

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, December 15, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the November 10, 2004 agenda.

- Item 1. **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)

Approve the default order to take effect on Wednesday, December 29, 2004, if payment of the initial \$220 is not received under the agreed order on or before that date; however, if payment of the \$220 is received by the agency on or before that date the default order will not take effect and the Executive Director will present the agreed order to the Commission for its approval. RM/LS; all agree.

AGENDA

Wednesday, December 15, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUESTS

- Item 1. **Docket No. 2004-1644-AIR.** Consideration of application by **Ash Grove Texas, LP.** for renewal of Air Quality Permit No. 1 to authorize the continued operation of its cement manufacturing facility. The facility is located at 900 GIFCO Road, 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. (Dois Webb/Brian MacLeod)

Deny all hearing requests, amend the Executive Director's Response to Comments to reflect 892.24 tons of PM emissions per year and issue the permit. KW/RM; all agree.

- Item 2. **Docket No. 2004-1720-AIR.** Consideration of application by **Austin Equipment L.C.** for New Air Quality Permit No. 70410L001 to authorize the construction of a rock crushing facility. The proposed facility is located northwest of the intersection of County Roads 344 and 305, approximately one mile north of Jarrell, **Williamson 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. (Larry Buller/Christopher Pepper)

Grant the hearing requests for William & Leigh Warren, William & Susan Clark, Michael & Debra Chapman, Larry & Carol George, Gary & Jean Hamrick, Bobby & Magdalena Rogers, and Spear's Ranch on Salado Creek Property Owners' Association, Inc., deny all other hearing requests, refer the matter to ADR for a period of 4-6 weeks then, if necessary, to SOAH for a maximum duration of 6 months on the issues of: 1. Is the permit protective of human health and the environment, as well as the requesters' use and enjoyment of their property? 2. Is the permit protective of the requesters' use of natural resources? 3. Whether the permit requires the use of Best Available Control Technologies (BACT), and if so, are BACT requirements met in the draft permit. 4. Whether the permit has adequate monitoring, recordkeeping, and reporting requirements. and 5. Whether the Applicant submitted adequate and accurate information in its permit application. KW/RM; all agree.

- Item 3. **Docket No. 2004-1472-MWD.** Consideration of the application by **Rebecca Lake Utility Company** for a new wastewater permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014151001, to authorize the discharge of

treated domestic wastewater with a daily average flow not to exceed 140,000 gallons per day. The wastewater treatment facility is located approximately 28,700 feet west southwest of the intersection of Farm-to-Market Roads 484 and 306; 2,600 feet west of the confluence of Schultz Creek and Rebecca Creek; and 11,000 feet south of Farm-to-Market Road 306 in **Comal 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. (Kathy Brown/Mary Ann Airey)

Item continued to the February 9, 2005 agenda.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 4. **Docket No. 2004-0848-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Angel Brothers Enterprises, Ltd. in Chambers County**; Air New Source Permits Account Number 908498D, Regulated Entity No. RN100869403; 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. (Kent Heath, Craig Fleming)

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

Item 5. **Docket No. 2003-1481-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ATOFINA Petrochemicals, Inc. in Jefferson County**; Air Account No. JE-0005-H; Regulated Entity ID No. RN102457520; 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 Clausewitz, Craig Fleming)

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

Item 6. **Docket No. 2003-1200-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Degussa Engineered Carbons, L.P. in Orange County**; Air Account No. OC-0020-R; 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. (Stacey Young, Craig Fleming)

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

Item 7. **Docket No. 2003-1353-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County in Harris County**; Regulated Entity No. 103914503; 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. (Mauricio Olaya, Craig Fleming)

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

Item 8. **Docket No. 2003-1094-AIR-E.** Consideration of an Agreed Order assessing administrative penalties of **Duke Energy Field Services, L.P.** in **Ward County**; Air Account No. WC0111F; 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 Fox, Craig Fleming)

Item continued to the January 12, 2005 agenda. KW/RM; all agree.

Item 9. **Docket No. 2004-0550-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nisseki Chemical Texas, Inc.** in **Harris County**; Air Account No. HG3626Q; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, Craig Fleming)

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

Item 10. **Docket No. 2004-0146-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rohm and Haas Texas Incorporated** in **Harris County**; Air Account No. HG-0632-T, Regulated Entity Reference No. RN100223205; 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, Craig Fleming)

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

Item 11. **Docket No. 2004-0033-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southwest Convenience Stores, LLC dba 7 Eleven 57625** in **El Paso County**; TCEQ ID No. EE1174C; 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. (Mauricio Olaya, Craig Fleming)

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

Item 12. **Docket No. 2004-0265-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **North Star Steel Texas Inc.** in **Orange County**; TCEQ ID Nos. OC0011S, O-01281, and RN100226059; 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 13. **Docket No. 2003-1502-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Newpark Shipbuilding-Brady Island, Inc. in Harris County**; Air Account No. HG-0076-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 Texas Administrative Code ch. 60. (Rebecca Johnson, Craig Fleming)

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

AIR QUALITY ENFORCEMENT DEFAULT ORDER

- Item 14. **Docket No. 2003-1390-AIR-E.** Consideration of a Default Order assessing administrative penalties against **Theresa Fitts in Ector County**; TCEQ ID No. RN103024089 for air quality violations pursuant to the Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gitanjali Yadav, Lisa Lemanczyk)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS

- Item 15. **Docket No. 2004-0334-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Anthony Constanzo dba Constanzo Fireworks Stand in Bexar County**; Edwards Aquifer Site Registration 13-98022401, Regulated Entity ID No. RN102837564; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Chris Friesenhahn, Craig Fleming)

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

- Item 16. **Docket No. 2002-0217-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Traditional Value Homes, Ltd. in Bexar County**; TCEQ ID No. 1662.04; for Edwards Aquifer violations pursuant to Texas Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Wendy Cooper, Lisa Lemanczyk)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

- Item 17. **Docket No. 2004-0428-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Marshall Holding Group, Inc.** in **Harrison County**; Hazardous Waste Permit No. HW-50333; Solid Waste No. 37932; Regulated Entity Reference No. RN101057677; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Craig Fleming)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 18. **Docket No. 2004-0082-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lubbock** in **Lubbock County**; Texas Pollutant Discharge Elimination System Permit No. 10353-002, Regulated Entity No. RN101609949; 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. (Pamela Campbell, Craig Fleming)

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

- Item 19. **Docket No. 2004-0478-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Palo Gaucho, Inc.** in **Sabine County**; Texas Pollutant Discharge Elimination System Permit No. 11432-001, Regulated Entity Reference No. RN101521821; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Laurie Eaves, Craig Fleming)

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

- Item 20. **Docket No. 2004-0686-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Willis** in **Montgomery County**; Texas Pollutant Discharge Elimination System Permit No. 0010315001; 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. (Terry Murphy, Craig Fleming)

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

ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT AGREED ORDER

- Item 21. **Docket No. 2003-1545-OSS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tooter A.H. Schulze** in **Kimble**

County; TCEQ ID No. OS2711 and RN103388203; for on-site sewage installation violations pursuant to the Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Laurencia N. Fasoyiro, Lisa Lemanczyk)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 22. **Docket No. 2003-1189-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Broaddus Enterprises, Inc.** in **Travis County;** Petroleum Storage Tank Facility ID Nos. 28634, 4266, and 45113, Regulated Entity Reference Nos. RN101488708, RN100609361, and RN101494862; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steven Lopez, Craig Fleming)

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

Item 23. **Docket No. 2003-1547-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **George Peoples dba Douglass General Store** in **Nacogdoches County;** TCEQ ID No. 0002202; 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 agreed order. KW/RM; LS opposed.

Item 24. **Docket No. 2003-0778-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Highway Transport, Inc.** in **Harris County;** TCEQ ID Nos. RN100864537 and 46351 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. (Barbara L. Klein, Lisa Lemanczyk)

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

Item 25. **Docket No. 2002-1313-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Thang Corporation dba Quick N Save** in **Tarrant County;** TCEQ ID Nos. 69539 and RN102406758; 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. (Wendy Cooper, Lisa Lemanczyk)

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

Item 26. **Docket No. 2003-1096-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **V. W. Convenience, Inc. dba Super Stop Food Mart** in **Polk County**; PST Facility No. 19638; 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. (Harvey Wilson, Craig Fleming)

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

Item 27. **Docket No. 2004-0391-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TXSONYA Inc.** in **Dallas County**; Petroleum Storage Tank Facility ID No. 5661; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming)

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

Item 28. **Docket No. 2004-0756-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Siva Corporation dba K K Food Mart** in **San Augustine County**; Petroleum Storage Tank Facility ID No. 33564, Regulated Entity ID No. RN103731220; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, Craig Fleming)

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

Item 29. **Docket No. 2004-0676-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Phat Truong dba L & P Food Market** in **Jefferson County**; Petroleum Storage Tank Facility ID No. 9329; 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. (Lawrence King, Craig Fleming)

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

Item 30. **Docket No. 2004-0446-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Dorsett Ditching Inc. dba Dorsett 221 Truck Stop** in **Hays County**; Petroleum Storage Tank Facility ID No. 00870, Regulated Entity Reference ID No. RN102029758; 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. (Harvey Wilson, Craig Fleming)

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

Item 31. **Docket No. 2004-0431-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Ali Investments, Inc. dba Hawks Pantry 3 in Johnson County**; Petroleum Storage Tank Facility ID No. 011375; 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. (Audra L. Ruble, Craig Fleming)

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

Item 32. **Docket No. 2004-0626-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **K & S Trucks, LTD. in Upton County**; Petroleum Storage Tank Facility No. None, Regulated Entity ID No. RN104133236; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steven Lopez, Craig Fleming)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 33. **Docket No. 2003-0884-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Essra Corporation dba Que Paso Food Store in Tarrant County**; TCEQ ID Nos. 0049944 and RN101564805; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lindsay Andrus, Lisa Lemanczyk)

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

Item 34. **Docket No. 2003-1005-PST-E.** Consideration of a Default Order assessing administrative penalties against **Inayat Enterprises, Inc. dba Mini Max Food Mart in Travis County**; TCEQ ID Nos. 11329 and RN101491496; for petroleum storage tank violations pursuant to chs. 7 and 26 of the Texas Water Code and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Wendy Cooper, Lisa Lemanczyk)

Item remanded to the Executive Director.

Item 35. **Docket No. 2003-1073-PST-E.** Consideration of a Default Order assessing administrative penalties against **Triple R. Foods, Inc. dba PDQ Foods 102 in Tarrant County**; TCEQ ID Nos. 15514 and RN101562569; 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. (Lindsay Andrus, Lisa Lemanczyk)

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

Item 36. **Docket No. 2003-0392-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Reza Trading Enterprises, Inc. dba Corinth Grocery in Denton County**; TCEQ ID No. 0004712; 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. (Wendy Cooper, Lisa Lemanczyk)

Item remanded to the Executive Director.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 37. **Docket No. 2003-1437-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Mart in McLennan County**; Public Water Supply ID No. 1550005; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Merrilee Hupp, Craig Fleming)

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

Item 38. **Docket No. 2004-0854-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Olmito WSC in Cameron County**; Public Water Supply Registration No. 0310026, Regulated Entity Reference No. RN102673332; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Laurie Eaves, Craig Fleming)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 39. **Docket No. 2003-0043-PWS-E.** Consideration of a Default Order assessing administrative penalties against **Clinton Rhodes dba H2O on Tap Water Hauler in Burnet County**; TCEQ ID Nos. 0270101 and RN102320330; 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, Lisa Lemanczyk)

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

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 40. **Docket No. 2003-1228-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Guadalupe Trevino dba GT Motor & Transmission Shop in Cameron County**; TCEQ ID Nos. R15STW0018 and RN102840279; 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. (Lindsay Andrus, Lisa Lemanczyk)

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

UTILITY CERTIFICATION AND RATES

- Item 41. **Docket No. 2004-1537-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between the **City of Bulverde**, water CCN No. 12864, and BBR Water Company, a Texas Corporation, water CCN No. 12857 in **Comal County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement stipulates that BBR Water Company will provide water service to a 4.226 acre tract of land within Bulverde's water service area until water service is available to this tract from Bulverde. (Todd Galiga, Tammy Holguin-Benter)

Approve the contract designating service areas between the City of Bulverde, water CCN No. 12864, and BBR Water Company. RM/KW; all agree.

EMERGENCY ORDER

- Item 42. **Docket No. 2004-0886-PWS-E.** Consideration of whether to affirm, modify, or set aside an Emergency Order pursuant to Tex. Water Code Sections 5.501, 5.507, and 13.4132, and to address the continuing unauthorized abandonment of a retail public utility (Utility) by **Julia Hlavaty dba Fort Stanley Area Water Utility**, located on FM 2109, northeast of Zavalla in **Angelina County**, TCEQ ID No. 0030015; to ensure continued operation of the Utility, and to provide continuous and adequate service to the Utility's customers. The Emergency Order appoints Four Way Water Supply Corporation as temporary manager of the Utility. (Jim Sallans)

Approve the amended emergency order. KW/RM; all agree.

RULE MATTERS

- Item 43. **Docket No. 2004-1398-RUL.** Consideration for publication of, and hearing on, proposed new and amended sections of **30 TAC Chapter 113**, Standards for Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, Subchapter C, National Emission Standards for Hazardous Air Pollutants for Source Categories.

The proposed rulemaking would adopt by reference 50 amended and 30 new federal maximum achievable control technology standards and general provisions into Chapter 113. (Michael Wilhoit, Rebecca Davis, Joseph Thomas) (Rule Project No. 2002-036c-113-AI)

Approve the publication of, and hearing on, proposed new and amended sections of 30 TAC Chapter 113. KW/RM; all agree.

- Item 44. **Docket No. 2004-1672-RUL.** Consideration for publication of, and hearing on, proposed amended Sections 114.6, 114.312, 114.314 - 114.316, 114.318, and 114.319 of **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles.

The proposed rulemaking would extend the compliance date for the Texas low emission diesel fuel standards by six months, address enforcement issues with alternative plans,

address methods and models to determine compliance with the standards using alternative formulations, strengthen registration requirements to allow collection of more comprehensive data on supply, and update references. (Scott Carpenter, John Minter, Clifton Wise) (Rule Project No. 2005-008-114-AI)

Approve the publication of, and hearing on, proposed amended sections of 30 TAC Chapter 114 with added language to the preamble to seek comments on refining technology and for estimating demands and calculating available supply. RM/KW; all agree.

Item 45. **Docket No. 2004-1079-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 290**, Subchapter H, Consumer Confidence Reports, Sections 290.272 - 290.275.

The adoption would amend consumer confidence reports to 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 also include administrative changes consistent with *Texas Register* requirements and other agency rules. The proposed rules were published in the October 1, 2004, issue of the *Texas Register* (29 TexReg 9332). (Debra Cerda, Dawn Burton, Clifton Wise) (Rule Project No. 2004-087-290-WT)

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

Item 46. **Docket No. 2003-1101-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 285**, On-Site Sewage Facilities, Sections 285.80 and 285.81; **30 TAC Chapter 317**, Design Criteria for Sewerage Systems, Section 317.1; and new Subchapter F of **30 TAC Chapter 210**, Use of Reclaimed Water, Sections 210.81 - 210.85.

This adoption implements House Bill 2661, 78th Legislature, Regular Session, 2003, which established new standards for the use of less than 400 gallons per day of domestic graywater. This rulemaking establishes criteria for the use of graywater for irrigation and other agricultural purposes, commercial purposes, institutional purposes, and industrial purposes. Additionally, this rulemaking modifies the definition of graywater. This rulemaking also requires the installer of a graywater system to advise the owner of the system about basic operating and maintenance procedures, including any effects on the owner's on-site sewage facility system. Finally, this rulemaking requires engineers who design collection systems to account for the potential loss of graywater from the collection system. The proposed rules were published in the August 13, 2004 issue of the *Texas Register* (29 TexReg 7865, 7871, 7897). (Ken Graber, Louis C. Herrin, III, P.E, Jacquelyn Boutwell, Kathy Ramirez) (Rule Project No. 2003-056-317-WT)

Approve the adoption of amendments to 30 TAC Chapter 285, 30 TAC Chapter 317, and 30 TAC Chapter 210 with the revisions proposed by the Executive Director during the open meeting. KW/LS; all agree.

STATE IMPLEMENTATION PLANS

Item 47. **Docket No. 2004-0858-SIP.** Consideration for adoption of a revision to the **Beaumont/Port Arthur State Implementation Plan (SIP)** to incorporate eight agreed orders in **Jefferson County**, Texas into the SIP to make certain voluntary emission reductions, projects, or activities identified in those orders federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-084-SIP-NR)

Approve the adoption of a revision to the Beaumont/Port Arthur State Implementation Plan. RM/KW; all agree.

Item 48. **Docket No. 2004-0842-SIP.** Consideration for adoption of an agreed order with **ISP Elastomers, Jefferson County**, Texas, Account Number JE-0017-A, and corresponding revisions to the State Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-078-SIP-NR)

Approve the adoption of an agreed order with ISP Elastomers. RM/KW; all agree.

Item 49. **Docket No. 2004-0843-SIP.** Consideration for adoption of an agreed order with **Motiva Enterprises LLC, Jefferson County**, Texas, Account Number JE-0095-D, and corresponding revisions to the State Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-082-SIP-NR)

Approve the adoption of an agreed order with Motiva Enterprises LLC. RM/KW; all agree.

Item 50. **Docket No. 2004-0845-SIP.** Consideration for adoption of an agreed order with **Huntsman Petrochemical Corporation, Jefferson County**, Texas, Account Number JE-0135-Q, and corresponding revisions to the State Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-080-SIP-NR)

Approve the adoption of an agreed order with Huntsman Petrochemical Corporation. RM/KW; all agree.

Item 51. **Docket No. 2004-0882-SIP.** Consideration for adoption of an agreed order with **Huntsman Petrochemical Corporation, Jefferson County**, Texas, Account Number JE-0052-V, and corresponding revisions to the State Implementation Plan (SIP). The agreed order and revised SIP would make specific actions identified in the order federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-090-SIP-NR)

Approve the adoption of an agreed order with Huntsman Petrochemical Corporation. RM/KW; all agree.

Item 52. **Docket No. 2004-1654-SIP.** Consideration for adoption of an agreed order with **Mobil Chemical Company, a division of ExxonMobil Oil Corporation, Jefferson County**, Texas, Account Number JE-0064-O, and corresponding revisions to the State

Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project No. 2004-081b-SIP-NR)

Approve the adoption of an agreed order with Mobil Chemical Company, a division of ExxonMobil Oil Corporation. RM/KW; all agree.

Item 53. **Docket No. 2004-0841-SIP.** Consideration for adoption of an agreed order with **Mobil Chemical Company, a division of ExxonMobil Oil Corporation, Jefferson County, Texas**, Account Number JE-0062-S, and corresponding revisions to the State Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-081-SIP-NR)

Approve the adoption of an agreed order with Mobil Chemical Company, a division of ExxonMobil Oil Corporation. RM/KW; all agree.

Item 54. **Docket No. 2004-0846-SIP.** Consideration for adoption of an agreed order with **ExxonMobil Oil Corporation, Jefferson County, Texas**, Account Number JE-0067-I, and corresponding revisions to the State Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-079-SIP-NR)

Approve the adoption of an agreed order with ExxonMobil Oil Corporation. RM/KW; all agree.

Item 55. **Docket No. 2004-0844-SIP.** Consideration for adoption of an agreed order with **Premcor Refining Group, Inc., Jefferson County, Texas**, Account Number JE-0042-B, and corresponding revisions to the State Implementation Plan (SIP). The agreed order would make certain voluntary emission reductions, projects, or activities federally enforceable. (Erik Gribbin, Janis Hudson) (Project Number 2004-083-SIP-NR)

Approve the adoption of an agreed order with Premcor Refining Group, Inc. RM/KW; all agree.

EXECUTIVE SESSION

Item 56. **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 57. **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 58. **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.

OLD BUSINESS AGENDA

Wednesday, December 15, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the May 12, 2004, July 28, 2004, September 29, 2004, and October 27, 2004 agendas.

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

Item continued to the January 26, 2005 agenda.

AGENDA

Wednesday, December 15, 2004

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **TCEQ Docket No. 2001-0979-IHW-E; SOAH Docket No. 582-03-1004.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **EBAA Iron, Inc.** in Eastland, **Eastland County**, Texas; TCEQ Solid Waste Registration No. 85929; regarding industrial hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's Proposed Order with the modification of assessing the transcription costs equally between the Executive Director and the Respondent. KW/LS; all agree.*

*Commissioner Ralph Marquez noted on the record that he supports the motion with the exception of the assessment of transcription costs to the Executive Director.

- Item 2. **TCEQ Docket No. 2004-1751-IWD.** Consideration of a Motion to Overturn filed by the Executive Director concerning the Executive Director's approval of a major amendment to TPDES Permit No. 03753, issued to **Signal International Texas, L.P.**, authorizing the treatment and discharge of wastes from its floating drydock and marine vessel repair facility. (Jefferson County)

Grant the Executive Director's motion to overturn and remand the application to the Executive Director to draft and issue a Response to Comment. KW/RM; all agree.

/s/ Elaine Lucas
Assistance General Counsel,
Elaine Lucas

01/12/2005
Date