

Chairman Kathleen White
Commissioner Ralph Marquez
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, April 27, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the March 9, 2005 and April 13, 2005 agendas.

- 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)

Approve the hearing request from Jorge & Maria Ruiz, deny the request for reconsideration, and refer the matter to SOAH for a duration of four months on the issue of whether the draft permit has adequate control requirements for the proposed facility. RM/KW; all agree.

Continued from the April 13, 2005 agenda.

- Item 2. **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)

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

Continued from the April 13, 2005 agenda.

- Item 3. **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)

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

AGENDA

Wednesday, April 27, 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. 2005-0199-SLG.** Consideration of the application by **Magna-Flow International, Inc.** for a new sludge permit, Permit Number WQ0004484000 to authorize the beneficial land application of sewage sludge and water treatment sludge on 127 acres. The permit will not authorize a discharge of pollutants into the water in the State. The land application site is located adjacent to and east of Taylor Lane, approximately one-fourth mile north of the intersection of Farm-to-Market Road 969 and Taylor Lane, 6.5 miles south of the City of Manor in **Travis 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. (Robert Brush, Shanker Tangirala)

Approve the hearing requests from the Park Springs Neighborhood Association and Travis County Commissioners Court; do not approve the request from Manville WSC at this point, but urge them to take their request to SOAH; deny the request for reconsideration; refer the matter to Alternate Dispute Resolution for four to six weeks if all parties agree; and if necessary, refer the matter to SOAH for a duration of nine months on the issues of (1) whether land application at the site will, or has, caused contamination of surface water, including the alluvial aquifer of Gilleland Creek and the Colorado River, and groundwater including contamination of water wells; (2) whether the permit should be denied due to the Applicant's compliance history; (3) whether the Facility meets the buffer zone requirements in 30 TAC Chapter 312; (4) whether more stringent buffer zone requirements are appropriate under 30 TAC Chapter 312.6; (5) whether the permit sets the appropriate agronomic rate for the site; (6) whether soil nutrient parameters should be tested more often than once yearly, metals more often than once every five years, and metals tested only to a depth of six inches; (7) whether the proposed permit will create, or perpetuate, a nuisance condition in violation of applicable rule; (8) whether the site meets the seasonal groundwater table requirements under applicable rule; (9) whether the clay soils at the site are conducive to safe beneficial land application of sludge; (10) whether the Applicant meets the requirements to achieve Class B sludge status in accordance with applicable rule; (11) whether application of sludge at the site will restrict the flow of a 100-year flood in violation of 30 TAC §312.64(b); and (12) whether the site is located within the 100-year floodway. KW/LS; all agree.

Invite the parties to file briefs on land use compatability issues pursuant to Texas Health & Safety Code chs. 361.069, 361.089, and 361.121 with briefs due no later than May 20, 2005 and reply

briefs due no later than June 8, 2005; and schedule this matter to be considered by the commissioners at the June 29, 2005 agenda. KW/LS; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 2. **Docket No. 2004-1333-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Atlas Roofing Corporation** in **Angelina County**; Air Account No. AC0055Q, Air Permit No. 6548, Regulated Entity No. RN102582673; 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. (Daniel Siringi, Elvia Maske)

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

Item 3. **Docket No. 2004-1080-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Atofina Petrochemicals, Inc.** in **Harris County**; Air Account No. HG4662F, Regulated Entity Reference No. RN100909373; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Elvia Maske)

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

Item 4. **Docket No. 2004-0619-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jeld-Wen, Inc.** in **Bell County**; Air Account No. BF-0165-E, Regulated Entity Reference No. RN100833219; 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. (Jill Reed, Elvia Maske)

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

Item 5. **Docket No. 2003-1222-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Motheral Printing Company** in **Tarrant County**; Air Account No. TA-0849-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. (Judy Fox, Elvia Maske)

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

Item 6. **Docket No. 2002-1393-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Quality Electric Steel Casting, L.P.** in **Harris County**; Air Account No. HG-0599-P; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas

Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kent Heath, Elvia Maske)

Item remanded to the Executive Director.

- Item 7. **Docket No. 2004-0802-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Goodyear Tire and Rubber Company dba Goodyear Tire & Rubber Beaumont Chemical Plant in Jefferson County**; Air Account No. JE0039N, RN102561925; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, Elvia Maske)

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

- Item 8. **Docket No. 2004-0985-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MEMC Pasadena, Inc. in Harris County**; New Source Review Permit No. 9597, RN101062099; for air quality violations pursuant to Tex. Health & Safety Code chs. 361, 370 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. (Cari Bing, Elvia Maske)

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

AIR QUALITY ENFORCEMENT DEFAULT ORDER

- Item 9. **Docket No. 2003-0241-AIR-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Dan Mauldin dba Travis Equipment Company in Ellis County**; TCEQ ID No. RN102777778; 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 Klein, Jennifer Cook)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

- Item 10. **Docket No. 2004-1230-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Praxair, Inc. in Harris County**; Texas Pollutant Discharge Elimination System Permit No. WQ0002529000, RN102146446; 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, Elvia Maske)

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

Item 11. **Docket No. 2003-0144-IWD-E.** Consideration of an Agreed Order assessing reasonable service charges against the **U.S. Department of the Army, Fort Hood in Bell and Coryell Counties**, Texas; TCEQ ID Nos. 02233 and RN101612083; 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. (Gitanjali Yadav, Jennifer Cook)

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

Item 12. **Docket No. 2003-0156-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **A. Schulman, Inc. in Orange County**; TCEQ ID Nos. 00337-000 and RN101518533; for water quality violations pursuant to chs. 7 and 26 of the Tex. Water Code and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Gitanjali Yadav, Jennifer Cook)

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

LICENSED IRRIGATOR ENFORCEMENT AGREED ORDER

Item 13. **Docket No. 2004-0001-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Michal K. Williams in Henderson County**; Licensed Irrigation Installer No. 3392 (Expired), Regulated Entity No. RN103532123; for Licensing violations pursuant to Tex. Water Code chs. 7 and 34 and the rules of the Texas Commission on Environmental Quality. (Chad Blevins, Elvia Maske)

Item remanded to the Executive Director.

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 14. **Docket No. 2004-0949-MLM-E.** Consideration of an Agreed Order requiring certain actions of the **City of Pflugerville in Travis County**; Texas Pollutant Discharge Elimination System Permit No. 0011845003, RN100878404; for air and water quality 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. (Laurie Eaves, Elvia Maske)

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

Item 15. **Docket No. 2003-0532-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **Canyon Lake Water Supply Corporation in Comal County**; TCEQ ID Nos. 0460172 and RN101247039; for public drinking water and water quality violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality,

including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Nash Petty, Jennifer Cook)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 16. **Docket No. 2004-1404-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Don Vogt dba West Side Salvage in Webb County**; TCEQ ID No. RN104192182; 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. (Xavier Guerra, Jennifer Cook)

Item remanded to the Executive Director.

Item 17. **Docket No. 2004-0710-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **North American Recovery Services, Inc. in Harris and Webb Counties**; TCEQ ID No. RN104154554; 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. (Wendy Cooper, Jennifer Cook)

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

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 18. **Docket No. 2003-0026-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Pete Maldonado in Crockett County**; TCEQ ID No. RN102959442; 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. (Deborah Bynum, Jennifer Cook)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 19. **Docket No. 2003-1407-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Comanche in Comanche County**; Texas Pollutant Discharge Elimination System Permit No. 10719-001 (Expired); 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 L. Ruble, Elvia Maske)

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

Item 20. **Docket No. 2004-0374-MWD-E.** Consideration of a 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, Jennifer Cook)

Item remanded to the Executive Director.

Item 21. **Docket No. 2003-0271-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Port Arthur in Jefferson County**; Texas Pollutant Discharge Elimination System Permit Nos. 10364-001 and 10364-002; 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. (Lynley Doyen, Elvia Maske)

Item remanded to the Executive Director.

Item 22. **Docket No. 2004-1112-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Hooks in Bowie County**; Texas Pollutant Discharge Elimination System Permit No. 10507-001, Regulated Entity ID No. RN101916468; 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. (Ruben Soto, Elvia Maske)

Item remanded to the Executive Director.

Item 23. **Docket No. 2004-1125-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mission Consolidated Independent School District in Hidalgo County**; TCEQ Water Quality Permit No. 13887-001, Regulated Entity ID No. RN102179710; 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, Elvia Maske)

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

Item 24. **Docket No. 2004-1259-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Kennard in Houston County**; Texas Pollutant Discharge Elimination System Permit No. 0011474001, RN102078169; 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. (Edward R. Moderow, Elvia Maske)

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

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

- Item 25. **Docket No. 2004-0088-OSS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Maurice Lozano** in **Tom Green County**; TCEQ ID No. RN 104101282, for water quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Barbara L. Klein, Jennifer Cook)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

- Item 26. **Docket No. 2004-1022-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **A.C.S.S. Dallas Industrial, Inc.** in **Tarrant County**; Petroleum Storage Tank Facility ID No. 10082; 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., Elvia Maske)

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

- Item 27. **Docket No. 2004-0914-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Andrews Transport, Inc.** in **Harris County**; Petroleum Storage Tank ID. No. 0055242, RN100670975; 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, Elvia Maske)

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

- Item 28. **Docket No. 2003-0924-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Galveston** in **Galveston County**; Petroleum Storage Tank Facility ID No. 24957, Regulated Entity Reference No. RN102024569; 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, Elvia Maske)

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

- Item 29. **Docket No. 2004-1337-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Jeannie Simpson dba Jumpin Jack's** in **Kaufman County**; Petroleum Storage Tank Facility ID No. 70149, RN101564185; 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. (Chris Friesenhahn, Elvia Maske)

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

Item 30. **Docket No. 2004-1007-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Khun Heng dba Billys Beer & Wine in Hunt County**; TCEQ ID Nos. 71934 and RN102785490; 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. (Justin Lannen, Jennifer Cook)

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

Item 31. **Docket No. 2004-1227-PST-E.** Consideration of an Agreed Order assessing administrative penalties **J. D. Grewal, Inc. dba Spin N Market 7 in Liberty County**; TCEQ ID No. 54555; 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. (Mary Clair Lyons, Jennifer Cook)

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

Item 32. **Docket No. 2004-0574-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Meng Taing dba Drive In Grocery in Tarrant County**; TCEQ ID No. 6273; 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. (Barbara L. Klein, Jennifer Cook)

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

Item 33. **Docket No. 2004-1194-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Ali Hamoudeh Ahmad dba Trading Post Food Store in Travis County**; Petroleum Storage Tank Registration No. 43328, Regulated Entity ID No. RN101489581; for petroleum storage tank violations pursuant to Tex. Water Code and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Leila Pezeshki, Elvia Maske)

Item remanded to the Executive Director.

Item 34. **Docket No. 2004-1247-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Suman Enterprises, Inc. dba JR Food Store in Victoria County**; Petroleum Storage Tank Facility ID No. 32949, RN102125572; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the

rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lawrence King, Elvia Maske)

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

Item 35. **Docket No. 2004-0405-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Prince Shahzad, Inc. dba Prince Country Store in Montgomery County**; Petroleum Storage Tank Facility ID No. 55763; 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, Elvia Maske)

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

Item 36. **Docket No. 2003-0894-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Pak Tex Group Inc. in Washington County**; Petroleum Storage Tank Facility ID No. 45224, Regulated Entity Reference No. RN101819266; 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, Elvia Maske)

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

Item 37. **Docket No. 2004-1447-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Leyendecker Construction, Inc. in Webb County**; Petroleum Storage Tank Registration No. 23609, RN102261617; 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. Mac Vilas, Elvia Maske)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 38. **Docket No. 2004-0089-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mohammad K. Aroud dba Jones Mart Shell in Harris County**; TCEQ ID Nos. 33010 and RN102834223; 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. (Deborah Bynum, Jennifer Cook)

Remand the Default Order to the Executive Director. KW/LS; all agree.

Item 39. **Docket No. 2003-1045-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Friend Enterprises Inc. dba Friendly Mart** in **Travis County**; TCEQ ID Nos. 0007146, CN601370315, and RN100825090; 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. (Deborah Bynum, Jennifer Cook)

Remand the Default Order to the Executive Director. KW/LS; all agree.

Item 40. **Docket No. 2003-1041-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Frank Chmielowski dba Panchos Country Store** in **Hidalgo County**; TCEQ ID Nos. 39301 and RN101432060; 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. (Jeff Huhn, Jennifer Cook)

Remand the Default Order to the Executive Director. KW/LS; all agree.

Item 41. **Docket No. 2004-0611-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Syeda Enterprises, Inc. dba Buy n Buy Drive In** in **Hardin County**; TCEQ ID Nos.: 34775 and RN101782043; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 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. (Barbara L. Klein, Jennifer Cook)

Remand the Default Order to the Executive Director. KW/LS; all agree.

Item 42. **Docket No. 2004-0392-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Worash Petroleum, Inc. dba N & B Fina 2** in **Dallas County**; TCEQ ID Nos. 52781 and RN102276219; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically Tex. Admin. Code ch. 60. (Wendy Cooper, Jennifer Cook)

Item remanded to the Executive Director.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 43. **Docket No. 2004-0935-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Bryson** in **Jack County**; Public Water Supply ID No. 1190001, Regulated Entity Reference No. RN101399699; 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, Elvia Maske)

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

Item 44. **Docket No. 2004-0568-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **C.T. Chien dba Walnut Creek Mobile Home Park in Johnson County**; Public Water Supply ID No. 1260121, RN101186427; 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, Elvia Maske)

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

Item 45. **Docket No. 2004-1190-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hilco United Services, Inc. dba Arrowhead Water System in Hill County**; Public Water Supply ID No. 1090038; Regulated Entity Reference No. RN102693108; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, Elvia Maske)

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

Item 46. **Docket No. 2004-1014-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Crest Water Company in Hill County**; Public Water Supply ID No. 1090042, RN101282176; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ruben Soto, Elvia Maske)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 47. **Docket No. 2004-0239-PWS-E.** Consideration of a Default Order assessing administrative penalties of **Larry Gossett dba Oaks Mobile Home Park in Tarrant County**; TCEQ ID Nos. 2200150 and RN102324118; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Barbara J. Watson, Jennifer Cook)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 48. **Docket No. 2004-0888-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Acme Brick Company dba Featherlite Building Products Swenson Hoggy Lease in Shackelford County**; Regulated Entity Reference No. RN104285325; 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, Elvia Maske)

Item continued to the May 25, 2005 agenda.

Item 49. **Docket No. 2004-1075-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Little River Materials Inc. in Milam County**; TCEQ ID No. RN104321872; 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 Tex. Admin. Code ch. 60. (Justin Lannen, Jennifer Cook)

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

Item 50. **Docket No. 2004-0760-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Cooper Concrete Company in Dallas County**; Waste Water General Permit No. TXG110417, RN102457082; 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. (David Van Soest, Elvia Maske)

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

DISTRICT MATTERS

Item 51. **Docket No. 2004-2030-DIS.** Consideration of a petition by Bear Creek Trust, a landowner (Applicant), for dissolution of **Harris County Municipal Utility District No. 263** (District). The Applicant requests that the Commission dissolve the District pursuant to Texas Water Code, Sections 49.321 to 49.327. (TCEQ Internal Control No. 12032004-D03; Rob Cummins, David Klein)

Approve the petition for dissolution. KW/LS; all agree.

Item 52. **Docket No. 2004-1944-DIS.** Consideration of a petition by NW Houston 529, LP (Applicant), for dissolution of **Harris County Municipal Utility District No. 268** (District). The Applicant requests that the Commission dissolve the District pursuant to Texas Water Code, Sections 49.321 to 49.327. (TCEQ Internal Control No. 07302004-D04; Rob Cummins, Brian MacLeod)

Approve the petition for dissolution. RM/KW; all agree.

EMERGENCY ORDERS

- Item 53. **Docket No. 2004-1466-MWD-E.** Consideration of whether to affirm, modify or set aside an Order Renewing an Emergency Order issued September 21, 2004 by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code Sections 5.501, 5.507, and 13.4132 to address the abandonment of a retail public utility (Utility) by **Bailey Ray Hawley dba Hawley's Wastewater Treatment Facility**, which is located 200 feet east of Farm-to-Market Road 2946 and State Highway 514, and 7.5 miles east-northeast of the City of Emory in **Rains County**; TPDES No. 13853-001; to ensure continued operation of the Utility; and to provide continuous and adequate service to the customers. The Emergency Order renews the appointment of Sabine River Authority as temporary manager of the Utility. (Rebecca Nash Petty)

Affirm the Emergency Order Renewal. RM/KW; all agree.

- Item 54. **Docket No. 2005-0338-AIR.** Consideration of whether to Modify, Affirm, or Set Aside an Emergency Order issued on February 18 , 2005 by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code Sections 5.501(c)(1) and 5.515 and 30 Tex. Admin. Code Section 35.801 to authorize **Foam Fabricators, Inc.**, to construct and operate four molding presses, two pre-expanders, six (or more) storage bags, and a supplemental regenerative thermal oxidizer (RTO) in addition to the existing equipment already authorized by Air Permit No. 35668 at 900 East Farm Road No. 1709 in Keller, **Tarrant County**. (Daniel Long, Louis Ngo)

Affirm the Emergency Order. KW/LS; all agree.

RULE MATTERS

- Item 55. **Docket No. 2005-0227-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 39**, Public Notice, Subchapter H, Applicability and General Provisions, Sections 39.405, 39.418, and 39.419; Subchapter I, Public Notice of Solid Waste Applications, Section 39.503; Subchapter K, Public Notice of Air Quality Applications, Sections 39.603 and 39.604; and Subchapter L, Public Notice of Injection Well and Other Specific Authorizations, Section 39.651.

The proposed amendments would extend alternative language notice requirements in the air quality program to waste and water quality authorizations, which publish Notices of Receipt of Application and Intent to Obtain a Permit (NORI) and Notices of Application and Preliminary Decision (NAPD) under Chapter 39. Specifically, when the applicant is required to publish a NORI or NAPD, publication would also be required in the applicable alternative language if either the elementary or middle school nearest to the facility provides a bilingual education program under the applicable provision of the Texas Education Code and certain criteria are met. (Les Trobman, Kerrie Qualtrough) (Rule Project No. 2005-014-039-AD)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 39 with changes presented by the Executive Director. KW/LS; all agree.

- Item 56. **Docket No. 2004-1502-RUL.** Consideration the adoption of **30 TAC Chapter 117**, Control of Air Pollution from Nitrogen Compounds, Sections 117.114, 117.201, 117.203, 117.206, 117.213, 117.214, 117.479, and 117.520 and corresponding revisions to the State Implementation Plan (SIP).

The adoption would revise certain sections in Chapter 117 to implement control measures to meet the United States Environmental Protection Agency required nitrogen oxide portion of the 5% increment of progress SIP revision for the Dallas/Fort Worth eight-hour ozone nonattainment area. The changes would also incorporate technical changes and clarifications that will affect major and minor sources in the Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston/Brazoria nonattainment areas in the state. These changes remove and add exemptions and add operational flexibility with regard to measuring emissions. (Karen Hill, Vincent Meiller, Janis Hudson) (Rule Project No. 2005-004-117-AI)

Approve the adoption of 30 TAC Chapter 117 and corresponding revisions to the State Implementation Plan . RM/KW; all agree.

- Item 57. **Docket No. 2004-1513-RUL.** Consideration for the adoption of amendments to **30 TAC Chapter 114**, Control of Air Pollution from Motor Vehicles, Subchapter G, Transportation Planning, Section 114.260, Transportation Conformity; and revisions to the Transportation Conformity State Implementation Plan for Texas Nonattainment and Maintenance Areas.

The rulemaking incorporates the July 1, 2004, federal transportation conformity rule amendments to 40 Code of Federal Regulations Part 93, except for Section 93.105, Consultation; updates citations; and amends language to be consistent with agency style and format. The proposed rule was published in the December 3, 2004, issue of the *Texas Register* (29 TexReg 11262). (Margie McAllister, Terry Salem) (Rule Project No. 2005-002-114-AI)

Approve the adoption of amendments to 30 TAC Chapter 114 and revisions to the Transportation Conformity State Implementation Plan for Texas Nonattainment and Maintenance Areas. KW/RM; all agree.

- Item 58. **Docket No. 2004-1330-RUL.** Consideration of the adoption of new Sections 37.9201, 37.9205, 37.9210, 37.9215, and 37.9220 of **30 TAC Chapter 37**, Financial Assurance; and new Sections 337.1 - 337.4, 337.10 - 337.15, 337.20 - 337.22, 337.30 - 337.32, 337.40, 337.41, 337.50, 337.51, 337.60 - 337.63, 337.70 - 337.72, and 337.80 of **30 TAC new Chapter 337**, Dry Cleaner Environmental Response. The adopted new sections would implement House Bill 1366, 78th Legislature, Regular Session, 2003.

The adopted rules would establish provisions for the regulation and remediation of dry cleaning solvents, including fee payment and registration procedures for dry cleaning facilities, drop stations, and distributors; standards for solvent delivery, handling, and disposal; specifications for recordkeeping, audits, and financial assurance; and

requirements relating to use of the dry cleaning remediation fund. The proposed rules were published in the November 12, 2004, issue of the *Texas Register* (29 TexReg 10442 and 10444). (Grace "Nell" Tyner, Caroline Sweeney, Derek Chapin) (Rule Project No. 2003-047-337-WS)

Continue this item to the May 11, 2005 agenda. KW/LS; all agree.

- Item 59. **Docket No. 2004-1483-SIP.** Consideration of the adoption of a revision to the state implementation plan (SIP) for the **Dallas-Fort Worth 8-hour ozone nonattainment** area to meet the 5% Increment of progress (IOP) requirements of EPA's 8-hour ozone implementation rule. The adopted SIP revision will establish the 2002 baseline emission inventories, 2007 projected emission inventories, IOP budgets, and motor vehicle emission budgets to reflect the use of new EPA emission factor models (NONROAD and MOBILE6) and new motor vehicle activity estimates. (Kelly Keel, Terry Salem) (Project No. 2004-096-SIP-AI)

Approve the adoption of a revision to the state implementation plan (SIP) for the Dallas-Fort Worth 8-hour ozone nonattainment area. KW/RM; all agree.

EXECUTIVE SESSION

- Item 60. **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.

The Commissioners did not meet in executive session.

- Item 61. **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.

The Commissioners did not meet in executive session.

- Item 62. **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.

The Commissioners did not meet in executive session.

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

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

/s/ Tracy Gross
Assistant General Counsel,
Tracy Gross

5/26/2005
Date