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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)).*

## **AGENDA**

Chairman Bryan W. Shaw, Ph.D.  
Commissioner Carlos Rubinstein  
Commissioner Toby Baker

August 21, 2013

### 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. 2010-1841-UCR; SOAH Docket No. 582-11-1468.\*\*](#)

Consideration of the Administrative Law Judges' Supplemental Proposal for Decision and Order regarding the application of SJWTX, Inc. d/b/a Canyon Lake Water Service Company to change water rates in Comal and Blanco Counties, Texas, pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 291 and Texas Water Code Chapter 13. The Commission will also consider the application, record, timely related filings, exceptions and replies. (Brian MacLeod)

Adopt the ALJs' Revised Order with the following changes: i) amend Finding of Fact No. 75 to read: "A reasonable and necessary allocable expense to CLWSC for general salaries is \$135,615.50 and \$4,966.13 for travel and entertainment expenses."; ii) add new Finding of Fact No. 117a to state: "CLWSC demonstrated the reasonableness of its proposed increases in the other tariff charges not contested in the hearing, which include: 1) tap fee of \$900, 2) late charge of 10% of bill, 3) change all larger meter and unique tap fees to "actual cost," and 4) adding the seasonal reconnection fee to Glenwood."; iii) amend Finding of Fact No. 130 to state: "CLWSC had \$856,742.42 in rate case expenses subject to the 51% rule and settlement

offer rule.”; iv) amend Conclusion of law No. 26 to state: “Based on the findings of fact and conclusions of law, CLWSC’s rate case expenses of \$856,742.42 are subject to compliance with 30 Tex. Admin. Code § 291.28(8) and (9).”; and v) add the following sentences to Ordering Provision No. 2: “The monthly credit may extend over the same number of months that the customer paid the interim or proposed rates. Canyon Lake Water Service Company will report to the Executive Director the status of its refund/credit payments on a semi-annual basis until such time as the required payments are satisfied.” CR/TB; all agree.

Item 2 [\*\*TCEQ Docket No. 2011-2299-PST-E; SOAH Docket No. 582-13-0645.\*\*](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of SHAWNA INC., in Eastland County, Texas; RN102911591; 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. The Commission will also consider the record, timely related filings, exceptions and replies. (Steven M. Fishburn)

Adopt the ALJ’s Proposed Order with the Executive Director's Exceptions, as agreed to by the ALJ in his letter dated June 10, 2013; and include a citation to Texas Water Code § 26.3475(d) in Finding of Fact No. 8. TB/CR; all agree.

**MISCELLANEOUS MATTERS**

Item 3 [\*\*TCEQ Docket No. 2005-0337-MSW; SOAH Docket No. 582-06-3321.\*\*](#)

Consideration of the Texas Third Court of Appeals' remand of the application of Williamson County for MSW Permit Amendment No. 1405B for an existing Type I MSW landfill located at 301 Southeast Inner Loop, Williamson County, Texas. The Commission will also consider timely briefs and replies filed by the parties pertaining to the remand, the application, and the record. (Anthony Tatu)

Issue an Order supplementing the Commission's Order in the matter of the application of Williamson County, Docket No. 2005-0337-MSW, which modifies Finding of Fact No. 161 and Ordering Provision No. 3 to specify the following facility operating hours: Waste Acceptance, Heavy Equipment Operations, and Transportation of Materials - Monday through Friday, 5:00 A.M. to 8:00 P.M., and Saturday from 6:00 A.M. to 4:00 P.M.; and Other Activities - no specified hours as set forth in former 30 TAC Section 330.118, which applies to the Application; and Issue a revised permit with changes to the operating hours consistent with this motion. CR/TB; all agree.

Item 4 [\*\*TCEQ Docket No. 2010-0237-MWD\*\*](#)

Consideration of the application by the City of Bullard for a major amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011787001, to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 213,000 gallons per day to a daily average flow not to exceed 438,000 gallons per day. The facility is located approximately 2,600 feet southwest of the Bullard School and approximately

3,000 feet west-southwest of the intersection of Farm-to-Market Road 344 and Oak Street in Cherokee County, Texas. The Commission will also consider timely-filed requests for hearing or reconsideration, related responses and replies, public comment, the Executive Director's Response to Comments and the District Court's Final Judgments remanding this matter. (Alicia Ramirez, Phillip Urbany)

Refer the application to SOAH for a contested case hearing on the following relevant issues:

A) Determine the initial issue of whether HRC Cherokee Tree Farm, L.P.; Texas Conservation Alliance; and Dr. Adrian Van Dellen qualify as affected persons; B) If TCA or Van Dellen qualify as affected, then determine: 1. Whether the Applicant's compliance history requires denial of the permit or imposition of additional permit conditions to ensure compliance; 2. Whether the Applicant provided a proper application and public notice in accordance with the Texas Water Code Chapter 26 and Commission rules; 3. Whether the proposed discharge will meet the surface water quality standards in 30 TAC Chapter 307 as protective of human health and water quality in the receiving waters and groundwater along the discharge route; 4. Whether the draft permit complies with the wetlands site location and nuisance abatement requirements in 30 TAC Chapter 309; 5. Whether the draft permit complies with TCEQ's regionalization policy; and 6. Whether the draft permit provides enforceable terms on the character of the discharge, flow limitations, and monitoring and reporting requirements under Texas Water Code Chapter 26; C) If only HRC Cherokee Tree Farm qualifies as affected, only determine Issues 1, 3, 5 and 6; and Specify that the maximum duration of the hearing is nine months from the preliminary hearing to issuance of the proposal for decision and provide a concurrent referral to ADR. TB/CR; all agree.

### **SUPERFUND ORDER**

Item 5 [\*\*Docket No. 2012-1111-SPF.\*\*](#)

Consideration of a Final Administrative Order, pursuant to Tex. Health & Safety Code ch. 361, regarding the James Barr Facility State Superfund Site, Pearland, Brazoria County, RN103176871, which orders the responsible parties to remediate the Site and includes the listing of the Site on the state registry of Superfund sites, a description of the selected remedial action, and determination of responsible parties. The James Barr Facility State Superfund Site is located in the 3300 block of Industrial Drive in the southern part of Pearland in Brazoria County. (Mary Risner, Monica Harris, P.G.)

Adopt the Final Administrative Order as proposed by the Executive Director. CR/TB; all agree.

### **MISCELLANEOUS MATTERS**

Item 6 [\*\*Docket No. 2013-1435-BGT.\*\*](#)

Consideration and Approval of the Agency's FY 2014 Recommended Operating Budget. (Elizabeth Sifuentez)

Approve the agency's fiscal year 2014 Operating Budget as recommended by the Executive Director. TB/CR; all agree.

Item 7 [\*\*Docket No. 2013-0893-AUD.\*\*](#)

Consideration and Approval of the TCEQ Chief Auditor's Office Fiscal Year 2014 Audit Plan. (Carlos Contreras)

Approve the Chief Auditor's Office Fiscal year 2014 Audit Plan. CR/TB; all agree.

Item 8 [\*\*Docket No. 2013-0712-RES.\*\*](#)

Consideration of a Resolution reauthorizing the Executive Director to enter all contracts (including grant agreements) on behalf of the agency, to manage such contracts and other agreements and perform all contractual actions on behalf of the agency, to delegate such authority to the staff, and to designate individuals to approve the Commission's payment documents. The Commission's current resolution regarding contracts and delegation was issued on June 27, 2011, and it expires on August 31, 2013. The proposed resolution would renew the Commission's current resolution regarding contracts and delegation for an additional two years until August 31, 2015. (Elizabeth West)

Adopt the proposed contract delegation resolution as recommended by the Executive Director. TB/CR; all agree.

**TMDL MATTERS**

Item 9 [\*\*Docket No. 2013-0852-TML.\*\*](#)

Consideration for approval to publish and solicit public comment on a draft Implementation Plan for Two Total Maximum Daily Loads for Dissolved Oxygen and One Total Maximum Daily Load for Bacteria in the Upper Oyster Creek Watershed (Segment 1245), of the Brazos River Basin, in Fort Bend County. (Ronald Stein, Robert Brush) (Project No. 2013-005-TML-NR)

Approve for publication and solicitation of public comment, an implementation plan for one total maximum daily load for bacteria and two total maximum daily loads for low dissolved oxygen in the Upper Oyster Creek watershed (Segment 1245), as recommended by the Executive Director. CR/TB; all agree.

Item 10 [\*\*Docket No. 2013-0853-TML.\*\*](#)

Consideration for approval to publish and solicit public comment on a draft Implementation Plan for Eight Total Maximum Daily Loads for Indicator Bacteria in the Dickinson Bayou Watershed and Three Tidal Tributaries (1103A\_01, 1103B\_01, 1103C\_01, 1104\_01, and 1104\_02), in Galveston County. (Ron Stein, Robert Brush) ( Project No. 2013-026-TML-NR)

Approve for publication and solicitation of public comment, an implementation plan for eight total maximum daily loads for bacteria in Dickinson Bayou watershed and three tidal tributaries, as recommended by the Executive Director. TB/CR; all approve.

## **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 11 **[Docket No. 2012-1846-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Richland Dock Works Inc. in Navarro County; RN106477243; 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. 2012-2164-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Sid Richardson Carbon, LTD., in Hutchinson County; RN100222413; 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. (Rajesh Acharya, Debra Barber)

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

Item 13 **[Docket No. 2013-0150-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Huntsman Petrochemical LLC in Jefferson County; RN100219252; 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. (Jessica Schildwachter, Debra Barber)

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

Item 14 **[Docket No. 2013-0111-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of David Peters dba Excel Ready Mix in Ector County; RN106542319; 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 15 **[Docket No. 2013-0027-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Chameleon Industries, Inc. in Ector County;

RN102176815; 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 16 [\*\*Docket No. 2012-2036-AIR-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties against MEMC PASADENA, INC., in Harris County; RN101062099; 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.

**INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 17 [\*\*Docket No. 2013-0344-IWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Vopak Terminal Deer Park Inc. in Harris County; RN100225093; 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 18 [\*\*Docket No. 2013-0265-IWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Azteca Milling, L.P. in Deaf Smith County; RN102166758; 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. (Jill Russell, Debra Barber)

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

Item 19 [\*\*Docket No. 2012-1773-IWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BASF FINA Petrochemicals Limited Partnership in Jefferson County; RN100216977; 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 20 [Docket No. 2012-2607-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ellwood Texas Forge Navasota, LLC in Grimes County; RN102343563; 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 21 [Docket No. 2012-2706-IWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Pilgrim's Pride Corporation in Titus County; RN102184041; 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. (Jill Russell, Debra Barber)

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

**MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER**

Item 22 [Docket No. 2013-0134-MSW-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Starr County in Starr County; RN102119120; 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. (Clinton Sims, Debra Barber)

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

**MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 23 [Docket No. 2012-0647-MWD-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Woodmark Utilities, Inc. in Smith County; RN101511400; 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. (Jill Russell, Debra Barber)

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

Item 24 [\*\*Docket No. 2013-0274-MWD-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Corrigan in Polk County; RN101918464; 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.

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 25 [\*\*Docket No. 2013-0417-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of University Behavioral Health of El Paso, LLC in El Paso County; RN101654333; 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. (Steven Van Landingham, Debra Barber)

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

Item 26 [\*\*Docket No. 2012-2675-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of MICA CORPORATION in Bexar County; RN101434751; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Debra Barber)

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

Item 27 [\*\*Docket No. 2013-0207-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ZAMAN-NASEER PROPERTIES, LLC dba Aneels Texaco in Harris County; RN101726982; 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. (Margarita Dennis, Debra Barber)

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

Item 28 [\*\*Docket No. 2013-0132-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CHANNELVIEW ENTERPRISES, INC. dba Key Truck Stop in Harris County; RN101249498; 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. (John Fennell, Debra Barber)

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

Item 29 [\*\*Docket No. 2012-2349-PST-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Farmersville Texaco, Inc. in Collin County; RN102224474; 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.

**PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER**

Item 30 [\*\*Docket No. 2012-2143-PST-E.\*\*](#)

Consideration of a Default Order assessing administrative penalties and requiring certain actions of Sam Mathew d/b/a Sam's Chevron in Walker County; RN103027256; 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. (Ryan Rutledge, Lena Roberts)

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

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

Item 31 [\*\*Docket No. 2012-1977-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of City of Pasadena in Harris County; RN100663889; 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)

Remanded to the Executive Director.

Item 32 [\*\*Docket No. 2012-2424-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Mohammad Danish Mohammad d/b/a Cleveland Food Mart in Liberty County; RN102719671; 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 and Shutdown Order. CR/TB; all agree.

Item 33 [\*\*Docket No. 2012-2324-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Moutawakil Investments, L.L.C. d/b/a Gateway Plaza 4 in Smith County; RN102346962; 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. (Ryan Rutledge, Lena Roberts)

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

Item 34 [\*\*Docket No. 2012-2449-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Alec Breiten d/b/a Fandangos Food Store in Jim Hogg County; RN101680759; 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 and Shutdown Order. CR/TB; all agree.

Item 35 [\*\*Docket No. 2012-2476-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Benanee Corporation d/b/a Express Lane Food Mart in Harris County; RN103038709; 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. (Ryan Rutledge, Lena Roberts)

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

Item 36 [\*\*Docket No. 2013-0036-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Sardinia Group, Inc. d/b/a Super Z Food Store in Trinity County; RN105021463; 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. (Jacquelyn Boutwell, Lena Roberts)

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

Item 37 [\*\*Docket No. 2012-2283-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative

penalties and requiring certain actions of AMMAN & SAARIZ LLC d/b/a Quickers 2 in Smith County; RN102400579; 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. (Jacquelyn Boutwell, Lena Roberts)

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

Item 38 **Docket No. 2012-0155-PST-E.**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of RUBI & SONS STORE INC d/b/a Food Mart Shell in Van Zandt County; RN102959764; 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. (Tammy L. Mitchell, Lena Roberts)

Remanded to the Executive Director.

Item 39 **Docket No. 2012-2124-PST-E.**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of ADKINS PROPANE, INC. dba Adkins Oil in Foard County; RN104440938; 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. (Jennifer Cook, Lena Roberts)

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

Item 40 **Docket No. 2012-1789-PST-E.**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed in Bexar County; RN101431393; 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. (Jennifer Cook, Lena Roberts)

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

Item 41 **Docket No. 2012-2571-PST-E.**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Feroz Ali Jivani d/b/a MC Food Store 2 in Harris County; RN103101572; 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. (Rebecca M. Combs, Lena Roberts)

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

Item 42 [\*\*Docket No. 2012-2332-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Maaz M. Moonis in Polk County; RN101894285; 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. (Rebecca M. Combs, Lena Roberts)

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

Item 43 [\*\*Docket No. 2012-2456-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of QUALITY RETAIL SERVICES, INC. and WRIGHT JOSHUA INVESTMENTS, LLC, dba Breaktime 341 in Willacy County; RN102425691; 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. (Jennifer Cook, Lena Roberts)

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

Item 44 [\*\*Docket No. 2012-2060-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Addison Enterprises Inc. d/b/a Lavon Shell in Dallas County; RN101622355; 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. (Rebecca M. Combs, Lena Roberts)

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

Item 45 [\*\*Docket No. 2012-2603-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Fuad Ahmad Bataineh d/b/a Reda Food Mart and d/b/a UDAY, INC in Harris County; RN101912848; 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. (Rebecca M. Combs, Lena Roberts)

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

Item 46 [\*\*Docket No. 2012-1982-PST-E.\*\*](#)

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of J S F B USA INC d/b/a Shop N Save and J S F B USA INC d/b/a Super Food Mart 35 in Smith County; RN103062196 and RN101843407; 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 and Shutdown Order. CR/TB; all agree.

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

Item 47 [\*\*Docket No. 2013-0596-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Blackjack Water Supply Corporation in Cherokee County; RN101436608; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Nick Nevid, Debra Barber)

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

Item 48 [\*\*Docket No. 2013-0329-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BRAZOS VALLEY SEPTIC & WATER, INC. in Brazos County; RN102684149; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Abigail Lindsey, Debra Barber)

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

Item 49 [\*\*Docket No. 2013-0406-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Brazoria County in Brazoria County; RN102977154; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Abigail Lindsey, Debra Barber)

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

Item 50 [\*\*Docket No. 2012-2366-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Caliber Texas Properties, L.P. in Fort Bend County; RN105978332; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Katy Montgomery, Debra Barber)

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

Item 51 [\*\*Docket No. 2013-0269-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Freeport in Brazoria County; RN101252328; 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 52 [\*\*Docket No. 2012-2672-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Shawn Mark Yarbrough dba Walnut Ridge Estates Water System in Angelina County; RN101195857; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Abigail Lindsey, Debra Barber)

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

Item 53 [\*\*Docket No. 2013-0345-PWS-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Vince Britten dba AOK Camper Park in Potter County; RN101895969; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jorge Ibarra, P.E., Debra Barber)

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

**WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 54 [\*\*Docket No. 2011-0691-WQ-E.\*\*](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of ABF PACKING, INC. in Erath County; RN106006125; 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.

**RULE MATTERS**

Item 55 [\*\*Docket No. 2011-1227-RUL.\*\*](#)

Consideration of the adoption of amendments to 30 TAC Chapter 290, Public Drinking Water, Sections 290.42, 290.44, and 290.109. The adoption would implement House Bill (HB) 3372, Section 3 of HB 3391, and Senate Bill 1073, 82nd Legislature, 2011, Regular Session, and applicable sections of HB 2781,

83rd Legislature, 2013, Regular Session, for structures that are connected to a public water system (PWS) and have a rainwater harvesting system (RWHS). The adopted rulemaking would allow a RWHS that is connected to a PWS to be used for indoor potable purposes, and establish minimum requirements for a PWS that allows the connection of a RWHS used for indoor potable purposes to its distribution system. The adopted rulemaking would also make other non-substantive changes to reflect existing agency practices, conform with grammar, sequencing and formatting requirements, and correct a typographical error. The proposed rules were published in the March 15, 2013, issue of the *Texas Register* (38 TexReg 1820). (Linda Brookins, Kayla Murray) (Rule Project No. 2011-057-290-OW)

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

Item 56 **Docket No. 2013-0544-RUL.**

Consideration for publication of, and hearing on, proposed amended Sections 307.2 - 307.4, 307.6 - 307.10 of 30 TAC Chapter 307, Texas Surface Water Quality Standards. The proposed rulemaking would provide a periodic public review and revision of the State's surface water quality standards, as provided for in Section 26.023 of the Texas Water Code, and as required by Section 303(c) of the Federal Clean Water Act. (Debbie Miller, Robert Brush) (Rule Project No. 2012-001-307-OW)

Approve the publication of, and hearing on, proposed amendments to 30 TAC Chapter 307, as recommended by the Executive Director; but at the same time authorizing staff to make the necessary changes to the preamble and to the rule to ensure that a discussion can be had as to the appropriateness of establishing a primary contact recreation standard at 206. CR/TB; all agree.

**PUBLIC COMMENT SESSION**

Item 57 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 58 **Docket No. 2013-0001-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 Executive Meeting.

Item 59 **Docket No. 2013-0002-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 Executive Meeting.

Item 60 **Docket No. 2013-0003-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 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 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)**

/s/ Barham Richard

8/27/13

Assistant General Counsel

Date

Barham Richard