

Chairman Kathleen White  
Commissioner Ralph Marquez

OLD BUSINESS AGENDA

Wednesday, September 28, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the August 24, 2005 agenda.

- Item 1. **Docket No. 2004-0773-WR.** Consideration of an application filed by **Ruben Ruebsahm** for an amendment to existing Certificate of Adjudication 14-1459 for an additional diversion point on the East Fork of Williams Creek, tributary of the Pedernales River, tributary of the Colorado River, Colorado River Basin, and to divert and use not to exceed 12.75 acre-feet of water, a portion of the 25.5 acre-feet of water authorized, for agricultural purposes to irrigate up to 32 acres of land in the Otto Wilke Survey No. 1062, in **Gillespie County**, Texas. J.B. Ruebsahm and Katherine Klein Ruebsahm are the owners of the additional land to be irrigated as evidenced by a Gift Deed as recorded in Vol.155, Page 224 in the official records of Gillespie County. Certificate of Adjudication 14-1459 authorizes the diversion and use of not more than 25.5 acre-feet of water per year from the Pedernales River to irrigate a maximum of 34 acres of land out of a 260 acre tract in the Epaphras W. Bull Survey No. 11, Abstract 46, at a combined maximum rate not to exceed 4.01 cfs (1,800 gallons per minute) from two diversion points: diversion point (1) is located at a point on the north bank of the Pedernales River, being N70 degrees E, 2,210 feet from the southwest corner of the Epaphras W. Bull Survey 11, Abstract 46; and diversion point (2) is located at a point on the north bank of the Pedernales River being N 59 degrees 15' E, 3,415 feet from the southwest corner of the Epaphras W. Bull Survey 11, Abstract 46. The applicant did not request an additional appropriation of water. The Commission will also consider the hearing request, responses, and replies. (Iliana Delgado, Robin Smith)

Item remanded to the Executive Director.

## AGENDA

Wednesday, September 28, 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. 2005-0867-MSW.** Consideration of an application by the **City of Port Arthur** for an amendment to Municipal Solid Waste Permit No. 1815A to authorize vertical and lateral expansions at an existing Type I municipal solid waste landfill that would be authorized to accept household waste, yard waste, commercial waste, Class 2 and Class 3 nonhazardous industrial waste and construction/demolition waste. The site is a 407.3 acre facility, located in **Jefferson County**, Texas on State Highway 73 (SH73), approximately 1.1 miles southwest of the bridge over Taylor Bayou. The Commission will also consider requests for reconsideration and requests for hearing and related responses and replies, public comment and the Executive Director's Response to Comments. (Jeff Holderread/Anthony Tatu)

Deny the request for reconsideration; grant the hearing request; and refer the matter to SOAH for a maximum duration of four months from the preliminary hearing on the issues of: (1) whether the application meets TCEQ requirements relating to the identification and protection of wetlands, and (2) whether the landfill expansion constitutes an endangerment to the environment, particularly to wildlife and endangered and threatened species. KW/RM; all agree.

- Item 2. **Docket No. 2005-1235-MWD.** Consideration of the application by the **Upper Leon River Municipal Water District** for a new permit, proposed TCEQ Permit No. WQ0014544001, to authorize the disposal of treated domestic wastewater with a daily average flow not to exceed 48,900 gallons per day via surface irrigation of 12.18 acres of non-public access land. The facility and disposal site will be located approximately 300 feet south of Farm-to-Market Road 2861, near the intersection of Farm-to-Market Road 2861 and County Road 420A, and approximately 200 feet west of County Road 420A, in **Comanche County**, Texas. The wastewater treatment facility and disposal site will be located in the drainage basin of Proctor Lake, in Segment No. 1222 of the Brazos River Basin. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Pinar Dogru/Kent H. Trede)

Deny the hearing request and request for reconsideration because Mr. Reese does not meet the definition of "affected person"; amend the Executive Director's Response to Comments to indicate

the facility will accept hospital waste; adopt the amended Response to Comments and approve the permit. KW/RM; all agree.

### **AGRICULTURAL ENFORCEMENT AGREED ORDER**

- Item 3. **Docket No. 2004-1983-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **Kent Jisha dba Dairy Works in Hopkins County**; TCEQ Permit No. TXG920100; RN102336161; 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. (Cheryl Thompson, David Van Soest)

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

### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

- Item 4. **Docket No. 2004-1361-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Continental Cabinets Manufacturing, Inc. in Dallas County**; Air Account No. DB0621J, RN100221753; 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, David Van Soest)

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

- Item 5. **Docket No. 2005-0391-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **J. Cleo Thompson Investment Management, LLC in Crockett County**; Air Account No. CZ0035V, RN100224385; 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, David Van Soest)

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

- Item 6. **Docket No. 2005-0153-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **BP Amoco Chemical Company in Galveston County**; Air Account No. GB0001R, RN102536307; 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, David Van Soest)

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

- Item 7. **Docket No. 2004-1946-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **United Equipment Rentals Gulf, L.P. dba United Rentals in El Paso County**; Air Account No. EE1203U; RN100810977; 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, David Van Soest)

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

- Item 8. **Docket No. 2004-2003-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Desert Eagle Distributing of El Paso, Inc. in El Paso County**; RN100815208, Air Account No. EE1107R; 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. (Deana Holland, David Van Soest)

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

- Item 9. **Docket No. 2004-1907-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Hanover Compression Limited Partnership in Madison County**; Air Standard Permit No. 50957; 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. (Jorge Ibarra, P.E., David Van Soest)

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

- Item 10. **Docket No. 2004-2114-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Rental Service Corporation dba Rental Service Store 670 in El Paso County**; Air Account No. EE1153K; RN102382041; 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, David Van Soest)

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

- Item 11. **Docket No. 2005-0187-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Hill-Lake Gas Storage, L.P. in Eastland County**; Air Account No. EA0014H, RN100543024; 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. (Shontay Wilcher, David Van Soest)

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

- Item 12. **Docket No. 2004-0739-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Oceanic Systems, Inc. in Dallas County**; TCEQ ID No. RN100686880; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission

on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, David Van Soest)

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

Item 13. **Docket No. 2004-0987-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **ExxonMobil Oil Corporation in Jefferson County**; TCEQ ID Nos. JE0067I and RN102450756; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, David Van Soest)

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

Item 14. **Docket No. 2004-1688-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Lufkin Industries, Inc. dba Lufkin Industries Oilfield Division in Angelina County**; Air Operating Permit No. 1852, TCEQ Air Account No. AC0028T, RN100213453; 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, David Van Soest)

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

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS**

Item 15. **Docket No. 2005-0221-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Holigan Homes Texas, Ltd. in Williamson County**; Edwards Aquifer Protection Program Nos. 11-02060703 and 11-02060704, RN102727351; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Laurie Eaves, David Van Soest)

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

Item 16. **Docket No. 2005-0222-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Southfork Development, Ltd. in Williamson County**; Edwards Aquifer Protection Program Nos. 11-00091202 and 11-00091202A, RN102724358; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Laurie Eaves, David Van Soest)

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

Item 17. **Docket No. 2004-0859-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Real Estate Property Investments, L.L.C. in Bexar County**; Edwards Aquifer Site Registration No. 13-99042101; RN102745155; 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. (Rebecca Clausewitz, David Van Soest)

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

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS**

Item 18. **Docket No. 2004-1039-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **Gulf West Landfill TX, LP in Chambers County**; Industrial Solid Waste Permit No. 39039-001; Regulated Entity No. RN102151099; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, David Van Soest)

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

Item 19. **Docket No. 2005-0466-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **U.S. Filter Recovery Services (Mid-Atlantic), Inc. in Caldwell County**; Solid Waste Registration No. 41432, RN102694502; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ronnie Kramer, David Van Soest)

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

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

Item 20. **Docket No. 2004-1919-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **V&M Star, a Partnership with General and Limited Partners, LP in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 0003787000, RN100215474; 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. (Trina Grieco, David Van Soest)

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

## MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

- Item 21. **Docket No. 2003-0291-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Roma in Starr County**; Public Water Supply No. 2140007; Municipal Solid Waste Permit No. 954; for municipal solid waste and drinking water quality violations pursuant to Tex. Health & Safety Code chs. 341 and 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kimberly Morales, David Van Soest)

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

- Item 22. **Docket No. 2004-0228-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Stewart Tank Company & Oilfield Supply, Inc. in Grayson County**; TCEQ ID Nos. 13715, TXR05L017, and RN102974409; for industrial and hazardous waste, water quality, and scrap tire violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Deborah A. Bynum, David Van Soest)

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

## MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

- Item 23. **Docket No. 2005-0127-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Carl Williams dba Carl Williams Sand & Gravel in Tarrant County**; RN104458450; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, David Van Soest)

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

- Item 24. **Docket No. 2004-2081-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Kenneth Young in McCulloch County**; RN104000039; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, David Van Soest)

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

- Item 25. **Docket No. 2004-1212-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lewisville Landfill TX, LP in Denton County**; Municipal Solid Waste Permit No. 1749B, RN102006186; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex.

Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

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

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

Item 26. **Docket No. 2002-0772-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **North Texas Municipal Water District in Collin, Denton and Rockwall Counties**; TCEQ ID Nos. 12446-001, 14008-001, 10384-001, 11783-001, 11894-001, TX0088633, and RN102095585; 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. (James Sallans, David Van Soest)

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

Item 27. **Docket No. 2003-1275-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Adelphi Community Cooperative in Hunt County**; RN101513117; 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. (Tel Croston, David Van Soest)

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

Item 28. **Docket No. 2004-1936-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Kenedy in Karnes County**; Texas Pollutant Discharge Elimination System Permit No. 10746-001, RN102097839; 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. (Rebecca Clausewitz, David Van Soest)

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

Item 29. **Docket No. 2004-1524-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Fruitvale Independent School District in Van Zandt County**; Texas Pollutant Discharge Elimination System (TPDES) Permit No. 12369001; RN101527919; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Carolyn V. Lind, David Van Soest)

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

Item 30. **Docket No. 2005-0411-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Clint Independent School District Public Facility Corporation in El Paso County**; Texas Pollutant Discharge



Elimination System ("TPDES") Permit No. 0013667001; RN101528263; 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, David Van Soest)

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

Item 31. **Docket No. 2005-0399-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Spencer Road PUD in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 11472-001, RN102097508; 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. (Sandra Anaya, David Van Soest)

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

Item 32. **Docket No. 2005-0534-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Cross Roads Independent School District in Henderson County**; Texas Pollutant Discharge Elimination System Permit No. 13789001, RN101526192; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Carolyn V. Lind, David Van Soest)

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

Item 33. **Docket No. 2005-0055-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ann Arundel Farms, Ltd. in Fort Bend County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 0014182001, RN101514743; 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. (Rebecca Johnson, David Van Soest)

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

Item 34. **Docket No. 2004-1798-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Waller in Waller County**; Texas Pollutant Discharge Elimination System Permit No. 0010310001, RN102844834; 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, David Van Soest)

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

Item 35. **Docket No. 2004-0738-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Shepherd in San Jacinto County**; Texas Pollutant Discharge Elimination System Permit No. 11380-001; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of

the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lawrence King, David Van Soest)

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

#### **PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 36. **Docket No. 2005-0487-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Joyce Ann Mauldin dba Allsup's Conv Store in Collingsworth County**; Petroleum Storage Tank Registration ID No. 27595, RN102823291; 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. (Dana Shuler, David Van Soest)

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

Item 37. **Docket No. 2005-0529-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Bee County Co-operative Association in Bee County**; Petroleum Storage Tank Facility ID No. 287, RN101827384; 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. (Chad N. Blevins, David Van Soest)

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

Item 38. **Docket No. 2005-0404-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kirby & Kirby Oil Company, Inc. in Harrison and Smith Counties**; Petroleum Storage Tank Facility ID Nos. 24670 and 24657; RN102054822 and RN102063088; 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. (Ronnie Kramer, David Van Soest)

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

Item 39. **Docket No. 2005-0151-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **INS Emerald, L.L.C. dba Texas Foods in Tarrant County**; Petroleum Storage Tank Facility ID No. 70037; RN101541555; 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. (Shontay Wilcher, David Van Soest)

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

Item 40. **Docket No. 2005-0367-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ronnie Jenkins dba Chillerz and Ken Saffel dba Chillerz in Jones County**; Petroleum Storage Tank Facility ID No. 74791; RN101854966; 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, David Van Soest)

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

- Item 41. **Docket No. 2003-0805-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Awais and Sons, Inc. dba Texaco in Dallas County**; Petroleum Storage Tank Facility ID No. 42827; RN102452075; for petroleum storage 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, David Van Soest)

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

- Item 42. **Docket No. 2004-1725-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Aarey Colloney, Inc. dba Cheek Grocery Store in Jefferson County**; Petroleum Storage Tank Facility ID No. 12295; RN101757391; 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. (Merrilee Hupp, David Van Soest)

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

- Item 43. **Docket No. 2005-0025-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **James Yun dba Times Market 2003 in Nueces County**; Petroleum Storage Tank Facility ID No. 27426, RN102443611; 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. (Brian Lehmkuhle, David Van Soest)

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

- Item 44. **Docket No. 2005-0591-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Grocers Supply Co., Inc. dba Broadway Diamond Shamrock in Brazoria County**; Petroleum Storage Tank Facility ID No. 72891, RN102255494; 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. (Cheryl Thompson, David Van Soest)

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

- Item 45. **Docket No. 2005-0172-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Hardin County in Hardin County**; Petroleum Storage Tank Facility ID No. 57349; RN102033024; 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.  
(Chad Blevins, David Van Soest)

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

Item 46. **Docket No. 2004-1739-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Colonial Distribution, Inc. dba WEZ Mart 1 in Bexar County**; Petroleum Storage Tank Facility ID No. 15051, Regulated Entity Reference No. RN101377950; 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, David Van Soest)

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

Item 47. **Docket No. 2005-0240-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Vinyard Enterprises, Inc. dba Vinyard's Food Mart in Franklin County**; Petroleum Storage Tank Facility ID No. 47106, RN103730586; 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. (Sandra Anaya, David Van Soest)

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

Item 48. **Docket No. 2004-1244-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Nasrolah Kamalie dba Lucky Way Food Store in Galveston County**; TCEQ ID Nos. 45459 and RN102237385; 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, David Van Soest)

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

Item 49. **Docket No. 2002-1121-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **RFK Enterprises, Inc. dba Food Spot #5 in Orange County**; TCEQ ID Nos. 0044519 and RN101809184; for petroleum storage tank violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohworho, David Van Soest)

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

Item 50. **Docket No. 2005-0369-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Coolidge Grain & Produce, Inc. in Harris County**; Petroleum Storage Tank Facility ID No. 60274, RN101747962; 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. (Daniel Siringi, David Van Soest)

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

Item 51. **Docket No. 2005-0045-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sprint Petroleum, Inc. dba Sprint 24 306 in Hunt County**; Petroleum Storage Tank Facility ID No. 67806; RN101557015; 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. (Judy Kluge, David Van Soest)

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

Item 52. **Docket No. 2005-0181-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Monroe @ Winkler Investments, Inc. dba Mike Food Mart in Harris County**; Petroleum Storage Tank Facility ID No. 11849, RN101886216; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Limos, David Van Soest)

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

Item 53. **Docket No. 2005-0251-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Vining Enterprises Inc. dba Quick Food Mart in Montgomery County**; Petroleum Storage Tank Facility ID No. 76031; RN103935045; 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. (Howard G. Willoughby, David Van Soest)

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

Item 54. **Docket No. 2005-0659-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Department of State Health Services in Cameron County**; Petroleum Storage Tank Facility ID No. 74271, RN101436590; 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. (Melissa Keller, David Van Soest)

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

Item 55. **Docket No. 2005-0563-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Tejas Petroleum Products, Inc. dba Tyler Marketing Chevron Bulk Plant in Henderson County**; RN101841229; 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, David Van Soest)

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

- Item 56. **Docket No. 2005-0027-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mohammad Arif dba Super Mart in Liberty County**; RN102275955; 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. (Howard G. Willoughby, David Van Soest)

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

- Item 57. **Docket No. 2005-0514-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Robert Gibson dba Robert's Drive In 6 in McLennan County**; Petroleum Storage Tank Facility ID No. 44822; RN102050382; 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. (Deana Holland, David Van Soest)

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

- Item 58. **Docket No. 2005-0344-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Chahal Investment Inc. dba PPG Foodmart in Harris County**; Petroleum Storage Tank Facility ID No. 45458, RN102358686; 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. (Daniel Siringi, David Van Soest)

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

- Item 59. **Docket No. 2005-0457-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Bill L. Dover Company, Inc. in Jasper and Sabine Counties**; RN102015369; 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, David Van Soest)

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

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

Item 60. **Docket No. 2005-0185-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **CARO Water Supply Corporation in Nacogdoches County**; Public Water Supply No. 1740007; RN101184141; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental. (John Barry, David Van Soest)

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

Item 61. **Docket No. 2003-0705-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Merkel in Taylor County**; RN103779450; 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, David Van Soest)

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

Item 62. **Docket No. 2005-0719-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hidalgo County MUD 1 in Hidalgo County**; Public Water Supply No. 1080088, RN101175511; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental. (Harvey Wilson, David Van Soest)

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

Item 63. **Docket No. 2003-0381-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cisco in Eastland County**; Public Water Supply No. 0670001, Certificate of Convenience and Necessity No. 10535; for drinking water quality and water utility violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 13, and the rules of the Texas Commission on Environmental Quality. (Brian Lehmkuhle, David Van Soest)

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

Item 64. **Docket No. 2004-1133-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **S.L.C. Water Supply Corporation in Limestone County**; Public Water Supply ID No. 1470031; RN101265908; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

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

Item 65. **Docket No. 2004-1928-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lake Ridge Properties, Inc. dba Lake Ridge Estates** in **Val Verde County**; Public Water System No. 2330029; RN101266948; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 5, 7 and 26, and the rules of the Texas Commission on Environmental Quality. (J. Craig Fleming, David Van Soest)

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

Item 66. **Docket No. 2004-1653-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Goldthwaite** in **Mills County**; Public Water Supply Registration No. 1670001, RN101409134; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (J. Craig Fleming, David Van Soest)

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

#### **UNDERGROUND INJECTION CONTROL ENFORCEMENT AGREED ORDER**

Item 67. **Docket No. 2003-1272-UIC-E.** Consideration of an Agreed Order assessing administrative penalties against **Environmental Processing Systems, L.C.** in **Liberty County**; Underground Injection Control Permit No. WDW 316; for underground injection control violations pursuant to Tex. Water Code chs. 7 and 27 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, Suzanne Walrath)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 68. **Docket No. 2005-0741-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Dreamtech Homes, Ltd.** in **Montgomery County**; RN104558333; 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. (Rebecca Clausewitz, David Van Soest)

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

Item 69. **Docket No. 2005-0413-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **CRC-Evans Pipeline International, Inc.** in **Harris County**; RN100908706; 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. (Kimberly Morales, David Van Soest)

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



Item 70. **Docket No. 2004-1850-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Frank Kalsbeek dba Dairy Cow Compost in Erath County**; Water Quality General Permit ID. No. WQG200003; RN104385364; 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. (Jorge Ibarra, David Van Soest)

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

Item 71. **Docket No. 2005-0454-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alfred Conhagen, Inc. of Texas in Galveston County**; RN100608785; 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, David Van Soest)

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

#### **DISTRICT MATTER**

Item 72. **Docket No. 2005-0320-DIS.** Consideration of a petition by Houston Gosling Woodlands, LP, a landowner (Applicant), for dissolution of **Harris County Municipal Utility District No. 9** (District) in **Harris County**. The Applicant requests that the Commission dissolve the District pursuant to Texas Water Code, Sections 49.321 to 49.327. (TCEQ Internal Control No. 02032005-D08; Rob Cummins, Robert Martinez)

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

#### **TEXAS WATER CODE § 13.248 AGREEMENT**

Item 73. **Docket No. 2005-1425-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between **Northwest Harris County Municipal Utility District (MUD) 5** and **AquaSource Development Company, a Texas Corporation**, water CCN No. 12902 and sewer CCN No. 20867 in **Harris County**, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement stipulates that Northwest Harris County MUD 5 will provide water and sewer service to a 217.5687 acre tract of land currently contained in AquaSource Development Company's water and sewer service areas. (Christie Walters, Tammy Holguin-Benter)

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

#### **RULE MATTERS**

Item 74. **Docket No. 2005-1353-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 337**, Dry Cleaner Environmental Response, Sections 337.3, 337.11, 337.13 - 337.15, 337.20, 337.22, 337.30, 337.31, 337.61, and 337.62.

The proposed rulemaking would comply with House Bill 2376 and Senate Bill 444, 79th Legislature, 2005, Regular Session, relating to the environmental regulation and remediation of dry cleaning facilities. The proposed rules amend annual registration fees assessment calculations; establish new compliance deadlines for performance standards for dry cleaning facilities; require the commission to request the comptroller to verify that the owner is in good standing with the state and is reporting gross receipts accurately; clarify the designation of a nonparticipating status and establish new deadlines and fee credits for nonparticipating sites; and clarify and establish procedures to administer and enforce the program. (Don Kennedy, Caroline Sweeney) (Rule Project No. 2005-043-337-PR)

Approve publication of proposed amendments to 30 TAC Chapter 337. KW/RM; all agree.

Item 75. **Docket No. 2004-2039-RUL.** Consideration of the adoption of new sections in **30 TAC Chapter 37**, Financial Assurance, Sections 37.9090, 37.9095, 37.9100, 37.9105, 37.9110, 37.9115, 37.9120, 37.9125, 37.9130, 37.9135, 37.9140, 37.9145, 37.9150, and 37.9155; and amendments to **30 TAC Chapter 312**, Sludge Use, Disposal, and Transportation, Sections 312.4, 312.8 - 312.13, 312.44, 312.48, 312.82, 312.122, and 312.145. The rulemaking implements House Bill 2546, 78th Legislature, Regular Session, 2003.

The adoption would provide additional restrictions and requirements for persons who land apply Class B sewage sludge to help ensure more protection for citizens, land, and water. The proposed rules were published in the April 8, 2005, issue of the *Texas Register* (30 TexReg 2032). (Beth Fraser, Anthony Tatu) (Rule Project No. 2003-055-312-PR)

Approve adoption of the new sections in 30 TAC Chapter 37 and amendments to 30 TAC Chapter 312. KW/RM; all agree.

Item 76. **Docket No. 2005-0321-RUL.** Consideration of the adoption of amended Sections 115.167, 115.169, 115.219, 115.427, 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 lower exemption levels for batch process operations and shipbuilding and ship repair operations in the Beaumont-Port Arthur (BPA) ozone nonattainment area from 100 tons per year to 50 tons per year to reflect the redesignation of the BPA area from moderate to serious for the one-hour ozone standard. The rulemaking would also delete the contingency measure for control of volatile organic compound emissions from marine terminals in the BPA area. The proposed rules were published in the May 27, 2005, issue of the *Texas Register* (30 TexReg 3078). (Teresa Hurley, Rebecca Davis) (Rule Project No. 2005-017-115-EN)

Approve adoption of amended sections of 30 TAC Chapter 115 and corresponding revisions to the state implementation plan. KW/RM; all agree.

## STATE IMPLEMENTATION PLAN

- Item 77. **Docket No. 2005-0235-SIP.** Consideration of the adoption of a revision to the state implementation plan (SIP), concerning outstanding 1-hour requirements and the attainment demonstration for the 8-hour ozone nonattainment area in the **Beaumont-Port Arthur** area.

This revision includes a reasonably available control technology (RACT) determination, a discussion of an associated rulemaking that reduces the major source exemption level for batch processes and ship building and repair to 50 tons per year, a discussion regarding Tier II standards that are more stringent than federal Clean-Fuel Vehicle Programs requirements, a reasonably available control measure (RACM) analysis, a discussion of the repeal of the marine vessel loading contingency measure and substitution of those reductions with other measures, a new motor vehicle emissions budget (MVEB), and updated photochemical and technical documentation in support of the attainment demonstration. The proposed SIP was considered at the May 11, 2005, Commission Agenda. (Emily Barrett, Rebecca Davis) (Project Number 2005-020-SIP-NR)

Approve adoption of the revision to the state implementation plan. KW/RM; all agree.

## EXECUTIVE SESSION

- Item 78. **Docket No. 2005-1137-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.

Commission did not meet in executive session.

- Item 79. **Docket No. 2005-1138-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.

Commission did not meet in executive session.

- Item 80. **Docket No. 2005-1139-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.

Commission 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.**

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, September 28, 2005

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the September 14, 2005 agenda.

- Item 1. **TCEQ Docket No. 2001-0831-MWD-E; SOAH Docket No. 582-04-0442.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Sublight Enterprises, Inc.** in **San Patricio County**, Texas; TCEQ WQ Permit No. 11096-001; regarding wastewater discharge violations pursuant to Tex. Water Code § 26.121; 30 Tex. Admin. Code §§ 305.125(1) and (5), 319.7(c), 319.11, and 30.350(j); TPDES Permit No. 11096-001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 7c, Operational Requirements Nos. 1 and 9, Permit Conditions 2a and 2b, and Monitoring and Reporting Requirements Nos. 2 and 3; by failing to comply with requirements relating to record-keeping, effluent limitations, and operation and maintenance and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's Order; adopt the Executive Director's Exceptions; modify the penalty to \$8,500.00 under as justice may require; correct errors in FOF Nos. 9 and 11; and allow the Respondent to pay the penalty in a payment plan not to exceed 36 months. KW/RM; all agree.

Continued from the March 9, 2005, May 11, 2005, & July 27, 2005 agendas.

- 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.

Dismiss the ALJ's PFD and Order as moot. KW/RM; all agree.

## AGENDA

Wednesday, September 28, 2005

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **Docket No. 1997-0036-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rhimco Industries, Inc.** in **Ellis and Tarrant Counties**; TCEQ ID Nos. 32341 and RN100751981; for industrial and hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality. (Jim Sallans, David Van Soest)

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

- Item 2. **TCEQ Docket No. 2003-1529-AIR-E; SOAH Docket No. 582-05-4162.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Steve Silva dba Steve's Auto Works and Sales** in **Palo Pinto County**, Texas; TCEQ Regulated Entity ID No. 102665510; regarding air quality violations pursuant to 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a) and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's Order and the Executive Director's Exceptions; however, reduce the penalty to \$3,150 as reflected in the penalty calculation worksheet mailed to the Respondent. KW/LS; all agree.

- Item 3. **Docket No. 2004-1378-AIR; SOAH Docket No. 582-05-5189.** Consideration of application by **TXI Operations, L.P.** for issuance of an amendment to Air Quality Permit No. 1360A and modification to Prevention of Significant Deterioration Permit No. PSD-TX-632M1, which would increase the allowable production and the emissions of carbon monoxide (CO), total hydrocarbons (THC) and total reduced sulfur (TRS) from Kiln No. 5 at its Midlothian Cement Plant, located at 245 Ward Road, Midlothian, **Ellis County**, Texas. The Commission will also consider the Executive Director's Response to Comments. (Randy Hamilton, Janis Hudson)

Issue the permit amendment and modification and adopt the Executive Director's Response to Comments as well as the Executive Director's Supplemental Response to Comments. KW/LS; all agree.

- Item 4. **Docket No. 2005-1008-AIR-U.** Consideration of Appeal by the Chief Appraiser of the Freestone Central Appraisal District of the Executive Director's Proposition 2 Tax Relief

Use Determination, 04-8353, for the Use Determination for Pollution Control Property Application filed by **XTO Energy**. The property subject to the Use Determination is located at the Teague Pacques Gas Treatment Plant, at 423 S.H. 179, Teague, **Freestone County**, Texas. (Gary McArthur/Les Trobman)

Item remanded to the Executive Director for a new determination and to allow parties to negotiate a settlement. LS/RM; all agree.

Item 5. **TCEQ Docket No. 2003-1067-WR; SOAH Docket No. 582-04-4678.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Canyon Regional Water Authority** (Applicant) to amend its Certificate of Adjudication No.18-3834. The Applicant seeks to withdraw the application without prejudice. The proposed diversion would be from the Guadalupe River in **Guadalupe County**, Texas. The Commission will also consider the withdrawal of the application, related filings, exceptions and replies.

Adopt the ALJ's Order dismissing the application without prejudice. KW/RM; all agree.

Item 6. **TCEQ Docket No. 2004-0644-AIR; SOAH Docket No. 582-04-8307.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Jobe Concrete Products, Inc.**, now CEMEX El Paso, Inc., for an air quality permit pursuant to Tex. Health & Safety Code ch. 382 and applicable Commission rules and regulations; TCEQ Air Quality Permit No. 48255. Between the times of referral of Jobe Concrete Products, Inc.'s application to SOAH and the issuance of the Proposal for Decision, Jobe Concrete Products, Inc. was re-named CEMEX El Paso, Inc. CEMEX El Paso, Inc. is a Texas corporation located at 1 McKelligon Canyon Road, El Paso, **El Paso County**, Texas. The Commission will also consider timely public comments and the Executive Director's Response to such comments, the application, and related filings, exceptions and replies.

Adopt the ALJ's Order; adopt the Applicant's exceptions; issue the draft permit; add a new ordering provision adopting the Executive Director's Response to Comments; and correct the name of the protestant in FOF No. 11. KW/RM; LS opposed.

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Assistant General Counsel,  
Celeste Baker

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Date