

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

## AGENDA

Wednesday, July 28, 2004

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

#### **HEARING REQUESTS**

- Item 1. **Docket No. 2004-0698-AIR.** Consideration of application by **INVISTA S.A.R.L. (formerly, E. I. DuPont de Nemours and Company)** for renewal of Air Quality Permit No. 9560 to authorize the continued operation of its cogeneration unit. The facility is located at 2695 Old Bloomington Road North, in Victoria, **Victoria 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. (Sean O'Brien/Les Trobman)

Deny the hearing request as a matter of law, approve the Executive Director's Response to Comments, and approve the application for renewal. KW/LS; all agree.

- Item 2. **Docket No. 2004-0836-AIR.** Consideration of application by **Freeport LNG Development LP** for New Air Quality Permit No. 55464 to authorize the construction of a liquefied natural gas marine terminal and receiving facility. The proposed facility is located at the intersection of Lamar and Cortez Streets on Quintana Island in Freeport, **Brazoria 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. (Norma Rodriguez/Garrett Arthur)

Continued to the August 11, 2004 agenda.

- Item 3. **Docket No. 2004-0644-AIR.** Consideration of application by **Jobe Concrete Products, Inc.** for New Air Quality Permit No. 48255 to authorize existing rock crushers known as the Upper Base Crushers. The facility is located at 1 Mc Kelligon Canyon Road, in El Paso, **El Paso County**. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Dois Webb/Terry Salem)

Grant the hearing requests of Joe and Angelina Piñon and Quality of Life El Paso, deny all other hearing requests and requests for reconsideration; refer the matter to SOAH, with the opportunity to refer to ADR after the preliminary hearing, for a maximum time period of 9 months from the date of the preliminary hearing, with the hearing to be held in El Paso and the following issues to be considered: 1. Whether modeling is required to assess the cumulative effects from all regulated sources at the McKelligon Canyon site and whether those facilities will cause a violation of air quality standards? 2. Whether the permit application demonstrates that the facilities are meeting applicable NSPS requirements? 3. Whether the permit application is complete, allowing relevant emissions information to be determined? 4. Whether the draft permit is enforceable? 5. Whether the permit requires BACT for crushing and screening source? 6. Whether the facilities will adversely impact the requesters' use and enjoyment of their property or adversely impact the requesters' health? 8. Whether the draft permit has adequate monitoring, recordkeeping, and reporting requirements? 9. Whether nonattainment review is required since the site remains above the major source threshold until all applications are approved? 10. Whether the compliance history summary is complete and whether the Applicant has an acceptable compliance history? 11. Whether the application contains unjustifiable documentation of past emissions? and 12. Whether modeling is required and must be confirmed with actual monitoring data? KW/LS; all agree.

#### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 4. **Docket No. 2003-0040-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Air Liquide America Corporation in Brazoria County**; Air Account No. BL-0626-U; 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. (Carl Schnitz, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 5. **Docket No. 2003-0565-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Avis Rent A Car System, Inc. dba Avis Rentals in El Paso County**; Air Account No. EE0865V; 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 Ruble, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 6. **Docket No. 2004-0032-AIR-E.** Consideration of an Agreed Order assessing administrative penalties of **Chevron Phillips Chemical Company LP in Harris County**; Air Account ID No. HG0566H; 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. (Terry Murphy, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 7. **Docket No. 2003-1455-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **ExxonMobil Oil Corporation dba Mobil Chemical Beaumont Chemical Plant (BMCP) in Jefferson County**; Air Account No. JE-0062-S; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, Sherry Smith)

Remanded to the Executive Director.

Item 8. **Docket No. 2003-1482-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Houston Pipe Line Company in Live Oak County**; Air Account No. LK-0044-R, Regulated Entity ID No. RN100213131; 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. (Thomas E. Jecha, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 9. **Docket No. 2004-0103-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **J. J. S. Enterprises, Inc. in El Paso County**; Air Account No. EE-0795-R, Regulated Entity ID No. RN100813252; 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. (Thomas Greimel, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 10. **Docket No. 2003-1493-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Penreco in Galveston County**; Air Account No. GB-0054-T, Regulated Entity No. RN100221282; 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. (Brandon Smith, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 11. **Docket No. 2003-1535-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ponderosa Pine Energy Partners, LTD. in Johnson County**; Air Account No. JH0230L; 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. (Keith Fleming, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 12. **Docket No. 2000-1144-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Formosa Plastics Corporation, Texas in Calhoun County**; TCEQ ID Nos. CB-0038-Q and RN100218973; for air quality violations pursuant to the Texas Clean Air Act, Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gitanjali Yadav, Sherry Smith)

Remanded to the Executive Director

Item 13. **Docket No. 2003-1561-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gilbert Miles dba R & S Paint and Auto Body in El Paso County**; Air Account No. EE1463P, Regulated Entity Reference No. RN101517605; 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, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 14. **Docket No. 2003-1330-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Gulfstream Aerospace, LP in Tarrant County**; Air New Source Permit Account No. TA3682J; Regulated Entity Reference No. RN102927449; 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. (Lori Thompson, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 15. **Docket No. 2001-0405-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Top Cut Tree Service, Inc. in Montgomery County**; TCEQ ID No. MQ-0308-P; for air quality and municipal solid waste violations pursuant to the Texas Clean Air Act, Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Gitanjali Yadav, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 16. **Docket No. 2003-1457-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Eott Energy Pipeline Limited Partnership in Cooke County**; Air Account No. CV-0048-K; for 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. (Kent Heath, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 17. **Docket No. 2003-0441-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Oxy Vinyls, L.P.** in **Harris County**; Air Account No. HG-0193-B; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Christina McLaughlin, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 18. **Docket No. 2004-0099-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **IMOT, Inc.** in **Johnson County**; Air Account No. JH0458A; 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. (Kelli Bruce, Sherry Smith)

Remanded to the Executive Director.

Item 19. **Docket No. 2003-1259-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enbridge Energy Company, Inc.** in **Bee County**; Air Account No. BE-0028-D; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Trina Grieco, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 20. **Docket No. 2003-1591-AIR-E.** Consideration of an Agreed Order assessing administrative penalties of **Campbell Soup Supply Company L.L.C.** in **Lamar County**; Air Account No. LA-0005-R, Regulated Entity Reference No. RN100216753; 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. (Carolyn V. Lind, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 21. **Docket No. 2004-0161-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GulfTerra Texas Pipeline, L.P.** in **Kleburg County**; Air Account No. KJ-0019-V; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward R. Moderow, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

## **EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**

- Item 22. **Docket No. 2003-0025-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Austin in Williamson County**; Edwards Aquifer Protection Program File No. 99061402; 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. (Lawrence King, Sherry Smith)

Remanded to the Executive Director.

- Item 23. **Docket No. 2004-0362-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Hausman 18 Joint Venture, Ltd. in Bexar County**; Edwards Aquifer Site Registration No. 13-03012702, Regulated Entity Reference No. RN102997145; 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. (A. Sunday Udoetok, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

## **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER**

- Item 24. **Docket No. 2003-1322-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John Myers dba Myers Wrecking Yard in Llano County**; RN102755030; for air quality and water 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. (Suzanne Walrath, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

## **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

- Item 25. **Docket No. 2002-1007-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Lakeport in Gregg County**; Texas Pollutant Discharge Elimination System Permit No. 10939-001; for water quality violations pursuant to Tex. Water Code ch. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Carolyn V. Lind, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 26. **Docket No. 2003-1288-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Bahram Solhjoui in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 12882-001, Regulated Entity Reference No. 102079043; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Gerberding Hupp, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 27. **Docket No. 2003-1557-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rankin Road West Municipal Utility District in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 12934-001, Regulated Entity No. RN102341070; 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. (Joseph Daley, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

#### **ON SITE SEWAGE FACILITY INSTALLER ENFORCEMENT AGREED ORDER**

- Item 28. **Docket No. 2003-0522-OSI-E.** Consideration of an Agreed Order assessing administrative penalties of **William Whatley dba Waste Water Technologies in Hardeman County**; TCEQ ID No. 5954; 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. (Wendy Cooper, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

#### **ON SITE SEWAGE FACILITY INSTALLER ENFORCEMENT DEFAULT ORDER**

- Item 29. **Docket No. 2002-0149-OSI-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Granville Raspberry in Harris County**; TCEQ ID No. OS5451 (expired); 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. (Laurencia Fasoyiro, Sherry Smith)

Approve the default order. KW/LS; all agree.

#### **PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

- Item 30. **Docket No. 2003-1511-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Advance Petroleum Distributing Company, Inc. in Tarrant County**; Regulated Entity ID NO. RN102411469; 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 Fox, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 31. **Docket No. 2003-0852-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ahor Enterprise Inc. in Harris County**; Petroleum Storage Tank Facility ID No. 59801, Regulated Entity ID No.

RN100892173; 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. (Bill Davis, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 32. **Docket No. 2004-0304-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron U.S.A. Inc. in Harris County**; Petroleum Storage Tank Facility ID No. 17941, Regulated Entity ID No. RN100805134; 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. (Leila Pezeshki, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 33. **Docket No. 2003-1543-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **MCMC Auto Ltd. in Tarrant County**; Petroleum Storage Tank Facility ID No. 20963, Regulated Entity Reference No. RN102054541; 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. (Steven Lopez, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 34. **Docket No. 2003-1193-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Munir Munawar in Aransas County**; Petroleum Storage Tank Facility ID No. 47930, Regulated Entity ID No. RN103019832; 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. (Ronnie Kramer, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 35. **Docket No. 2003-0827-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Rahat Enterprises, Inc. in Guadalupe County**; Petroleum Storage Tank Facility ID No. 43127, Regulated Entity Reference No. RN101841443; 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. (Sushil Modak, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 36. **Docket No. 2003-1279-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **Changok Chung dba Quality Fuel 2 in El Paso County**; PST Facility ID No. 001939; 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. (Edward Moderow, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 37. **Docket No. 2003-1590-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **PM Fuel Service, Inc. in Collin County**; Petroleum Storage Tank Facility ID No. 0044975, Regulated Entity Reference No. RN102868551; 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. (Jill Reed, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 38. **Docket No. 2003-1551-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Manchaca Service Center Inc. in Travis County**; Petroleum Storage Tank Facility ID No. 16311, Regulated Entity Reference No. RN101494904; 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. (Erika Fair, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 39. **Docket No. 2003-1596-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **J.A.M. Distributing Company in Brazoria County**; Petroleum Storage Tank ID No. T002445; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Mac Vilas, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 40. **Docket No. 2004-0022-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Texan Markets, Inc. in Travis County**; Petroleum Storage Tank Facility ID No. 69820, Regulated Entity Reference No. RN102019080; 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. (Lori Thompson, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

- Item 41. **Docket No. 2004-0254-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Brandenburg Products, Inc. in Dallas County**; Customer ID No. 600804264, Regulated Entity ID No. 103777538; 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. (Thomas Greimel, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 42. **Docket No. 2003-1061-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Henry Franco dba Wasson Road Chevron** in **Howard County**; Petroleum Storage Tank Facility ID No. 1574, Regulated Entity Reference No. RN101729838; 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. (Steven Lopez, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 43. **Docket No. 2003-1147-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **Try Transportation, Inc.** in **El Paso County**; Regulated Entity ID No. RN100669217; 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. (Miriam Hall, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 44. **Docket No. 2003-1460-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Gulf Coast Enterprise Inc. dba Kemah Texaco** in **Galveston County**; Petroleum Storage Tank Facility ID No. 73015; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 45. **Docket No. 2003-0986-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Port Arthur Retails, Inc.** in **Jefferson County**; Petroleum Storage Tank Facility ID No. 0016557, Regulated Entity Reference No. RN102809407; 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. (Sheila Smith, Sherry Smith)

Remanded to the Executive Director.

Item 46. **Docket No. 2003-0967-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **Farida-Aziz Enterprises, Incorporated dba Sugar Creek Exxon** in **Fort Bend County**; Petroleum Storage Tank Facility ID No. 26782; 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. (Lawrence King, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 47. **Docket No. 2004-0179-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mukesh Patel dba Big Daddys Convenience in Rains County**; Petroleum Storage Tank Facility ID No. 47061, Regulated Entity ID No. RN102713195; 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. (Brandon Smith, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 48. **Docket No. 2004-0219-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **American Electric Power Services Corporation in Dallas County**; PST Facility ID No. 66444; 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. (Brandon Smith, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 49. **Docket No. 2003-1087-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **Nasir Mughal dba 61st Street Food Mart in Galveston County**; Petroleum Storage Tank Facility ID No. 005474, Regulated Entity ID No. RN101873081; 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. (Cari Bing, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 50. **Docket No. 2002-0556-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Douglas Lawrence dba Jim's Service Center in Henderson County**; TCEQ ID No. 41583; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Alfred Okpohworho, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 51. **Docket No. 2003-0820-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Best Deal Enterprises Inc. in Galveston County**; Petroleum Storage Tank Facility ID No. 72991, Regulated Entity ID No. RN101435154; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Clausewitz, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

## PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 52. **Docket No. 2002-0332-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Billy G. Hall** in **Lubbock County**; TCEQ ID Nos. 0067740 and RN102374485; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Nash Petty, Sherry Smith)

Remanded to the Executive Director.

Item 53. **Docket No. 2002-0398-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Al-Huseini, Inc. dba Stubby's # 2** in **Montgomery County**; TCEQ ID Nos. 0030618 and RN 102442431; 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. (Kelly W. Mego, Sherry Smith)

Approve the default order. KW/LS; all agree.

## PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 54. **Docket No. 2004-0329-PWS-E.** Consideration of an Agreed Order assessing administrative penalties actions of **Moscow Water Supply Corporation** in **Polk County**; Public Water Supply Registration No. 1870125, Regulated Entity ID No. RN101652642; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Joseph Daley, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 55. **Docket No. 2003-1540-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **New Horizons Ranch and Center, Incorporated** in **Mills County**; Public Water Supply ID No. 1670009, Regulated Entity ID No. RN101278471; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mike Meyer, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 56. **Docket No. 2003-1255-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Wedgewood Hospitality, Inc. dba USA RV 2** in **Fort Bend County**; Public Water Supply ID No. 0790415; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Walter Lassen, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 57. **Docket No. 2003-1220-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Southwestern Electric Power dba Pirkey Power Plant in Harrison County**; Public Water Supply 1020059; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kent Heath, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

Item 58. **Docket No. 2003-1246-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Sonora in Sutton County**; Public Water Supply 2180001; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kent Heath, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

#### **WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 59. **Docket No. 2003-1359-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Contractor's Supplies, Inc. in Gregg County**; National Pollutant Discharge Elimination System General Permit No. TXG110197, Regulated Entity Reference No. RN100249556; 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. (Steven Lopez, Sherry Smith)

Approve the agreed order. KW/LS; all agree.

#### **AIR QUALITY ENFORCEMENT EMERGENCY ORDER**

Item 60. **Docket No. 2004-0780-AIR-E.** Consideration of an Emergency Order requiring **YFZ Land, LLC** to cease operations of its concrete batch plant which is operating without the necessary permit, in **Schleicher County**; TCEQ ID No. RN104250626; pursuant to Tex. Water Code chs. 5 and 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality. Tex. Water Code section 5.5145 requires the Commission to issue an emergency order suspending operations of a concrete batch plant that is operating without the necessary permit. Operations may not recommence until the plant obtains the required permit or 180 days after the Emergency Order is issued, whichever is earlier. (Wendy Cooper)

Approve the emergency shut down order. KW/LS; all agree.

#### **RULE MATTERS**

Item 61. **Docket No. 2004-0788-RUL.** Consideration of a petition for rulemaking under 30 TAC Chapter 20, Rulemaking, Section 20.15.

The petitioner, Baker Botts, LLP, requests that the commission repeal **30 TAC Chapter 111**, Control of Air Pollution from Visible Emissions and Particulate Matter, Subchapter A, Visible Emissions and Particulate Matter, Division 5, Emissions Limits on Nonagricultural Processes, Section 111.155, Ground Level Concentrations. (Nathan Pechacek, Rebecca Davis, Emily Barrett) (Rule Project No. 2004-062-111-NR)

Direct the Executive Director to initiate the rulemaking process that deals with issues associated with Section 111.155 and the rulemaking to proceed with full and open opportunity for stakeholders to develop a rule to be proposed to the Commissioners at a later date, if any. LS/KW; all agree.

Item 62. **Docket No. 2004-0769-RUL.** Consideration for publication of, and hearing on, proposed amended Section 281.2 and proposed new Section 281.10 in **30 TAC Chapter 281**, Applications Processing; proposed new Sections 39.901 and 39.902 in 30 TAC Chapter 39, Public Notice, new Subchapter O, Public Notice and Comment for Municipal Setting Designations; and proposed new Sections 352.1 - 352.7 in new 30 TAC Chapter 352, Certified Municipal Setting Designations.

The proposed rulemaking would implement House Bill 3152, 78th Legislature, Regular Session, 2003, by setting forth procedures governing the filing of applications for municipal setting designation certificates and by providing information regarding potential commission actions to grant, deny, and revoke municipal setting designation certificates. (Chet Clarke, Auburn Mitchell, Joseph Thomas) (Rule Project Number 2003-051-352-WS)

Continued to the August 11, 2004 agenda.

Item 63. **Docket No. 2004-0875-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 117**, Control of Air Pollution from Nitrogen Compounds; Subchapter D, Small Combustion Sources; Division 1, Water Heaters, Small Boilers, and Process Heaters; Sections 117.460 and 117.465; and corresponding revisions to the state implementation plan.

The proposed rulemaking would incorporate a one-year delay for compliance with the nitrogen oxides standard for water heaters with storage volumes of 50 gallons or less and a two-year delay for water heaters with storage volumes of greater than 50 gallons. The proposed rulemaking would also define direct-vent and power-vent water heater units and exempt them from the ten nanogram per Joule nitrogen oxides standard. (Karen Hill, Les Trobman, Alan Henderson) (Rule Project No. 2004-076-117-AI)

Continued to the August 11, 2004 agenda so that a revised caption may be submitted. KW/LS; all agree.

Item 64. **Docket No. 2004-0833-RUL.** Consideration for publication of, and hearing on, amendments to Sections 330.2, 330.111 - 330.117, 330.119 - 330.138, and 330.200; and the repeal of Section 330.118 and new Section 330.118 of **30 TAC Chapter 330**, Municipal Solid Waste.

The proposed rulemaking would comprehensively address which site operating plan requirements should be performance-based standards and where specificity is warranted. (Richard Carmichael, Steve Shepherd, Debi Dyer) (Rule Project No. 2004-050-330-WS)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 330 with one sentence amending the pre-amble. LS/KW; all agree.

Item 65. **Docket No. 2003-1101-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 285**, On-Site Sewage Facilities, Sections 285.80 and 285.81; **30 TAC Chapter 317**, Design Criteria for Sewerage Systems, Section 317.1; and proposed new Subchapter F of **30 TAC Chapter 210**, Use of Reclaimed Water, Sections 210.81, 210.82, 210.83, 210.84, and 210.85.

This rulemaking would implement House Bill 2661, 78th Legislature, Regular Session, 2003, which established new standards for the use of less than 400 gallons per day of domestic graywater. This rulemaking establishes criteria for the use of graywater for irrigation and other agricultural purposes; commercial purposes; institutional purposes; and industrial purposes. Additionally, this rulemaking proposes to modify the definition of graywater. This rulemaking would also require the installer of a graywater system to advise the owner of the system about basic operating and maintenance procedures, including any effects on the owner's on-site sewage facility system. Finally, this rulemaking would require engineers who design collection systems to account for the potential loss of graywater from the collection system. (Ken Graber, Louis C. Herrin, III, P.E, Jacquelyn Boutwell, Kathy Ramirez) (Rule Project No. 2003-056-317-WT)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 285, 30 TAC Chapter 317, and 30 TAC Chapter 210 with the replacement of the phrase "impervious surface" with the statutory phrase "pave surface." KW/LS; all agree.

Item 66. **Docket No. 2004-0720-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 290**, Public Drinking Water; Subchapter F, Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems; Sections 290.104, 290.106 - 290.108, 290.111, and 290.121; and the repeal of Section 290.115.

The proposed amendments incorporate federal requirements which include a maximum contaminant level (MCL) for uranium, which is not currently regulated under state law, and revisions to the monitoring requirements for combined radium-226 and radium-228, gross alpha particle radioactivity, and beta and photon radioactivity. The proposed amendments also include a revised MCL for arsenic and revisions to compliance and new-source monitoring requirements. The repeal deletes Section 290.115 because this section is a transition rule for disinfection by-products that would be obsolete by the time this proposal, if adopted, becomes effective. (Tony Bennett, Lara Nehman, Ray Austin) (Rule Project No. 2004-038-290-WT)

Approve publication of, and hearing on, proposed amendments to 30 TAC Chapter 290. KW/LS

## EXECUTIVE SESSION

Item 67. **Docket No. 1998-1154-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

Did not meet in executive session.

Item 68. **Docket No. 1999-0024-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

Did not meet in executive session.

Item 69. **Docket No. 1999-0025-EXE.** The Commission will conduct a closed session to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

Did not meet in executive session.

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

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

OLD BUSINESS AGENDA

Wednesday, July 28, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

Item continued from the May 12, 2004 agenda.

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

Continued to the September 29, 2004 agenda to allow time for global settlement between all parties.  
LS/KW

AGENDA

Wednesday, July 28, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **TCEQ Docket No. 2002-0692-LII-E; SOAH Docket No. 582-04-2325.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Willis C. Aldridge** in **Collin County**, Texas; TCEQ ID No. None; regarding landscape irrigation installer violations pursuant to Tex. Water Code chs. 7 and 34 and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's revised Order with the recommended change to delete "by certified mail" from ordering provision #7 of the Order. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 2002-0893-PST-E; SOAH Docket No. 582-04-0757.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Joseph Endari dba Endari's Exxon** in **Jefferson County**, Texas; TCEQ ID No. 0026694; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's order with the deletion of COL 14, revisions to COL 17, 18, and 19, addition of a mandatory 12-month payment plan, reduction in the penalty to \$6,250 on the basis of other factors as justice may require, and correction of the P.O. Box in Ordering Provision 2 to 13088, and deletion of the reference to "certified" in Ordering Provision 7. KW/LS; all agree.

/s/ Greg Merrell  
Greg Merrell,  
Assistant General Counsel

08/31/2004  
Date