

Chairman Kathleen White  
Commissioner Larry Soward  
Commissioner Ralph Marquez

OLD BUSINESS AGENDA

Wednesday, September 15, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the August 25, 2004 agenda.

- Item 1. **Docket No. 2002-0886-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Equistar Chemicals, L.P.** in **Brazoria County**; Air Account No. BL-0113-I; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Suzanne Walrath)

Continued to the September 29, 2004 agenda.

Continued from the August 25, 2004 agenda.

- Item 2. **Docket No. 2003-1312-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Pampa in Gray County**; Air Account No. GH0055U, Regulated Entity ID No. RN100211416; 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, Suzanne Walrath)

Remanded to the Executive Director.

## AGENDA

Wednesday, September 15, 2004

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

#### HEARING REQUEST

- Item 1. **Docket No. 2004-0699-IHW.** Consideration of an application by **Kelly AFB/U.S. Department of Air Force** - Air Force Real Property Agency for a Solid Waste Disposal Act, Class 3 Compliance Plan modification, Compliance Plan No. 50310, to authorize the Final Corrective Action Program for the remediation of groundwater quality associated with releases from Solid Waste Management Unit (SWMU) Site S-4 to specified standards and to monitor the concentration of hazardous constituents in groundwater until compliance with specified groundwater quality standards have been attained. The facility is located approximately 7 miles southwest of the center of San Antonio, **Bexar 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. (Susan White/Mark Weegar)

Deny the hearing request, adopt the ED's Response to Comments, and approve the modification to Compliance Plan No. 50310. KW/RM; all agree.

#### AGRICULTURAL ENFORCEMENT AGREED ORDER

- Item 2. **Docket No. 2004-0240-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **Great Plains Cattle Feeders, Inc.** in **Deaf Smith County**; Texas Pollutant Discharge Elimination System Registration No. WQ0002217-000, Regulated Entity Reference No. RN102990173; 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. (Ronnie Kramer, Pam Campbell)

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

#### AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 3. **Docket No. 2003-0581-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Beverly Henson dba Circle H Muffler Shop** in **Tarrant County**; Regulated Entity No. 102938024; 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, Pam Campbell)

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

Item 4. **Docket No. 2003-1405-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Devon Gas Services, L.P.** in **Wise County**; Air Account No. WN-0021-G; 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. (Judy Kluge, Pam Campbell)

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

Item 5. **Docket No. 2002-1386-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, L.P.** in **Midland, Fayette, and Jefferson Counties**; Air Account Nos. ML-0008-Q, FC-0034-I, and JE-0203-B; Regulated Entity Reference Nos. RN100209907, RN100223460, and RN101062032; 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. (Suzanne Walrath, Pam Campbell)

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

Item 6. **Docket No. 2003-0176-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, L.P.** in **Pecos County**; Air Account Number PE-0051-N; 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. (Tel Croston, Pam Campbell)

Remanded to the Executive Director.

Item 7. **Docket No. 2003-1064-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gardner Glass Products, Inc.** in **Walker County**; Air Account No. WA-0041-A; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Pam Campbell)

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

Item 8. **Docket No. 2004-0019-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Farmers Dairies, Ltd.** in **El Paso County**; Air Account No. EE-1311-Q, Regulated Entity Reference No. RN100818756; 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. (Sheila Smith, Pam Campbell)

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

Item 9. **Docket No. 2002-0722-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation** in **Jefferson County**; Air Account No. JE-0067-I and Air Permit Nos. 19566/PSD-TX-768M1, 18277/PSD-TX-802, 18276, 1202, and 655; 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. (David Van Soest, Pam Campbell)

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

Item 10. **Docket No. 2003-1232-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP** in **Jefferson County**; Air Account No. JE-0769-P, Regulated Entity ID No. RN100542349; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Miriam Hall, Pam Campbell)

Remanded to the Executive Director.

Item 11. **Docket No. 2003-1583-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GEUS** in **Hunt County**; Air Account No. HV0023K; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Pam Campbell)

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

Item 12. **Docket No. 2004-0100-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Weatherford Aerospace, Inc.** in **Parker County**; Air Account No. PC-0077-R; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jorge Ibarra, P.E., Pam Campbell)

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

Item 13. **Docket No. 2004-0101-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Shell Chemical LP** in **Harris County**; Air Account No.

HG0659W, Regulated Entity Reference No. 100211879; for air 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. (Merrilee Hupp, Pam Campbell)

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

- Item 14. **Docket No. 2003-1447-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sabre Communications Corporation dba Sabre Tubular Structures in Tarrant County**; Air Account No. TA0496G; 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. (Chris Friesenhahn, Pam Campbell)

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

- Item 15. **Docket No. 2004-0385-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Matrix Metals LLC dba Richmond Foundry Co. in Fort Bend County**; Air Account No. FG-0044-H; 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, Pam Campbell)

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

#### **LANDSCAPE IRRIGATOR INSTALLER ENFORCEMENT AGREED ORDER**

- Item 16. **Docket No. 2003-0648-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Randy Sweetland in Harris County**; TCEQ ID No. None; for licensing violations pursuant to Tex. Water Code chs. 7 and 34 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, Pam Campbell)

Remanded to the Executive Director.

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

- Item 17. **Docket No. 2003-1354-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bell County Water Control and Improvement District No. 1 in Bell County**; Public Water Supply No. 0140016, Texas Pollution Discharge Elimination System No. 10351-003; for water quality and drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kent Heath, Pam Campbell)

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

#### **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

- Item 18. **Docket No. 2003-1526-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Brownfield Independent School District in Terry County**; Regulated Entity ID No. RN104062708; for municipal solid waste 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. (Tom Greimel, Pam Campbell)

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

- Item 19. **Docket No. 2003-1477-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Matthews Backhoe, Inc. in Terry County**; Regulated Entity ID No. 101801090; for municipal solid waste 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. (Thomas Greimel, Pam Campbell)

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

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

- Item 20. **Docket No. 2003-0383-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of China in Jefferson County**; TPDES Permit No. 12104-001, Regulated Entity Reference No. 101721686; 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. (Suzanne Walrath, Pam Campbell)

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

- Item 21. **Docket No. 2003-0439-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Methodist Children's Home dba Methodist Home Boys Ranch in McLennan County**; Texas Pollutant Discharge Elimination System Permit No. 14464-001; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Pam Campbell)

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

- Item 22. **Docket No. 2003-1578-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Tifco Industries, Inc. in Harris County**; Texas Pollutant Discharge Elimination System (TPDES) Permit No. 12465-001; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas

Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jorge Ibarra, P.E., Pam Campbell)

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

- Item 23. **Docket No. 2003-1347-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Corpus Christi in Nueces County**; Texas Pollutant Discharge Elimination System Permit No. 10401-005; 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. (Cari Bing, Pam Campbell)

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

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

- Item 24. **Docket No. 2004-0041-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Russell Wayne Turner in Taylor County**; On-Site Sewage Facility Installer License OS0007985 (expired); for licensing/certification violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Lori Thompson, Pam Campbell)

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

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

- Item 25. **Docket No. 2002-1254-OSI-E.** Consideration of a Default Order revoking the OSSF installer license and requiring certain actions of **Kenneth Raska dba Ken's Backhoe Service in Fort Bend County**; TCEQ ID No. OS 228; 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. (Alfred Okpohworho, David Van Soest)

Continued to the October 13, 2004 agenda.

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

- Item 26. **Docket No. 2004-0274-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **7-Eleven, Inc. in Dallas County**; Petroleum Storage Tank Facility ID No. 07386, Regulated Entity No. RN102266327; 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. (Erika Fair, Pam Campbell)

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

- Item 27. **Docket No. 2004-0102-PST-E.** Consideration of an Agreed Order assessing administrative penalties of **Alexander Oil Company in Harris County**; Petroleum Storage Tank Facility No. 8880, Regulated Entity ID No. RN101670800; 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. (Christopher M. Miller, Pam Campbell)

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

- Item 28. **Docket No. 2003-0990-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Salemohmed Sajjad Ali dba Austin Food Store in Williamson County**; Petroleum Storage Tank Facility ID No. 36527; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Sandy VanCleave, Pam Campbell)

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

- Item 29. **Docket No. 2003-0807-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Crockett Farm & Fuel Center, Inc. in Houston County**; Petroleum Storage Tank Facility ID No. 704; 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. (Rebecca Johnson, Pam Campbell)

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

- Item 30. **Docket No. 2004-0169-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sitton Oil and Marine Company, Inc. in Jefferson County**; Regulated Entity Reference No. RN100523455; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (A. Sunday Udoetok, Pam Campbell)

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

- Item 31. **Docket No. 2004-0192-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **King Fuels, Inc. in Fort Bend County**; Regulated Entity Reference No. RN103004602; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 334, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Pam Campbell)

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

Item 32. **Docket No. 2003-0988-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Praxair, Inc. in Harris County**; Petroleum Storage Tank Facility ID No. 11161, Regulated Entity Reference No. RN102684974; 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, Pam Campbell)

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

Item 33. **Docket No. 2004-0155-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Osteopathic Medical Center of Texas in Tarrant County**; Petroleum Storage Tank ID No. 56020; 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. (Kent Heath, Pam Campbell)

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

Item 34. **Docket No. 2003-0874-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mulberry Kaufman Enterprises, Inc. dba Mulberry Kaufman Beer & Wine Grocery in Kaufman County**; Petroleum Storage Tank Facility ID No. 0027512; 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. (Kent Heath, Pam Campbell)

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

Item 35. **Docket No. 2003-0977-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kwang Soon Lee dba Kim One Stop Shop in Trinity County**; Petroleum Storage Tank Facility ID No. 35937; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Pam Campbell)

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

Item 36. **Docket No. 2003-1043-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **J & J Business, Inc. in Harris County**; Petroleum Storage Tank Facility ID No. 0020457, Regulated Entity No. RN101466712; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (A. Sunday Udoetok, Pam Campbell)

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

Item 37. **Docket No. 2004-0249-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Edcouch-Elsa Independent School District Public Facility Corporation in Hidalgo County**; Petroleum Storage Tank Facility ID No. 46213, Regulated Entity ID No. RN102221686; 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, Pam Campbell)

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

Item 38. **Docket No. 2004-0107-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DTG Operations, Inc. dba Dollar Rent A Car in Dallas County**; Petroleum Storage Tank Facility ID No. 73144, Regulated Entity ID. No. RN101736809; 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 Tex. Admin. Code ch. 60. (Sushil Modak, Pam Campbell)

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

Item 39. **Docket No. 2003-1078-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Andrews Transport, Inc. in Harris County**; Petroleum Storage Tank ID No. 0055242, Regulated Entity Reference No. RN100670975; 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. (Jill Reed, Pam Campbell)

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

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

Item 40. **Docket No. 2004-0187-PWS-E.** Consideration of an Agreed Order assessing administrative penalties of **Buena Vista-Bethel SUD in Ellis County**; Public Water Supply ID No. 0700037, Regulated Entity ID No. RN101440139; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Leila Pezeshki, Pam Campbell)

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

Item 41. **Docket No. 2003-0620-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Crystal Clear Water Supply Corporation in Guadalupe County**; Public Water Supply ID No. 0940015, Regulated Entity ID No. RN101437994; for drinking water quality violations pursuant to Tex. Water Code ch. 13 and the rules of the Texas Commission on Environmental Quality. (Pamela Campbell)

Remanded to the Executive Director.

Item 42. **Docket No. 2003-0324-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Lawn in Taylor County**; TCEQ Public Water Supply Facility ID No. 2210005, Regulated Entity ID No. RN101406916; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code § 26.121, and the rules of the Texas Commission on Environmental Quality. (Bill Davis, Pam Campbell)

Remanded to the Executive Director.

Item 43. **Docket No. 2003-0667-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Superior Manufactured Homes, Inc. dba Garden Acres Subdivision in Gregg County**; Public Water Supply No. 0920031; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kimberly Morales, Pam Campbell)

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

Item 44. **Docket No. 2004-0165-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **South Newton Water Supply Corporation in Newton County**; Public Water Supply No. 1760022; 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, Pam Campbell)

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

Item 45. **Docket No. 2004-0313-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **S.D. Harrison dba San Pedro Village in Val Verde County**; Public Water Supply No. 2330046; 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, Pam Campbell)

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

Item 46. **Docket No. 2004-0159-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Peregrine Homeowners Association, Inc. in Brazoria County**; Public Water Supply No. 0200111, Regulated Entity Reference No. RN101220879; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jaime Garza, Pam Campbell)

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

Item 47. **Docket No. 2003-1546-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Five Nine Seven Limited Partnership dba Ramblewood Mobil Home Park in Brazos County**; PWS ID No. 0210006; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the

rules of the Texas Commission on Environmental Quality. (John Schildwachter, Pam Campbell)

Remanded to the Executive Director.

Item 48. **Docket No. 2004-0318-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hog Creek WSC in McLennan County**; Public Water Supply No. 1550132, Regulated Entity Reference No. 101459295; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Christopher Miller, Pam Campbell)

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

Item 49. **Docket No. 2003-1498-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Clyde in Callahan County**; Public Water Supply No. 0300002; 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, Pam Campbell)

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

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

Item 50. **Docket No. 2003-1360-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Czech Catholic Home For the Aged in Wharton County**; Texas Pollutant Discharge Elimination System Permit No. 0010935-001, Regulated Entity Reference No. RN102180163; 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, Pam Campbell)

Remand to the Executive Director to review the penalty and the possibility of a Supplemental Environmental Plan. LS/KW; all agree.

#### **MISCELLANEOUS AGENDA ITEM**

Item 51. **Docket No. 2004-1268-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. [Elizabeth West]

Approve staff recommendations as reflected in the adopted Resolution, including Exhibit A, which contains the names of the donors and descriptions and statements of the proposes of the gifts and which is attached to and incorporated in these minutes. KW/LS; all agree.

## RULE MATTERS

- Item 52. **Docket No. 2004-1079-RUL.** Consideration for publication of proposed amendments to **30 TAC Chapter 290**, Subchapter H, Consumer Confidence Reports, Sections 290.272 - 290.275.

The proposed amendments to consumer confidence reports conform with federal regulations by updating the health effects language regarding certain elements; by updating definitions; by updating the date by which the commission must receive the reports; and by providing a waiver to small systems from the requirement to mail the report. Amendments are also proposed to include administrative changes consistent with *Texas Register* requirements and other agency rules. (Debra Cerda, Lara Nehman, Clifton Wise) (Rule Project No. 2004-087-290-WT)

Approve the publication of proposed amendments to 30 TAC Chapter 290. KW/RM; all agree.

- Item 53. **Docket No. 2004-0181-RUL.** Consideration for the adoption of amendments to Sections 37.901, 37.911, 37.921, and 37.931 of **30 TAC Chapter 37**, Financial Assurance; amendments to Sections 328.4 and 328.5 of **30 TAC Chapter 328**, Waste Minimization and Recycling; amendments to Sections 330.3 and 330.280, new Section 330.282, and the repeal of existing Section 330.282 of **30 TAC Chapter 330**, Municipal Solid Waste; amendments to Sections 332.34 and 332.47 of **30 TAC Chapter 332**, Composting; and amendments to Section 335.24 of **30 TAC Chapter 335**, Industrial Solid Waste and Municipal Hazardous Waste. The adopted rulemaking implements House Bill 1823, 78th Legislature, Regular Session, 2003.

The adoption would require the owner or operator of an affected recycling facility to have sufficient financial assurance to properly operate and close a facility. The adoption would apply to recycling facilities that store combustible material outdoors and recycling facilities that pose a significant risk to public health and safety. The proposed rules were published in the April 23, 2004 issue of the *Texas Register* (29 TexReg 3909). (Arthur Denny, Anthony Tatu, Alan Watts, Debi Dyer) (Rule Project No. 2004-002-037-AD)

Continue to the October 13, 2004 agenda. KW/LS; all agree.

- Item 54. **Docket No. 2003-1490-RUL.** Consideration of the adoption of amended Sections 288.1 - 288.5, 288.20 - 288.22, and 288.30 of **30 TAC Chapter 288**, Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements.

The adoption would implement House Bill 2660, 78th Legislature, Regular Session, 2003, which amended Texas Water Code, Section 11.1271, to require that certain existing surface water right holders and future surface water right applicants include specific, quantified five-year and ten-year targets for water savings within their water conservation plans by May 1, 2005. This adoption would also implement House Bill 2663, 78th Legislature, Regular Session, 2003, which amended Texas Water Code, Section 11.1272, to establish specific, quantified targets for drought contingency plans of wholesale and retail public water suppliers and irrigation districts by May 1, 2005.

The proposed rules were published in the April 23, 2004 issue of the *Texas Register* (29 TexReg 3912). (Bill Billingsley, Kathy Brown, Kathy Ramirez) (Rule Project No. 2004-004-288-WT)

Adopt amended Sections 288.1 - 288.5, 288.20 - 288.22, and 288.30 of 30 TAC Chapter 288 with recommended changes to the preamble. KW/LS; all agree.

- Item 55. **Docket No. 2004-0306-RUL.** Consideration of the adoption of proposed amended Sections 114.1, 114.2, 114.50, 114.52, and 114.53 of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles; Subchapter A, Definitions, and Subchapter C, Vehicle Inspection and Maintenance and Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, Division 1, Vehicle Inspection and Maintenance; and corresponding revisions to the state implementation plan.

The rulemaking adoption would remove all references to the inspection and maintenance program in Chambers, Liberty, and Waller Counties before the scheduled program implementation date of May 1, 2005 in these three counties. The rulemaking adoption would also remove the requirement for these three counties to submit individually or collectively an alternative control plan with strategies that would be implemented instead of an inspection and maintenance program. The proposed rules were published in the June 11, 2004 issue of the *Texas Register* (29 TexReg 5728). (Bob Wierzowiecki, Garrett Arthur, Alan Henderson) (Rule Project No. 2004-035-114-AI)

Adopt amended Sections 114.1, 114.2, 114.50, 114.52, and 114.53 of 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. RM/LS; all agree.

#### **PROPOSAL FOR DECISION**

- Item 56. **TCEQ Docket No. 2002-1333-AGR-E; SOAH Docket No. 582-04-1622.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **M & M Dairy, Inc.** in **Collin County**, Texas; TCEQ ID No. CP-0503-W; regarding various water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's default order with the revisions proposed by the Executive Director and General Counsel. KW/RM; all agree.

#### **EXECUTIVE SESSION**

- Item 57. **Docket No. 1998-1154-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

Item 58. **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.

No action taken.

Item 59. **Docket No. 1999-0025-EXE.** The Commission will conduct a closed session to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

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

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

/s/ Greg Merrell  
Greg Merrell  
Assistant General Counsel

09/24/2004  
Date