

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, August 10, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the April 27, 2005 and June 29, 2005 agendas.

- Item 1. **Docket No. 2005-0199-SLG.** Consideration of the application by **Magna-Flow International, Inc.** for a new sludge permit, Permit Number WQ0004484000 to authorize the beneficial land application of sewage sludge and water treatment sludge on 127 acres. The permit will not authorize a discharge of pollutants into the water in the State. The land application site is located adjacent to and east of Taylor Lane, approximately one-fourth mile north of the intersection of Farm-to-Market Road 969 and Taylor Lane, 6.5 miles south of the City of Manor in **Travis 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. (Robert Brush, Shanker Tangirala)

Continued to the September 14, 2005 agenda.

AGENDA

Wednesday, August 10, 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. 2004-1997-WR.** Consideration of an application by the **Chocolate Bayou Water Company** (Chocolate Bayou) to add a diversion point on the Brazos River in **Waller County**. Certificate of Adjudication No. 12-5322 authorizes Chocolate Bayou to divert and use from the Brazos River, Brazos River Basin, not to exceed 155,000 acre-feet of water per annum for municipal, agricultural, and industrial purposes within its service area in **Fort Bend, Brazoria and Harris Counties**. The Applicant seeks to amend the Certificate to add a diversion point on the Brazos River approximately 65 miles upstream from the currently authorized point (112 river miles). This diversion point would be located 6.4 miles bearing S 1.7 degrees W from the City of Hempstead in **Waller County**. The diversion point's location can also be described as Latitude 30.004 degrees N and Longitude 96.080 degrees W. Chocolate Bayou is not requesting an increase in the diversion amount, the diversion rate, or the place of use. The Commission will consider hearing requests, responses to the requests, and replies. (Ross Henderson, David Koinm)

Grant the hearing requests of Brazos River Authority, City of Houston, Texas Water Development Board, Gulf Coast Water Authority, Sand Supply, and Texas Genco II, L.P., successor-in-interest to Reliant Energy, Inc.; refer the matter to SOAH for a duration of 9 months to 1 year; and request ADR to contact all parties. KW/LS; all agree.

- Item 2. **Docket No. 2005-0147-IWD.** Consideration of the application by the **City of Cactus** for a major amendment to Permit No. WQ0003436000 to authorize the discontinuation of discharges to the Cactus Playa Lake; the revision of the method of disposal to land application via irrigation of 3,568 acres of crop land; the increase in the daily average flow volume from 2,545,000 gallons per day to an annual average flow of 3,260,000 gallons per day; the increase of the hydraulic application rate from 4.2 acre-feet/acre/year to 4.8 acre-feet/acre/year; the removal of the daily maximum flow limitation; the revision of the biochemical oxygen demand (5-day) daily maximum effluent limitation to a monitoring requirement; the increase of the total suspended solids daily maximum effluent limitation from 65 mg/l to 100 mg/l; the removal of the 65 mg/l daily maximum biochemical oxygen demand (5-day) limitation on effluent used for irrigation; the removal of tailwater control requirements; the removal of effluent limitations for total chromium, total copper and ammonia nitrogen; and the use of

irrigation areas within the 150 foot buffer zone from private water wells. The current permit authorizes the disposal of treated wastewater at a daily average flow not to exceed 2,545,000 gallons per day via irrigation. The proposed permit will not authorize a discharge of pollutants into water in the State. The facility and land application site are located approximately 2.0 miles north of the intersection of Farm-to-Market Road 281 and U.S. Highway 287 which is east of the City of Cactus, **Moore 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. (Anthony Tatu, David Galindo)

Grant the Hearing Request of Nick Soika on the issues of: 1. will the expanded facility satisfy applicable odor regulations; 2. whether the agronomic rates in the draft permit are protective of the environment; 3. whether the existing facility has caused, or will cause, contamination of Mr. Soika's water wells; 4. whether the proposed level of monitoring for the land application fields is adequate; and 5. whether irrigation with Plant effluent will result in harm to the health of the requester and his family; deny all other issues, deny the request for reconsideration, no express referral to ADR but the parties may agree to the process; and refer to SOAH for a duration of 5 months. KW/RM; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 3. **Docket No. 2005-0054-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company LP** in **Harris County**; Air Account No. HG0566H, RN102018322; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 4. **Docket No. 2004-1724-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Degussa Engineered Carbons, L.P.** in **Hutchinson County**; Air Account No. HW0008S, RN100209659; 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. (Ronnie Kramer, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 5. **Docket No. 2004-1947-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Petro Stopping Centers, L.P. dba Petro Stopping Center 50** in **El Paso County**; Air Account No. EE1094B; RN102418142; 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. (Sandra Anaya, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 6. **Docket No. 2003-1312-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Pampa in Gray County**; Air Account No. GH0055U, Regulated Entity ID No. RN100211416; 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. (Thomas Greimel, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 7. **Docket No. 2002-0351-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ConocoPhillips Company Formerly Known As Phillips Petroleum Company in Hutchinson County**; TCEQ ID Nos. HW-0018-P and RN102495884; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Amie Richardson, Jennifer Cook)

Approve the Agreed Order. KW/RM; all agree.

Item 8. **Docket No. 2004-0227-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Enbridge Pipelines (NE Texas) L.P. in Hopkins County**; Air Account No. HR0001N, RN100226653; 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. (Tel Croston, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 9. **Docket No. 2004-1412-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Greif, Inc. dba Greif Brothers in Harris County**; Air Account No. HG1221O; RN102079662; for air quality violations pursuant to Tex. Health & Safety Code chs. 382 and 370, 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. (Mauricio Olaya, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 10. **Docket No. 2004-0034-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Heel Rite of Texas, Inc. in El Paso County**; TCEQ ID Nos. EE2097L and RN103086864; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gitanjali Yadav, Jennifer Cook)

Approve the Agreed Order. KW/RM; LS opposed.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 11. **Docket No. 2004-2024-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Davis Net Lease No. 1, L.P.** in **Comal County**; RN104378567; 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. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

- Item 12. **Docket No. 2004-0359-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **Evans Houston Corporation dba Sheldon Road Drumming Plant** in **Harris County**; Solid Waste Registration No. 32072; Regulated Entity Reference No. RN101450005; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

- Item 13. **Docket No. 2004-0867-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **Shell Chemical LP** in **Harris County**; Solid Waste Registration No. 30007, RN100211879; 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. (Rebecca Johnson, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

- Item 14. **Docket No. 2004-1598-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MG Building Materials, Ltd.** in **Bexar County**; Solid Waste Registration No. 68403; EPA ID No. TXD057574097; RN101623791; for industrial & hazardous 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. (Rebecca Clausewitz, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 15. **Docket No. 2004-0712-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **Raul Perez dba RP Trucking Fuel Station in Kleberg County**; Regulated Entity Reference No. RN104001128; for air quality, water quality, petroleum storage tank, and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 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. (Suzanne Walrath, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 16. **Docket No. 2004-0117-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tecon Water Company, L.P. in Hays, Henderson and Hood Counties**; Texas Pollution Discharge Elimination System Permit No. 13879-001; Public Water Supply Nos. 1070106, 1110025, 1110004, 1110060, 1110003, 1110002, 1110044, 1110036, 1110022 and 1050028; RN102177458, RN101376085, RN101376226, RN101380848, RN101379899, RN101377190, RN101376648, RN101379006, RN101380079, RN101379832, RN100837905; for water quality and drinking water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brian Lehmkuhle, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 17. **Docket No. 2003-1265-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ticona Polymers, Inc. in Nueces County**; TCEQ ID Nos. NE-0022-I, 30084 and RN101625721; for air quality and industrial and hazardous waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Nash Petty, Jennifer Cook)

Approve the Agreed Order. KW/RM; all agree.

Item 18. **Docket No. 2003-0157-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **BASF Corporation in Harris County**; TCEQ ID Nos. 33849, HG-1249-P, and RN100225689; for air quality and industrial hazardous waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code chs. 361 and 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Amie Richardson, Jennifer Cook)

Approve the Agreed Order. KW/RM; all agree.

Item 19. **Docket No. 2004-1848-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **W W Cattle Feeds, Inc. dba W W Cattle Feeds in Parker County**; Compost Facility Notification No. 47026;

RN100756931; for industrial & hazardous waste and 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. (Jaime Garza, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

- Item 20. **Docket No. 2005-0100-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Hank's Roll-Off & Waste Services, Inc. in Tarrant County**; RN102467347; 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. (Elvia Maske, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 21. **Docket No. 2003-0114-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Knox Oil of Texas, Inc. in Hill County**; Texas Pollutant Discharge Elimination System Permit No. 12945-001 (Expired); 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. (Pamela Campbell, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

- Item 22. **Docket No. 2004-1394-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **New Ulm Water Supply Corporation in Austin County**; Texas Pollutant Discharge Elimination System Permit No. 0013655001, Regulated Entity Reference No. RN103136826; 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. (Sandy VanCleave, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

- Item 23. **Docket No. 2003-1370-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Transportation in Ellis County**; Texas Pollutant Discharge Elimination System Permit No. 11959-001, RN102076296; 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. (Harvey Wilson, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

ON SITE SEWAGE FACILITY INSTALLER ENFORCEMENT AGREED ORDERS

Item 24. **Docket No. 2004-2068-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Amanda R. Lowe in Hardin County**; On-Site Sewage Facility Installer License No. 0017965, RN103650982; for on-site sewage facility violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Pamela Campbell, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 25. **Docket No. 2005-0208-OSI-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Stephen Mathews in Shelby County**; On-Site Sewage Facility Installer License No. OS0017966, RN103627303; for certification violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (J. Mac Vilas, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 26. **Docket No. 2005-0009-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Henry Allen Norris Jr. in Jefferson and Orange Counties**; On-Site Sewage Facility Installer License No. OS0004141, RN103480000; for on-site sewage facility violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Brandon Smith, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 27. **Docket No. 2004-2000-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **2000 IIG Inc. dba Diamond Smart 2 in Harris County**; RN101801157, Petroleum Storage Tank Facility ID No. 39845; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 28. **Docket No. 2005-0263-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Allanco Corporation dba KP Food Mart 3 in Dallas County**; Petroleum Storage Tank Facility ID No. 61298, RN102377611; 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. (Pamela Campbell, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 29. **Docket No. 2004-2063-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Zulfiqar Ali Mehar dba Brookeland Country Mart in Sabine County**; Petroleum Storage Tank Facility ID No. 8835; RN101783884; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 30. **Docket No. 2004-1601-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **AQA Retails, Inc. dba Stop-N-Drive 1 in Brazoria County**; Petroleum Storage Tank Facility ID No. 27763; RN101738433; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 31. **Docket No. 2004-1909-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Hung Phung dba H & H Discount in Potter County**; Petroleum Storage Tank Facility ID No. 7245; RN102227493; 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. (Melissa Keller, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 32. **Docket No. 2005-0189-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **King's Crossing Golf & Country Club, Inc. in Nueces County**; Petroleum Storage Tank Registration No. 44631, RN101434504; 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 Texas Administrative Code ch. 60. (Steven Lopez, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 33. **Docket No. 2004-1740-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rafia Sattar dba Junction Conoco** in **Johnson County**; Petroleum Storage Tank Registration No. 67479; RN101537173; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 34. **Docket No. 2004-1778-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Jarral's International, Inc. dba Express Lane Mobil Mart** in **Galveston County**; Petroleum Storage Tank Facility ID No. 43965, RN101826402; 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. (Larry King, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 35. **Docket No. 2004-2059-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Jerry D. Womack dba J & H** in **Tarrant County**; Petroleum Storage Tank Facility ID No. 73366, RN102250081; 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. (Melissa Keller, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 36. **Docket No. 2005-0216-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Joseph T. Gonzalez dba J & E Food Store** in **Cameron County**; Petroleum Storage Tank Facility ID No. 37642, RN101445112; 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. (Brian Lehmkuhle, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 37. **Docket No. 2004-1707-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Highway Travel Centers, Inc. dba Roadrunner Travel Center** in **Nueces County**; Petroleum Storage Tank Facility ID No. 72190; RN102485794; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 38. **Docket No. 2004-1500-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **HCFM, Inc. dba Hill Country Food Mart in Burnet County**; Petroleum Storage Tank Facility ID No. 10966, RN101499143; 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. (Chad N. Blevins, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 39. **Docket No. 2004-1797-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Green Ribbon Enterprises, Inc. dba Kwik Serve in Montgomery County**; Petroleum Storage Tank Facility ID No. 4696; RN101882959; 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. (Merrilee Hupp, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 40. **Docket No. 2005-0058-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Gobu Inc. dba Mobil Deluxe Mart in Dallas County**; Petroleum Storage Tank Facility ID No. 74792, RN101540631; 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. (Shontay Wilcher, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 41. **Docket No. 2003-1170-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Manzoor Enterprise, Inc. dba M&M Food Mart in Harris County**; TCEQ ID Nos. 0067211 and RN101435790; 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. (James Sallans, Jennifer Cook)

Approve the Agreed Order. KW/RM; all agree.

Item 42. **Docket No. 2004-1498-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rolando Dela Cruz dba Manila Food Plaza in Hidalgo County**; TCEQ ID Nos. 48946 and RN102224755; for petroleum storage tank violations pursuant to Tex. Water Code section 5.702, chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Justin Lannen, Jennifer Cook)

Approve the Agreed Order. KW/RM; all agree.

Item 43. **Docket No. 2004-1621-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Estrella Freight Service, L.L.C.** in **Tarrant County**; TCEQ ID Nos. 22768 and RN101538395; 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. (Jeffrey J. Huhn, Jennifer Cook)

Approve the Agreed Order. KW/RM; all agree.

Item 44. **Docket No. 2005-0030-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **John Wiesner, Inc.** in **Montgomery County**; Petroleum Storage Tank Facility ID No. 10356, RN102009750; 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. (Catherine Albrecht, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 45. **Docket No. 2004-2012-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Waterside Corporation dba Bayview Marina** in **Dallas County**; Petroleum Storage Tank Facility ID No. 64729, RN102434081; 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. (A. Sunday Udoetok, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 46. **Docket No. 2005-0397-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Carl Wachsmann dba Wachsmann Store** in **Lee County**; Petroleum Storage Tank Facility ID No. 6135, RN101700623; 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. (Miriam Hall, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 47. **Docket No. 2004-1832-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Saidul Kabir dba Super Stop 3** in **Rusk County**; Petroleum Storage Tank Facility ID No. 39070; RN103026951; 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 Texas Administrative Code ch. 60. (Melissa Keller, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 48. **Docket No. 2005-0024-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Shank C&E Investments, L.L.C. dba Shank Services** in **Harris County**; RN100535582; 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. (Ronnie Kramer, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 49. **Docket No. 2004-1280-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Qazi Trading Corporation dba Dollar Saver Food Mart 12** in **Wichita County**; Petroleum Storage Tank Facility ID No. 46360, Regulated Entity Reference No. RN102833159; 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. (Sandy VanCleave, Edward Moderow)

Approve the Agreed Order. KW/RM; all agree.

Item 50. **Docket No. 2005-0242-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Newell Recycling Company of El Paso, L.P.** in **El Paso County**; Petroleum Storage Tank Facility ID No. 23720; RN100581768; 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. (Jill McNew, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 51. **Docket No. 2004-0529-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Murphy Oil USA Inc. dba Murphy USA 6879** in **El Paso County**; Petroleum Storage Tank Facility ID No. 75575; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 5, 7, and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Mauricio Olaya, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 52. **Docket No. 2004-0567-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Julie Nguyen dba M & J Market** in **Jefferson County**; Petroleum Storage Tank Facility ID No. 8058, Regulated Entity ID No. RN102307527; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 53. **Docket No. 2004-1951-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lucky Lady Oil Company dba Super Lucky Lady 3 in Tarrant and Dallas Counties**; Petroleum Storage Tank Facility ID No. 10757, 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 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 54. **Docket No. 2004-1516-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **KVN Oil&Gas, Inc. dba Story Fina in Dallas County**; Petroleum Storage Tank Registration No. 52763, Regulated Entity Reference No. RN102900925; 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. (Chris Friesenhahn, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 55. **Docket No. 2002-0077-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Salim Hussain dba Kirby Food 1 in Smith County**; Petroleum Storage Tank Facility No. 24663; 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. (Pamela Campbell, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 56. **Docket No. 2004-1641-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dahisar Business, Inc. dba Honey Stop 2 in Orange County**; Petroleum Storage Tank Facility ID No. 24455; RN102253242; 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. (Daniel Siringi, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 57. **Docket No. 2004-2095-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Currey Enterprises, Inc. dba Budget Rentals in Lubbock County**; Petroleum Storage Tank Registration No. 69406, RN102029352; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 58. **Docket No. 2004-2070-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Brownfield Independent School District in Terry County**; Petroleum Storage Tank Facility ID No. 10138; RN101864809; 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. (Jill McNew, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 59. **Docket No. 2004-0723-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Wang Hun Chong dba The New C Store in Tarrant County**; TCEQ ID Nos. 49219 and RN100764216; 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. (Courtney St. Julian, Jennifer Cook)

Approve the Agreed Order. KW/RM; LS opposed.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 60. **Docket No. 2004-2069-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Hamshire Community Water Supply Corporation in Jefferson County**; Public Water Supply No. 1230025, RN101283208; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Catherine Albrecht, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 61. **Docket No. 2004-1550-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Red Creek Municipal Utility District in Tom Green County**; Public Water System ID No. 2260101; RN101453082; 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, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 62. **Docket No. 2005-0302-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ollie J. Hilliard dba Jamie's House Charter School Water System in Harris County**; Public Water Supply No. 1013266, RN104074125; for drinking water quality violations pursuant to Tex. Health &

Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Catherine Albrecht, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 63. **Docket No. 2004-1559-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Domingo Pina, Jr. dba Sonny's Place in Fort Bend County**; Public Water Supply ID No. 0790319; RN102314887; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kent Heath, Edward Moderow)

Approve the Agreed Order. KW/RM; all agree.

Item 64. **Docket No. 2004-0569-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Criminal Justice in Coryell County**; Public Water Supply ID No. 0500026, Regulated Entity ID No. RN102415064; for drinking water quality and fee violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 5, 7 and 26, and the rules of the Texas Commission on Environmental Quality. (Jill Reed, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 65. **Docket No. 2004-1013-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Raymondville in Willacy County**; Public Water Supply ID No. 2450001; for public water system supply violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mauricio Olaya, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 66. **Docket No. 2003-1254-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Russell Bros. Cattle Co. dba Ville D'Alsace Water Supply Company in Medina County**; Public Water Supply No. 1630037; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Brian Lehmkuhle, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

SLUDGE ENFORCEMENT AGREED ORDER

Item 67. **Docket No. 2003-1227-SLG-E.** Consideration of an Agreed Order assessing administrative penalties against **Brownsville Navigation District in Cameron County**; Sludge Transporter Registration No. 21816, RN103031670; for municipal solid 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 Tex. Admin. Code ch. 60. (Stacey Young, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT AGREED ORDER

Item 68. **Docket No. 2001-0080-WOC-E.** Consideration of an Agreed Order revoking Wastewater Operator License No. WW0004406 and Wastewater Operations Company Certificate No. OC20019, and requiring certain actions of **Larry Anderson and Andtech Pollution Control, Inc. in Denton, Collin, Ellis, and Tarrant Counties;** TCEQ ID Nos. WW0004406, OC20019, RN103318127, and RN103740684; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (James P. Biggins, Jennifer Cook)

Item continued to the August 24, 2005 agenda. LS/KW; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 69. **Docket No. 2004-2020-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lattimore Materials Company, L.P. dba Coppell Ready Mix in Dallas County;** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXG110116; RN102535440; 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. (Joseph Daley, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 70. **Docket No. 2004-1072-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Weirich Bros., Inc. in Gillespie County;** TCEQ Storm Water Permit ID No. TXR05R713; RN103786729; 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. (Jill McNew, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

Item 71. **Docket No. 2004-1741-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Permian Real Estate Inc. dba Southland Homes in Taylor County;** RN104403878; 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. (Harvey Wilson, David Van Soest)

Approve the Agreed Order. KW/RM; all agree.

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 72. **Docket No. 2004-0938-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Duke Pendergraft dba Pendergraft Stone in Haskell County**; TCEQ ID No. RN104285317; 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. (Gitanjali Yadav, Jennifer Cook)

Approve the Default Order. KW/RM; all agree.

BUDGET MATTERS

Item 73. **Docket No. 2005-0823-BGT.** Consideration of **Fiscal Year 2006 Assessment of Costs for Watermaster Operations in the South Texas Water Division.** For Commission Action pursuant to Texas Water Code Section 11.329; and 30 TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster costs of administration for the fiscal year beginning September 1, 2005 and ending August 31, 2006 for appropriators in the South Texas Water Division, which consists of the Nueces, San Antonio, Guadalupe and Lavaca River Basins, as well as the Lavaca-Guadalupe, San Antonio-Nueces and Nueces-Rio Grande Coastal Basins, except that part of the Nueces-Rio Grande Coastal Basin in **Hidalgo, Cameron, Willacy and Starr Counties**, and approve Five Hundred Fifteen Thousand Fifty Dollars as the amount to be assessed, with the assessment per account to consist of a \$50.00 base charge plus a use fee and/or a storage fee calculated from the authorized acre-feet, and a penalty of 5.0% of any delinquent fee due shall be imposed on a person who fails to pay the required fee when due and if the person fails to pay the fee within 30 days after the day which the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after their due date. The yearly interest rate on all delinquent fees required under this title is the prime rate plus one percent, as published in the Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday. Penalties and/or interest fees may be waived by the Executive Director for good cause. (John Davis)

Approve the Fiscal Year 2006 Assessment of Costs for Watermaster Operations in the South Texas Water Division. KW/RM; all agree.

Item 74. **Docket No. 2005-0813-BGT.** Consideration of **Fiscal Year 2006 Assessment of Annual Costs of Operation for Watermaster Operations in the Rio Grande Water Division.** For Commission Action. Pursuant to Texas Water Code Section 11.329; and 30 TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive

Director requests that the Commission consider Watermaster costs of administration for the fiscal year beginning September 1, 2005, and ending August 31, 2006, for appropriators in the Rio Grande Water Division, which extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers; and includes that portion of the Nueces-Rio Grande Coastal Basin lying in **Hidalgo, Cameron, Willacy and Starr Counties**; and approve \$592,000.00 with a municipal rate of \$0.2545 as the amount to be assessed for annual costs, with the assessment per account to consist of a \$50.00 base charge plus a use fee and/or a storage fee calculated from the authorized acre-feet, and a penalty of 5.0% of any delinquent fee due shall be imposed on a person who fails to pay the required fee when due and if the person fails to pay the fee within 30 days after the day which the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after their due date. The yearly interest rate on all delinquent fees required under this title is the prime rate plus one percent, as published in the Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday. Penalties and/or interest fees may be waived by the Executive Director for good cause. (John Davis)

Approve the Fiscal Year 2006 Assessment of Annual Costs of Operation for Watermaster Operations in the Rio Grande Water Division. KW/LS; all agree.

UTILITY CERTIFICATION MATTER

Item 75. **Docket No. 2005-0856-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between **Cash Special Utility District**, water CCN No. 10824, and **Shady Grove Water Supply Corporation**, a non-profit water supply corporation, water CCN No. 11661 in **Hunt County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement stipulates that Cash SUD will provide water service to a 30 acre tract of land currently within Shady Grove WSC's water service area. (Brian MacLeod, Tammy Holguin-Benter)

Approve the contract designating service areas between Cash Special Utility District and Shady Grove Water Supply Corporation. KW/RM; all agree.

ADVISORY COMMITTEE ITEMS

Item 76. **Docket No. 2005-0974-IRR.** Consideration of a **Resolution to extend the existence of the Irrigator Advisory Council of the Texas Commission on Environmental Quality** until February 1, 2011, and to appoint four members to the Irrigator Advisory Council to fill vacancies that resulted from the natural expiration of three terms and the resignation of one member before his term expired. (Alicia M. Lee)

Adopt the Executive Director's recommended nominees to the Irrigator Advisory Council of the Texas Commission on Environmental Quality, with the recommended changes proposed by Commissioner Soward at the dias. KW/LS; all agree.

- Item 77. **Docket No. 2005-1250-MSW.** Consideration of nominations and appointment of seven individuals to the **Municipal Solid Waste Management and Resource Recovery Advisory Council.** (Gary Trim, Anthony Tatu)

Adopt the Executive Director's recommendation to appoint six new council members to the Municipal Solid Waste Management and Resource Recovery Advisory Council and re-post the two remaining positions. KW/LS; all agree.

RULE MATTERS

- Item 78. **Docket No. 2005-1149-RUL.** Consideration of a petition for rulemaking under 30 TAC Section 20.15.

The petition was filed on June 16, 2005, by the Houston Gulf Coast Irrigation Association. The petitioner requests that **30 TAC Section 30.120**, Qualifications for Initial License, be amended to require applicants for a landscape irrigator licence to have a high school diploma or equivalent and two years of acceptable work experience. (Terry Thompson, Kathy Brown) (Rule Project No. 2005-035-PET-NR)

Deny the petition for rulemaking under 30 TAC Section 20.15. KW/LS; all agree.

- Item 79. **Docket No. 2004-0097-RUL.** Consideration of the adoption of **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 adoption 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 areas added to these regulatory zones on the official maps. Areas redesignated to transition zone and contributing zone would generally be subject to reduced requirements. Requirements for the contributing zone within the transition zone would be strengthened. Adopted 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; update references to reflect the delegation of the National Pollutant Discharge Elimination System; and correct the agency's name. The adoption would also specify that only the maps adopted by the agency are to be considered under Chapter 213. Wastewater discharge provisions would be extended to areas designated as contributing zone within the transition zone. The proposed rules were published in the March 11, 2005, issue of the *Texas Register* (30 TexReg 1403). (Steve Musick, Kathy Brown) (Rule Project No. 2003-029-213-PR)

Adopt 30 TAC Chapter 213, Edwards Aquifer, Sections 213.1, 213.3, 213.4, 213.12, 213.20 - 213.22, 213.24, and 213.27. KW/LS; all agree.

- Item 80. **Docket No. 2004-1793-RUL.** Consideration of the adoption of the 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 mutual agreement consistent with the MOU between the GLO and commission.

The adoption would repeal obsolete text that remains in the Texas Administrative Code. The proposed rule was published in the March 11, 2005, issue of the *Texas Register* (30 TexReg 1401). (Frank Fuller, Greg Dickenson) (Rule Project No. 2004-088-007-EN)

Adopt the repeal of 30 TAC Chapter 7. KW/RM; all agree.

EXECUTIVE SESSION

- Item 81. **Docket No. 2005-1137-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 82. **Docket No. 2005-1138-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 83. **Docket No. 2005-1139-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.

OLD BUSINESS AGENDA

Wednesday, August 10, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the May 11, 2005 agenda.

- Item 1. **TCEQ Docket No. 2003-1432-OSI-E; SOAH Docket No. 582-04-8213.** Consideration of the Administrative Law Judge's Proposal for Decision and Order revoking the On-Site Sewage Facility (OSSF) Installer II License and requiring certain actions of **Gary R. Reeves** in **Leon and Freestone Counties**, Texas; TCEQ ID Installer II License No. OS00004489; regarding violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code §§ 366.051(c) and 366.004, and 30 Tex. Admin. Code § 285.61(4) and (6) and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's PFD and Proposed Order with the exceptions filed by the Executive Director. RM/LS; all agree.

Continued from the July 27, 2005 agenda.

- Item 2. **TCEQ Docket No. 2004-0046-MWD; SOAH Docket No. 582-04-3106.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Uhland 405 Partners, L.P.** for a new Texas Pollutant Discharge Elimination System, Permit No. WQ0014439001, to authorize the discharge of treated domestic wastewater from a wastewater treatment facility in **Caldwell County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to Public Comment, the permit application, related filings, exceptions, and replies.

Issue the ED's draft permit and adopt the ALJ's PFD and Proposed Order with the following changes: 1. Correct Conclusion of Law No. 14 to read, "Issuance of the draft permit is consistent with Tex. Water Code Ch. 26 and applicable TCEQ rules and polices;" 2. Correct Finding of Fact No. 9 to include "per day" after "700,000 gallons" in the third line; 3. Correct Finding of Fact No. 19 to included the word "as" before "for Clear Fork Creek" in the second line; and 4. renumber the second Finding of Fact No. 11 on page 6, relating to uncontested matters, to Finding of Fact No. 28; 5. Add new Ordering Provision No.1, "The Commission adopts the Executive Director's Response to Public Comment in accordance 30 Tex. Admin. Code § 50.117" and renumber the ordering provisions accordingly; and 6. Add new Ordering Provision No.7, assessing transcript costs to the Applicant in accordance with the PFD. KW/RM; all agree.

AGENDA

Wednesday, August 10, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle
Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 1996-0209-WR; SOAH Docket No. 582-96-0144.** Consideration of the Administrative Law Judge's Proposal for Decision and Order, which is the proposed Preliminary Determination, regarding the adjudication under Chapter 11, Subchapter G, of the Texas Water Code, of all claims of water rights in the **Upper Rio Grande** segment of the Rio Grande Basin, **El Paso and Hudspeth Counties**, Texas. The Commission will also consider related filings, exceptions and replies.

Adopt the Order; approve the preliminary determination and the draft certificate with certain changes requested by the parties in their presentations at agenda. KW/LS; all agree.

- Item 2. **Docket No. 2005-1208-TML.** Consideration to adopt final TMDLs for total dissolved solids and chlorides in **Clear Creek above Tidal** (Segment 1102 in the San Jacinto-Brazos Coastal Basin) as certified updates to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber)

Adopt and certify the final TMDLs for total dissolved solids and chlorides in Clear Creek above Tidal. KW/RM; all agree.

- Item 3. **Docket No. 2005-1209-TML.** Consideration to adopt a final TMDL for nitrate-nitrogen in the **Lower Sabinal River** (Segment 2110 in the Nueces River Basin) as a certified update to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber)

Adopt and certify the final TMDL for nitrate-nitrogen in the Lower Sabinal River. KW/RM; all agree.

- Item 4. **Docket No. 2005-1210-TML.** Consideration to adopt a final TMDL for Polychlorinated Biphenyls (PCBs) in **Fish Tissue in Lake Worth** (Segment 0807 in the Trinity River Basin) as a certified update to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber)

Adopt and certify the final TMDL for Polychlorinated Biphenyls in Fish Tissue in Lake Worth. KW/RM; all agree.

/s/ Elaine Lucas
Elaine Lucas,
Assistant General Counsel

10/03/2005
Date