

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, November 10, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the October 27, 2004 agenda.

- Item 1. **Docket No. 2004-0332-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Kaneka Texas Corporation in Harris County**; Air Account No. HG-1065-E, Regulated Entity No. RN100218841; 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. (Carolyn Lind, Bill Davis)

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

Continued from the October 27, 2004 agenda.

- Item 2. **TCEQ Docket No. 2003-0597-UCR; SOAH Docket No. 582-03-3827.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the applications of **North Orange Water & Sewer LLC** seeking approval to change its water and sewer rates and tariffs for the Country Squire water and sewer systems and to recover associated rate case expenses from ratepayers. Applicant is an investor-owned utility that operates three separate water and sewer utility systems in **Orange County, Texas: Country Squire, Chasse Hollow, and Longford Place.** This case involves only the Country Squire water and sewer systems. The Commission will also consider the applications, related filings, exceptions and replies.

Adopt the ALJ's Revised Proposed Final Order. KW/RM; all agree.

AGENDA

Wednesday, November 10, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUEST(S) AND/OR REQUEST(S) FOR RECONSIDERATION

- Item 1. **Docket No. 2003-0728-MWD.** Consideration of the application by the **City of Alvord** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014339001, to authorize the discharge of treated domestic wastewater with a daily average flow not to exceed 112,000 gallons per day. The wastewater treatment facility serves the City of Alvord. The facility is located approximately 2,500 feet south of Farm-to-Market Road 1655 adjacent to Elm Creek at a point approximately 1/2 mile southwest of the business district of the City of Alvord in **Wise 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 (Jason Haas/June Ella Martinez)

Grant the hearing request for Robert C. Paddock, Forsythe Company on the issues of whether the draft permit has adequate safeguards to prevent the future release of improperly treated wastewater from the facility, whether the draft permit should require additional biomonitoring and reporting requirements, and whether Applicant has adequate odor control measures to ensure that odors do not affect Forsythe Ranch; refer the matter to SOAH for a period of 4 months and concurrently refer the matter to ADR for a period of 4-6 weeks. KW/RM; all agree.

- Item 2. **Docket No. 2004-1473-IWD.** Consideration of Permit Application No. 03995, submitted by **Austwell Aqua Farm, Inc.** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. 03995, to authorize the discharge of process wastewater (aquaculture pond effluent) at a daily average flow not to exceed 3,700,000 gallons per day via Outfall 001. The applicant operates an aquaculture facility which produces shrimp. The plant site is located adjacent to Farm-to-Market Road 2040, approximately three miles southeast of the City of Austwell, **Refugio 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. (Jason Haas/David Galindo)

Grant the hearing requests of Virginia Dunham, Barbara & Jack Hardin, Dorothy Dyer Wilkins, The Environmental Defense Fund, The Hynes Bay Coalition, The Texas Shrimp Association, and Commissioners Court of Aransas County; direct the ALJ to determine affected party status for the Coastal Conservation Association of Texas; deny all other hearing requests; and refer to ADR for

a period of 4-6 weeks then, if necessary, to SOAH. The Commission acknowledged that the ALJ can consider other parties as participants at that time. KW/RM; all agree.

Item 3. **Docket No. 2004-1197-MWD.** Consideration of the application by **Lake Whitney RV Community** for a renewal of TCEQ Permit No. WQ0013891001, which authorizes the subsurface disposal of treated domestic wastewater at a daily average flow not to exceed 5,000 gallons per day in the Interim phase and the discharge of treated domestic wastewater at a daily average flow not to exceed 15,000 gallons per day in the final phase. The facility and disposal site are located 4 miles west of the intersection of Farm-to-Market Road 933 and Farm-to-Market Road 1713 in **Hill 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. (John Williams; Kent Trede)

Item continued to the January 12, 2005 agenda.

Item 4. **Docket No. 2004-1474-IHW.** Consideration of the application by **Cogema Mining, Inc.**, for amendments to production area authorizations UR02155-071 and UR02156-071. The site is located at the El Mesquite and Holiday in situ uranium mines in **Duval County**, approximately 4.5 miles east of the community of Bruni, north of Highway 359. The amended authorization would change the specifications for groundwater restoration for two production areas which have not yet been closed: El Mesquite Production Area 7 northern portion and Holiday Production Area 7 northern portion. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Ben Knape, John Santos, Don Redmond)

Grant the hearing requests for Patricia Benavides, Sara Alicia B. Trautman, and SABB Ranch, Ltd. on the issues of: 1. whether an appropriate effort was made to restore the groundwater to pre-mining or baseline condition, 2. whether appropriate standards for protection of human health and the environment are being applied by the TCEQ in the evaluation of the applications, and 3. whether the proposed amendments to the restoration tables will achieve the protection of human health and the environment required by the applicable statutes and rules, including all criteria enumerated in Section 331.107(f); deny the request for reconsideration; and refer to ADR for a period of 4-6 weeks then, if necessary, to SOAH for a contested case hearing with a duration of 6 months. KW/LS; all agree

Item 5. **Docket No. 2004-1475-IHW.** Consideration of the application by **Cogema Mining, Inc.**, for amendments to production area authorization UR02156-011. The site is located at the Holiday in situ uranium mine in **Duval County**, approximately 4.5 miles east of the community of Bruni, north of Highway 359. The amended authorization would change the specifications for groundwater restoration for one production area which has not yet been closed: Holiday Production Area 1 eastern portion. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Ben Knape, John Santos, Don Redmond)

Grant the hearing requests for Patricia Benavides, Sara Alicia B. Trautman, and SABB Ranch, Ltd. on the issues of: 1. whether an appropriate effort was made to restore the groundwater to pre-mining or baseline condition, 2. whether appropriate standards for protection of human health and the environment are being applied by the TCEQ in the evaluation of the applications, and 3. whether the proposed amendments to the restoration tables will achieve the protection of human health and the environment required by the applicable statutes and rules, including all criteria enumerated in Section 331.107(f); deny the request for reconsideration; and refer to ADR for a period of 4-6 weeks then, if necessary, to SOAH for a contested case hearing with a duration of 6 months. KW/LS; all agree

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 6. **Docket No. 2004-0025-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jack Vanden Berge dba Vanden Berge Dairy in Erath County**; Registration No. WQ0003184-000, Regulated Entity Reference No. 102073137; 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, Laurie Eaves)

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

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 7. **Docket No. 2003-1473-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Agrifos Fertilizer Inc. in Harris County**; Air Account No. HG0534U; 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, Laurie Eaves)

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

Item 8. **Docket No. 2004-0457-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chemical Lime, Ltd. in Bosque County**; Air Account No. BJ-0001-T, Regulated Entity Reference No. RN100219856; 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. (Ronnie Kramer, Laurie Eaves)

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

Item 9. **Docket No. 2004-0549-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **LBC Houston, LP in Harris County**; Air Account No. HG0029P; 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. (Lawrence King, Laurie Eaves)

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

- Item 10. **Docket No. 2004-0476-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Magic Valley Concrete, Ltd. in Cameron County**; Air Account No. 943877F; 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, Laurie Eaves)

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

- Item 11. **Docket No. 2004-0294-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against Solvay **HDPE, L.P. dba BP Solvay Polyethylene North America and AJV Polymers, L.L.C. dba BP Solvay Polyethylene North America** in **Harris County**; Air Account No. HG-0665-E, RN100229905; 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, Laurie Eaves)

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

- Item 12. **Docket No. 2003-0626-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houshang Shirazi dba Quality Fuels** in **El Paso County**; Air Account No. EE-0948-Q, Regulated Entity Reference No. RN100813682; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Erika Fair, Laurie Eaves)

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

- Item 13. **Docket No. 2004-0599-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Magnum Blue Ribbon Feeds, Inc.** in **Deaf Smith County**; Air Account No. DD-0066-S, Regulated Entity Reference No. RN101925196; 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. (Ronnie Kramer, Laurie Eaves)

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

- Item 14. **Docket No. 2004-0074-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Owens Corning** in **Ellis County**; TCEQ ID Nos. ED-0051-O and RN100223585; 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. (Laurencia Fasoyiro, Lisa Lemanczyk)

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

- Item 15. **Docket No. 2003-0654-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Saint-Gobain Abrasives, Inc. in Erath County**; TCEQ ID No. EF-0012-C and RN 100211655; 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 Tex. Admin. Code ch. 60. (Wendy Cooper, Lisa Lemanczyk)

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

- Item 16. **Docket No. 2003-0625-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Hertz Corporation in El Paso County**; Air Account No. EE-1145-J, Regulated Entity Reference No. RN100821040; 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. (Erika Fair, Laurie Eaves)

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

- Item 17. **Docket No. 2004-0491-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **EXXONMOBIL Oil Corporation dba Mobil Chemical Beaumont Chemical Plant (BMCP) in Jefferson County**; TCEQ Air Account No. JE0062S; 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, Laurie Eaves)

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

AIR QUALITY ENFORCEMENT DEFAULT ORDER

- Item 18. **Docket No. 2003-0373-AIR-E.** Consideration of a Default Order assessing administrative penalties against **Sam Song dba Sam Song Motors in Dallas County**; TCEQ ID Nos. DB-3704-G and RN102699790; 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. (Xavier Guerra, Lisa Lemanczyk)

Item continued to the December 1, 2004 agenda. KW/LS; all agree.

AIR QUALITY ENFORCEMENT ORDER TO TERMINATE AGREED ORDER

- Item 19. **Docket No. 2004-0312-AIR-E.** Consideration of an Order to Terminate Agreed Order, Texas Air Control Board Agreed Order Docket No. 89-05(f) issued on May 12, 1989 requiring certain actions of **San Antonio Water System in Bexar County**; TCEQ ID No. RN102210101; for air quality violations pursuant to the Texas Clean Air Act, Tex.

Health & Safety Code ch. 382, Tex. Rev. Civil Stat. art. 4477-5, and the rules of the Texas Commission on Environmental Quality. (Rebecca Nash Petty, Lisa Lemanczyk)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 20. **Docket No. 2004-0207-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Round Rock ISD in Williamson County**; Edwards Aquifer File No. 11-91081306, Regulated Entity ID No. RN102134681; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Cari Bing, Laurie Eaves)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

- Item 21. **Docket No. 2004-0685-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southwest Concrete Products L. P. dba Southwest Concrete San Antonio Plant in Bexar County**; Waste Water General Permit TXG110320; 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. (Cheryl Thompson, Laurie Eaves)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

- Item 22. **Docket No. 2004-0500-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of San Juan in Hidalgo County**; Air Account No. HN-0331-K, Municipal Solid Waste Permit No. 639, Regulated Entity ID No. RN102143443; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jaime Garza, Laurie Eaves)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 23. **Docket No. 2004-0573-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Dublin in Erath County**; Texas Pollutant Discharge Elimination System Permit No. WQ0010405001, Regulated Entity ID No. RN101918308; 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. (Brandon Smith, Laurie Eaves)

Remanded to the Executive Director.

- Item 24. **Docket No. 2003-0024-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Independent School District and Camp Olympia, Inc. and Camp Management, Inc.** in **Trinity County**; Texas Pollutant Discharge Elimination System Permit No. 11898-001; 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. (J. Mac Vilas, Laurie Eaves)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

- Item 25. **Docket No. 2003-0992-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **S. P. Holmes, Inc. dba Georgetown 66** in **Williamson County**; Petroleum Storage Tank Facility ID No. 0026064; 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. (Sherry Smith, Laurie Eaves)

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

- Item 26. **Docket No. 2004-0652-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mark J. Pike dba Southwest Charter Lines** in **El Paso County**; Petroleum Storage Tank Facility ID No. 10073; 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. (Mauricio Olaya, Laurie Eaves)

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

- Item 27. **Docket No. 2004-0145-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Star Tex Gasoline & Oil Distributors, Inc.** in **Harris County**; Regulated Entity ID No. RN103949434; 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, Laurie Eaves)

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

- Item 28. **Docket No. 2004-0397-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sarbali Oil, Inc. dba Jasper Fuels Company** in **Jefferson and San Augustine Counties**; Petroleum Storage Tank Facility ID Nos. 37326 and 48536; for petroleum storage tank violations pursuant to Tex.

Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, Laurie Eaves)

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

- Item 29. **Docket No. 2004-0352-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Steinhagen Oil Company, Inc. dba Fastlane No. 28 and Fastlane No. 34 in Jefferson County**; Petroleum Storage Tank Facility ID Nos. 67037 and 28592, Regulated Entity ID Nos. RN101905560 and RN101807071; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Sushil Modak, Laurie Eaves)

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

- Item 30. **Docket No. 2004-0631-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Aziz Convenience Stores LLC dba Aziz Quick Stop 4 in Hidalgo County**; Petroleum Storage Tank Facility ID No. 71035, Regulated Entity ID No. RN103730370; 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, Laurie Eaves)

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

- Item 31. **Docket No. 2004-0541-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Imtiaz Khan dba Hawks Pantry 5 in Johnson County**; Petroleum Storage Tank Facility ID No. 8957; 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, Laurie Eaves)

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

- Item 32. **Docket No. 2004-0433-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Nauschad Hirani dba Lucky Food Store in Travis County**; Petroleum Storage Tank Facility ID No. 11001, Regulated Entity Reference No. RN101432003; 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. (Susan Longenecker, Laurie Eaves)

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

- Item 33. **Docket No. 2003-1119-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Binh Tran dba Mini Mart #102 in Galveston County**; TCEQ ID Nos. 0039040 and RN102714474; 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 Tex. Admin. Code ch. 60. (Sarah Jane Utley, Lisa Lemanczyk)

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

Item 34. **Docket No. 2002-0240-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Pak Ambrit, Inc. dba Pak-N-Pay** in **Harris County**; TCEQ ID No. 0009897; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality.(Deborah A. Bynum, Lisa Lemanczyk)

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

Item 35. **Docket No. 2003-0914-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kayan Foods, Inc. dba Delta Food Store** in **Harris County**; TCEQ ID Nos. 39747 and RN101846087; 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. (Gitanjali Yadav, Lisa Lemanczyk)

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

Item 36. **Docket No. 2003-1497-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Eastern Trust, Ltd dba Hamilton ET** in **Harris County**; Petroleum Storage Tank Facility ID No. 74943; 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, Laurie Eaves)

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

Item 37. **Docket No. 2004-0400-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Karim Merchant dba Kwik Pik Texaco** in **Dallas County**; Petroleum Storage Tank Facility ID No. 39411, Regulated Entity ID No. RN102038528; 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. (Cari Bing, Laurie Eaves)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 38. **Docket No. 2003-0893-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Padma Corporation dba Step N Go** in **Dallas County**; TCEQ ID Nos. 39391 and RN102469681; 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 (Gitanjali Yadav, Lisa Lemanczyk)

Item continued to the December 15, 2004 agenda. LS/KW; all agree.

Item 39. **Docket No. 2003-0784-PST-E.** Consideration of a Default Order assessing administrative penalties against **SJP Holdings, Inc. dba Speed Mart in Tarrant County**; TCEQ ID Nos. 58561 and RN101432458; 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, Lisa Lemanczyk)

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

Item 40. **Docket No. 2003-0901-PST-E.** Consideration of a Default Order assessing administrative penalties against **Tayyab M. Sheikh dba Sandy Center in Upshur County**; TCEQ ID Nos. 28031 and RN101382166; 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. (Laurencia Fasoyiro, Lisa Lemanczyk)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 41. **Docket No. 2004-0450-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Moss Lake Water Supply Corporation in Cooke County**; Public Water Supply No. 0490017, Certificate of Convenience and Necessity No. 12414; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Elvia Maske, Laurie Eaves)

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

Item 42. **Docket No. 2003-1218-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Camilla Coves Lot Owners Association, Inc. dba Camilla Coves Water System in San Jacinto County**; Public Water Supply ID No. 2040040; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, Laurie Eaves)

Remanded to the Executive Director.

Item 43. **Docket No. 2004-0772-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Mabank in Kaufman County**; Public Water Supply ID No. 1290005; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Elvia Maske, Laurie Eaves)

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

- Item 44. **Docket No. 2004-0364-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wade Easton dba Cedar Bayou Mobile Home Park in Chambers County**; Public Water Supply No. 0360024; 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, Laurie Eaves)

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

- Item 45. **Docket No. 2003-1183-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **West Cedar Creek Municipal Utility District in Henderson County**; Public Water Supply No. 1070190, Regulated Entity Reference No. RN102674397; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lori Thompson, Laurie Eaves)

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

STORM WATER ENFORCEMENT AGREED ORDER

- Item 46. **Docket No. 2003-1568-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Debra K. Smith and Terry M. Sinclair dba City Cabinet Shop in Tom Green County**; Texas Pollutant Discharge Elimination System Permit No. None, RN102962008; for water quality 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. (David Van Soest, Laurie Eaves)

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

SUPERFUND AGREED ORDER

- Item 47. **Docket No. 2004-1504-SPF.** Consideration of a proposed agreed administrative order regarding the **Poly Cycle Industries Tecula State Superfund Site** as authorized by Tex. Health & Safety Code §361.185 and §361.272. The site is located approximately 7 miles north of Jacksonville and 1.25 miles northeast of Tecula, **Cherokee County**, Texas. The proposed agreed administrative order would require that Respondents fully fund or perform the remedial investigation and feasibility study at the site. (Alonzo G. Arredondo & Auburn Mitchell)

Continued to the December 1, 2004 agenda.

RULE MATTERS

- Item 48. **Docket No. 2004-1118-RUL.** Consideration for publication of proposed amendments to Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31,

291.34, 291.41, 291.81, 291.87, 291.121, 291.122, 291.124, 291.125, and 291.127 of **30 TAC Chapter 291**, Utility Regulations.

The proposed rulemaking would implement House Bills 1152, 2388, and 3034, 78th Legislature, 2003, Regular Session and Senate Bill 2, Article 10, 77th Legislature, 2001, Regular Session (SB 2). The proposed rulemaking would provide requirements relating to: business locations for rate payments; disclosure of affiliated interests; consolidation of systems; alternative ratemaking methodologies; statement of intent to change rates and other requirements concerning rate changes; certain restrictions on purchasing wholesale water service and groundwater; exempting a utility that provided service in only 24 counties on January 1, 2003 from the requirements of SB 2; water conservation penalties; point-of-use submetering devices; and late fee charges. (Michelle Abrams, Lara Nehman, Debra Barber) (Rule Project No. 2004-016-291-WT)

Approve for publication proposed amendments to Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31, 291.34, 291.41, 291.81, 291.87, 291.121, 291.122, 291.124, 291.125, and 291.127 of 30 TAC Chapter 291. RM/KW; all agree.

Item 49. **Docket No. 2004-0833-RUL.** Consideration for adoption of 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 adoption comprehensively addresses which site operating plan requirements should be performance-based standards and where specificity is warranted. The proposed rules were published in the August 13, 2004 issue of the *Texas Register* (29 TexReg 7900). (Richard Carmichael, Steve Shepherd, Debi Dyer) (Rule Project No. 2004-050-330-WS)

Approve the adoption of 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, with the additional language to Section 330.131(a) "Waterwells that will be used for supply of the landfill that are located inside the groundwater monitoring network may be used if identified and approve in the facility permit". LW/KW; all agree.

Item 50. **Docket No. 2004-0596-RUL.** Consideration for adoption of proposed amended Sections 101.300, 101.302 - 101.304, 101.311, 101.356, 101.359, 101.370, 101.373, 101.374, and 101.376 of **30 TAC Chapter 101**; and corresponding revisions to the state implementation plan (SIP).

The adopted rulemaking would amend the emissions banking and trading rules in Subchapter H, Emissions Banking and Trading, to accommodate changes in emissions inventories, promote smooth program administration, establish a system to regulate discrete emission credit use, and correct the discrete emission credit generation equation. The proposed rules were published in the June 25, 2004, issue of the *Texas Register* (29 TexReg 6059). (Beecher Cameron, Cory Chism, Dan Long, Alan Henderson) (Rule Project Number 2003-064-101-AI)

Approve the adoption of proposed amended Sections 101.300, 101.302 - 101.304, 101.311, 101.356, 101.359, 101.370, 101.373, 101.374, and 101.376 of 30 TAC Chapter 101; and corresponding revisions to the state implementation plan. RM/KW; all agree.

PROPOSAL FOR DECISION

- Item 51. **TCEQ Docket No. 2003-0042-MSW-E; SOAH Docket No. 582-04-6656.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Joe Pacheco dba Joe's Tire Disposal in Karnes County**, Texas; TCEQ MSW Waste Tire Transporter Registration No. 6200009 (Cancelled); regarding 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.

Adopt the ALJ's Proposed Default Order. RM/LS; all agree.

EXECUTIVE SESSION

- Item 52. **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 53. **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 54. **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
Assistant General Counsel,
Greg Merrell

12/16/2004
Date