

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, April 13, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the March 9, 2005 agenda.

- Item 1. **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)

Item continued to the April 27, 2005 agenda. KW/RM; all agree.

Continued from the March 23, 2005 agenda.

- Item 2. **Docket No. 2004-0779-OSS-E.** Consideration of an Agreed Order assessing administrative penalties against **Gregorio Gaytan** in **Hill County**; On-Site Sewage Facility No. 1090956, RN103176913; for on-site sewage disposal violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Suzanne Walrath, Michael Limos)

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

## AGENDA

Wednesday, April 13, 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. 2005-0351-MWD.** Consideration of the application by the **Fort Bend County Municipal Utility District No. 58** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014520001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day in the interim I phase, a daily average flow not to exceed 350,000 gallons per day in the interim II phase and a daily average flow not to exceed 900,000 gallons per day in the final phase. The facility will be located northeast of the intersection of Corbitt and Katy-Flewellen Road, approximately 3,100 feet south of Crossover and Katy-Flewellen Road, in **Fort Bend County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (John Williams, David Akoma)

Deny all hearing requests; approve the draft permit; and adopt the Executive Director's Response to Comments. KW/RM; LS opposed.

- Item 2. **Docket No. 2004-1743-WR.** Consideration of an application by the **Spring Lake Owners Association, Inc.** for Permit No. 5845 to authorize the maintenance of an existing dam and reservoir for in-place recreational purposes pursuant to TWC Chapter 11, §11.143. This dam and reservoir is known as Frog Dam and Spring Lake Reservoir, on Spring Draw, tributary of Palo Duro Creek, tributary of Prairie Dog Town Fork of the Red River, tributary of the Red River, Red River Basin, and has a surface area of 19.4 acres and impounds 136 acre-feet of water. Station 0 on the center line of Frog Dam is located at a bearing of S14.217°E, 4,240 feet from the northwest corner of Block 1, T. T. RR Co. Survey No. 31, Abstract No. 547, also described as Latitude 35.032°N and Longitude 101.933°W, approximately four miles north of the City of Canyon in **Randall County**, Texas. No diversion of water is requested. The draft permit states the Applicant has indicated that groundwater will be transported from two groundwater wells via pipeline and discharged into Spring Lake Reservoir at Latitude 35.034°N and Longitude 101.934°W at a maximum rate not to exceed 1.67 cfs (750 gpm). The Commission will also consider requests for hearing and related responses and replies. (David Klein, David Koinm)

Deny all hearing requests and approve the permit. KW/LS; RM abstained.

## AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 3. **Docket No. 2004-0365-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Angelina County in Angelina County**; Air Account No. AC-0139-J, RN101947323; 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. (Harvey Wilson, Steven Lopez)

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

- Item 4. **Docket No. 2003-1586-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brazos Valley Solid Waste Management Agency in Brazos County**; Air Account No. BM-0233-J, Regulated Entity Reference No. RN100830090; for air quality violations pursuant to Tex. Health & Safety Code chs. 361 and 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. (Sheila Smith, Steven Lopez)

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

- Item 5. **Docket No. 2004-1109-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enbridge Pipelines East Texas L.P. in Freestone County**; Air Account No. FI0028G, RN100222819; 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, Steven Lopez)

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

- Item 6. **Docket No. 2004-0767-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron Pipe Line Company in Midland County**; Air Account No. ML-0244-C, Air Permit No. 49031, General Operating Permit No. 515, Regulated Entity ID No. RN100214824; 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, Steven Lopez)

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

- Item 7. **Docket No. 2004-0487-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Magellan Terminals Holdings, L.P. in Harris County**; Air Account No. HG0017W, RN102180486; 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 Ruble, Steven Lopez)

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

- Item 8. **Docket No. 2004-0646-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Hanover Compression Limited Partnership** in **Madison County**; Regulated Entity ID No. RN102093648; 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. (Kensley Greuter, Steven Lopez)

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

- Item 9. **Docket No. 2003-1186-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Motiva Enterprises LLC** in **Jefferson County**; Air Account No. JE-0095-D; for air quality violations pursuant to Tex. Health and 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. (Laura Clark, Steven Lopez)

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

- Item 10. **Docket No. 2004-0792-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Plains Pipeline, L.P.** in **Howard and Winkler Counties**; Air Account Nos. HT-0226-E and WM-0039-V, RN100218718, RN100214253; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Carolyn V. Lind, Steven Lopez)

Item remanded to the Executive Director.

- Item 11. **Docket No. 2004-0700-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Varco, L.P.** in **Midland County**; Air Account No. ML-0047-G, RN100825231; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Carolyn V. Lind, Steven Lopez)

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

## **EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

- Item 12. **Docket No. 2004-0734-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Northside ISD in Bexar County**; Edwards Aquifer Registration No. 13-03021801A, Regulated Entity ID No. RN103614780; 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. (Leila Pezeshki, Steven Lopez)

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

## **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER**

- Item 13. **Docket No. 2004-0384-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **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, Steven Lopez)

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

## **MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDERS**

- Item 14. **Docket No. 2003-0491-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Alvin Massington in Falls County**; TCEQ ID Nos. 455090100 and RN103059275; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Steve Lopez)

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

- Item 15. **Docket No. 2003-1479-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Lee and Kathy Byrd dba Lighthouse Remodeling in San Jacinto County**; TCEQ ID Nos. 455100035 and RN102906047; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health and Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Sarah Jane Utley, Steve Lopez)

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

Item 16. **Docket No. 2002-1401-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Joe Gutierrez dba Joe Gutierrez Trucking in Hidalgo County**; TCEQ ID Nos. HAW004 and RN102938644; 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. (Laurencia Fasoyiro, Steve Lopez)

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

Item 17. **Docket No. 2004-0582-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Octavio Benitez dba El Paso General Recycling in El Paso County**; TCEQ ID No. RN100588813; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health and Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Sarah Jane Utley, Steve Lopez)

Item continued to the April 27, 2005 agenda. KW/LS; all agree.

#### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 18. **Docket No. 2003-0173-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Anna in Collin County**; Texas Pollutant Discharge Elimination System Permit No. 11283-001, Regulated Entity No. RN102754199; 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. (Steven Lopez)

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

Item 19. **Docket No. 2003-0061-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Matagorda County Water Control and Improvement District No. 5 in Matagorda County**; Texas Pollutant Discharge Elimination System Permit No. 10217-001; 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 Tex. Admin. Code ch. 60. (Tel Croston, Steven Lopez)

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

Item 20. **Docket No. 2002-1057-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Suntex Fuller Corporation and Fuller Utilities Corporation in Brazoria County**; TCEQ ID Nos. CN600695290 and CN602733081; 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. (Deborah A. Bynum, Steve Lopez)

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

Item 21. **Docket No. 2004-0363-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Westfield Mobile Home Community, LTD. dba Westfield Mobile Home Park in Harris County**; Texas Pollutant Discharge Elimination System Permit No. WQ0012555001; 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, Steven Lopez)

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

Item 22. **Docket No. 2003-0066-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Criminal Justice in Brazoria County**; Texas Pollutant Discharge Elimination System Permit No. 10829-001, RN102314069; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Mac Vilas, Steven Lopez)

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

Item 23. **Docket No. 2003-1203-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Memphis in Hall County**; Texas Pollutant Discharge Elimination System Permit No. 10220-001; 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. (Laurie Eaves, Steven Lopez)

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

Item 24. **Docket No. 2004-0335-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Aransas Pass in San Patricio County**; Texas Pollutant Discharge Elimination System Permit No. 10521-002; 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. (Audra Ruble, Steven Lopez)

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

**ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT  
DEFAULT ORDER**

- Item 25. **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, Steve Lopez)

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

**PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

- Item 26. **Docket No. 2003-1141-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Crawdad's Inc. dba Crawdad's 4 Kountze in Hardin County**; Petroleum Storage Tank Facility ID No. 62832, RN102834892; 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. (Merrilee Gerberding Hupp, Steven Lopez)

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

- Item 27. **Docket No. 2004-1185-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **M.R. Calhoun Enterprises, Inc. dba Country Stop in Brown County**; Petroleum Storage Tank Facility Registration No. 73267, Regulated Entity ID No. RN102281417; 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, Steven Lopez)

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

- Item 28. **Docket No. 2002-0947-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Elhamad Enterprises, Inc. dba Habeeb Food Store in Tarrant County**; TCEQ ID Nos. 0047284 and RN101991966; 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 Tex. Admin. Code ch. 60. (Barbara J. Watson, Benjamin J. de Leon)

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

- Item 29. **Docket No. 2004-1206-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SJKR, Inc. dba Steve's Texaco**



in **Randall County**; TCEQ ID Nos. 25999 and RN101722528; 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. (Jeffrey Huhn, Steve Lopez)

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

Item 30. **Docket No. 2003-1332-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nasir Mughal in Galveston County**; TCEQ ID Nos. 5474 and RN101873081; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7, 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. (Lindsay Andrus, Steve Lopez)

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

Item 31. **Docket No. 2003-0763-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Bellaire Food Store, Inc. dba Shop N Go No. 2 in Harris County**; TCEQ ID Nos. 33042 and RN101444388; 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, Steve Lopez)

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

Item 32. **Docket No. 2003-0552-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **United Petroleum Transports, Inc. in Travis and Williamson Counties**; TCEQ ID No. RN100847581; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code Ch. 60. (Rebecca Nash Petty, Steve Lopez)

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

Item 33. **Docket No. 2003-0336-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sok Sun Yang dba Stop By Mart in Bexar County**; Petroleum Storage Tank Facility ID No. 17068, Regulated Entity ID No. RN102236080; 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 Meyer, Steven Lopez)

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

Item 34. **Docket No. 2004-1189-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Salem Khalil dba Seven Seas Grocery in Harris County**; Petroleum Storage Tank Facility ID No. 43527, RN103731006; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Chris Friesenhahn, Steven Lopez)

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

Item 35. **Docket No. 2004-0636-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Oasis Car Wash, Inc. dba Magic Car Wash & Lube Center in Jefferson County**; Petroleum Storage Tank Facility ID No. 065381; 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. (Edward Moderow, Steven Lopez)

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

Item 36. **Docket No. 2004-0763-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Lomax Incorporated dba Lomax Oil Co. in El Paso County**; Regulated Entity Reference No. 100817865; 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, Steven Lopez)

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

#### **PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 37. **Docket No. 2003-1117-PST-E.** Consideration of a Default Order assessing administrative penalties against **Satina, Inc. dba Donna's Food Market in Jefferson County**; TCEQ ID Nos. 26914 and RN102432390; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lindsay Andrus, Steve Lopez)

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

Item 38. **Docket No. 2004-0416-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Al-Ilam Enterprises, Inc. dba Happy Chap Market 1 in Liberty County**; TCEQ ID Nos. 31562 and RN101446938; 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. (Sarah Jane Utley, Steve Lopez)

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

Item 39. **Docket No. 2004-0147-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Inaara Group, Inc. dba City Star Texaco** in **Tarrant County**; TCEQ ID Nos. 13589 and RN102042710; 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. (Barbara J. Watson, Steve Lopez)

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

Item 40. **Docket No. 2003-0868-PST-E.** Consideration of a Default Order assessing administrative penalties against **Mohammed Mohiuddin dba Palestine Mini Mart** in **Anderson County**; TCEQ ID Nos. 41201 and RN No. 101432847; 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. (Xavier Guerra, Steve Lopez)

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

Item 41. **Docket No. 2003-1001-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Ansh III, L.P. dba Circle Q Food Store #1** in **Dallas County**; TCEQ ID Nos. 0039341 and RN101432219; 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. (Laurencia Fasoyiro, Steve Lopez)

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

Item 42. **Docket No. 2003-0394-PST-E.** Consideration of a Default Order assessing administrative penalties against **Texas God Bless, Inc. dba Lucky Stop Grocery** in **Brazoria County**; TCEQ ID Nos. 5572 and RN101436251; 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, Steve Lopez)

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

#### **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 43. **Docket No. 2003-1210-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cass County dba Moore's**

**Landing County Park**; Public Water Supply ID No. 0340034; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lawrence King, Steven Lopez)

Item remanded to the Executive Director.

Item 44. **Docket No. 2004-1010-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Blanco in Blanco County**; Public Water Supply ID No. 0160002, RN101389047; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Mauricio Olaya, Steven Lopez)

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

Item 45. **Docket No. 2004-0853-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mayfair 5 Water Company in El Paso County**; TCEQ ID Nos. 0710147 and RN101457182; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code. ch 60. (Jeffrey J. Huhn, Steve Lopez)

Item continued to the April 27, 2005 agenda.

Item 46. **Docket No. 2004-0766-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Edward Fenoglio dba Oak Shores Water System in Montague County**; Public Water Supply ID No. 1690011, RN104210885; 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, Steven Lopez)

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

Item 47. **Docket No. 2003-0620-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Crystal Clear Water Supply Corporation in Guadalupe County**; Public Water Supply ID No. 0940015, Regulated Entity ID No. RN101437994; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Pamela Campbell, Steven Lopez)

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

Item 48. **Docket No. 2004-0863-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Red River Authority of Texas dba Arrowhead Lake Lots Water System in Clay County**; Public Water Supply ID No. 0390021, RN101246221; for drinking water quality violations pursuant to Tex.

Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Audra L. Ruble, Steven Lopez)

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

### **WATER QUALITY ENFORCEMENT DEFAULT ORDER**

Item 49. **Docket No. 2003-1238-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Domingo Garza dba Mexico Motors in Hidalgo County**; TCEQ ID Nos. R15STW0024 and RN102838141; 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. (Laurencia Fasoyiro, Steve Lopez)

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

### **TEXAS WATER CODE SECTION 13.248 AGREEMENT**

Item 50. **Docket No. 2005-0557-UCR.** Consideration of a request for a Commission order approving an agreement designating service areas between the **City of Pearland**, water CCN No. 11008, sewer CCN No. 20403 and **Southwood Estates, Inc.**, water CCN No. 12094, sewer CCN No. 20688 in **Brazoria County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement stipulates that Pearland and Southwood seek to be dually certificated to provide water and sewer service to a 170 acre tract within Pearland's certificated service area. (Todd Galiga, Sherisia Perryman)

Approve the agreement pursuant to Section 13.248 of the Texas Water Code. KW/LS; all agree.

### **GIFTS AND DONATIONS**

Item 51. **Docket No. 2005-0234-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 MATTERS**

Item 52. **Docket No. 2004-1118-RUL.** Consideration of the adoption of amendments to Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31, 291.34, 291.41, 291.81, 291.87, 291.121, 291.122, 291.124, 291.125, and 291.127 of **30 TAC Chapter 291**, Utility Regulations.

The adoption implements House Bills 1152, 2388, and 3034, 78th Legislature, 2003, Regular Session and Senate Bill 2, Article 10, 77th Legislature, 2001, Regular Session (SB 2). The adopted rules provide requirements relating to: business locations for rate payments; disclosure of affiliated interests; consolidation of systems; alternative ratemaking methodologies; statement of intent to change rates and other requirements concerning rate changes; certain restrictions on purchasing wholesale water service and groundwater; exempting a utility that provided service in only 24 counties on January 1, 2003 from the requirements of SB 2; water conservation penalties; point-of-use submetering devices; and late fee charges. The proposed rules were published in the November 26, 2004 issue of the *Texas Register* (29 TexReg 10883). (Michelle Abrams, Gabriel Soto) (Rule Project No. 2004-016-291-WT)

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

Item 53. **Docket No. 2004-1024-RUL.** Consideration for adoption of amended Sections 293.1, 293.11, 293.41, 293.44, 293.51, 293.59, 293.80, 293.83, 293.113, 293.201, and 293.202 of **30 TAC Chapter 293**, Water Districts; amended Sections 301.1 - 301.4, 301.6, 301.21, 301.31, 301.38, 301.43, 301.45, 301.51, 301.71, 301.73, and 301.74 and the repeal of Sections 301.5, 301.22, and 301.23 of **30 TAC Chapter 301**, Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements. The rulemaking implements Senate Bill 624, Senate Bill 898, House Bill 1541, and House Bill 2887, 78th Legislature, 2003, Regular Session.

In Chapter 293, the rulemaking amends the agency's rules on construction and funding of district facilities and the commission's process for creation, bond issue, and other district applications. In Chapter 301, the rulemaking deletes all references to "plans of reclamation." The proposed rules were published in the October 29, 2004, issue of the *Texas Register* (29 TexReg 10073). (Earl Lott, James Parker) (Rule Project No. 2004-015-293-WT)

Approve the adoption of amended Sections 293.1, 293.11, 293.41, 293.44, 293.51, 293.59, 293.80, 293.83, 293.113, 293.201, and 293.202 of 30 TAC Chapter 293, amended Sections 301.1 - 301.4, 301.6, 301.21, 301.31, 301.38, 301.43, 301.45, 301.51, 301.71, 301.73, and 301.74 and the repeal of Sections 301.5, 301.22, and 301.23 of 30 TAC Chapter 301. KW/LS; all agree.

Item 54. **Docket No. 2004-1503-RUL.** Consideration of the adoption of proposed amended Sections 115.10, 115.229, and 115.429 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan.

The adoption would subject motor vehicle fuel dispensing facilities (Stage I only) and surface coating processes located in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties to the same control, monitoring, testing, recordkeeping, and reporting

requirements to which the other four counties in the Dallas/Fort Worth nonattainment area are subject. The proposed rules were published in the December 24, 2004 issue of the *Texas Register* (29 TexReg 11910). (Teresa Hurley, John Minter) (Rule Project No. 2005-005-115-AI)

Approve the adoption of proposed amended Sections 115.10, 115.229, and 115.429 of 30 TAC Chapter 115 and corresponding revisions to the state implementation plan. KW/RM; all agree.

### **EXECUTIVE SESSION**

Item 55. **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 56. **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 57. **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, April 13, 2005

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2004-0206-UCR; SOAH Docket No. 582-04-5099.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of the **City of Lindale** for a Sewer Certificate of Convenience and Necessity. The municipality is located northwest of Tyler in **Smith County**, Texas. The Commission will also consider related filings, exceptions and replies.

Approve the ALJ's PFD and Order. KW/RM; all agree.

- Item 2. **TCEQ Docket Nos. 2004-0118-MSW, 2004-0054-MSW, 2003-0729-MSW, and 2004-0743-MSW; SOAH Docket Nos. 582-04-3642, 582-04-5745, 582-04-0975, and 582-05-0868.** Consideration of a Certified Question filed by the Administrative Law Judges in four matters concerning the applications of **Waste Management of Texas, Inc.** (MSW Permit Application No. 523-B) for an amendment to MSW Permit No. 523-A for its Type I municipal solid waste landfill located approximately 2½ miles southeast of the intersection of State Highway 11 and FM 1417 and ¾ mile east of State Highway 11 on the south side of Nelson Road, **Grayson County**, Texas; the **City of Anson** (MSW Permit No. 2301) for a new Type I - Arid Exempt municipal solid waste landfill to be located approximately 9 miles east of Anson, approximately 1 mile west of the intersection of U.S. Highway 180 and FM 600 in **Jones County**, Texas; **Regional Land Management Services, Ltd.** (MSW Permit No. 2286) for a new Type I municipal solid waste landfill to be located off State Highway 359, 11 miles east of the intersection of State Highway 359 and Loop 20, in **Webb County**, Texas; and **Tan Terra Environmental Services, Inc.** (MSW Permit No. 2305) for a new Type I municipal solid waste landfill to be located approximately ¼ mile northeast of the intersection of State Highway 186 and FM 1015 in **Willacy County**, Texas. The certified question asks the Texas Commission on Environmental Quality (TCEQ) to determine whether a pending application(s) for a new municipal solid waste permit(s) or for an amendment to a municipal solid waste permit is subject to the TCEQ's new rules governing site operating plan (SOP) requirements found in 30 Texas Admin. Code ch. 330.

Grant the protestant's motion to withdraw the certified question with regard to the Waste Management of Texas, Inc. application. LS/RM; all agree.

In regard to the certified question concerning the City of Anson and Regional Land Management Services, Ltd. applications, the Commission determined that at the request of the applicant, the new SOP rules will apply. LS/KW; all agree.

In regard to the certified question concerning the Tan Terra Environmental Services, Inc. application, the Commission determined that given that the adequacy of the site operating plan was not an issue that was referred to SOAH, the application will not be subjected to the new SOP rules, but if a permit is issued, it will be subject to the call-in provisions of 30 TAC Section 330.111(b). LS/KW; all agree.

/s/ Greg Merrell  
Assistant General Counsel,  
Greg Merrell

5/23/2005  
Date