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OLD BUSINESS AGENDA

Chairman Bryan W. Shaw, Ph.D., P.E.
Commissioner Toby Baker
Commissioner Zak Covar

February 26, 2014

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item Continued from the February 12, 2014 Agenda

Item 1 **[Docket No. 2013-1117-PST-E.](#)**

Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of Samay Piya Enterprise Inc d/b/a Seminary Food Mart in Tarrant County; RN102387107; 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)

Adopt Old Business item No. 1 as recommended by the Executive Director. ZC/TB; all agree.

AGENDA

Chairman Bryan W. Shaw, Ph.D., P.E.
Commissioner Toby Baker
Commissioner Zak Covar

February 26, 2014

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. 2014-0124-WR.**

Consideration of whether to affirm, modify, or set aside an Emergency Order issued by the Executive Director (ED) on January 27, 2014, under Tex. Water Code § 11.139, to the Lower Colorado River Authority (LCRA) to amend its 2010 Water Management Plan (WMP), Permit No. 5838. Due to the drought and continuing low inflows, on December 13, 2013, LCRA requested an emergency order to change the triggers for curtailment of interruptible water based upon the combined storage levels of Lakes Buchanan and Travis on March 1, 2014 at 11:59 p.m. The ED's Emergency Order temporarily amends the WMP by revising the trigger dates, combined storage levels, and release amounts for providing service to LCRA's interruptible customers for first crop irrigation, as was requested by LCRA. This matter was considered by the Commission at its February 12, 2014 Agenda meeting. At that meeting, the Commission referred the item to the State Office of Administrative Hearings. In addition to considering the above, the Commission will consider the administrative law judges' Proposal for Decision and any timely exceptions and replies. (Robin Smith, Kathy Alexander)

1. **Adopt** the ALJs' Proposed Order affirming the Executive Director's Emergency Order in part and modifying it in part;

2. **Modify** the adopted Administrative Law Judge's Proposed Order to:
 - a. **Revise** Finding of Fact No. 2, as requested by the Executive Director in his "Comments and Exceptions;"
 - b. **Revise** Findings of Fact Nos. 7, 13c, 23, 30e, 31b, 36, and 42, as requested by the Lower Colorado River Authority in its "Exceptions to the Administrative Law Judges' Proposal for Decision and Order;"
 - c. **Add** new Findings of Fact Nos. 31d and 32a, as requested by the Central Texas Water Coalition in its "Exceptions and Clarifications to the Proposal for Decision and Proposed Order;"
 - d. **Strike** Findings of Fact Nos. 30a, 30b, 30c, 30f, 30g, 31c, 45a, 49, 49a, and 49b, and Ordering Provision No. 8;
 - e. **Strike**, as sufficiently addressed elsewhere in the order, Findings of Fact Nos. 41a, 42f, and 42g;
 - f. **Strike** the words "in contravention of the 1988 Order and Certificates of Adjudication Nos. 14-5478 and 14-5482" at the end of Finding of Fact 13c;
 - g. **Strike** the last sentence of Finding of Fact No. 30d;
 - h. **Strike** all but the first two sentences of Ordering Provision No. 4;
 - i. **Relocate** Finding of Fact No. 2a as new Ordering Provision No. 6a;

- j. **Revise** the first sentence of Finding of Fact No. 6 to read, “As established in the 2010 WMP, until firm demand for water equals the combined firm yield, LCRA can supply water for irrigated agriculture on a limited basis.”
 - k. **Revise** Finding of Fact No. 13c so that the second sentence reads, “Thus, in September the lakes rapidly approached the 600,000 AF emergency level at which point the LCRA Board would have declared a drought worse than the drought of record.”
 - l. **Revise** the third sentence of Finding of Fact No. 16 to read, “2011 was the second hottest year statewide, and was the hottest summer on record for both Austin and Texas.”
 - m. **Revise** Finding of Fact No. 55 to read, “Notice regarding the ED’s consideration of this emergency order was provided to the Governor of Texas by letter dated January 23, 2014.”
 - n. **Add** new Finding of Fact No. 32b, which reads, “Combined storage levels are a strong indicator of an imminent threat to the public health and safety. However, given the rapid rise and fall of combined storage levels throughout the historical record, combined storage levels, in and of themselves, are insufficient to determine whether an imminent threat to the public health and safety exists.”
 - o. **Add** new Conclusion of Law No. 5a, which reads, “The Commission in issuing an order under Texas Water Code § 11.139 must ensure that the relief granted is adequate and tailored to address the imminent threat to public health and safety.”
 - p. **Revise** Ordering Provision No. 1 to read, “LCRA’s 2010 WMP is amended to alleviate LCRA from any obligation to provide interruptible stored water to customers within LCRA’s Gulf Coast and Lakeside Divisions and Pierce Ranch for the duration of this emergency order.” and
 - q. **Revise** Ordering Provision No. 3 to read, “Pursuant to Texas Government Code § 2001.144(a)(3), this emergency order is final and effective on the date of issuance.” And
3. **Direct** the Office of the General Counsel to make all clerical, grammatical, and conforming changes necessary to effectuate this motion. BS/TB; ZC abstained.

HEARING REQUEST/REQUEST FOR RECONSIDERATION

Item 2 [**Docket No. 2013-2210-IWD.**](#)

Consideration of the application by Waste Control Specialists LLC (WCS) and Andrews County for a major amendment of TPDES Permit No. WQ0004857000 to remove Other Requirement No. 16, which was included in the existing permit based on an agreement between WCS and Andrews County and the State of New Mexico to address New Mexico surface water quality standards. The existing permit authorizes the discharge of non-contact industrial stormwater and stormwater associated with construction activities at the Byproduct Material Disposal Facility (BMDF) on an intermittent and flow variable basis via Outfall 004; and landfill wastewaters only from the Byproduct Material Disposal Unit (BMDU) associated with the disposal of Fernald waste containers only in the BMDU at the BMDF, non-contact industrial stormwater,

and stormwater associated with construction activities at the BMDf at a daily average dry weather flow not to exceed 440,000 gallons per day via Outfall 005. The facility is located at 9998 State Highway 176 West, approximately 1.25 miles north of the intersection of State Highway 176 with the Texas and New Mexico state line, Andrews County, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Daniel Ingersoll/Melinda Luxemburg)

Deny the hearing requests of Rose Gardner and Peggy Pryor, issue the Executive Director's draft permit to Waste Control Specialists LLC and Andrews County, and adopt the Executive Director's Response to Comments. TB/BS; all agree. TB/BS; ZC abstained.

EMERGENCY ORDERS

Item 3 **[Docket No. 2013-1405-UCR-E.](#)**

Consideration of whether to affirm, modify, or set aside the Emergency Order issued on January 27, 2014, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5, 13, and 26, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Sewer Utility) by Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina in Sabine County; TCEQ ID No. RN101278034; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order renewed the appointment of Sabine River Authority as temporary manager of the Sewer Utility. (Stephanie Frazee)

Joint Motion for Item Nos. 3-4.

Affirm the Executive Director's Emergency Order issued on January 27, 2014 which renewed the appointment of Sabine River Authority as temporary manager for the wastewater treatment facility which is formally associated with TCEQ Permit No. WQ00114015001; and affirm the Executive Director's Emergency Order issued on January 27, 2014 which renews the appointment of Sabine River Authority of Texas as temporary manager for the public water system which holds CCN No. 12689. BS/TB; ZC abstained.

Item 4 **[Docket No. 2013-1429-UCR-E.](#)**

Consideration of whether to affirm, modify, or set aside the Emergency Order issued on January 27, 2014, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Water Utility) by Michael Lantz O'Neill d/b/a Frontier Park Resort and Marina in Sabine County; TCEQ ID No. RN101278034; CCN12689; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order renewed the appointment of Sabine River Authority as temporary manager of the Water Utility. (Stephanie Frazee)

Joint Motion for Item Nos. 3-4.

Affirm the Executive Director's Emergency Order issued on January 27, 2014 which renews the appointment of Sabine River Authority as temporary manager for the wastewater treatment facility which is formally associated with TCEQ Permit No. WQ00114015001; and affirm the Executive Director's Emergency Order issued on January 27, 2014 which renews the appointment of Sabine River Authority of Texas as temporary manager for the public water system which holds CCN No.12689. BS/TB; ZC abstained.

DISTRICT MATTER

Item 5 **[Docket No. 2013-2015-DIS.](#)**

Consideration of an application from Lake LBJ Water Control and Improvement District No. 1 of Burnet County for wastewater authority. The District requests approval of additional powers to provide wastewater services within the District pursuant to Texas Water Code Sections 51.331–51.333 and 30 Tex. Admin. Code Section 293.15. (Dinniah Tadema, Mike Holder)

Grant the request for additional wastewater powers by Lake LBJ Water Control and Improvement District No. 1; issue the Executive Director's Proposed Order, but correct the first sentence of the second paragraph to read: "Proper notice of the hearing was published on December 6 and 13, 2013, in the *Highlander News*...." ZC/BS; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 6 **[Docket No. 2012-1169-AGR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Peter Wilfridus Deridder dba Deridder Dairy in Erath County; RN101522233; for water quality violations pursuant to Tex. Water Code chs. 5, 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. TB/ZC; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 7 **[Docket No. 2013-0874-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Trinity Industries, Inc. in Tarrant County; RN100225804; 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 Tex. Admin. Code ch. 60. (Nadia Hameed, Candy Garrett)

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

Item 8 **[Docket No. 2013-1754-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against

Blanchard Refining Company LLC in Galveston County; RN102535077; 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 Tex. Admin. Code ch. 60. (Nadia Hameed, Candy Garrett)

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

Item 9 **Docket No. 2013-0999-AIR-E.**

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

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

Item 10 **Docket No. 2012-1543-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ascend Performance Materials Operations LLC in Brazoria County; RN100238682; 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 Tex. Admin. Code ch. 60. (Heather Podlipny, Candy Garrett)

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

Item 11 **Docket No. 2013-1364-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 Tex. Admin. Code ch. 60. (Jessica Schildwachter, Candy Garrett)

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

Item 12 **Docket No. 2013-1533-AIR-E.**

Consideration of an Agreed Order assessing administrative penalties against Cabot Norit Americas, Inc. in Harrison County; RN102609724; 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 Tex. Admin. Code ch. 60. (Jessica Schildwachter, Candy Garrett)

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

Item 13 [**Docket No. 2012-1849-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Flint Hills Resources Port Arthur, LLC in Jefferson County; RN100217389; 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 Tex. Admin. Code ch. 60. (Jessica Schildwachter, Candy Garrett)

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

Item 14 [**Docket No. 2013-1428-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Stolthaven Houston, Inc. in Harris County; RN100210475; 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 Tex. Admin. Code ch. 60. (Jessica Schildwachter, Candy Garrett)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 15 [**Docket No. 2012-1883-EAQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of JJSM DEVELOPMENT, INC. in Williamson County; RN102140423; 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. (Jennifer Cook, Lena Roberts)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 16 [**Docket No. 2012-1678-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against LEE BAEK ENTERPRISES INC dba Trinity Cleaners in Denton County; RN103958781; for industrial and hazardous waste and dry cleaner violations pursuant to Tex. Health & Safety Code chs. 361 and 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Judy Kluge, Candy Garrett)

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

Item 17 [**Docket No. 2013-0913-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BELCO MANUFACTURING COMPANY, INC. in Bell County; RN100215524; for industrial and hazardous 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 Tex. Admin. Code ch. 60. (Danielle Porras, Candy Garrett)

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

Item 18 [**Docket No. 2012-2479-MLM-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lupe Gonzales in Atascosa County; RN105135644; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mike Pace, Candy Garrett)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 19 [**Docket No. 2012-1129-MSW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against Roger Dale Livingston in Kaufman County; RN104251616; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari Gilbreth, Lena Roberts)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 20 [**Docket No. 2013-0241-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against FARMERS COOPERATIVE ASSOCIATION OF O'DONNELL, TEXAS in Lynn County; RN102025947; 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. TB/ZC; all agree.

Item 21 [**Docket No. 2013-1179-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of RAYWOOD FINANCIAL, INC dba Super 90 in Liberty County; RN101889467; 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. (Keith Frank, Candy Garrett)

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

Item 22 [**Docket No. 2012-2704-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of BELLVILLE SHELL, INC. d/b/a Bellville Shell Food Court in Austin County; RN102780095; 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 Agreed Order. TB/ZC; all agree.

Item 23 [**Docket No. 2013-0337-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Abdul Noorani d/b/a Orfield Grocery in Bosque County; RN102020542; 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 Agreed Order. TB/ZC; all agree.

Item 24 [**Docket No. 2013-1542-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FRANKLIN & SON, INC. in Martin County; RN101691301; 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. (Mike Pace, Candy Garrett)

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

Item 25 [**Docket No. 2012-2190-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against KESAV SAI LLC d/b/a Seagoville Food Mart in Dallas County; RN106060957; 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. TB/ZC; all agree.

Item 26 [**Docket No. 2012-2467-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of BIG SCORE INVESTORS, LLC d/b/a Renner Shell in Collin County; RN102239035; 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 Agreed Order. TB/ZC; all agree.

Item 27 **Docket No. 2012-2294-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Nasser Farahnakian in Nueces County; RN101845097 and RN105837108; 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 Goodwin, Lena Roberts)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDER

Item 28 **Docket No. 2013-1159-PWS-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Reyna A. Martinez d/b/a Reyna's Mexican Restaurant in Midland County; RN106283666; 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. TB/ZC; all agree.

STATE IMPLEMENTATION PLAN MATTER

Item 29 **Docket No. 2013-0595-SIP.**

Consideration of the adoption of the 2014 Five-Year Regional Haze State Implementation Plan (SIP) Revision. The 2014 Five-Year Regional Haze SIP revision satisfies the federal regional haze rule, which requires states to submit progress reports for each mandatory Class I federal area in the state in the form of SIP revisions every five years [40 CFR §51.308(g)]. According to the rule, the deadline for Texas to submit a five-year regional haze SIP revision is March 19, 2014, five years after submittal of the initial regional haze SIP revision. The report must evaluate improvement towards the reasonable progress goal for each mandatory Class I federal area located within and outside the state that may be affected by emissions from Texas. The state is required to compare certified data from the baseline years (2000 through 2004) to the most current five years (2005 through 2011) provided by the Interagency Monitoring of Protected Visual Environments network. (Margaret Earnest, John Minter) (Non-Rule Project No. 2013-013-SIP-NR)

Adopt the 2014 Five-Year Regional Haze State Implementation Plan (SIP) Revision, as recommended by the Executive Director. ZC/TB; all agree.

PETITION FOR RULEMAKING

Item 30 **[Docket No. 2014-0021-RUL.](#)**

Consideration of a petition for rulemaking under Section 20.15 of 30 Texas Administrative Code (TAC) Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality on January 7, 2014, by Lloyd Gosselink Rochelle & Townsend, P.C. on behalf of the Upper Neches River Municipal Water Authority (petitioner). The petitioner requested that the commission amend 30 TAC Chapter 311 to establish the Lake Palestine Water Quality Area and impose a specified effluent set for future permits authorizing discharges to the Lake Palestine Water Quality Area and Lake Palestine Watershed. (Gregg Easley, Stefanie Skogen) (Project No. 2014-013-PET-NR)

Deny the Upper Neches River Municipal Water Authority's petition to amend 30 TAC Chapter 311 by establishing the Lake Palestine Water Quality Area and imposing a specified effluent set for future water quality permits authorizing discharges to the Lake Palestine Water Quality Area. TB/ZC; all agree.

RULE MATTERS

Item 31 **[Docket No. 2013-2090-RUL.](#)**

Consideration for publication of, and hearing on, proposed amended Sections 17.4, 17.12, and 17.14 of 30 Texas Administrative Code (TAC) Chapter 17, Tax Relief for Property Used for Environmental Protection; Sections 18.2, 18.10, 18.15, 18.25, 18.30, and 18.35 of 30 TAC Chapter 18, Rollback Relief for Pollution Control Requirements; and new Section 18.26, Expedited Review List, in 30 TAC Chapter 18, Rollback Relief for Pollution Control Requirements. The proposed rulemaking would implement House Bill 1897, 83rd Legislature, 2013 Regular Session, by amending Section 17.12 to limit the technical review of applications to 230 days from the date the application is declared to be administratively complete. In addition, this rulemaking will amend Chapter 17 by removing a reference to a section repealed by previous rulemaking and conducting the required at least once every three-year review of the Tier I Table and the Expedited Review List. This proposed rulemaking will amend Chapter 18 by removing unneeded definitions, replacing the Equipment and Categories List with the Tier I Table and the Expedited Review List, and conducting the required at least once every three-year review of the Tier I Table and Expedited Review List. (Ron Hatlett, Don Redmond) (Rule Project No. 2013-045-017-AI)

Approve the publication of, and hearing on, amendments to 30 TAC Chapter 17 and new section and amendments to 30 TAC Chapter 18, as recommended by the Executive Director. ZC/TB; all agree.

Item 32 **[Docket No. 2013-1383-RUL.](#)**

Consideration for publication of, and hearing on, proposed amendments to Sections 290.41, 290.45, and 290.46 of 30 TAC Chapter 290, Public Drinking Water, and proposed new Section 291.200 of 30 TAC Chapter 291, Utility Regulations. The proposed rulemaking would implement House Bill (HB) 252,

HB 1973, Senate Bill 1086, Sections 1 and 2, 83rd Legislature, 2013, Regular Session, and HB 1814, Section 2, 82nd Legislature, relating to requiring retail public utilities and the system(s) that provides the utility's wholesale water service to provide the commission a report on the status of their water supply once the supply is less than 180 days. The proposed rulemaking would also develop standards for municipalities to require a utility to maintain a sufficient water flow and pressure to fire hydrants in a residential area or an industrial district located in the municipality or the municipality's extraterritorial jurisdiction for purposes of emergency fire suppression. The proposed rulemaking additionally proposes non-substantive changes to update citations and conform with Texas Register requirements. (Elston Johnson, Ron Olson) (Rule Project No. 2013-047-290-OW)

Approve the publication of, and hearing on, the amendments to existing and creation of new sections under 30 TAC Chapter 290, as recommended by the Executive Director. TB/ZC; all agree.

Item 33 **Docket No. 2009-1016-RUL.**

Consideration for publication of, and hearing on, proposed amendments to Sections 321.32 - 321.34, 321.36 - 321.40, 321.44, 321.46, and 321.47 of 30 TAC Chapter 321, Control of Certain Activities by Rule. The proposed rulemaking would implement the new federal Concentrated Animal Feeding Operation ("CAFO") Regulations and Effluent Guidelines in accordance with the Texas Memorandum of Agreement with the United States Environmental Protection Agency regarding delegation of the federal National Pollutant Discharge Elimination System Program. The proposed rulemaking would also incorporate requirements and concepts from the existing CAFO General Permit and relocate and update certain requirements. (Chris Ulmann, Robert Brush) (Rule Project No. 2009-011-321-OW)

Approve the publication of, and hearing on, the proposed amendments to 30 TAC Chapter 321 Subchapter B, as recommended by the Executive Director. ZC/TB; all agree.

Item 34 **Docket No. 2013-1976-RUL.**

Consideration for publication of, and hearing on, proposed new Section 295.177 of 30 TAC Chapter 295, Water Rights, Procedural and amended Sections 295.13 and 295.155 of Chapter 295 and Section 297.18 of 30 TAC Chapter 297, Water Rights, Substantive. The proposed rulemaking would implement House Bill 3233 from the 83rd Legislature, 2013, Regular Session, relating to modifying the requirements of the permitting process for interbasin transfers of surface water. (Tracie Donnelly, Dinniah Tadema) (Rule Project No. 2013-055-295-OW)

Approve for the publication of, and hearing on, the proposed new and amended sections of 30 TAC Chapters 295 and 297, relating to Interbasin Transfers, as recommended by the Executive Director. TB/ZC; all agree.

EXECUTIVE MEETING

Item 35 Docket No. 2014-0001-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 36 Docket No. 2014-0002-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 37 Docket No. 2014-0003-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/ Tim Reidy _____
Assistant General Counsel
Tim Reidy

3/3/14 _____
Date