

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

AGENDA

Wednesday, March 9, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUESTS

- Item 1. **Docket No. 2004-1378-AIR.** Consideration of application by **TXI Operations, LP** for issuance of an amendment to Air Quality Permit No. 1360A and modification to Prevention of Significant Deterioration Permit No. PSD-TX-632M1, for increasing production and removing a regenerative thermal oxidizer (RTO) on Kiln No. 5 at its Midlothian Cement Plant, located at 245 Ward 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. (Randy Hamilton, Kerri Rowland)

Grant the hearing requests for Bradley & Laurie Young, Don & Peggy Campbell, Mr. & Mrs. R.M. Cannon, Rebecca Cox, Mr. & Mrs. Ronnie Dunklin, Veronica Estrada, Bobby Foster, Patricia Gant, Scott Gonzalez, Mike & Cynthia Griffith, Bob & Naomi Hinds, John & Mary Howe, Debra Markwardt, Kenneth Merry, Ned Newsom, Norma Newsom, Robin O'Byrne, W.D. Rodgers, Ann Sears, Rachel Seay, Mr. & Mrs. James Stamphill, Sandi Stiles, Richard Williams, Downwinders at Risk, and Blue Skies Alliance; deny the remaining hearing requests and requests for reconsideration; refer the matter to SOAH for a maximum duration of 12 months on the issues of: 1. Whether emissions from the facility will adversely impact the requester's health, general welfare, and physical property; 2. Whether emissions from the facility will adversely effect air quality; 3. Whether the permit modifications will cause nuisance conditions, including odor and dust; 4. Whether the permit modification complies with applicable emission control technology, including BACT determination, technical feasibility, and economic reasonableness; 5. Whether the permit application and review process correctly interpreted emission calculations and PSD netting; 6. Whether the permit conditions, including specific and general requirements and the Maximum Allowable Emission Rate Table (MAERT), are enforceable; 7. Whether modeling, including data and process, for the permit modification was properly completed in the permit review process; 8. Whether the Applicant has an acceptable compliance history, and whether compliance history is adequately accounted for in the draft permit; 9. Whether the draft permit properly accounts for ozone impacts on the DFW State Implementation Plan; and 10. Whether the draft permit has adequate monitoring, recordkeeping, and sampling requirements; and deny the remaining issues. KW/RM; all agree.

Item 2. **Docket No. 2004-2119-MWD.** Consideration of the application by the **City of Laredo** for a major amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010681004, to authorize the discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 926,000 gallons per day (MGD), an Interim II volume not to exceed an annual average flow of 1,926,000 gallons per day, and a Final volume not to exceed an annual average flow of 2,926,000 gallons per day. The facility is located approximately 2.5 miles northeast of the intersection of Del Mar Boulevard and Interstate Highway 35 in the City of Laredo in **Webb 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. (Anthony Tatu, David Akoma)

Continue to the April 13, 2005 agenda and request that TCEQ's Alternative Dispute Resolution Program's resources be available to all parties if requested. KW/RM; all agree.

Item 3. **Docket No. 2004-2120-MSW.** Consideration of application by **J-V Dirt + Loam** for proposed Permit No. MSW-2310 to authorize a resource recovery and composting facility for composting of municipal sewage sludge, septage, grease trap waste, animal manure, and positively sorted material (paper, cardboard, wood, and vegetative food matter). The proposed facility is a Type V- RC municipal solid waste composting facility, located at 3600 North FM Road 973, approximately 0.7 miles south of the intersection of FM Road 969 and FM Road 973 on the west side of FM Road 973 in Austin, **Travis County**, Texas. The commission will also consider requests for reconsideration and requests for hearing and related responses and replies, public comment and the Executive Director's Responses to Comments. (Jeff Davis, Anthony Tatu)

Deny the request for reconsideration, adopt the Executive Director's Response to Comments and approve the permit application. RM/KW; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 4. **Docket No. 2003-1135-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **ATOFINA Petrochemicals, Inc. in Jefferson County**; Air Account No. JE-0005-H, RN102457520; for air violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jill Reed, Brian Lehmkuhle)

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

Item 5. **Docket No. 2004-1256-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Degussa Engineered Carbons L.P. in Aransas County**; Air Account No. AD0001F, Regulated Entity Reference No. RN101462463; 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. (Tel Croston, Brian Lehmkuhle)

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

Item 6. **Docket No. 2004-0877-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jupe Mills, Inc.** in **McLennan County**; Air Account No. MB-0130-I, Regulated Entity No. RN101071975; 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. (Brian Lehmkuhle)

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

Item 7. **Docket No. 2004-1217-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Gas Recovery Systems, LLC** in **Travis County**; Air Account No. TH0522W, Regulated Entity No. RN101992246; 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. (Lori Thompson, Brian Lehmkuhle)

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

Item 8. **Docket No. 2004-0799-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kippur Corporation** in **El Paso County**; Air Account No. 950074P; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lawrence King, Brian Lehmkuhle)

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

Item 9. **Docket No. 2004-1192-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **LBC Houston, L.P.** in **Harris County**; Air Account No. HG-0029-P, RN101041598; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ronnie Kramer, Brian Lehmkuhle)

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

Item 10. **Docket No. 2004-0561-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Owens Corning** in **Harris County**; TCEQ Air Account No. HG-1923-V, RN100210483; 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, Brian Lehmkuhle)

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

Item 11. **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, Brian Lehmkuhle)

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

Item 12. **Docket No. 2004-0905-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Tyson Foods, Inc. dba Tyson Fresh Meats** in **Potter County**; Air Account No. PG-0024-R, RN100212943; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ronnie Kramer, Brian Lehmkuhle)

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

Item 13. **Docket No. 2004-0613-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **EOG Resources Inc.** in **Harris County**; Air Account ID No. HX2861S; 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. (Terry Murphy, Brian Lehmkuhle)

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

Item 14. **Docket No. 2003-1303-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Devon Gas Services, L.P.**, in **Waller County**; TCEQ ID Nos. WB0051J, WB0125F, RN102600442, and RN101973006; 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. (Gitanjali Yadav, Brian Lehmkuhle)

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

Item 15. **Docket No. 2004-1562-AIR-E.** Consideration of an Agreed Order assessing administrative penalties of **Devon Energy Production Company, L.P.**, in **Fort Bend County**; TCEQ ID Nos. FG0608E and RN102540549; 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. (Gitanjali Yadav, Benjamin de Leon)

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

Item 16. **Docket No. 2004-0898-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Motiva Enterprises LLC in Jefferson County**; Air Account ID No. JE0095D; 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. (Terry Murphy, Brian Lehmkuhle)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

Item 17. **Docket No. 2004-0562-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Whitestone Retail, Ltd. dba Shops at Whitestone in Williamson County**; Edwards Aquifer Protection Plan No. 11-03102301, Regulated Entity ID No. RN104102892; 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. (Cari Bing, Brian Lehmkuhle)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 18. **Docket No. 2001-0588-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Electro-Coatings of Texas, Inc. in Harris County**; TCEQ ID No. 30783; for industrial and hazardous 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. (Deborah Bynum, Brian Lehmkuhle)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 19. **Docket No. 2003-1577-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Spring Independent School District dba Spring ISD Transportation Center and dba Wunsche Middle School in Harris County**; Texas Pollutant Discharge Elimination System Permit Nos. WQ0002483000 (Expired) and WQ0011811001 (Expired), Regulated Entity Nos. 101248185 and 101246585; 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. (Catherine Albrecht, Brian Lehmkuhle)

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

Item 20. **Docket No. 2004-0263-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Thrall in Williamson County**; Public Water System ID No. 2460015, Regulated Entity ID No. RN101388171; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 11, and the rules of the Texas Commission on Environmental Quality. (Kent Heath, Brian Lehmkuhle)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 21. **Docket No. 2003-0299-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ivan Allen dba Keene Sanitation in Johnson County**; TCEQ ID No. 455040113; 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 Tex. Admin. Code ch. 60. (Ashley Keever, Brian Lehmkuhle)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 22. **Docket No. 2003-0493-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Hermilio Gracia and Alma Gracia in Willacy County**; TCEQ ID Nos. 455150052 and RN102821550; 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. (Lindsay Andrus, Brian Lehmkuhle)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 23. **Docket No. 2004-0656-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas A&M University in Brazos County**; Texas Pollutant Discharge Elimination System Permit Nos. WQ0004002000 and WQ0002585000; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, Brian Lehmkuhle)

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

Item 24. **Docket No. 2003-1422-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **WEB/VDJ, INC. in Trinity County**; Texas Pollutant Discharge Elimination System Permit No. 11350-001, Regulated Entity Reference No. RN101717015; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ronnie Kramer, Brian Lehmkuhle)

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

Item 25. **Docket No. 2004-0374-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **CMH Parks, Inc. dba Raintree Acres Mobile Home Park in Brazoria County**; TCEQ ID Nos. 12849001 and RN101613321; for wastewater treatment plant violations pursuant to Tex. Water Code ch. 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Barbara L. Klein, Brian Lehmkuhle)

Item remanded to the Executive Director.

Item 26. **Docket No. 2003-1346-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Arp in Smith County**; Texas Pollutant Discharge Elimination System Permit No. 10511-001, Regulated Entity ID No. RN101720498; 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. (Cari Bing, Brian Lehmkuhle)

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

Item 27. **Docket No. 2004-0311-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Big Lake in Reagan County**; Texas Pollutant Discharge Elimination System Permit No. 10038-001; 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. (Brent Hurta, Brian Lehmkuhle)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 28. **Docket No. 2003-0847-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sahers, Inc. dba Save a Step Mart 5 in Harris County**; TCEQ ID Nos. 33614 and RN101894913; 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 Biggins, Benjamin de Leon)

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

Item 29. **Docket No. 2004-0246-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Abilene in Taylor County**; Petroleum Storage Tank Facility ID No. 48690, Regulated Entity Reference No. RN102367588; 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, Brian Lehmkuhle)

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

Item 30. **Docket No. 2004-0762-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **West Texas Superquick, Inc. in King, Hardeman, and Haskell Counties**; Petroleum Storage Tank Facility ID Nos. 40782, 54007, and 23981, Regulated Entity ID Nos. RN101447639, RN102264884, and RN101431633; 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, Brian Lehmkuhle)

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

Item 31. **Docket No. 2004-0527-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Beaumont Town and Country Plaza, Inc., Jefferson County**; TCEQ ID Nos. 74817 and RN102866191; 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, Brian Lehmkuhle)

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

Item 32. **Docket No. 2002-0820-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Chouhan Enterprise Corporation dba Gina's Food Mart 2 in Comanche County**; TCEQ ID Nos. 0053744 and RN101901254; 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, Brian Lehmkuhle)

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

Item 33. **Docket No. 2004-0232-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **East Texas Petroleum Company, Inc. in Taylor County**; Petroleum Storage Tank Facility ID No. 21156, Regulated Entity Reference No. RN101851533; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jill Reed, Brian Lehmkuhle)

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

Item 34. **Docket No. 2004-1099-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **John S. Bewley dba Town & Country Food Mart** in **Fannin County**; Petroleum Storage Tank Facility ID No. 48117; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Sandy VanCleave, Brian Lehmkuhle)

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

Item 35. **Docket No. 2003-1554-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **T J Shaikh Inc. dba Shop N Go Food Mart, Dallas County**; TCEQ ID Nos. 39416 and RN102364957; 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, Brian Lehmkuhle)

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

Item 36. **Docket No. 2003-0896-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Husam Jallad dba Country Boy Store 1, El Paso County**; TCEQ ID Nos. 40747 and RN100810555; 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, Brian Lehmkuhle)

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

Item 37. **Docket No. 2004-1164-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Morgan Oil Company** in **Angelina County**; Petroleum Storage Tank Facility ID No. 53854, RN102267879; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, Brian Lehmkuhle)

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

Item 38. **Docket No. 2004-0651-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kitson & Partners, LLC dba Chase Oaks Golf Club** in **Collin County**; Petroleum Storage Tank Facility ID No. 25389, RN101532398; 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. (Cari Bing, Brian Lehmkuhle)

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

Item 39. **Docket No. 2003-0886-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Houston Business Investments, Inc. in Brazoria County**; TCEQ ID No. 0033621 and RN101431682; 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, Brian Lehmkuhle)

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

Item 40. **Docket No. 2004-1239-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Circle K Stores Inc in El Paso County**; Petroleum Storage Tank Facility ID No. 71498, Regulated Entity Reference No. RN101856029; 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, Brian Lehmkuhle)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 41. **Docket No. 2003-1195-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Haafiz & Aman, Inc. in Orange County**; TCEQ ID Nos. 630 and RN101794758; 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, Brian Lehmkuhle)

Item remanded to Executive Director.

Item 42. **Docket No. 2003-1030-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Barker Business, Inc. dba Speedy Mart in Galveston County**; TCEQ ID No. 35281; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health and Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jeffrey Huhn, Brian Lehmkuhle)

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

Item 43. **Docket No. 2003-1157-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Rabnawaz Sattar dba Stop N Get in Travis County**; TCEQ ID Nos. 29667 and RN102283330; 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. (Alfred Okpohworho, Brian Lehmkuhle)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 44. **Docket No. 2004-0742-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Buda in Hays County**; Public Water Supply Registration No. 1050012, Regulated Entity ID No. RN100824846; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Joseph Daley, Brian Lehmkuhle)

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

Item 45. **Docket No. 2004-0797-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Throckmorton in Throckmorton County**; Public Water Supply No. 2240001, Regulated Entity No. RN101410553; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Chad N. Blevins, Brian Lehmkuhle) Approve the agreed order. KW/RM; all agree.

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

Item 46. **Docket No. 2004-0264-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Charles Donaldson in Harris County**; Public Water Supply ID No. 1012607, Regulated Entity ID No. RN101232213; 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, Brian Lehmkuhle)

Item remanded to the Executive Director.

Item 47. **Docket No. 2004-0372-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cotulla in La Salle County**; Public Water Supply ID No. 1420001, Regulated Entity ID No. RN101384550; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Brandon Smith, Brian Lehmkuhle)

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

Item 48. **Docket No. 2003-1283-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Clyde Clardy dba Bastrop West Water Supply in Bastrop County**; Public Water Supply ID No. 0110047; 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, Brian Lehmkuhle)

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

Item 49. **Docket No. 2004-0448-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Oak Bend Property Owners Association dba Oak Bend Homeowners Water Supply**, in **Denton County**; TCEQ ID Nos. 0610167 and RN101247930; for water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Barbara L. Klein, Brian Lehmkuhle)

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

Item 50. **Docket No. 2004-0419-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Moorpark Village, Inc. dba Moorpark Village Water System** in **Harris County**; Public Water Supply No. 1010674; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kimberly Morales, Brian Lehmkuhle)

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

Item 51. **Docket No. 2004-0968-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Red River Redevelopment Authority** in **Bowie County**; Public Water Supply ID No. 0190021; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Edward R. Moderow, Brian Lehmkuhle)

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

Item 52. **Docket No. 2004-1266-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Nocona** in **Montague County**; Public Water Supply ID No. 1690002, RN101410793; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Brian Lehmkuhle)

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

Item 53. **Docket No. 2004-1031-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Stanton** in **Martin County**; Public Water Supply ID No. 1590001; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jorge Ibarra, P.E., Brian Lehmkuhle)

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

UCR AGREEMENT

Item 54. **Docket No. 2005-0034-UCR.** Consideration of a request for a Commission order approving a contract whereby **High Point Water Supply Corporation**, water CCN No.

10841 agrees to transfer water service area to **RCH Water Supply Corporation**, water CCN No. 10087, in **Rockwall County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement stipulates that High Point WSC will transfer a water service area in the amount of 124.808 acres to RCH WSC where RCH WSC will have the sole right to provide retail water service within the transfer area and High Point WSC will have no further obligation or right to provide water service within the transfer area. (James D. Parker, Tammy Holguin-Benter)

Approve the proposed contract. RM/KW; all agree.

RULE MATTER

Item 55. **Docket No. 2004-1672-RUL.** Consideration of the adoption of 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 adoption would extend the compliance date for the Texas low emission diesel fuel standards by six months, establish a compliance date phase-in schedule, remove the sulfur content requirements, 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. The proposed rules were published in the December 31, 2004, issue of the *Texas Register* (29 TexReg 12098). (Morris Brown, John Minter) (Rule Project No. 2005-008-114-AI)

Adopt the amended Sections 114.6, 114.312, 114.314 - 114.316, 114.318, and 114.319 of 30 TAC Chapter 114 with the changes to the preamble as presented at the dias. 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.

AGENDA

Wednesday, March 9, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2003-0153-UCR; SOAH Docket No. 582-03-2283.** Motion to Overturn concerning the Executive Director's Order dismissing with prejudice the Petition by **Tall Timbers Utility Company, Inc.** appealing the ratemaking action by the City of Tyler with regard to a sewer rate/tariff change in **Smith County**.

Grant the Motion to Overturn; set aside the Executive Director's Order dismissing with prejudice the petition filed by Tall Timbers Utility Company, Inc. ; and direct the General Counsel to set the PFD on a future agenda for Commission consideration. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 1997-0036-IHW-E; SOAH Docket No. 582-03-3024.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Rhimco Industries, Inc.** on the border of **Ellis & Tarrant Counties**, Texas; TCEQ Solid Waste Registration No. 32341; regarding industrial and/or hazardous waste violations pursuant to Tex. Water Code ch. 26; Tex. Health & Safety Code ch. 361, 40 Code of Federal Regulations parts 262, 265, and 270, and the rules of the Texas Commission on Environmental Quality.

Continue to a future agenda to be determined by the General Counsel to allow Commissioners to review all filings. LS/RM; all agree.

- Item 3. **TCEQ Docket No. 2003-1518-UCR; SOAH Docket No. 582-04-2840.** Consideration of the Administrative Law Judge's Proposal for Decision and order regarding the application of **Wellborn Special Utility District** for a cease and desist order against the City of College Station pursuant to Tex. Water Code § 13.252. Wellborn is a retail public utility that provides water service to **Brazos County**. 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 Order with the change to Finding of Fact 22 from September 24, 2002 to September 24, 2004. RM/LS; all agree.

- Item 4. **TCEQ Docket Nos. 2004-1874-WR; 2004-1872-WR; and 2004-1873-WR.** Consideration of the applicability of Section 11.3271 of the Texas Water Code, as passed by the 78th Legislature, Regular Session, to water rights applications filed by **Presidio Valley Farms, Inc. and the County of Maverick, the City of Laredo, and the City of Eagle Pass Water Works System** (Applicants) to amend Certificate of Adjudication

No. 23-952, as amended, and issue respectively new amended Certificates of Adjudication No. 23-952F, 23-952E, and 23-952D, which if issued, will authorize a change in the existing diversion points in Presidio County to the applicable new diversion points in **Kinney County, Maverick County, or Webb County**, a change in use from irrigation to municipal, and a change in place of use to the service areas of the County of Maverick, the City of Laredo, and the City of Eagle Pass Water Works System.

The Commission determined that Section 11.3271 of the Texas Water Code does not apply to the three water rights applications filed by Presidio Valley Farms and the County of Maverick, the City of Laredo, or the City of Eagle Pass Water Works System. KW/RM; all agree.

/s/ Tracy Gross
Assistant General Counsel,
Tracy Gross

03/24/2005
Date