

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, January 26, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the January 12, 2005 agenda.

- Item 1. **Docket No. 2003-1534-OSS-E.** Consideration of a Default Order assessing administrative penalties against and requiring certain actions of **Gerald Mayfield in Caldwell County**; TCEQ ID Nos. 028-037 and RN102560240; for on-site sewage facility violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Barbara J. Watson, Tom Greimel)

Remanded to the Executive Director.

Continued from the January 12, 2005 agenda.

- Item. 2. **Docket No. 2004-0384-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Waste Management of Texas, Inc. in Travis and Jefferson Counties**; Sludge Transporter Registration No. 21453, Petroleum Storage Tank Registration No. 62394; for petroleum storage tank and sludge disposal violations pursuant to Tex. Health & Safety Code ch. 361, 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. (Cari Bing, Tom Greimel)

Continued to the February 9, 2005 agenda.

AGENDA

Wednesday, January 26, 2005

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. 2004-1791-MWD.** Consideration of the application by **Ryan's Ridge, L.P.** for a new permit, proposed TCEQ Permit No. WQ0014380001, to authorize the disposal of treated domestic wastewater with a daily average flow not to exceed 100,000 gallons per day via drip irrigation of 23 acres of public access land. The facility and disposal site will be located approximately 3,000 feet north-northwest of the intersection of U.S. Highway 79 and Green Pastures Dive in **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. (Jacquelyn Boutwell/Julian Centeno, Jr.)

Grant the hearing requests of the Ralph & Mary Taylor, Troy & Elizabeth Walker, and Allen & Bonnie Williams; deny the request for reconsideration and the remaining hearing requests; refer to SOAH for a duration of four months on the issues of whether the wastewater containment facilities will be adequate to prevent overflow and subsequent runoff onto the requesters' property and will the facility comply with the applicable odor regulations. KW/RM; all agree

- Item 2. **Docket No. 2004-1874-WR.** Consideration of the application of **Presidio Valley Farms, Inc. and the County of Maverick** to amend a 641 acre foot portion of Certificate of Adjudication No. 23-952 (owned by Presidio Valley Farms, Inc.) and change the diversion point to two (2) points downstream on the Rio Grande, Rio Grande Basin, one authorized by Certificate of Adjudication No. 23-2671 (owned by Maverick County WCID No. 1), use the bed and banks of the Rio Grande to transport the water from the existing diversion points to the proposed diversion points, and change the purpose and place of use for the water from agricultural to municipal purposes within the County of Maverick's service area. The water will be diverted in **Kinney County**, Texas at Latitude 29.184°N and Longitude 100.766°W, and **Maverick County**, Texas on the main canal located at Latitude 28.847°N and Longitude 100.549°W, at a maximum combined diversion rate of 7 cfs. No water will be stored in Amistad Reservoir in Val Verde County, but will be allowed to pass through. Applicants will have an accounting plan to account for transportation losses, and the Rio Grande Watermaster and the International Boundary and Water Commission will have to calculate losses to the American share of water under the Treaty with Mexico and compensate the system with

a portion of this water. This amendment is pursuant to a water right sales agreement between Presidio Valley Farms Inc. with the County of Maverick for 641 acre feet of water per year. The Commission will consider any hearing requests or other filings or responses. (Iliana Delgado, Robin Smith)

Grant all three timely hearing requests that have not been withdrawn, but not the untimely request of Valley Acres Irrigation District; the Administrative Law Judge may determine the party status of Valley Acres Irrigation District if it appears at the preliminary hearing; refer the application to SOAH for a contested case hearing with a duration of six months; and concurrently, the Commission requests the requesters, the ED, the OPIC, and the Applicants to file briefs on the applicability of HB 2250 and TCEQ's related rules with initial briefs due 2-9-2005, and reply briefs due 2-23-2005; and consider of the applicability issue at the Commission's 3-9-2005 agenda. RM/KW; all agree.

Item 3. **Docket No. 2004-1872-WR.** Consideration of the application of **Presidio Valley Farms, Inc. and the City of Laredo** to amend a 2,818 acre foot portion of Certificate of Adjudication No. 23-952 (owned by Presidio Valley Farms, Inc.) and authorize a change in the diversion point to an existing point downstream on the Rio Grande, Rio Grande Basin, authorized by Certificate of Adjudication No. 23-3997 (owned by City of Laredo), use the bed and banks of the Rio Grande to transport the water from the existing diversion point to the proposed diversion point, and change the purpose and place of use for the water from agricultural to municipal purposes within the City of Laredo's service area. The water will be diverted in **Webb County**, Texas at Latitude 27.523°N and Longitude 99.524°W, being 7.750°W, 6,350 feet from the northwest corner of the Laredo Town Tract Survey, and northwest approximately 1.75 miles from the former City Hall of Laredo in Block 41-A, W.D. at a maximum diversion rate of 24 cfs. No water will be stored in Amistad Reservoir in **Val Verde County**, but will be allowed to pass through. Applicants will have an accounting plan to account for transportation losses, and the Rio Grande Watermaster and the International Boundary and Water Commission will have to calculate losses to the American share of water under the Treaty with Mexico and compensate the system with a portion of this water. This amendment is pursuant to a water right sales agreement between Presidio Valley Farms Inc. with the City of Laredo for 2,818 acre feet of water per year. The Commission will consider any hearing requests or other filings or responses. (Iliana Delgado, Robin Smith)

Grant all three timely hearing requests that have not been withdrawn, but not the untimely request of Valley Acres Irrigation District; the Administrative Law Judge may determine the party status of Valley Acres Irrigation District if it appears at the preliminary hearing; refer the application to SOAH for a contested case hearing with a duration of six months; and concurrently, the Commission requests the requesters, the ED, the OPIC, and the Applicants to file briefs on the applicability of HB 2250 and TCEQ's related rules with initial briefs due 2-9-2005, and reply briefs due 2-23-2005; and consider of the applicability issue at the Commission's 3-9-2005 agenda. RM/KW; all agree.

Item 4. **Docket No. 2004-1873-WR.** Consideration of the application of **Presidio Valley Farms, Inc. and the City of Eagle Pass Water Works System** to amend a 4,600 acre foot portion of Certificate of Adjudication No. 23-952 (owned by Presidio Valley Farms,

Inc.) and authorize a change in the diversion point to an existing point downstream on the Rio Grande, Rio Grande Basin, authorized by Certificate of Adjudication No. 23-3998 (owned by the City of Eagle Pass), use the bed and banks of the Rio Grande to transport the water from the existing diversion point to the proposed diversion point, and change the purpose and place of use for the water from agricultural to municipal purposes within the City of Eagle Pass Water Works System's service area. The water will be diverted in **Maverick County**, Texas at Latitude 28.7161°N and Longitude 100.5065°W, also being located S 11°W, 5.150 feet from the northeast corner of the J. Twohig Survey 37, Abstract 835 at a maximum diversion rate of 44 cfs. No water will be stored in Amistad Reservoir in **Val Verde County**, but will be allowed to pass through. Applicants will have an accounting plan to account for transportation losses, and the Rio Grande Watermaster and the International Boundary and Water Commission will have to calculate losses to the American share of water under the Treaty with Mexico and compensate the system with a portion of this water. This amendment is pursuant to a water right sales agreement between Presidio Valley Farms Inc. with the City of Eagle Pass Water Works System for 4,600 acre feet of water per year. The Commission will consider any hearing requests or other filings or responses. (Iliana Delgado, Robin Smith)

Grant all three timely hearing requests that have not been withdrawn, but not the untimely request of Valley Acres Irrigation District; the Administrative Law Judge may determine the party status of Valley Acres Irrigation District if it appears at the preliminary hearing; refer the application to SOAH for a contested case hearing with a duration of six months; and concurrently, the Commission requests the requesters, the ED, the OPIC, and the Applicants to file briefs on the applicability of HB 2250 and TCEQ's related rules with initial briefs due 2-9-2005, and reply briefs due 2-23-2005; and consider of the applicability issue at the Commission's 3-9-2005 agenda. RM/KW; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDERS

Item 5. **Docket No. 2004-0594-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **Ber Lengens dba Triple Dutch 2 in Erath County**; Texas Pollutant Discharge Elimination System (TPDES) Permit No. 02922, Regulated Entity Reference No. RN101528511; 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. (Carolyn V. Lind, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 6. **Docket No. 2004-0600-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Justin Rosenfeld in McLennan County**; No Permit, Regulated Entity ID No. RN103730073; 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. (Michael Meyer, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 7. **Docket No. 2004-0548-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Hog, LLC and Murphy Farms, LLC** in **Lipscomb County**; Texas Pollutant Discharge Elimination System Permit No. 04708 (Pending); for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Laura Clark, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 8. **Docket No. 2003-0089-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Atofina Petrochemicals, Inc.** in **Harris County**; Air Account No. HG-0036-S; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 9. **Docket No. 2004-0790-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron U.S.A. Inc.** in **El Paso County**; Air Account No. EE-0510-P, Regulated Entity No. RN100213016; 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, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 10. **Docket No. 2004-0781-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Formosa Plastics Corporation, Texas** in **Calhoun County**; Air Account No. CB-0038-Q; 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. (Jorge Ibarra, P.E., Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 11. **Docket No. 2004-0796-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Occidental Permian Ltd.** in **Upton County**; Air Account No. UB-0058-G, Regulated Entity No. RN100226737; 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. (Lawrence King, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 12. **Docket No. 2004-0351-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sunoco, Inc. (R&M)** in **Harris County**; Regulated Entity No. RN100524008; 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, Miriam Hall)

Remanded to the Executive Director.

Item 13. **Docket No. 2004-0904-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **EOTT Energy Liquids, L.P.** in **Harris County**; Air Account No. HG-0714-Q; 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. (Kimberly Morales, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 14. **Docket No. 2004-0681-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Robbins & Myers Energy Systems L.P.** in **Montgomery County**; Air Account No. MQ-0548-Q; 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. (Kimberly Morales, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 15. **Docket No. 2004-0395-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Support Terminals Operating Partnership, L. P.** in **Galveston County**; Air Account No. GB-0050-E, Regulated Entity Reference No. RN102178613; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

AIR QUALITY ENFORCEMENT DEFAULT ORDERS

Item 16. **Docket No. 2004-0121-AIR-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **DECO Surfaces, Inc.** in **Harris County**; TCEQ ID Nos. HX-2614-O and RN102303617; 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. (David Speaker, Lisa Lemanczyk)

Approve the Default Order. KW/RM; all agree.

Item 17. **Docket No. 2004-0301-AIR-E.** Consideration of a Default Order assessing administrative penalties against; **Kourosh Khabazian and Millennium Car Care and Sales, Inc.** in **Collin County**; TCEQ ID No. RN103188389; 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. (Barbara L. Klein, Lisa Lemanczyk)

Remanded to the Executive Director.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 18. **Docket No. 2004-0434-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Hitting Zone, LLC** in **Williamson County**; No TCEQ Permit, Regulated Entity Reference No. RN103996344; 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. (Laurie Eaves, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 19. **Docket No. 2003-0416-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Scot Industries Inc.** in **Morris County**; Solid Waste Registration No. 31275, Regulated Entity Reference No. RN101646479; 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. (Carolyn V. Lind, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 20. **Docket No. 2003-1373-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **H. Muehlstein & Co., Inc.** in **Harris County**; Texas Pollutant Discharge Elimination System Permit No. 02294, Regulated Entity Reference No. RN100692144; 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. (Carolyn V. Lind, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 21. **Docket No. 2002-1118-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **E.I. Du Pont de Nemours and Company** in **Harris County**; TCEQ ID Nos. 00474 and RN100225085; 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)

Continued to the February 9, 2005 agenda.

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 22. **Docket No. 2004-0520-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Midstate Environmental Services L.P. in Nueces County**; Used Oil Registration No. A85752, Regulated Entity Reference No. RN102954658; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 371, 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, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 23. **Docket No. 2004-0326-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Burks Mack in Cass County**; TCEQ ID No. RN102840097; for municipal solid waste violations pursuant to the Texas Solid Waste Disposal Act, Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohworho and Lisa Lemanczyk)

Remand item to the Executive Director. KW/RM; all agree.

Item 24. **Docket No. 2003-1501-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Travis County in Travis County**; Municipal Solid Waste Permit No. 684, Regulated Entity ID No. 100629211; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Joseph Daley, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 25. **Docket No. 2003-1367-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Bailey in Fannin County**; Texas Pollutant Discharge Elimination System Permit No. 13584-001, Regulated Entity Reference No. RN101609055; 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. (Carolyn V. Lind, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 26. **Docket No. 2004-0429-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Tatum in Rusk County**; Texas Pollutant Discharge Elimination System Permit No. 10850-001; 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. (Lawrence King, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 27. **Docket No. 2003-0333-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of DeKalb in Bowie County**; Texas Pollutant Discharge Elimination System Permit No. 10062-002; 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. (Carolyn V. Lind, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 28. **Docket No. 2004-0878-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Military Highway WSC in Cameron County**; Water Quality Permit No. 13462-003, Regulated Entity Reference No. RN101512499; 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, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 29. **Docket No. 2003-1267-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Slaton in Lubbock County**; Water Quality Permit No. 10284-001; 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. (Terry Murphy, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 30. **Docket No. 2003-1421-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Maxey Road Water Supply Corporation in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 0013503-001; 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. (John Schildwachter, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 31. **Docket No. 2004-0538-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **AA Group, Inc. dba Eagle Mart 1 in Tarrant County;** Petroleum Storage Tank Facility ID No. 74773, Regulated Entity Reference No. RN101537090; for petroleum storage tank 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. (Suzanne Walrath, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 32. **Docket No. 2004-1096-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Bernard J. Seidel dba Seidel's Country Store in Bastrop County;** Petroleum Storage Tank ID No. 70254; 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. (Elvia Maske, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 33. **Docket No. 2004-0401-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **West Telemarketing Corporation in Jefferson County;** Petroleum Storage Tank Facility ID No. 73919; 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, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 34. **Docket No. 2004-0603-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Three D Oil Co. of Kilgore, Inc. in Gregg County;** Regulated Entity Reference No. RN102901451; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lori Thompson, Miriam Hall)

Remand item to the Executive Director. KW/RM; all agree.

Item 35. **Docket No. 2004-0168-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sitton Oil and Marine Company, Inc. and Neil Momin in Jefferson County;** Petroleum Storage Tank Facility ID No. 003141, Regulated Entity Reference No. RN101447746; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (A. Sunday Udoetok, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 36. **Docket No. 2004-0403-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Noorani Petroleum, Inc. dba Panther Stop and Broncos Country Corner in Liberty County**; Petroleum Storage Tank Facility ID Nos. 57606 and 50129, Regulated Entity Reference Nos. RN101732493 and RN101733780; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, 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. (Steven Lopez, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 37. **Docket No. 2003-1483-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **High Country Ventures, Inc. dba Chevron Truck Stop in Culberson County**; Petroleum Storage Tank Facility ID No. 43113; 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. (Jorge Ibarra, P.E., Miriam Hall)

Approve the Agreed Order. KW/RM; LS opposed.

Item 38. **Docket No. 2004-0624-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Aegon Direct Marketing Services, Inc. in Collin County**; Petroleum Storage Tank Facility ID No. 071356; 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. (Michael Limos, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 39. **Docket No. 2003-1143-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tahir Iqbal Khan dba Dollar Saver in Wichita County**; Petroleum Storage Tank Facility ID No. 69990; 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, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 40. **Docket No. 2004-0731-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **William E. Watson dba Corner Shell in Polk County**; Petroleum Storage Tank Facility ID No. 45424, Regulated Entity ID No. RN101936136; 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. (Kensley Greuter, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 41. **Docket No. 2004-0583-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Cardenas Autoplex, Inc.** in **Cameron County**; Petroleum Storage Tank Facility ID No. 60573, Regulated Entity ID No. RN101685972; 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. (Jaime Garza, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 42. **Docket No. 2004-0967-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Rodrigo Cantu dba Cantu's Gas and Oil Express** in **Cameron County**; Petroleum Storage Tank Facility ID No. 45822; 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. (Brent Hurta, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 43. **Docket No. 2004-0532-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Al's Crossroads Bait & Tackle, Incorporated dba Al's Crossroads** in **Tarrant County**; Petroleum Storage Tank Facility ID No. 72788; 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., Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 44. **Docket No. 2003-0848-PST-E.** Consideration of a Default Order assessing administrative penalties against **Dallas Trading Enterprises, Inc. dba Kuick Check** in **Bosque County**; TCEQ ID Nos. 34791 and RN101435360; 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, Lisa Lemanczyk)

Approve the Default Order. KW/RM; all agree.

Item 45. **Docket No. 2003-0987-PST-E.** Consideration of a Default Order assessing administrative penalties of **Quick Deal Enterprises, Inc. dba JRs Minutemaid** in **Harris County**; TCEQ Facility ID Nos. 14101 and RN101377786; 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. (David A. Speaker, Lisa Lemanczyk)

Approve the Default Order. KW/RM; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 46. **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, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 47. **Docket No. 2004-0570-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Temple in Bell County**; Public Water Supply ID No. 0140005, Regulated Entity ID No. RN101249308; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (David Van Soest, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 48. **Docket No. 2004-0654-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Richard Funderburk dba Riverboat Bend Trailer Park in Liberty County**; Public Water Supply No. 1460088, Regulated Entity No. RN102693546; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality. (Rebecca Johnson, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 49. **Docket No. 2004-1012-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lyford in Willacy County**; Public Water System ID No. 2450003, Regulated Entity No. RN101422657; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 50. **Docket No. 2004-0732-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gaylord Willit dba Essman Warehouse Complex in Harris County**; Public Water Supply No. 1013096; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Catherine Albrecht, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

Item 51. **Docket No. 2004-0828-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David Everett dba Cooney Cavern Lodge in Bosque County**; Public Water Supply No. 0180040, Regulated Entity No. RN102694197; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kent Heath, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 52. **Docket No. 2004-0669-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Trinidad in Henderson County**; Texas Pollutant Discharge Elimination System Permit No. 0054585, Regulated Entity Reference No. RN101609378; 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. (Harvey Wilson, Miriam Hall)

Approve the Agreed Order. KW/RM; all agree.

EMERGENCY ORDER

Item 53. **Docket No. 2002-0831-PWS-E.** Consideration of whether to Affirm, Modify, or Set Aside an Emergency Order issued on November 19, 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 **Oakstar Development, Inc. dba Starview Estates Water System Public Water Supply Facility**, which is located at 132 Spanish Pass Road, Boerne in **Kendall County**; PWS ID No. 1300040 and RN101254027; to ensure continued operation of the Utility; and to provide continuous and adequate service to the customers. The Emergency Order appointments Water Services, Inc. as temporary manager of the Utility. (Sarah Jane Utley)

Adopt the Executive Director's proposed order affirming the November 19, 2004 Emergency Order. KW/LS; all agree.

MISCELLANEOUS

Item 54. **Docket No. 2004-1978-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 purposes of the gifts and which is attached to and incorporated in these minutes. KW/RM; all agree.

RULE MATTER

- Item 55. **Docket No. 2004-0717-RUL.** Consideration of the quadrennial review of **30 TAC Chapter 325**, Certificates of Competency, and the resulting repeal of §§325.16, 325.18, 325.20, and 325.100.

Texas Government Code, §2001.039, requires state agencies to review and consider for reoption each of their rules every four years. The quadrennial review of Chapter 325 fulfills this requirement.

The resulting rulemaking would repeal all sections of Chapter 325. The proposed review and repeals were published in the August 27, 2004 issue of the *Texas Register* (29 TexReg 8254 and 8386). (Juanita Lopez, Michael Northcutt, Michael Bame) (Rule Project Numbers 2004-028-325-WT and 2004-045-325-WT)

Approve the quadrennial review of 30 TAC Chapter 325. 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, January 26, 2005

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, October 27, 2004, and December 15, 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.

Overturn the recommendation of the Administrative Law Judge and deny the application based on regionalization. KW/LS; RM abstained.

AGENDA

Wednesday, January 26, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2003-0941-MWD; SOAH Docket No. 582-04-0466.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Carrie Gail Richey and Charles William Richey** to authorize the discharge of treated domestic wastewater pursuant to Texas Water Code, Ch. 26. The proposed permit would serve the Richeys' mobile home park located approximately 1.5 miles north-northeast of the intersection of Farm-to-Market Road 2920 and Farm-to-Market Road 2978 in **Harris County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to Public Comment, the application, and related filings, exceptions and replies.

Adopt the Proposal for Decision with the changes to Findings of Fact 23 & 28 as well as deletion of Findings of Fact 17 as approved by the Administrative Law Judge, and deny the application. RM/KW; all agree.

- Item 2. **TCEQ Docket No. 2003-0718-UCR; SOAH Docket No. 582-04-0196.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the petition of **Juan Chavez, Jr.** requesting review of the cost of obtaining services from **East Rio Hondo Water Supply Corporation, in Cameron and Willacy Counties.** The Commission will also consider timely public comments and the Executive Director's Response to such comments, and related filings, exceptions and replies.

Adopt the ALJ's proposed Order dismissing the petition. KW/LS; all agree.

- Item 3. **TCEQ Docket No. 2002-0421-MSW-E; SOAH Docket No. 582-04-1301.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Frank Henderson dba Temple Tire Transport** in **Bell County**, Texas; TCEQ MSW tire transporter Reg. No. 27037; 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 Default Order, with the recommended changes made at the dias. KW/RM; all agree.

- Item 4. **TCEQ Docket No. 2004-1891-MSW.** Motions to Overturn filed by Texas Disposal Systems, Inc., the Office of Public Interest Counsel, and Texas Campaign for the Environment, Weatherford Trash Watch and listed property owners/citizens concerning

the Executive Director's letter dated November 2, 2004 approving the permit modification submitted by **IESI TX Landfill, LP** with regard to Permit No. MSW-47, which authorizes the operation of a Type I municipal solid disposal facility located approximately 2 miles southwest of the City of Weatherford, **Parker County**, Texas; TCEQ.

Deny the motions to overturn. This action does not constitute a precedent for future actions. RM/LS; all agree.

/s/ Elaine Lucas
Assistant General Counsel,
Elaine Lucas

02/03/2005
Date