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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**

October 17, 2012

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

#### **PROPOSAL FOR DECISION**

Item 1

##### **[Docket No. 2010-0837-WR](#)**

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of the City of Lubbock to amend its water use Permit No. 3985 in Lubbock County, pursuant to the rules of the Texas Commission on Environmental Quality and Tex. Water Code chs. 5 and 11. The Commission will also consider the application, record, timely related filings, exceptions and replies. (James Aldredge, Ron Ellis)

Adopt the ALJ's proposed Order approving the issuance of the Executive Director's draft Water Use Permit No. 3985A. CR/TB; all agree.

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

Item 2

##### **[Docket No. 2012-1195-WR](#)**

Consideration of the application by the Lower Colorado River Authority (LCRA) and John Pat and Emmett Lee Grumbles for an amendment to Certificate of Adjudication No. 14-1913 to authorize LCRA to divert and use the water under the certificate for municipal purposes, to add a diversion point on the Colorado

River and on the perimeter of an existing reservoir on the Colorado River, and to authorize storage of the water in that existing reservoir in Lampasas County, Texas. The application further requests an exempt interbasin transfer of the water from the Colorado River Basin to portions of the Brazos River Basin within the service area of the Lometa Water System in Lampasas, Mills, San Saba, and Burnet Counties. The Commission will also consider requests for hearing or reconsideration, related responses and replies, and public comment. (James Aldredge, Tracie Donnelly)

Remanded to the Executive Director.

### **MISCELLANEOUS MATTERS**

Item 3 **Docket No. 2011-1043-MIS.**

Consideration of the adoption of a general permit, General Permit Number TXG340000. This adoption is a renewal with minor changes of a general permit authorizing the discharge of facility wastewater, contact stormwater, and stormwater associated with industrial activities into or adjacent to water in the state from petroleum bulk stations and terminals. The renewal will replace the current permit which expired on April 23, 2012. Notice of the proposed draft general permit was published in the June 29, 2012, issue of the *Texas Register* (37 TexReg 4987). (Jamie Saladiner, Celia Castro) (Project No. 2011-042-OTH-NR)

Adopt TPDES Permit No. TXG340000 as recommended by the Executive Director. TB/CR; all agree.

Item 4 **Docket No. 2012-1155-MIS.**

Consideration of a resolution to extend the existence of the Irrigator Advisory Council until February 1, 2019, and to appoint three new members to the Irrigator Advisory Council to six-year terms. The Irrigator Advisory Council advises the Commission on matters related to landscape irrigation in Texas. The new members would replace three existing members whose terms are set to expire on February 1, 2013. (Candy Garrett, Alicia Ramirez) (Project No. 2012-019-RES-NR)

Adopt the Executive Director's recommended resolution extending the existence of the Irrigator Advisory Council until February 1, 2019 and filling the vacancies on the Irrigator Advisory Council as follows: 1) Marsha Carson, term to expire February 1, 2019; 2) James J. Hartley, term to expire February 1, 2019; and 3) Paul D. Ward, term to expire February 1, 2019. CR/TB; all agree.

Item 5 **Docket No. 2012-1637-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.

**AGRICULTURAL ENFORCEMENT AGREED ORDER**

Item 6 **Docket No. 2011-0909-AGR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Olke Andries Jongsma dba Amelia Dairy in Wood County; RN101516045; 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/TB; all agree.

**AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 7 **Docket No. 2012-0326-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against Bravo Natural Gas, LLC in Moore and Carson Counties; RN100217462, RN100212414 and RN100211580; 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 8 **Docket No. 2012-0060-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Eagle Railcar Services - Roscoe, Inc. in Nolan County; RN100218296; 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/TB; all agree.

Item 9 **Docket No. 2011-2250-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of JX Nippon Chemical Texas Inc. dba Nisseki Chemical of Texas in Harris County; RN102887270; 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 10 [\*\*Docket No. 2012-0294-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. (Trina Grieco, Debra Barber)

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

Item 11 [\*\*Docket No. 2012-0384-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ExxonMobil Oil Corporation in Jefferson County; RN102450756; 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.

Item 12 [\*\*Docket No. 2012-0598-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of 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. (James Nolan, Debra Barber)

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

Item 13 [\*\*Docket No. 2012-0112-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Anderson Columbia Co., Inc. in Zapata County; RN105949960; 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 Gutierrez, Debra Barber)

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

Item 14 [\*\*Docket No. 2011-0718-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Choice Exploration, Inc. in Liberty County; RN105909899; 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/TB; all agree.

**INDUSTRIAL OR HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER**

Item 15 [Docket No. 2012-0316-IHW-E.](#)

Consideration of a Default Order assessing administrative penalties against Richard Valadez d/b/a Rocking V Hides and Skins in Nueces County; RN106218290; for industrial solid and/or 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. (Peipey Tang, Lena Roberts)

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

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 16 [Docket No. 2012-0672-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Diamond S Cattle Company in Palo Pinto County; RN105708069; 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/TB; all agree.

**MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 17 [Docket No. 2012-0206-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Cadre Material Products, LLC in McCulloch County; RN105978191; for water rights and water quality violations pursuant to Tex. Water Code chs. 7, 11, 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 18 [Docket No. 2012-0400-MLM-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Grunewald Sandblasting, Inc. in Victoria County; RN101982825; for air quality, used oil, and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361, 371, 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. (Trina Grieco, Debra Barber)

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

**MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER**

Item 19 [Docket No. 2011-1401-MLM-E.](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of SCHOPPE AUTO SUPPLY, INC. in Burleson County; RN101670842; for scrap tire, municipal solid waste, and used oil violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 371, 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 Default Order. CR/TB; all agree.

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 20 [Docket No. 2011-1678-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of James Wayne Robinson in Harris County; RN102343373; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Lena Roberts)

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

Item 21 [Docket No. 2011-1970-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties against Hill Country Harbor, L.P. in Palo Pinto County; RN101917458; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Debra Barber)

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

Item 22 [Docket No. 2011-1189-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Malone in Hill County; RN102075660; 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 23 [\*\*Docket No. 2012-0878-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Trinity Rural Water Supply Corporation in Trinity County; RN105571335; 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. 2012-0566-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Commerce in Hunt County; RN102178233; 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/TB; all agree.

Item 25 [\*\*Docket No. 2011-0582-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Atlanta in Cass County; RN102883212; 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, Debra Barber)

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

Item 26 [\*\*Docket No. 2010-1826-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Bailey in Fannin County; RN101609055; 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 27 [\*\*Docket No. 2011-0854-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Florence in Williamson County; RN101920502; 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/TB; all agree.

Item 28 [\*\*Docket No. 2011-2082-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Chung Nguyen dba Hilltop Village Mobile Home Park in Bell County; RN104845029; 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, Debra Barber)

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

Item 29 [\*\*Docket No. 2011-1255-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against WEST YUKON ESTATES LLC in Harris County; RN102079126; 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. (Rudy Calderon, Lena Roberts)

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

Item 30 [\*\*Docket No. 2009-0452-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Overton in Rusk County; RN102096203; 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. (Jeffrey Huhn, Lena Roberts)

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

Item 31 [\*\*Docket No. 2012-0151-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Fort Worth in Tarrant County; RN100942259; 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/TB; all agree.

Item 32 [\*\*Docket No. 2012-0956-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Grand Ranch Treatment Company in Johnson County; RN102344157; 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 33 [\*\*Docket No. 2012-0449-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Springtown in Parker County; RN101920445; 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 34 [\*\*Docket No. 2012-0291-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the Lower Colorado River Authority in Bastrop County; RN101018240; 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/TB; all agree.

Item 35 [\*\*Docket No. 2012-0771-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against New Braunfels Utilities in Comal County; RN101700946; 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 36 [\*\*Docket No. 2012-0573-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Ranger in Eastland County; RN103118923; 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/TB; all agree.

**PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

Item 37 [\*\*Docket No. 2011-0561-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Soney Joseph DBA Race Runner 3 in Cherokee County; RN101881233; 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. (Jim Sallans, Lena Roberts)

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

Item 38 **[Docket No. 2012-0627-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against MURPHY OIL USA, INC. dba Murphy USA 6979 in Harris County; RN104064787; 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 Stephens, Debra Barber)

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

Item 39 **[Docket No. 2011-1754-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Jogesh Amin DBA Stop N Save in Tarrant County; RN102445400; 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. (Jim Sallans, Lena Roberts)

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

Item 40 **[Docket No. 2012-0191-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Raymond Wietzikoski dba Raymonds Shell in Limestone County; RN101676377; 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. (Nadia Hameed, Debra Barber)

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

Item 41 **[Docket No. 2012-0427-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Walker County in Walker County; RN100534353; 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. (Michaelle Sherlock, Debra Barber)

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

Item 42 [\*\*Docket No. 2012-0676-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against JC SHELL, INC in Harris County; RN101836518; 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 43 [\*\*Docket No. 2012-0626-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FASTRAC FOOD STORE'S INC. dba Fastrac 2 in Harris County; RN102488475; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Debra Barber)

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

Item 44 [\*\*Docket No. 2012-0359-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Japan International Corp dba City Star Shell in Tarrant County; RN101559573; 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 45 [\*\*Docket No. 2011-2088-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of A & M BUSINESS INC d/b/a Aggies Food Store in Brazos County; RN102354396; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Lena Roberts)

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

Item 46 [\*\*Docket No. 2011-0928-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against Colon Enterprises, Inc. d/b/a My-T-Quick in Dallas County; RN102358793; 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 Goodwin, Lena Roberts)

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

Item 47 **[Docket No. 2012-0929-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against North Houston Pole Line, L.P. in Harris County; RN101749000; 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. (David Carney, Debra Barber)

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

Item 48 **[Docket No. 2012-0727-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Southwestern Motor Transport, Inc. in Dallas County; RN102380912; 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. (Jennifer Graves, Debra Barber)

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

Item 49 **[Docket No. 2010-0262-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of G. W. Haston Family Trust in Jefferson County; RN101789105; 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. (Jeffrey Huhn, Lena Roberts)

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

Item 50 **[Docket No. 2012-0106-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of RETAIL INVESTORS OF TEXAS, LTD. d/b/a Market Basket Express 47 in Jefferson County; RN102018637; 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/TB; all agree.

**PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 51 [\*\*Docket No. 2012-0645-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Glenn E. Galloway in Jefferson County; RN101738714; 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 52 [\*\*Docket No. 2011-1029-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties against MFMK, INC. d/b/a Phillips 66 Food Mart in Harris County; RN100699479; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Lena Roberts)

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

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

Item 53 [\*\*Docket No. 2012-0105-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Khurram Adnan d/b/a Store T 24 in Lamar County; RN101743284; 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)

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

**PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 54 [\*\*Docket No. 2011-1631-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SNI Corporation d/b/a Broadway Food Mart in Colorado County; RN101252732; 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)

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

Item 55 [\*\*Docket No. 2012-0172-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Follett in Lipscomb County;

RN101409514; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Heather Brister, Debra Barber)

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

Item 56 [\*\*Docket No. 2012-0490-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Brenda Cunningham Byrd and Cozy Lounge, LLC dba Cozy Lounge in Colorado County; RN106083355; 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. (Epifanio Villarreal, Debra Barber)

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

Item 57 [\*\*Docket No. 2012-0266-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Oak Valley Mobile Home Park LLC d/b/a Oak Ridge Mobile Home Park in Brazoria County; RN102676277; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ryan Rutledge, Lena Roberts)

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

Item 58 [\*\*Docket No. 2012-0557-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of North San Saba Water Supply Corporation in San Saba County; RN101225613; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Debra Barber)

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

**WATER QUALITY ENFORCEMENT DEFAULT ORDER**

Item 59 [\*\*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. (Kari L. Gilbreth, Lena Roberts)

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

## **STATE IMPLEMENTATION PLAN**

Item 60 **Docket No. 2012-0845-SIP.**

Consideration for publication of, and hearing on, the proposed Houston-Galveston-Brazoria (HGB) 1997 Eight-Hour Ozone Standard Nonattainment Area Motor Vehicle Emissions Budgets (MVEB) Update State Implementation Plan (SIP) Revision. The proposed SIP revision would update the March 2010 HGB attainment demonstration and reasonable further progress SIP revisions for the 1997 eight-hour ozone standard to replace the on-road mobile source emissions inventories for nitrogen oxides (NOX) and volatile organic compounds (VOC) based on the United States Environmental Protection Agency's (EPA) MOBILE model with those based on the EPA's MOVES model. The 2008, 2011, 2014, 2017, and 2018 NOX and VOC MVEBs and the contingency analyses would also be updated using the MOVES-based emissions inventories. The updated MVEBs would help the HGB area meet transportation conformity requirements of the Federal Clean Air Act. The proposed revision also includes a review of emissions inventory data, photochemical modeling, and the quantitative and qualitative corroborative analyses used as weight of evidence supporting the March 2010 HGB attainment demonstration. (Lola Brown, John Minter) (SIP Project No. 2012-002-SIP-NR)

Approve the publication of, and hearing, on the Houston-Galveston-Brazoria 1997 Eight-Hour Ozone Standard Nonattainment Area Motor Vehicle Emissions Budgets Update State Implementation Plan Revision, as recommended by the Executive Director. TB/CR; all agree.

## **RULE MATTERS**

Item 61 **Docket No. 2011-1225-RUL.**

Consideration for publication of, and hearing on, proposed amended Sections 291.22, 291.102, 291.105, and 291.113 of 30 Texas Administrative Code (TAC) Chapter 291, Utility Regulations and Sections 293.11, 293.32, 293.41, 293.51, and 293.81 of 30 TAC Chapter 293, Water Districts. The proposed rulemaking would implement House Bill (HB) 679, HB 1901, Senate Bill (SB) 18, SB 512, SB 573, SB 914, and SB 1234, 82nd Legislature, 2011, Regular Session. The proposed amendments would: impact a district's ability to increase the allowable change order amount; exempt bonds issued by a public utility agency from Executive Director approval; alter eminent domain powers of a municipal utility district outside its boundary; modify the election qualifications for a fresh water supply district director; exempt bonds issued by certain multi-county districts from Executive Director approval; limit the time for certain municipalities to consent to certificates of public convenience and necessity (CCN) within the corporate limits or extraterritorial jurisdiction (ETJ) of the municipality and set conditions for granting the CCN without the municipality's consent; alter a city's ability to extend a CCN beyond its ETJ if a landowner elects to exclude property; adds a provision that a CCN applicant or CCN holder that has land removed by landowner election is not required to provide service to the removed land for any reason; change the requirements for a release from a CCN; specify that having federal loans is not a bar to release; and add

requirements for notice of utility rate changes. (Kent Steelman, James Aldredge) (Rule Project No. 2011-055-293-OW)

Approve the publication of, and hearing on, the proposed amendments to 30 TAC Chapters 291 and 293, as recommended by the Executive Director. CR/TB; all agree.

Item 62 **Docket No. 2011-1226-RUL.**

Consideration of the adoption of amendments to 30 TAC Chapter 290, Public Drinking Water, Sections 290.38, 290.39, 290.46, 290.103, 290.109 - 290.112, 290.116, 290.119, 290.122, and 290.275; and 30 TAC Chapter 291, Utility Regulations, Sections 291.161 and 291.162. The adoption would bring Chapters 290 and 291 into conformity with House Bill (HB) 805, 82nd Legislature, 2011, Regular Session, and provide consistency with the federal Ground Water Rule (GWR) including a change to the definition of groundwater under the direct influence of surface water to make it consistent with 40 Code of Federal Regulations Section 141.2; the federal Total Organic Carbon (TOC) Rule; and United States Environmental Protection Agency (EPA) Method 334.0. The federal regulations implement the federal Safe Drinking Water Act. The amendments made for HB 805 expand the counties to which the Emergency Preparedness Plan requirement applies and provide a timeline for newly affected water systems to comply. The amendments made for the GWR establish rule language consistent with that used in the federal regulations. The amendments to the TOC Rule correct an inaccuracy in the applicability statement that extended the state requirements of Section 290.112 to treatment plants that are not subject to the corresponding federal requirements. The amendments also include EPA Method 334.0 as an approved alternative for measuring chlorine residual in drinking water. The proposed rules were published in the June 15, 2012, issue of the *Texas Register* (37 TexReg 4353) for Chapter 290 and (37 TexReg 4398) for Chapter 291. (Matt Court, Christiaan Siano) (Rule Project No. 2011-056-290-OW)

Adopt the amendments to 30 TAC Chapters 290 and 291, as recommended by the Executive Director. TB/CR; all agree.

Item 63 **Docket No. 2012-0501-RUL.**

Consideration of the adoption of amended sections of 30 TAC Chapter 106, Permits by Rule and the non-rule Air Quality Standard Permit for Oil and Gas Handling and Production Activities. The adopted amendments remove certain counties from the applicability of subsections (a) through (k) of Section 106.352, Oil and Gas Handling and Production Facilities and from the non-rule Air Quality Standard Permit which relate to the control of oil and gas facilities in the Barnett Shale region. The adopted amendments clarify the measurement of minimum separation between oil and gas facilities and receptors where a local ordinance exists requiring equal or greater distance, and extend the deadline in Section 106.352 to notify the Commission of an existing facility location and method of authorization. The proposed rules were published in the June 15, 2012 issue of the *Texas Register* (37 TexReg 4341). (Tasha Burns,



Betsy Peticolas) (Rule Project No. 2012-020-106-AI)

Continue this matter to the October 31, 2012 agenda; direct the Executive Director to revise Section 106.352(e)(2) to remove the reference to local ordinances; make the corresponding changes to the standard permit and preamble necessary to effectuate this rule change; and file the revised backup documentation by October 23<sup>rd</sup>. BS/TB; all agree.

Item 64 **Docket No. 2012-0896-RUL.**

Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds, Subchapter A, Definitions, Section 117.10; proposed amendments to Chapter 101, General Air Quality Rules, Subchapter H, Emissions Banking and Trading, Division 4, Discrete Emission Credit Banking and Trading, Section 101.379; and corresponding revisions to the state implementation plan. The proposed rulemaking would revise §101.379 and the definition of emergency situation in §117.10 to reference the most recent version of the Electric Reliability Council of Texas, Inc. (ERCOT) protocols for emergency notice. The proposed rulemaking would also revise the definition of emergency situation in §117.10 to reflect changes made by ERCOT to promote reliability during energy emergencies by allowing the operation of generators for the purpose of selling power back to the electric grid under limited circumstances. (Ray Schubert, Alexis Lorick) (Rule Project No. 2012-025-117-AI)

Approve the publication of, and hearing on, the proposed amendments to 30 TAC Sections 117.10 and 101.379 and corresponding revisions to the state implementation plan, as recommended by the Executive Director. CR/TB; all agree.

**EXECUTIVE MEETING**

Item 65 **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.

No Action Taken.

Item 66 **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.

No Action Taken.

Item 67 **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.

No Action Taken.

**(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 SIX (6) 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)**

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/s/ Elaine Lucas  
Assistant General Counsel  
Elaine Lucas

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10/26/2012  
Date