quality Permit Number WQ0014555002 issued to **Far Hills Utility District** filed by Eric Allmon on behalf of Suzanne O'Neal and Judith Spencer pursuant to 30 Tex. Admin. Code ch. 305. The existing facility is located on the east side of Cude Cemetery Road approximately 1,800 feet south of Farm-to-Market Road 830 in **Montgomery County**, Texas. The treated effluent is discharged to a storm sewer; thence to Lake Conroe in Segment No. 1012 of the San Jacinto River Basin. The Commission will also consider timely related filings, exceptions and replies. (John Williams)

Joint Motion with Item 2, see Item 2 for Commission action taken.

### **TEMPORARY ORDER**

- Item 2. [Docket No. 2009-0290-MWD](#). Consideration of an application for a Temporary Order submitted by **Far Hills Utility District** (District) pursuant to Tex. Water Code §§ 5.501 & 5.509 and 30 Tex. Admin. Code §§ 35.301–35.303 to discharge 0.23 million gallons per day of treated municipal wastewater to a storm sewer, thence to Lake Conroe in Segment No. 1012 of the San Jacinto River Basin in **Montgomery County**, Texas. The District alleges that it has no feasible alternative to discharge if its permit, TPDES Water Quality Permit No. WQ0014555002, is revoked; that the discharge is unavoidable to prevent loss of life, serious injury, or severe property damage or to prevent severe economic loss; the discharge will not cause significant hazard to human life and health, unreasonable damage to property of others, or unreasonable

economic loss to others; and the discharge will not present a significant hazard to the uses that may be made of the receiving waters after the discharge. If the Temporary Order is granted, the unpermitted discharge must comply with all provisions in TPDES Permit No. WQ0014555002 issued on November 1, 2007, whether or not TPDES Permit No. WQ0014555002 is revoked. The Commission will also consider any requests for hearing, as well as any timely filed briefs submitted by the District, Executive Director, Office of Public Interest Counsel, or affected persons on the Temporary Order. (John Williams, Firoj Vahora)

Grant the hearing requests of Suzanne O'Neal and Judith Spencer; refer the Temporary Order application to the State Office of Administrative Hearings for a hearing; remand the PFD on the Petition to Revoke to the State Office of Administrative Hearings; direct the ALJ to consider whether issuance of a Temporary Order is appropriate under applicable TCEQ rules and statutes in Tex. Water Code Chapter 5 and 30 TAC Chapter 35, and include specific consideration of the following: A) Whether the Executive Director's proposed Temporary Order includes appropriate terms and conditions; B) Whether the proposed Temporary Order is appropriate given the requirements of 30 TAC Section 35.303; C) Whether there are feasible alternatives to a discharge under the Temporary Order; and D) Whether suspension of Far Hills permit may be appropriate in lieu of revocation; direct the ALJ to submit a PFD and proposed Order on the Temporary Order application, as well as any supplemental PFD on the Petition to Revoke, if necessary, to the Commission within 3 months; and direct the Executive Director to participate in the hearing. BG/CR; all agree.

## PROPOSALS FOR DECISION

Item 3. [TCEQ Docket Nos. 2008-1830-UCR and 2008-1811-UCR; SOAH Docket Nos. 582-09-2068 and 582-09-2069.](#) Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Southern Water Corporation**, Water CCN No. 11389 and Sewer CCN No. 20500, for a water and sewer rate/tariff change in **Harris County** and the appeal from a water and sewer rate-making decision of the City of Houston in **Harris County** pursuant to Tex. Water Code Chapter 13, Tex. Gov't Code Chapters 2001 and 2003, and the Commission's rules, including 30 Tex. Admin. Code Chapters 80 and 291. The Commission will also consider the application, the appeal, related filings, record evidence and exhibits, exceptions and replies. (Kamal Adhikari, Brian MacLeod, James Aldredge)

Remand to the State Office of Administrative Hearings to take additional evidence regarding the appropriateness and amount of a surcharge for collection for a period of 24 months for the difference between the reduced rates that it has charged pursuant to Houston's Ordinance 2008-970 and the rates approved in this proceeding; direct the parties and the ALJ to calculate the missing amounts left blank in ALJ's amended proposed Order, including: 1) the allocation of the annual depreciation expense in Findings of Fact No. 63; 2) the allocation of taxes other than federal income tax in Findings of Fact No. 64; 3) the allocation of federal income tax in Findings of Fact No. 66; 4) the working cash allowance for water service in Findings of Fact No. 76; 5) the working cash allowance for sewer service in Findings of Fact No. 77; 6) the total net invested capital and the allocations in the Findings of Fact No. 80; 7) the monthly surcharge amount needed to recover \$51,579.36 in rate case expense over two years in Conclusion of Law No. 10 and Ordering Provision No. 2; and 8) the specific rate design for water and sewer service in Conclusion of Law No. 11; direct the ALJ and the parties to make their final calculations based on the ALJ's PFD and the ALJ's proposal to allocate general expenses and rate base using Southern's 37%/63% methodology, but sustain the Executive Director's exceptions concerning the purchase water expense which will require the removal of Houston's \$65,353 ground water conservation fee as an allowable

purchase water expense and the removal of the corresponding amount from the other revenues reductions; direct the ALJ to add a Findings of Fact regarding his recommended rate design with a base rate of zero gallons in order to make clear that the Commission's current practice is to include zero gallons in the base rate to encourage conservation, and to amend Findings of Fact No. 97 to specifically identify the specific new tariff charges to be approved; and direct the ALJ to issue a second revised Proposed Order that translates the Commission's decisions into rate setting numbers with the assistance of the parties and provides the necessary findings, conclusions, and terms regarding the under-recovery surcharge. BS/CR; all agree.

Item 4. [TCEQ Docket Nos. 2008-0955-UCR and 2009-0350-UCR; SOAH Docket Nos. 582-08-3825 and 582-09-3548](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of the **City of Alton** to amend Certificate of Convenience and Necessity No. 20809 in **Hidalgo County**, Texas; and the application of the **City of Mission** to amend Certificate of Convenience and Necessity No. 20768 in **Hidalgo County**, Texas; pursuant to the rules of the Texas Commission on Environmental Quality in 30 Tex. Admin. Code ch. 291 and Tex. Water Code ch. 13. The Commission will also consider the applications, related filings, exceptions and replies. (Christian Siano, Ruth Takeda)

Adopt the ALJ's Proposed Order which grants the City of Mission's CCN amendment application to serve the requested area in Hidalgo County with the Executive Director's recommended changes agreed to and reflected via the ALJ's letter dated August 26, 2010. BG/CR; all agree.

#### **HEARING REQUEST/REQUEST FOR RECONSIDERATION**

Item 5. [Docket No. 2009-1872-DIS](#). Consideration of an application by **Roman Forest Consolidated Municipal Utility District** (District), in **Montgomery County**, for approval of a standby fee. The District's application requests approval to levy a uniform annual standby fee to supplement its operations and maintenance account pursuant to Texas Water Code Section 49.231. The Commission will also consider requests for hearing or reconsideration, related responses and replies, and public comment. (Shane Potter, Dinniah C. Tadema)

Grant the hearing requests of Mohammed Ashraf and Francisco Mora Jr. and refer the matter to the State Office of Administrative Hearings for a contested case hearing. CR/BG; all agree.

#### **TMDL MATTERS**

Item 6. [Docket No. 2009-1619-TML](#). Consideration to adopt Thirteen Final Total Maximum Daily Loads 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**. Project No. 2010-037-TML-NR (Ron Stein, Robert Brush)

Adopt the thirteen proposed total maximum daily loads for indicator bacteria in Eastern Houston Watersheds. BG/CR; all agree.

Item 7. [Docket No. 2009-1618-TML](#). Consideration to adopt Four Final Total Maximum Daily Loads for Indicator Bacteria in **Halls Bayou and Tributaries**, Segments 1006D, 1006I, and 1006J of the San Jacinto River Basin, in **Harris County**. Project No. 2010-036-TML-NR (Ron Stein, Robert Brush)

Adopt the four proposed total maximum daily loads for indicator bacteria in Halls Bayou and Tributaries. BG/CR; all agree.

- Item 8. [Docket No. 2009-0757-TML](#). Consideration to adopt five final 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**. Project No. 2010-035-TML-NR (Ron Stein, Robert Brush)

Adopt the five proposed total maximum daily loads for indicator bacteria in Brays Bayou Above Tidal and Tributaries. BG/ CR; all agree.

- Item 9. [Docket No. 2009-1620-TML](#). Consideration to adopt four final Total Maximum Daily Loads 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**. Project No. 2010-038-TML-NR (Ron Stein, Robert Brush)

Adopt the four proposed total maximum daily loads for indicator bacteria in Sims Bayou Above Tidal and Tributary. BG/ CR; all agree.

#### **WATERMASTER BUDGET MATTERS**

- Item 10. [Docket No. 2010-1084-BGT](#). Consideration of Fiscal Year 2011 assessment of annual costs for watermaster operations in the **Concho River Watermaster Program**. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive Director requests that the Commission consider watermaster assessment of annual costs for the fiscal year beginning September 1, 2010, and ending August 31, 2011, for appropriators in the Concho River Watermaster Program, which consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County and approve \$159,050.00 as the amount to be assessed for annual costs. (Amy Settemeyer)

Approve the Concho River watermaster budget for 2011 and issue the Executive Director's proposed Order assessing the annual cost of the watermaster programs. CR/BG; all agree.

- Item 11. [Docket No. 2010-1085-BGT](#). Consideration of Fiscal Year 2011 assessment of annual costs for watermaster operations in the **Rio Grande Water Division**. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 303.71 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2010, and ending August 31, 2011, for appropriators in the Rio Grande Water Division which extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers; and includes that portion of the Nueces-Rio Grande Coastal Basin lying in Hidalgo, Cameron, Willacy and Starr Counties and approve \$721,506.00 as the amount to be assessed for annual costs. (Amy Settemeyer)

Approve the Rio Grande watermaster budget for 2011 and issue the Executive Director's proposed Order assessing the annual cost of the watermaster programs. CR/BG; all agree.

- Item 12. [Docket No. 2010-1086-BGT](#). Consideration of Fiscal Year 2011 assessment of annual costs for watermaster operations in the **South Texas Water Division**. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2010, and ending August 31, 2011, for appropriators in the South Texas Water Division, which consists of the Nueces, San Antonio, Guadalupe, and Lavaca River Basins, as well as the Lavaca-Guadalupe Coastal Basin, the San Antonio-Nueces Coastal Basin, and the Nueces-Rio Grande Coastal Basin, except that part in Hidalgo, Cameron, Willacy, and Starr Counties and approve \$564,147.00 as the amount to be assessed for annual costs. (Amy Settemeyer)

Approve the South Texas Water Division watermaster budget for 2011 and issue the Executive Director's proposed Order assessing the annual cost of the watermaster programs. CR/BG; all agree.

#### **MSW ADVISORY COUNCIL**

- Item 13. [Docket No. 2010-1074-MIS](#). Consideration of a Resolution to appoint a new member to the **Municipal Solid Waste Management and Resource Recovery Advisory Council** ("MSW Advisory Council") at the Texas Commission on Environmental Quality. The resolution would appoint a new member to serve on the MSW Advisory Council to replace a vacated position. The vacancy is for an elected official from a municipality with a population of 750,000 or more, with a term expiring August 31, 2011. (Steve Hutchinson, Daniel Ingersoll)

Appoint Dallas councilwoman, Linda Koop, to the Municipal Solid Waste Management and Resource Recovery Advisory Council to serve the position representing an elected official from a municipality with a population of 750,000 or more with a term expiring August 31, 2011. BG/CR; all agree.

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

- Item 14. [Docket No. 2010-0341-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jimmy Gaylon Beyer dba Beyer Dairy #1 in Erath County**; RN101513588; 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 15. [Docket No. 2010-0219-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. (Nadia Hameed, Laurie Eaves)

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

- Item 16. [Docket No. 2010-0393-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BASF FINA Petrochemicals Limited Partnership in Jefferson County**; RN100216977; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Raymond Marlow, P.G., Laurie Eaves)

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

- Item 17. [Docket No. 2010-0313-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **E.I. du Pont de Nemours and Company in Harris County**; RN100225085; 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. (Gena Hawkins, Laurie Eaves)

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

- Item 18. [Docket No. 2008-1841-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Orange Crush Recyclers, Ltd. in Dallas County**; RN104216668; 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 19. [Docket No. 2009-0738-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Thang Huynh in Freestone County**; RN105333223; 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, Laurie Eaves)

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

- Item 20. [Docket No. 2010-0178-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. (Miriam Hall, Laurie Eaves)

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

- Item 21. [Docket No. 2010-0427-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation in Harris County**; RN102212925; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Laurie Eaves)

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

- Item 22. [Docket No. 2010-0587-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP** in **Andrews County**; RN100218684; 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 23. [Docket No. 2009-0416-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Janes Pavement Services, Inc.** in **Walker County**; RN105670624; 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, Laurie Eaves)

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

- Item 24. [Docket No. 2010-0336-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Arkema Inc.** in **Harris County**; RN100209444; 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 25. [Docket No. 2010-0414-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Acacia Natural Gas Corporation** in **Montgomery County**; RN102534278; 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.

#### **FIELD CITATIONS**

- Item 26. [Docket No. 2010-1122-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Wallenstein Enterprises, Inc. dba New Deal Travel Center** in **Lubbock County**; RN101851350; 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 27. [Docket No. 2010-1120-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Fred Mitchell** in **Johnson County**; RN105905038; for

occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Laurie Eaves)

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

- Item 28. [Docket No. 2010-1121-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Tim W. Jennings in Haskell County**; RN103626123; for occupational licensing violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 37, and the rules of the Texas Commission on Environmental Quality. (Kirk Schoppe, Laurie Eaves)

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

#### **INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS**

- Item 29. [Docket No. 2009-2011-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SOUTHWEST SHIPYARD, L.P. in Harris County**; RN100248749; 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. (Thomas Greimel, Laurie Eaves)

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

- Item 30. [Docket No. 2010-0465-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties against **Chevron U.S.A. Inc. in Harris County**; RN100805134; 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. (Tom Greimel, Laurie Eaves)

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

#### **INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER**

- Item 31. [Docket No. 2009-2012-IHW-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **G. H. McConnell dba Allied Radiator Service in Dallas County**; RN105390819; for industrial hazardous waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gary K. Shiu, Lena Roberts)

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

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

- Item 32. [Docket No. 2010-0589-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Filemon Lopez dba The Yard Man in Tarrant**



**County**; RN105887533; 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. (Kirk Schoppe, Laurie Eaves)

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

Item 33. [Docket No. 2010-0204-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alejandro C. Gonzalez** in **Dallas County**; RN105866743; 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. (Philip Aldridge, Laurie Eaves)

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

Item 34. [Docket No. 2010-0603-LII-E](#). Consideration of an Agreed Order assessing administrative penalties against **Platinum Plus Enterprises Inc** in **Montgomery County**; RN105865232; 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. (Todd Huddleson, Laurie Eaves)

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

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

Item 35. [Docket No. 2009-1797-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties against **DELUXE AUTO PARTS, L.L.C.** in **Nueces County**; RN103218780; for water quality and municipal solid waste 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.

Item 36. [Docket No. 2009-2026-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Three Community Water Supply Corporation** in **Henderson County**; RN101451581; for public drinking water and public water utilities violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Epifanio Villareal, Laurie Eaves)

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

Item 37. [Docket No. 2009-2034-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Indian Petro Corp.** in **San Jacinto County**; RN102080744; for water quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 371, 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, Laurie Eaves)

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

- Item 38. [Docket No. 2009-1937-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KINSER RANCH, LLC** in **Travis County**; RN105223283; for municipal solid waste and water quality 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. (Danielle Porras, Laurie Eaves)

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

- Item 39. [Docket No. 2010-0080-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Asuncion Manriquez Galera dba Discount Waste** in **Harris County**; RN105806236; for municipal solid waste and used oil violations pursuant to Tex. Health & Safety Code chs. 361 and 371, 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, Laurie Eaves)

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

- Item 40. [Docket No. 2009-0781-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kevin Vu dba Kevin Vu Poultry Production** in **Limestone County**; RN105581573; for municipal solid waste and air quality violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kirk Schoppe, Laurie Eaves)

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

#### **MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER**

- Item 41. [Docket No. 2009-1816-MLM-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Cynthia Ann Batiste and Leroy Celestine** in **Jefferson County**; RN105684823; for municipal solid waste and water quality 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. (Stephanie J. Frazee, Lena Roberts)

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

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

- Item 42. [Docket No. 2010-0370-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Patsy Tidwell** in **San Jacinto County**; RN105867741; 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. (Philip Aldridge, Laurie Eaves)

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

- Item 43. [Docket No. 2010-0081-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Robert Morris in Bexar County**; RN104465497; 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, Laurie Eaves)

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

- Item 44. [Docket No. 2009-1975-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **William Templeton in Cameron County**; RN105636161; 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. (Brianna Carlson, Laurie Eaves)

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

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

- Item 45. [Docket No. 2010-0263-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Federal Emergency Management Agency in Galveston County**; RN105659767; 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 46. [Docket No. 2010-0527-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Muenster in Cooke County**; RN102065448; 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. (Martha Hott, Laurie Eaves)

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

- Item 47. [Docket No. 2010-0455-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Port Arthur in Jefferson County**; RN101608024; 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 48. [Docket No. 2009-1986-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Tatum in Rusk County**; RN101918407; 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 49. [Docket No. 2010-0228-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Fredericksburg in Gillespie County**; RN101917383; 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 50. [Docket No. 2010-0515-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Union Grove Independent School District in Upshur County**; RN101514958; 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 Agreed Order. CR/BG; all agree.

Item 51. [Docket No. 2009-1892-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aqua Development, Inc. in Travis County**; RN102343035; 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 52. [Docket No. 2009-1979-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Edinburg in Hidalgo County**; RN102080603; 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.

Item 53. [Docket No. 2010-0702-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **EASTWOOD HILLS MOBILE HOME PARK LIMITED PARTNERSHIP in Montgomery County**; RN102183480; 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, Laurie Eaves)

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

Item 54. [Docket No. 2010-0398-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aqua Utilities, Inc. dba Aqua Texas, Inc. in Harris**

**County**; RN102340841; 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, Laurie Eaves)

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

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

Item 55. [Docket No. 2009-1834-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Collin County in Collin County**; RN100662949; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Laurie Eaves)

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

Item 56. [Docket No. 2010-0406-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **JULIET OPERATING COMPANY, INC. dba Car Care Citgo in Tarrant County**; RN100536903; 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. (Theresa Hagood, Laurie Eaves)

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

Item 57. [Docket No. 2010-0327-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **KOHETTUR, INC. dba Holland Food Market in Harris County**; RN101807188; 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 58. [Docket No. 2009-1759-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **METROPLEX LUCKY STAR, LLC. dba Valero Food Mart #3 in Tarrant County**; RN102378080; 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. (Judy Kluge, Laurie Eaves)

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

Item 59. [Docket No. 2008-0445-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **ARI ARI LTD dba Desoto Beverages in Dallas County**; RN100586189; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Phillip M. Goodwin, P.G., Lena Roberts)

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

- Item 60. [Docket No. 2010-0329-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **CONVENIENCE MART, INC. dba Little York Texaco** in **Harris County**; RN101433662; 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. (Clinton Sims, Laurie Eaves)

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

- Item 61. [Docket No. 2010-0230-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SHUJAT HOLDING COMPANY** in **Jefferson and Orange Counties**; RN101877223 and RN101734952; 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 62. [Docket No. 2010-0431-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Texas A&M University** in **Brazos County**; RN102060449; 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. (Theresa Hagood, Laurie Eaves)

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

- Item 63. [Docket No. 2010-0344-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Star Mini Mart, LLC dba Star Mini Mart** in **Jefferson County**; RN102432507; 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. (Tate Barrett, Laurie Eaves)

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

- Item 64. [Docket No. 2010-0423-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **K H Jung Investment, Inc. dba Times Market 35** in **Nueces County**; RN102355344; 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. (Clinton Sims, Laurie Eaves)

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

- Item 65. [Docket No. 2010-0209-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Arlozelle P. Guess** in **Fort Bend County**; RN102235314; 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. (Amanda Henry, Laurie Eaves)

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

Item 66. [Docket No. 2010-0539-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **PANJWANI ENTERPRISES, INC. dba Starstop 18** in **Harris County**; RN102219698; 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 67. [Docket No. 2010-0522-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Skinny's, LLC dba 7-Eleven Store 142** in **Tom Green County**; RN102766102; 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 68. [Docket No. 2010-0326-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **N & K HAMPTON SERVICES, INC.** in **Dallas County**; RN103005468; 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. (Judy Kluge, Laurie Eaves)

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

Item 69. [Docket No. 2010-0319-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **JUNAID INVESTMENTS, INC.** in **Harris County**; RN101737195; 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. (Theresa Hagood, Laurie Eaves)

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

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

Item 70. [Docket No. 2010-0197-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **S.S.O.S. Investments INT'L Inc.** in **Galveston County**; RN102468402; 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. (Marshall Coover, Lena Roberts)

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

Item 71. [Docket No. 2009-1525-PST-E](#). Consideration of a Default Order assessing administrative penalties against **Beechnut Food Stores Inc., d/b/a Sunshine Food Mart in Harris County**; RN102314036; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rudy Calderon, Lena Roberts)

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

Item 72. [Docket No. 2009-2069-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Ata Ur Rahman Khawaja d/b/a R & R Citgo and Shafiq Rehman d/b/a R & R Citgo in Harris County**; RN101754539; 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. (Sharesa Y. Alexander, Lena Roberts)

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

Item 73. [Docket No. 2009-2045-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **BMS Grocery Stores, LLC dba Picnic Food Mart N St Marys in Bexar County**; RN102873734; 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.

#### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDER**

Item 74. [Docket No. 2009-0588-PST-E](#). Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of **Nhat Q. Tran d/b/a Wallisville Market in Harris County**; RN100916659; for petroleum storage tank and air quality 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 and Shutdown Order. CR/BG; all agree.

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

Item 75. [Docket No. 2010-0494-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aqua Texas, Inc. in Hays County**; RN102691771; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villareal, Laurie Eaves)

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



Item 76. [Docket No. 2010-0301-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SP Utility Company, Inc.** in **Brazoria County**; RN103779039; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Laurie Eaves)

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

Item 77. [Docket No. 2010-0302-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pettus Municipal Utility District** in **Bee County**; RN101182053; 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.

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

Item 78. [Docket No. 2009-1443-PWS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Ms. Molly's LLC** in **Colorado County**; RN104909882; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rudy Calderon, Lena Roberts)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 79. [Docket No. 2010-0652-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Ross Construction, Inc.** in **Williamson County**; RN105900476; 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. (Martha Hott, Laurie Eaves)

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

#### **RULE MATTERS**

Item 80. [Docket No. 2008-1661-RUL](#). Consideration of the adoption of amendments to **30 Texas Admin. Code (TAC) Chapter 328**, Waste Minimization and Recycling, Subchapter F, Management of Used or Scrap Tires, Sections 328.52, 328.55, 328.60, 328.63, 328.66, 328.69, 328.70 and 328.71; and repeal of Sections 328.67 and 328.68. The adoption would require applicants to provide additional information and to request input from local government authorities as a part of an application for a land reclamation project using tires (LRPUT) or for a scrap tire facility. Groundwater districts would be added to the list of entities to be notified of LRPUT applications. Applicants would be required to provide proof of notice to local government officials and the executive director would be prohibited from authorizing a facility if a local government provides timely notice that a proposed facility does not comply with local

requirements relating to management of scrap tires and protection of public health and the environment. Other changes include: requiring a demonstration of the seasonal high groundwater level in the area, and authorizing the executive director to request additional information about groundwater levels at the site, prior to approval of a LRPUT; specifying that LRPUTs are subject to annulment, suspension, revocation, denial and motions to overturn; allowing submittal of electronic application documents; clarifying the requirement to split, quarter or shred off-the-road tires before disposal but allowing the executive director to grant exceptions as warranted by circumstance; and, administrative changes including updating references to the Texas Commission on Environmental Quality rather than the Texas Natural Resource Conservation Commission, updating address information, and updating references to the Chapter 50 rules. This rulemaking would also repeal outdated portions of the rules. The proposed rules were published in the April 16, 2010, issue of the *Texas Register* 35 (TexReg 2991). (Brooke Jackson, Steve Shepherd) (Rule Project No. 2008-034-328-CE)

Adopt the amendments to, and repealed sections of, 30 TAC Chapter 328 with the following changes: add the language requiring notice to adjacent counties back into the requirements in 30 TAC Section 328.66(a)(11) and decline to make any change to the newspaper notice requirements for LRPUT applications, as the recommended change exceeds the scope of this rulemaking. Direct the Executive Director to make corresponding changes to the preamble. Amend the language proposed by the Executive Director for adoption in Sections 328.63(d)(2), 328.63(d)(4), 328.66(a)(10) and 328.66(d) with the language circulated to clarify that the Executive Director must consider any local government timely written notice of noncompliance regarding the proposed facility prior to authorizing a LRPUT or scrap tire facility and direct the Executive Director to make corresponding changes to the preamble. BG/CR; all agree.

Item 81. [Docket No. 2009-2033-RUL](#). Consideration of the adoption of amendments to Section 106.4 of **30 TAC Chapter 106**, Permits by Rule and Sections 116.110 and 116.610 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 amend 30 TAC Chapters 106 and 116: to prevent, with certain exceptions, an applicant for a permit under Texas Health and Safety Code (THSC), Section 382.0518, Preconstruction Permit, from withdrawing that application and immediately using a standard permit or PBR to avoid public notice requirements; and to prevent the use of a standard permit or PBR as an immediate precursor to the construction of a facility requiring a permit under THSC, Section 382.0518. This rulemaking would also clarify rule language to ensure that projects at a site where a PBR was used as an authorization comply with the 25/250 tons per year emission limit unless at least one facility at the site has undergone public notice. The proposed rules were published in the April 30, 2010, issue of the *Texas Register* (35 TexReg 3447). (Blake Stewart, Ben Rhem) (Rule Project No. 2009-016-116-PR)

Remanded to the Executive Director.

Item 82. [Docket No. 2009-1978-RUL](#). Consideration for adoption of an amendment to Section 106.283, Grain Handling, Storage, and Drying, of **30 TAC Chapter 106**, Permits by Rule; and the repeal of Section 106.302, Portable Pipe Reactor. The rulemaking would repeal Section 106.302 in its entirety, and revise Section 106.283 to exclude the authorization of commercial grain handling

facilities. The proposed rules were published in the March 26, 2010 issue of the *Texas Register* (35 TexReg 2503). (Michael Wilhoit, Christine Angeletti) (Rule Project No. 2009-025-106-PR)

Adopt the amendments to 30 TAC Section 106.283 and the repeal of Section 106.302, as recommended by the Executive Director. CR/BG; all agree.

Item 83. [Docket No. 2009-1898-RUL](#). Consideration for adoption of new Section 116.17 and the amendments to Sections 116.10, 116.111, 116.116, and 116.117 of **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification, and corresponding revisions to the state implementation plan (SIP). The commission withdraws from consideration the amendment to 30 TAC §116.118. Sections 116.10(5)(F), 116.111(a)(2)(K), 116.116(b)(3), and 116.117(a)(4)(B) will not be submitted as revisions to the SIP. The revisions to the SIP also include a supplementary document submitted as a demonstration under Federal Clean Air Act, 42 United States Code, Section 7410(l). Consideration for adoption of an amendment to Section 330.983 of 30 TAC Chapter 330, Municipal Solid Waste. The rulemaking addresses deficiencies in the definition of best available control technology and the qualified facility air permitting program as identified by the United States Environmental Protection Agency in the April 14, 2010 issue of the *Federal Register* (75 Federal Register 19468). The proposed rules were published in the April 16, 2010 issue of the *Texas Register* (25 TexReg 2978 and 3002). (Beecher Cameron/Amy Browning) (Rule Project No. 2010-006-116-PR)

Adopt the amendments to 30 TAC Sections 116.10, 116.111, 116.116 and 116.117 and 30 TAC Section 330.983; adopt new 30 TAC Section 116.17 and adopt the corresponding SIP revisions in supplementary document to be submitted as a demonstration under Federal Clean Air Act Section 7410(1), as recommended by the Executive Director. CR/BG; all agree.

Item 84. [Docket No. 2009-2046-RUL](#). Consideration of the adoption of the amendments to **30 TAC Chapter 25**, Environmental Testing Laboratory Accreditation and Certification, §§25.1, 25.2, 25.4, 25.9, 25.10, 25.14, 25.20, 25.22, 25.24, 25.32, and 25.34; and the repeal of §25.36. The adopted rulemaking would change the applicable standards for accrediting environmental testing laboratories, establish the date on which the change in accreditation standards would become effective, revise fees and fee categories, establish the date on which the revised fees and fee categories would become effective, clarify that laboratories operated by the commission are exempt from fees, clarify when certain miscellaneous fees are applied, remove language in the rules that is no longer needed, and revise language in the rules to make the rules clearer, more consistent, and bring them up-to-date. The proposed rules were published in the April 30, 2010, issue of the *Texas Register* (35 TexReg 3430). (Steve Stubbs, Kathy Humphreys) (Rule Project No. 2010-009-025-CE)

Adopt the amendments to and the repeal 30 TAC Chapter 25 regarding Environmental Testing Laboratory Accreditation and Certification, as recommended by the Executive Director. CR/BG; all agree.

Item 85. [Docket No. 2010-0380-RUL](#). Consideration for publication of and public hearing on: proposed amendments to Sections 334.42, 334.45, 334.49, and 334.50; and a new Subchapter N, Sections 334.601 - 334.606 of **30 TAC Chapter 334**, Underground and Aboveground Storage Tanks. The proposed new Subchapter N would incorporate the Underground Storage Tank (UST) facility operator training requirements for on-site operation and maintenance of UST systems as established in federal law. The proposed amendments apply to Subchapter C of existing rules

and would amend various existing technical UST requirements to: provide a more specific description of which existing and new sumps and manways need to be inspected, monitored or tested and kept free of liquid or debris; increase the amount of time allowed for the removal of liquid and debris from sumps and manways from 72 to 96 hours; increase the amount of existing underground line which can be replaced without having to secondarily contain it from 20% to 35%; limit the maximum amount of existing underground line which must be secondarily contained during replacement; clearly specify that submerged metal components such as submersible pump housings which are in contact with water must be protected from corrosion by means other than just coating or wrapping them; and eliminate the requirement for large airports which use extensive fuel hydrant systems to comply with automatic line leak detection requirements because there are no practical methodologies available which will provide this function. (Anton Rozsypal, Cullen McMorrow) (Rule Project No. 2010-017-334-CE)

Approve publication of, and public hearing on, proposed amendments to Sections 334.42, 334.45, 334.49, and 334.50 and new Subchapter N, Sections 334.601-334.606, as recommended by the Executive Director. CR/BG; all agree.

### **EXECUTIVE MEETING**

Item 86. **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 87. **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 88. **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/tnrcc.cgi](http://www.texasadmin.com/cgi-bin/tnrcc.cgi)**

/s/ Barham Richard  
Assistant General Counsel,  
Barham Richard

10/5/10  
Date