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*Updates to backup documents will be noted by a purple indicator. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white. Finally, parties are still required to submit an original and 7 copies of documents filed for Commission consideration (30 TAC § 1.10(d)).*

Chairman Bryan W. Shaw, Ph.D.  
Commissioner H.S. Buddy Garcia  
Commissioner Carlos Rubinstein

## AGENDA

Wednesday, June 30, 2010

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

### HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

- Item 1. [Docket No. 2010-0660-AIR](#). Consideration of the application by **Tommy Davis dba Slick Machines** for New Air Quality Permit No. 82199L002 to authorize the Change of Location of a rock crushing plant from Desdemona, Eastland County to Glen Rose, Somervell County. The plant site is to be located 200 yards east of 11209 U.S. Highway 67 near Glen Rose, **Somervell 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. (Larry Buller, Erin Selvera)

Grant the hearing requests of the Group A individuals (Mark Beauregard, Patricia Beauregard, Linda Gustafson, Barry Payne, Claire Payne, Allen Sumners, Jimmie Sumners, David Whitsitt, Charles Brown, Cyd Brown, Florence Brown, and Robert Portman) and Chalk Mountain Foundation; refer the hearing requests of Chalk Mountain Wildlife Association and Sherman Griffith to the State Office of Administrative Hearings for a determination on whether they qualify as affected persons and should be granted party status; deny the remaining hearing requests; refer the following issues for hearing: A) Whether the facility will cause adverse effects on air quality; B) Whether the proposed facility emissions will adversely impact the requesters' health, welfare or physical property; C) Whether the proposed facility emissions will adversely impact plants, wildlife and endangered species; D) Whether the proposed facility emissions will adversely impact the requesters' recreation and use and enjoyment of the area; E) Whether the draft permit achieves BACT for particulate matter; F) Whether the rock crusher will create nuisance conditions due to dust; G) Whether the air dispersion modeling of the proposed particulate matter emissions was accurate and appropriate; I) Whether the application adequately calculated and addressed potential emission sources, emission rates and background particulate matter concentrations; N) Whether the draft permit includes adequate monitoring and record-keeping requirements; O) Whether the permit conditions are enforceable; P) Whether the draft permit complies with all state rules and regulations; W)

Whether the draft permit includes sufficient material-handling and equipment maintenance requirements to ensure compliance; Z) Whether the application includes deficiencies that have resulted in the draft permit not including all applicable pollutants and respective emissions limitations; FF) Whether the Applicant met all applicable notice requirements for the application; and OO) Whether the Applicant's compliance history warrants denial of or special conditions in the draft permit; deny any requests for reconsideration; specify a hearing duration of 12 months; direct the Executive Director to participate in the hearing and conduct the preliminary hearing in Somervell County. BG/CR; all agree.

Item 2. [Docket No. 2010-0403-IWD](#). Consideration of the application by **Navarro Generating, LLC** for a new wastewater discharge permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004870000 to authorize the discharge of cooling tower blowdown and low volume waste sources at a daily average flow not to exceed 1,430,000 gallons per day via Outfall 001, and storm water on an intermittent and flow variable basis via Outfall 002. The facility is located at the intersection of Farm-to-Market Road 1394 and Southwest County Road 2100, approximately 3.3 miles southwest of Richland, **Navarro 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. (Christiaan Siano, Tres Koenings)

Grant the hearing requests of Bryan Downs, Constance Jones, Ella Mae Jones, Patricia Jones, Daniel and Barbara Roberts, James Thompson, Citizens Opposed to Power Plants, and COPPs for Clean Air; deny the remaining hearing requests; refer the matter for 4-6 weeks mediation within the Commission's ADR program; if the matter does not settle during that mediation period, then refer the following issues to the State Office of Administrative Hearings for contested case hearing: 1) Whether the Applicant will discharge harmful contaminants into the receiving stream; 2) Whether the discharge will have adverse effects on the animals and wildlife that drink from the creek; 3) Whether the application submitted included all the necessary information and analyses needed to meet applicable TCEQ application requirements; 4) Whether the discharge from the facility will degrade the receiving streams and make the water unsafe for public drinking water purposes and unsanitary for other uses; 5) Whether the public notices regarding the permit application were inadequate and/or incorrect; 6) Whether the impoundments, outfall canals, and outfall routes are adequate to protect water quality; 7) Whether the draft permit contains adequate monitoring, recordkeeping, and reporting requirements; 8) Whether the Applicant's compliance history warrants denial of the permit or additional permit terms or conditions; 9) Whether the permitted discharge will cause health hazards or nuisance odors for the requestors, their families, and/or their employees; 10) Whether the permitting discharge will allow contamination of ground and surface waters; 11) Whether the application and draft permit comply with the requisite analysis and use of Best Available Technology; and 12) Whether the application and draft permit will allow violations of water quality standards; direct the Executive Director to participate in the contested case hearing; specify the maximum duration of the hearing is 12 months from the preliminary hearing to issuance of the Proposal For Decision; and deny all requests for reconsideration. CR/BG; all agree.

Item 3. [Docket No. 2010-0556-AIR](#). Consideration of the application by **CITGO Refining and Chemicals Company, L.P.** for amendment of Air Quality Permit No. 9604A/PSD-TX-653M1 to authorize expansion of the No. 2 Fluidized Catalytic Cracker Unit (FCCU) at the CITGO Corpus Christi Refinery East Plant. The East Plant is located at 1801 Nueces Bay Blvd, Corpus Christi, **Nueces 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. (Ozden Tamer, Amy Browning)

Deny all hearing requests; issue amended Air Quality Permit No. 9604A/PSD-TX-653M1 as recommended by the Executive Director and adopt the Executive Director's Response to Comments. BG/CR; all agree.

## RESOLUTION

- Item 4. [Docket No. 2010-0215-RES](#). Consideration of a Resolution appointing new members to the **Water Utility Operator Licensing Advisory Committee** ("Committee") at the Texas Commission on Environmental Quality and continue the existence of the Committee until August 31, 2014. The resolution would appoint new members to the Water Utility Operator Licensing Advisory Committee ("Committee") at the Texas Commission on Environmental Quality to replace six members whose terms expire August 31, 2010, and one member who resigned from the Committee; and would continue the existence of the Committee until August 31, 2014. (Terry Thompson, James Aldredge)

Adopt the Executive Director's proposed resolution continuing the existence of committee until August 31, 2014 and making the following appointments: L. Russell Hamilton, Adrian Montemayor, Bobby Russell, Allen Schreiber, Roy E. Staggs and Larry West for terms to expire August 31, 2014; and Sharon Hansen Clark to serve the remainder of the term of the vacant position which will conclude on August 31, 2012. CR/BG; all agree.

## AGRICULTURAL ENFORCEMENT AGREED ORDERS

- Item 5. [Docket No. 2010-0033-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Jimmy Gaylon Beyer and ERATH COUNTY DAIRY SALES, INC. in Erath County**; RN102743267; 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, Laurie Eaves)

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

- Item 6. [Docket No. 2010-0130-AGR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Fabian Almeida dba Odowd Dairy and Almeida Dairy Farm in Johnson County**; RN102754678 and RN102343985; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Laurie Eaves)

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

## AGRICULTURAL ENFORCEMENT DEFAULT ORDERS

- Item 7. [Docket No. 2009-1461-AGR-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Salvador Anguiano in Erath County**; RN105139117; 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. (Jim Sallans, Lena Roberts)

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

- Item 8. [Docket No. 2009-1741-AGR-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **David Montanez dba David Montanez Calf Farm** in **Erath County**; RN105006829; 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. (Jim Sallans, Lena Roberts)

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

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

- Item 9. [Docket No. 2009-1593-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, LP** in **Harris County**; RN100542281; 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, Laurie Eaves)

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

- Item 10. [Docket No. 2009-1964-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Basa Resources, Inc.** in **Stephens County**; RN105480529; 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. (Heather Podlipny, Laurie Eaves)

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

- Item 11. [Docket No. 2009-1958-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **E.I. du Pont de Nemours and Company** in **Orange County**; RN100542711; 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, Laurie Eaves)

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

- Item 12. [Docket No. 2009-1984-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shell Chemical LP** in **Harris County**; RN100211879; 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, Laurie Eaves)

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

- Item 13. [Docket No. 2009-0624-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Federal Heath Sign Company, LLC** in **Cherokee County**; RN102570645; 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. (Terry Murphy, Laurie Eaves)

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

- Item 14. [Docket No. 2010-0268-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Bell Helicopter Textron Inc. in Tarrant County**; RN102216819; 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, Laurie Eaves)

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

- Item 15. [Docket No. 2009-1794-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Applied Fabrication & Field Services, LLC in Orange County**; RN105671200; 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, P.G., Laurie Eaves)

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

- Item 16. [Docket No. 2009-1921-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TOTAL PETROCHEMICALS USA, INC. in Jefferson County**; RN102457520; 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. (Audra Benoit, Laurie Eaves)

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

- Item 17. [Docket No. 2009-2037-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP in Jefferson County**; RN100209857; 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. (Miriam Hall, Laurie Eaves)

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

- Item 18. [Docket No. 2010-0010-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Equistar Chemicals, LP in Nueces County**; RN100221662; 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, Laurie Eaves)

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

Item 19. [Docket No. 2010-0028-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Refining LP** in **Harris County**; RN100218130; 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. (Terry Murphy, Laurie Eaves)

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

Item 20. [Docket No. 2009-0583-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties against **Albemarle Corporation** in **Harris County**; RN100211523; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Anna Treadwell, Lena Roberts)

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

Item 21. [Docket No. 2009-1999-AIR-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Flint Hills Resources, LP** in **Jefferson County**; RN100217389; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Laurie Eaves)

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

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**

Item 22. [Docket No. 2010-0045-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **Round Rock Independent School District** in **Williamson County**; RN105603757; 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 Texas Administrative Code ch. 60. (Carlie Konkol, Laurie Eaves)

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

Item 23. [Docket No. 2009-2040-EAQ-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of San Marcos** in **Hays County**; RN105391080; 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 Texas Administrative Code ch. 60. (Thomas Jecha, P.G., Laurie Eaves)

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

#### **FIELD CITATIONS**

Item 24. [Docket No. 2010-0270-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Allsup Petroleum, Inc. dba Allsup's 34** in **Bailey County**; RN102017027; 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. (Keith Frank, Laurie Eaves)

Approve the Field Citation. BG/CR; all agree.

- Item 25. [Docket No. 2010-0155-PST-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Richard J. Lujan dba Lakeside Grocery in Lubbock County**; RN102966272; 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. (Keith Frank, Laurie Eaves)

Approve the Field Citation. BG/CR; all agree.

- Item 26. [Docket No. 2010-0240-WOC-E](#). Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Barry Barnette in Jefferson County**; RN105854582; for occupational licensing violations pursuant to Tex. Water Code chs. 7 and 37 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Keith Frank, Laurie Eaves)

Approve the Field Citation. BG/CR; all agree.

#### **INDUSTRIAL AND HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

- Item 27. [Docket No. 2010-0042-IHW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **OXID L.P. in Harris County**; RN100210350; for industrial and hazardous 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. (Michael Meyer, Laurie Eaves)

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

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

- Item 28. [Docket No. 2010-0173-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Plains Cotton Cooperative Association in Lamb County**; RN101788883; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Laurie Eaves)

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

- Item 29. [Docket No. 2009-2066-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP in Hutchinson County**; RN102320850; 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. (Lanae Foard, Laurie Eaves)

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

- Item 30. [Docket No. 2010-0036-IWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TXI Operations, LP** in **Tarrant County**; RN102707833; 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. (Thomas Jecha, Laurie Eaves)

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

#### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDERS**

- Item 31. [Docket No. 2009-1903-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **OL' YELLER LANDSCAPING, INC.** in **Hays County**; RN105823835; 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. (Philip Aldridge, Laurie Eaves)

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

- Item 32. [Docket No. 2010-0072-LII-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jose Mejia dba Mejia Landscaping** in **Travis County**; RN105845804; 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. (Philip Aldridge, Laurie Eaves)

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

- Item 33. [Docket No. 2010-0011-LII-E](#). Consideration of an Agreed Order assessing administrative penalties against **Darrel Johnston** in **Tarrant County**; RN105849665; 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. (Philip Aldridge, Laurie Eaves)

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

#### **LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDER**

- Item 34. [Docket No. 2009-1595-LII-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **George Santos** in **Harris County**; RN105797856; 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. (Steven M. Fishburn, Lena Roberts)

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

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

Item 35. [Docket No. 2009-1980-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Copperas Cove MHC, L.L.C. dba Cedar Grove Mobile Home Park** in **Coryell County**; RN101186724; for public drinking water and water rights violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Laurie Eaves)

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

Item 36. [Docket No. 2009-1932-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Phil Fitzgerald** in **Liberty County**; RN105804603; for municipal solid waste and used oil violations pursuant to Tex. Health & Safety Code chs. 361 and 371, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Laurie Eaves)

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

Item 37. [Docket No. 2009-1649-MLM-E](#). Consideration of an Agreed Order assessing administrative penalties against **McDavid Austin-Acra, L.L.C. dba McDavid Acura of Austin** in **Williamson County**; RN102853033; for petroleum storage tank and 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 Texas Administrative Code ch. 60. (Wallace Myers, Laurie Eaves)

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

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

Item 38. [Docket No. 2009-1529-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SGP Holdings Inc dba Total Recycling Technologies** in **Limestone County**; RN100833136; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 371, 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, Laurie Eaves)

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

Item 39. [Docket No. 2008-1906-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties against **R & L Carriers Shared Services, L.L.C.** in **Bell County**; RN105373138; 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. (Rudy Calderon, Lena Roberts)

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

Item 40. [Docket No. 2008-1400-MSW-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Robert C. Nichols aka R C Nichols** in **Montgomery**

**County and San Jacinto County;** RN101983989 and RN102819695; 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. (Peipey Tang, Lena Roberts)

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

#### **MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

- Item 41. [Docket No. 2009-1661-MSW-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Will Dylan Investments, Inc. in El Paso County;** RN102854478; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari Gilbreth, Lena Roberts)

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

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

- Item 42. [Docket No. 2009-1981-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Nome in Jefferson County;** RN101920965; 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. (Merrilee Hupp, Laurie Eaves)

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

- Item 43. [Docket No. 2009-1962-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aqua Utilities, Inc. dba Aqua Texas, Inc. in Hays County;** RN101513729; 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, Laurie Eaves)

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

- Item 44. [Docket No. 2009-0772-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Preston Club Utility Corporation in Grayson County;** RN102340486; 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. (Merrilee Hupp, Laurie Eaves)

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

- Item 45. [Docket No. 2010-0108-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Splendora in Montgomery County;** RN102181922; 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, Laurie Eaves)

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

- Item 46. [Docket No. 2010-0038-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of La Coste in Medina County**; RN101916617; 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. (Samuel Short, Laurie Eaves)

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

- Item 47. [Docket No. 2009-1742-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties against **Mike Oda dba Riverbend RV Park and Resort in Fort Bend County**; RN103016234; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jeremy Escobar, Laurie Eaves)

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

- Item 48. [Docket No. 2009-1987-MWD-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pulte Homes of Texas, L.P. in Harris County**; RN104763750; 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. (Jordan Jones, Laurie Eaves)

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

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

- Item 49. [Docket No. 2010-0034-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **META VENTURES, INC. dba Fuel Depot 8 in Harris County**; RN102270477; 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. (Michael Meyer, Laurie Eaves)

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

- Item 50. [Docket No. 2010-0030-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **ALVIN VENTURES, INC. dba Alvin Food Mart in Brazoria County**; RN101909968; 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, Laurie Eaves)

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

- Item 51. [Docket No. 2009-1825-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Post Acute Medical at San Antonio, LLC dba Warm**

**Springs Rehabilitation Hospital of San Antonio, LLC in Bexar County**; RN103046702; 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. (Elvia Maske, Laurie Eaves)

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

- Item 52. [Docket No. 2010-0139-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **THALJI ENTERPRISES, INC. dba La Marque Mobil in Galveston County**; RN102881646; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, Laurie Eaves)

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

- Item 53. [Docket No. 2009-2015-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MANJARI INC. dba O M Mart in Parker County**; RN101900397; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Danielle Porras, Laurie Eaves)

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

- Item 54. [Docket No. 2009-1917-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **FIKES WHOLESALE, INC. dba CEFECO 10 in McLennan County**; RN102450533; 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, Laurie Eaves)

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

- Item 55. [Docket No. 2010-0154-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kleberg County in Kleberg County**; RN100541432; 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. (Keith Frank, Laurie Eaves)

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

- Item 56. [Docket No. 2009-1292-PST-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John Ali Hemati dba Station 66 in El Paso County**; RN103937389; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Laurie Eaves)

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

Item 57. [Docket No. 2009-1983-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Pinak Corporation dba Korner Food Mart 4 in Galveston County**; RN102233046; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brianna Carlson, Laurie Eaves)

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

Item 58. [Docket No. 2010-0035-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **NOBLE ENTERPRISES, INC. dba New Lawrence Grocery in Galveston County**; RN101899490; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Clinton Sims, Laurie Eaves)

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

Item 59. [Docket No. 2010-0160-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Bishnu Shiwakoti dba S & B Store 3 in Dallas County**; RN101557213; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Laurie Eaves)

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

Item 60. [Docket No. 2010-0122-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **BONARACK INVESTMENT, INC. dba Texas Grocery 10 in Dallas County**; RN101636587; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Pace, Laurie Eaves)

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

Item 61. [Docket No. 2008-0622-PST-E](#). Consideration of an Agreed Order assessing administrative penalties against **Bharwani Investment Group, Inc. dba Speedy Shop 2 in Dallas County**; RN102469707; 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. (Peipey Tang, Lena Roberts)

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

#### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 62. [Docket No. 2009-1851-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **J. A. F. Enterprise, Inc. dba Cullen Chevron in Harris County**; RN101435238; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Steven M. Fishburn, Lena Roberts)

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

- Item 63. [Docket No. 2009-1393-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **M & F, INC. dba Marathon Phillips** in **Harris County**; RN102838844; 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. (Sharesa Y. Alexander, Lena Roberts)

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

- Item 64. [Docket No. 2009-1902-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Wazir A. Dhanani** in **McLennan County**; RN101433373; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Marshall Coover, Lena Roberts)

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

- Item 65. [Docket No. 2009-0456-PST-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Wesley F. Luna and Tammy Jenkins** in **Hood County**; RN102272986; 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. (Xavier Guerra, Lena Roberts)

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

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

- Item 66. [Docket No. 2009-1353-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Stratus Interests, Inc.** in **Kendall County**; RN101278356; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Laurencia Fasoyiro, Lena Roberts)

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

- Item 67. [Docket No. 2010-0040-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Childress Creek Water Supply Corporation** in **Bosque County**; RN101248904; 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, Laurie Eaves)

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

Item 68. [Docket No. 2009-1946-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Patton Lake, Inc.** in **Montgomery County**; RN101455848; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Laurie Eaves)

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

Item 69. [Docket No. 2009-2010-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Melrose Water Supply Corporation** in **Nacogdoches County**; RN102689346; 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, Laurie Eaves)

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

Item 70. [Docket No. 2009-2008-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hunter Road Investments LLC dba Blue Agave Mobile Home Park** in **Hays County**; RN101272581; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Laurie Eaves)

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

Item 71. [Docket No. 2009-1729-PWS-E](#). Consideration of an Agreed Order assessing administrative penalties against **Gordon Hejl and Patricia M. Hejl** in **Comal County**; RN105160212; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lanae Foard, Laurie Eaves)

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

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

Item 72. [Docket No. 2009-0529-PWS-E](#). Consideration of a Default Order assessing administrative penalties and requiring certain actions of **KAS Investments, Ltd.** in **Brazoria County**; RN101761039; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Lena Roberts)

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

## **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 73. [Docket No. 2009-1149-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against the **City of Leander** in **Williamson County**; RN105763981; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Laurie Eaves)

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

- Item 74. [Docket No. 2010-0066-WQ-E](#). Consideration of an Agreed Order assessing administrative penalties against **MST Lumberton Properties, Ltd.** in **Hardin County**; RN105518153; 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. (Thomas Jecha, P.G., Laurie Eaves)

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

### **MISCELLANEOUS**

- Item 75. [Docket No. 2009-1060-MIS](#). Consideration for adoption of the proposed amended Procedures to Implement the **Texas Surface Water Quality Standards**, RG-194. The revisions are proposed to address new provisions in the Texas Surface Water Quality Standards, to incorporate new information and data on individual water bodies, and to respond to public comments. (David Galindo, Robert Brush)

Adopt the amended Sections 307.1 – 307.10 of 30 TAC Chapter 307 Texas Surface Water Quality Standards and the amended procedures to implement the Texas Surface Water Quality Standards as recommended by the Executive Director except for the modifications to the rule package as reflected by the revisions presented and discussed at agenda; staff is directed to revise the preamble, any appendices, response to comments, and implementation procedures to conform to these modifications. These modifications, specifically, retain the fresh water e-coli primary contact recreation geometric mean criterion at 126 per 100 ml; set the high saline inland water bodies Enterococci primary contact geometric mean criterion at 33 per 100 ml; and retain the remaining proposed subcategories of recreational use which include: secondary contact 1, secondary contact 2 and non-contact recreation. CR/BG; all agree.

### **RULE MATTERS**

- Item 76. [Docket No. 2009-0889-RUL](#). Consideration of the adoption of amended Sections 307.1 - 307.10 of **30 Texas Administrative Code (TAC) Chapter 307**, Texas Surface Water Quality Standards. The adoption would provide a periodic public review and revision of the State's surface water quality standards, as provided for in Section 26.023 of the Texas Water Code, and as required by Section 303(c) of the Federal Clean Water Act. Changes include revisions to general criteria to improve statewide qualitative and quantitative criteria and to ensure that the general criteria are compatible with other proposed changes to the standards; expanded categories of recreational uses and criteria and more specific protocols to assign recreational uses; revisions to toxic criteria and revisions to the basic requirements for toxicity effluent testing; addition of new numerical nutrient criteria; additions and revisions to clarify how the standards apply under different stream flow conditions; numerous revisions and additions to the uses and criteria of individual water bodies; and the addition of site-specific recreational uses for selected water bodies. The proposed rules were published in the January 29, 2010 issue of the *Texas Register* (35 TexReg 578). (Jim Davenport, Lori Hamilton, Debbie Miller, Robert Brush) (Rule Project No. 2007-002-307-OW)

Adopt the amended Sections 307.1 – 307.10 of 30 TAC Chapter 307 Texas Surface Water Quality Standards and the amended procedures to implement the Texas Surface Water Quality Standards as recommended by the Executive Director except for the modifications to the rule package as reflected by the revisions presented and discussed at agenda; staff is directed to revise the preamble, any appendices, response to comments, and implementation procedures to conform to these modifications. These modifications, specifically, retain the fresh water e-coli primary contact recreation geometric mean criterion at 126 per 100 ml; set the high saline inland water bodies Enterococci primary contact geometric mean criterion at 33 per 100 ml; and retain the remaining proposed subcategories of recreational use which include: secondary contact 1, secondary contact 2 and non-contact recreation. CR/BG; all agree.

Item 77. [Docket No. 2010-0512-RUL](#). Consideration for publication of, and hearing on, proposed amendments to Sections 17.1, 17.2, 17.4, 17.6, 17.10, 17.12, 17.14, 17.17, 17.20, and 17.25, and repeal of Section 17.15 of **30 TAC Chapter 17**, Tax Relief for Property Used for Environmental Protection. The proposed rulemaking would consolidate Tier III and IV applications, require Tier III applications for all property used partially for pollution control, modify the Cost Analysis Procedure, allow electronic transmittal of notices, require separate applications for non-integrated pollution control systems, facilitate prioritizing and processing applications, require certain information on applications, and allow the general counsel to remand appeals back to the executive director without formal action by the commission when the action is requested by the executive director or the public interest counsel. (Emmanuel Wada, Timothy Reidy) (Rule Project No. 2009-050-017-EN)

Approve for publication of, and hearing on, the proposed amendments to 30 TAC Chapter 17 and the proposed repeal of 30 TAC Section 17.15 as recommended by the Executive Director. BG/CR; all agree.

Item 78. [Docket No. 2009-2039-RUL](#). Consideration for publication of, and hearing on, amended Sections 114.6, 114.312, and 114.314 - 114.319, repealed Section 114.313, and new Section 114.313 of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, and corresponding revisions to the state implementation plan. The proposed rulemaking would define biodiesel and biodiesel blends; establish new designated alternative limits for Texas low emission diesel (TxLED) fuel properties; remove expired registration requirements and establish new registration requirements for production and import facilities; revise approval procedures for alternative diesel fuel formulations; establish an expiration date of December 31, 2012, for all alternative diesel fuel formulations approved prior to July 1, 2010; revise reporting requirements to include production and import facility data; require alternative emission reduction plans using the Unified Model to determine compliance each calendar quarter; remove expired early gasoline sulfur reduction credits provisions; require all diesel fuel sold or supplied for use in motor vehicles and non-road equipment in the State of Texas and all marine distillate fuels, i.e., Marine Distillate fuel X (DMX), Marine Distillate fuel A (DMA), and Marine Gas Oil (MGO), sold or supplied for use in a marine vessel in the State of Texas to comply with TxLED requirements beginning January 1, 2012; and make other clarifying changes as needed for accuracy and consistency. (Morris Brown, John Minter) (Rule Project No. 2009-001-114-EN)

Remanded to the Executive Director.

Item 79. [Docket No. 2009-1061-RUL](#). Consideration of the adoption of amendments to **30 TAC Chapter 70**, Enforcement, Sections 70.1, 70.9, 70.10, and 70.11, and **Chapter 80**, Contested Case Hearings, Section 80.254. Adoption implements portions of Senate Bill 1693, 81st

Legislature, 2009, Regular Session, relating to payment of penalty by installment and enforcement authority. The adoption allows monetary civil or administrative penalties to be paid in periodic installments of up to 36 months by any entity in violation of law within the commission's jurisdiction and allows the commission to delegate to the executive director the authority to issue an administrative order. The proposed rules were published in the February 12, 2010, issue of the *Texas Register* (35 TexReg 1022). (Melinda Johnston, Gitanjali Yadav) (Rule Project No. 2009-045-070-CE)

Adopt the amendments to 30 TAC Chapter 70 and 80 implementing Senate Bill 1693, as recommended by the Executive Director. CR/BG; all agree.

Item 80. **Docket No. 2010-0568-RUL**. Consideration for publication of, and hearing on the proposed repeal of Section 106.392, Thermoset Resin Facilities, of **30 TAC Chapter 106**, Permits by Rule. The proposed rulemaking would repeal Section 106.392 in its entirety to exclude the permit by rule authorization of thermoset resin facilities. (Becky Southard, Erin Selvera) (Rule Project No. 2010-012-106-PR)

Approve for publication of, and hearing on, the proposed repeal of Section 106.392 as recommended by the Executive Director. BG/CR; all agree.

### **EXECUTIVE MEETING**

Item 81. **Docket No. 2010-0001-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 82. **Docket No. 2010-0002-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 83. **Docket No. 2010-0003-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)**

## AGENDA

Wednesday, June 30, 2010

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

#### PROPOSAL FOR DECISION

- Item 1. [TCEQ Docket No. 2009-0033-AIR; SOAH Docket No. 582-09-2005](#). Consideration of the Administrative Law Judges' Proposal for Decision regarding the application of **Las Brisas Energy Center, LLC** for Air Quality Permit No. 85013, Prevention of Significant Deterioration Air Quality Permit No. PSD-TX-1138, Plant-wide Applicability Limit Permit No. PAL41, and Hazardous Air Pollutant Permit No. HAP48 pursuant to rules of the Texas Commission on Environmental Quality in 30 TAC Chapter 116 and the Texas Clean Air Act, Texas Health and Safety Code Chapter 382, to construct four petroleum coke-fired steam-electric generating units and associated facilities. The units would be located at 6059 Joe Fulton Corridor, Corpus Christi, **Nueces 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. (Erin Selvera, Ben Rhem)

Find that the primary boilers for the proposed project are not subject to case-by-case MACT preconstruction permitting requirements; remand the matter to the State Office of Administrative Hearings pursuant to 30 TAC Section 80.265 and Tex. Gov't Code Section 2003.047(m) solely for the purpose of reopening the record to take additional evidence from the parties including cross-examination and rebuttal testimony on the following issues: A) Whether there will be any increase in particulate matter from off-site material handling sources above what was modeled, or if the ultimate conclusions from the impacts analysis would be unchanged by secondary sources; B) Review of additional modeling performed by Applicant in support of the application; C) The ability of Applicant to design and install a conveyor system that will not be a source of emissions; D) The ability of Applicant to design and install a system for ash loading into trucks that will not be a source of emissions; E) Whether the modeling inputs with respect to moisture content from the Port of Corpus Christi Authority facilities are proper; F) What are the proper BACT emissions limits for particulate matter (PM/PM10), and mercury; and G) The proper revisions to Special Condition 44 to address any changes in BACT limits; and direct the ALJs' to issue a revised Proposal For Decision and Proposed Order that incorporates the additional evidence, as appropriate, as well as the other findings made by the Commissioners today; the Revised PFD and Proposed Order shall be submitted to the Commission and mailed to the parties by no later than 4 months; the parties shall have an opportunity to file exceptions and replies to the portions of the Revised PFD that have been modified since the Commission's June 30, 2010 Agenda and to the Proposed Order. BG/BS; CR abstained.

/s/ Elaine Lucas  
Assistant General Counsel,  
Elaine Lucas

7/6/10  
Date