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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., P.E.
Commissioner Jon Niermann

AGENDA

December 9, 2015

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. 2014-1401-AIR; SOAH Docket No. 582-15-0460.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of Southern Crushed Concrete, LLC for Air Quality Standard Permit No. 119443L001, authorizing the construction and operation of a temporary concrete batch plant. The proposed temporary concrete batch plant would be located at 5001 Gasmer Drive, in Harris County. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the record, timely related filings, exceptions and replies. (Sierra Redding, Don Nelon)

Adopt the Administrative Law Judge's Proposed Order with the following changes: A) Modify Finding of Fact Number 26 by adding the sentence "Vehicles used in the operation of the plant are prohibited from using the western driveway to enter and leave the plant area," and include identical language as New Ordering Provision Number 3; B) Modify Ordering Provision Number 4 to read "The effective date of this order is the date that the order is final as provided by the Texas Government Code § 2001.144; C) Add New Ordering Provision Number 5 adopting the ED's Response to Public Comment as

required by 30 TAC § 80.126; and D) Renumbering the remaining ordering provisions; and Issue Air Quality Standard Permit Registration No. 119443L001 to Southern Crushed Concrete, LLC. JN/BS; all agree.

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

Item 2 **Docket No. 2015-0565-MWD.**

Consideration of the application by 3 B&J Wastewater Company, Inc., for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014911002 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 950,000 gallons per day. The facility was previously permitted under TPDES Permit No. WQ0014911001, which expired on December 1, 2013, prior to the proposed facility's construction. The facility will be located approximately 0.45 mile northwest of the intersection of County Road 248 and Westridge Lane in Williamson County, Texas 78622. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's response to comments. (Larry Diamond, Michael Parr).

Grant the hearing requests of the City of Georgetown and Vic McNallie; Refer the matter to the Commission's ADR Program concurrent with the SOAH scheduling process; Refer the matter to SOAH for a contested case hearing on the following issues: A) Whether the odors from the operation of, and the sludge management activities of, the proposed facility will adversely affect neighboring properties; B) Whether the proposed facility will adversely affect water quality in the discharge route and in Lake Georgetown; and C) Whether the proposed facility will violate TCEQ's Regionalization Policy; and Specify that the maximum duration of the hearing is nine months from the preliminary hearing to issuance of the Proposal for Decision. JN/BS; all agree.

Item 3 **Docket No. 2015-1488-AIR.**

Consideration of application by the Port of Corpus Christi Authority of Nueces County for renewal of Air Quality Permit No. 47881 to authorize continued operation of an existing permitted plant consisting of a material handling operation at Bulk Dock 1. The facility is located at 4820 East Navigation Boulevard, Corpus Christi, Nueces County. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Blake Stewart, Becky Petty)

Find that there is no right to a hearing on this application pursuant to Texas Health & Safety Code § 382.056; Deny all hearing requests; Issue the renewal of Air Quality Permit No. 47881 to the Port of Corpus Christi Authority of Nueces County as

recommended by the Executive Director; and Adopt the Executive Director's Response to Public Comment. JN/BS; all agree.

EMERGENCY ORDER

Item 4 **[Docket No. 2015-1594-UCR-E.](#)**

Consideration of whether to affirm, modify, or set aside the Emergency Order issued on October 26, 2015, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code Chapters 5 and 13, Tex. Health & Safety Code Chapter 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Utility) by Shawn M. Horvath d/b/a Aero Valley Water Service; TCEQ ID No. RN101198331; to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order appointed Eric Tamayo as temporary manager of the Utility. (Meaghan Bailey)

Adopt the Executive Director's Proposed Order modifying the Executive Director's October 26, 2015 Emergency Order appointing Eric Tamayo as temporary manager for the Aero Valley Water Service Utility with the following two changes: 1) In the third sentence of the Executive Director's Proposed Order, clarify that the Emergency Order was hand-delivered to Mr. Horvath's last known address consistent, with Texas Water Code § 5.507; and 2) Omit the references in the Proposed Order to renumbering the Executive Director's Emergency Order, as that Emergency Order is incorporated into the Commission's Order by reference and is not being physically altered. JN/BS; all agree.

MISCELLANEOUS MATTERS

Item 5 **[Docket No. 2015-1424-MIS.](#)**

Consideration of the re-nomination and reappointment of six positions on the Tax Relief for Pollution Control Property Advisory Committee. House Bills 3206 and 3544, 81st Legislature, 2009, amended Texas Tax Code (TTC), Section 11.31 to require the Texas Commission on Environmental Quality (TCEQ) to form a permanent advisory committee that will make recommendations to the TCEQ commissioners on matters relating to property tax exemptions for pollution control property. TTC, Section 11.31(n) requires the advisory committee to have representatives from industry, appraisal districts, taxing units, environmental groups, and members who are not representatives of any of the aforementioned entities but have substantial technical expertise in pollution control technology and environmental engineering. House Bill 2280, 82nd Legislature, 2011, amended TTC, Section 11.31(n) to require that at least one member of the advisory committee be a representative of a school district or junior college district in which property is located that is or previously was subject to an

exemption under this section. (Shelley Naik, Ron Olson)

Adopt the Proposed Resolution appointing six individuals to the Tax Relief for Pollution Control Property Advisory Committee with the following changes: A) Replace the expiration date of January 1, 2016 in Paragraph 5 with the date December 31, 2015 so as to read, "Whereas the term of the following six members of the Advisory Committee expire on December 31, 2015"; and B) Add "To serve four year terms expiring December 31, 2019" in Paragraph 7 so as to read, "Now, therefore, be it resolved by the Texas Commission on Environmental Quality, that the following individuals are appointed as members of the Advisory Committee to serve for four year terms expiring December 31, 2019"; and Reappoint the following individuals to serve for four year terms expiring December 31, 2019: Paul Coon, Lloyd Graham, Donald Lee, Gregory Maxim, Michael Nasi, and Dr. Cyrus Reed. JN/BS; all agree.

Item 6 **Docket No. 2015-1370-MIS.**

Consideration of material changes to contracts for goods and services awarded under Chapter 2155 of the Texas Government Code executed during the previous quarter. (Elizabeth West)

Approve the issuance of the resolution that acknowledges the material changes to the contracts for goods and services in accordance with Section 2155.088 of the Texas Government Code for the time period of July 1, 2015 to September 30, 2015 contained in the TCEQ Interoffice Memorandum to the Commissioners and Executive Director dated November 20, 2015 with the caption of Docket NO. 2015-1370-MIS. JN/BS; all agree.

MOTION TO DISMISS AN AGREED ORDER

Item 7 **Docket No. 2005-0959-MLM-E.**

Consideration of an Order Dismissing an Agreed Order concerning Donald Burkhardt d/b/a Clearwood Recycling Center in Harris County; RN102952785; for municipal solid waste and used oil violations pursuant to Tex. Health & Safety Code Chapters 361 and 371 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code Chapter 60. (Elizabeth Harkrider, Lena Roberts)

Adopt the Executive Director's Proposed Order dismissing the Commission's October 24, 2007 Agreed Order concerning an enforcement action against Donald Burkhardt d/b/a Clearwood Recycling Center, Docket No. 2005-0959-MLM-E. JN/BS; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDER

Item 8 [**Docket No. 2015-0560-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of LoneStar Fiberglass Components of Texas LLC in Guadalupe County; RN104314273; 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. (Amancio R. Gutierrez, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 9 [**Docket No. 2015-0283-EAQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ryan Shapiro in Travis County; RN107961674; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alejandro Laje, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

INDUSTRIAL AND/OR HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 10 [**Docket No. 2015-1139-IHW-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of United States of America Department of Energy in Andrews County; RN108214016; for radioactive and industrial hazardous waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 401, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Keith Frank)

Approve the Agreed Order. JN/BS; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

Item 11 [**Docket No. 2014-0371-IWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Enterprise Products Operating LLC in

Chambers County; RN102323268; 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. (Alejandro Laje, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

Item 12 **[Docket No. 2013-0694-MLM-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Johnny D. Johnson dba Johnson Excavating in Angelina County; RN105694665; for petroleum storage tank, water quality, and aggregate production operation violations pursuant to Tex. Water Code chs. 7, 26, and 28A and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 13 **[Docket No. 2014-1486-MLM-E.](#)**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Franklin Joseph Bowers in Bosque County; RN107137887; for air quality and used oil violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 371 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jess Robinson, Lena Roberts)

Approve the Default Order. JN/BS; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 14 **[Docket No. 2014-1432-MSW-E.](#)**

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of Roosevelt Roddy Jr. in McLennan County; RN105943229; 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. (Colleen Lenahan, Lena Roberts)

Approve the Default Order. JN/BS; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 15 **[Docket No. 2015-0529-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Mason in Mason County; RN101917599; 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. (James Boyle, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 16 **[Docket No. 2014-1261-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against MIRANDO CITY WATER SUPPLY CORPORATION in Webb County; RN101455624; 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. (Had Darling, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 17 **[Docket No. 2013-2206-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Randolph Water Supply Corporation in Fannin County; RN102915469; 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. (Alejandro Laje, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 18 **[Docket No. 2014-1490-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the Town of Windom in Fannin County;

RN103014619; 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. (Jason Fraley, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 19 **[Docket No. 2014-0688-MWD-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Town of Mustang in Navarro County; RN102807864; 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. (Jacquelyn Boutwell, Lena Roberts)

Approve the Agreed Order. JN/BS; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 20 **[Docket No. 2015-0309-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of CHRISTUS HEALTH dba Christus Santa Rosa Hospital Medical Center in Bexar County; RN101858504; 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. (Holly Kneisley, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 21 **[Docket No. 2015-0759-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against Methodist Healthcare System of San Antonio, Ltd., L.L.P. in Bexar County; RN103931549; 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. (Danielle Porras, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 22 **[Docket No. 2015-0548-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against RACETRAC PETROLEUM, INC. in Orange County; RN106875552; 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. (Abigail Lindsey, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 23 **[Docket No. 2015-0628-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Tae Kil Kim dba Bok Food Mart and Washateria in Harris County; RN103134953; 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 Van Landingham, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 24 **[Docket No. 2015-0296-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Togh & Shiva, LLC dba Combes Auto Truck Stop in Cameron County; RN101680197; 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 Van Landingham, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 25 **[Docket No. 2015-0559-PST-E.](#)**

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Flashmart Stores Management Inc. f/k/a Flash Mart Stores, Inc. in Dallas County; RN101570737; 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. (Amanda Patel, Lena Roberts)

Approve the Agreed Order. JN/BS; all agree.

Item 26 [**Docket No. 2014-1229-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of AL-ROYAL INC. d/b/a TJ's Grocery in Grimes County; RN101728830; 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. (Elizabeth Carroll Harkrider, Lena Roberts)

Approve the Agreed Order. JN/BS; all agree.

Item 27 [**Docket No. 2014-1589-PST-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of AMIR TIMOOR INC. and HAREVA INC. d/b/a Eagle Travel Center 1 and d/b/a Eagle Travel Center 2 in Dallas County; RN103051819 and RN102092574; 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 Agreed Order. JN/BS; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER

Item 28 [**Docket No. 2014-0850-PST-E.**](#)

Consideration of a Default Order assessing administrative penalties against A.D.A. GROUP, INC. in Dallas County; RN102250784; 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. (Colleen Lenahan, Lena Roberts)

Approve the Default Order. JN/BS; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 29 [**Docket No. 2015-0847-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of the City of Comanche in Comanche County; RN101200962; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ryan Byer, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 30 [**Docket No. 2015-0020-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Dey's RV and Mobile Park, LLC in Andrews County; RN106914047; 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, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 31 [**Docket No. 2015-0133-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Fly By Night Cattle Company Private Club, Inc. dba Fly By Night Cattle in Johnson County; RN104375670; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jennifer Graves, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 32 [**Docket No. 2015-0570-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Kundan Greenwood, LP dba Greenwood Business Park in Harris County; RN106059066; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jim Fisher, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 33 [**Docket No. 2014-1820-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of Melissa Lee Carpenter and Lynn Morren dba Chaplins Mobile Home Park in Brazoria County; RN101232536; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jim Fisher, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 34 [**Docket No. 2012-1692-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Ranger Utility Company in Bowie County; RN101273761; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Fisher, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 35 [**Docket No. 2015-0676-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SP UTILITY COMPANY, INC. in Brazoria County; RN103779039; 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, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 36 [**Docket No. 2015-0772-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of WRIGHT CITY WATER SUPPLY CORPORATION in Smith County; RN101238459; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ryan Byer, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

Item 37 [**Docket No. 2015-0744-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and

requiring certain actions of ZEPHYR WATER SUPPLY CORPORATION in Brown County; RN101205524; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Boyle, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 38 [Docket No. 2014-0565-PWS-E.](#)

Consideration of a Default Order assessing administrative penalties against and requiring certain actions of BAHAR DEVELOPMENT, INC. dba Key Largo Utilities in Brazoria County; RN101244481; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jacquelyn Boutwell, Lena Roberts)

Approve the Default Order. JN/BS; all agree.

RADIOACTIVE WASTE ENFORCEMENT AGREED ORDER

Item 39 [Docket No. 2015-0514-RAW-E.](#)

Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of Waste Control Specialists LLC in Andrews County; RN101702439; for radioactive waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 401, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Keith Frank)

Approve the Agreed Order. JN/BS; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 40 [Docket No. 2015-0450-WQ-E.](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the Town of Shady Shores in Denton County; RN105881262; 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. (Austin Henck, Candy Garrett)

Approve the Agreed Order. JN/BS; all agree.

RULE MATTERS

Item 41 **[Docket No. 2015-1448-RUL.](#)**

Consideration for publication of, and hearing on, proposed new Sections 326.1, 326.3, 326.5, 326.7, 326.17, 326.19, 326.21, 326.23, 326.31, 326.37, 326.39, 326.41, 326.43, 326.53, 326.55, 326.61, 326.63, 326.65, 326.67, 326.69, 326.71, 326.73, 326.75, 326.77, 326.85, 326.87, and 326.89 of 30 TAC Chapter 326, Medical Waste Management; proposed amended Sections 330.1, 330.9, 330.11, 330.13, 330.103, 330.171, and 330.219; and the repeal of Sections 330.1201, 330.1203, 330.1205, 330.1207, 330.1209, 330.1211, 330.1213, 330.1215, 330.1217, 330.1219, and 330.1221 of 30 TAC Chapter 330, Municipal Solid Waste; and amended Section 335.508 of 30 TAC Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste. The proposed rulemaking would implement House Bill 2244, 84th Texas Legislature, 2015, Regular Session, which requires that Texas Commission on Environmental Quality add and amend provisions that would specifically regulate medical waste; handling, transportation, storage, and disposal of medical waste in the state. (Mario Perez, Steve Shepherd) (Rule Project No. 2015-019-326-WS)

Approve the publication of, and hearing on, the proposed new Sections of 30 TAC Chapter 326, the proposed amended Sections of 30 TAC Chapters 330 and 335, and the proposed repeal of Sections of 30 TAC Chapter 330, as recommended by the Executive Director. JN/BS; all agree.

Item 42 **[Docket No. 2015-1016-RUL.](#)**

Consideration for publication of, and hearing on, proposed amended Sections 335.1, 335.4, 335.10 - 335.12, 335.17 - 335.19, 335.21, 335.112, 335.152, 335.504, and 335.602; and new Sections 335.26, 335.27, 335.32, and 335.701 - 335.706 of 30 Texas Administrative Code Chapter 335, Industrial Solid Waste and Municipal Hazardous Waste. The proposed rulemaking updates Chapter 335 to include federal rule changes that are set forth in parts of the United States Environmental Protection Agency's Resource Conservation and Recovery Act Clusters XXIII and XXIV and implements the requirements of House Bill (HB) 2598, 84th Texas Legislature, 2015 and codified in Texas Health and Safety Code, §361.040, which establishes a new exclusion from regulation as solid waste for certain steel slag. Further, the proposed rulemaking establishes new requirements that will authorize the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste and Class 1 industrial waste; revises the export provisions of the cathode ray tube rule; and establishes new and revises existing hazardous waste recycling

requirements under the definition of solid waste. Finally, this rulemaking initiative includes corrections to existing rules in Chapter 335 to revise language and correct typographical errors, incorrect and outdated citations, and omissions. (Cynthia Palomares, Diane Goss) (Rule Project No. 2015-021-335-WS)

Approve the publication of, and hearing on, the proposed new and amended Sections of 30 Texas Administrative Code Chapter 335, as recommended by the Executive Director. JN/BS; all agree.

Item 43 **Docket No. 2015-0870-RUL.**

Consideration for publication of, and hearing on, proposed amended Section 39.651 of 30 TAC Chapter 39, Public Notice; the repeal of Sections 295.21 and 295.22, new Section 295.21, and amended Section 295.202 of 30 TAC Chapter 295, Water Rights, Procedural; amended Sections 297.1, 297.13, and 297.19 of Chapter 297, Water Rights Substantive; and amended Sections 331.2, 331.7, 331.11, and 331.181 - 331.186 of 30 TAC Chapter 331, Underground Injection Control. The proposed rulemaking would implement House Bill 655, 84th Texas Legislature, 2015, Regular Session, relating to criteria for aquifer storage and recovery projects, including injection and recovery of appropriated water. (David Murry, Don Redmond) (Rule Project No. 2015-022-331-WS)

Approve the publication of, and hearing on, the proposed amendments and repeals to 30 TAC Chapters 39, 295, 297, and 331 as recommended by the Executive Director. JN/BS; all agree.

Item 44 **Docket No. 2015-0665-RUL.**

Consideration of the adoption of amended Section 336.2; simultaneous adoption of the repeal of and new Section 336.357; and adoption of new Section 336.739 of 30 TAC Chapter 336, Radioactive Substance Rules. The adoption would revise the commission's rules concerning physical protection of radioactive material to ensure compatibility with federal regulations promulgated by the United States Nuclear Regulatory Commission and implements Senate Bill 347, 83rd Texas Legislature, 2013, Regular Session, by adopting new Section 336.739, to provide for volume reduction of low-level radioactive waste. The proposed rules were published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5722). (Bobby Janecka, Ron Olson, Amie Robinson) (Rule Project No. 2015-012-336-WS)

Adopt to amend 30 Texas Administrative Code § 336.2; the simultaneous Adoption of

the repeal of and new Section 336.357; and Adoption of new Section 336.739 as recommended by the Executive Director. JN/BS; all agree.

Item 45 **Docket No. 2015-0787-RUL.**

Consideration of the adoption of the following amended sections of 30 Texas Administrative Code: Chapter 1, Purpose of Rules, General Provisions, Section 1.11; Chapter 39, Public Notice, Sections 39.405, 39.419, and 39.602; Chapter 50, Action on Applications and Other Authorizations, Sections 50.115, 50.119, and 50.143; Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment, Sections 55.156, 55.201, 55.203, 55.205, 55.210, and 55.211; Chapter 70, Enforcement, Sections 70.10 and 70.106; and Chapter 80, Contested Case Hearings, Sections 80.4, 80.6, 80.17, 80.25, 80.105, 80.108, 80.117, 80.118, 80.127, 80.252, 80.267, 80.272 - 80.274, and adopted new Section 80.276, and corresponding revisions to the State Implementation Plan (SIP). The amendments to Sections 39.405(g)(3) and 39.419(e)(1) are adopted as revisions to the SIP. Section 55.156(e) is adopted to be withdrawn from the SIP. The adoption would implement changes made by Senate Bill (SB) 709, 84th Texas Legislature, 2015, Regular Session, to the Texas Water Code, Chapter 5, and Texas Government Code, Chapter 2003 regarding contested case hearings (CCH) on certain applications received by the commission, requests for CCH by individual entities and groups or associations, determination of affected persons and disputed issues for CCH, procedures for CCH, and providing web-based and mailed notice of permit applications. In addition, the rulemaking is adopted to implement changes made by SB 1267, 84th Texas Legislature, 2015, Regular Session, to the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001, regarding the procedures for providing notice of the commission's decisions or orders and the procedures and timelines concerning motions for rehearing. The proposed rules were published in the August 21, 2015, issue of the *Texas Register* (40 TexReg 5225). (Janis Hudson) (Rule Project No. 2015-018-080-LS)

Adopt the new and amended Sections of 30 Texas Administrative Code Chapters 1, 39, 50, 55, 70, and 80, and corresponding revisions to the State Implementation Plan as recommended by the Executive Director with the following modification: Remove the new rule section 80.6(e), which was added following proposal; the Executive Director is also directed to make any necessary conforming changes to the Preamble to implement this modification. JN/BS; all agree.

Item 46 **Docket No. 2015-1715-RUL.**

Consideration for publication of, and hearing on, proposed amended Section 35.29 of 30 TAC Chapter 35, Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions;

Section 55.255 of 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment; and the proposed repeal of Section 80.271 of 30 TAC Chapter 80, Contested Case Hearings. The proposed rulemaking would implement Senate Bill 1267, 84th Texas Legislature, 2015, Regular Session, relating to the procedures for providing notice of the commission's decisions or orders and the procedures and timelines concerning motions for rehearing. (Janis Hudson) (Rule Project No. 2016-008-055-LS)

Approve the publication of, and hearing on, proposed amendments to 30 Texas Administrative Code §§ 35.29 and 55.255, and the proposed repeal of 30 Texas Administrative Code § 80.271 as recommended by the Executive Director. JN/BS; all agree.

Item 47 **[Docket No. 2015-0868-RUL.](#)**

Consideration of adoption of Section 20.15 of 30 TAC Chapter 20, Rulemaking. The adopted rulemaking implements House Bill 763, 84th Texas Legislature, 2015, Regular Session, by amending Section 20.15 to specifically provide that only an "interested person" may submit a petition for the adoption of rules, and defining "interested person" in the context of rule petitions. The proposed rule was published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5720) (Kathy Humphreys) (Rule Project No. 2015-023-020-LS)

Adopt the amendments to 30 Texas Administrative Code § 20.15, related to Petitions for Adoption of Rules, as recommended by the Executive Director. JN/BS; all agree.

STATE IMPLEMENTATION PLAN

Item 48 **[Docket No. 2015-1380-SIP.](#)**

Consideration for publication of, and hearing on, the proposed Dallas-Fort Worth (DFW) 2008 Eight-Hour Ozone Nonattainment Area Attainment Demonstration (AD) State Implementation Plan (SIP) Revision for the 2017 Attainment Year. The counties affected include Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise. In the DFW AD SIP revision for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS) submitted to the EPA on July 10, 2015, a commitment was made to address the United States Court of Appeals for the District of Columbia Circuit decision that changed the attainment deadlines for the 2008 eight-hour ozone NAAQS to a July 20, 2018 attainment date and a 2017 attainment year. This SIP revision includes a photochemical modeling analysis, a weight of evidence analysis, and a reasonably available control measures analysis that reflect the 2017 attainment year. (Kathy Singleton,

Terry Salem) (Non-Rule Project No. 2015-014-SIP-NR)

Approve for publication of, and hearing on, the Dallas-Fort Worth Nonattainment Area Attainment Demonstration State Implementation Plan Revision for the 2008 Eight-Hour Ozone National Ambient Air Quality Standard for the 2017 Attainment Year as recommended by the Executive Director. JN/BS; all agree.

PUBLIC COMMENT SESSION

Item 49 Docket No. 2015-0004-PUB.

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 50 Docket No. 2015-0001-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 51 Docket No. 2015-0002-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 52 Docket No. 2015-0003-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/ Greg Merrell
Assistant General Counsel
Greg Merrell

 12/11/2015
Date