

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, February 23, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the December 1, 2004 agenda.

- Item 1. **Docket No. 2004-1705-MIS.** Consideration of the Request by the **South Central Texas Water Advisory Committee (SCTWAC)** concerning the Edwards Aquifer Authority (EAA) Board of Director's action. SCTWAC requests that the Commission conduct a review of the EAA Board of Director's approval of Resolution and Order No. 12-03-478, which adopted revised permit regulations for groundwater withdrawals from the Edwards Aquifer in Chapter 711 of the EAA Rules. SCTWAC is a committee that advises the EAA on water rights and other issues that may affect interests downstream of the Edwards Aquifer and has requested a Commission review under Section 1.10 of the EAA Act. The Commission will also consider the response briefs from EAA, the Executive Director and the Office of Public Interest Counsel, the filings of interest from Guadalupe-Blanco River Authority, the City of Victoria and San Antonio Water System, and EAA's motion for an interim order defining the appropriate procedure and scope of review.

Grant request for review filed by SCTWAC; refer the request to the ED to conduct his suggested technical review using the Texas Water Development Board's groundwater simulation model; direct the ED to file within 6 months his proposed recommendations regarding: (1) the impact of the EAA's Junior/Senior permit rules on downstream water interests, particularly surface water rights holders; and (2) whether the EAA's rules are contrary to a Commission action affecting downstream interests, particularly the issuance, administration and enforcement of existing and future surface water rights; direct the parties to file responsive briefs or additional technical analysis to the ED's proposed recommendations within 60 days following the ED's recommendations; direct all parties to submit all filings to the Office of the Chief Clerk; and schedule the consideration of the proposed recommendation at a future agenda in a timely fashion. KW/LS; all agree.

Continued from the February 9, 2005 agenda.

- Item 2. **Docket No. 2003-1236-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sam's East, Inc. in Williamson County**; Edwards Aquifer Protection Program File No. 11-00103101; 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. (Carolyn V. Lind, Terry Murphy)

Approve the agreed order. KS/RM; all agree.

AGENDA

Wednesday, February 23, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUEST(S) AND/OR REQUEST(S) FOR RECONSIDERATION

- Item 1. **Docket No. 2004-1932-AIR.** Consideration of application by **Schlumberger Technology Corporation** for New Air Quality Permit 55925 to authorize the construction of six bulk mineral storage silos and the installation of an emissions control device. The proposed site can be located by taking Highway 361 south from Aransas Pass toward the port, continuing on Highway 361 for approximately 4.1 miles to the end of the fifth bridge, and then turning left at the first road. The proposed site is to the left at the end of the road, in Aransas Pass, **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. (Veronica Padilla/Garrett Arthur)

Deny all hearing requests, adopt the Executive Director's Response to Comments and approve the permit application. KW/RM; all agree.

- Item 2. **Docket No. 2004-1933-AIR.** Consideration of application by **Jobe Concrete Products, Inc.** for renewal of Air Quality Permit No. 697 to authorize the continued operation of its concrete batch plant. The facility is located at 1 Mc Kelligon Canyon Rd. in El Paso, **El Paso County**. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Dois Webb/Garrett Arthur)

Deny the hearing request as a matter of law, adopt the Executive Director's Response to Comments and approve the permit renewal. KW/RM; all agree.

- Item 3. **Docket No. 2004-2061-AIR.** Consideration of application by **Capitol Aggregates, Ltd.** for renewal of Air Quality Permit No. 8723 to authorize continued operation of its rock crushing facility. The site is located approximately three miles west of the intersection of IH 35 and Hwy. 29 on the north side of Hwy. 29 near the city of Georgetown in **Williamson 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. (Alyssa Aston/Brian MacLeod)

Deny all hearing requests, adopt the Executive Director's Response to Comments and approve the permit renewal. KW/RM; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 4. **Docket No. 2004-0680-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aspen Marble, Inc. dba Cultured Marble** in **Tarrant County**; Air New Source Account No. TA-0924-G, RN102536737; 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. (Leila Pezeshki, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 5. **Docket No. 2004-1214-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Budget Rent-A-Car of El Paso, Inc.** in **El Paso County**; Air Account No. EE0885P, RN102590932; 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. (Chad N. Blevins, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 6. **Docket No. 2002-1243-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation dba ExxonMobil Refining & Supply Company** in **Harris County**; Air Account No. HG-0232-Q, Permit Nos. 18287 and PSD-TX-730; 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. (David Van Soest, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 7. **Docket No. 2004-1123-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Georgia-Pacific Resins, Inc.** in **Angelina County**; Regulated Entity No. RN101896439, Air Account No. AC0011N; 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. (Daniel Siringi, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 8. **Docket No. 2004-0365-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Angelina County**; Air Account No. AC-0139-J, RN101947323; 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, Merrilee Hupp)

Item remanded to the Executive Director.

- Item 9. **Docket No. 2003-0148-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP** in **Pecos County**; Air Account Nos. PE-0024-Q and PE-0025-O, Regulated Entity ID Nos. RN100211408 and RN100211200; 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, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 10. **Docket No. 2004-0655-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Target Corporation** in **Travis County**; Edwards Aquifer Registration ID No. 11-96011902, Regulated Entity ID No. RN102840766; 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. (Kensley Greuter, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

- Item 11. **Docket No. 2004-0662-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chemicals Incorporated** in **Harris County**; Solid Waste Registration No. 37520, Regulated Entity ID No. RN102145257; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 12. **Docket No. 2003-1494-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of San Angelo** in **Tom Green County**; RN102983657; for industrial & 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. (Brian Lehmkuhle, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 13. **Docket No. 2003-0458-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Petrochemicals LP and Kemiron Gulf, Inc.** in **Harris County**; TCEQ ID No. 00587; for water quality violations pursuant to the 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 Nash Petty, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

- Item 14. **Docket No. 2002-1217-IWD-E.** Consideration of an Agreed Order assessing administrative penalties of **Valero Refining Company - Texas, L.P. in Galveston County**; TPDES Permit No. 00449-000, Regulated Entity Reference No. RN100238385; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (A. Sunday Udoetok, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 15. **Docket No. 2003-1326-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Greensmiths, Inc. in Burnet County**; Texas Pollutant Discharge Elimination System Permit No. 00350-000; 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. (Edward R. Moderow, Merrilee Hupp)

Approve the agreed order. KW/RM, LS oppose.

LICENSED IRRIGATOR ENFORCEMENT AGREED ORDER

- Item 16. **Docket No. 2003-0534-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Adam Keller dba Adam's Irrigation Co. dba Adams Landscape in Bexar County**; TCEQ ID No. RN103142311; for landscape irrigator installer violations pursuant to Tex. Water Code chs. 7 and 34 and the rules of the Texas Commission on Environmental Quality. (Barbara L. Klein, Benjamin de Leon)

Item remanded to the Executive Director.

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

- Item 17. **Docket No. 2004-0581-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Baxter Oil Company L.L.C. and Baxter Oil Service Ltd. dba Baxter Oil Company in Jefferson County**; Used Oil Registration Nos. A85361 and C82591, Regulated Entity No. RN100529700; 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. (Kent Heath, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 18. **Docket No. 2003-1514-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **James R. Washington** in **Cass County**; Regulated Entity Reference No. RN103153409; 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. (Carolyn V. Lind, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 19. **Docket No. 2004-0595-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aqua Development, Inc. (formerly AquaSource Development Company) dba Rose Meadows III Wastewater Treatment Plant** in **Fort Bend County**; Texas Pollutant Discharge Elimination System Permit No. WQ0014175001; 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. (Catherine Albrecht, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 20. **Docket No. 2003-1153-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Azle** in **Tarrant County**; National Pollutant Discharge Elimination System Permit No. TX0023116, Water Quality Permit No. 11183-003, and RN101609873; 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. (Brian Lehmkuhle, Merrilee Hupp)

Item remanded to the Executive Director.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 21. **Docket No. 2002-1226-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Bernal Ventures, Inc.** in **Nueces County**; TCEQ ID No. RN103915690; 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. (Sarah Jane Utley, Benjamin de Leon)

Approve the agreed order. KW/RM, LS oppose.

Item 22. **Docket No. 2003-0893-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Padma Corporation dba Step N Go** in **Dallas County**; TCEQ ID Nos. 39391 and RN102469681; 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. (Gitanjali Yadav, Benjamin De Leon)

Approve the agreed order. KW/RM; all agree.

Item 23. **Docket No. 2003-1013-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **ARZ, Inc. dba Jack's Mini Market 2 in Harris County**; TCEQ ID Nos. 0039738 and RN101725448; 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. (Deborah A. Bynum, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

Item 24. **Docket No. 2003-0834-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **A&M Interests, Inc. dba North Side Texaco in Montgomery County**; TCEQ ID Nos. 62151 and RN101433100; 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. (Sarah Jane Utley, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

Item 25. **Docket No. 2004-0017-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Lucky Lady Oil Company dba Super Lucky Lady 2 in Tarrant County**; TCEQ ID No. RN100539667; 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. (Barbara J. Watson, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

Item 26. **Docket No. 2003-1206-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Michael and Dorothy Davis in Smith County**; TCEQ ID No. RN103010872; 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. (Deborah A. Bynum, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

Item 27. **Docket No. 2004-1353-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Thomas Petroleum, Ltd. in Burnet County**; RN100572569; 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. (Brent Hurta, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 28. **Docket No. 2004-1233-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Yen K Tat dba Sun Stop Market in Bexar County**; Petroleum Storage Tank Facility ID No. 68894, Regulated Entity No. 103136016; 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. (Audra L. Ruble, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 29. **Docket No. 2004-0798-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Saleh Amjad dba Speedy Bee 3 in Dallas County**; Petroleum Storage Tank Facility ID No. 9965, RN103136016; 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, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 30. **Docket No. 2004-1193-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pleiku, Inc. dba You & I Food Store in Harris County**; Petroleum Storage Tank Facility ID No. 61844, RN103062253; 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, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 31. **Docket No. 2004-0923-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **P & J Team America, Inc. in Ellis County**; Petroleum Storage Tank Facility ID No. 24439; 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, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 32. **Docket No. 2004-0952-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mahmood Khalid dba Nome Food Mart in Jefferson County**; Regulated Entity No. RN103046041, Petroleum Storage Tank Facility ID No. 3907; 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. (Daniel Siringi, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 33. **Docket No. 2003-0678-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Wasim Puri dba Metro Star Grocery in Travis County**; Petroleum Storage Tank Facility ID No. 11312, Regulated Entity Reference No.

RN101492791; 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, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 34. **Docket No. 2004-0576-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Greater Houston Transportation Company in Harris County**; Petroleum Storage Tank Facility ID Nos. 16486 and 16487; 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. (Trina Grieco, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 35. **Docket No. 2004-1223-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Gilbert Interests, Inc. in Travis County**; RN103065272; 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. (J. Craig Fleming, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 36. **Docket No. 2004-0603-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Three D Oil Co. of Kilgore, Inc. in Harrison County**; Regulated Entity Reference No. RN102901451; 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. (Lori Thompson, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 37. **Docket No. 2004-0664-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Farida Karim dba Dan D Mart in Tarrant County**; Petroleum Storage Tank ID No. 57595, Regulated Entity Reference No. RN102280369; 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. (Harvey Wilson, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 38. **Docket No. 2004-0897-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Contractors Fuel & Oil Supply, Inc. in Denton County**; Regulated Entity Reference No. RN104252531; 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. (Ruben Soto, Jr., Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 39. **Docket No. 2004-0930-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Big Bear Oil Company Inc. in El Paso County**; RN104284047; 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. (Mauricio Olaya, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 40. **Docket No. 2004-0879-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **A & J E H Inc. in McLennan County**; Petroleum Storage Tank Facility ID No. 21054, Regulated Entity ID No. RN102245008; 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. (Cari Bing, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 41. **Docket No. 2003-1569-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kenneth Parker dba Kountry Store in Shelby County**; TCEQ ID No. 0034575 and RN102437001; 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. (Deborah A. Bynum, Benjamin De Leon)

Approve the agreed order. KW/RM; all agree.

Item 42. **Docket No. 2004-0134-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dallas County Hospital District dba Parkland Health and Hospital System in Dallas County**; TCEQ ID Nos. 67124 and RN102985090; 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. (Barbara J. Watson, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

Item 43. **Docket No. 2004-0472-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Quiroga Trucking, L.L.C. dba Quiroga Portable Common Carrier in Matagorda and Harris Counties**; TCEQ ID No. RN103765962; for petroleum storage tank violations pursuant to the 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. (Barbara J. Watson, Benjamin J. de Leon)

Approve the agreed order. KW/RM; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AMENDED AGREED ORDER

- Item 44. **Docket No. 2001-0802-PST-E.** Consideration of an Amended Agreed Order assessing administrative penalties against **Ideal Gas, Inc. and Ideal Gas, Inc. dba M&M Grocery in Hockley and Cochran Counties**; TCEQ ID Nos. 58526, 19912, RN101444123 and RN101880151; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Lindsay Andrus, Benjamin De Leon)

Approve the amended agreed order. KW/RM; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

- Item 45. **Docket No. 2003-1291-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lake Whitney Water Co., Inc. dba Cedar Creek Water Supply System and Lakeshore Water System and Murray Hill Water System and Oak Hill Water System in Hill County**; TCEQ ID Nos. 1090012, 1090008, 1090014, 1090043, RN101213437, RN101269595, RN101208999, and RN101435865; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Nash Petty, Benjamin de Leon)

Approve the agreed order. KW/RM; all agree.

- Item 46. **Docket No. 2004-0814-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Groesbeck in Limestone County**; Public Water Supply ID No. 1470002; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mauricio Olaya, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 47. **Docket No. 2004-1132-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Travis County WCID Point Venture in Travis County**; Public Water Supply ID No. 2270038, Regulated Entity No. RN101428100; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

- Item 48. **Docket No. 2004-0650-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Los Fresnos in Cameron County**; Public Water Supply No. 0310004, Regulated Entity Reference ID No. RN101392009; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 49. **Docket No. 2003-1261-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **A&K Enterprises, Inc. dba Mini Mart 2 in Wharton County**; Public Water Supply ID No. 2410032; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Edward Moderow, Merrilee Hupp)

Item remanded to the Executive Director.

Item 50. **Docket No. 2003-1287-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Gum Bayou, Inc. in Galveston County**; Public Water Supply ID. No 0840250, RN101224582; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Brent Hurta, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

SLUDGE ENFORCEMENT AGREED ORDER

Item 51. **Docket No. 2004-0815-SLG-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Keith Blackwell dba Blackwell Septic Clean Out in Shelby County**; Sludge Transporter Registration No. 22796; for water quality violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward R. Moderow, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 52. **Docket No. 2004-0957-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Breckenridge Ready Mix, Inc. dba Tri-Cities Ready-Mix in Eastland County**; Texas Pollutant Discharge Elimination System Storm Water General Permit Registration No. TXR05O587; 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. (Brandon Smith, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

Item 53. **Docket No. 2004-1154-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Collier Materials, Inc. in Burnet County**; Texas Pollutant Discharge Elimination System Stormwater General Permit Registration No. TXR05M909, RN103870408; 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. (A. Sunday Udoetok, Merrilee Hupp)

Approve the agreed order. KW/RM; all agree.

EMERGENCY ORDER

- Item 54. **Docket No. 2004-0887-PWS-E.** Consideration of whether to affirm, modify, or set aside an Emergency Order pursuant to Tex. Water Code Sections 5.501, 5.507, and 13.4132, and 30 Tex. Admin. Code chs. 35, 290, and 291 to address the continuing unauthorized abandonment of a retail public utility (Utility) by **William A. Swinney dba High Sierra Water System and P.K.C.C., L.P.**, located on County Road 274, northeast of Bertram in **Burnet County**, TCEQ ID No. 0270113; to ensure continued operation of the Utility, and to provide continuous and adequate service to the Utility's customers. The Emergency Order appoints Bret Fenner as temporary manager of the Utility. (Wendy Cooper)

Affirm the Emergency Order. KW/LS; all agree.

RULE MATTERS

- Item 55. **Docket No. 2004-1793-RUL.** Consideration for publication of the proposed repeal of **30 TAC Chapter 7**, Memoranda of Understanding, Section 7.105, Adoption of Memoranda of Understanding between the Texas General Land Office (GLO) and the Texas Natural Resource Conservation Commission. The memorandum of understanding (MOU) has been cancelled by a mutual agreement consistent with the MOU between the GLO and the commission.

The proposed rulemaking would repeal obsolete text that remains in the Texas Administrative Code. (Debi Dyer, Greg Dickenson, Frank Fuller) (Rule Project No. 2004-088-007-AD)

Approve the publication of the proposed repeal of 30 TAC Chapter 7. KW/RM; all agree.

- Item 56. **Docket No. 2004-0097-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 213**, Edwards Aquifer, Sections 213.1, 213.3, 213.4, 213.12, 213.20 - 213.22, 213.24, and 213.27.

The proposed rulemaking would modify the existing boundaries of the Edwards Aquifer regulatory zones on the official maps that are incorporated by reference in Chapter 213. The Chapter 213 requirements regarding regulated activities in the recharge zone and in the contributing zone within the transition zone would apply in any areas added to these regulatory zones on the official maps. Proposed rule language will correct inaccurate rule citations; specify locations where official maps identifying the Edwards Aquifer recharge, contributing, and transition zones are maintained; rephrase for readability; and correct the agency's name. Wastewater discharge provisions are proposed to be extended to areas designated as contributing zone within the transition zone. (Steve Musick, Kathy Brown, Debi Dyer) (Rule Project No. 2003-029-213-WT)

Approve the publication of, and hearing on, proposed amendments to 30 TAC Chapter 213. KW/RM; all agree.

- Item 57. **Docket No. 2004-1234-RUL.** Consideration of the adoption of new Section 7.126, Memorandum of Understanding Between the Texas Department of Licensing and Regulation and the Texas Commission on Environmental Quality, of **30 TAC Chapter 7**, Memoranda of Understanding.

The adoption would adopt by reference a memorandum of understanding with the Texas Department of Licensing and Regulation and groundwater conservation districts concerning the capping and plugging of abandoned or deteriorated wells. The rulemaking and memorandum of understanding implement Senate Bill 279, 78th Legislature, Regular Session, 2003, Section 19.015, which requires the two agencies to enter into the memorandum of understanding concerning the referral and investigation of abandoned or deteriorated wells and for groundwater conservation districts to join if abandoned or deteriorated wells are located within their borders. The proposal was published in the October 29, 2004 issue of the *Texas Register* (29 TexReg 10070). (Mary Ambrose, Kathy Brown, Joseph Thomas) (Rule Project No. 2004-059-007-AD)

Approve the adoption of new Section 7.126 of 30 TAC Chapter 7. KW/LS; all agree.

EXECUTIVE SESSION

- Item 58. **Docket No. 1998-1154-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, 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 session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.\

No action taken.

- Item 59. **Docket No. 1999-0024-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 session to take action on a 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.

No action taken.

- Item 60. **Docket No. 1999-0025-EXE.** The Commission will conduct a closed session 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 session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

(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. UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.

AGENDA

Wednesday, February 23, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **TCEQ Docket Nos. 2000-0112-UCR, 2002-0189-UCR, 2002-0756-UCR, 2002-1197-UCR, and 2004-2048-UCR.** Consideration of the Motions to Overturn filed by **Austin Estates Limited Partnership** concerning the Executive Director's approval of Application Nos. 33562-C, 33563-C, 33738-C, 32800-C, 33988-C, 33989-C, and 34449-S, involving the issuance and amendment of water and sewer certificates of convenience and necessity. **(Hays, Travis, and Williamson Counties)**

Deny the Motions to Overturn. KW/RM, LS opposed.

/s/ Celeste Baker
Assistant General Counsel,
Celeste Baker

03/07/2005
Date