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Chairman H.S. Buddy Garcia                      OLD BUSINESS AGENDA  
Commissioner Larry R. Soward  
Commissioner Bryan W. Shaw, Ph.D.    Wednesday, February 11, 2009

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the November 5, 2008 agenda.

- Item 1.    [TCEQ Docket No. 2007-0452-MSW-E; SOAH Docket No. 582-08-0163](#). Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Chester Hermes in Bexar County, Texas**; TCEQ Enforcement ID No. 33864; regarding violations pursuant to 30 Tex. Admin Code § 330.15(c), Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality. The Commission will also consider timely filed exceptions and replies. (Barham Richard)

Item continued to the April 22, 2009 agenda. BS/LS; all agree.

## AGENDA

Wednesday, February 11, 2009

### 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. 2005-0337-MSW; SOAH Docket No. 582-06-3321](#). Consideration of the Administrative Law Judges' Proposal for Decision and Proposed Order regarding the application of **Williamson County** for amendment of the County's municipal solid waste permit (existing MSW Permit No. 1405A) to laterally and vertically expand its Type I municipal solid waste landfill. The landfill is located on the west side of FM 1660, approximately one mile north of the FM 1660 and CR 133 intersection, northeast of the City of Hutto, **Williamson County**, Texas. The amendment application (proposed MSW Permit No. 1405B) seeks to expand the facility from 202 acres to 575 acres and to increase the maximum permitted elevation from 766 feet above mean sea level (msl) to 840 feet above msl. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the application; and timely exceptions and replies. (Anthony Tatu)

1) Adopt the ALJ's Proposed Order granting Williamson County's permit amendment with the following changes: a) Adopt the typographical changes noted in Williamson County's Brief in Response to the PFD; b) Delete Finding of Fact No. 162, as recommended in the Executive Director's exceptions; c) Modify Finding of Fact No. 161 and Ordering Provision No. 3 to specify the following facility operating hours: 1) Waste acceptance - Monday – Friday, 5:00 am to 8:00 pm and Saturday, 6:00 am to 4:00 pm, as agreed by the Applicant; 2) Heavy equipment operation and transportation of materials - Monday – Saturday, 3:00 am to 10:00 pm; and 3) Other activities - no specified hours, as set forth in former 30 TAC § 330.118, which applies to this application; and d) Apportion transcription costs as following: 50% to the Applicant, 25% to TJFA, and 25% to Hutto Citizens Group and the Heritage on the San Gabriel Homeowners Association and revise Finding of Fact No. 188 and Conclusion of Law No. 68 accordingly; 2) Approve the issuance of the Executive Director's revised draft permit in the form attached to the Executive Director's Exceptions to the PFD without the highlights and with changes to the operating hours consistent with this Motion to Part No. 1, II.A., Days and Hours of Operation; and 3) Adopt the Executive Director's Response to Comments and Second Response to Comments pursuant to 30 TAC §§ 50.117 and 80.126. Direct that the Second Response to Comments be mailed to the parties and interested persons on the mailing list by the Chief Clerk with the Commission's Order. BS/LS; all agree.

Item 2. [TCEQ Docket No. 2007-1012-MIS; SOAH Docket No. 582-07-3917](#). Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the Executive Director's petition for designation of the **North-Central Texas - Trinity and Woodbine Aquifers - Priority Groundwater Management Area (PGMA)** and the Executive Director's recommendations concerning creation of Groundwater Conservation Districts in the PGMA pursuant to Chapter 35 of the Texas Water Code and the rules of the Texas Commission on Environmental Quality. The proposed North-Central Texas - Trinity and Woodbine Aquifers –

PGMA would be created to cover Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hood, Johnson, Montague, Parker, Tarrant, and Wise Counties, Texas. The Commission will also consider exceptions and replies. (Ross Henderson, Kelly Mills)

Adopt the ALJ's Proposal for Decision and proposed Order with the addition of Conclusion of Law Nos. 11 and 12 as recommended by the Greater Texoma Utility Authority and the cities of Grand Prairie and The Colony, as set forth in their joint exceptions to the ALJ's Proposal for Decision. BS/LS; all agree.

Item 3. [TCEQ Docket No. 2007-1426-MWD; SOAH Docket No. 582-08-0202](#). Consideration of the Administrative Law Judges' Proposal for Decision and Order regarding the application of **Hays County Water Control & Improvement District No. 1** for an amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0014293001, to discharge treated wastewater effluent. The facility is located approximately 1,100 feet west of County Road 163 (Nuttly Brown Road) and approximately 1.16 miles south of the intersection of County Road 163 and U.S. Highway 290, in **Hays County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to such comments; the application, and related filings, exceptions and replies. (Kathy Humphreys)

Adopt the ALJ's Proposal for Decision as modified by their recommendations with regard to the exceptions they agreed to; direct the Executive Director to modify the revised draft permit to include those terms of the partial settlement agreement identified as A – K that are consistent with the Commission's discussion today; and continue this matter to the February 25, 2009 agenda for consideration of issuance of the ALJ's revised Order and the Executive Director's revised permit. LS/BS; all agree.

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

Item 4. [Docket No. 2008-1305-MWD](#). Consideration of the application by **Farmersville Investors, LP**, for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014778001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility will be located approximately 0.5 mile southwest of the intersection of State Highway 78 and County Road 550 in **Collin 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. (Kathy Humphreys, Kent H. Trede)

Grant the hearing requests of James A. and Shirley Martin and of the North Texas Municipal Water District; refer the matter to SOAH to consider the following issues: 1) Whether a discharge under the terms of the draft permit will meet the requirements of 30 TAC chapter 307, the Texas Surface Water Quality Standards; 2) Whether the draft permit complies with siting requirements for the proposed facility location, including the discharge point, the discharge route, and the buffer zone requirements; 3) Whether there is a need for the facility, whether the draft permit adequately addresses regionalization concerns, and whether any additional terms or conditions should be included in the permit based upon the Commission's consideration of need and regionalization under Texas Water Code § 26.0282; and 4) Whether the contaminants and the effluent will impact the health of the hearing requestors or interfere with their use and enjoyment of their property; deny remaining issues, deny the Request for Reconsideration of James A. and Shirley Martin, deny the hearing requests of Wilda Faye VanderVelde, Representative Laubenberg, and Commissioner Jaynes, direct the Executive Director to participate in the contested case hearing at SOAH and set a maximum hearing duration of nine months. BS/LS; all agree.

Item 5. [Docket No. 2008-1764-AIR](#). Consideration of application by **Caviness Beef Packers, Ltd.** for New Air Quality Permit No. 81570 to authorize the construction and operation of a rendering facility. The proposed facility is located at 3255 US Highway 60, Hereford, **Deaf Smith 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. (Natasha John, Tim Eubank)

Grant Kevin Sanders' hearing request; refer to SOAH the following three issues: a) Whether air emissions from the proposed facility will adversely affect the health of the requestor and the requestor's family; b) Whether the air emissions from the proposed facility will adversely affect the requestor's and his family's normal use and enjoyment of their property; c) Whether the terms of the proposed permit are sufficient for compliance with the hydrogen sulfide standard in Section 112.31; refer to SOAH the hearing requests of Mike and Evelyn Morrison for a preliminary determination of their affectedness with direction that the ALJ shall include the following issue in the hearing only if the ALJ concludes Mike and Evelyn Morrison are affected persons; Whether air emissions from the proposed facility will adversely affect the health of the employees of a requestor working on the requestor's property; direct the matter to be referred to ADR for a four to six week period prior to referral of the matter by OCC to SOAH; set the maximum duration of the hearing as nine months; and direct the Executive Director to participate in the hearing. BS/LS; all agree.

#### **MISCELLANEOUS MATTERS**

Item 6. [TCEQ Docket No. 2007-1609-UCR](#). Consideration of a request for a Commission order determining the amount of compensation owed to **BHP Water Supply Corporation (WSC)** by the **City of Royse City** for area decertified from BHP WSC's water certificate of convenience and necessity (CCN) No. 10064 resulting from an expedited CCN release petition filed by Kerala Christian Adult Homes 1, L.P., under section 13.254 of the Texas Water Code. (Stefanie Skogen, Brian Dickey, Heidi Graham)

Approve the independent appraiser's recommendation that values the compensation for the expedited release to be \$63, 848 because the Commission lacks the authority to modify the independent appraiser's evaluation under Texas Water Code § 13.245(f) but adjust the amount by \$6,500 based on the statutory requirement that each entity engage in its own appraiser at its own expense under Texas Water Code § 13.254 (g-1) and issue the Executive Director's proposed Order modified to require payment within 90 days of issuance of the Order. LS/BS; all agree.

Item 7. [TCEQ Docket No. 2008-1070-UCR](#). Consideration of a request for a Commission order approving a contract designating service areas between **San Antonio Water System (SAWS)**, water certificate of convenience and necessity (CCN) No. 10640, and **Bexar Metropolitan Water District (Bexar Met)**, water CCN No. 10675, in **Bexar County**, Texas, pursuant to section 13.248 of the Texas Water Code. Under the contract, Bexar Met will transfer approximately 546.78 acres of its water CCN covering five water systems to SAWS. (Stefanie Skogen, Lisa Fuentes)

Approve the contract between Bexar Met and SAWS under TWC § 13.248 which will result in the transfer of approximately 546.78 acres covering five subdivisions to SAWS water CCN No. 10640 and issue the Executive Director's proposed Order as amended by the Executive Director. BS/LS; all agree.

Item 8. [TCEQ Docket No. 2007-1442-UCR.](#) Consideration of a request for a Commission order approving an agreement designating service areas between the **City of Lufkin (Lufkin)**, water Certificate of Convenience and Necessity (CCN) No. 10355, and Angelina Water Supply Corporation (Angelina WSC) water CCN No. 13059, in **Angelina County**, Texas pursuant to section 13.248 of the Texas Water Code. Currently, each party holds a CCN that includes some of the area that is the subject of the agreement. Under the agreement, Lufkin will transfer a portion of its CCN to Angelina WSC and Angelina WSC will transfer a portion of its CCN area to Lufkin. By exchanging portions of the parties' respective CCN areas, the new boundary between the areas would follow existing lines of development and remove unnecessary overlaps in CCN areas. The agreement does not affect existing customers and does not propose to transfer any facilities. (Shana Horton, Lisa Fuentes)

Approve the contract between the City of Lufkin and Angelia Water Supply Corporation under Texas Water Code § 13.248 which will result in the transfer of approximately 101.9 acres from Angelia WSC CCN No. 13059 to Lufkin CCN No. 10355 and the transfer of approximately 40.3 acres from Lufkin CCN No. 10355 to Angelina WSC CCN No. 13059 and issue the Executive Director's proposed Order. LS/BS; all agree.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDERS**

Item 9. [Docket No. 2008-1041-AGR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Kempenaar Real Estate, LTD. dba Still Meadow Dairy in Hopkins County**; RN101523629; 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, Bryan Sinclair)

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

Item 10. [Docket No. 2008-1178-AGR-E.](#) Consideration of an Agreed Order assessing administrative penalties against **Bert and Heidi Velson dba Mike Schouten Feedlot in Erath County**; RN102805132; 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. (Lauren Smitherman, Bryan Sinclair)

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

#### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 11. [Docket No. 2008-1003-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DCP Midstream, LP in Sherman County**; RN100216720; 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. (Jorge Ibarra, P.E., Bryan Sinclair)

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

Item 12. [Docket No. 2008-1491-AIR-E.](#) Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **El Paso Independent School District in El Paso County**; RN103102869 and RN102523354; 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. (Kirk Schoppe, Bryan Sinclair)

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

Item 13. [Docket No. 2008-1148-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enterprise Products Operating LLC in Liberty County**; RN104199674; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Bryan Sinclair)

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

Item 14. [Docket No. 2008-1147-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BASF Fina Petrochemicals Limited Partnership in Jefferson County**; RN100216977; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Bryan Sinclair)

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

Item 15. [Docket No. 2008-1149-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cargill Meat Solutions Corporation in Parmer County**; RN101615839; 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. (Suzanne Walrath, Bryan Sinclair)

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

Item 16. [Docket No. 2008-1120-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Eastman Chemical Company in Harrison County**; RN100219815; 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. (Samuel Short, Bryan Sinclair)

Item continued to the February 25, 2009 agenda. LS; without objection.

Item 17. [Docket No. 2008-0380-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alumax Mill Products, Inc. in Bowie County**; RN100215250; 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. (Samuel Short, Bryan Sinclair)

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

Item 18. [Docket No. 2008-0973-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Formosa Plastics Corporation, Texas in Calhoun County**; RN100218973; 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. (Suzanne Walrath, Bryan Sinclair)

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

Item 19. [Docket No. 2008-1323-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **UTLX Manufacturing, Inc. in Harris County**; RN100212828; 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. (Suzanne Walrath, Bryan Sinclair)

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

Item 20. [Docket No. 2008-1291-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mansfield Plumbing Products LLC in Rusk County**; RN100217041; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, Bryan Sinclair)

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

Item 21. [Docket No. 2008-1541-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Goodyear Tire & Rubber Company in Harris County**; RN100870898; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, Bryan Sinclair)

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

Item 22. [Docket No. 2008-1182-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rohm and Haas Texas Incorporated in Harris County**; RN100223205; 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, Bryan Sinclair)

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

Item 23. [Docket No. 2007-1420-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Accord Construction, Inc. in Dallas County**; TCEQ ID No. RN105227037; 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. (Anna M. Cox, Lena Roberts)

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

Item 24. [Docket No. 2008-1194-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Petrochemicals LP** in **Jefferson County**; RN104964267; 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. (Raymond Marlow, Bryan Sinclair)

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

Item 25. [Docket No. 2008-1383-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **XTO Energy Inc.** in **Gregg County**; RN100223437; 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. (Kirk Schoppe, Bryan Sinclair)

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

Item 26. [Docket No. 2008-0742-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Premcor Refining Group Inc.** in **Jefferson County**; RN102584026; 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. (Bryan Elliott, Bryan Sinclair)

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

Item 27. [Docket No. 2008-1468-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **West Fraser, Inc. dba Henderson Lumber Mill** in **Rusk County**; RN102324191; 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. (Harvey Wilson, Bryan Sinclair)

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

Item 28. [Docket No. 2008-1351-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wyman-Gordon Forgings, Inc.** in **Harris County**; RN100217413; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Nadia Hameed, Bryan Sinclair)

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

Item 29. [Docket No. 2008-1261-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TexSand Distributors, LP** in **Tarrant County**; RN105472401 and RN102744166; 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. (Jorge Ibarra, P.E., Bryan Sinclair)

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



Item 30. [Docket No. 2007-1234-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Valero Refining-Texas, L.P. in Galveston County**; RN100238385; 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. (Rebecca Johnson, Bryan Sinclair)

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

Item 31. [Docket No. 2008-1313-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Saint-Gobain Ceramics & Plastics, Inc. in Brazos County**; RN100213859; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (James Nolan, Bryan Sinclair)

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

#### **DRY CLEANER ENFORCEMENT AGREED ORDERS**

Item 32. [Docket No. 2006-0708-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chez-Salin Quality Cleaners, Inc. dba Rodeo Cleaners 1, dba Rodeo Cleaners 2, dba Rodeo Cleaners 3, and dba Lyric South Cleaners in Bexar County**; TCEQ ID Nos. RN104087390, RN104087473, RN104087416, and RN102150364; for dry cleaner registration violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Rebecca M. Combs, Lena Roberts)

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

Item 33. [Docket No. 2008-0387-DCL-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sherman Dry Clean City Inc. dba Dry Clean City in Grayson County**; RN103952909; for dry cleaner violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Danielle Porras, Bryan Sinclair)

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

#### **FIELD CITATIONS**

Item 34. [Docket No. 2008-1506-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Endeavour, Inc. dba Endeavour Windy Hill Estates in Parker County**; RN105583512; 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. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. BS/LS; all agree.

Item 35. [Docket No. 2008-1797-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **SR Denton 2181 LLC in Denton County**;

RN105626204; 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. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. BS/LS; all agree.

Item 36. [Docket No. 2008-1517-WQ-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **ENCINO DEVELOPERS, INC.** in **Tom Green County**; RN104323092; 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. (Melissa Keller, Bryan Sinclair)

Approve the Field Citation. BS/LS; all agree.

#### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER**

Item 37. [Docket No. 2007-1584-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Victor R. Galvan** in **Bexar County**; RN103699880; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Thomas Jecha, Bryan Sinclair)

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

#### **LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDERS**

Item 38. [Docket No. 2007-1534-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Catherine E. Harris dba All Water Austin** in **Williamson County**; TCEQ ID No. RN103669073; for landscape irrigation installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Rebecca M. Combs, Lena Roberts)

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

Item 39. [Docket No. 2008-0634-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Joe F. Slater** in **Hood County and Somerville County**; TCEQ ID No. RN104805023; for landscape irrigation installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Stephanie J. Frazee, Lena Roberts)

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

#### **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS**

Item 40. [Docket No. 2007-1974-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dr. Gobbler, Ltd.** in **Bosque County**; RN104886536; for water quality and industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, Bryan Sinclair)

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

Item 41. [Docket No. 2008-0608-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **Estate of Patetreen Petty dba Big Wood Springs Water System in Wood County**; RN101192847; for public drinking water and water rights violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 11, and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

Adopt the assessed penalty of \$8,672 recognizing the \$272 has been paid; require an additional \$1,000 to be paid in monthly installments; and defer the remaining \$7,400 under the Commission's authority to reduce a penalty as justice may require contingent upon the respondent completing all corrective actions specified by the Executive Director, otherwise the deferred amount shall be due in payable. LS/BS; all agree.

Item 42. [Docket No. 2007-1123-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Cisco in Eastland County**; TCEQ ID Nos. RN102186533 and RN101389104; for water quality and public water supply violations pursuant to Tex. Health & Safety Code ch. 341, 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. (Anna M. Cox, Lena Roberts)

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

Item 43. [Docket No. 2008-0982-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Arrowhead Shores Owners Association in Hood County**; RN105453781; 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 Texas Administrative Code ch. 60. (Clinton Sims, Bryan Sinclair)

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

Item 44. [Docket No. 2007-1903-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Alvarado in Johnson County**; RN101394385 and RN101917334; for public drinking water and water quality violations pursuant to Tex. Health & Safety Code ch. 341, 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. (Rebecca Clausewitz, Bryan Sinclair)

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

#### **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 45. [Docket No. 2008-0694-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Agustin Ramirez and Ruth Ramirez in Hidalgo**

**County**; TCEQ ID No. RN105470934; 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. (Tammy L. Mitchell, Lena Roberts)

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

Item 46. [Docket No. 2007-1090-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Consolidated Construction Recycling Services, Ltd.** in **Denton County**; TCEQ ID No. RN104949839; 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. (Karl L. Gilbreth, Lena Roberts)

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

Item 47. [Docket No. 2008-1057-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Maclovio Ramon** in **Duval County**; RN105137780; 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. (John Shelton, Bryan Sinclair)

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

#### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 48. [Docket No. 2008-1639-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Elkhart** in **Anderson County**; RN102844610; 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, Bryan Sinclair)

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

Item 49. [Docket No. 2008-1386-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Willow Park** in **Parker County**; RN102342128; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steve Villatoro, Bryan Sinclair)

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

Item 50. [Docket No. 2008-1685-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Shiner** in **Lavaca County**; RN101919181; 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. (Carlie Konkol, Bryan Sinclair)

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

- Item 51. [Docket No. 2008-0429-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **William Donald Smith dba Sunset Mobile Home Park in Harris County**; RN101703197; 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. (Roshondra Lowe, Bryan Sinclair)

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

- Item 52. [Docket No. 2008-1373-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Kerrville in Kerr County**; RN100844802; 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. (Lauren Smitherman, Bryan Sinclair)

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

- Item 53. [Docket No. 2008-1285-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **South Fort Worth RV Ranch, L.L.C. in Johnson County**; RN104813605; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steve Villatoro, Bryan Sinclair)

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

#### **PETROLEUM STORAGE TANKS ENFORCEMENT AGREED ORDERS**

- Item 54. [Docket No. 2008-1319-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Earnhardt El Paso Motors, LP dba BMW of El Paso and Mazda of El Paso in El Paso County**; RN102476041; 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, Bryan Sinclair)

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

- Item 55. [Docket No. 2008-1036-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **3AR INC dba Quick Way in Tarrant County**; RN101573665; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Bryan Sinclair)

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

- Item 56. [Docket No. 2008-1523-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **PROTON REALTY CO. dba C Store 104 in Dallas County**; RN102028792; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water

Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, Bryan Sinclair)

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

Item 57. [Docket No. 2008-1435-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **METRO SUPPLIERS, INCORPORATED dba Austin Texaco** in **Travis County**; RN101490043; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Bryan Sinclair)

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

Item 58. [Docket No. 2008-1215-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **SWH Realty, Ltd.** in **El Paso County**; RN100815216; 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. (Thomas Greimel, Bryan Sinclair)

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

Item 59. [Docket No. 2008-0765-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **WEHBE INVESTMENTS, INC. dba Cedar Park Food Store** in **Williamson County**; RN101495539; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Bryan Sinclair)

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

Item 60. [Docket No. 2008-0657-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Roy Silva dba Roy's Chevron** in **Kimble County**; RN101806891; 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 Lopez, Bryan Sinclair)

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

Item 61. [Docket No. 2008-1276-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **K-YOBA, INC. dba Jedco 21** in **Bexar County**; RN101738979; 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. (Rajesh Acharya, Bryan Sinclair)

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

Item 62. [Docket No. 2008-1117-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SHREEDHAR CORPORATION INC. dba Phillips 66 Truck Stop in Lubbock County**; RN103045977; 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 Lopez, Bryan Sinclair)

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

#### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDER**

Item 63. [Docket No. 2006-0169-PST-E](#). Consideration of a Default Order assessing administrative penalties against **Tajrangeza Khail dba Benny's Food Mart, and Aiedeh Husainat dba Benny's Food Mart in Jefferson County**; TCEQ ID No. RN101866002; 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. BS/LS; all agree.

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

Item 64. [Docket No. 2006-1855-PST-E](#). Consideration of a Default and Shutdown Order assessing administrative penalties and requiring certain actions of **Oscar Food Corp. dba Circle A Store in Harris County**; TCEQ ID No. RN102409034; 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. (Rebecca M. Combs, Lena Roberts)

Item remanded to the Executive Director.

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

Item 65. [Docket No. 2007-0696-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Del Rio in Val Verde County**; TCEQ ID No. RN101215978; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

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

Item 66. [Docket No. 2008-1375-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Swea Gardens Estates Utility, Inc. in Harris County**; RN101456457; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Bryan Sinclair)

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

- Item 67. [Docket No. 2008-1089-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Richland Special Utility District in San Saba County**; RN101451524; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Bryan Sinclair)

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

- Item 68. [Docket No. 2008-0961-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dwight Ball dba Lazy Acres Mobile Home Park in Harris County**; RN102708153; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Christopher Keffer, Bryan Sinclair)

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

- Item 69. [Docket No. 2008-1028-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Delta County Municipal Utility District in Delta County**; RN101205243; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

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

#### **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

- Item 70. [Docket No. 2008-1103-PWS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Michael L. O'Neill dba Frontier Park Marina in Sabine County**; TCEQ ID No. RN101183986; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jim Sallans, Lena Roberts)

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

#### **WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT DEFAULT ORDER**

- Item 71. [Docket No. 2007-1272-WOC-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Cesar Vasquez in El Paso County**; TCEQ ID No. RN103329181; for occupational license violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Anna M. Cox, Lena Roberts)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDERS**



Item 72. [Docket No. 2008-1030-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hereford Highway Properties, Ltd.** in **Randall County**; RN105129373; 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. (Lauren Smitherman, Bryan Sinclair)

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

Item 73. [Docket No. 2008-1090-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Metroplex Quarry's Inc.** in **Palo Pinto County**; RN101915148; 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. (Andrea Linson-Mgbeoduru, Bryan Sinclair)

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

Item 74. [Docket No. 2008-0954-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **GM TRUCKS & EQUIPMENT, INC.** in **Webb County**; RN103858825; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steve Villatoro, Bryan Sinclair)

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

Item 75. [Docket No. 2008-1224-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Fort Worth** in **Tarrant County**; RN101424687; 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. (Evette Alvarado, Bryan Sinclair)

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

#### **WATER RIGHT ENFORCEMENT AGREED ORDERS**

Item 76. [Docket No. 2008-1567-WR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Wagner & Brown, Ltd.** in **Harrison County**; RN105609887; for water rights violations pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Evette Alvarado, Bryan Sinclair)

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

Item 77. [Docket No. 2007-0141-WR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Kirtley Gravel Co., Inc. dba Sharp Sand and Gravel** in **Fayette County**; RN104777941; for water rights violations pursuant to Tex. Water Code chs. 7 and 11 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. BS/LS; all agree.

## WATER RIGHT ENFORCEMENT DEFAULT ORDER

Item 78. [Docket No. 2008-0434-WR-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jeff Rowland** in **Rains County**; RN101582484; for a water rights violation pursuant to Tex. Water Code ch. 11 and the rules of the Texas Commission on Environmental Quality. (Jim Sallans, Lena Roberts)

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

## RULE MATTERS

Item 79. [Docket No. 2008-0863-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 336**, Radioactive Substance Rules, Sections 336.1, 336.101, 336.103, 336.105, 336.107, 336.1105, 336.1109, 336.1113, 336.1125, and 336.1235; new Sections 336.114, 336.208, 336.210, 336.1301, 336.1303, 336.1305, 336.1307, 336.1309, 336.1311, 336.1313, 336.1315, and 336.1317. The commission also adopts amendments to **30 TAC Chapter 37**, Financial Assurance, Sections 37.9001, 37.9030, 37.9035, 37.9040, 37.9045, and 37.9050; **30 TAC Chapter 39**, Public Notice, Sections 39.403, 39.651, 39.653, 39.702, 39.703, and 39.707; new Section 39.655; amendment to **30 TAC Chapter 55**, Request for Reconsideration or Contested Case Hearings; Public Comment, Section 55.201; amendments to **30 TAC Chapter 305**, Consolidated Permits, Sections 305.49, 305.62, and 305.127; amendments to **30 TAC Chapter 331**, Underground Injection Control, Sections 331.2, 331.7, 331.13, 331.45, 331.46, 331.82, 331.84 -331.86, 331.103 - 331.107, and 331.143; and new Sections 331.87, 331.108, 331.109, 331.220 - 331.225. The adoption would implement Senate Bill (SB) 1604, 80th Legislature, 2007, Regular Session, House Bill 3838, 80th Legislature, 2007, Regular Session, and House Bill 1567, 78th Legislature, 2003, relating to radioactive material licensing, including uranium mining. SB 1604 also addresses the TCEQ's underground injection control program for regulation of in situ uranium mining and requires the TCEQ to establish and administer a new state fee for the disposal of radioactive wastes other than low-level radioactive waste. In addition, the rulemaking would establish the remaining technical requirements, application processing requirements, public notice requirements, licensing and application fees, low-level radioactive waste disposal fees, and financial assurance requirements for radioactive material licensing, including those programs transferred from the Department of State Health Services to the TCEQ. The proposed rules were published in the September 5, 2008 issue of the *Texas Register* (33 TexReg 7422). (Susan Jablonski, Don Redmond, Amie Richardson) (Rule Project No. 2007-029-336-PR)

Adopt recommended changes to the preamble for Chapters 37, 55, 305 and 331 regarding Texas Waste Code Section 27.0513(d) and updates to financial assurance for aquifer restoration or well plugging and abandonment for inflation adjustments or cost increases. BS/BG; LS opposed.

Adopt all remaining recommended changes by the Executive Director, clarifying the language both in the preamble and the rules dealing with the Executive Director's third party expert use, statistical methods, and most expensive. LS/BS; all agree.

Amend proposed Section 305.62(i)(1)(B) to read as follows "Authorizes receipt of waste determined by the Executive Director not to be authorized in the existing license." LS/BS; all agree.

Approve the adoption of the new and amended Sections of 30 TAC Chapters 37, 39, 55, 305, 331, and 336 as recommended by the Executive Director, as modified by the Commissioners. LS/BS; all agree.

Item 80. [Docket No. 2008-0057-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 117**, Control of Air Pollution from Nitrogen Compounds: Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas; Division 1, Beaumont-Port Arthur Ozone Nonattainment Area Major Sources; Sections 117.140 and 117.145; Division 3, Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources; Sections 117.340 and 117.345; and Subchapter D, Combustion Control at Minor Sources in Ozone Nonattainment Areas; Division 1, Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources; Sections 117.2035 and 117.2045, and corresponding revisions to the state implementation plan. The adopted rulemaking would allow for an output-based monitoring alternative to the fuel flow meter requirement for stationary internal combustion engines and stationary gas turbines at major sources of nitrogen oxides (NO<sub>x</sub>) in the Beaumont-Port Arthur ozone nonattainment area and major and minor sources of NO<sub>x</sub> in the Houston-Galveston-Brazoria ozone nonattainment area. The adopted changes would add monitoring flexibility for owners and operators of engines and turbines and are consistent with an option currently allowed under Chapter 117 for similar units in the Dallas-Fort Worth eight-hour ozone nonattainment area. The proposed rules were published in the September 5, 2008, issue of the *Texas Register* (33 TexReg 7443). (Ray Schubert, Timothy Eubank) (Rule Project No. 2008-008-117-EN)

Approve the adoption of the proposed amendment to 30 TAC chapter 117 and corresponding revisions to the State Implementation Plan as recommended by the Executive Director. BS/LS; all agree.

Item 81. [Docket No. 2008-1866-RUL](#). Consideration for the publication of, and hearing on, proposed amendments to **30 TAC Chapter 21**, Water Quality Fees, Section 21.3 and **30 TAC Chapter 290**, Public Drinking Water, Section 290.51. The proposed rulemaking would increase the Public Health Services fee, the Consolidated Water Quality fee, and the Water Use Assessment fee to ensure that there are sufficient funds to carry out the tasks required to protect water resources in the state. (Kathleen Ramirez, Margaret Ligarde) (Rule Project No. 2009-007-021-PR)

Item continued to the February 25, 2009 agenda.

### **EXECUTIVE MEETING**

Item 82. **Docket No. 2009-0001-EXE**. The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director and General Counsel, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 83. **Docket No. 2009-0002-EXE**. The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act,

codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

Item 84. **Docket No. 2009-0003-EXE.** The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission did not meet in an executive meeting.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

**REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. AND WILL CONTINUE UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: [HTTP://WWW.TEXASADMIN.COM/cgi-bin/tnrcc.cgi](http://www.texasadmin.com/cgi-bin/tnrcc.cgi)**

/s/ John Sedberry  
Assistant General Counsel,  
John Sedberry

03/10/2009  
Date