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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 Carlos Rubinstein  
Commissioner Toby Baker

## **AGENDA**

July 25, 2012

### 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. 2009-2074- MWD-E; SOAH Docket No. 582-11-6030.\*\*](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions against the City of Hawk Cove in Hunt County, Texas; RN104265848; for municipal wastewater discharge violations pursuant to Texas Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies. (Tammy Mitchell)

Adopt the ALJ's proposed Order; but include the Executive Director's proposed corrections in the exceptions, as recommended by the ALJ in her reply. TB/CR; all agree.

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

Item 2 [\*\*Docket No. 2011-2287-WR.\*\*](#)

Consideration of the application by Bentwood CC, L.L.C. for an amendment to Certificate of Adjudication No. 14-1313 (Amendment 14-1313A) to add a diversion point on the South Concho River, to divert its portion of water authorized by

Certificate of Adjudication 14-1313 for storage in two off-channel reservoirs, and to add an additional 250 acres of irrigated land in Tom Green County. Existing Certificate of Adjudication No. 14-1313 authorizes Treadwell Cattle Company, Ltd., Kent C. Schwartz, and Bentwood C.C., L.L.C. to divert and use not to exceed a combined 692 acre-feet of water from a point on the South Concho River for irrigation of 250 acres in Tom Green County. The Commission will also consider requests for hearing or reconsideration, related responses and replies, and public comment. (James Aldredge, Craig Mikes)

No action taken – item was removed from the agenda.

Item 3 [\*\*Docket No. 2011-2288-WR.\*\*](#)

Consideration of the application by Bentwood CC, L.L.C. for an amendment to Certificate of Adjudication No. 14-1290 (Amendment 14-1290B) to add a diversion point on the South Concho River, to divert water leased from the owner of Certificate of Adjudication 14-1290 for storage in two off-channel reservoirs, and to add an additional 250 acres of irrigated land in Tom Green County. Existing Certificate of Adjudication No. 14-1290 authorizes Jonathan Reid Stultz, et ux (Kelly Dee Stultz) to maintain an on-channel reservoir on the South Concho River and to impound therein not to exceed 50 acre-feet of water, and to divert and use not to exceed 166.4 acre-feet of water from two points located on the perimeter of the reservoir for irrigation of 94 acres in Tom Green County. The Commission will also consider requests for hearing or reconsideration, related responses and replies, and public comment. (James Aldredge, Craig Mikes)

No action taken – item was removed from the agenda.

Item 4 [\*\*Docket No. 2009-0205-DIS.\*\*](#)

Consideration of a petition from FM-548 & High Plains Trail – 1237, LLLP (Petitioner), for the creation of Rockwall County Water Control and Improvement District No. 1, in Rockwall County, Texas, pursuant to Texas Water Code Chapters 49 and 51. The Commission will also consider hearing requests and related responses and replies. (Greg Charles, Kayla Murray)

Joint Motion for Items 4 and 5

Deny the hearing requests of the Rockwall County Commissioners Court, Texas Media Enterprise, LLC and Wesley Burnett; issue the Order approving the creation of the Rockwall County Water Control Improvement District No. 1 and No. 2, as recommended by the Executive Director with the following changes: 1) Delete the portion of the paragraph 7 beginning with the second sentence and ending with furthermore; 2) Capitalize the following “furthermore” and change “City” in the last sentence of the 7<sup>th</sup> paragraph to “City of McLendon-Chisholm”. CR/TB; all agree.

Item 5 [\*\*Docket No. 2009-0206-DIS.\*\*](#)

Consideration of a petition from FM-548 & High Plains Trail – 1237, LLLP (Petitioner), for the creation of Rockwall County Water Control and Improvement

District No. 2, in Rockwall County, Texas, pursuant to Texas Water Code Chapters 49 and 51. The Commission will also consider hearing requests and related responses and replies. (Greg Charles, Kayla Murray)

#### Joint Motion for Items 4 and 5

Deny the hearing requests of the Rockwall County Commissioners Court, Texas Media Enterprise, LLC and Wesley Burnett; issue the Order approving the creation of the Rockwall County Water Control Improvement District No. 1 and No. 2, as recommended by the Executive Director with the following changes: 1) Delete the portion of the paragraph 7 beginning with the second sentence and ending with furthermore; 2) Capitalize the following “furthermore” and change “City” in the last sentence of the 7<sup>th</sup> paragraph to “City of McLendon-Chisholm”. CR/TB; all agree.

#### **MISCELLANEOUS MATTERS**

##### Item 6 [Docket No. 2008-1940-WR.](#)

Consideration of the Executive Director's report and petition for the addition of Dallam County Priority Groundwater Management Area to the North Plains Groundwater Conservation District pursuant to Senate Bill 313, Chapter 35 of the Texas Water Code, and the rules of the Texas Commission on Environmental Quality. The Dallam County Priority Groundwater Management Area to be added to North Plains Groundwater Conservation District is in Dallam County, Texas. (Kelly Mills, Christiaan Siano)

Adopt the Executive Director's proposed Order adding all territory within the Dallam County PGMA not previously incorporated within a groundwater conservation district to the North Plains Groundwater Conservation District with the following changes: 1) Insert a new Finding of Fact that states: “As part of its February 17, 2010 Order, the Commission found that having the unincorporated areas of the Dallam County PGMA be added to the North Plains Groundwater Conservation District is superior to the creation of a new district and that management through the North Plains Groundwater Conservation District would be the best management option for the areas.”; and 2) Renumber the remaining Finding of Facts accordingly. TB/CR; all agree.

##### Item 7 [Docket No. 2012-1040-MIS.](#)

Consideration of the adoption of revisions to Texas Emissions Reduction Plan: Guidelines for Emissions Reduction Incentive Grants (RG-388). The revisions to the guidelines would implement changes to Texas Health and Safety Code (THSC), Chapter 386, Subchapter C, Diesel Emissions Reduction Incentive Program, under House Bill (HB) 3399, 82nd Texas Legislature, 2011, Regular Session, and corresponding changes to the Texas Emissions Reduction Plan (TERP) rules, 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. Additional revisions to the guidelines were also proposed by the executive director. HB 3399 included changes and additions to the TERP eligibility criteria, including: changes to the period over which a grant-funded vehicle must be operated, to either five years or 400,000 miles, whichever occurs earlier; specific criteria for decommissioning a vehicle or vehicle

engine under the program; and provisions to allow a vehicle that has been leased or otherwise commercially financed to be replaced under the program. HB 3399 also added a provision that the executive director is to waive eligibility requirements on a finding of good cause. The revisions make the guidelines consistent with the statutory and regulatory changes. Additional changes proposed by the executive director include: addition of Wise County to the list of counties eligible for TERP grants; changes to the semi-annual reporting requirements to allow the executive director to establish an annual reporting schedule or suspend reporting requirements; establish a three-year limit on the age of vehicles and equipment purchased under a replacement project; authorize the executive director to establish lower limits on the percentage of costs that may be reimbursed under a grant; and other non-substantive changes to clarify requirements and existing practice. Guidelines were made available for public comment. Comments received have been considered and responded to in the Executive Director's Response to Comments. (Steve Dayton, Betsy Peticolas)

Adopt the Executive Director's recommended revisions to RG-388; and issue the Executive Director's proposed Order, but delete the sentence: "This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Government Code, Section 2001.033." CR/TB; all agree.

Item 8 [\*\*Docket No. 2012-0972-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. (Beth West)

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

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 9 [\*\*Docket No. 2011-2113-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Braden Exploration, LLC in Wise County; RN106022320; 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/TB; all agree.

Item 10 [\*\*Docket No. 2011-1816-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of DCP Midstream, LP in Panola County; RN102805272; 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/TB; all agree.

Item 11 [\*\*Docket No. 2011-2008-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Davis Gas Processing, Inc. in Reagan County; RN100217686; 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. (Kimberly Morales, Debra Barber)

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

Item 12 [\*\*Docket No. 2012-0087-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Total Petrochemicals USA, Inc. in Jefferson County; RN102457520; 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/TB; all agree.

Item 13 [\*\*Docket No. 2011-2212-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Motiva Enterprises LLC in Jefferson County; RN100209451; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Debra Barber)

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

Item 14 [\*\*Docket No. 2012-0029-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Union Carbide Corporation in Galveston County; RN100219351; 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/TB; all agree.

Item 15 [\*\*Docket No. 2011-2269-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Dow Chemical Company in Brazoria County; RN100225945; 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. (Amancio R. Gutierrez, Debra Barber)

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

**AIR QUALITY ENFORCEMENT DEFAULT ORDER**

Item 16 [Docket No. 2011-0975-AIR-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of GINA LARRANAGA d/b/a A PALLET COMPANY in Bell County; RN104895933; 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 Default Order. CR/TB; all agree.

**IRRIGATION LICENSING ENFORCEMENT DEFAULT ORDER**

Item 17 [Docket No. 2011-1991-LII-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Dustin Jobe in Potter County; RN106191240; for landscape irrigation occupational licensing 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. (Joel Cordero, Lena Roberts)

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

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 18 [Docket No. 2011-0211-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Husnain Aftab Enterprises, Inc. d/b/a JR Mini Mart in Orange County; RN103190393; 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. (Tammy Mitchell, Lena Roberts)

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

Item 19 [Docket No. 2011-0862-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Edinburg in Hidalgo County; RN102456365 and RN102143245; 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. (Jennifer Graves, Debra Barber)

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

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER**

Item 20 **[Docket No. 2011-2101-MSW-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of J & M TRUCK TIRE SHOP, INC. in Bexar County; RN103177051; 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. (Rebecca Boyett, Debra Barber)

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

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 21 **[Docket No. 2011-1610-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Yorktown in DeWitt County; RN103025805; 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. (JR Cao, Debra Barber)

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

Item 22 **[Docket No. 2011-0431-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Nueces County Water Control and Improvement District No. 5 in Nueces County; RN101609543; 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, Debra Barber)

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

Item 23 **[Docket No. 2012-0047-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against TRINITY PINES CONFERENCE CENTER, INC. in Trinity County; RN103014494; 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. (Jennifer Graves, Debra Barber)

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

Item 24 **[Docket No. 2012-0133-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of TA Operating LLC in Hill County; RN105137020; 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, Debra Barber)

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

Item 25 [\*\*Docket No. 2011-0599-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of J&S Water Company, L.L.C. in Harris County; RN102361458 and RN102361862; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Debra Barber)

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

Item 26 [\*\*Docket No. 2011-2332-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Montgomery County Water Control and Improvement District No. 1 in Montgomery County; RN102095205; 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. (Stephen Thompson, Debra Barber)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 27 [\*\*Docket No. 2011-1978-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of INS EMERALD, L.L.C. dba Texas Foods in Tarrant County; RN101541555; 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. (Danielle Porras, Debra Barber)

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

Item 28 [\*\*Docket No. 2012-0058-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lake Texoma Highport, L.L.C. dba Highport Marina & Resort in Grayson County; RN101549228; 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/TB; all agree.

Item 29 [\*\*Docket No. 2011-2130-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring



certain actions of ASB ENTERPRISES, INC. dba Billee's Car Care in Jefferson County; RN101817757; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Debra Barber)

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

Item 30 [\*\*Docket No. 2011-2296-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of REED SHELL inc. in Harris County; RN104073820; 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. (Stephen Thompson, Debra Barber)

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

Item 31 [\*\*Docket No. 2011-2126-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Clay Business Inc dba Power Mart 15 in Harris County; RN102372794; 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. (Raymond Marlow, P.G., Debra Barber)

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

Item 32 [\*\*Docket No. 2011-0749-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Greenpawm Properties, L.P. in Harris County; RN101732055; 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/TB; all agree.

Item 33 [\*\*Docket No. 2011-1857-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BAY AREA HEALTHCARE GROUP, LTD. dba Corpus Christi Medical Center Northwest in Nueces County; RN102978160; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Wallace Myers, Debra Barber)

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

Item 34 [\*\*Docket No. 2011-0881-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against BRIARGROVE, LLC dba Fountainview Mobile Car Care in Harris County; RN100531755; 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/TB; all agree.

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 35 [\*\*Docket No. 2011-0730-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Rashid Inc. dba Harvest Food Store 1 in Harris County; RN100925064; 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/TB; all agree.

Item 36 [\*\*Docket No. 2011-1594-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Dania October LLC d/b/a Evans Food Mart in Tarrant County; RN102428240; 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. (Sharesa Y. Alexander, Lena Roberts)

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

Item 37 [\*\*Docket No. 2011-1362-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of UNITED FORTUNE ENTERPRISE, INC. d/b/a Paris Church's Chicken Shell in Lamar County; RN103018008; 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. (Joel Cordero, Lena Roberts)

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

Item 38 [\*\*Docket No. 2011-0864-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of FOTY, L.L.C. d/b/a Pick N Pay 2 in Harris County; RN100599067; 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)

Remanded to the Executive Director.

Item 39 [Docket No. 2011-1869-PST-E.](#)

Consideration of a Default Order assessing administrative penalties against DES Corporation d/b/a Nocona Fina Mart in Montague County; RN102477742; 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. (Rudy Calderon, Lena Roberts)

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

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT AND SHUTDOWN ORDERS**

Item 40 [Docket No. 2011-1076-PST-E.](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of SM & LEE, INC. d/b/a On A Run Food Store in Dallas County; RN101569960; 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/TB; all agree.

Item 41 [Docket No. 2011-1296-PST-E.](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of 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 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 and Shutdown Order. CR/TB; all agree.

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 42 [Docket No. 2011-1672-PWS-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Michael Sesso d/b/a Sessos Country Market in Val Verde County; RN105507388; 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 Agreed Order. CR/TB; all agree.

Item 43 [\*\*Docket No. 2011-1390-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Jack Vanover and Rhonda C. Vanover d/b/a Seven Estates f/k/a Casey Homes Estates in Lubbock County; RN102679305; 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 Agreed Order. CR/TB; all agree.

Item 44 [\*\*Docket No. 2011-1967-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Eagle Pass Water Works System in Maverick County; RN101387710; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Bridgett Lee, Debra Barber)

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

Item 45 [\*\*Docket No. 2011-1127-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Presidio County Water Improvement District #1 dba Redford Water Supply in Presidio County; RN101266054; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jennifer Cook, Lena Roberts)

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

**PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 46 [\*\*Docket No. 2011-1894-PWS-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of City of Del Rio in Val Verde County; RN101264299; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Peipey Tang, Lena Roberts)

Remanded to the Executive Director.

**WATER QUALITY ENFORCEMENT DEFAULT ORDER**

Item 47 [\*\*Docket No. 2011-1669-WQ-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of JAMES GRZANN D/B/A BEERS MECHANICAL REPAIR in Tarrant County; RN106089063 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. (Xavier Guerra, Lena Roberts)

Remanded to the Executive Director.

## **RULE MATTERS**

### **Item 48**     [\*\*Docket No. 2012-0004-RUL.\*\*](#)

Consideration for publication of, and hearing on, proposed new Section 7.127 of 30 Texas Administrative Code (TAC) Chapter 7, Memoranda of Understanding. The proposed rulemaking would implement House Bill 451 from the 82nd Legislature, 2011, Regular Session, relating to the creation of a Don't Mess with Texas Water program to help prevent illegal dumping that affects surface waters of this state. (Cynthia Carter, Steven Shepherd) (Rule Project No. 2012-012-007-AD)

Approve publication of, and hearing on, the proposed new Section 7.127 of 30 TAC Chapter 7, as recommended by the Executive Director. TB/CR; all agree.

### **Item 49**     [\*\*Docket No. 2011-2046-RUL.\*\*](#)

Consideration of the adoption of Sections 331.2, 331.14, 331.17, 331.18, 331.42 - 331.47, 331.61, 331.121, 331.142, 331.161, 331.162, 331.165, 331.168, 331.170, 331.171, and 331.206 and the titles of Subchapters D and J; new Sections 331.241 - 331.251; and the repeal of Section 331.120 of 30 TAC Chapter 331, Underground Injection Control. The adoption would amend existing rules and add new rules pertaining to the use of a Class I well for disposal of nonhazardous drinking water treatment residuals (DWTR) into a salt cavern in horizontally bedded or non-domal salt. This includes disposal of nonhazardous DWTR that contain naturally occurring radioactive material (NORM). A Radioactive Materials License is required for disposal of DWTR containing NORM that does not meet an exempted level for its radiological content. The rules would provide a disposal alternative within Texas for public water systems to dispose of their treatment residuals containing NORM in a manner that is protective of human health and safety and the environment. Currently, the only facilities licensed to dispose of these wastes are landfills located out of state. The rules include repeal of an obsolete rule and editorial clarifications and corrections. The proposed rules were published in the February 24, 2012 issue of the *Texas Register* (37 TexReg 1198). (Kathryn Flegal, Diane Goss, Don Redmond) (Rule Project No. 2011-023-331-WS)

Adopt the new, amended, and repealed Sections of 30 TAC Chapter 331, as recommended by the Executive Director. CR/TB; all agree.

### **Item 50**     [\*\*Docket No. 2011-1064-RUL.\*\*](#)

Consideration of the adoption of amendments to Section 285.11 and 285.21 and new Section 285.38 of 30 TAC Chapter 285, On-Site Sewage Facilities. The adoption would implement House Bill (HB) 2694, 82nd Legislature, 2011, Regular Session. HB 2694 abolished the Texas On-Site Research Council (Council). This rulemaking removes references to the Council from Chapter 285. The proposed rulemaking also implements HB 240, 82nd Legislature, 2011, Regular Session. The rulemaking requires all On-Site Sewage Facilities (OSSF), including risers and covers, installed after September 1, 2012, to be designed to prevent access by anyone other than the system's owner and licensed OSSF installers or maintenance providers. The proposed rules were published in the February 24, 2012, issue of the *Texas Register* (37 TexReg 1174). (Candy Garrett, Kathy Humphreys) (Rule Project No. 2011-040-

285-CE)

Adopt the amendments to 30 TAC Sections 285.11 and 285.21 and new Section 285.38, as recommended by the Executive Director. TB/CR; all agree.

Item 51 **Docket No. 2011-1266-RUL.**

Consideration of the adoption of the amendment to Section 330.7 of 30 TAC Chapter 330, Municipal Solid Waste. The adoption would implement Senate Bill 1258, 82nd Legislature, 2011, Regular Session, which authorizes the commission to issue a permit by rule to a county or a municipality with a population of 10,000 or less in arid-exempt areas for disposal of demolition waste from abandoned or nuisance buildings. The proposed rule was published in the February 24, 2012 issue of the *Texas Register* (37 TexReg 1191). (Steve Odil, Anthony Tatu) (Rule Project No. 2011-048-330-WS)

Adopt the amendments to 30 TAC Section 330.7, as recommended by the Executive Director. CR/TB; all agree.

Item 52 **Docket No. 2011-1224-RUL.**

Consideration of the adoption of amendments to 30 TAC Chapter 293, Water Districts, Sections 293.19, 293.20, 293.22 and 293.23, and Chapter 294, Priority Groundwater Management Areas, Sections 294.30 and 294.40 - 294.44. The adoption would implement Senate Bills 313 and 660 from the 82nd Legislature, 2011, Regular Session, relating to the creation of groundwater conservation districts in priority groundwater management areas that were designated before September 1, 1997; the study and designation of new priority groundwater management areas; the creation of groundwater conservation districts in new priority groundwater management areas; the definition of an affected person; and, the reasons that an affected person may petition the commission for an inquiry of a groundwater conservation district in a groundwater management area. The proposed rules were published in the March 23, 2012 issue of the *Texas Register* (37 TexReg 2026). (Michael Chadwick, James Aldredge) (Rule Project No. 2011-054-294-OW)

Adopt the amendments to 30 TAC Chapters 293 and 294, as recommended by the Executive Director. TB/CR; all agree.

Item 53 **Docket No. 2011-1486-RUL.**

Consideration of the adoption of new Section 106.513 of 30 TAC Chapter 106, Permits by Rule. The adoption would implement House Bill (HB) 3268 from the 82nd Legislature, 2011, Regular Session, which requires that the commission develop a permit by rule (PBR) or a standard permit to authorize emissions from combined heat and power (CHP) facilities. New Section 106.513 is a PBR which establishes emission standards and compliance requirements for CHP units in accordance with the requirements and guidelines of HB 3268. The proposed rules were published in the March 9, 2012, issue of the *Texas Register* (37 TexReg 1649). (Michael Wilhoit, Becky Petty) (Rule Project No. 2012-008-106-AI)

Adopt new 30 TAC Section 106.513, as recommended by the Executive Director. CR/TB; all agree.

Item 54 **Docket No. 2011-2229-RUL.**

Consideration for adoption of amended sections 116.12, 116.150, 116.151, 116.180, and 116.186 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 rulemaking would remove a reference to flexible permits in the definition of plant-wide applicability limit, include references to federal terminology and rules, and state that the failure to use monitoring required in a plant-wide applicability limit permit would render that permit invalid. The proposed rules were published for public comment in the March 9, 2012 issue of the *Texas Register* (37 TexReg 1661). (Michael Wilhoit, Janis Hudson) (Rule Project No. 2012-015-116-AI)

Adopt the amended 30TAC Chapter 116 and corresponding state implementation plan revisions, as recommended by the Executive Director. TB/CR; all agree.

**PUBLIC COMMENT SESSION**

Item 55 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.

There were no registrants for the Public Comment Session.

**EXECUTIVE MEETING**

Item 56 **Docket No. 2012-0001-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 57 **Docket No. 2012-0002-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 58 **Docket No. 2012-0003-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/ Tracy Gross  
Assistant General Counsel  
Tracy Gross

\_\_\_\_\_  
7/30/2012  
Date