

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, November 30, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the November 9, 2005 agenda.

- Item 1. **Docket No. 2004-0083-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John Popma dba Marketing Interface Company in Upshur County**; TCEQ ID Nos. 37333 and RN103146049; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohworho, Jennifer Cook)

Remanded to the Executive Director.

Continued from the November 9, 2005 agenda.

- Item 2. **TCEQ Docket No. 2003-1213-MWD; SOAH Docket No. 582-04-1194.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **San Jacinto River Authority** for renewal of TPDES Permit No. 11401-001 relating to The Woodlands Wastewater Treatment Facility No. 1 in **Montgomery County**, Texas. The Commission will consider timely public comments, related filings, exceptions and replies.

Adopt the ALJ's revised Order with revisions as filed by the Executive Director November 17, 2005. KW/RM; all agree.

## AGENDA

Wednesday, November 30, 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. 2005-1510-MSW.** Consideration of an application by **Roy Eugene Donaldson, II**, for a permit to authorize **Texas Organic Recovery Compost Facility**, a Type V municipal solid waste composting facility (Permit Number 2320). The proposed facility would be authorized to compost municipal sewage sludge, septage, grease trap waste, and positively sorted organic material limited to paper, cardboard, wood, and vegetative food matter. The proposed site is a 15.23 acre facility, located at 15500 Goforth Road, approximately 2,000 feet south of the intersection of County Road 177 and Goforth Road in southeast **Travis County**. The Commission will also consider the requests for hearing or reconsideration and related responses and replies, public comment, and Executive Director's Response to Comments. (Lesley Nicholes/Jeff Holderread)

Grant the hearing requests of Ann Messer, Julie Moore, Juli Phillips, M.D. Thomson, and H. Philip Whitworth; refer the matter to SOAH for a duration of 6 months, with ADR available concurrently with the SOAH referral, on the issues of: 1. whether odor from the facility will cause nuisance conditions interfering with the use and enjoyment of the requesters' property; 2. whether the facility's operation will comply with the TCEQ rules enacted to protect groundwater; 3. whether the facility's operation will comply with the TCEQ rules enacted to prevent the contamination of surface water; 4. whether the facility will be operated in compliance with 30 TAC § 332.45(10), enacted to prevent unauthorized and prohibited materials from application or incorporation into feedstocks, in-process materials, or processed materials; 5. whether the facility's operation will comply with 30 TAC § 332.45(11), which requires compliance with end-product testing and standards; 6. whether the facility's Site Operating Plan includes appropriate fire prevention and control measures; 7. whether the facility will meet applicable air quality requirements; and 8. whether the facility will meet applicable requirements for prevention of the delivery of unauthorized and prohibited materials at the site. KW/RM; all agree.

- Item 2. **Docket No. 2005-1519-MWD.** Consideration of the application by **14875 Partners, Ltd.**, for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014516001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 87,500 gallons per day in the interim I phase, a daily average flow not to exceed 262,500 gallons per day in the interim II phase and a daily average flow not to exceed 437,500 gallons per day in the final phase. The facility will be located approximately 2,000 feet south of the intersection of County Road 50 and County Road 7, approximately 6,500 feet north of the intersection of County Road 50 and County Road 5 in **Collin 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. (Alicia Lee, David Akoma)

Grant the hearing request of Julia Jackson Gray; refer the matter to SOAH for a duration of 4 months, with ADR available concurrently with the SOAH referral for 4-6 weeks, issue a preliminary fact finding question to the ALJ of whether or not the Applicant's proposed project is within the Upper Trinity Regional Water District boundaries in determining their party status; and on the issues of: 1. whether existing or proposed areawide or regional waste collection, treatment, and disposal systems can satisfy the need for the proposed new wastewater treatment plant; 2. whether odor from the facility will cause nuisance conditions interfering with use and enjoyment of property; and 3. whether phosphorus limits in the draft permit are protective of terrestrial and aquatic life. KW/LS; all agree.

Item 3. **Docket No. 2005-1517-MWD.** Consideration of the application by **Travis County Municipal Utility District No. 4** for a new permit, proposed TCEQ Permit No. WQ0014430001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day (MGD) via surface irrigation of 110 acres of land in the interim phase and the disposal of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day via surface irrigation of 220 acres of land in the final phase. The wastewater treatment facility and disposal site will be located approximately 13,000 feet west-northwest of the intersection of Mopac Expressway (Loop1) and Loop 360 (Capital of Texas Highway) in **Travis County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Robert Brush/Kent H. Trede)

Grant the hearing requests of Save Our Springs Alliance and the Travis Country Community Service Association and refer the matter to SOAH for a duration of 9 months, with the option of ADR available for 4-6 weeks, on the issues of: 1. whether runoff from the proposed irrigation areas will contaminate or cause water quality degradation in groundwater or surface water, including the Edwards Aquifer, Barton Springs, Barton Creek, Sycamore Creek, the Colorado River, and nearby water wells; 2. whether there will be health impacts caused by potential runoff during storm events and contact with treated effluent from the land application site and effluent pond; 3. whether the soil and geologic characteristics at the proposed application area are adequate to support the proposed land application activities; 4. whether the calculations of wastewater irrigation evaporation and nutrient loadings support the proposed land application rates; 5. whether the permit should be modified or denied based on the Applicants compliance history; 6. whether nearby residents will be exposed to nuisance odors; 7. whether the effluent limitations in the draft permit are adequately protective of water quality; 8. whether the frequency of soil sampling required in the draft permit is sufficient to allow for seasonal variations in nutrient uptake; 9. whether the permit application properly shows the correct location of the proposed wastewater treatment plant and effluent disposal area; 10. whether berm placement will ensure that there is no trailwater or overflow during storm events; 11. whether the permit application was processed in accordance with applicable policy regarding the Endangered Species Act; and 12. whether the draft permit contains adequate buffer zone requirements based on applicable rules. KW/RM; all agree

## **MOTION TO OVERTURN**

- Item 4. **TCEQ Docket No. 2002-0431-UCR; SOAH Docket No. 582-02-3005.** Consideration of the Motion to Overturn filed by the **City of Lyford** concerning an Executive Director order dated September 12, 2005, with regard to Application No. 33790-C and issuing Water Certificate of Convenience and Necessity No. 13035 to the City for the provision of water service in **Willacy County**, and related filings.

Grant the Motion to Overturn and set aside the September 12, 2005 Order, remand the City of Lyford's amended application to the Executive Director for correction to the map and reissue the CCN. KW/RM; all agree.

## **AGRICULTURAL ENFORCEMENT AGREED ORDER**

- Item 5. **Docket No. 2005-0627-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Penn-Cal, L.L.C. in Erath County**; Texas Pollutant Discharge Elimination System Permit No. 0003199000; RN102313244; 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.

## **AIR QUALITY ENFORCEMENT AGREED ORDERS**

- Item 6. **Docket No. 2005-0858-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Arkema Inc. in Harris County**; RN100209444; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jaime Garza, David Van Soest)

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

- Item 7. **Docket No. 2005-0645-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **BP Amoco Polymers, Inc. in Harris County**; TCEQ Air Account No. HX2897U; RN102537289; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jaime Garza, David Van Soest)

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

- Item 8. **Docket No. 2005-0520-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Builders Marble Company in Collin County**; RN104491055, for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission

on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Miriam Hall, David Van Soest)

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

Item 9. **Docket No. 2005-0675-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **CROWN Cork & Seal USA, Inc.** in **Montgomery County**; Air Account No. MQ0117B; RN100711118; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, David Van Soest)

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

Item 10. **Docket No. 2005-0426-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Headwaters Resources, Inc.** in **Rusk County**; RN103003117; 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. (Elvia Maske, David Van Soest)

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

Item 11. **Docket No. 2004-1580-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Liquid Environmental Solutions of Texas, L.P.** in **Dallas County**; Air Account No. DB1564M; RN103002713; for air quality violations pursuant to Tex. Health & Safety Code chs. 361 and 382, 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. (Rebecca Johnson, David Van Soest)

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

Item 12. **Docket No. 2005-1172-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lyondell-Citgo Refining LP** in **Harris County**; RN100218130; 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 13. **Docket No. 2004-0620-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Reece Albert, Inc.** in **Tom Green County**; RN104175864; 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. (Jill McNew, David Van Soest)

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

Item 14. **Docket No. 2005-1372-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **San-Coat, Inc. dba Sandblasting & Coating FA** in **Bexar County**; RN102326527; 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, David Van Soest)

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

Item 15. **Docket No. 2004-2026-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Motiva Enterprises, LLC** in **Jefferson County**; Air Account No. JE0095D; RN100209451; 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. (Bryan Elliott, David Van Soest)

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

Item 16. **Docket No. 2005-0310-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lucite International, Inc.** in **Jefferson County**; RN102736089; 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. (Judy Kluge, David Van Soest)

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

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**

Item 17. **Docket No. 2005-0728-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Stewart Builders, Ltd. dba Keystone Concrete Placement** in **Williamson County**; RN103952677; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., David Van Soest)

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

Item 18. **Docket No. 2004-1976-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Brasada Ford, LTD dba Northside Ford** in **Bexar County**; RN101993012; 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. (Pamela Campbell, David Van Soest)

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

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 19. **Docket No. 2004-1918-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **Sunoco, Inc. (R&M)** in **Harris County**; TCEQ ID Nos. 30486 and RN100524008; for industrial and hazardous waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jennifer Cook, David Van Soest)

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

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 20. **Docket No. 2005-1062-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alamo Concrete Products, Ltd.** in **Comal County**; RN100248681; 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. (Brent Hurta, David Van Soest)

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

Item 21. **Docket No. 2005-0462-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gardner Glass Products, Inc.** in **Walker County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 02919; RN100242973; 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. (Joseph Daley, David Van Soest)

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

Item 22. **Docket No. 2004-0674-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Lubrizol Corporation** in **Harris County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000639000, RN100221589; for water quality violations pursuant to Tex. Water Code chs. 5, 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. (Kimberly Morales, David Van Soest)

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

## LICENSED IRRIGATOR ENFORCEMENT AGREED ORDERS

Item 23. **Docket No. 2005-0776-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David Delgado in El Paso County**; RN104552765; for licensing violations pursuant to Tex. Water Code ch. 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Brian Lehmkuhle, David Van Soest)

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

Item 24. **Docket No. 2005-0409-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pedro Aristeguieta in Bexar County**; RN104510151; 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. (Kimberly Morales, David Van Soest)

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

## MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

Item 25. **Docket No. 2005-0768-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Septic Hydro-Tec, Inc. in Polk County**; RN103151155; for licensing 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, including specifically 30 Tex. Admin. Code ch. 60. (John Barry, David Van Soest)

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

## MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 26. **Docket No. 2005-0803-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Astro Waste, Inc. in Harris County**; RN103158648; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (A. Sunday Udoetok, David Van Soest)

Continue this matter to the January 11, 2006 agenda. KW/LS; all agree.

Item 27. **Docket No. 2005-1115-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **John Boykin Jr. dba Boykin Homes & Land Sales in Hardin County**; RN103915633; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward R. Moderow, David Van Soest)

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



## MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 28. **Docket No. 2005-0229-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Eldorado in Schleicher County**; Texas Pollutant Discharge Elimination System Permit No. 10165-001, RN102671690; 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 29. **Docket No. 2005-0872-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Fort Bend County Municipal Utility District No. 50 in Fort Bend County**; RN102815214; 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. (Kimberly Morales, David Van Soest)

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

Item 30. **Docket No. 2003-0271-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Port Arthur in Jefferson County**; Texas Pollutant Discharge Elimination System Permit Nos. 10364-001 and 10364-002; 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.

Item 31. **Docket No. 2005-1034-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Coil Tubing Services, L.L.C. in Jim Wells County**; RN103934329; 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.

Item 32. **Docket No. 2005-0593-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lago Vista in Travis County**; RN101609683; 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 33. **Docket No. 2004-1522-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Eugenia Balaban in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 13749001, Regulated Entity Reference No. RN102340403; 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.

Item 34. **Docket No. 2005-0944-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Trinity Bay Conservation District in Chambers County**; RN102077393; 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 Limos, David Van Soest)

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

Item 35. **Docket No. 2004-2040-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Grandview in Johnson County**; RN101918753; 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. 2005-0538-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Abbott in Hill County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11544001; RN101720753; 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. (Chad Blevins, David Van Soest)

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

Item 37. **Docket No. 2005-0685-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Jatra International, Inc. in Freestone County**; RN101516037; 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 38. **Docket No. 2005-1000-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Hardin Independent School District Public Facility Corporation in Liberty County**; RN101525764; 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. (Carolyn V. Lind, David Van Soest)

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

## PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 39. **Docket No. 2005-0971-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cleereco Services, Inc. dba Halbert LPG, Inc.** in **Schleicher County**; RN101842169; 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. (Edward R. Moderow, David Van Soest)

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

Item 40. **Docket No. 2005-0470-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Chapman Inc.** in **Grayson and Cooke Counties**; RN103711321; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

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

Item 41. **Docket No. 2005-0319-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Royal Price, Corp. dba Rocking H Grocery & Feed** in **Travis County**; RN101699460; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, David Van Soest)

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

Item 42. **Docket No. 2004-0632-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rajeshkumar B. Patel dba Circle Chevron** in **McLennan County**; TCEQ ID Nos. RN100526813 and 41550; 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. (Becky Combs, David Van Soest)

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

Item 43. **Docket No. 2004-1129-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Ruben Cruz dba Circle 7 Food Store, Super Circle 7 Food Store (Second Street), Super 24-7 Food Store 6, Super Circle 7 Food Store (Valle Vista), and Super Circle 7 5** in **Starr and Hidalgo Counties**; Petroleum Storage Tank Facility ID Nos. 54520, 54519, 75109, 67357, and 70709; Regulated Entity ID Nos. RN102715950, RN102822343, RN102850369, RN102861325, and RN102861358; 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 44. **Docket No. 2005-0890-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Steven Dale Killian dba Steves Texaco Plus in Jefferson County**; RN102014818; 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 45. **Docket No. 2005-0664-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sharp Ram Corporation dba Gainesville Truck Stop in Cooke County**; Petroleum Storage Tank Facility ID No. 76148, RN102027372; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Chad N. Blevins, David Van Soest)

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

Item 46. **Docket No. 2004-2065-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Schmidt & Sons, Inc. dba La Grange Mini Mart in Fayette County**; RN102716347; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, David Van Soest)

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

Item 47. **Docket No. 2005-1323-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sampri Investments, LLC dba Sammys 4 in Harris County**; RN102248127; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

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

Item 48. **Docket No. 2005-0695-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **R R J & P, Inc. dba Stop & Drive in Jefferson County**; Petroleum Storage Tank Registration ID No. 71406; RN102466646; 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 49. **Docket No. 2003-0849-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Jinnah Enterprise Corporation dba Kwik Mart # 3 in Tarrant County**; TCEQ ID Nos. 23452 and RN101444172; 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. (Alfred Okpohworho, David Van Soest)

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

Item 50. **Docket No. 2005-0362-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Xena, Inc. dba Runnin Red Food Store in Cooke County**; TCEQ ID Nos. 7337 and RN102049723; 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 Decker, David Van Soest)

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

Item 51. **Docket No. 2005-0682-PST-E.** Consideration of an Agreed Order assessing administrative penalties against the **Port of Beaumont in Jefferson County**; RN102866837; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Sandy VanCleave, David Van Soest)

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

Item 52. **Docket No. 2005-0758-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Multiple Concepts, Inc. dba Tiger Trac Exxon in Harris County**; RN101723708; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

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

Item 53. **Docket No. 2005-1190-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Muenster Telephone Corporation of Texas in Cooke County**; RN101834083; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, David Van Soest)

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

Item 54. **Docket No. 2005-0909-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Golden Prizm Inc. dba Fuel Food and More in Travis County**; RN101493237; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Chad N. Blevins, David Van Soest)

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

Item 55. **Docket No. 2005-1319-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Hop's Fuel & Tire Service, Inc. dba Stop N Shop Texaco** in **Carson County**; RN101770865; 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. (Edward R. Moderow, David Van Soest)

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

Item 56. **Docket No. 2004-1482-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Griff's Grill Inc. dba Valley View Store** in **McLennan County**; Petroleum Storage Tank Registration No. 59319; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, David Van Soest)

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

Item 57. **Docket No. 2004-1465-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John T. Phillips dba J & S Quick Stop and Stephan Wright dba J & S Quick Stop** in **Llano County**; Petroleum Storage Tank Facility ID No. 67890; RN100825173; 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. (Tom Greimel, David Van Soest)

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

Item 58. **Docket No. 2004-1729-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Deepak & Mashuk Corporation, Inc. dba Garland Mart** in **Dallas County**; Petroleum Storage Tank Facility ID No. 40218; RN102402070; 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. (Jorge Ibarra, P.E., David Van Soest)

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

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

Item 59. **Docket No. 2004-1801-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Star Tex Distributors, Inc. dba Rice Bird Drive-In** in **Wharton County**; TCEQ ID Nos. 39025 and RN102406485; 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, David Van Soest)

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

Item 60. **Docket No. 2004-1176-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Millenium Gasoline Corporation in Denton County**; TCEQ ID Nos. 32129 and RN101556082; 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 Decker and David Van Soest)

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

Item 61. **Docket No. 2005-0262-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Kleen Kar Wash of Wichita Falls, Ltd. dba Kleen Kar Wash in Wichita County**; TCEQ ID Nos. 54208 and RN102473600; 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 Decker and David Van Soest)

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

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

Item 62. **Docket No. 2005-1147-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Eastland County Water Supply District in Eastland County**; RN101250868; 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 63. **Docket No. 2005-0254-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Crest Water Company dba Oak River Ranch Water System in Somervell County**; Public Water Supply ID No. 2130031, RN101276004; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

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

Item 64. **Docket No. 2005-0762-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alexander Moulding Mill Company in Hamilton County**; RN100828805; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Edward R. Moderow, David Van Soest)

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

Item 65. **Docket No. 2005-0432-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Edward Fenoglio dba Oakshores Community in Montague County**; Public Water Supply ID No. 1690011; RN104210885; 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 66. **Docket No. 2005-1068-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Parks & Wildlife Department in Uvalde County**; RN101215184; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Howard G. Willoughby, David Van Soest)

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

Item 67. **Docket No. 2005-1170-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Mercedes in Hidalgo County**; RN101385938; for drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Brent Hurta, David Van Soest)

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

Item 68. **Docket No. 2005-0972-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Flo Community Water Supply Corporation in Leon County**; RN101440949; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Terry Murphy, David Van Soest)

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

Item 69. **Docket No. 2005-0473-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jamestown Water Supply Corporation in Newton County**; RN101200467; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Audra L. Ruble, David Van Soest)

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

Item 70. **Docket No. 2005-1076-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Mayfair 5 Water Company in El Paso County**; RN101457182; 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 71. **Docket No. 2005-0092-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **H&H Water Supply Corporation in McLennan County**; Public Water Supply ID No. 1550029; RN101438612; for drinking water quality violations pursuant to Tex. Health & Safety



Code ch. 341 and the rules of the Texas Commission on Environmental Quality.  
(Edward R. Moderow, David Van Soest)

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

#### **SLUDGE ENFORCEMENT AGREED ORDER**

Item 72. **Docket No. 2003-0623-SLG-E.** Consideration of an Agreed Order assessing administrative penalties against **Magna-Flow International, Inc. dba Magna-Flow Environmental, Davis Farm Nos. 1 and 2 in Brazoria County**; TCEQ ID Nos. 21484, 710789 (now 730083) and 710840; 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. (Deborah A. Bynum, David Van Soest)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 73. **Docket No. 2005-0810-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Michlee Development Corporation in Tarrant County**; RN104332580; 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 74. **Docket No. 2005-0945-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pappy's Sand & Gravel, Inc. in Kaufman County**; RN100786698; 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. (Brent Hurta, David Van Soest)

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

#### **ADVISORY COMMITTEE ITEMS**

Item 75. **Docket No. 2005-1842-MIS.** Consideration of nominations and appointment of a general public representative to serve on the **Municipal Solid Waste Management and Resource Recovery Advisory Council** (Advisory Council). (Gary W. Trim and Jacqueline S. Hardee)

Approve the Executive Director's resolution and approve re-posting. KW/LS; all agree.

Item 76. **Docket No. 2005-1631-RES.** Consideration of nominations and appointment of members to the **Pollution Prevention Advisory Committee.** (Brian Christian/James Voelker)

Item continued to the December 14, 2005 agenda.

### **RULE MATTERS**

Item 77. **Docket No. 2005-1442-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 114,** Control of Air Pollution from Motor Vehicles, Sections 114.6, 114.312, 114.313, and 114.315 - 114.318. The changes to Chapter 114 will be submitted as revisions to the state implementation plan.

The proposed rulemaking would amend the definition of additive; specify that the executive director must consult with the United States Environmental Protection Agency (EPA) before approving an alternative test method; revise the documentation requirements for the alternative diesel formulation approval procedures; revise the minimum requirements for candidate fuel formulations to only allow diesel fuel with less than 15 parts per million sulfur to be used for testing purposes; specify that the test engine used for alternative diesel fuel formulation testing must have a minimum of 125 hours of use and exhibit stable operation before beginning the testing and must not exceed 110% of its applicable exhaust emission standards when using the reference fuel; add clarifying language to the alternative test sequences to specify the number of hot start test cycles that must be performed for each sequence; revise the emission comparison requirements to be more consistent with similar California Air Resource Board regulations by removing the emissions of total hydrocarbons (THC) and non-methane hydrocarbons (NMHC) from the comparison calculation but specifying that the emissions of THC and NMHC of the candidate fuel must not exceed the emission certification standards applicable to the year model of the test engine; clarify that only those records relating to sampling require a statement declaring the appropriate aromatic hydrocarbon content standard of the fuel; revise reporting requirements for producers with alternative emission reduction plans to include information in their quarterly report that is required to be collected in accordance with the sampling and testing requirements; establish procedures that require producers to submit alternative emission reduction plans that are developed in accordance with the EPA's Unified model to demonstrate that the average of all on-road diesel fuel produced in any given calendar year that is sold, offered for sale, supplied, or offered for supply by the producer in the counties affected by these rules achieves at least a 5.5% reduction in nitrogen oxide emissions for the year 2007, and at least a 6.2% reduction from the average of all non-road diesel produced by the producer for use in the affected counties, and allow alternative emission reduction plans to use diesel credits from early gasoline sulfur reduction that can only be generated from the gasoline supplied by the producer to the attainment counties in 2003, 2004, and 2005, and can only be used to demonstrate compliance through December 31, 2010, in attainment counties within the Texas low emission diesel control area; and correct citations and cross-references. (Morris Brown, John Minter) (Rule Project No. 2005-063-114-EN)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 114 with a change in the effective date to December 31, 2006. KW/RM; all agree.

- Item 78. **Docket No. 2005-1224-RUL.** Consideration of the adoption of an amendment to **30 TAC Chapter 328**, Waste Minimization and Recycling, Subchapter A, Purpose and General Information, Section 328.2.

The adoption would implement Senate Bill 1298, 79th Legislature, 2005, Regular Session, and would provide definitions for the terms "Completely drained" and "Unusable" in regard to the recycling of fuel tanks as allowed in Texas Occupations Code, Section 1956.103. The proposed rules were published in the September 30, 2005, issue of the *Texas Register* (30 TexReg 6229). (David Murry, John Williams) (Rule Project No. 2005-044-328-PR).

Adopt the amendment to 30 TAC Chapter 328. KW/RM; all agree.

### **EXECUTIVE SESSION**

- Item 79. **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 80. **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 81. **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.**

OLD BUSINESS AGENDA

Wednesday, November 30, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

Continued from the November 9, 2005 agenda.

- Item 1. **TCEQ Docket Nos. 2004-1872-WR, 2004-1873-WR, and 2004-1874-WR; SOAH Docket No. 582-05-4254.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the applications of **Presidio Valley Farms, Maverick County, the City of Laredo, and the City of Eagle Pass Water Works System** to amend Certificate of Adjudication No. 23-952. The Applicants request issuance of the proposed amended Certificate of Adjudication Nos. 23-952D, 23-952E, and 23-952F. The applicants seek to change the locations of existing diversion points in the Upper Rio Grande, Rio Grande Basin near Presidio to the Middle Rio Grande, Rio Grande Basin to locations owned by Maverick County in Certificate of Adjudication 23-2671, City of Laredo in Certificate of Adjudication 23-3997, and City of Eagle Pass, in **Kinney, Webb, and Maverick Counties**, Texas. The applicants also seek to change the purpose of and place of use of the 8,059 Acre-feet of water from irrigation to municipal purposes. The Commission will consider the application and related filings, exceptions and replies.

Adopt the revised order and amended Certificates of Adjudication as filed by the Executive Director as further modified at agenda and as agreed to by the ED, the OPIC, and the Applicants' representatives at the Agenda. KW/RM; agree.

## AGENDA

Wednesday, November 30, 2005

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2001-0601-AGR-E; SOAH Docket No. 582-04-1035.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Evert Dyksterhuis dba E&M Dairy** formerly in **Upshur County** and now located in **Castro County**, Texas; TCEQ ID No. R05A60159; regarding agriculture and water quality violations pursuant to Tex. Water Code Ann. § 26.121 and of 30 Tex. Admin. Code Chapter 321, Subchapter B and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. The Commission will also consider timely public comments, related filings, exceptions and replies.

Adopt the ALJ's Proposed Order as amended by the Executive Director's exceptions, and instruct the General Counsel to make several typographical corrections to the Order, including the addition of a reference to TWC Section 7.053 and updating the name of the Texas Commission on Environmental Quality." KW/RM; all agree.

- Item 2. **TCEQ Docket No. 2003-1530-WR; SOAH Docket No. 582-04-8097.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of the **City of Irving** for an amendment to Certificate of Adjudication No. 03-4799, as amended, to be issued as amended Certificate of Adjudication No. 03-4799C, which would recognize the right to future reuse of up to 31,600 acre-feet per year, less carriage losses, of Irving's Lake Chapman water for municipal and industrial purposes to meet its future water demands in its service area in **Dallas County** in the Trinity River Basin, and to delete Special Condition No 5A, stating that Lake Chapman water diverted but not consumed shall be returned to the Trinity River Basin at Irvings's disposal plant and the disposal plants of the industrial users. The Commission will also consider the application, related filings, exceptions and replies.

Adopt the ALJ's Revised Order and the changes to FOF No. 15 and COL No. 16 recommended by the Executive Director at agenda and agreed to by the ALJ at agenda as well as the addition of a new ordering provision stating that the findings and conclusions set forth and the determination and decision made in the adopted order only apply to the facts relating to the subject amendment. KW/LS; all agreed.

/s/ Greg Merrell  
Assistant General Counsel  
Greg Merrell

1-31-2006  
Date