

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, October 27, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from September 29, 2004

- Item 1. **Docket No. 2004-1198-MWD.** Consideration of the application by **Falcon/Westminster - 2 Partnership, L.L.P.** for a major amendment of Texas Commission on Environmental Quality (TCEQ) Permit No. WQ0013880001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 20,460 gallons per day to a daily average flow not to exceed 29,260 gallons per day via subsurface drip irrigation and to increase the acreage irrigated from 4.7 acres to 6.84 acres. The facility and disposal site are located approximately 0.25 mile north of the intersection of U.S. Highway 183 and State Highway 29 in **Williamson County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Matt Beeter/Julian Centeno, Jr.)

Continued to the January 12, 2005 agenda.

Continued from the August 25, 2004, September 15, 2004, and September 29, 2004 agendas.

- Item 2. **Docket No. 2002-0886-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, L.P.** in **Brazoria County**; Air Account No. BL-0113-I; 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. (Trina Grieco, Suzanne Walrath)

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

Continued from the September 29, 2004 agenda.

- Item 3. **Docket No. 2002-0971-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Schenectady International, Inc. in Brazoria County**; Texas Pollutant Discharge Elimination System Permit No. 01961-000; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Tel Croston)

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

Continued from the October 13, 2004 agenda.

- Item 4. **Docket No. 2003-1377-RUL.** Consideration of the adoption of amended Sections 334.2, 334.5, 334.7 - 334.10, 334.12, 334.14, 334.46, 334.50, 334.55, 334.56, 334.302, 334.306 - 334.310, 334.313 - 334.315, 334.322, 334.530 - 334.535, and 334.560 of **30 TAC Chapter 334**, Underground and Aboveground Storage Tanks.

The rulemaking revises the standard for the reimbursement of eligible cleanup expenses related to leaking petroleum storage tank sites. Accountability provisions are added to the reimbursement rules and administrative changes are made to be consistent with Texas Register requirements and with other agency rules. In addition, the rules update and clarify existing rules regarding general provisions, technical standards, reimbursement, and overpayment. The proposed rules were published in the April 30, 2004 issue of the *Texas Register* (29 TexReg 4083). (Anton Rozsypal, Fred Meyers, David Green, Michael Bame) (Rule Project No. 2002-071-334-WS)

Approve adoption of amended Sections 334.2, 334.5, 334.7 - 334.10, 334.12, 334.14, 334.46, 334.50, 334.55, 334.56, 334.302, 334.306 - 334.310, 334.313 - 334.315, 334.322, 334.530 - 334.535, and 334.560 of 30 TAC Chapter 334. KW/RM; all agree.

AGENDA

Wednesday, October 27, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

- Item 1. **Docket No. 2004-1309-AIR.** Consideration of application by **Jeff Buyer dba Forever Pals** for a new Air Quality Permit No. 56173, to authorize an animal crematorium. The proposed facility will be located at 747 FM 1489, in Brookshire, **Waller County**. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Erica Parsons/Laura Pfefferle)

Deny the hearing requests, approve the permit, and adopt the ED's Response to Comments. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 2004-1088-MWD.** Consideration of the application for new wastewater treatment facility by **Milestone South Six Development, Ltd.** for a water quality permit, Permit No. WQ0014461001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility would be located along the north side of State Highway 6, approximately 3,500 feet east of the intersection of State Highway 288 and State Highway 6 in **Brazoria County**, Texas. The treated effluent would be discharged to an unnamed tributary and then to Chocolate Bayou Above Tidal in Segment No. 1108 of the San-Jacinto-Brazos Coastal Basin. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (David Akoma and Chris Pepper)

Deny the hearing request as the requester did not raise relevant and material issues within the comment period, approve the permit, and adopt the ED's Response to Comments. KW/RM; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 3. **Docket No. 2003-1232-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP** in **Jefferson County**; Air Account No. JE-0769-P, Regulated Entity ID No. RN100542349; 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. (Miriam Hall, Bill Davis)

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

- Item 4. **Docket No. 2004-0332-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Kaneka Texas Corporation in Harris County**; Air Account No. HG-1065-E, Regulated Entity No. RN100218841; 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. (Carolyn Lind, Bill Davis)

Continued to the November 10, 2004 agenda.

- Item 5. **Docket No. 2004-0591-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Range Resources Corporation in Brooks County**; Air Account No. BP-0028-C, Regulated Entity No. RN100840420; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Chad Blevins, Bill Davis)

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

- Item 6. **Docket No. 2003-0947-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **The Dow Chemical Company in Brazoria County**; Air Account No. BL-0082-B; 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, Bill Davis)

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

- Item 7. **Docket No. 2003-1138-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation dba ExxonMobil Chemical Company in Harris County**; Air Account No. HG-0229-F; 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. (Laura Clark, Bill Davis)

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

- Item 8. **Docket No. 2004-0098-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Great Lakes Carbon LLC dba Great Lakes Carbon Port Arthur Plant in Jefferson County**; Air Account No. JE0040F; 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, Bill Davis)

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

Item 9. **Docket No. 2003-1394-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MeadWestvaco Texas, L.P.** in **Jasper County**; Air Account No. JC-0003-K; 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. (Laura Clark, Bill Davis)

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

Item 10. **Docket No. 2001-1103-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Union Carbide Corporation** in **Galveston County**; Air Account No. GB-0076-J; 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. (Trina Grieco, Bill Davis)

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

Item 11. **Docket No. 2003-0657-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **McLain and Associates, Inc. dba Construction Management and Consulting** in **Parker County**; TCEQ ID Nos. PC0303I and RN102914603; for air quality violations pursuant to the Texas Clean Air Act, 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. (Sarah Jane Utley, Bill Davis)

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

Item 12. **Docket No. 2000-1144-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Formosa Plastics Corporation, Texas** in **Calhoun County**; TCEQ ID Nos. CB-0038-Q and RN100218973; for air quality violations pursuant to the Texas Clean Air Act, 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, Bill Davis)

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

Item 13. **Docket No. 2003-0149-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Union Pacific Railroad**

Company in El Paso County; Air Account No. EE-0388-L, Regulated Entity ID No. RN102065752; 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. (Steven Lopez, Bill Davis)

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

Item 14. **Docket No. 2004-0045-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Motiva Enterprises, LLC in Jefferson County**; Air Account No. JE-0095-D; 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. (Jorge Ibarra, P.E., Bill Davis)

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

Item 15. **Docket No. 2004-0394-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Intercoastal Terminal, Inc. in Galveston County**; Air Account No. GB-0050-E, Regulated Entity Reference No. RN102178613; 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, Bill Davis)

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

Item 16. **Docket No. 2003-1122-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP in Nueces, Jim Wells, Bee, Live Oak, and Lavaca Counties**; Air Account Nos. NE-0188-T, NE-0354-D, NE-0028-T, NE-0029-R, JG-0017-B, BE-0032-M, JG-0018-W, LK-0027-R, and LE-0012-W; 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. (Edward R. Moderow, Bill Davis)

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

Item 17. **Docket No. 2004-0477-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Teco Gas Processing, LLC. in Polk County**; Air Account PF-0049-M, Regulated Entity No. RN100228998; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Chad Blevins, Bill Davis)

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

Item 18. **Docket No. 2004-0593-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Lone Star Pipeline Company, Inc. in Waller County;** Air New Source Permit Account No. WB0036F, Regulated Entity ID No. RN102198819; 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. (Cari Bing, Bill Davis)

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

AIR QUALITY ENFORCEMENT DEFAULT ORDER

Item 19. **Docket No. 2003-0184-AIR-E.** Consideration of a Default Order assessing administrative penalties against **Keane Landscaping, Inc. in Collin County;** TCEQ ID Nos. CP-0348-K and RN 100796903; for air quality violations pursuant to the Texas Clean Air Act, 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. (Wendy Cooper, Bill Davis)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS

Item 20. **Docket No. 2004-0122-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Northside Independent School District in Bexar County;** Edwards Aquifer Site Registration No. 13-96081303, Regulated Entity ID No. RN103098927; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Jaime Garza, Bill Davis)

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

Item 21. **Docket No. 2004-0601-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Transit Mix Concrete & Materials Company in Williamson County;** Edwards Aquifer ID Nos. 1104011601 and 1104011601A, Regulated Entity ID No. RN104131800; 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. (Merrilee Hupp, Bill Davis)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

- Item 22. **Docket No. 2004-0376-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **Rhodia Inc. in Harris County**; Solid Waste Registration No. 31019; Hazardous Waste Permit No. 50095; Regulated Entity No. RN100220581; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Clausewitz, Bill Davis)

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

- Item 23. **Docket No. 2003-1510-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Technical Chemical Company in Johnson County**; Solid Waste Registration No. 87191; 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. (Elvia Maske, Bill Davis)

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

- Item 24. **Docket No. 2004-0373-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U S Department of the Army, Red River Army Depot in Bowie County**; Solid Waste Registration Number 67004, Regulated Entity ID No. RN103006714; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Bill Davis)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

- Item 25. **Docket No. 2003-1567-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Toshiba International Corporation in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 03153; 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, Bill Davis)

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

LICENSED IRRIGATOR ENFORCEMENT AGREED ORDER

- Item 26. **Docket No. 2003-0445-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Vincent Robinson in Fort Bend County**; Regulated Entity Reference No. RN103665675; for licensing violations pursuant to Tex. Water Code chs. 7 and 34 and the rules of the Texas Commission on Environmental Quality. (Ronnie Kramer, Bill Davis)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

- Item 27. **Docket No. 2002-1356-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bella Firma Development Inc. dba Granbury Mobile Home Park in Hood County**; Public Water Supply No. 1110086; for water quality and drinking water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, Bill Davis)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 28. **Docket No. 2003-1264-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Lockhart and Guadalupe-Blanco River Authority in Caldwell County**; Texas Pollutant Discharge Elimination System (TPDES) Permit No. 10210-001; 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 Tex. Admin. Code ch. 60. (Audra L. Ruble, Bill Davis)

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

- Item 29. **Docket No. 2004-0086-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Fall Creek Utility Company, Inc. in Hood County**; TCEQ Wastewater Permit No. 13809-001; 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. (Mac Vilas, Bill Davis)

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

ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT AGREED ORDER

- Item 30. **Docket No. 2003-0714-OSS-E.** Consideration of an Agreed Order revoking the Designated Representative License and requiring certain actions of **James L. Davis** in **Liberty County**; TCEQ ID Nos. OS6653 and RN103742276; for on-site sewage installer violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code chs. 7 and 37, and the rules of the Texas Commission on Environmental Quality. (Gitanjali Yadav, Bill Davis)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

- Item 31. **Docket No. 2003-1585-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **Joe Shofner dba E Z Stop** in **Shelby County**; Petroleum Storage Tank Facility ID No. 21855; 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. (Lori Thompson, Bill Davis)

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

- Item 32. **Docket No. 2003-1294-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Iraz, Inc. dba Tejas Grocery** in **Hardin County**; Petroleum Storage Tank Facility ID No. 6899; 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. (Jorge Ibarra, P.E., Bill Davis)

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

- Item 33. **Docket No. 2003-0925-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Joseph T. Endari dba Endari's Exxon** in **Jefferson County**; TCEQ ID Nos. 26694 and RN101628238; for petroleum storage tank violations pursuant to Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Bill Davis)

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

- Item 34. **Docket No. 2003-0842-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kellogg Brown & Root, Inc.** in **Harris County**; TCEQ ID Nos. 0000184 and RN101057172; 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. (Rebecca Nash Petty, Bill Davis)

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

Item 35. **Docket No. 2003-1181-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Yaa Ali Corporation in San Jacinto County**; TCEQ ID Nos. 58102 and RN102388832; 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. (Laurencia Fasoyiro, Bill Davis)

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

Item 36. **Docket No. 2001-0849-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Transeastern, Inc. in Harris, Jasper, Angelina, Smith, Orange, San Augustine, Tyler, Jefferson, Nueces, Nacogdoches, Williamson, Travis, Bexar, Fort Bend, and Hardin Counties**; TCEQ ID No. RN100928571; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 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. (Gitanjali Yadav, Bill Davis)

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

Item 37. **Docket No. 2004-0528-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Jones Oil, Inc. in Harris County**; Regulated Entity No. 100522770; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Bill Davis)

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

Item 38. **Docket No. 2003-0878-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Arif Jindani dba Rozis Mini Mart in Galveston County**; TCEQ ID Nos. 27207, RN 102387420 and CN 601244825; 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. (Wendy Cooper, Bill Davis)

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

Item 39. **Docket No. 2002-1146-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Arnold Felts dba A & D General Store in Tom Green County**; Petroleum Storage Tank Facility ID No. 71010,

Public Water Supply ID No. 2260059, Regulated Entity Reference No. RN102314770; for petroleum storage tank and drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jill Reed, Bill Davis)

Remand the item to the Executive Director. RM/KW; all agree.

Item 40. **Docket No. 2004-0136-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **TravelCenters Properties LP dba TravelCenters in Denton County**; Petroleum Storage Tank Facility ID No. 41891; Regulated Entity Reference No. RN102469350; 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 Tex. Admin. Code ch. 60. (Lori Thompson, Bill Davis)

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

Item 41. **Docket No. 2004-0110-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Red Man Pipe & Supply Company in Harris County**; Petroleum Storage Tank Facility ID No. 0003944; 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. (Ed Moderow, Bill Davis)

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

Item 42. **Docket No. 2004-0605-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mike Meghani dba Four Star Citgo in Tarrant County**; Petroleum Storage Tank Registration ID No. 7301, Regulated Entity ID No. RN101375988; 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. (Leila Pezeshki, Bill Davis)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER

Item 43. **Docket No. 2002-0265-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **R. Master & Sons, Inc. dba Get & Go in Calhoun County**; TCEQ ID No. 47665 and RN101733533; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Alfred Okpohworho, Bill Davis)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 44. **Docket No. 2002-0855-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Cardinal Meadows Improvement District in Jefferson County**; TCEQ ID No. 1230020; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Wendy Cooper, Bill Davis)

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

Item 45. **Docket No. 2003-0324-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Lawn in Taylor County**; TCEQ Public Water Supply Facility ID No. 2210005, Regulated Entity ID No. RN101406916; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Bill Davis)

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

Item 46. **Docket No. 2003-1546-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Five Nine Seven Limited Partnership dba Ramblewood Mobile Home Park in Brazos County**; PWS ID No. 0210006; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (John Schildwachter, Bill Davis)

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

Item 47. **Docket No. 2004-0290-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Aqua Utilities, Inc. in McLennan County**; Public Water Supply ID No. 1550125; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Judy Kluge, Bill Davis)

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

Item 48. **Docket No. 2004-0494-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Walnut Creek Special Utility District in Parker County**; Public Water System ID No. 1840008; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Judy Kluge, Bill Davis)

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

SLUDGE ENFORCEMENT AGREED ORDER

Item 49. **Docket No. 2003-1227-SLG-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brownsville Navigation District** in **Cameron County**; Sludge Transporter Registration No. 21816; for water quality 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. (Stacey Young, Bill Davis)

Item remanded by General Counsel to the Executive Director.

SOLID WASTE REGISTRATION ENFORCEMENT AMENDED AGREED ORDERS

Item 50. **Docket No. 1994-0138-SWR-E.** Consideration of an Amended Agreed Order amending certain provisions of an April 12, 1994 Agreed Order issued against **Professional Service Industries, Inc.** in **Harris County**; TCEQ ID No. 78766 for violations under Tex. Health and Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. (David Speaker, Bill Davis)

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

Item 51. **Docket No. 1994-0132-SWR-E.** Consideration of an Amended Agreed Order amending certain provisions of an April 12, 1994 Agreed Order issued against **Aqua Solutions, Inc.** in **Harris County**; TCEQ ID No. 52127 for violations under Tex. Health and Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. (David Speaker, Bill Davis)

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

WASTEWATER OPERATOR CERTIFICATION ENFORCEMENT DEFAULT ORDER

Item 52. **Docket No. 2003-0652-WOC-E.** Consideration of a Default Order revoking the Class C Wastewater License and the Class C Groundwater License, and requiring certain actions of **Cicero Patton** in **Williamson County and Bell County**; TCEQ ID Nos. 0003454 and 0005801; for occupational certification violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 7, 26 and 37, and the rules of the Texas Commission on Environmental Quality. (Gitanjali Yadav, Bill Davis)

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

EMERGENCY ORDERS

Item 53. **Docket No. 2004-0886-PWS-E.** Consideration of whether to affirm, modify, or set aside an Emergency Order pursuant to Tex. Water Code Sections 5.501, 5.507, and

13.4132, and 30 Tex. Admin. Code chs. 35, 290, and 291 to address the continuing unauthorized abandonment of a retail public utility (Utility) by **Julia Hlavaty dba Fort Stanley Area Water Utility, Angelina County**, located on FM 2109, northeast of Zavala, TCEQ ID No. 0030015; to ensure continued operation of the Utility, and to provide continuous and adequate service to the Utility's customers. The Emergency Order appoints Four Way Water Supply Corporation as temporary manager of the Utility. (Jim Sallans)

Item remanded by General Counsel to the Executive Director.

Item 54. **Docket No. 2003-0378-PWS-E.** Consideration of whether to affirm, modify, or set aside an Emergency Order issued on October 6, 2004 by the Executive Director of the Texas Commission on Environmental Quality pursuant to TEX. WATER CODE §§ 5.501, 5.507, and 13.4132, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 288, 290, and 291 to address the abandonment of a retail public utility (Utility) by **Sandy Beach Villa Resort, Inc. dba Sandy Beach Recreational Park, Brown County**, located at HC 30, Box 146-D in Brownwood, TCEQ PWS ID NO. 0250032; to ensure continued operation of the Utility, and to provide continuous and adequate service to the Utility's customers. The Emergency Order appoints Mr. Patrick King as temporary manager of the Utility. (Benjamin J. de Leon)

Issue the Commission Order affirming the Emergency Order issued by the Executive Director on October 6, 2004, after substituting in the Commission Order "by first class mail" for "by and by first class mail". RM/KW; all agree

RULE MATTERS

Item 55. **Docket No. 2004-0484-RUL.** Consideration for adoption of a revision to the state implementation plan (SIP) concerning the rate-of-progress (ROP) demonstration for the **Houston/Galveston/Brazoria (HGB) ozone nonattainment area**. The adopted SIP revision will update the emission inventories, ROP budgets, and motor vehicle emission budgets (MVEBs) to reflect the use of new EPA emission factor models (NONROAD and MOBILE6) and new motor vehicle activity estimates. The revised emission inventories, ROP budgets, and MVEBs are consistent with concurrent SIP proposals. Additionally, new emission inventories, ROP budgets, and MVEBs are being adopted for milestone years 2002, 2005, and 2007. (Erik Gribbin, Terry Salem) (Project Number 2004-049b-SIP-NR)

Approve the adoption of the revision to the state implementation plan (SIP) concerning the rate-of-progress (ROP) demonstration for the Houston/Galveston/Brazoria (HGB) ozone nonattainment area, with the revision to the response to comments as made by Commissioner Soward from the dias. RM/KW; all agree.

Item 56. **Docket No. 2004-0485-RUL.** Consideration for adoption of a revision to the state implementation plan (SIP) concerning the rate-of-progress (ROP) demonstration for the **Beaumont/Port Arthur (BPA) ozone nonattainment area**. The adopted SIP revision

will update emission inventories, ROP budgets, and motor vehicle emission budgets (MVEB) to reflect the use of new EPA emission factor models (NONROAD and MOBILE6) and new motor vehicle activity estimates. The revised emission inventories, ROP budgets, and MVEBs are consistent with concurrent SIP proposals. Additionally, new emission inventories, ROP budgets, and MVEBs are being adopted for milestone years 1999, 2002, and 2005 because the BPA area has been reclassified with a new attainment date of 2005. (Erik Gribbin, Terry Salem) (Project Number 2004-049a-SIP-NR)

Approve the adoption of the revision to the state implementation plan (SIP) concerning the rate-of-progress (ROP) demonstration for the Beaumont/Port Arthur (BPA) ozone nonattainment area, with the revision to the response to comments as made by Commissioner Soward from the dias. RM/KW; all agree.

Item 57. **Docket No. 2004-0475-RUL.** Consideration for adoption of a revision to the state implementation plan (SIP) concerning the attainment demonstration for the **Beaumont-Port Arthur (BPA) ozone nonattainment area**. The adoption contains results of photochemical modeling and technical analyses in support of the demonstration of attainment of the eight-hour ozone standard, and a new Motor Vehicle Emissions Budget using MOBILE6, the newest version of EPA's emission factor model for mobile sources. (Erik Gribbin, Janis Hudson) (Project Number 2004-053-SIP-NR)

Approve the adoption of the revision to the state implementation plan (SIP) concerning the attainment demonstration for the Beaumont-Port Arthur (BPA) ozone nonattainment area, with the revision to the response to comments as made by Commissioner Soward from the dias. RM/KW; all agree.

Item 58. **Docket No. 2004-1330-RUL.** Consideration for publication of, and hearing on, proposed new Sections 37.9201, 37.9205, 37.9210, 37.9215, and 37.9220 of **30 TAC Chapter 37**, Financial Assurance; and new Sections 337.1 - 337.4, 337.10 - 337.15, 337.20 - 337.22, 337.30 - 337.32, 337.40, 337.41, 337.50, 337.51, 337.60 - 337.63, 337.70 - 337.72, and 337.80 of **30 TAC new Chapter 337**, Dry Cleaner Environmental Response. The proposed new sections would implement House Bill 1366, 78th Legislature, Regular Session, 2003.

The proposed rules would establish provisions for the regulation and remediation of dry cleaning solvents, including fee payment and registration procedures for dry cleaning facilities, drop stations, and distributors; standards for solvent delivery, handling, and disposal; specifications for recordkeeping, audits, and financial assurance; and requirements relating to use of the dry cleaning remediation fund. (Grace Nell Tyner, Caroline Sweeney, Derek Chapin, Michael Bame) (Rule Project No. 2003-047-337-WS)

Approve publication of, and hearing on, proposed new Sections 37.9201, 37.9205, 37.9210, 37.9215, and 37.9220 of 30 TAC Chapter 37, Financial Assurance; and new Sections 337.1 - 337.4, 337.10 - 337.15, 337.20 - 337.22, 337.30 - 337.32, 337.40, 337.41, 337.50, 337.51, 337.60 - 337.63, 337.70 - 337.72, and 337.80 of 30 TAC new Chapter 337, with the deletion of dry cleaning drop station from section 337.15. KW/RM; all agree.

Item 59. **Docket No. 2004-0308-RUL.** Consideration of the adoption of new Sections 115.620 - 115.622, 115.626, 115.627, and 115.629 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds; and corresponding revisions to the state implementation plan.

The adoption would implement new rules per commission directive of December 5, 2001, concerning consideration of a petition from Fluoro-Seal. The rules would be a new Division 2, Portable Fuel Containers, in Subchapter G, Consumer-Related Sources. The provisions would specify performance standards, testing requirements, and labeling requirements for portable fuel containers manufactured on or after December 31, 2005, for sale in Texas. The rules would apply statewide. The proposed rules were published in the June 11, 2004 issue of the *Texas Register* (29 TexReg 5747). (Roland Castaneda, Les Trobman, Joseph Thomas) (Rule Project No. 2004-033-115-AI)

Approve adoption of new Sections 115.620 - 115.622, 115.626, 115.627, and 115.629 of 30 TAC Chapter 115 and corresponding revisions to the state implementation plan. KW/RM; all agree.

Item 60. **Docket No. 2004-0309-RUL.** Consideration of the adoption of the repeal of Sections 114.452 and 114.459 of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles; Subchapter I, Non-Road Engines; Division 6, Lawn Service Equipment Operating Restrictions; and corresponding revisions to the state implementation plan.

The adoption would repeal the lawn service equipment operating restrictions that are scheduled to go into effect April 1, 2005. The proposed rules were published in the June 11, 2004 issue of the *Texas Register* (29 TexReg 5736). (Roland Castaneda, Rebecca Davis, Debra Barber) (Rule Project No. 2004-034-114-AI)

Approval of the repeal of Sections 114.452 and 114.459 of 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

Item 61. **Docket No. 2004-0006-RUL.** Consideration of the adoption of amendments to **30 TAC Section 111.209**, Exception for Disposal Fires along with corresponding revisions to the Texas state implementation plan; and Section 330.4, Permit Required.

The adoption would conform agency rules with Senate Bill 216, 78th Legislature, Regular Session, 2003, which allows veterinarians to burn or bury animals and associated medical waste provided certain conditions are met. The proposed rules were published in the May 28, 2004 issue of the *Texas Register* (29 TexReg 5276). (Phil Harwell, Wayne Harry, Dan Long, Todd Galiga, Emily Barrett) (Rule Project No. 2004-003-330-WS)

Approve adoption of amendments to 30 TAC Section 111.209 and corresponding revisions to the Texas state implementation plan; and Section 330.4, Permit Required. KW/RM; all agree.

Item 62. **Docket No. 2004-0307-RUL.** Consideration of the adoption of the repeal of Sections 114.500, 114.502, 114.507, and 114.509 of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles; Subchapter J, Operational Controls for Motor Vehicles;

Division 1, Motor Vehicle Idling Limitations; and corresponding revisions to the state implementation plan.

The adoption repeals the rules that prohibit a motor vehicle over 14,000 pounds from idling for more than five consecutive minutes in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties during the period of April 1 through October 31 of each calendar year. The proposed repeals were published in the June 11, 2004 issue of the *Texas Register* (29 TexReg 5741). (Scott Carpenter, Rebecca Davis, Debra Barber) (Rule Project No. 2004-043-114-AI)

Item continued to the December 1, 2004 agenda. RM/LS; all agree.

EXECUTIVE SESSION

Item 63. **Docket No. 1998-1154-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

Item 64. **Docket No. 1999-0024-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The commission approved intervention in *Blue Skies Alliance, Downwinders at Risk, Public Citizen, and Sierra Club v. Michael O. Leavitt, Administrator, EPA; Richard E. Greene, Regional Administrator, Region VI, and United States Environmental Protection Association*, Northern District of Texas, U.S. District Court. KW/RM; all agree.

Item 65. **Docket No. 1999-0025-EXE.** The Commission will conduct a closed session to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)

REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.

OLD BUSINESS AGENDA

Wednesday, October 27, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the May 12, 2004, July 28, 2004, and September 29, 2004 agendas.

- Item 1. **TCEQ Docket No. 2002-1378-MWD; SOAH Docket No. 582-03-2828.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Lake Travis II Investments, Ltd.** for a wastewater permit pursuant to Chapter 26 of the Texas Water Code. The proposed wastewater treatment facilities and disposal site would be located approximately 0.8 miles west of Mansfield Dam and 0.5 miles south of Ranch Road 620 in **Travis County**, Texas. The Commission will also consider timely public comments and the Executive Director's response to such comments, and related filings, exceptions and replies.

Continued to the December 15, 2004 agenda.

AGENDA

Wednesday, October 27, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **TCEQ Docket No. 2003-0597-UCR; SOAH Docket No. 582-03-3827.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the applications of **North Orange Water & Sewer LLC** seeking approval to change its water and sewer rates and tariffs for the Country Squire water and sewer systems and to recover associated rate case expenses from ratepayers. Applicant is an investor-owned utility that operates three separate water and sewer utility systems in **Orange County, Texas: Country Squire, Chasse Hollow, and Longford Place.** This case involves only the Country Squire water and sewer systems. The Commission will also consider the applications, related filings, exceptions and replies.

Item continued to the November 10, 2004 agenda. KW/LS; all agree.

/s/ Celeste Baker
Assistant General Counsel,
Celeste Baker

12/13/2004
Date