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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**

October 18, 2011

### 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. 2010-0403-IWD; SOAH Docket No. 582-10-5940.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application by Navarro Generating LLC for a new wastewater discharge permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004870000 pursuant to rules of the Texas Commission on Environmental Quality and Texas Water Code Chapter 26. The facility would be located at the intersection of Farm-to-Market Road 1394 and Southwest County Road 2100, approximately 3.3 miles southwest of Richland, Navarro County, Texas. The Commission will also consider timely public comments and the Executive Director's Response to Comments, the record, timely related filings, exceptions and replies. (Christiaan Siano, Tres Koenings)

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

Item 2 **[TCEQ Docket No. 2009-1905-IWD-E; SOAH Docket No. 582-10-5396.](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of BIG D HAZMAT, INC., Duncan Services, Inc. and Robert L. Duncan in Gregg County; RN105385181; 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. The Commission will also

consider the record, timely related filings, exceptions and replies. (Kari Gilbreth)

Adopt the ALJ's Proposed Order with proposed clerical change numbers 1, 4-6, 8, and 12-17 from pages 5 -7 of the Executive Director's August 22, 2011 exceptions, as agreed to by the ALJ in her letter dated September 12, 2011. CR/BG; all agree.

Item 3 [\*\*TCEQ Docket No. 2010-0222-PWS-E; SOAH Docket No. 582-10-5983.\*\*](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of Mostafa A. Soliman d/b/a Willowbrook Subdivision in Waller County; RN101256121; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Jeff Huhn)

Adopt the ALJ's revised Proposed Order as attached to the ALJ's reply letter dated October 3, 2011. BG/CR; all agree.

Item 4 [\*\*TCEQ Docket No. 2010-0834-PST-E; SOAH Docket No. 582-11-1277.\*\*](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against DOBANI INC. d/b/a Gulf Freeway Shell in Harris County, Texas; RN101781235; regarding 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. The Commission will also consider the record, timely related filings, exceptions and replies. (Phillip M. Goodwin)

Adopt the ALJ's Proposed Order as modified by the Executive Director's Exceptions. CR/BG; all agree.

**MISCELLANEOUS MATTER**

Item 5 [\*\*Docket No. 2011-1369-MIS.\*\*](#)

Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (Elizabeth West)

Approve issuance of the resolution that acknowledges Executive Director's acceptance of these gifts. BG/CR; all agree.

**AGRICULTURAL ENFORCEMENT AGREED ORDER**

Item 6 [\*\*Docket No. 2010-0093-AGR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Peter H. Schouten DBA Golden Star Dairy, Nova D. Schouten DBA Golden Star Dairy, and Pieter Bakker DBA Golden Star Dairy in

Bosque County; RN102804879; 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. (Jim Sallans, Lena Roberts)

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

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 7 [Docket No. 2011-0655-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Firestone Polymers, LLC in Orange County; RN100224468; 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, Debra Barber)

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

Item 8 [Docket No. 2010-1408-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Leading Edge Aviation Services, Inc. in Potter County; RN100611201; 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. (Jeffrey Huhn, Lena Roberts)

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

Item 9 [Docket No. 2011-0569-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of NuStar Logistics, L.P. in Galveston County; RN104248141; 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. (Todd Huddleson, Debra Barber)

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

Item 10 [Docket No. 2011-0808-AIR-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Hunt Oil Company in Wilson County; RN106093883; 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, Debra Barber)

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

Item 11 [\*\*Docket No. 2010-0924-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Valero Refining-Texas, L.P. in Nueces and Galveston Counties; RN100214386 and RN100238385; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Debra Barber)

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

Item 12 [\*\*Docket No. 2011-0326-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ConocoPhillips Company in Hutchison County; RN102495884; 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. (Jeffrey Huhn, Lena Roberts)

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

Item 13 [\*\*Docket No. 2011-0604-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Xtreme Collision Repair, L. P. in Collin County; RN100642529; 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. (Todd Huddleson, Debra Barber)

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

Item 14 [\*\*Docket No. 2011-0614-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against INEOS USA LLC in Brazoria County; RN100238708; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Debra Barber)

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

**EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**

Item 15 [\*\*Docket No. 2011-0610-EAQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against T.F.R. Enterprises, Inc. in Williamson County; RN106043144; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of

the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Debra Barber)

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

Item 16 [\*\*Docket No. 2011-0661-EAQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against C/B/K Dominion Development, Ltd. in Bexar County; RN105618383; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, Debra Barber)

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

Item 17 [\*\*Docket No. 2011-0462-EAQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against MURPHY OIL USA, INC. in Williamson County; RN105981765; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (JR Cao, Debra Barber)

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

**FIELD CITATIONS**

Item 18 [\*\*Docket No. 2011-1247-OSI-E.\*\*](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of Jackie Behrens in McCulloch County; RN106144991; for on-site sewage facility installers violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Heather Podlipny, Debra Barber)

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

Item 19 [\*\*Docket No. 2011-1243-OSI-E.\*\*](#)

Consideration of a Field Citation assessing administrative penalties and requiring certain actions of Robert W. Pixley in Polk County; RN103223178; for on-site sewage facility installers violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Debra Barber)

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

**INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 20 [Docket No. 2010-1133-IHW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Texas Industrial Box Maintenance, Inc. in Harris County; RN103071825; for industrial and 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. (Jennifer Cook, Lena Roberts)

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

**INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER**

Item 21 [Docket No. 2011-0430-IHW-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of AVONDALE RANCH, LTD. d/b/a Avondale Developers in Tarrant County; RN102841301; for industrial and hazardous waste violations pursuant to Tex. Water Code chs. 5, 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. (James Sallans, Lena Roberts)

Remanded to the Executive Director.

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 22 [Docket No. 2011-0728-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC in Harris County; RN104336276; 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. (Marty Hott, Debra Barber)

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

Item 23 [Docket No. 2010-1783-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the United States Department of the Army in Bexar County; RN100662840; 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 24 [Docket No. 2011-0618-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of WALLACH CONCRETE, INC. in Andrews County; RN104452560; 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, Debra Barber)

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

### **IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDERS**

Item 25 [\*\*Docket No. 2011-0346-LII-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Stephen Hall d/b/a Hall's Landscape in Collin County; RN106019797; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Steven M. Fishburn, Lena Roberts)

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

Item 26 [\*\*Docket No. 2011-0381-LII-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Katherine M. Celis in Denton County and Collin County; RN105210389; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Steven M. Fishburn, Lena Roberts)

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

Item 27 [\*\*Docket No. 2011-0619-LII-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Juan Sanchez in Harris County; RN105897557; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Steven M. Fishburn, Lena Roberts)

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

Item 28 [\*\*Docket No. 2011-0184-LII-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of The Woodlands Lawn and Pool Services, LLC in Montgomery County; RN105993190; for landscape irrigation installation violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Sharesa Y. Alexander, Lena Roberts)

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

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 29 [Docket No. 2010-0770-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Tadeo B. Pina Jr. in Nueces County; RN101823474; for petroleum storage tank and used oil violations pursuant to Tex. Water Code chs. 5, 7, and 26, Tex. Health & Safety Code ch. 371, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shareesa Y. Alexander, Lena Roberts)

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

Item 30 [Docket No. 2011-0575-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Alfredo Plascencia in Refugio County; RN105735179; 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. (Keith Frank, Debra Barber)

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

**MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER**

Item 31 [Docket No. 2010-1935-MLM-E.](#)

Consideration of a Default Order assessing administrative penalties, requiring certain actions, and revoking the scrap tire transporter registration of Lonnie Bearden, Sr. d/b/a The Tireman in Tom Green County; RN105949028; for scrap tire and 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. (Jeffrey Huhn, Lena Roberts)

Remanded to the Executive Director.

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 32 [Docket No. 2010-1495-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Larry Cathey d/b/a Waco Wood Recycling and Materials in McLennan County; RN105211361; 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. (Jeffrey Huhn, Lena Roberts)

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



Item 33 [Docket No. 2010-1313-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill in Harris County; RN103053062; 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. (Theresa Hagood, Debra Barber)

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

**MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

Item 34 [Docket No. 2011-0454-MSW-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of David M. Mobley in Wharton County; RN106065980; 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. (Tammy L. Mitchell, Lena Roberts)

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

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 35 [Docket No. 2011-0395-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Bloomington Independent School District in Victoria County; RN101274140; 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 36 [Docket No. 2011-0867-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Prairiland Independent School District in Lamar County; RN104011648; 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, Debra Barber)

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

Item 37 [Docket No. 2011-0525-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Fall Creek Utility Company, Inc. in Hood County;

RN101609766; 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, Debra Barber)

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

Item 38 [\*\*Docket No. 2011-0378-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Texas A & M University at Galveston in Galveston County; RN102339561; 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, Debra Barber)

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

Item 39 [\*\*Docket No. 2011-0811-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Circle T Promotions, Ltd. in Hamilton County; RN104812482; 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, Debra Barber)

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

Item 40 [\*\*Docket No. 2010-0259-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jackson County Water Control and Improvement District No. 2 in Jackson County; RN102185071; 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. (Sharesa Y. Alexander, Lena Roberts)

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

Item 41 [\*\*Docket No. 2010-1257-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Bartlett in Bell County; RN100835487; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tammy L. Mitchell, Lena Roberts)

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

**ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT  
DEFAULT ORDER**

Item 42 **[Docket No. 2011-0183-OSS-E.](#)**

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Karen Robinson in Fort Bend County; RN106027287; for on-site sewage disposal system violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 366, 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.

**PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 43 **[Docket No. 2011-0746-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of STRASBURGER ENTERPRISES, INC. dba Quix 631 in Travis County; RN102409653; 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, Debra Barber)

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

Item 44 **[Docket No. 2011-0546-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Anjani C-Store Inc dba Minute Market in Brazoria County; RN101888246; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Debra Barber)

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

Item 45 **[Docket No. 2011-0905-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against BELTWAY STORES INC. dba Beltway Stop in Harris County; RN101799112; 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, Debra Barber)

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

Item 46 **[Docket No. 2010-1858-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Mehmood Lakhani in Dallas County; RN101543346 and RN102360716; 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. (Peipey Tang, Lena Roberts)

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

Item 47 [\*\*Docket No. 2010-0751-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of THOMAS PETROLEUM, LLC in Jefferson County and Travis County; RN101617165 and RN104005186; 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. (Kari L. Gilbreth, Lena Roberts)

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

Item 48 [\*\*Docket No. 2011-0625-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Trishakti Enterprises, Inc. dba Circle Q 1 in Tarrant County; RN102427986; 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. (Rajesh Acharya, Debra Barber)

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

Item 49 [\*\*Docket No. 2011-0291-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against A&T, INC. dba Gas N Stuff in Ellis County; RN101844421; 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, Debra Barber)

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

Item 50 [\*\*Docket No. 2011-0677-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Johnny Binford dba Your C Store in Fayette County; RN101491421; 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. (Bridgett Lee, Debra Barber)

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

Item 51 [\*\*Docket No. 2011-0004-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Shazia Aly dba One Stop Mart in Dallas County; RN102784444; 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. (Brianna Carlson, Debra Barber)

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

Item 52 [\*\*Docket No. 2011-0848-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MICA CORPORATION in Tarrant County; RN102990512; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Debra Barber)

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

Item 53 [\*\*Docket No. 2011-0314-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against TUFF ENTERPRISE, INC. dba Kirkwood Mart in Fort Bend County; RN102487840; 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, Debra Barber)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 54 [\*\*Docket No. 2011-0325-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Donna M. Tounley in Denton County; RN105970347; 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.

Item 55 [\*\*Docket No. 2011-0262-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Larry Womack a/k/a Petro Trail, Inc. in Harris County; RN102226487; 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.

(Xavier Guerra, Lena Roberts)

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

Item 56 [\*\*Docket No. 2011-0301-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Humberto Montalvo and Ninfa Montalvo in Harris County; RN101896447; 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 57 [\*\*Docket No. 2011-0233-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Terry Bickett in Chambers County; RN101853828; 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.

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 58 [\*\*Docket No. 2011-0763-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of AMERICAN PIONEER INVESTMENTS, INC. in Harris County; RN101273993; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Linson, Debra Barber)

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

Item 59 [\*\*Docket No. 2010-1471-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of 5510 ACORN, L.L.C. in Harris County; RN101268258; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

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

Item 60 [\*\*Docket No. 2010-0421-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Alpine in Brewster County; RN101176261; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341

and the rules of the Texas Commission on Environmental Quality. (Tammy L. Mitchell, Lena Roberts)

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

Item 61 [\*\*Docket No. 2011-0694-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Copperas Cove MHC, L.L.C. in Coryell County; RN101186724; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Debra Barber)

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

Item 62 [\*\*Docket No. 2010-1254-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of City of Scottsville in Harrison County; RN101227619; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephanie J. Frazee, Lena Roberts)

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

**PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 63 [\*\*Docket No. 2011-0309-PWS-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Cecil D. Hutcheson d/b/a Elm Grove Mobile Home Park in Lubbock County; RN101438380; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sharesa Y. Alexander, Lena Roberts)

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

**UTILITIES ENFORCEMENT AGREED ORDERS**

Item 64 [\*\*Docket No. 2011-0508-UTL-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CSE The Village LLC in Harris County; RN101207439; for affected utility violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Michaelle Sherlock, Debra Barber)

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

Item 65 [\*\*Docket No. 2011-0507-UTL-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CSE Spring Branch LLC in Harris County;

RN102692332; for affected utility violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Michaelle Sherlock, Debra Barber)

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

**WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 66 [Docket No. 2011-0627-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kevin Fry and Kenneth Fry dba ATCHLEY LUMBER & SUPPLY, INC. and ATCHLEY LUMBER & SUPPLY, INC. in Trinity County; RN102293677; 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. (Marty Hott, Debra Barber)

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

Item 67 [Docket No. 2010-0742-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Jimmy Gaylon Beyer in Erath County; RN105901250; 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. (Jim Sallans, Lena Roberts)

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

**WATER QUALITY ENFORCEMENT DEFAULT ORDERS**

Item 68 [Docket No. 2011-0104-WQ-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Robert Langguth in Bell County; RN105080147; 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 Default Order. CR/BG; all agree.

Item 69 [Docket No. 2011-0285-WQ-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Star G Construction, LLC in Parker County; RN106022742; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Tammy Mitchell, Lena Roberts)

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



## **WATER RIGHT ENFORCEMENT AGREED ORDER**

### Item 70 [\*\*Docket No. 2011-1004-WR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against B. C. Spraberry Farming & Ranching, Ltd. in Jones County; RN106128002; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Jeremy Escobar, Debra Barber)

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

## **RULE MATTERS**

### Item 71 [\*\*Docket No. 2011-1252-RUL.\*\*](#)

Consideration for publication of, and hearing on, proposed new 30 Texas Administrative Code (TAC) Chapter 36, Suspension or Adjustment of Water Rights During Drought or Emergency Water Shortage. The proposed rulemaking would implement House Bill 2694, Section 5.03, 82nd Legislature, 2011, Regular Session, relating to the executive director's suspension or adjustment of water rights during drought or emergency water shortage. The proposed rulemaking would define "drought" and "emergency shortage of water," set out procedures for the executive director's order under this chapter, provide the terms of the order and conditions that must be met before an order can be issued, and establish an appeal process of the Executive Director's order to the Commission. (Robin Smith) (Rule Project No. 2011-033-036-LS)

Approve publication of, and hearing on, proposed new 30 TAC Chapter 36, as recommended by the Executive Director; but replace proposed new Texas Administrative Code Section 36.02(3) with the following language: (3) Emergency shortage of water is the inability of a senior water right holder to take surface water under their water right during A) Emergency periods posing a hazard to public health or safety or B) Conditions affecting hydraulics systems which impair or interfere with conveyance or delivery of water for authorized users. C R/BG; all agree.

### Item 72 [\*\*Docket No. 2011-1219-RUL.\*\*](#)

Consideration for publication of, and hearing on, a proposed amendment to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, Division 3, Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles, Section 114.622, Incentive Program Requirements, and corresponding revisions to the state implementation plan. The proposed rulemaking would implement part of House Bill (HB) 3399, from the 82nd Legislature, 2011, Regular Session, relating to requirements for receiving an incentive grant under the Diesel Emissions Reduction Incentive Program. The revisions to 30 TAC Chapter 114, as required by HB 3399, incorporate changes and additions to the program eligibility criteria, including: changes to the period over which a grant-funded vehicle must be operated; establish specific criteria for decommissioning a vehicle or vehicle engine under the program; and add provisions to allow a vehicle that has been leased or otherwise commercially financed to be replaced under the program. The revisions also include provisions, as required by HB

3399, that the executive director shall waive eligibility requirements on a finding of good cause. (Betsy Peticolas, Steve Dayton) (Rule Project No. 2011-050-114-EN)

Approve publication of, and hearing on, proposed amendments to 30 TAC Section 114.622 and the corresponding revisions to the state implementation plan, as recommended by the Executive Director. BG/CR; all agree.

Item 73 [\*\*Docket No. 2011-1220-RUL.\*\*](#)

Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, Division 5, Texas Clean Fleet Program, Sections 114.650 - 114.654, and corresponding revisions to the state implementation plan. The proposed rulemaking would implement part of House Bill (HB) 3399, from the 82nd Legislature, 2011, Regular Session, relating to requirements for receiving an incentive grant under the Texas Clean Fleet Program. The revisions to 30 TAC Chapter 114, as required by HB 3399, incorporate changes and additions to the program eligibility criteria, including: changes to the number of vehicles that must be included in a grant and that may be awarded funding by the Commission; changes to allow a vehicle that has been leased or commercially financed to be replaced under the program; and establishing criteria for decommissioning a vehicle or vehicle engine replaced under the program. The revisions also include provisions, as required under HB 3399, that the executive director shall waive the ownership and use requirements for the vehicle being replaced, upon a finding of good cause. (Betsy Peticolas, Steve Dayton) (Rule Project No. 2011-051-114-EN)

Approve publication of, and hearing on, proposed amendments to 30 TAC Sections 114.650 – 114.654 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. CR/BG; all agree.

Item 74 [\*\*Docket No. 2011-1221-RUL.\*\*](#)

Consideration for publication of, and hearing on, a proposed new Division 6, Alternative Fueling Facilities Program, Sections 114.660 - 114.662 of 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, and corresponding revisions to the state implementation plan. The proposed rulemaking would implement part of Senate Bill 385, from the 82nd Legislature, 2011, Regular Session, relating to establishing the criteria for prioritizing facilities to receive grants under the Alternative Fueling Facilities Program. Facilities eligible to receive grants under the program include a facility to store, compress, or dispense alternative fuels in a nonattainment area. Under the program, alternative fuels are defined as a fuel, other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquefied natural gas, hydrogen, propane, or a mixture of fuels containing at least 80% methanol by volume. (Betsy Peticolas, Steve Dayton) (Rule Project No. 2011-052-114-EN)

Approve publication of, and hearing on, new Division 6, Alternative Fueling Facilities Program, Sections 114.660 – 114.662 of 30 TAC Chapter 114 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. BG/CR; all agree.

Item 75 **Docket No. 2011-1222-RUL.**

Consideration for publication of, and hearing on, a proposed new Division 7, Texas Natural Gas Vehicle Grant Program, Sections 114.670 - 114.672 of 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, and corresponding revisions to the state implementation plan. The proposed rulemaking would implement part of Senate Bill 385, from the 82nd Legislature, 2011, Regular Session, relating to establishing the criteria for prioritizing qualifying vehicles eligible to receive grants under the Texas Natural Gas Vehicle Grant Program. (Betsy Peticolas, Steve Dayton) (Rule Project No. 2011-053-114-EN)

Approve publication of, and hearing on, new Division 7, Texas Natural Gas Vehicle Grant Program in Subchapter K of 30 TAC Chapter 114 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. CR/BG; all agree.

**PUBLIC COMMENT SESSION**

Item 76 The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code §2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour.

No action taken.

**EXECUTIVE MEETING**

Item 77 **Docket No. 2011-0001-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 78 **Docket No. 2011-0002-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 79 **Docket No. 2011-0003-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/tceqa.shtml](http://www.texasadmin.com/tceqa.shtml)**

/s/ Barham Richard  
Assistant General Counsel,  
Barham Richard

10/31/2011  
Date