

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

## AGENDA

Wednesday, February 22, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

#### **HEARING REQUEST(S)/REQUEST(S) FOR RECONSIDERATION**

- Item 1. **Docket No. 2005-1889-AIR.** Consideration of application by **Sunmount Corporation** for a New Air Quality Standard Permit to authorize the construction and operation of a temporary concrete batch plant. The proposed facility is to be located on the north side of West Vickery Boulevard, 250 feet east of Forest Park Boulevard, in Fort Worth, **Tarrant 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. (Helga Chatelle, Erin Selvera)

Grant the hearing requests for Apolonio & Donna Mendoza on the issue of whether the Applicant's concrete batch plant operations will negatively impact the hearing requesters' health; deny all other hearing requests and requests for reconsideration with the understanding that the denied parties may have an opportunity to demonstrate their effectiveness to SOAH; if parties are willing, refer to ADR then, if necessary, to SOAH for a hearing duration of six months; the preliminary hearing is to be held within Tarrant County, Texas; request that SOAH file a proposed Order with Findings of Fact, Conclusions of Law, and proposed Ordering Provisions with their Proposal for Decision. KW/RM; all agree.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDER**

- Item 2. **Docket No. 2005-1411-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **David Von Der Heide dba Drentex Dairy** in **Comanche County**; RN102900693; 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. (J. Craig Fleming, David Van Soest)

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

## AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 3. **Docket No. 2005-0706-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **BP Products North America Inc.** in **Galveston County**; Air Account No. GB0004L, RN102535077; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

Item 4. **Docket No. 2004-0209-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services L.P.** in **Waller and Jasper Counties**; Air Accounts Nos. WB-0075-S and JC-0067-H; Regulated Entity ID Nos. RN102530730 and RN102168705; 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. 2004-2052-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation** in **Jefferson County**; TCEQ Air Account No. JE0062S, RN100542844; 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. (Jaime Garza, David Van Soest)

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

Item 6. **Docket No. 2005-1543-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Good Time Stores, Inc.** in **El Paso County**; RN102017514; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, David Van Soest)

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

Item 7. **Docket No. 2005-0815-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nucor Corporation** in **Leon County**; RN100211093; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

Item 8. **Docket No. 2005-1668-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Owens Corning in Ellis County**; RN100223585; 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 Clausewitz, David Van Soest)

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

Item 9. **Docket No. 2005-1252-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ramos Industries, Inc. in Harris County**; RN102820859; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 5, 7, and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, David Van Soest)

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

Item 10. **Docket No. 2005-1150-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sunoco, Inc. (R&M) in Harris County**; RN100524008; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, David Van Soest)

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

Item 11. **Docket No. 2005-1610-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Hexion Specialty Chemicals, Inc. in Harris County**; RN102590775; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, David Van Soest)

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

Item 12. **Docket No. 2005-1271-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Attebury Grain, LLC in Tarrant County**; RN102420569; 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 13. **Docket No. 2005-0749-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U.S.A. Meat and Grain Co., Inc.** in **Cameron County**; RN100838564; 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. (Jaime Garza, David Van Soest)

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

Item 14. **Docket No. 2005-0136-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Schenectady International, Inc.** in **Brazoria County**; Air Account No. BL0048R, RN100218999; 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 15. **Docket No. 2004-1673-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **La Porte Methanol Company, L.P.** in **Harris County**; TCEQ ID Nos. HX2302N and RN102830866; 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, Jennifer Cook)

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

Item 16. **Docket No. 2004-1400-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Wright Materials, Inc.** in **Duval County**; Regulated Entity Reference No. RN101524197; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

Item 17. **Docket No. 2005-1511-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Kinder Morgan Texas Pipeline, L.P.** in **Polk County**; RN102306701; 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 Muennink, David Van Soest)

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

Item 18. **Docket No. 2005-1621-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Garland in Collin County**; RN100219203; 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. (Michael Meyer, David Van Soest)

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

Item 19. **Docket No. 2005-1695-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Ennis-Tractebel Power Company, LP in Ellis County**; RN100212430; 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. (Cheryl Thompson, David Van Soest)

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

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

Item 20. **Docket No. 2004-0302-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Our Lady of Guadalupe Catholic Church in Bexar County**; TCEQ ID Nos. 13-89062701 and RN103041687; for Edwards Aquifer recharge zone violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Jennifer Cook)

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

Item 21. **Docket No. 2005-1310-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Countryside Nursery & Landscape, Inc. in Williamson County**; RN104662390; 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, David Van Soest)

Item remanded to the Executive Director. KW/LS; all agree.

## **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 22. **Docket No. 2004-2037-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Total Petrochemicals USA, Inc.** in **Harris County**; Texas Pollutant Discharge Elimination System Permit No. 01000, RN100212109; 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 23. **Docket No. 2005-1622-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Frito-Lay, Inc.** in **Fort Bend County**; RN100219229; 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.

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

Item 24. **Docket No. 2004-1151-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pool Company Texas LTD.** in **Tom Green County**; Regulated Entity ID No. RN103763223; for water quality and municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Joseph Daley, David Van Soest)

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

Item 25. **Docket No. 2004-1887-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Anson** in **Jones County**; Public Water Supply ID No. 1270001, Texas Pollutant Discharge Elimination System General Permit No. TXR15A519, RN101385094, RN104174271; for water quality and drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, 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.

## **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS**

Item 26. **Docket No. 2004-0327-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Rod Packard dba Packard Tire Service** in **Nueces**

**County**; Tire Transporter ID No. 25032, Municipal Solid Waste Generator ID No. 0002, RN103178372, RN104385679; 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. (Harvey Wilson, David Van Soest)

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

Item 27. **Docket No. 2005-0077-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wichita Falls in Wichita County**; Municipal Solid Waste Permit No. 1429; RN102980687; 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. (Harvey Wilson, David Van Soest)

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

Item 28. **Docket No. 2005-0668-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jack Restivo in McLennan County**; TCEQ ID No. RN103049680; 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 Tex. Admin. Code ch. 60. (Kathleen Decker, Jennifer Cook)

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

Item 29. **Docket No. 2003-1468-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Robert Schreier in Brewster County**; TCEQ ID No. 455060005 and RN102935509; 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 Tex. Admin. Code ch. 60. (Jim Sallans, Jennifer Cook)

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

#### **MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

Item 30. **Docket No. 2004-2107-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Liborio Cruces in Cameron County**; TCEQ ID No. RN103142733; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code Ch. 60. (Lena Roberts, Jennifer Cook)

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

## MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 31. **Docket No. 2005-0576-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Fairfield in Freestone County**; Texas Pollutant Discharge Elimination System Permit Nos. 10168-001 and 10168-002, RN102180270, RN101607778; 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. (Pamela Campbell, David Van Soest)

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

Item 32. **Docket No. 2004-0554-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Galena Park in Harris County**; Texas Pollutant Discharge Elimination System Permit No. 10831-001, Regulated Entity No. RN101701324; 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. (Pamela Campbell, David Van Soest)

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

Item 33. **Docket No. 2003-1277-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Poteet in Atascosa County**; Texas Pollutant Discharge Elimination System Permit No. 13630001, RN102078417; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, David Van Soest)

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

Item 34. **Docket No. 2003-0076-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Mount Calm in Hill County**; Texas Pollutant Discharge Elimination System Permit No. 11464-001; 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. (Pamela Campbell, David Van Soest)

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

Item 35. **Docket No. 2004-1321-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lake Conroe Hills Municipal Utility District in Montgomery County**; Texas Pollutant Discharge Elimination System Permit No. WQ0011569001, RN102080256; 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 36. **Docket No. 2005-1600-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County Municipal Utility District 284 in Harris County**; RN103214839; 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, David Van Soest)

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

Item 37. **Docket No. 2003-0406-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Preston Club Utility Corporation in Grayson County**; Texas Pollutant Discharge Elimination System Permit No. 0013309001; RN102340486; 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 38. **Docket No. 2005-1448-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Liberty City Water Supply Corporation in Gregg County**; RN102915394; 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 39. **Docket No. 2005-0444-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Jasper in Jasper County**; Texas Pollutant Discharge Elimination System Permit No. 0010197001; RN101052132; 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 40. **Docket No. 2005-1624-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Houston in Harris County**; RN101607554; 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 41. **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, David Van Soest)

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

Item 42. **Docket No. 2003-1430-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harris County in Harris County**; Texas Pollutant Discharge Elimination System Permit Nos. 13921001 and 13561001, RN102075306 and RN102844248; 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 Lind, David Van Soest)

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

Item 43. **Docket No. 2003-1360-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Czech Catholic Home For the Aged in Wharton County**; Texas Pollutant Discharge Elimination System Permit No. 0010935-001, RN102180163; 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. (Scott Barnett, David Van Soest)

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

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

Item 44. **Docket No. 2005-1678-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Gandaf USA, Inc. dba Speedy Mart in Smith County**; RN102352911; 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. (Samuel Short, David Van Soest)

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

Item 45. **Docket No. 2005-1404-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Victoria Martinez dba Martinez Drive Inn in Hidalgo County**; RN102222387; 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., David Van Soest)

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

Item 46. **Docket No. 2005-0721-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Morgan Oil Company in Nacogdoches and Shelby Counties**; Petroleum Storage Tank Facility ID No. 53856; RN101735751; 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 47. **Docket No. 2005-1367-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nooruddin Hirani dba King Valley Grocery in Bexar County**; RN102901766; 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. (Sherronda Martin, David Van Soest)

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

Item 48. **Docket No. 2005-1240-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **AT&T Communications, Inc. in Dallas County**; RN100561612; 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 49. **Docket No. 2005-1750-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Alkarim, Inc. dba Alvin Pantry in Brazoria County**; RN102354958; 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. (John Muennink, David Van Soest)

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

Item 50. **Docket No. 2005-0652-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sheuli Investments, Inc. dba J & S Food Mart** in **Nacogdoches County**; TCEQ ID Nos. 0053974 and RN103050365; 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. (Lena Roberts, Jennifer Cook)

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

Item 51. **Docket No. 2004-1177-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Southern Cross Rentals, Inc. dba Budget Service Center** in **Cameron County**; TCEQ ID Nos. 49749 and RN101684454; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca M. Combs, Jennifer Cook)

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

Item 52. **Docket No. 2005-0086-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sabrina Investments, Inc. dba Corner Store** in **Gonzales County**; Petroleum Storage Tank Facility ID No. 8899, RN101722452; 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. (Epifanio Villareal, David Van Soest)

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

Item 53. **Docket No. 2004-0736-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Regional Transportation Authority** in **Nueces County**; RN101445203; 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. (Audra L. Ruble, David Van Soest)

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

Item 54. **Docket No. 2004-0908-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ram Krupa Corporation** in **McLennan County**; Petroleum Storage Tank Facility ID No. 21053; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, David Van Soest)

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

## PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 55. **Docket No. 2004-1429-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **David Watson dba GEW Chevron in Chambers County**; TCEQ ID Nos. 49266 and RN102458387; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

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

Item 56. **Docket No. 2005-0569-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Rajeev Khattry dba BJS Food Store in Gregg County**; TCEQ ID Nos. 25865 and RN101866051; 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. (Kathleen Decker, Jennifer Cook)

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

Item 57. **Docket No. 2004-1731-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Mahakali Group, Inc. dba Alco Food Mart in Harris County**; TCEQ ID Nos. 70335 and RN101878007; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen Decker, Jennifer Cook)

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

Item 58. **Docket No. 2005-0510-PST-E.** Consideration of a Default Order assessing administrative penalties against **Ahmad Sheikh dba Majestic Food Mart in Bexar County**; TCEQ ID Nos. 5921 and RN102350253; 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. (Kathleen Decker, Jennifer Cook)

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

Item 59. **Docket No. 2005-0428-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Sarbali Oil, Inc. dba Pineland Mobil in Sabine County**; TCEQ ID Nos. 8841 and RN102024361; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen Decker, Jennifer Cook)

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

## PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 60. **Docket No. 2005-1178-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cottonwood Shores in Burnet County**; RN101384683; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, David Van Soest)

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

Item 61. **Docket No. 2005-1226-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Midway in Madison County**; RN101193274; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, David Van Soest)

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

Item 62. **Docket No. 2005-1248-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Runaway Bay in Wise County**; RN101391431; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jill McNew, David Van Soest)

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

Item 63. **Docket No. 2005-1692-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bill Mayhew dba Wood Trail Water Supply in Kerr County**; RN101244523; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Trina Grieco, David Van Soest)

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

Item 64. **Docket No. 2005-1158-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **East Cedar Creek Fresh Water Supply District in Henderson County**; RN101436905, RN101436749; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jill McNew, David Van Soest)

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

Item 65. **Docket No. 2005-1394-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shelbyville Water Supply Corporation in Shelby County**; RN101452027; for drinking water quality violations

pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, David Van Soest)

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

Item 66. **Docket No. 2005-0089-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hilco United Services, Inc. dba Rocky Creek Water System** in **Bosque County**; RN101451094; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Tel Croston, David Van Soest)

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

Item 67. **Docket No. 2005-1648-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Echo Hill Ranch, Inc. dba Echo Hill Ranch Youth Camp** in **Kerr County**; RN101235133; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Marlin Bullard, David Van Soest)

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

Item 68. **Docket No. 2003-1261-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **A&K Enterprises, Inc. dba Mini Mart 2** in **Wharton County**; RN101183861; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Edward Moderow, David Van Soest)

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

#### **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 69. **Docket No. 2004-1495-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Shawn Fuller dba Country Village Mobile Home Park** in **Lubbock County**; TCEQ ID Nos. 1520249 and RN102679933; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Shannon Strong, Jennifer Cook)

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

#### **WATER QUALITY ENFORCEMENT AGREED ORDER**

Item 70. **Docket No. 2005-1267-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hill Sand Company, Inc.** in **Harris County**; RN103872164; 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.

### **DISTRICT MATTER**

Item 71. **Docket No. 2005-1649-DIS.** Consideration of an Application from **Smith County Water Control and Improvement District No. 1** (District) in **Smith County** for conversion into a Municipal Utility District. The Board of Directors of the District requests that the Commission convert the District Pursuant to Texas Water Code, Chapters 49 and 54. The requested action would include a name change upon conversion to Smith County Municipal Utility District No. 1 and the transfer of CCN No. 11906 to the new entity. (TCEQ Internal Control No. 04292005-D06; Rob Cummins, David Klein)

Item continued to the March 29, 2006 agenda. KW/RM; all agree.

### **RULE MATTERS**

Item 72. **Docket No. 2005-2069-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 35**, Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions, Subchapter K, Air Orders, Sections 35.801, 35.802, 35.804, 35.805, 35.807, and 35.808. The proposed amendments will be submitted to the United States Environmental Protection Agency as a revision to the state implementation plan.

The proposed rulemaking would implement requirements of House Bill 2949, 79th Legislature, 2005, Regular Session. The proposed rulemaking would add language authorizing emergency orders to include repair or replacement of roads, bridges, or other infrastructure improvements to the list of actions that can be authorized by an emergency order. Additionally, the proposed rulemaking would authorize an applicant to list loss of a critical transportation thoroughfare as a reason why the construction and emissions are essential. (Les Trobman) (Rule Project No. 2005-070-035-LS)

Approve for publication of, and hearing on, proposed amendments to 30 TAC Chapter 35; the proposed amendments will be submitted to the United States Environmental Protection Agency as a revision to the state implementation plan. KW/RM; all agree.

Item 73. **Docket No. 2005-2087-RUL.** Consideration for publication of proposed amendments to Sections 11.103 - 11.105 and 11.108 of **30 TAC Chapter 11**, Contracts.

The proposed rulemaking would amend Chapter 11 to implement House Bill 1940, 79th Legislature, 2005, Regular Session. The proposed amendments to Chapter 11 would change the time frame that the commission has to file a counterclaim and enter into negotiations with a contractor for claims made against the commission to reflect

statutory language. Specifically, the commission will have 60 days to file a counterclaim after receiving a notice of contract claim from a contractor and 120 days to enter into negotiations to resolve the claim. (Evelyn W. Njuguna, Patricia Robards) (Rule Project No. 2005-071-011-LS)

Approve the publication of amendments to 30 TAC Chapter 11. KW/LS; all agree.

Item 74. **Docket No. 2005-2039-RUL.** Consideration for publication of proposed new Section 291.146 of **30 TAC Chapter 291**, Utility Regulations.

The proposed revisions to Chapter 291 implement Texas Water Code, Section 13.087, as amended by House Bill 841, 79th Legislature, 2005, Regular Session. The revisions add new Section 291.146, which defines nonsubmetered master metered utility service. It also gives the commission enforcement authority over municipally owned utilities that do not determine rates charged to recreational parks in the same manner as they do for other commercial businesses that serve transient customers. (Lisa Mejia, Todd Galiga) (Rule Project No. 2005-059-291-PR)

Approve publication of proposed new Section 291.146 of 30 TAC Chapter 291. KW/LS; all agree.

Item 75. **Docket No. 2005-2024-RUL.** Consideration for publication of proposed amended Sections 295.2, 295.171, 295.172, 295.173, and 295.174, and new Section 295.42 of **30 TAC Chapter 295**, Water Rights, Procedural; and Sections 297.46 and 297.71 of **30 TAC Chapter 297**, Water Rights, Substantive.

The proposed revisions to Chapter 295 implement Texas Water Code (TWC), Section 11.124, as amended by House Bill (HB) 2140, 79th Legislature, 2005, Regular Session, and TWC, Section 5.103. These revisions require copies of maps to be submitted with applications, require that notice of storage reservoir applications be given to governing bodies of each county or municipality, change the references in several rules from public hearings to contested case hearings, and make these hearing rules consistent with other commission rules. The proposed revisions to Chapter 297 implement TWC, Section 11.173(b)(5), as amended by HB 1225, 79th Legislature, and TWC, Section 5.103. These revisions add conservation as an exemption from cancellation of state water rights and change one rule to delete an obsolete reference to Chapter 261. (Kathy Hopkins, Julie Wood, Robin Smith) (Rule Project No. 2005-057-297-PR)

Approve publication of proposed amended Sections 295.2, 295.171, 295.172, 295.173, and 295.174, and new Section 295.42 of 30 TAC Chapter 295; and Sections 297.46 and 297.71 of 30 TAC Chapter 297. KW/RM; all agree.

Item 76. **Docket No. 2005-1620-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 39**, Public Notice, Sections 39.403, 39.411, 39.419, and 39.420, the repeal of Section 39.404, and new Section 39.404; amendments to **30 TAC Chapter**

**50**, Action on Applications and Other Authorizations, Section 50.113; 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment, Section 55.201; **30 TAC Chapter 331**, Underground Injection Control, Section 331.11; new **30 TAC Chapter 91**, Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities, Sections 91.10, 91.20, 91.30, 91.100, 91.110, and 91.120; and **30 TAC Chapter 116**, Control of Air Pollution by Permits for New Construction or Modification; new Subchapter L, Permits for Specific Designated Facilities, Sections 116.1400, 116.1402, 116.1404, 116.1406, 116.1408, 116.1410, 116.1414, 116.1416, 116.1418, 116.1420, 116.1422, 116.1424, 116.1426, and 116.1428. Section 39.403(b)(8) - (10) and new (f), the repeal of Section 39.404, and new Section 39.404 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP). The commission also would withdraw Sections 39.411, 39.419, and 39.420, as submitted to EPA on July 31, 2002, and submit Sections 39.411(a), (b)(1) - (6) and (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4) as a revision to the SIP. Chapter 116, new Subchapter L will also be submitted as a revision to the SIP.

The rulemaking would implement provisions of House Bill (HB) 2201, 79th Legislature, 2005, Regular Session. HB 2201 identifies the United States Department of Energy's FutureGen research and creates a new set of permitting actions for FutureGen projects, specifically that permits for FutureGen projects are not subject to the contested case hearing process. Chapter 91 would address existing statutory requirements for the permitting and public participation process still applicable to FutureGen projects but eliminate the requirement of a contested case hearing. Chapter 116, new Subchapter L, would eliminate the requirement of a contested case hearing and address existing statutory requirements for the permitting and public participation process not affected by HB 2201 but still applicable to FutureGen projects. The proposed rules were published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7810) and the December 16, 2005, issue of the *Texas Register* (30 TexReg 8401). (Michael Wilhoit, Booker Harrison) (Rule Project No. 2005-053-091-PR)

Adopt amendments to 30 TAC Chapter 39, Public Notice, Sections 39.403, 39.411, 39.419, and 39.420, the repeal of Section 39.404, and new Section 39.404; amendments to 30 TAC Chapter 50, Action on Applications and Other Authorizations, Section 50.113; 30 TAC Chapter 55, Requests for Reconsideration and Contested Case Hearings; Public Comment, Section 55.201; 30 TAC Chapter 331, Underground Injection Control, Section 331.11; new 30 TAC Chapter 91, Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities, Sections 91.10, 91.20, 91.30, 91.100, 91.110, and 91.120; and 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification; new Subchapter L, Permits for Specific Designated Facilities, Sections 116.1400, 116.1402, 116.1404, 116.1406, 116.1408, 116.1410, 116.1414, 116.1416, 116.1418, 116.1420, 116.1422, 116.1424, 116.1426, and 116.1428. Section 39.403(b)(8) - (10) and new (f), the repeal of Section 39.404, and new Section 39.404 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP). The commission also would withdraw Sections 39.411, 39.419, and 39.420, as submitted to EPA on July 31, 2002, and submit Sections

39.411(a), (b)(1) - (6) and (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4) as a revision to the SIP. Chapter 116, new Subchapter L will also be submitted as a revision to the SIP. RM/LS; all agree.

### **EXECUTIVE SESSION**

Item 77. **Docket No. 2006-0001-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

Item 78. **Docket No. 2006-0002-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

Item 79. **Docket No. 2006-0003-EXE.** The Commission will conduct a closed session to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

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

**(5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

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

## AGENDA

Wednesday, February 22, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

- Item 1. **Docket No. 2003-0054-RAW-E; SOAH Docket No. 582-05-2955.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Thomas J. Maloney in Brazoria County, Texas**; TCEQ ID RW 1937; regarding radioactive waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60.

Item remanded to SOAH for additional consideration of compliance alternatives, including those which may be developed through discussions with the U.S. Nuclear Regulatory Commission and the Texas Department of State Health Services. KW/LS; all agree.

- Item 2. **TCEQ Docket Nos. 1997-1063-UIC & 2004-0746-UIC; SOAH Docket No. 582-05-1552.** Consideration of the Administrative Law Judge's Proposal for Decision and order regarding the applications of **URI, Inc.** for issuance of a Production Area Authorization for Production Area 3 under TCEQ Permit UR02827 and for renewal of URI's permits, WDW 247 and WDW 248, to develop and operate two Class I waste disposal wells. The proposed production area and the waste disposal wells are located at the Kingsville Dome Mine in **Kleberg County, Texas**. The Commission will also consider timely public comments and the Executive Director's response to such comments, the application, related filings, exceptions, and replies.

Adopt the ALJ's Order as revised by the Executive Director's exceptions, excluding the exception regarding the necessity of two separate Orders; adopt the Executive Director's RTC and overrule all other exceptions. KW/LS; all agree.

- Item 3. **TCEQ Docket No. 2005-2078-EAQ.** Consideration of Motions to Overturn filed by Kirk Michaux, President, Solana Ranch Company; Sam Thomas, Representative for the Round Top Ranch; Larry George, Advisory Committee, Spears Ranch-Salado Creek; Bobby and Magdalena Rogers; Jean Hamrick; Weston E. Walters; and Chester Critchfield concerning the Executive Director's approval of the application by **Austin Equipment Company, LC** for approval of Water Pollution Abatement Plan (WPAP), Edwards Aquifer Protection ID Nos. 11-05022201 and 11-05022201A for Applicant's quarrying activities on 264 acres on the Edwards Aquifer recharge zone

in **Williamson County**, Texas. The Commission will also consider timely-filed briefs and replies to the motions to overturn.

Deny the Motion to Overturn. RM/KW, LS opposed.

/s/ Greg Merrell  
Assistant General Counsel,  
Greg Merrell

3/30/2006  
Date