

Chairman Kathleen White
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, April 12, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the March 8, 2006 agenda.

- Item 1. **Docket No. 2005-2082-AIR.** Consideration of application by **Hydro Conduit of Texas, LP** for a New Air Quality Standard Permit to authorize the construction and operation of a concrete batch plant. The proposed facility is to be located at 700 South Main Street, in Baytown, **Harris 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. (Helga Chatelle, Brad Patterson)

Matter direct referred to SOAH; no action required.

AGENDA

Wednesday, April 12, 2006

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. 2005-2072-MWD.** Consideration of the application by **UA HOLDINGS 1994-5, L.P.** for a new wastewater permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014580001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day. The wastewater treatment facility will be located approximately 750 feet west of the intersection of Walden Road and Grand Harbor Boulevard on the north side of Walden Road in **Montgomery County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Marc Friberg, Firoj Vahora, Bijaya Chalise)

Grant the hearing request for Eugene Barrington on the issues of: 1. whether there will be proper dilution in the discharge area; 2. whether the Applicant's queries into potential service from nearby wastewater treatment plants were adequate; and 3. whether proper lake conditions were taken into account when modeling was performed for the Applicant's proposed discharge into Lake Conroe; deny the requests for reconsideration; refer the matter to ADR if all parties are willing then, if necessary, to SOAH for a hearing duration of 6 months; request that SOAH file a proposed Order with Findings of Fact and Conclusions of Law with their Proposal for Decision. KW/LS; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 2. **Docket No. 2004-0960-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Bill Wilson dba Wilson's Sand Pit** in **Denton County**; TCEQ ID No. RN104261250; 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. (Alfred Okpohworho, Jennifer Cook)

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

- Item 3. **Docket No. 2004-0031-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **W. Silver, Inc.** in **El Paso County**; TCEQ ID Nos. EE-0091-O and RN100930965; 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. (Deborah A. Bynum, Jennifer Cook)

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

- Item 4. **Docket No. 2005-1808-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company LP** in **Jefferson County**; RN100209857; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and

the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

- Item 5. **Docket No. 2005-0993-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Exxon Mobil Corporation in Harris County**; RN102579307; 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/LS, all agree.

- Item 6. **Docket No. 2005-1746-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gregory Power Partners, L.P. in San Patricio County**; RN102547957; 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. (Samuel Short, David Van Soest)

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

- Item 7. **Docket No. 2005-1828-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Border Steel, Inc. in El Paso County**; RN100213941; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, David Van Soest)

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

- Item 8. **Docket No. 2005-1638-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP in Hutchinson County**; RN102320850; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

- Item 9. **Docket No. 2005-1309-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Invista S.A.R.L. in Orange County**; RN104392626; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Texas Water Code ch. 7, 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/LS, all agree.

- Item 10. **Docket No. 2005-2058-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Andres Payan dba Payans Tourist Service in El Paso County**; RN102865052; 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. (Marlin Bullard, David Van Soest)

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

Item 11. **Docket No. 2005-1907-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Superior Crude Gathering, Inc. dba National Oil Recovery in San Patricio County**; RN102510088; 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 Muennink, David Van Soest)

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

Item 12. **Docket No. 2005-1304-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sid Richardson Pipeline, Ltd. in Pecos County**; RN100239698; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, David Van Soest)

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

Item 13. **Docket No. 2005-1446-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sherwin Alumina, L.P. in San Patricio County**; RN102318847; 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/LS, all agree.

Item 14. **Docket No. 2005-1745-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Rohm and Haas Company in Harris County**; RN104789474; 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. (Samuel Short, David Van Soest)

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

Item 15. **Docket No. 2005-1332-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Precision Painting Inc. in Nueces County**; RN103102083; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

Item 16. **Docket No. 2005-1822-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Plains Pipeline, L.P. in Winkler County**; RN100214956; 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. (Samuel Short, David Van Soest)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 17. **Docket No. 2005-1655-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Round Rock in Williamson County**; RN104608591; 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. (Colin Barth, David Van Soest)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

- Item 18. **Docket No. 2005-1727-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Champion Technologies, Inc. dba Champion Technologies Fresno in Fort Bend County**; RN101618882; 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, David Van Soest)

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

- Item 19. **Docket No. 2005-1926-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **ECOLAB Inc. in Dallas County**; RN100594852; 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. (Michael Meyer, David Van Soest)

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

- Item 20. **Docket No. 2005-1843-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, LP in Brazoria and Galveston Counties**; RN100237668; 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. (Joseph Daley, David Van Soest)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 21. **Docket No. 2005-1555-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Southwest Energy Distributors, Inc. in Midland and Ward Counties**; RN104578117; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

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

- Item 22. **Docket No. 2005-0775-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wal-Mart Stores, Inc. in Anderson County**; RN102180908; 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/LS, all agree.

LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDERS

Item 23. **Docket No. 2005-1387-LII-E.** Consideration of a Default Order assessing administrative penalties against and requiring certain actions of **Hernan F. Maya** in **Harris County**; TCEQ ID NO. RN103498515; for licensed irrigator installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Shana L. Horton, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

Item 24. **Docket No. 2005-0420-LII-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jose Luis Munoz** in **Hidalgo County**; TCEQ ID No. RN104377049; for landscape irrigator installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Rachael Gaines, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 25. **Docket No. 2005-1811-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **ExxonMobil Corporation dba ExxonMobil Chemical Company** in **Chambers County**; RN102501020; for air quality and 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. (J. Craig Fleming, David Van Soest)

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

Item 26. **Docket No. 2005-1633-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Pearsall** in **Frio County**; RN104680772; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, 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/LS, all agree.

Item 27. **Docket No. 2005-1616-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sparenberg Gin, Inc.** in **Dawson County**; RN104751458; for air quality and industrial & hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 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/LS, all agree.

Item 28. **Docket No. 2005-1398-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **Jim Wells County** in **Jim Wells County**; RN104633565; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex.

Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Howard G. Willoughby, David Van Soest)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 29. **Docket No. 2005-0653-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of San Angelo** in **Tom Green County**; RN102289576; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, David Van Soest)

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

Item 30. **Docket No. 2005-1312-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dallas Oil Service, Inc.** in **Dallas County**; RN100596022; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 371, 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/LS, all agree.

Item 31. **Docket No. 2005-0099-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Brady** in **McCulloch County**; Municipal Solid Waste Permit No. 1732, RN102003811; 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. (J. Mac Vilas, David Van Soest)

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

Item 32. **Docket No. 2005-1611-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bill Briscoe Enterprises, Inc.** in **Denton County**; RN100768449; 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. (Joseph Daley, David Van Soest)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 33. **Docket No. 2005-0715-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jimmie C. Chambers** in **Jasper County**; TCEQ ID Nos. RN104212691 and 455100039; for municipal solid 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. (Lena Roberts, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 34. **Docket No. 2005-0535-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cayuga Independent School District Public Facility Corporation** in **Anderson County**; RN101527331; 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/LS, all agree.

Item 35. **Docket No. 2005-0837-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Crandall** in **Kaufman County**; RN101917136; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

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

Item 36. **Docket No. 2005-1097-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hudspeth County Water Control And Improvement District 1** in **Hudspeth County**; RN102181849; 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. (Howard G. Willoughby, David Van Soest)

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

Item 37. **Docket No. 2005-1857-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Nocona** in **Montague County**; RN102181591; 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. (Lynley Doyen, David Van Soest)

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

Item 38. **Docket No. 2005-1710-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Rolling Creek Utility District** in **Harris County**; RN103888467; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

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

Item 39. **Docket No. 2005-1800-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lytle** in **Atascosa County**; RN102327020; 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/LS, all agree.

ON SITE SEWAGE FACILITY INSTALLER ENFORCEMENT AGREED ORDERS

Item 40. **Docket No. 2005-1143-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **William K. Ingram** in **Hill County and Cleburne County**; TCEQ ID Nos. OS0019854 and RN103400933; for on-site sewage installer violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality.(Becky Combs, Jennifer Cook)

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

Item 41. **Docket No. 2005-1838-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Grant H. Gilson** in **Orange and Jefferson Counties**; RN103416178; for occupational certification violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Daniel Siringi, David Van Soest)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 42. **Docket No. 2005-1813-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wend-XX, Inc. dba Exxon Superstation** in **Bowie County**; RN101794949; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Shontay Wilcher, David Van Soest)

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

Item 43. **Docket No. 2005-1048-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sunray MiniMart #2, Inc. dba Otal All Seasons Food Store** in **Harris County**; RN104527031; 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. (Shontay Wilcher, David Van Soest)

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

Item 44. **Docket No. 2005-1939-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Shannon Medical Center** in **Tom Green County**; RN100688829; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Shontay Wilcher, David Van Soest)

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

Item 45. **Docket No. 2005-1867-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **NSBR, Inc. dba Kellys Food Store 2** in **Dallas County**; RN101568178; for

petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, David Van Soest)

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

Item 46. **Docket No. 2005-0892-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Murphy Oil USA, Inc. dba Murphy USA 7126** in **Harris County**; RN104513569; 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. (Thomas Greimel, David Van Soest)

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

Item 47. **Docket No. 2005-1875-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bianca Enterprises, Inc. dba Kwik Pik Food Mart** in **Tarrant County**; RN101534758; 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/LS, all agree.

Item 48. **Docket No. 2005-1772-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **James Carr dba A K Convenience Store** in **Erath County**; RN102061488; 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/LS, all agree.

Item 49. **Docket No. 2005-1379-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **A&F Brothers, Inc. dba Super Stop 19** in **Jefferson County**; RN102382579; 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. (Ruben Soto, David Van Soest)

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

Item 50. **Docket No. 2004-1328-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sarn Management, Inc. dba Toor Food Mart** in **Liberty County**; TCEQ ID Nos. 39771 and RN101432466; 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. (Kari L. Gilbreth, Jennifer Cook)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 51. **Docket No. 2005-1389-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Rubina, Incorporated dba Fina Mart** in **Tarrant County**; TCEQ ID Nos. 43873 and RN101541936 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. (Shawn Slack, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

Item 52. **Docket No. 2005-0085-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Derek Wasson dba Corner Mart Grocery & Station in Cass County**; TCEQ ID Nos. 38512 and RN101447092; 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, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

Item 53. **Docket No. 2005-0334-PST-E.** Consideration of a Default Order assessing administrative penalties against and requiring certain actions of **Tashi Enterprise, Inc. dba Star Jet Truck Stop in Wharton County**; TCEQ ID Nos. 74051 and RN102280518; for petroleum storage tank 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 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

Item 54. **Docket No. 2005-0307-PST-E.** Consideration of a Default Order assessing administrative penalties against **Noorie Traders, Inc. dba Humble Food Store in Harris County**; TCEQ ID Nos. 35316 and RN101775278; 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. (Lena Roberts, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

Item 55. **Docket No. 2004-0381-PST-E.** Consideration of a Default Order assessing administrative penalties against **Larry Beakey dba BBT Investments in Cameron County**; TCEQ ID Nos. 21226 and RN102821758; 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. (Shana L. Horton, Jennifer Cook)

Item remanded to the Executive Director.

Item 56. **Docket No. 2005-0078-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mohammad Arif dba Super Stop 4 in Orange County**; TCEQ ID Nos. 7646 and RN103001798; 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. (Lena Roberts, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 57. **Docket No. 2005-1058-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Veterans of Foreign Wars of the United States Post 8953 in Liberty County**; TCEQ ID No. RN101652162; for public drinking water violations pursuant to Tex. Health & Safety

Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Davis, Jennifer Cook)

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

Item 58. **Docket No. 2005-1980-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gill Water Supply Corporation in Harrison County**; RN101208544; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, David Van Soest)

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

Item 59. **Docket No. 2005-1171-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Breckenridge in Stephens County**; RN101386936; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

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

Item 60. **Docket No. 2005-1778-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bigford, Inc. dba Fiesta Marina in Live Oak County**; RN101254266; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda King-Zrubek, David Van Soest)

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

Item 61. **Docket No. 2005-1991-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Jack Coleman dba Hidden Valley in Bexar County**; RN102691714; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Yuliya Dunaway, David Van Soest)

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

Item 62. **Docket No. 2005-1961-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Junction in Kimble County**; RN101383990; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lynley Doyen, David Van Soest)

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

Item 63. **Docket No. 2005-1693-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Peggy Tiemann dba Phillipsburg Mobile Home Park in Washington County**; RN101450419; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Amanda King-Zrubek, David Van Soest)

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

Item 64. **Docket No. 2005-1507-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wichita Falls in Wichita County**; RN101611275; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sherronda Martin, David Van Soest)

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

Item 65. **Docket No. 2005-1530-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wallace Allen Raynor dba Sun Acres Mobile Home Park in Gregg County**; RN101204097; 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/LS, all agree.

Item 66. **Docket No. 2005-2071-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **South Rusk County Water Supply Corporation in Rusk County**; RN101393544; 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/LS, all agree.

Item 67. **Docket No. 2005-2001-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rochester in Haskell County**; RN101192243; 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/LS, all agree.

Item 68. **Docket No. 2005-2051-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hubert-Watson Subdivision Water Supply, Inc. in Matagorda County**; RN101455384; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Yuliya Dunaway, David Van Soest)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 69. **Docket No. 2004-1470-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Ernest Muntz dba Two Pines Mobile Home Park and Mary Muntz dba Two Pines Mobile Home Park in Harrison County**; RN101176162; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kathleen C. Decker, Jennifer Cook)

Approve the Default Order. KW/LS, all agree.

WATER QUALITY ENFORCEMENT AGREED ORDERS

- Item 70. **Docket No. 2004-1063-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Metro Brick Company dba Metro Brick and Stone in Hood County**; TCEQ ID No. RN104319876; 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. (Laurencia Fasoyiro, Jennifer Cook)

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

- Item 71. **Docket No. 2005-1814-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Melvin Jerry Threadgill dba M&T Natural Stone in Palo Pinto County**; RN104320882; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, David Van Soest)

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

GENERAL PERMIT

- Item 72. **Docket No. 2003-0691-WQ.** Consideration of issuance of a new **General Permit No. TXG130000**, which authorizes on a state-wide basis, the discharge of wastewater resulting from concentrated aquatic animal production facilities and certain related activities into or adjacent to water in the state subject to specific effluent limitations. This permit specifies which facilities may be covered under this general permit. The Commission will also consider public comment and the Executive Director's response to comments. (Yvonna Pierce/Celia Castro)

Approve the issuance of new General Permit No. TXG130000. KW/LS; all agree.

MOTION TO OVERTURN

- Item 73. **TCEQ Docket No. 2006-0106-MWD.** Consideration of a Motion to Overturn filed by Buddy Drake on behalf of the City of Gonzales, Texas, concerning the Executive Director's issuance of TPDES Permit No. WQ0010488001 to the **City of Gonzales** which authorizes the increased discharge of treated domestic wastewater from an annual average flow not to exceed 1.50 million gallons per day to an annual average flow not to exceed 2.25 million gallons per day. The permit authorizes the City of Gonzales to treat and discharge wastes from the Gonzales Wastewater Treatment Facility. (**Gonzales County**)

Grant the Motion to Overturn, set aside the permit, and remand the matter to the Executive Director to include a compliance period consistent with 30 TAC 307.2(f). KS/LS; all agree.

TMDL MATTERS

- Item 74. **Docket No. 2005-1594-TML.** Consideration to adopt a final TMDL for dissolved oxygen in **Lake O' the Pines** (Segment 0403) in **Marion, Morris, and Upshur Counties** of the Cypress Creek Basin as a certified update to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber and Marc Friberg)

Adopt the final TMDL for dissolved oxygen in Lake O' Pines. KW/LS; all agree.

Item 75. **Docket No. 2006-0139-TML.** Consideration to adopt final TMDLs for total dissolved solids and chlorides in **Clear Creek above Tidal** (Segment 1102) in **Fort Bend, Harris, Brazoria, and Galveston Counties** of the San Jacinto-Brazos Coastal Basin as certified updates to the State of Texas Water Quality Management Plan to satisfy federal water quality management planning requirements. (Tom Weber, Marc Friberg)

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

RULE MATTERS

Item 76. **Docket No. 2005-0340-RUL.** Consideration for publication of proposed new Section 295.17 of **30 TAC Chapter 295**, Water Rights, Procedural; new Section 297.2 of **30 TAC Chapter 297**, Water Rights, Substantive; new Sections 303.18, 303.40, and 303.74 - 303.93 and amended Sections 303.1, 303.2, 303.21 - 303.23, 303.53, 303.55, and 303.72 of **30 TAC Chapter 303**, Operation of the Rio Grande.

The proposed rulemaking would implement Senate Bill 1902 and House Bill 2250, 78th Legislature, 2003, Regular Session, which added Section 11.3271 to the Texas Water Code (TWC). To implement TWC, Section 11.3271, this rulemaking would define situations of imminent threat to public health and safety and the environment, including terrorism response; provide for the method and procedures by which permits will be issued; and provide for the methods that the Rio Grande Watermaster will account for any discharge, delivery, conveyance, storage, diversion, or associated loss of water conveyed down the bed and banks of the Rio Grande. Additionally, this proposed rulemaking would establish procedures for the Watermaster to maintain a central repository for all instruments that the commission requires to be filed in connection with water rights relating to the water division of the Rio Grande and set the fees charged to maintain such instruments. (Tracy Callen, Herman Settemeyer, Robin Smith) (Rule Project No. 2004-014-295-CE)

Approve publication of proposed new Section 295.17 of 30 TAC Chapter 295; new Section 297.2 of 30 TAC Chapter 297; new Sections 303.18, 303.40, and 303.74 - 303.93 and amended Sections 303.1, 303.2, 303.21 - 303.23, 303.53, 303.55, and 303.72 of 30 TAC Chapter 303. KW/LS; all agree.

Item 77. **Docket No. 2006-0167-RUL.** Consideration for publication of, and hearing on, proposed amended Sections 101.302, 101.306, 101.372, 101.373, 101.376, and 101.378; the proposed repeal of Section 101.338; and proposed new Sections 101.305, 101.338, 101.339, and 101.375 of **30 TAC Chapter 101**, General Air Quality Rules; and corresponding revisions to the state implementation plan.

The proposed rules address deficiencies in the commission's discrete emission reduction credit program as identified by the United States Environmental Protection Agency in the October 5, 2005, edition of the Federal Register (70 FR 58154). The proposed rules would also implement revisions to Texas Health and Safety Code, Section 382.0172(c), as required by Senate Bill 784, 79th Texas Legislature, 2005, Regular Session, which allow greater flexibility in the generation of credits for emission reductions outside the United States. (Beecher Cameron, Dan Long) (Rule Project No. 2005-054-101-PR)

Approve for publication of, and hearing on, proposed amended Sections 101.302, 101.306, 101.372, 101.373, 101.376, and 101.378; the proposed repeal of Section 101.338; and proposed new Sections 101.305, 101.338, 101.339, and 101.375 of 30 TAC Chapter 101; and corresponding revisions to the state implementation plan. KW/LS; all agree.

Item 78. **Docket No. 2005-1719-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter C, Division 2, Low Income Vehicle

Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, Sections 114.62 and 114.64.

The adopted rulemaking would implement requirements of House Bill 1611, 79th Legislature, 2005, Regular Session, related to revisions to the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP). The rulemaking authorizes LIRAP to be administered by counties in accordance with Texas Government Code, Chapter 783, Uniform Grant and Contract Management, and allows for programmatic costs such as call-center management, assistance application oversight, invoice analysis, education, outreach, and advertising to be covered by LIRAP funds. The rulemaking deletes the requirement that only 5.0% of the funds provided to a county to fund LIRAP be used to cover administrative costs. Finally, the rulemaking changes the vehicle registration eligibility requirement from two years to 12 months. The proposed rules were published in the December 30, 2005, issue of the *Texas Register* (30 TexReg 8805). (Bob Wierzowiecki, Les Trobman) (Rule Project No. 2005-073-114-EN)

Adopt amendments to 30 TAC Chapter 114, Sections 114.62 and 114.64. KW/LS; all agree.

Item 79. **Docket No. 2005-1093-RUL.** Consideration of the adoption of the amendments to **30 TAC Chapter 304**, Watermaster Operations, Sections 304.1 - 304.3, 304.11 - 304.13, 304.15, 304.16, 304.21, 304.31 - 304.34, 304.42, 304.44, 304.62, and 304.63.

The adopted rulemaking clarifies that Chapter 304 applies to all watermaster programs created in accordance with Texas Water Code (TWC), Chapter 11, and includes all watermasters appointed by the executive director under TWC, Chapter 11, except the Rio Grande Watermaster. The adopted rulemaking also deletes requirements regarding the repealed Wagstaff Act; makes changes for corrective and administrative purposes and provides clarity; changes watermaster reporting from quarterly to annually; changes the term "return flows" to "return water or return flows" and establishes the definition of return flows to be consistent with other rules of the commission; adds a definition for "transport" of water; establishes specific rates for currently permitted general uses; and provides consistency in the language used in the rules and conforms to the standards set out in the Texas Legislative Council Drafting Manual, November 2004. The proposed rules were published in the November 11, 2005, issue of the *Texas Register* (30 TexReg 7364). (Patricia Hooper, Robin Smith) (Rule Project No. 2005-031-304-CE)

Adopt amendments to 30 TAC Chapter 304, Sections 304.1 - 304.3, 304.11 - 304.13, 304.15, 304.16, 304.21, 304.31 - 304.34, 304.42, 304.44, 304.62, and 304.63. KW/LS; all agree.

Item 80. **Docket No. 2006-0090-RUL.** Consideration of the adoption of **30 TAC Chapter 321**, Control of Certain Activities by Rule, Subchapter B, Concentrated Animal Feeding Operations, Section 321.33, Applicability and Required Authorizations, and Section 321.36, Texas Pollutant Discharge Elimination System General Requirements for Concentrated Animal Feeding Operations (CAFOs).

The adoption would harmonize state requirements with federal requirements concerning the date that existing dry litter poultry operations must obtain authorization and the date that all CAFOs must develop and implement a nutrient management plan. The proposed rules were published in the February 24, 2006, issue of the *Texas Register* (31 TexReg 1187). (Beth Helms, Bob Brush) (Rule Project No. 2006-021-321-PR)

Adopt 30 TAC Chapter 321, Subchapter B, Section 321.33, and Section 321.36. KW/LS; all agree.

EXECUTIVE SESSION

Item 81. **Docket No. 2006-0001-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The Commission did not meet in Executive Session.

Item 82. **Docket No. 2006-0002-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The Commission did not meet in Executive Session.

Item 83. **Docket No. 2006-0003-EXE.** The Commission will conduct a closed session to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

The Commission did not meet in Executive Session.

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

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

AGENDA

Wednesday, April 12, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2004-0490-PST-E; SOAH Docket No. 582-05-4952.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Nelson A. Collazo** in **Bexar County**, Texas; TCEQ PST Registration No. 2387; Owner ID 27722; regarding petroleum storage tank violations pursuant to 30 Tex. Admin. Code §§ 334.50(b)(1)(A), 334.49(a)(2), 334.7(d)(1)(b) and (d)(3), 334.54(b)(2), Tex. Water Code §§ 26.3475 (c)(1) and 26.3475(d), and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's proposed Order with the revisions proposed by the Executive Director in his second set of exceptions. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 1996-0209-WR; SOAH Docket No. 582-96-0144.** Consideration of the Motion for Rehearing filed by the United States Department of the Interior concerning the Commission's Order issued January 13, 2006, which is the proposed **Final Determination in the Adjudication of All Claims of Water Rights in the Upper Rio Grande Segment of the Rio Grande Basin**, which is located above Fort Quitman, Texas, in **El Paso and Hudspeth Counties**. The Commission's Order was issued in accordance with Chapter 11, Subchapter G of the Texas Water Code, and the applicable rules.

Grant in part the Department of the Interior's Motion for Rehearing to add the following statement agreed to by the parties: "The Department of the Interior's Motion for Rehearing asserts that the McCarran Amendment does not waive sovereign immunity in this proceeding because property owners in the Rio Grande Project in Texas are not joined as parties in this adjudication proceeding. In Texas mere beneficial use by individual property owners of waters alone gives the user no vested rights to them. Consequently, beneficial use of water alone does not give rise to a water right." Also deny the Motion in all other aspects; direct the Executive Director as expeditiously as possible to comply with Section.11.317 of the Texas Water Code by filing a certified copy of the final determination, together with all of the evidence presented to or considered by the Commission, in a district court in El Paso or Hudspeth County; and after entry of the final decree and in accordance with Section 11.323 of the Texas Water Code, direct the Office of General Counsel to set final issuance of the certificates on a future Commission public meeting to be signed by the presiding officer of the Commission and to be issued with the seal of the Commission. KW/LS; all agree.

- Item 3. **TCEQ Docket No. 2005-0180-SLG; SOAH Docket No. 582-05-5610.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Synagro of Texas-CDR, Inc.**, TCEQ Permit No. WQ0004671000, for a permit authorizing the land application of wastewater treatment plant sewage sludge for beneficial use on 1,134.94 acres in **Wharton County**, Texas, at a rate not to exceed 6.18 dry tons per acre per year on Fields 1 - 3. The Commission will also consider timely public comments and the Executive Director's Response to such comments, the proposed permit, related filings, exceptions, and replies.

Remand this item to SOAH for additional evidence on the new agronomic loading rate calculations and the impact, if any, on the surface water quality issue that had previously been referred to SOAH in this matter with all parties allowed to present additional evidence on these two aspects of the remand. The Commission strongly urges the Executive Director to participate in the hearing and present evidence. LS/KW; all agree.

Item 4. **TCEQ Docket No. 2004-0743-MSW; SOAH Docket No. 582-05-0868.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Tan Terra Environmental Services, Inc.** for Type I Municipal Solid Waste Permit No. 2305 to construct and operate a new landfill facility in **Willacy County**, Texas, to serve as a regional landfill for the Lower Rio Grande Valley area, including Willacy County and surrounding counties. The Commission will also consider timely public comments, the application, related filings, exceptions and replies.

Deny Tan Terra Environmental Services, Inc.'s application for a new MSW Type I landfill permit based on the Surface Water Management Plan, floodplain, endangered and threatened species, and scavenging and adopt the ALJ's January 17, 2006 Proposed Order with changes made by the Commissioners from the dais. KW/LS; all agree.

(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 12:30 P.M. UNTIL 1:00 P.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.

/s/ Tracy Gross
Assistant General Counsel,
Tracy Gross

7/27/2006
Date