

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, December 14, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the November 30, 2005 agenda.

Item 1. **Docket No. 2005-1631-RES.** Consideration of nominations and appointment of members to the **Pollution Prevention Advisory Committee.** (Brian Christian/James Voelker)

Approve the proposed resolution and appointments as agreed by the Commissioners and re-post to solicit new nominations for the member position representing academia. KW/RM; all agree.

AGENDA

Wednesday, December 14, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

- Item 1. **Docket No. 2005-1496-SLG.** Consideration of the application by **Synagro of Texas-CDR, Inc.**, for new sludge permit, Permit No. WQ0004723000, to authorize the beneficial land application of sewage sludge for beneficial use on 164.7 acres. The proposed land application site is located approximately 0.75 mile south of the City of Rock Island, east of and fronting Farm-to-Market Road 1693 in **Colorado 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 such comments. (John Williams/Tassie Fish)

Grant the hearing request of Robert W. Means and family on the issues of will the proposed permit adversely impact water quality and will the use of Pinoak Creek downstream of the site for fishing, swimming, and watering livestock be affected; refer the mater to ADR if parties are willing then, if necessary, to SOAH for a hearing duration of 4 months. KW/RM; all agree.

- Item 2. **Docket No. 2005-1790-AIR.** Consideration of the application by **Orange Grove Cooperative of Orange Grove Texas** for renewal of Air Quality Permit No. 6130 to authorize the continued operation of its Grain Elevator. The facility is located at the intersection of US Highway 359 and Soyars Street, in Orange Grove, **Jim Wells County**, Texas. The Commission will also consider requests for hearing or reconsideration, timely related responses and replies, public comment, and the Executive Director's Response to Comments. (Matthew Burnett/Les Trobman)

Deny the hearing requests, adopt the Executive Director's Response to Comments as amended by the Commission at the dais and grant the permit renewal. RM/KS; all agree.

- Item 3. **Docket No. 2005-1302-IWD.** Consideration of the application by **Hanson Aggregates West, Inc.** for a renewal of TPDES Permit No. WQ0001214000 which authorizes the discharge of mine dewatering and storm water on an intermittent and flow variable basis via Outfall 001. The facility is located on State Highway 101 approximately four miles north of the City of Bridgeport, in **Wise 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. (John E. Williams/Monica Vallin-Baez)

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

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 4. **Docket No. 2005-0948-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **Stytze Van Der Meer dba Riggs Dairy in Erath County**; RN104315262; 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. (J. Craig Fleming, David Van Soest)

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

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 5. **Docket No. 2005-0829-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **BP Amoco Chemical Company in Harris County**; RN102528197; 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 6. **Docket No. 2005-0927-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Celanese Ltd. in Harris County**; RN100227016; 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. (Kimberly Morales, David Van Soest)

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

Item 7. **Docket No. 2004-1334-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP in Ward County**; Air Account No. WC0111F, RN100219781; 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. (Edward R. Moderow, David Van Soest)

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

Item 8. **Docket No. 2005-0881-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Wolf Hollow I, L.P. in Hood County**; RN100219195; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water

Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., David Van Soest)

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

Item 9. **Docket No. 2005-0873-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enterprise NGL Pipelines, LLC in Gaines County**; RN100210384; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, David Van Soest)

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

Item 10. **Docket No. 2005-0818-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **BP Products North America Inc. in Galveston County**; RN102535077; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

Item 11. **Docket No. 2005-1238-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **BMB Wood Recycling, Ltd. in Dallas County**; RN104408497; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, David Van Soest)

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

Item 12. **Docket No. 2005-0287-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Johann Haltermann, Ltd. in Harris County**; Air Account No. HG0929Q, RN102610912; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, David Van Soest)

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

Item 13. **Docket No. 2004-1409-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Magellan Terminals Holdings, L.P. in Nueces County**; Air Account No. NE0003M, Regulated Entity Reference No. RN102536836; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental

Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

Item 14. **Docket No. 2001-1023-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **El Paso Merchant Energy-Petroleum Company formerly known as Coastal Refining and Marketing, Inc.** in **Nueces County**; TCEQ ID Nos. NE-0043-A and RN100211663; 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; all agree.

Item 15. **Docket No. 2003-1361-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Industrial Spray Painting, Inc.** in **Dallas County**; Regulated Entity Reference No. RN102645090; 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. (Melissa Keller, David Van Soest)

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

Item 16. **Docket No. 2005-0125-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Formosa Plastics Corporation, Texas** in **Calhoun County**; Air Account No. CB0038Q; RN100218973; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

Item 17. **Docket No. 2005-0035-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services L.P. dba Waha Gas Plant** in **Pecos County**; Air Account No. PE0024Q, RN100211408; 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. (Pamela Campbell, David Van Soest)

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

Item 18. **Docket No. 2005-1272-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Azimuth Energy, LLC** in **Chambers County**; RN104618269; 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. (Kimberly Morales, David Van Soest)

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

Item 19. **Docket No. 2005-0389-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Valley Proteins, Inc. in Potter County**; RN101834224; 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. (Cheryl Thompson, David Van Soest)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 20. **Docket No. 2005-0562-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Maria Crabtree in Bexar County**; RN104518329; 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)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 21. **Docket No. 2005-1080-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Azteca Milling, L. P. in Deaf Smith County**; RN102166758; for industrial & hazardous waste 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 22. **Docket No. 2005-0718-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Southern Star, Inc. dba Southern Star Shrimp Farm in Cameron County**; Texas Pollutant Discharge Elimination System Permit No. 04244, RN101527034; 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. 2005-0072-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **D.B. Western, Inc - Texas in Harris County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No.

0004201000; RN100897362; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Catherine Albrecht, David Van Soest)

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

Item 24. **Docket No. 2005-0410-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Degussa Engineered Carbons, L.P. in Orange County**; Texas Pollutant Discharge Elimination System Permit No. 00814; RN100209386; 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. (Terry Murphy, David Van Soest)

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

Item 25. **Docket No. 2005-0448-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Metton America, Inc. in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 0002406000, RN100667633; 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 26. **Docket No. 2005-0523-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Polymer Services, Inc. in Orange County**; Texas Pollutant Discharge Elimination System Permit No. 02835, RN103014031; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, David Van Soest)

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

LICENSED IRRIGATOR ENFORCEMENT AGREED ORDERS

Item 27. **Docket No. 2005-0786-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jesus Escobedo in Henderson County**; RN104542923; for licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Kent Heath, David Van Soest)

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

Item 28. **Docket No. 2005-1032-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ricky Vasconsuelos in Denton County**; RN104609110; for licensing violations pursuant to Tex. Water Code chs. 7 and

37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Kent Heath, David Van Soest)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 29. **Docket No. 2004-0552-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bishop Bailey in Brewster County**; TCEQ ID No. RN103007217; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 371, 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 30. **Docket No. 2003-1496-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Western States Realty LLC in Jones County**; TCEQ ID No. RN102865227; 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. (Alfred Okpohworho, Jennifer Cook)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 31. **Docket No. 2005-0738-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Follett in Lipscomb County**; RN101916559; 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.

Item 32. **Docket No. 2005-0571-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sam Houston Area Council Boy Scouts of America in Grimes County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14095001; RN101223543; 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 33. **Docket No. 2005-0796-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Richards Independent School District in Grimes County**; Texas Pollutant Discharge Elimination System Permit No.

0013527001, RN101513489; 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.

Item 34. **Docket No. 2005-0804-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Jasper in Jasper County**; RN101052132; 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. (Judy Kluge, David Van Soest)

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

Item 35. **Docket No. 2005-0900-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hooks Independent School District in Bowie County**; RN 101514412; 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. (Ruben Soto, David Van Soest)

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

Item 36. **Docket No. 2005-0960-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Five Nine Seven Limited Partnership dba Rambleswood Mobile Home Park in Brazos County**; Texas Pollutant Discharge Elimination System Permit No. 11038-001; RN101275378; 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 37. **Docket No. 2005-0498-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Coastal Bend Youth City in Nueces County**; Texas Pollutant Discharge Elimination System Permit No. 11689001, RN102179124; 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.

Item 38. **Docket No. 2003-0384-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Galveston in Galveston County**; Texas Pollutant Discharge Elimination System Permit No. 001068801, RN101607091; 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. (J. Craig Fleming, David Van Soest)

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

Item 39. **Docket No. 2005-0414-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Grapeland in Houston County**; Texas Pollutant Discharge Elimination System Permit No. 0010181002, RN101702876; 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. (Rebecca Johnson, David Van Soest)

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

Item 40. **Docket No. 2005-0597-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Westwood Shores Municipal Utility District in Trinity County**; Texas Pollutant Discharge Elimination System Permit No. 11300001, RN102916426; 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 41. **Docket No. 2005-0819-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Walnut Springs in Bosque County**; RN101918472; 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. (Judy Kluge, David Van Soest)

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

Item 42. **Docket No. 2005-0269-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Superior Derrick Services, Inc. in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 12443001; RN100869957; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, David Van Soest)

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

Item 43. **Docket No. 2005-0544-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Sadler in Grayson County**; RN101917714; 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.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT DEFAULT ORDER

Item 44. **Docket No. 2003-1242-MWD-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **City of Texline in Dallam County**; TCEQ ID Nos. 11029-001 and RN102844073; 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. (Alfred Okpohworho, Jennifer Cook)

Item remanded to the Executive Director.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 45. **Docket No. 2004-1606-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **7-Eleven, Inc. dba 7-Eleven Store 18765 in Dallas County**; Petroleum Storage Tank Facility ID No. 9137, RN102013927; 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. (Chad Blevins, David Van Soest)

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

Item 46. **Docket No. 2004-1020-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Minerva Benitez dba B&G Grocery & Supplies in Starr County**; TCEQ ID Nos. 65864 and RN102046513; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Deborah A. Bynum, Jennifer Cook)

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

Item 47. **Docket No. 2005-0495-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bank of America, National Association dba Painted Dunes Golf Course in El Paso County**; Petroleum Storage Tank Facility ID No. 58639, RN100816651; 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 48. **Docket No. 2005-0827-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas State Aquarium Association in Nueces County**; RN101858876; 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 49. **Docket No. 2005-0440-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **N. E. Jones Oil Company, Inc.** in **Marion and Bowie Counties**; Petroleum Storage Tank Facility ID Nos. 46699, 18515, 62899, 33929, 33931, 68377, RN101808046, RN101831147, RN101805562, RN101823565, RN101818409, RN101723633; 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. (Dana Shuler, David Van Soest)

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

Item 50. **Docket No. 2005-1045-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tang Tran dba A & R Corner Store** in **Travis County**; RN101432946; 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 51. **Docket No. 2005-1275-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **A. H. Chaney, Inc.** in **Wise County**; RN101563344; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, David Van Soest)

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

Item 52. **Docket No. 2004-0578-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jimmy Colter & Jimmy Holt dba Linden Fuel Center** in **Cass County**; Petroleum Storage Tank Facility ID No. 0073859, Regulated Entity Reference No. RN102255791; 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 53. **Docket No. 2005-1215-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Huma Corporation dba Dairy Mart 2** in **Dallas County**; RN102473907; 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 Blevins, David Van Soest)

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

Item 54. **Docket No. 2005-0617-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Hooda Corporation, Inc. dba Esters Chevron in Dallas County**; RN101566909; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, David Van Soest)

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

Item 55. **Docket No. 2003-1041-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Frank Chmielowski dba Panchos Country Store in Hidalgo County**; TCEQ ID Nos. 39301 and RN101432060; 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. (Shannon L. Strong, Jennifer Cook)

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

Item 56. **Docket No. 2005-1024-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dupre' Transport, Inc. in Lafayette Parish, Louisiana and Guadalupe County**; RN100648096; 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. (Jaime Garza, David Van Soest)

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

Item 57. **Docket No. 2005-0378-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ricky Lynn Freeman dba Freeman's Station in Houston County**; RN101856193; 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.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 58. **Docket No. 2004-0951-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **SRS Investments, L.L.C. dba McCloud Grocery in Tarrant County**; TCEQ ID Nos. 7469 and RN101562411; 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 59. **Docket No. 2005-0154-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Niranjan Patel dba Columbus Mini Mart in Colorado County**; TCEQ ID Nos. 43548 and RN103045084; 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 60. **Docket No. 2003-0983-PST-E.** Consideration of a Default Order assessing administrative penalties of **Khail Enterprises, Inc. dba Spin-N-Market 5 in Galveston County**; TCEQ ID Nos. 42171 and RN101433340; 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. (Justin Lannen, Jennifer Cook)

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

Item 61. **Docket No. 2005-0677-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Elhamad Enterprises, Inc. dba JR Mini Mart in Tarrant County**; TCEQ ID Nos. 34001 and RN101383230; 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 62. **Docket No. 2005-0996-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Decatur in Wise County**; RN101391019; 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. 2005-1101-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Philip Sheridan dba Sheridan Water Supply in Bexar County**; RN104558531; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of

the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

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

Item 64. **Docket No. 2005-0108-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **S.L.C. Water Supply Corporation in Limestone County**; Public Water Supply Registration No. 1470031; RN101265908; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Joseph Daley, David Van Soest)

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

Item 65. **Docket No. 2005-1289-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rock Hill Water Supply Corporation in Panola County**; RN101176337; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mac Vilas, David Van Soest)

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

Item 66. **Docket No. 2005-1059-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Limestone Marina, Inc. dba Limestone Marina & Campground in Limestone County**; RN102684321; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sandy VanCleave, David Van Soest)

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

Item 67. **Docket No. 2005-1201-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lake LBJ Municipal Utility District in Llano County**; RN101459824; 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 68. **Docket No. 2005-0060-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **S. D. Harrison dba San Pedro Village in Val Verde County**; Public Water Supply ID No. 2330046, RN102672839; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

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

Item 69. **Docket No. 2005-0503-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mill Creek Water Supply Corporation in Grimes County**; Public Water Supply ID No. 0930054, RN101456069; 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. (Kent Heath, David Van Soest)

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

Item 70. **Docket No. 2003-0038-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David A. Fenoglio dba Sunset Water System in Montague County**; TCEQ ID Nos. 1690007 and RN102693579; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, 30 Tex. Admin. Code ch. 290, and the rules of the Texas Commission on Environmental Quality. (Deborah Bynum, Jennifer Cook)

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

Item 71. **Docket No. 2005-1055-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rancho Del Lago, Inc. dba Stallion Springs in Comal County**; RN101178382; 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.

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 72. **Docket No. 2005-0005-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Weirich Bros., Inc. in Kimble County**; Texas Pollutant Discharge Elimination System General Stormwater Permit No. TXR05P073, RN101935492; 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. (Suzanne Walrath, David Van Soest)

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

Item 73. **Docket No. 2005-0524-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **CSA Materials, Inc. in Coke County**; RN104506001; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward Moderow, David Van Soest)

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

RULE MATTERS

- Item 74. **Docket No. 2005-1719-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter C, Division 2, Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, Sections 114.62 and 114.64.

The proposed rulemaking would implement requirements of House Bill 1611, 79th Legislature, 2005, Regular Session, related to revisions to the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP). The rulemaking authorizes LIRAP to be administered by counties in accordance with Texas Government Code, Chapter 783, Uniform Grant and Contract Management, and allows for programmatic costs such as call-center management, assistance application oversight, invoice analysis, education, outreach, and advertising to be covered by LIRAP funds. The rulemaking deletes the requirement that only 5.0% of the funds provided to a county to fund LIRAP be used to cover administrative costs. Finally, the rulemaking changes the vehicle registration eligibility requirement from two years to 12 months. (Bob Wierzowiecki, Les Trobman) (Rule Project No. 2005-073-114-EN)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 114. KW/RM; all agree

- Item 75. **Docket No. 2005-1890-RUL.** Consideration of a petition for rulemaking under **30 TAC Section 20.15**.

The petitioner requests changes to the bulk mineral handling and bulk sand handling permits by rule (PBRs). Specifically, the petitioner requests that Section 106.144, Bulk Mineral Handling, and Section 106.145, Bulk Sand Handling, be amended to remove the applicability of the 300-foot setback requirement for existing facilities previously authorized by these PBRs or new source review permit, provided all other conditions of the PBR are met. (Anna Rodriguez, Booker Harrison) (Rule Project No. 2006-015-PET-NR)

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

- Item 76. **Docket No. 2005-1232-RUL.** Consideration of the adoption of amended Sections 290.251 - 290.253 and 290.256 of **30 TAC Chapter 290**, Public Drinking Water.

The adoption would revise Chapter 290 to implement Texas Health and Safety Code (THSC), Sections 372.001 and 372.005, as amended by House Bill (HB) 2428, 79th Legislature, 2005, Regular Session, and the exemption of provisions of HB 2428. These sections define "Commercial pre-rinse spray valve" and establish the performance standards for commercial pre-rinse spray valves, which require manufacturers or importers of plumbing fixtures sold in Texas to comply with the environmental performance standards for plumbing fixtures, which requires all plumbing fixtures such as showerheads, toilets, and faucets sold in Texas to conform with specific water use efficiency standards. THSC, Section 372.005, also requires that the commission create and maintain a current list of commercial pre-rinse spray valve models that are certified

to the commission by the manufacturer or importer to meet the performance standards. The initial listing fee for each model is \$50 and each annual renewal fee is \$25. HB 2428 exempts certain commercial pre-rinse spray valves that are sold before September 1, 2006, from the requirements of amended THSC, Section 372.005. The proposed rules were published in the September 30, 2005, issue of the *Texas Register* (30 TexReg 6208). (Scott Swanson, David Klein) (Rule Project No. 2005-037-290-PR)

Adopt the amended Sections 290.251 - 290.253 and 290.256 of 30 TAC Chapter 290. KW/RM; all agree.

AIR QUALITY STANDARD PERMIT

Item 77. **Docket No. 2005-1768-MIS.** Consideration for publication of, and hearing on issuance of a new air quality standard permit for maintenance, startup and shutdown (MSS) emission releases under authorized by 30 TAC Chapter 116, Subchapter F, Standard Permits. The standard permit would authorize the MSS portion of normal operations if those MSS emissions are not already authorized by another air authorization mechanism for a particular facility or related MSS activity. The new air quality standard permit will be effective upon issuance by the commission. (Blake Stewart, Janis Hudson)

Approve for publication of, and hearing, on issuance of a new air quality standard permit for maintenance, startup and shutdown (MSS) emission releases as authorized by 30 TAC Chapter 116, Subchapter F. RM/KW; all agree.

RULE MATTERS

Item 78. **Docket No. 2005-1630-RUL.** Consideration for publication of, and hearing on, proposed amendments to Sections 106.2, 106.4, 106.6, 106.8, and 106.50, the repeal of Sections 106.261 - 106.263, and new Sections 106.261, 106.263, 106.268, and 106.269 of **30 TAC Chapter 106**, Permits by Rule; amendments to Sections 116.10, 116.111, 116.116, 116.311, 116.614, 116.615, and 116.710 of **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification; and corresponding revisions to the state implementation plan (SIP) for Sections 106.2, 106.4, 106.6, 106.8, 116.10, 116.111, 116.116, 116.311, 116.614, 116.615, and 116.710. In addition, the commission is proposing that Section 106.50 be removed from consideration as a proposed revision to the SIP. Although not approved by the United States Environmental Protection Agency as a revision to the SIP, the commission submitted a previous version of Section 106.50, effective October 20, 2002, as a revision to the SIP.

The proposed rulemaking would revise Chapter 106 to reduce the emission limitations for nitrogen oxide, hazardous air pollutants, and carbon monoxide; define how emission increases are quantified at facilities using best available control technology; clarify the maximum amount of emissions that can be authorized without public notice; prohibit relaxation of emission controls; limit PBR emissions in Air Pollutant Watch List areas; clarify that non-routine, non-normal emissions are not authorized unless specifically stated in an applicable PBR; eliminate conflicting requirements; and include PBRs for maintenance startup and shutdown (MSS) and certain quantifiable and anticipated (QUAN) emissions. The proposed rulemaking would also revise Chapter 116 to facilitate

the inclusion of MSS emissions in standard permits and new source review permits. (Steve Hagle, Janis Hudson) (Rule Project No. 2005-016-106-PR)

Approve for publication of, and hearing on, proposed amendments to Sections 106.2, 106.4, 106.6, 106.8, and 106.50, the repeal of Sections 106.261 - 106.263, and new Sections 106.261, 106.263, 106.268, and 106.269 of 30 TAC Chapter 106, Permits by Rule; amendments to Sections 116.10, 116.111, 116.116, 116.311, 116.614, 116.615, and 116.710 of 30 TAC Chapter 116, and revisions to the State Implementation Plan. RM/KW; all agree.

Item 79. **Docket No. 2005-0792-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 101**, General Air Quality Rules; Subchapter F, Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities; Division 3, Operational Requirements, Demonstrations, and Actions to Reduce Excessive Emissions; Sections 101.1, 101.201, 101.211, and 101.221 - 101.223; and corresponding revisions to the Texas state implementation plan.

The adopted rulemaking would modify existing definitions, add new definitions, and revise the notification and reporting requirements for emissions events and scheduled maintenance, startup, and shutdown (MSS) activities. It would add the concepts of unplanned and planned MSS activities. It would provide for an affirmative defense for certain emissions from upset events and unplanned MSS activities, including excess opacity associated with upset events and unplanned MSS activities. It would also revise some of the demonstration criteria for qualifying for an affirmative defense. In addition, the adopted rulemaking would provide that the affirmative defense for planned MSS activities would be phased out according to a prescribed permit application schedule, and replaced by enforcement discretion until there is final action on the permit. Finally, the adopted rulemaking would incorporate applicable statutory changes in House Bill 2129, 79th Legislature, 2005, Regular Session. The proposed rules were published in the July 15, 2005, issue of the *Texas Register* (30 TexReg 4090). (Ramiro Garcia, Janis Hudson) (Rule Project Number 2005-024-101-CE).

Adopt amendments to 30 TAC Chapter 101 with changes submitted by the Executive Director and corresponding revisions to the Texas state implementation plan. RM/KW; all agree.

Item 80. **Docket No. 2005-1231-RUL.** Consideration of the adoption of amended Sections 291.3, 291.5, 291.7, 291.101, 291.102, 291.104 - 291.106, 291.109, 291.113, 291.115, 291.117, and 291.119 and new Section 291.120 of **30 TAC Chapter 291**, Utility Regulations.

The adoption will amend Chapter 291 to implement House Bill (HB) 2876, 79th Legislature, 2005, Regular Session. HB 2876 amended Texas Water Code (TWC), Sections 13.002, 13.241, 13.242, 13.244, 13.246, 13.247, 13.254, 13.255, and 13.257. HB 2876 also added new Sections 13.245, 13.2451, and 13.2551 to the TWC and repealed Sections 13.254(h) and 13.2541 from the TWC. The changes to the TWC and amendments to Chapter 291 relate to the criteria for obtaining, amending, transferring, and decertifying certificates of convenience and necessity for water and sewer service. HB 2876 requires the commission to promulgate rules to implement these changes by January 1, 2006.

In addition, this rulemaking will amend the definition of "Affected county" to be consistent with the revision to "affected county" in Senate Bill 425, 79th Legislature. The proposed rules were published in the September 30, 2005, issue of the *Texas Register* (30 TexReg 6211). (Doug Holcomb, Ross Henderson) (Rule Project No. 2005-036-291-PR)

Adopt the amended Sections 291.3, 291.5, 291.7, 291.101, 291.102, 291.104 - 291.106, 291.109, 291.113, 291.115, 291.117, and 291.119 and new Section 291.120 of 30 TAC Chapter 291 with the following alternative language to the preamble regarding 291.105(c), "As a result of the input and comments from effected parties and the public, the Commission recognizes the existence of interpretive differences in regards to the CCNs outside the cities' ETJs. Therefore, the Commission will not take any affirmative action on cities' CCNs outside their ETJ until after January 1, 2008 in order to conduct a study and to provide opportunities to cities to obtain any necessary land owner consent in those areas. This will also allow the Legislature to future consider this very important issue. During this period the Commission will consider those portions of cities pending CCN applications that are outside their ETJ, only if they provide landowner consent for those areas."; include an amendment to the 291.105(c)(2), "For those areas served by a municipality outside of its ETJ before September 1, 2005 pursuant to a CCN, a landowner in such an area who regularly receives and pays for service from the municipality is deemed to have consented to the CCN unless the landowner specifically objects in writing to such service."; add an amendment to 291.106(b)(3) the change amount of acreage for notice of CCN creation and decertification from 50 or more acres to 25 or more acres; and add clarification to the requirements of maps, plans, and specifications in CCN applications. KW/LS; 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.

The Commission did not meet in Executive Session.

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.

The Commission did not meet in Executive Session.

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.

The Commission 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, December 14, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2004-0806-PST-E; SOAH Docket No. 582-05-5036.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Sam Lakhani dba SLR Grocery in Travis County, Texas**; TCEQ ID Petroleum Storage Tank Facility ID No 0028091; regarding petroleum storage tank violations pursuant to Tex. Water Code Ann. § 26.3475 and Tex. Admin. Code §§ 334.48(c), 334.8(c)(5)(C), 334.22(a), 334.50(a)(1)(A), 334.49(c)(2)(C) and 334.49(c)(4)(C), and the rules of the Texas Commission on Environmental Quality.

Remanded to SOAH in order to provide another opportunity for hearing. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 2004-0630-UCR; SOAH Docket No. 582-04-6463.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **WaterCo, Inc.** seeking to increase rates for retail water utility service it provides under Certificate of Convenience and Necessity No. 10130 in **Trinity and Walker Counties, Texas**. The Commission will also consider timely public comments, the application, and related filings, exceptions and replies.

Adopt the ALJ's Order without exceptions. KWRM, LS opposed.

- Item 3. **TCEQ Docket Nos. 2001-1300-UCR, 2001-0813-UCR, 2002-1278-UCR, and 2002-1281-UCR; SOAH Docket Nos. 582-02-1652, 582-03-1820, 582-03-1821, and 582-03-1824.** Consideration of the Administrative Law Judge's Proposal for Decision, Proposed Order, and the parties' settlement, regarding the applications of the **Cities of McKinney, Melissa, and Anna and North Collin Water Supply Corporation** to amend water Certificates of Convenience and Necessity (CCNs) Nos. 10194, 11482, 12976, and 11035 and Sewer CCN No. 20898 and of the City of Melissa to obtain a Sewer CCN in **Collin County, Texas**. The Commission will also consider timely public comments, the applications, related filings, exceptions and replies.

Adopt the ALJ's Order and the parties' settlement agreement with exceptions provided by the City of Anna, in addition to the additional Findings of Fact provided by the Commissioners from the dais, and attach to the Order the ED's sewer and water DCCN maps filed on November 3, 2005. KW/LS; all agree.

Item 4. **TCEQ Docket No. 2005-0781-AIR; SOAH Docket No. 582-05-5612.** Consideration of the Administrative Law Judge's Certified Question regarding the application of **Sandy Creek Energy Associates, L.P.** for Air Quality Permit No. 70861 and PSD Permit No. PSD-TX-1039 relating to the construction and operation of an 800-megawatt, pulverized coal boiler power plant in **McLennan County**, Texas. The Commission will also consider all timely filed briefs and reply briefs filed in this matter.

Respond to the Certified Question in the negative. KW/RM; all agree.

/s/ Elaine Lucas
Assistant General Counsel,
Elaine Lucas

1-31-2006
Date