

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, November 9, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the October 12, 2005 agenda.

- Item 1. **Docket No. 2003-0194-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Navi Food and Fuel L.L.C. dba Navi Food & Fuel in Chambers County**; Petroleum Storage Tank Facility ID No. 0047142, RN102374907; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, David Van Soest)

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

Continued from the October, 12, 2005 agenda.

- Item 2. **Docket No. 2004-0671-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sardinia, Inc. dba Market Ace 4 in Jefferson County**; TCEQ ID Nos. 8065 and RN102979986; 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.(Amie Dutta Richardson, Jennifer Cook)

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

Continued from the October, 12, 2005 agenda.

- Item 3. **Docket No. 2005-0227-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 39**, Public Notice, Subchapter H, Applicability and General Provisions, Sections 39.405, 39.418, and 39.419; Subchapter I, Public Notice of Solid Waste Applications, Section 39.503; Subchapter K, Public Notice of Air Quality Applications, Sections 39.603 and 39.604; and Subchapter L, Public Notice of Injection Well and Other Specific Authorizations, Section 39.651.

The adopted amendments will extend alternative language notice requirements in the air quality program to waste and water quality authorizations, which publish Notices of Receipt of Application and Intent to Obtain a Permit (NORI) and Notices of Application and Preliminary Decision (NAPD) under Chapter 39. Specifically, when the applicant is required to publish a NORI or NAPD, publication will also be required in the applicable alternative language if either the elementary or middle school nearest to the facility provides a bilingual education program under the applicable provision of the Texas Education Code and certain criteria are met. The proposed rules were published in the May 13, 2005, issue of the *Texas Register* (30 TexReg 2834). (Les Trobman, Kerrie Qualtrough) (Rule Project No. 2005-014-039-LS)

Adopt the amendments to 30 TAC Chapter 39 with changes presented by the Executive Director. KW/LS; all agree.

Continued from the October 26, 2005 agenda.

Item 4. **Docket No. 2004-1856-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Gunter in Grayson County**; Texas Pollutant Discharge Elimination System Permit No. 10569001, RN101917904; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., David Van Soest)

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

Continued from the October 26, 2005 agenda.

Item 5. **Docket No. 2005-0453-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Abubaker Yusuf dba Texaco Service Station in Dallas County**; Petroleum Storage Tank No. 13575; RN102339405; 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. (Cheryl Thompson, David Van Soest)

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

## AGENDA

Wednesday, November 9, 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. 2005-1281-IWD.** Consideration of the application by **Mineral Processing & Marketing, Inc.** for a new wastewater permit, WQ0004752000, to authorize the disposal of untreated petroleum coke water, vehicle wash water, and storm water at a daily average flow not to exceed 15,700 gallons per day via evaporation. The facility and disposal site are located between Manning and Bronco Road, approximately one-half mile north of State Highway 44, just west of the Corpus Christi Airport, **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. (Marc Friberg/Charles Sheppard)

Deny the request for reconsideration, adopt the Executive Director's Response to Comments and approve the permit. KW/RM; all agree.

- Item 2. **Docket No. 2005-1211-MSW.** Consideration of application by **Maverick County** for the Maverick County El Indio municipal solid waste facility, proposed Permit No. 2316. The proposed facility will accept municipal solid waste which is defined in 30 TAC 330.2 as solid waste resulting from or incidental to municipal, community, commercial, institutional and recreational activities, including garbage, putrescible waste, rubbish, ashes, brush, street cleaning, dead animals, abandoned automobiles and all other solid waste other than industrial solid waste. The total acres within the permit boundary is approximately 180 acres, of which 134 acres will be used for waste disposal. The proposed facility is a Type I municipal solid waste landfill is to be located approximately 1.5 miles north of the intersection of FM 1021 and FM 2366, approximately 2 miles north of El Indio and approximately 16 miles south of Eagle Pass, **Maverick County**. The commission will consider the hearing request and related responses and replies, public comment, and Executive Director's Response to Hearing Request. (Spencer Marks/Jeff Davis)

Grant the hearing request of Cinco 1994 Family Limited Partnership on the issues of: 1. whether the proposed facility will negatively impact the requesters' use of its property due to odor and uncontained waste, 2. whether the proposed landfill's design will prevent the contamination of surface and groundwater, 3. whether the Applicant's compliance history justifies modification or denial of the draft permit, 4. whether the proposed landfill's design will allow for adequate containment of wind blown waste, 5. whether the proposed landfill's design sufficiently prevents site access by feral hogs,

& 6. whether the proposed landfill's design will mitigate the effects of seepage from the canal; refer this matter to ADR for a period of eight weeks then, if necessary, to SOAH for a hearing duration of nine months. KW/RM; all agree.

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

Item 3. **Docket No. 2005-0213-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Celanese Ltd. in Harris County**; Air Account No. HX2763T; RN103012183; 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. (Laurie Eaves, David Van Soest)

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

Item 4. **Docket No. 2005-0390-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Phelps Dodge Corporation in El Paso County**; TCEQ Air Account No. EE0067L; RN100226000; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, David Van Soest)

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

Item 5. **Docket No. 2005-0817-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ashland Inc. in Dallas County**; RN102069267; 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. (Merrilee Hupp, David Van Soest)

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

Item 6. **Docket No. 2003-0646-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP in Jefferson County**; Air Account No. JE0508W, Regulated Entity Reference No. RN100209857; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (David Flores, David Van Soest)

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

Item 7. **Docket No. 2005-1028-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Woodmere Development Co., Ltd. in Montgomery County**; RN104468111; for air quality 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. (Kimberly Morales, David Van Soest)

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

- Item 8. **Docket No. 2005-1282-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U.S. Silica Company in Limestone County**; RN100215672; 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. (J. Craig Fleming, David Van Soest)

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

- Item 9. **Docket No. 2005-0831-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hydrodynamics, Incorp. dba Associated Fiberglass Enterprises in Tarrant County**; RN101340818; 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. (A. Sunday Udoetok, David Van Soest)

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

- Item 10. **Docket No. 2005-0449-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alon USA, L P in Howard County**; Air Account No. HT0011Q, RN100250869; 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, David Van Soest)

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

- Item 11. **Docket No. 2004-1136-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Houston in Harris County**; TCEQ Air Account Nos. HG0144O and HG0143Q; Regulated Entity ID Nos. RN100217603 and RN100217140; 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. (Jaime Garza, David Van Soest)

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

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS**

- Item 12. **Docket No. 2005-0039-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Onyx Environmental Services, L.L.C. in Jefferson County**; RN102599719, Industrial and Hazardous Waste Permit No. 50212; 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. (Harvey Wilson, David Van Soest)

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

- Item 13. **Docket No. 2004-0083-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John Popma dba Marketing Interface Company in Upshur County**; TCEQ ID Nos. 37333 and RN103146049; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohworho, Jennifer Cook)

Item continued to the November 30, 2005 agenda. KW/RM; all agree.

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

- Item 14. **Docket No. 2003-1396-LII-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Joe Jenkins dba J & M Total Land Care in Dallas County**; TCEQ ID No. RN103125985; for landscape irrigation systems violations pursuant to Tex. Water Code chs. 7 and 34, subsequently replaced by Texas Occupations Code Chapter 1903 and Tex. Water Code Chapter 37, and the rules of the Texas Commission on Environmental Quality. (Kathleen C. Decker, Jennifer Cook)

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

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

- Item 15. **Docket No. 2005-0265-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Richard and Rebecca Reed dba R&R Reed Recycling in Hunt County**; RN104310735; for air quality, water quality, industrial & hazardous waste, 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. (J. Craig Fleming, David Van Soest)

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

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

- Item 16. **Docket No. 2005-0194-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Angela Ellis dba Ellis Auto Detailing in Tom Green County**; Scrap Tire Registration No. 6200080; RN102852712; 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. (Thomas Greimel, David Van Soest)

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

Item 17. **Docket No. 2004-1404-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **West Side Salvage, Inc.** in **Webb County**; TCEQ ID No. RN104192182; 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 Tex. Admin. Code ch. 60. (Xavier Guerra, Jennifer Cook)

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

Item 18. **Docket No. 2005-0130-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ronnie Callahan** in **Fannin County**; RN104435441; 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. (Judy Kluge, David Van Soest)

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

#### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 19. **Docket No. 2005-0592-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Angleton** in **Brazoria County**; Texas Pollutant Discharge Elimination System Permit No. 10548-002, RN101607166; 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. (Michael Meyer, David Van Soest)

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

Item 20. **Docket No. 2004-1579-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Hearne** in **Robertson County**; Texas Pollutant Discharge Elimination System Permit No. 0010046002, RN102835162; 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. (Elvia Maske, David Van Soest)

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

Item 21. **Docket No. 2004-0722-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of South Houston** in **Harris County**; Texas Pollutant Discharge Elimination System Permit No. 10287-001; 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. (Audra L. Ruble, David Van Soest)

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

- Item 22. **Docket No. 2005-0496-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Westphalia Water & Sewer Supply Corporation in Falls County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14382001; RN103930061; 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 23. **Docket No. 2004-2080-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Houston in Harris County**; RN101611663; for water quality 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. (Pamela Campbell, David Van Soest)

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

- Item 24. **Docket No. 2002-0555-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Houston in Harris County**; Water Quality Permit Nos. 10495-002 (RN101612463), 10495-016 (RN101612158), 10495-023 (RN101611903), 10495-037 (RN101611663), 10495-111 (RN101607596), Texas Pollutant Discharge Elimination System Permit Nos. 10495-050 (RN101611192), 10495-075 (RN101610715), 10495-076 (RN101610665), 10495-077 (RN101610608), 10495-090 (RN100217603), and 10495-139 (RN102546199); for water quality violations pursuant to Tex. Health & Safety Code ch. 361, 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. (Pamela Campbell, David Van Soest)

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

- Item 25. **Docket No. 2005-0578-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas A&M University in Brazos County**; Texas Pollutant Discharge Elimination System Permit No. 04003000, RN102182086; for water quality 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 26. **Docket No. 2004-1082-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of New Summerfield in Cherokee County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 0013585001; Regulated Entity Reference No. RN101918282; 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. (Laurie Eaves, David Van Soest)

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

Item 27. **Docket No. 2005-0648-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Syed N. Hyder in Brazos County**; RN102097789; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

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

Item 28. **Docket No. 2005-0430-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Silver Creek Lodge, Marina, and Yacht Club, Incorporated in Burnet County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11394001; RN102184264; 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 29. **Docket No. 2005-0647-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brookshire Municipal Water District in Waller County**; Texas Pollutant Discharge Elimination System Permit No. 10001-001, RN101920312; 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. (Michael Meyer, David Van Soest)

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

Item 30. **Docket No. 2005-0079-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **IU Merger Sub, Inc. in Williamson County**; Texas Pollutant Discharge Elimination System Permit No. 13866-001, RN100822576; 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. (Michael Meyer, David Van Soest)

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

Item 31. **Docket No. 2005-0594-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Red River Authority of Texas in Hall County**; Texas Pollutant Discharge Elimination System Permit No. 11252-001, RN101702256; 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. (Pamela Campbell, David Van Soest)

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

#### **ON SITE SEWAGE FACILITY INSTALLER ENFORCEMENT AGREED ORDER**

Item 32. **Docket No. 2005-1117-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Thomas A. Kalina in Hill County**; RN103339628; for water quality violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Joseph Daley, David Van Soest)

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

#### **PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 33. **Docket No. 2004-2083-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KTC Investment, Inc. dba Kamman's CITGO in Henderson County**; RN101781615; 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. (Howard Willoughby, David Van Soest)

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

Item 34. **Docket No. 2005-0620-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Muhammad Aslam dba Convenient Food Mart in Travis County**; Petroleum Storage Tank Facility ID No. 39577, RN102374170; 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, David Van Soest)

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

Item 35. **Docket No. 2005-0103-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **C & R Distributing, Inc. in El Paso County**; RN102791043; 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. (Sandy VanCleave, David Van Soest)

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

Item 36. **Docket No. 2005-0660-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sultan M. Mohmand dba M & M Food Mart in Tarrant County**; Petroleum Storage Tank Facility ID No. 36548, RN101651016; 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. (Sunday Udoetok, David Van Soest)

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

Item 37. **Docket No. 2005-0942-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Ashfaq Ahmed dba Texaco - A K Food Mart in Dallas County**; RN102466802; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Howard G. Willoughby, David Van Soest)

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

Item 38. **Docket No. 2005-0691-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **S.K. Master, Inc. dba A J Food Mart in Harris County**; Petroleum Storage Tank Facility ID No. 35221, RN101845642; 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 39. **Docket No. 2005-1315-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Paris Car Care, L.L.C. dba Quick & E-Z Lube in Lamar County**; RN100530070; 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 40. **Docket No. 2005-0504-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Paint Rock Independent School District in Concho County**; RN101864007; 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. 2005-0398-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Convenience Management Services, Inc. dba CMSI 301 in Fayette County**; Petroleum Storage Tank Facility ID No. 15031, RN101435543; 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. (Kent Heath, David Van Soest)

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

- Item 42. **Docket No. 2004-1149-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Smartway, Inc. dba Road Runner Food Mart in Bexar County**; TCEQ ID Nos. 17073 and RN101747780; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Jennifer Cook)

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

- Item 43. **Docket No. 2004-1147-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brant-STA Inc. dba Max A Mart in Rains County**; TCEQ ID Nos. 60014 and RN101799757; 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. (Courtney St. Julian, Jennifer Cook)

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

- Item 44. **Docket No. 2005-0860-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **B. Rainey & Son Enterprises, Inc. dba Family Mart 3 in Lamar County**; RN101726768; 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. (Deana Holland, David Van Soest)

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

- Item 45. **Docket No. 2005-0197-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Amil Enterprises Inc. dba Sunny's Mini Mart in Jim Wells County**; Petroleum Storage Tank Facility ID No. 4998; RN101909828; 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. (Howard G. Willoughby, David Van Soest)

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

- Item 46. **Docket No. 2004-1486-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wilbarger County in Wilbarger County**; Leaking Petroleum Storage Tank Facility ID No. 116033; Petroleum Storage Tank Facility ID No. 53280, RN102790193; 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.  
(Sunday Udoetok, David Van Soest)

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

Item 47. **Docket No. 2005-0735-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sun Valley Distribution, Inc. in El Paso County**; RN100813229; 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 48. **Docket No. 2005-0760-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Akber Berani dba Kwik Stop Conoco in Dallas County**; RN102482213; 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, David Van Soest)

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

Item 49. **Docket No. 2005-0616-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **SK Integrated, Inc. dba Evan's Stop N Go in Denton County**; Petroleum Storage Tank Facility ID No. 6310; RN101557338; 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. (Howard G. Willoughby, David Van Soest)

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

Item 50. **Docket No. 2004-1514-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **R. D. Wallace Oil Co., Inc. dba Petro Products Corporation dba Keeling Card System in Hockley County**; Petroleum Storage Tank ID No. 30393, Regulated Entity Reference No. RN101783777; 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. (Kent Heath, David Van Soest)

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

#### **PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 51. **Docket No. 2004-1557-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Buford West dba Genie Car Care Center of Hewitt and Leah West dba Genie Car Care Center of Hewitt in McLennan County**; TCEQ ID Nos. 64955 and RN102719846; 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. (Kathleen C. Decker, Jennifer Cook)

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

Item 52. **Docket No. 2005-0195-PST-E.** Consideration of a Default Order assessing administrative penalties against **Lacefield Investments, Inc. dba Don's Port Marina in Henderson County**; TCEQ ID Nos. 47186 and RN101853364; 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. (Kathleen C. Decker, Jennifer Cook)

Item remanded to the Executive Director. RM/KW; all agree.

Item 53. **Docket No. 2004-0369-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Dhanani Investment, Inc. dba Yale Shamrock in Harris County**; TCEQ ID Nos. 33094 and RN103160743; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

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

Item 54. **Docket No. 2005-0081-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Airtex Investments, Inc. dba Time Mart 10 in Harris County**; TCEQ ID Nos. 72618 and RN101849693; 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. (Kathleen C. Decker, Jennifer Cook)

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

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

Item 55. **Docket No. 2005-1159-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Crosby Municipal Utility District in Harris County**; RN101439628; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Trina Grieco, David Van Soest)

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

Item 56. **Docket No. 2005-0684-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Paint Rock in Concho County**; RN101451730; 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, David Van Soest)

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

Item 57. **Docket No. 2005-0799-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Marshall in Harrison County**; Public Water Supply ID No. 1020002; RN101388700; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kimberly Morales, David Van Soest)

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

Item 58. **Docket No. 2005-0903-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Early in Brown County**; RN101186039; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jill McNew, David Van Soest)

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

Item 59. **Docket No. 2005-1056-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cooper in Delta County**; RN101212082; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jill McNew, David Van Soest)

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

Item 60. **Docket No. 2005-0915-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **T.W.E. Enterprises, Inc. in Matagorda County**; RN101244754; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kimberly Morales, David Van Soest)

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

Item 61. **Docket No. 2005-0764-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pendleton Utility Corp. in Sabine County**; Public Water Supply No. 2020020; RN104097068; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (John Muennink, David Van Soest)

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

Item 62. **Docket No. 2005-1121-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Mount Vernon in Franklin County**; RN101391399; 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, David Van Soest)

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

Item 63. **Docket No. 2005-1219-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Mart in McLennan County**; RN101388544; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jill McNew, David Van Soest)

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

Item 64. **Docket No. 2005-1135-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Kemp in Kaufman County**; RN101244457; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Johnson, David Van Soest)

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

Item 65. **Docket No. 2005-0328-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Dan Chorenziak dba Dutchman's Hidden Valley Store in Hamilton County**; Public Water Supply No. 0970006, RN101264364; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Meyer, David Van Soest)

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

Item 66. **Docket No. 2005-1179-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wills Point in Van Zandt County**; RN101388973; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (J. Craig Fleming, David Van Soest)

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

Item 67. **Docket No. 2004-0909-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Alex Mair dba Mair Rentals in Aransas County**; Public Water Supply ID No. 0040053, RN104248182; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Audra L. Ruble, David Van Soest)

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

Item 68. **Docket No. 2005-0439-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **The Lighted Fishing Pier, LLC in Galveston County**; Public Water Supply ID No. 0840205, RN101181253; for drinking water quality

violations pursuant to Tex. Health & Safety Code ch. 341 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 69. **Docket No. 2005-0507-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Boyd in Wise County**; Public Water Supply Registration No. 2490002, RN101387496; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (J. Craig Fleming, David Van Soest)

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

- Item 70. **Docket No. 2005-1099-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Turtle Cove Lot Owners Association, Inc. in Brazoria County**; RN101246148; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda King-Zrubek, David Van Soest)

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

#### **SLUDGE ENFORCEMENT DEFAULT ORDER**

- Item 71. **Docket No. 2002-1131-SLG-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Ruben's Vacuum and Hydrojetting Services, Inc. in Hidalgo County**; TCEQ ID Nos. 22386 and RN103163184; for water quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gitanjali Yadav, Jennifer Cook)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDER**

- Item 72. **Docket No. 2004-1102-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Salado Quarry, Inc. in Bell County**; TCEQ Stormwater Permit No.-None, Regulated Entity No. RN104327382; 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. (Brian Lehmkuhle, David Van Soest)

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

#### **SECTION 13.248 TEXAS WATER CODE AGREEMENT**

- Item 73. **TCEQ Docket No. 2005-1278-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between **Cash Special Utility District**

(Cash SUD), water certificate of convenience and necessity (CCN) No. 10842, and Combined Consumers Special Utility District (Combined SUD), water CCN No. 10855, in **Hunt County**, Texas, pursuant to Section 13.248 of the Texas Water Code. Currently, Cash SUD and Combined SUD are dually certificated to provide service to the New Haven Subdivision (New Haven). The agreement decertifies Combined SUD from operating in New Haven and stipulates that Cash SUD will be the sole water service provider in New Haven. (Ross Henderson, Tammy Holguin-Benter)

Approve the contract designating service areas between Cash Special Utility District (Cash SUD) and Combined Consumers Special Utility District (Combined SUD). RM/KW; all agree.

## **RULE MATTERS**

Item 74. **Docket No. 2005-1620-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 39**, Public Notice, Sections 39.403, 39.411, 39.419, and 39.420, the repeal of Section 39.404, and new Section 39.404; amendments to **30 TAC Chapter 50**, Action on Applications and Other Authorizations, Section 50.113; **30 TAC Chapter 55**, Requests for Reconsideration and Contested Case Hearings; Public Comment, Section 55.201; **30 TAC Chapter 331**, Underground Injection Control, Section 331.11; new **30 TAC Chapter 91**, Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities, Sections 91.10, 91.20, 91.30, 91.100, 91.110, and 91.120; and **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification; new Subchapter L, Permits for Specific Designated Facilities, Sections 116.1400, 116.1402, 116.1404, 116.1406, 116.1408, 116.1410, 116.1414, 116.1416, 116.1418, 116.1420, 116.1422, 116.1424, 116.1426, and 116.1428. Section 39.403(b)(8) - (10) and new (f), the repeal of Section 39.404, and new Section 39.404 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP). The commission also proposes to withdraw Sections 39.411, 39.419, and 39.420, as submitted to EPA on July 31, 2002, and proposes to submit Sections 39.411(a), (b)(1) - (6) and (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4) as a revision to the SIP. Chapter 116, new Subchapter L will also be submitted as a revision to the SIP.

The proposed rulemaking would implement provisions of House Bill (HB) 2201. HB 2201 identifies the United States Department of Energy's FutureGen research and creates a new set of permitting actions for FutureGen projects, specifically that permits for FutureGen projects are not subject to the contested case hearing process. Chapter 91 would address existing statutory requirements for the permitting and public participation process still applicable to FutureGen projects but eliminate the requirement of a contested case hearing. Chapter 116, new Subchapter L, would eliminate the requirement of a contested case hearing and address existing statutory requirements for the permitting and public participation process not affected by HB 2201 but still applicable to FutureGen projects. (Michael Wilhoit, Booker Harrison) (Rule Project No. 2005-053-091-PR)

Approve the publication of, and hearing on, proposed amendments to 30 TAC Chapters 39, 50, 55, 331, 91, 116, and certain related revisions to and withdrawals from the SIP, with additional language to the preamble which asks for comments to be submitted regarding when and how to set an appropriate sunset date. KW/RM; all agree.

Item 75. **Docket No. 2005-1443-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter J, Operational Controls for Motor Vehicles, Section 114.512 and Section 114.517; and corresponding revisions to the state implementation plan.

The proposed rulemaking would implement House Bill 1540, 79th Legislature, 2005, Regular Session, as well as add language that the Austin Early Action Compact members have requested be added so as to more greatly protect public health and safety. (Roland Castaneda, Garrett Arthur) (Rule Project No. 2005-064-114-EN)

Approve the publication of, and hearing on, proposed amendments to 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

Item 76. **Docket No. 2005-1444-RUL.** Consideration for publication of, and hearing on, the proposed repeal of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Sections 114.3 and 114.150 - 114.157. The repeals to Chapter 114 will be submitted as revisions to the state implementation plan.

The proposed rulemaking will repeal the state regulations implementing the Texas Clean Fleet Program in its entirety, in accordance with Senate Bill 1032, 79th Texas Legislature, Regular Session, 2005. (Morris Brown, Garret Arthur) (Rule Project No. 2005-067-114-EN)

Approve the publication of, and hearing on, the proposed repeal of 30 TAC Chapter 114, and related revisions to the state implementation plan. KW/RM; all agree

Item 77. **Docket No. 2005-1606-RUL.** Consideration for publication of, and hearing on, the proposed repeal of Section 111.155 of **30 TAC Chapter 111**, Control of Air Pollution from Visible Emissions and Particulate Matter; and corresponding revisions to the state implementation plan. (Kathy Singleton, Alicia Lee) (Rule Project Number 2005-013-111-EN)

Approve the publication of, and hearing on, the proposed repeal of 30 TAC Chapter 111 and corresponding revisions to the state implementation plan. KW/RM; all agree.

### **EXECUTIVE SESSION**

Item 78. **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.

The Commissioners did not meet in executive session.

Item 79. **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.

The Commissioners did not meet in executive session.

Item 80. **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.

The Commissioners did not meet in executive session.

**(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, November 9, 2005

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **TCEQ Docket No. 2005-1576-AGR.** Consideration of a Motion to Overturn filed by Cora Lea Emerson, attorney for Delbert Lingnau, Kirk Lingnau, Melvin Lingnau, Myrna Lingnau, and Todd Lingnau; David V. Symm; Anna M. Symm; Elizabeth R. Symm; Eli Symm; Bill and Yaunda Martin; Robert and Lucia Lucio and Mikaela Ceniceros; Tina Symm; Lucia Lucio; and, Santiago and Maria Lucio and concerning the Executive Director's approval of the application by **Mark Douglas Williams**, for Authorization TXG920016 under General Permit No. TXG920000 authorizing a new concentrated animal feeding operation for a dairy cattle feedlot facility with a maximum proposed capacity of 6,800 head on County Road DD, approximately one mile west of its intersection with U.S. Highway 70/84 in **Parmer County**, Texas.

Deny the motion to overturn. KW/RM, LS opposed.

- Item 2. **TCEQ Docket Nos. 2004-1872-WR, 2004-1873-WR, and 2004-1874-WR; SOAH Docket No. 582-05-4254.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the applications of **Presidio Valley Farms, Maverick County, the City of Laredo, and the City of Eagle Pass Water Works System** to amend Certificate of Adjudication No. 23-952. The Applicants request issuance of the proposed amended Certificate of Adjudication Nos. 23-952D, 23-952E, and 23-952F. The applicants seek to change the locations of existing diversion points in the Upper Rio Grande, Rio Grande Basin near Presidio to the Middle Rio Grande, Rio Grande Basin to locations owned by Maverick County in Certificate of Adjudication 23-2671, City of Laredo in Certificate of Adjudication 23-3997, and City of Eagle Pass, in **Kinney, Webb, and Maverick Counties**, Texas. The applicants also seek to change the purpose of and place of use of the 8,059 Acre-feet of water from irrigation to municipal purposes. The Commission will consider the application and related filings, exceptions and replies.

The Commissioners set aside the ALJ's PFD; directed the ALJ and all parties to work together to develop an order reflecting the rejection of the ALJ's recommendations and instead approving issuance of the amended Certificates of Adjudication; and directed that the new Order be filed by November 17, 2005; the Commission also continued this item to the November 30, 2005 agenda. KW/RM; all agree.

- Item 3. **TCEQ Docket No. 2003-1213-MWD; SOAH Docket No. 582-04-1194.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **San Jacinto River Authority** for renewal of TPDES Permit No. 11401-001

relating to The Woodlands Wastewater Treatment Facility No. 1 in **Montgomery County**, Texas. The Commission will consider timely public comments, related filings, exceptions and replies.

Direct the ALJ and all parties to develop and file a new Order clarifying that the Executive Director is not required to carry the burden of proof in permitting matters and to make other minor changes as proposed by the ALJ; direct the Executive Director to make the necessary changes to the permit in order to conform with the ALJ's PFD and the revised Order, including the removal of a WET limit; and continue this item to the November 30, 3005 agenda for consideration of the revised Order and permit. RM/LS, KW abstained.

- Item 4. **TCEQ Docket Nos. 2003-1412-UIC and 2003-1581-UIC; SOAH Docket No. 582-04-5744.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **E.I. Du Pont de Nemours and Company** for the renewal of permits for underground injection control Well Nos. WDW-100, WDW 101, and WDW-188 and the issuance of new permits for UIC Well Nos. WDW-388, WDW-389, WDW-390, and WDW-391 in **Jefferson County**, Texas. The wells are to be used to dispose of industrial hazardous waste at Du Pont's Beaumont Works Facility pursuant to chapters 5, 26 and 27 of the Texas Water Code and chapter 361 of the Texas Health & Safety Code. The Commission will also consider timely public comments and the Executive Director's Response to such comments, the application and related filings, exceptions and replies.

Adopt the ALJ's Order as modified by the ALJ, issue the Executive Director's draft permit as modified by the ALJ and add a new ordering provision to adopt the Executive Director's Response to Comments. KW/RM; all agree.

/s/ Celeste Baker  
Assistant General Counsel,  
Celeste Baker

2-1-2006  
Date