

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, December 1, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the July 14, 2004, August 25, 2004, and October 13, 2004 agendas.

- Item 1. **Docket No. 2004-0642-MWD.** Consideration of the application by **Aquasource Development Company** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014346001, to authorize the discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.055 million gallons per day (MGD), an Interim II volume not to exceed a daily average flow of 0.11 MGD, and a Final volume not to exceed a daily average flow of 0.22 MGD. The facility will be located approximately 775 yards east of the intersection of Schluter Road and Old Stony Road in **Denton 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. (Todd Burkey, Firoj Vahora)

Grant the hearing request for First Biscuit, Ltd. on the issues of whether odors from the facility will interfere with the requester's use of its property and whether permit requirements will adequately protect from unauthorized discharges resulting from accidents; refer this matter ADR for a period of 8-12 weeks then, if necessary, to SOAH for a duration of 4 months.

Continued from the November 10, 2004 agenda.

- Item 2. **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)

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

Continued from the November 10, 2004 agenda.

- Item 3. **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)

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

Continued from the October 27, 2004 agenda

- Item 4. **Docket No. 2004-0307-RUL.** Consideration of the adoption of the repeal of Sections 114.500, 114.502, 114.507, and 114.509 of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles; Subchapter J, Operational Controls for Motor Vehicles; Division 1, Motor Vehicle Idling Limitations; and corresponding revisions to the state implementation plan.

The adoption repeals the rules that prohibit a motor vehicle over 14,000 pounds from idling for more than five consecutive minutes in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties during the period of April 1 through October 31 of each calendar year. The proposed repeals were published in the June 11, 2004 issue of the *Texas Register* (29 TexReg 5741). (Scott Carpenter, Rebecca Davis, Debra Barber) (Rule Project No. 2004-043-114-AI)

Adopt the repeal of Sections 114.500, 114.502, 114.507, and 114.509 of 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

AGENDA

Wednesday, December 1, 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. 2004-1086-AIR.** Consideration of application by **Holcim Texas, Limited Partnership** for issuance of new Air Quality Flexible Permit No. 8996 and modification of Prevention of Significant Deterioration Permit Air Quality Permit No. PSD-TX-454M3, to authorize changes to their Portland cement manufacturing facility to reflect as-built conditions which differ from the current permit, to increase the allowable plant production rate, and to incorporate by reference additional alternative non-hazardous waste fuels currently authorized under Standard Permit. The plant is located at 1800 Dove Lane, Midlothian, **Ellis 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. (Randy Hamilton/Janis Hudson)

Approve the hearing requests of Mr. & Mrs. Donald Ballard, Downwinders at Risk, and Blue Skies Alliance, deny all remaining hearing requests and requests for reconsideration, continue this matter to the February 9, 2005 agenda for further consideration by the Commission of the permit application and any settlement terms to which the designated parties may have agreed; and determine that the Executive Director and Applicant shall work together to determine a means to expedite and accelerate selective non-catalytic reduction technology testing and update the draft permit, if necessary, to account for future emissions and Dallas/Fort Worth air quality standards. RM/KW; all agree. *

* Commissioner Larry R. Soward disagreed with the Commission's determination to deny affected person status to all other hearing requests, noting that denial would limit the number of parties involved in future settlement discussions and would potentially eliminate other affected parties from participating in a contested case hearing.

AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 2. **Docket No. 2004-0203-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Bayer Polymers LLC in Orange County**; Air Operating Permit Account No. OC0004P; 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 Schildwachter, Erika Fair)

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

Item 3. **Docket No. 2004-0411-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Reynaldo Barrientos dba Chispas Paint & Body Shop in Galveston County**; Air Account No. GB-0583-K; 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, Erika Fair)

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

Item 4. **Docket No. 2003-1480-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Firestone Polymers, LLC in Orange County**; Air Account No. OC-0010-U, Regulated Entity ID No. RN100224468; 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, Erika Fair)

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

Item 5. **Docket No. 2003-1431-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Inland Paperboard and Packaging, Inc. in Orange County**; TCEQ Air Account No. OC-0019-C, Regulated Entity ID No. RN100214428; 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. (Jaime Garza, Erika Fair)

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

Item 6. **Docket No. 2004-0512-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Schenectady International, Inc. in Brazoria County**; Air Account No. BL-0048-R, Regulated Entity No. 100218999; 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. (Ruben Soto, Erika Fair)

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

Item 7. **Docket No. 2004-0091-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Glass Container Corporation in Harris County**; Air Account No. HG-0028-R, Regulated Entity Reference No.

RN100671445; 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 V. Lind, Erika Fair)

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

- Item 8. **Docket No. 2004-0729-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Degussa Engineered Carbons, L. P.** in **Orange County**; TCEQ Air Account No. OC0020R, Regulated Entity No. RN100209386; 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, Erika Fair)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 9. **Docket No. 2004-0273-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hamilton Pipeline Inc.** in **Uvalde County**; Edwards Aquifer Site Registration No. 13-03051201, Regulated Entity Reference No. RN103142428; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Lori Thompson, Erika Fair)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

- Item 10. **Docket No. 1999-1137-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tubular Rental, Inc.** in **Jim Wells County**; TCEQ ID Nos. F407 and RN103019337; for industrial and hazardous waste violations pursuant to the Texas Solid Waste Disposal Act, Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. (Rebecca Nash Petty, Erica Fair)

Approve the agreed order. KW/RM agree; LS oppose.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

- Item 11. **Docket No. 2004-0425-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron U.S.A. Inc. dba Chevron Products Company** in **Harris County**; Texas Pollutant Discharge Elimination System Permit No. 01745; for water quality violations pursuant to Tex. Water Code chs.

5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, Erik Fair)

Remanded to the Executive Director.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 12. **Docket No. 2004-0060-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Agua Dulce in Nueces County**; Texas Pollutant Discharge Elimination System Permit No. 10140-001, Regulated Entity No. RN101720993; for water quality and 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. (Catherine Albrecht, Erika Fair)

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

Item 13. **Docket No. 2004-0460-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **Brown Water Marine Service, Inc. in Aransas County**; Air Account No. AD-0047-E and Regulated Entity Reference No. RN102934445; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 382 and 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jill Reed, Erika Fair)

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

Item 14. **Docket No. 2004-0795-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Robert Jansky dba Sweet Home Sand & Gravel in Lavaca County**; Regulated Entity No. RN101931384; 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. (Edward R. Moderow, Erika Fair)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 15. **Docket No. 2003-0150-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aegis Bio-Systems, L.L.C. in Kaufman and Bowie Counties**; Medical Waste Transporter Registration No. 50061; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality,

including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Erika Fair)

Approve the agreed order. KW/RM agree; LS oppose.

Item 16. **Docket No. 2002-0588-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Camie Crisp dba Camie's Tire Company in Coryell County**; TCEQ ID No. 79559; for municipal solid waste violations pursuant to the Texas Solid Waste Disposal Act, Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. (Rebecca Nash Petty, Erica Fair)

Approve the agreed order. KW/RM agree; LS oppose.

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 17. **Docket No. 2003-0092-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Rodolfo Galvan and Dominga Galvan in Hidalgo County**; TCEQ ID No. 455150051; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 34, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Barbara L. Klein, Erica Fair)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 18. **Docket No. 2002-1018-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Scenic Point Northview, Inc. in Palo Pinto County**; TPDES Permit No. 14173-001; for water quality violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurie Eaves, Erika Fair) Approve the agreed order.

Approve the agreed order. KW/RM agree; LS oppose.

Item 19. **Docket No. 2003-0640-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Woodmark Utilities, Inc. in Smith County**; TCEQ ID Nos. 13168-001, RN 101511400 and EPA ID No. TX0098795; 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. (Ashley Keever, Erica Fair)

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

- Item 20. **Docket No. 2004-0791-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Weslaco in Hidalgo County**; Texas Pollutant Discharge Elimination System Permit No. 10619-005, Regulated Entity Reference No. RN101612166; 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. (Erika Fair)

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

ON SITE SEWAGE FACILITY INSTALLER ENFORCEMENT AGREED ORDERS

- Item 21. **Docket No. 2004-0014-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Alma E. Tippins dba Alligator Annie's in Panola County**; On Site Sewage Facility Installer ID No. OS0005745, Regulated Entity Reference No. RN103746954; for licensing/certification violations pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Laurie Eaves, Erika Fair)

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

- Item 22. **Docket No. 2004-0039-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Ken R. Sloan dba Tri-County Septic in Red River County**; TCEQ ID No. RN103690533; OSSF Installer No. OS0001529; for on-site sewage installation violations pursuant Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Barbara J. Watson; Erica Fair)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

- Item 23. **Docket No. 2003-1054-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Anna Plaza, Incorporated dba Coyote Den in Collin County**; Petroleum Storage Tank Facility ID No. 47316; 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. (Jorge Ibarra, P.E., Erika Fair)

Approve the agreed order. KW/RM agree; LS oppose.

- Item 24. **Docket No. 2004-0735-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **FE-MA Enterprises, Inc. dba**

JRS Xpress in Hidalgo County; Petroleum Storage Tank Registration No. 58531, Regulated Entity Reference No. RN102853207; 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. (Sunday Udoetok, Erika Fair)

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

Item 25. **Docket No. 2004-0229-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Hagg, Inc. dba Speedy Mart in Harris County;** Petroleum Storage Tank Facility ID No. 39751; 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, Erika Fair)

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

Item 26. **Docket No. 2003-1028-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Alvy T. McQueen dba Buzzard Hill Service Station in Polk County;** TCEQ ID Nos. 11518 and RN101790079; 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. (Sarah Jane Utley, Erica Fair)

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

Item 27. **Docket No. 2002-0830-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ricky's Enterprises, Inc., dba Tony's Express Market in Harris County;** TCEQ ID No. 0040209; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (David Speaker, Erica Fair)

Approve the agreed order. KW/RM agree; LS oppose.

Item 28. **Docket No. 2003-0846-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Tipton Service Inc. in Hutchinson County;** Petroleum Storage Tank Registration No. 46867, Regulated Entity ID No. RN101792836; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Erika Fair)

Approve the agreed order. KW/RM agree; LS oppose.

Item 29. **Docket No. 2004-0921-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Shot Realty Company Inc. dba Atlantic Relocation Systems** in **Dallas County**; Petroleum Storage Tank Facility ID No. 55377, Regulated Entity Reference No. RN101566024; 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. (Erika Fair)

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

Item 30. **Docket No. 2004-0360-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lamar University** in **Jefferson County**; Petroleum Storage Tank (PST) Facility No. 30057; 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. (John Barry, Erika Fair)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 31. **Docket No. 2003-1388-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Craig Adams dba Hardy Stop (Formerly Hopper Food Corner)** in **Harris County**; TCEQ ID Nos. 4720 and RN103017323; 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, specifically 30 Tex. Admin. Code ch. 60. (Deborah A. Bynum, Erica Fair)

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

Item 32. **Docket No. 2003-0851-PST-E.** Consideration of a Default Order assessing administrative penalties against **Jan Enterprises, Inc., dba Nikus Lucky Lady** in **Tarrant County**; TCEQ ID Nos. 0046487 and RN100539717; 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. (James P. Biggins, Erica Fair)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 33. **Docket No. 2004-0628-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Butler Water Supply Corporation** in **Freestone County**; Public Water Supply No. 0810013; for drinking

water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Terry Murphy, Erika Fair)

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

Item 34. **Docket No. 2003-0672-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Carroll Pratt dba Whispering Pines Mobile Home Park** in **Cass County**; TCEQ ID Nos. Public Water Supply No. 0340027 and RN 102691607; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Barbara J. Watson, Erica Fair)

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

Item 35. **Docket No. 2003-0293-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Roscoe** in **Nolan County**; TCEQ ID Nos. 1770001 and RN101430924; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Benjamin J. de Leon, Erica Fair)

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

Item 36. **Docket No. 2004-0607-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **George Vinson dba Draper Estates Water System** in **Travis County**; Public Water Supply Registration No. 2270058, Regulated Entity ID No. RN100822436; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Chris Friesenhahn, Erika Fair)

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

Item 37. **Docket No. 2004-0627-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Leonard Borchardt dba The Hill Bar and Grill** in **Waller County**; Public Water Supply No. 2370081; for drinking water quality violations pursuant to ch. 341 of the Tex. Health & Safety Code and the rules of the Texas Commission on Environmental Quality. (Kimberly Morales, Erika Fair)

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

Item 38. **Docket No. 2003-1219-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Ralston Acres Water System Corporation** in **Harris County**; Public Water Supply ID No. 1010196; for drinking water quality violations

pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Brent Hurta, Erika Fair)

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

WATER QUALITY ENFORCEMENT AGREED ORDER

- Item 39. **Docket No. 2004-0509-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dan Dankworth dba Industrial Waste Landfill Pine St. Salvage Property in Taylor County**; Regulated Entity Reference No. RN104089552; 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. (Jill Reed, Erika Fair)

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

WATER QUALITY ENFORCEMENT DEFAULT ORDER

- Item 40. **Docket No. 2003-1484-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Texas Thermowell, Inc. in Jefferson County**; TCEQ ID No. RN100554757; 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. (Wendy Cooper, Erica Fair)

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

EMERGENCY ORDERS

- Item 41. **Docket No. 2004-1466-MWD-E.** Consideration of whether to Affirm, Modify, or Set Aside an Emergency Order issued September 21, 2004 by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code Sections 5.501, 5.507, and 13.4132 to address the abandonment of a retail public utility (Utility) by **Bailey Ray Hawley dba Hawley's Wastewater Treatment Facility**, which is located 200 feet east of Farm-to-Market Road 2946 and State Highway 514, and 7.5 miles east-northeast of the City of Emory in **Rains County**; TPDES No. 13853-001; to ensure continued operation of the Utility; and to provide continuous and adequate service to the customers. The Emergency Order renews the appointment of Lake Fork Wastewater, LLC as temporary manager of the Utility. (Rebecca Nash Petty)

Item continued to the January 12, 2005 agenda.

- Item 42. **Docket No. 2003-0604-MLM-E.** Consideration of whether to Renew the Appointment of a Temporary Manager, appointed by an Emergency Order on June 14, 2004 by the Executive Director of the Texas Commission on Environmental Quality and affirmed by Order of the Commission on August 25, 2004, pursuant to Tex. Water Code chs 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality to address the abandonment of a retail public utility ("Utility") consisting of a public water supply and wastewater collection system owned by **V V Water Supply System, Inc.**, TCEQ ID No. 0610052, and CCN Nos. 11524 and 20566 in **Denton County**, to ensure continued operation of the Utility, and to provide continuous and adequate service to its customers. The Emergency Order and Order Affirming the Emergency Order appointed Joe Mulroy as temporary manager of the Utility. (Lindsay Andrus)

Approve the renewal of the appointment of a temporary manager. KW/RM; all agree.

MISCELLANEOUS

- Item 43. **Docket No. 2004-1705-MIS.** Consideration of the Request by the **South Central Texas Water Advisory Committee (SCTWAC)** concerning the Edwards Aquifer Authority (EAA) Board of Director's action. SCTWAC requests that the Commission conduct a review of the EAA Board of Director's approval of Resolution and Order No. 12-03-478, which adopted revised permit regulations for groundwater withdrawals from the Edwards Aquifer in Chapter 711 of the EAA Rules. SCTWAC is a committee that advises the EAA on water rights and other issues that may affect interests downstream of the Edwards Aquifer and has requested a Commission review under Section 1.10 of the EAA Act. The Commission will also consider the response briefs from EAA, the Executive Director and the Office of Public Interest Counsel, the filings of interest from Guadalupe-Blanco River Authority, the City of Victoria and San Antonio Water System, and EAA's motion for an interim order defining the appropriate procedure and scope of review.

Item continued to the February 23, 2005 agenda.

- Item 44. **Docket No. 2004-1586-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/RM; all agree.

RULE MATTERS

- Item 45. **Docket No. 2004-1196-RUL.** Consideration for publication of, and hearing on, proposed **30 TAC Chapter 39**, Public Notice, new Section 39.510 and **30 TAC Chapter 305**, Consolidated Permits, new Sections 305.130 and 305.131.

The proposed rulemaking would require notification to the public by municipal solid waste permittees when a facility has not accepted waste within two years of permit issuance or has stopped accepting waste for two consecutive years. The rulemaking would also give the commission the discretion to revoke municipal solid waste permits if periodic notification actions do not commence as required or a permittee has not accepted waste within seven years of permit issuance or has ceased accepting waste for seven consecutive years. (Wayne Lee, Anthony Tatu, Clifton Wise) (Rule Project No. 2004-036-305-WS)

Approve the publication of, and hearing on, proposed 30 TAC Chapter 39, Public Notice, new Section 39.510 and 30 TAC Chapter 305, consolidated Permits, new Sections 305.130 and 305.131. RM/KW; all agree.

- Item 46. **Docket No. 2004-0720-RUL.** Consideration of the adoption of 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 adoption would incorporate federal requirements that 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 adoption would 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 adoption becomes effective. The proposed rules and repeal were published in the August 13, 2004 issue of the *Texas Register* (29 TexReg 7876). (Tony Bennett, Lara Nehman, Clifton Wise) (Rule Project No. 2004-038-290-WT)

Adopt amendments to 30 TAC Chapter 290 with changes as proposed by Chairman White at the dias and discussed by the Commissioners at the open meeting. KW/LS; all agree.

- Item 47. **Docket No. 2004-0875-RUL.** Consideration for adoption of 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 adopted rules apply statewide and incorporate a two-year delay for compliance with the 10 nanogram per Joule nitrogen oxides standard for conventional water heaters. The adopted rules also define direct-vent and power-vent water heater units and exempt them from the 10 nanogram per Joule nitrogen oxides standard. The proposed rules were published in the August 27, 2004, issue of the *Texas Register* (29 TexReg 8249). (Karen Hill, Les Trobman, Alan Henderson) (Rule Project No. 2004-076-117-AI)

Adopt amendments to 30 TAC Chapter 117 as revised during open meeting by the Executive Director; and corresponding revisions to the state implementation plan. RM/KW; all agree.

Item 48. **Docket No. 2004-0474-SIP.** Consideration for the adoption of revisions to the state implementation plan (SIP) concerning the attainment demonstration for the **Houston/Galveston/Brazoria** (HGB) one-hour ozone nonattainment area. The SIP revisions reflect a strategy based on nitrogen oxides and point source highly-reactive volatile organic compound emission reductions rather than solely a nitrogen oxides emission reduction plan. This revision contains results of photochemical modeling and technical documentation in support of the attainment demonstration. (Kelly Keel, Janis Hudson) (Project Number 2004-042-SIP-NR)

Adopt the revisions to the state implementation plan concerning the attainment demonstration for the Houston/Galveston/Brazoria one-hour ozone nonattainment area, with the changes presented during open meeting by the Executive Director. KW/RM; all agree.

Item 49. **Docket No. 2004-0727-RUL.** Consideration of the adoption of new Sections 101.390 - 101.394, 101.396, 101.399 - 101.401, and 101.403 of **30 TAC Chapter 101**, General Air Quality Rules; and corresponding revisions to the state implementation plan. The new sections are being adopted in 30 TAC Chapter 101, Subchapter H, Emissions Banking and Trading; new Division 6, Highly-Reactive Volatile Organic Compound Emissions Cap and Trade Program.

The adoption would establish a mandatory annual cap and trade program in Harris County to achieve reductions of highly-reactive volatile organic compound (HRVOC) emissions in support of the attainment demonstration of the one-hour national ambient air quality standard (NAAQS) for ozone in the Houston/Galveston/Brazoria ozone nonattainment area. The adoption also requires certain sites located in Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, and Waller Counties to submit documentation to determine if enforceable limits are consistent with the attainment demonstration for the area. If the total amount of enforceable HRVOC emissions is inconsistent with the attainment demonstration for the one-hour ozone NAAQS by the attainment date, the commission may implement a cap and trade program for those counties. The proposed rules were published in the July 9, 2004, issue of the *Texas Register* (29 TexReg 6522). (Cory Chism, Susana Hildebrand, Daniel Long, Clifton Wise) (Rule Project No. 2004-058-101-AI)

Adopt new Sections 101.390 - 101.394, 101.396, 101.399 - 101.401, and 101.403 of 30 TAC Chapter 101 with changes presented during open meeting by the Executive Director; and corresponding revisions to the state implementation plan. RM/KW; all agree.

Item 50. **Docket No. 2004-0546-RUL.** Consideration for adoption of amended Sections 115.352, 115.354 - 115.357, and 115.359 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds; and corresponding revisions to the state implementation plan. The amendments are being adopted in Subchapter D (Petroleum Refining, Natural Gas Processing, and Petrochemical Processes), Division 3 (Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas).

The adopted rules are applicable in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston/Brazoria ozone nonattainment areas. The rulemaking adoption removes certain recordkeeping requirements from the general volatile organic compound fugitive emissions rules in Subchapter D, Division 3, and makes the requirements applicable only to sources of highly-reactive volatile organic compound fugitive emissions in rule amendments that are being adopted as part of a concurrent rulemaking in 30 TAC Chapter 115, Subchapter H. The rulemaking adoption also makes a variety of changes to correct typographical errors, update cross-references, add flexibility, and achieve the intended emission reductions of the program. The proposed rules were published in the July 9, 2004, issue of the *Texas Register* (29 TexReg 6571) (Teresa Hurley, Janis Hudson, Alan Henderson) (Rule Project No. 2004-052-115-AI)

Adopt the amended Sections 115.352, 115.354 - 115.357, and 115.359 of 30 TAC Chapter 115; and corresponding revisions to the state implementation plan. KW/RM; all agree.

Item 51. **Docket No. 2004-0629-RUL.** Consideration for adoption of amended Sections 115.10, 115.720, 115.722, 115.725 - 115.727, 115.729, 115.760, 115.761, 115.764, 115.769, 115.780 - 115.783, and 115.786 - 115.789; new Sections 115.766 and 115.767; and repealed Sections 115.766 - 115.768 and 115.785 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds; and corresponding revisions to the state implementation plan. The amended, new, and repealed sections are being adopted in 30 TAC Chapter 115, Subchapter A (Definitions); Subchapter H (Highly-Reactive Volatile Organic Compounds), Division 1 (Vent Gas Control), Division 2 (Cooling Tower Heat Exchange Systems), and Division 3 (Fugitive Emissions).

The rulemaking adoption will achieve emission reductions in support of the attainment demonstration of the national ambient air quality standard for ozone in the Houston/Galveston/Brazoria ozone nonattainment area and implements measures to ensure compliance with the specific strategies to control highly-reactive volatile organic compound (HRVOC) emissions. Specifically, this rulemaking revises the short-term and long-term HRVOC emission caps to include certain emissions in the site-wide caps and refers to the HRVOC emissions cap and trade rules proposed for concurrent adoption by

the commission in 30 TAC Chapter 101. The rulemaking also amends the monitoring requirements and exemptions to account for the inclusion of certain emission in the short-term and long-term caps. Additionally, the amendments provide alternatives to monitoring for certain special categories of flares and cooling tower heat exchange systems, and expand the provisions for certain categories of flares. The rulemaking makes changes to technical requirements to the HRVOC vent, flare, cooling tower, and fugitives rules. It also adds new monitoring requirements for pressure relief valves and process vents, and revises the fugitive audit program. The rulemaking also amends the definition of strippable volatile organic compounds and adds a definition for emergency flare. The adopted amendments also revise all three divisions to relocate existing language to other sections of the rules, and make a variety of changes to correct typographical errors and update cross-references. The proposed rules were published in the July 9, 2004, issue of the *Texas Register* (29 TexReg 6534). (Ashley Forbes, Janis Hudson, Alan Henderson) (Rule Project No. 2004-037-115-AI)

Adopt the amended Sections 115.10, 115.720, 115.722, 115.725 - 115.727, 115.729, 115.760, 115.761, 115.764, 115.769, 115.780 - 115.783, and 115.786 - 115.789; new Sections 115.766 and 115.767; and repeal Sections 115.766 - 115.768 and 115.785 of 30 TAC Chapter 115 Compounds with the revision presented during open meeting by the Executive Director; and corresponding revisions to the state implementation plan. RM/KW; 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.

Commissioners did not meet in executive session.

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.

Commissioners did not meet in executive session.

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.

Commissioners did not meet in executive session.

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

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

AGENDA

Wednesday, December 1, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

MOTION TO OVERTURN

- Item 1. **TCEQ Docket No. 2004-0984-IHW-E.** Consideration of a Motion to Overturn filed on October 18, 2004 by **Texas Disposal Systems Landfill, Inc.** regarding the Executive Director's September 24, 2004 letter to **Penske Truck Leasing Co., L.P.** regarding the handling of commingled cathode ray tube (CRT) waste. (Travis County)

No action taken.

/s/ Greg Merrell
Assistant General Counsel,
Greg Merrell

01-18-2005
Date