

Commissioner Larry Soward
Commissioner Martin Hubert

OLD BUSINESS AGENDA

Wednesday, October 18, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the September 6, 2006 agenda.

- Item 1. **Docket No. 2005-1577-WR.** Consideration of Application No. 5832 from **Westerra Stonebridge, L.P.** (“Applicant”), a Texas Corporation, for a Water Use Permit. The proposed Water Use Permit No. 5832 would authorize the Applicant to maintain three dams and reservoirs having a combined surface area of 12 acres and impounding a total of 78 acre-feet of water on unnamed tributaries of Wilson Creek, tributary of the East Fork Trinity River, tributary of the Trinity River, for in-place recreational purposes in **Collin County**, Texas. The proposed reservoirs currently exist as exempt reservoirs pursuant to Chapter 30 Texas Water Code, § 11.142. The Applicant would be required to maintain the reservoirs full, at all times, with an alternative supply of water and maintain suitable outlets in the dams to allow for the free passage of State water that the Applicant is not authorized to impound. The Commission will also consider hearing requests, related responses and replies, and public comment. (Craig Mikes, Ross Henderson)

Refer this matter and all parties to the Alternative Dispute Resolution program. LS/MH; all agree.

Continued from the October 4, 2006 agenda.

- Item 2. **TCEQ Docket No. 2006-1091-WR.** Consideration of the application of the **Lower Colorado River Authority (LCRA)** for emergency suspension of a Special Condition in Water Right Permit No. 5715 under Texas Water Code Sections 5.506 and 11.148 or Section 11.139. LCRA's Permit No. 5715 allows it to divert water from the Colorado River into Lometa Reservoir, and then use that water for municipal and domestic water supply in **Lampasas, Burnet, Mills, and San Saba Counties**. Special Condition No. 5(b) of Permit No. 5715 establishes minimum instream flow requirements below which LCRA is not allowed to divert water. LCRA is requesting that the Special Condition be suspended to allow LCRA to divert water for 120 days so the Lometa Reservoir may be filled. LCRA states that it needs the requested emergency authorization because it is running out of water in the reservoir, a condition which presents an imminent threat to the public health, safety and welfare, and that it has no feasible, practicable alternatives to this emergency authorization. (Robin Smith, Todd Chenoweth)

Item continued to a future agenda to be determined by the General Counsel.

Continued from the October 4, 2006 agenda.

- Item 3. **Docket No. 2005-1361-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Mine Service, Ltd. in Williamson County**; TCEQ ID No. RN104483441; 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. (Shannon Strong, Jennifer Cook)

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

AGENDA

Wednesday, October 18, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 1. **Docket No. 2004-1998-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against and requiring certain actions of **Jose Garcia dba Neighborhood Trucks & Auto Repair in Harris County**; TCEQ ID No. RN103009098; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health and Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

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

Item 2. **Docket No. 2006-0279-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alcoa Inc. in Milam County**; RN100221472; 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. LS/MH; all agree.

Item 3. **Docket No. 2006-0393-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Chemical Company in Harris County**; RN102574803; 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. LS/MH; all agree.

Item 4. **Docket No. 2006-0528-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company LP in Harris County**; RN103919817; 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, Steven Lopez)

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

Item 5. **Docket No. 2006-0469-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Innovene USA LLC in Brazoria County**; RN100238708; 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, Steven Lopez)

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

Item 6. **Docket No. 2006-0477-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Millennium Petrochemicals Inc. in Harris County**; RN100224450; 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. (Daniel Siringi, Steven Lopez)

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

DRY CLEANER ENFORCEMENT AGREED ORDERS

Item 7. **Docket No. 2006-0915-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Lezli E. McPhail dba 7th St Cleaners in Tarrant County**; RN104962931; for a dry cleaning registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Alison Echlin, Steven Lopez)

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

Item 8. **Docket No. 2006-0916-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Babita Daware dba Ayalas Cleaners in Tarrant County**; RN104096144; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Colin Barth, Steven Lopez)

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

Item 9. **Docket No. 2006-0764-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kee Ja Rhee dba Colonial Park Cleaners in Tarrant County**; RN104028261; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, David Van Soest)

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

Item 10. **Docket No. 2006-0972-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **James D. Kim dba Inwood Shirt and Dry Cleaning in Dallas County**; RN104620232; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Cheryl Thompson, Steven Lopez)

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

Item 11. **Docket No. 2006-0668-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Rajah-GP, LP dba Expert Dollar Cleaners in Wharton County;** RN104309760; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Samuel Short, Steven Lopez)

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

Item 12. **Docket No. 2006-1011-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **John A. Dunaway dba Plaza Cleaners in Randall County;** RN104968516; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Rajesh Acharya, Steven Lopez)

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

Item 13. **Docket No. 2006-0917-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Eui K. Song dba Monticello Cleaners in Dallas County;** RN104065784; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Colin Barth, Steven Lopez)

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

Item 14. **Docket No. 2006-0650-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **David W. Baker Homes, Inc. dba Regency Cleaners 4 and Regency Cleaners 5 in Midland County;** RN103954913, RN103954335; for dry cleaner registration violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Cheryl Thompson, Steven Lopez)

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

Item 15. **Docket No. 2006-0980-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Thuc X. Bui dba Dry Clean Super Center in Dallas County;** RN104408414; for dry cleaner registration violations pursuant to Tex. Health & Safety Code chs. 374 and 361, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality. (Libby Hogue, Steven Lopez)

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

Item 16. **Docket No. 2006-0648-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **D R & S Inc. dba Worthington Laundry & Cleaners in Bexar County;** RN100545557; for dry cleaner registration violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality. (Shontay Wilcher, Steven Lopez)

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

Item 17. **Docket No. 2006-0714-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nghiem Phan dba BJ's Cleaners in Tarrant County**; RN100651462; for dry cleaner registration violations pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality. (Samuel Short, Steven Lopez)

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

Item 18. **Docket No. 2006-0761-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bengal Corporation dba Cleaners 4 U in Dallas County**; RN102339082; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Steven Lopez)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 19. **Docket No. 2006-0753-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MAK Foster Ranch, L.P. in Hays County**; RN102734399; 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. (Lynley Doyen, Steven Lopez)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 20. **Docket No. 2006-0617-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wood George & Co., Inc. dba Woodco USA in Harris County**; RN100591494; 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. (Colin Barth, David Van Soest)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 21. **Docket No. 2006-0558-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Monterey Mushrooms, Inc. in Madison County**; RN100831312; 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. (Marlin Bullard, Steven Lopez)

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

Item 22. **Docket No. 2006-0430-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Instruments Incorporated in Fort Bend County**; RN101717999; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, David Van Soest)

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

LICENSED IRRIGATOR ENFORCEMENT DEFAULT ORDERS

Item 23. **Docket No. 2005-0148-LII-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Lazaro Camacho in El Paso County**; TCEQ ID No. RN104188669; 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. (Xavier Guerra, Jennifer Cook)

Approve the Default Order. LS/MH; all agree.

Item 24. **Docket No. 2003-0543-LII-E.** Consideration of a Default Order assessing administrative penalties against **Ricardo Ortega dba Ortega's Trees and Landscaping in Guadalupe County**; TCEQ ID No. RN103126249; for landscape irrigator installer violations pursuant to Tex. Water Code chs. 7, 34 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Laurencia Fasoyiro, Jennifer Cook)

Item remanded to the Executive Director.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

Item 25. **Docket No. 2004-0252-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Torres Ready-Mix, Inc. in Zavala County**; TCEQ ID Nos. 70774 and RN103967469; for air quality violations and used oil violations pursuant to Tex. Health & Safety Code chs. 382 and 371, 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. (James P. Biggins, Jennifer Cook)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 26. **Docket No. 2004-0361-MLM-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **North San Gabriel Overlook, Ltd. in Williamson County**; TCEQ ID No. RN103184685; for water quality and Edwards Aquifer program violations pursuant to Texas Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (James P. Biggins, Jennifer Cook)

Approve the Default Order. LS/MH; all agree.

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

- Item 27. **Docket No. 2005-1585-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Synergy Management Group, L.L.C. in Haskell County**; RN103933362; 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. (Marlin Bullard, Steven Lopez)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

- Item 28. **Docket No. 2005-1567-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Express Waste, Inc. in Dallas County**; TCEQ ID No. RN104192513; for municipal solid waste violations pursuant to Tex. Water Code ch. 26, 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. LS/MH; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 29. **Docket No. 2005-0548-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ellinger Sewer and Water Supply Corporation in Fayette County**; RN101529022; 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. (Shawn Slack, Jennifer Cook)

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

- Item 30. **Docket No. 2006-0542-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Alvarado in Johnson County**; RN101917334; 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, Steven Lopez)

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

- Item 31. **Docket No. 2006-0418-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Maud in Bowie County**; RN103138202; 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, Steven Lopez)

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

Item 32. **Docket No. 2006-0436-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rosenberg in Fort Bend County**; RN103134110; 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, Steven Lopez)

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

Item 33. **Docket No. 2005-0427-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Douglas Adcock dba McDonald's in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 13807-001, RN102186806; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Clausewitz, David Van Soest)

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

Item 34. **Docket No. 2006-0518-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kendall County Water Control and Improvement District No. 1 in Kendall County**; RN102837028; 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, Steven Lopez)

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

Item 35. **Docket No. 2005-0474-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bell County Water Control & Improvement District 2 in Bell County**; RN101610418 and RN101610491; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 36. **Docket No. 2003-1195-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Haafiz & Aman, Inc. in Orange County**; TCEQ ID No. RN101794758; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Jennifer Cook)

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

Item 37. **Docket No. 2006-0659-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Producers Cooperative Elevator in Floyd County**; RN102789062; 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, Steven Lopez)

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

Item 38. **Docket No. 2006-0333-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Nirmal & Armaan Enterprises, Inc. dba MC Corner Texaco in Tarrant County**; RN101837441; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Deana Holland, Steven Lopez)

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

Item 39. **Docket No. 2006-0799-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gasgo Markets, Inc. in Bexar County**; RN102130846; 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. (Rajesh Acharya, Steven Lopez)

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

Item 40. **Docket No. 2006-0539-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Fortune 501 Plus, Inc. dba Swif-T Fast Food 23 in Dallas County**; RN102463460; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Shontay Wilcher, Steven Lopez)

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

Item 41. **Docket No. 2005-0131-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Shaheen International, Inc. dba FISCO in Jefferson County**; TCEQ ID No. RN101447126; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 42. **Docket No. 2005-1419-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Charles Leonard Hagerman dba 100th Meridian Stop in Wheeler County**; TCEQ ID No. RN102274958; 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. (Deanna Sigman, Jennifer Cook)

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

Item 43. **Docket No. 2005-1206-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **RCF Investments Inc. dba The Brock Junction in Parker County**; TCEQ ID No. RN101555282; 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. (Jacquelyn Boutwell, Jennifer Cook)

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

Item 44. **Docket No. 2005-1681-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **First American Bank, SSB dba Inactive Gas Station Iowa Park in Wichita County**; TCEQ ID No. RN104700034; for petroleum storage tank violations pursuant to 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. (Jacquelyn Boutwell, Jennifer Cook)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 45. **Docket No. 2004-1161-PST-E.** Consideration of a Default Order assessing administrative penalties against **Zag Petroleum Inc. dba Z.P.I. Chevron in Fort Bend County**; TCEQ ID No. RN101824431; 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. (Amie Dutta Richardson, Jennifer Cook)

Approve the Default Order. LS/MH; all agree.

Item 46. **Docket No. 2005-0293-PST-E.** Consideration of a Default Order assessing administrative penalties against **Mike's Groceries & Feed, Inc. dba Mike's Grocery & Feed 21 in Montgomery County**; TCEQ ID No. RN102494408; 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. (Amie Dutta Richardson, Jennifer Cook)

Item remanded to the Executive Director.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 47. **Docket No. 2006-0289-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Avinger in Cass County**; RN101387033; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Steven Lopez)

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

Item 48. **Docket No. 2006-0164-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lawn in Taylor County**; RN101406916;

for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (J. Craig Fleming, David Van Soest)

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

Item 49. **Docket No. 2004-1507-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Emel G. Rubio dba La Bahia in Goliad County**; Public Water Supply Registration No. 0880007; RN101213304; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (John Muennink, David Van Soest)

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

Item 50. **Docket No. 2006-0679-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Gladewater in Gregg County**; RN101176832; 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, Steven Lopez)

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

Item 51. **Docket No. 2006-0681-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gause Water Supply Corporation in Milam County**; RN101264018; 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, Steven Lopez)

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

Item 52. **Docket No. 2006-0834-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Clear Creek Rentals, Ltd. dba Tucker Rentals in Bell County**; RN104443791; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, Steven Lopez)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 53. **Docket No. 2006-0010-PWS-E.** Consideration of a Default Order assessing administrative penalties against **Elton W. Thompson dba Peterson Place Subdivision Water System in Liberty County**; TCEQ ID No. RN101199339; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mark Curnutt, Jennifer Cook)

Approve the Default Order. LS/MH; all agree.

SLUDGE ENFORCEMENT AGREED ORDER

- Item 54. **Docket No. 2006-0209-SLG-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Teresa Gail Allums dba T & A Septic Service in Houston County**; RN104710546; for sludge violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, David Van Soest)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

- Item 55. **Docket No. 2004-1142-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Goodspeed Sand Company, Inc. in Johnson County**; TCEQ ID No. RN102770419; 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. (Justin Lannen, Jennifer Cook)

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

MOTION TO VACATE DEFAULT ORDER

- Item 56. **Docket No. 2004-0506-PST-E.** Consideration of the Executive Director's Motion to Vacate Default Order against **PT Gas Service Company, L.C. dba Workingmans Friend 529 in Wichita County**; TCEQ ID Nos. 3615 and RN102040359; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Shana Horton, Jennifer Cook)

Item remanded to the Executive Director.

DISTRICTS

- Item 57. **TCEQ Docket No. 2005-1649-DIS; SOAH Docket No. 582-06-1987.** Consideration of an application from **Smith County Water Control and Improvement District No. 1** (District), in **Smith County**, for conversion into a Municipal Utility District. The Board of Directors of the District requests that the Commission convert the District pursuant to Texas Water Code, Chapters 49 and 54. The State Office of Administrative Hearings remanded the application to the Commission based on an agreed motion to remand stating that the District and the City of Winona had agreed to settle their dispute and that all of the parties in the contested case hearing concurred with the remand request. (TCEQ Internal Control No. 04292005-DO6) (Rob Cummins, Christiaan Siano)

Adopt the Executive Director's revised October 13, 2006 Order. LS/MH; all agree.

GIFTS AND DONATIONS

- Item 58. **Docket No. 2006-1631-MIS.** Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (David Timberger)

The Commission acknowledged the acceptance of gifts and donations as revised by staff on October 13, 2006, and adopted the [Resolution including Exhibit A](#), which contains the names of the donors and descriptions and statements of the purposes of the gifts and which is attached to and incorporated in these minutes. LS/MH; all agree.

TMDL MATTER

- Item 59. **Docket No. 2006-1432-TML.** Consideration for approval to publish and solicit public comment on two draft TMDLs for chloride and total dissolved solids in the **Colorado River Below E. V. Spence Reservoir** (Segment 1426) of the Colorado River Basin, in **Coke and Runnels Counties**. (Tom Weber, Marc Friberg)

Approve for publication and solicitation of public comment. LS/MH; all agree.

RULE MATTER

- Item 60. **Docket No. 2006-0292-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 334**, Underground and Aboveground Storage Tanks, Sections 334.2, 334.5, 334.8, 334.71, 334.84, 334.301 - 334.303, 334.306, 334.310, and 334.313.

The adoption would incorporate into agency rule, changes to statute which were effective September 1, 2005, based on language in Senate Bill 485, House Bill 1987, and Senate Bill 1863 (Article 5) from the 79th Legislature, 2005 Regular Session, and on suggested changes by stakeholders. This rulemaking would add language defining the term "subsurface soils" to the definition of a "release"; remove common carrier liability with respect to deliveries into underground storage tanks; simplify owner/operator notification of underground storage tank (UST) compliance to common carriers; extend the sunset date of the Petroleum Storage Tank Reimbursement Account and applicable deadlines by two years; provide enhanced opportunity for owners/operators of eligible leaking petroleum storage tank sites to transfer them into the agency's Petroleum Storage Tank State Lead Program; and allow the commission to consider the reimbursement of non-preapproved claims. The proposed rules were published in the June 2, 2006, issue of the *Texas Register* (31 TexReg 4562). (Anton Rozsypal, Cullen McMorrow) (Rule Project No. 2005-056-334-PR)

Adopt amendments to 30 TAC Chapter 334, Sections 334.2, 334.5, 334.8, 334.71, 334.84, 334.301 - 334.303, 334.306, 334.310, and 334.313. LS/MH; all agree.

EXECUTIVE SESSION

- Item 61. **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 and General Counsel, 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 62. **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 63. **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.

THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: [HTTP://WWW.TEXASADMIN.COM/CGI-BIN/TNRCC.CGI](http://www.texasadmin.com/cgi-bin/tnrcc.cgi).

AGENDA

Wednesday, October 18, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2004-1518-PST-E; SOAH Docket No. 582-06-0313.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Amer Khan dba Oakwood One Stop in Leon County**, Texas; TCEQ PST Registration No. 4128; regarding petroleum storage tank violations pursuant to Texas Water Code §§ 26.346, 26.3475(a) and (c)(1); 30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(5)(C), 334.50(a)(1)(A) and Tex. Water Code ch. 7. (Shannon L. Strong)

Adopt the ALJ's Order as revised by the Executive Director. LS/MH; all agree.

- Item 2. **TCEQ Docket No. 2005-0874-UCR; SOAH Docket No. 582-05-7833.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the appeal of an action by **Beach Road MUD** to increase rates for retail sewer utility service in **Matagorda County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to such comments; the appeal, and related filings, exceptions and replies. (Kathy H. Brown)

Adopt the ALJ's Order with a modification to Ordering Provisions #4 as proposed by the Commission. LS/MH; all agree.

- Item 3. **TCEQ Docket No. 2003-0984-PST-E; SOAH Docket No. 582-05-6560.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against and requiring certain actions of **Oshborn, Inc. dba Fast Stop in Orange County**, Texas; TCEQ PST Registration No. 75132; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60.

Adopt the ALJ's Order and exceptions as filed by the Executive Director. LS/MH; all agree.

- Item 4. **TCEQ Docket No. 2006-1047-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between the **City of Seguin** (Seguin), water certificate of convenience and necessity ("CCN") No. 10698, and Springs Hill WSC (Springs Hill), water CCN No. 10666, in **Guadalupe County**, Texas pursuant to Section 13.248 of the Texas Water Code. Currently, Seguin and Springs Hill are dually certificated to provide retail

water service in four areas of Guadalupe County. This agreement would decertify Springs Hill from three of the dually certificated areas, leaving the City as the sole retail water service provider in those areas and decertify the City from the other dually certificated area, leaving Springs Hill as the sole retail water service provider in that area. Springs Hill will also decertify two areas which are singly certificated to Springs Hill and transfer those areas to the City. There are nine customers in the areas currently singly certificated to Springs Hill, however, the City represents that the City owns the facilities used to serve those customers and that Springs Hill serves the customers with City water. According to the agreement, Springs Hill will continue to serve the customers until such time as Springs Hill can no longer meet the customers needs. No facilities are proposed to be transferred. (Ross Henderson, Tammy Holguin-Benter)

Adopt the Executive Director's revised proposed order and revised map filed on October 13, 16, & 18, 2006. LS/MH; 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.

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Assistant General Counsel,
Celeste Baker

Date