

Chairman Kathleen White  
Commissioner Ralph Marquez  
Commissioner Larry Soward

OLD BUSINESS AGENDA

Wednesday, March 29, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the February 22, 2006 agenda.

- Item 1. **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)

Refer the application for a contested case hearing at SOAH, include the City of Winona as a protesting party, and establish a hearing duration of three months. KW/RM; all agree.

Based on Texas Water Code Section 54.016, city consent is not required for this application. KW/RM.

Based on Texas Water Code Section 54.016 and Texas Local Government Code Section 42.042, city consent is required for this application. LS.

## AGENDA

Wednesday, March 29, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

12100 Park 35 Circle

Room 201S, Bldg. E

#### **HEARING REQUESTS/REQUESTS FOR RECONSIDERATION**

- Item 1. **Docket No. 2005-2081-MWD.** Consideration of the application by **City of Missouri City** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013873002, to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. However, the draft permit authorizes an annual average flow not to exceed 1,500,000 gallons per day. The facility will be located approximately 3,300 feet south of the intersection of Knight Road and Watts Plantation Road in **Fort Bend County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (John Williams, Phillip Urbany)

Grant the hearing requests of Kuno and Maria Zimmermann, Derek, Lori, Martha, and Reinhardt Loesch, Brent, Steven, and Tomi Belgard, Willem Roldaan and Sandra Taale, Jani and Roland Salazar, Helen and John Delome, and Kim Delome; refer the matter to SOAH for a hearing with a duration of nine months on the issues of: (1) Whether the proposed discharge will affect the quality of the groundwater that supplies requesters' shallow potable water wells; (2) Will the chlorinated effluent in the Interim I phase meet the water quality standards and any applicable state and federal regulations; (3) Whether the effluent will have an adverse impact on downstream uses; (4) Will the permitted discharge adversely affect any wetland along the discharge route; (5) Will the permitted activities result in nuisance odor conditions; and, (6) Are there adequate procedures in place to prevent the discharge of raw sewage? KW/RM; all agree.

- Item 2. **Docket No. 2005-0001-DIS.** Consideration of a Petition for the Conversion of **Maxwell Water Supply Corporation** to Maxwell Special Utility District in **Hays and Caldwell Counties** pursuant to Texas Water Code Sections 65.014 and 65.021, and 30 TAC Section 293.11. The Commission will also consider requests for hearing, and related responses and replies. (TCEQ Internal Control No. 09032004-D09; Rob Cummins, David Klein)

Item continued to the May 31, 2006 agenda.

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

- Item 3. **Docket No. 2005-1609-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Channel Shipyard Company, Inc.** in **Harris County**; RN100218429; 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. (Kimberly Morales, David Van Soest)

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

Item 4. **Docket No. 2005-0793-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cemex Cement of Texas, L.P.** in **Ector County**; RN100213305; 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 5. **Docket No. 2005-1709-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company LP** in **Brazoria County**; RN100825249; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, David Van Soest)

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

Item 6. **Docket No. 2005-1091-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron U.S.A. Inc.** in **Midland County**; RN100226380; 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. (Suzanne Walrath, David Van Soest)

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

Item 7. **Docket No. 2005-1660-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **ConocoPhillips Company** in **Brazoria County**; RN101619179; 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. (Amy Burgess, David Van Soest)

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

Item 8. **Docket No. 2005-1759-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Continental Cabinets Manufacturing, Inc.** in **Dallas County**; 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. (Bryan Elliott, David Van Soest)

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

Item 9. **Docket No. 2005-1428-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Enbridge Pipelines (East Texas), L.P. in Freestone County**; RN100225127; 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. 2005-1810-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Farmers Dairies, LTD. in El Paso County**; RN100818756; 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. (Samuel Short, David Van Soest)

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

Item 11. **Docket No. 2005-0716-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Dow Chemical Company in Brazoria County**; RN100225945; 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. (Trina Grieco, David Van Soest)

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

Item 12. **Docket No. 2005-1608-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Eastern Transmission, LP in Shelby County**; RN100217074; 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 13. **Docket No. 2005-0519-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sunoco Partners Marketing & Terminals L.P. in Jefferson County**; Air Account No. JE0091L, RN100214626; 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 14. **Docket No. 2005-1236-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shell Pipeline Company, LP in Jefferson County**; RN100219716; for air quality violations pursuant to Tex. Health &

Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

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

Item 15. **Docket No. 2005-0152-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rohm and Haas Texas Incorporated in Harris County**; Air Account No. HG0632T, Air Permit No. 8838, RN100223205; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, David Van Soest)

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

Item 16. **Docket No. 2005-1529-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Regency Gas Services Waha, LP in Pecos County**; RN100211408; 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 17. **Docket No. 2005-2042-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Earnhardt El Paso Motors, LP dba BMW of El Paso and Mazda of El Paso in El Paso County**; RN102476041; 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.

#### **AIR QUALITY ENFORCEMENT DEFAULT ORDER**

Item 18. **Docket No. 2005-0491-AIR-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Price Construction, Ltd. in Maverick County**; TCEQ ID No. RN104523717; 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. (Rebecca Davis, Jennifer Cook)

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

#### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

Item 19. **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)

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

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT DEFAULT ORDER**

Item 20. **Docket No. 2005-0358-IHW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Environmental Management Services of Texas, Inc.** in **El Paso County**; TCEQ ID Nos. 85009 and RN100566256; for oil collection, management, and recycling violations pursuant to Tex. Health & Safety Code ch. 371, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin Code ch. 60. (Shawn Slack, Jennifer Cook)

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

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

Item 21. **Docket No. 2005-1700-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enterprise Products Operating L.P.** in **Chambers County**; RN102323268; 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 22. **Docket No. 2005-1447-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hines Nurseries, Inc.** in **Fort Bend County**; RN101648806; 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 23. **Docket No. 2005-1132-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jimmie Hahn, Inc.** in **Washington County**; RN100690874; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

Item 24. **Docket No. 2005-1762-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Golden Spread Redi-Mix, Inc.** in **Potter County**; RN100242114; for water quality violations pursuant to Tex. Water Code

chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

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

### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER**

Item 25. **Docket No. 2005-0802-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Casey Shepelwich** in **Dallas County**; TCEQ ID No. RN103228946; for landscape irrigation installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occ. Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

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

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

Item 26. **Docket No. 2005-1245-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **Southern Ready Mix, Inc.** in **Montgomery County**; RN104386891; for water quality and industrial & 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, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, David Van Soest)

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

Item 27. **Docket No. 2005-1501-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Galveston County Landfill TX, LP** in **Galveston County**; RN100221597; for industrial solid waste and 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. (Joseph Daley, David Van Soest)

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

Item 28. **Docket No. 2005-1617-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cotton Center Producers, Inc.** in **Dawson County**; RN104751458; for air quality and industrial & hazardous waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, 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.

Item 29. **Docket No. 2002-1146-MLM-E.** Consideration of an Agreed Order assessing administrative penalties against **Arnold Felts dba A & D General Store** in **Tom Green County**; Petroleum Storage Tank Facility ID No. 71010, Public Water Supply ID No. 2260059, RN102314770; for petroleum storage tank 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. (Trina Grieco, David Van Soest)

Approve the Agreed Order. KW/RM; LS no.

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

Item 30. **Docket No. 2005-0587-MLM-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Epley Enterprises, Inc. in Tom Green County**; TCEQ ID No. RN102988698; for industrial waste violations pursuant to Texas Health & Safety Code ch. 361, Texas 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.

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

Item 31. **Docket No. 2005-1997-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ceres Environmental Services, Inc. in Harris County**; RN104386180; 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.

Item 32. **Docket No. 2005-1892-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Darryl Haley dba Haley Enterprises in Wise County**; RN104753306; 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 33. **Docket No. 2005-1802-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Atlanta in Cass County**; RN102883212; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lynley Doyen, David Van Soest)

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

Item 34. **Docket No. 2005-0952-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Brazoria County Fresh Water Supply District No. 1 in Brazoria County**; RN102335460; 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. 2005-0621-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jefferson County Water Control & Improvement District No. 10 in Jefferson County**; Texas Pollutant Discharge Elimination System Permit No. 0010838003, RN101607448; 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 36. **Docket No. 2005-1740-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Martin Product Sales LLC in Jefferson County**; RN101528933; 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 37. **Docket No. 2003-1336-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Lone Oak in Hunt County**; TCEQ ID No. RN101920668; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 38. **Docket No. 2005-1831-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Taft in San Patricio County**; RN103124079; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

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

Item 39. **Docket No. 2004-0003-MWD-E.** Consideration of an Agreed Order requiring certain actions of **Pine Tree Estates 2 Landowner Association Inc. in Tarrant County**; Texas Pollutant Discharge Elimination System ("TPDES") No. 13831-001; 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. (Cheryl Thompson, David Van Soest)

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

Item 40. **Docket No. 2004-2110-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of La Joya in Hidalgo County**; Water Quality Permit No. 12675-001, RN101920361; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, David Van Soest)

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

Item 41. **Docket No. 2005-0450-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Groveton in Trinity County**; Texas Pollutant Discharge Elimination System Permit No. 0010556001, RN102844297; 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 42. **Docket No. 2005-1675-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Five Nine Seven Limited Partnership dba Ramblewood Mobile Home Park in Brazos County**; RN101275378; 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. (Elvia Maske, David Van Soest)

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

Item 43. **Docket No. 2005-1418-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Caddo Mills in Hunt County**; RN101721488; 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. (Brian Lehmkuhle, David Van Soest)

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

#### **ON SITE SEWAGE FACILITY INSTALLERS ENFORCEMENT DEFAULT ORDER**

Item 44. **Docket No. 2004-1999-OSI-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Truman Loving in Tyler County**; TCEQ ID No. RN104402797; for on-site sewage facility installer violations pursuant to Tex. Water Code chs. 7 and 37, Tex Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

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

## PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 45. **Docket No. 2004-1638-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Lakewind Enterprises, Inc. dba Tidwell Conoco in Harris County**; TCEQ ID Nos. 68676 and RN102040862; 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. (Shawn Slack, Jennifer Cook)

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

Item 46. **Docket No. 2003-1155-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **KGA Corporation, Inc. in Smith County**; TCEQ ID Nos. 39222 and RN102220068; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohoworho, Jennifer Cook)

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

Item 47. **Docket No. 2005-0322-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Shujat Swati dba Super Stop 24 in Jefferson County**; Petroleum Storage Tank Facility ID No. 44987; RN102353182; 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. (Colin Barth, David Van Soest)

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

Item 48. **Docket No. 2005-1560-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gillani Energy Company dba Super B Food Store in Dallas County**; RN102248051; 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. (Sandy VanCleave, David Van Soest)

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

Item 49. **Docket No. 2005-0777-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sang Eun Woo dba Family Mart in Hidalgo County**; RN101684306; 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 50. **Docket No. 2005-1859-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Albertson's Inc dba Albertson's Express 933 in El Paso County**; RN100820182; for petroleum storage tank 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 51. **Docket No. 2005-1749-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Alonzo Aguilar dba Aguilar's Grocery in Brewster County**; RN102274669; 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 52. **Docket No. 2005-1771-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **2001 Milenium Corporation dba Chevron Food Mart in Denton County**; RN101572667; 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. (Lynley Doyen, David Van Soest)

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

Item 53. **Docket No. 2005-1191-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **AVS Management Inc dba Toor Shell Food Mart in Harris County**; TCEQ ID No. RN101890978; 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. (Rachael Gaines, Jennifer Cook)

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

Item 54. **Docket No. 2005-1572-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **STS Gas Services, Inc. dba Greatwood Outpost in Fort Bend County**; RN101878247; 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. (Judy Kluge, David Van Soest)

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

Item 55. **Docket No. 2005-1459-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shawn & Sameer, Inc. dba Eastland Minit Mart 1 in Eastland County**; RN102408846; 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. (Scott Barnett, David Van Soest)

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

Item 56. **Docket No. 2005-1365-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shapla, Inc. dba Stop N Stock in Tarrant County**; RN101563625; 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. (Judy Kluge, David Van Soest)

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

#### **PETROLEUM STORAGE TANKS ENFORCEMENT DEFAULT ORDERS**

Item 57. **Docket No. 2005-0138-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Lisanti Realty Corporation dba Lisanti Food Service in Dallas County**; TCEQ ID Nos. 59456 and RN102047289; 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. (Kari L. Gilbreth, Jennifer Cook)

Remanded to the Executive Director.

Item 58. **Docket No. 2004-1824-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Het & Harsh Corporation dba Sonic Quick Stop in Harris County**; TCEQ ID Nos. 40823 and RN101884286; 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. 2004-0506-PST-E.** Consideration of a Default Order assessing administrative penalties against **PT Gas Service Company, L.C. dba Workingmans Friend 529 in Wichita County**; TCEQ ID Nos. 003615 and RN102040359; 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. (Shana L. Horton, Jennifer Cook)

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

Item 60. **Docket No. 2005-0255-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Landed I, LTD. dba J.H. Walker Trucking in Harris County**; TCEQ ID Nos. 75632 and RN100713775; 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 Default Order. KW/RM; all agree.

## PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 61. **Docket No. 2004-0480-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Weldon Alders dba Woodland Hills Water Company; dba Lakeview Water System; dba Fairfield Estates in Liberty County**; TCEQ ID Nos. 1460120, 1460098, 1460118, RN101177483, RN101458750, and RN101206795; for public water supply violations pursuant to the Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 62. **Docket No. 2005-1777-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Del Rio in Val Verde County**; RN101215978; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sandy VanCleave, David Van Soest)

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

Item 63. **Docket No. 2005-1438-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Etoile Water Supply Corporation in Nacogdoches County**; RN101192987; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

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

Item 64. **Docket No. 2005-1754-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Horse Heaven Stables, Inc. dba Ms. Agnes Cafe in Fort Bend County**; RN101244127; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda King-Zrubek, David Van Soest)

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

Item 65. **Docket No. 2005-1627-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sivells Bend Independent School District in Cooke County**; RN101228021; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (J. Mac Vilas, David Van Soest)

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

Item 66. **Docket No. 2005-0947-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Olsen Estates Property Owner's Association in Chambers County**; RN101255057; 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. 2005-0790-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **William Donald Smith dba Kingmont Mobile Home Park** in **Harris County**; RN101283331; 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. (Catherine Albrecht, David Van Soest)

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

Item 68. **Docket No. 2005-1122-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Frank A. Daugherty Trust dba Indian Springs Water Company** in **Franklin County**; RN101652386; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Meyer, David Van Soest)

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

Item 69. **Docket No. 2005-1797-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Held Enterprises, Inc. dba Preston West Golf Course** in **Randall County**; RN101379147; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda King-Zrubek, David Van Soest)

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

Item 70. **Docket No. 2005-1853-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Flomot Water Supply Corporation** in **Motley County**; RN102317849; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Sandy VanCleave, David Van Soest)

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

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

Item 71. **Docket No. 2005-1331-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lee-Var, Inc. dba Palmer of Texas** in **Andrews County**; RN100213594; 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.

## MOTION TO OVERTURN

- Item 72. **TCEQ Docket No. 2006-0085-MSW.** Consideration of a Motion to Overturn filed by Mary Wimbish concerning the Executive Director's issuance of Registration No. 43020 to **U.S. Oil Recovery, L.P.**, authorizing the storage and processing of grease and grit trap wastes and the recycling of recovered materials. (**Harris County**)

Grant the Motion to Overturn, set aside the current registration and remand this item to the Executive Director to be re-noticed. KW/LS; RM present.

## RULE MATTERS

- Item 73. **Docket No. 2005-2040-RUL.** Consideration for publication of, and hearing on, proposed amended Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31, 291.34, and 291.81 and new Section 291.35 of **30 TAC Chapter 291**, Utility Regulations.

The proposed revisions to Chapter 291 implement Texas Water Code (TWC), Section 13.004, as added by House Bill (HB) 1358, 79th Legislature, 2005, Regular Session; TWC, Section 13.187(c), as amended by HB 2301, 79th Legislature; and TWC, Section 13.145, as amended by Senate Bill (SB) 1063, 79th Legislature. SB 1063 also removes a provision enacted by SB 2, 77th Legislature, Regular Session, 2001, that exempts from specific requirements a public utility that provided service in only 24 counties on January 1, 2003. TWC, Section 13.004 outlines the jurisdiction of the commission over certain water supply or sewer service corporations. TWC, Section 13.187(c) clarifies that the regulatory authority may disallow nonsupported costs in a rate application. Additionally, new subsection (b) of TWC, Section 13.145 states, "this section does not apply to a public utility that provided utility service in only 24 counties on January 1, 2003." Finally, the commission proposes revisions to Chapter 291 relating to when a utility may not recover rate case expenses, which may include attorney fees and expert witness fees incurred as a result of a rate change application. (Elizabeth Flores, Brian MacLeod) (Rule Project No. 2005-061-291-PR)

Approve the publication of, and hearing on, proposed amended Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31, 291.34, and 291.81 and new Section 291.35 of 30 TAC Chapter 291, with additional language added to the preamble as specified by the Commission. KW/LS; all agree.

- Item 74. **Docket No. 2005-2006-RUL.** Consideration for publication of, and hearing on, proposed amendments to **30 TAC Chapter 114**, Control of Air Pollution From Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, Division 3, Sections 114.620, 114.622, new 114.624; and Subchapter K, new Division 4, new Sections 114.640, 114.642, 114.644, 114.646, and 114.648; and corresponding revisions to the state implementation plan.

The proposed rulemaking would implement House Bill 3469 and House Bill 2481, 79th Legislature, 2005, Regular Session. The proposed rulemaking would establish rules for the Texas Clean School Bus Program as directed by House Bill 3469. The proposed rulemaking would also clarify cost effectiveness requirements for the Texas Emissions Reduction Plan, establish a rebate grant program as part of the Texas Emissions Reduction Plan, and provide for clarification of scrappage requirements for repower and replacement

projects under the Texas Emissions Reduction Plan grant program as provided in House Bill 2481. (Erik Gribbin, Brad Patterson) (Rule Project No. 2006-016-114-EN)

Approve the publication of, and hearing on, proposed amendments to 30 TAC Chapter 114 and corresponding revisions to the state implementation plan. KW/RM; all agree.

Item 75. **Docket No. 2005-2047-RUL.** Consideration for publication of, and hearing on, proposed amended Sections 293.1, 293.11, 293.12, 293.20, 293.22, 293.23, 293.32, 293.41, 293.44, 293.51, 293.54, 293.69, 293.111 - 293.113, 293.201, and 293.202 of **30 TAC Chapter 293, Water Districts.**

The proposed rulemaking would implement House Bills 828, 1208, 1644, 1673, and 1763 and Senate Bill 693, 79th Legislature, 2005, Regular Session. The proposed rulemaking would provide certain districts greater flexibility in contracting and in funding of certificate of convenience and necessity costs, allow a water supply corporation in converting to a special utility district to request certain powers to be considered and granted by the commission, modify notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts, provide certain limitations on filling board member vacancies of municipal utility districts, exclude certain types of refunding bonds from commission approval, provide certain limitations on certain districts' use of eminent domain powers outside district boundaries, provide for consistency between bond anticipation note rules and feasibility rules, clarify application requirements for a district to obtain road utility district powers, and provide for application requirements for a district to obtain commission approval of road bonds. (Randy Nelson, David Klein) (Rule Project No. 2005-058-293-PR)

Approve publication of, and hearing on, proposed amended Sections 293.1, 293.11, 293.12, 293.20, 293.22, 293.23, 293.32, 293.41, 293.44, 293.51, 293.54, 293.69, 293.111 - 293.113, 293.201, and 293.202 of 30 TAC Chapter 293. KW/RM; all agree.

#### **EXECUTIVE SESSION**

Item 76. **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 77. **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 78. **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.

### **RESOLUTION**

Item 79. **Docket No. 2006-0293-RES.** Resolution honoring Commissioner Marquez.

Approve the proposed Resolution. KW/LS, RM present.

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

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

## AGENDA

Wednesday, March 29, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2004-1320-MLM-E; SOAH Docket No. 582-06-0522.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Dan Hughitt dba Hughitts Sawmill in Hood County**, Texas, regarding violations pursuant to Tex. Health & Safety Code Ann. § 382.085(b) and 30 Tex. Admin. Code §§ 111.201, 101.4, 101.5, 327.5(a), and 330.5, and the rules of the Texas Commission on Environmental Quality.

Set the PFD aside, remand the item back to the Executive Director with the directive of working with the Respondent to develop an agreement for a corrective action plan. KW/RM; all agree.

- Item 2. **TCEQ Docket No. 2004-0907-MSW-E; SOAH Docket No. 582-05-7371.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties against **Maverick Trucking Company, Inc. in Williamson County**, Texas; TCEQ ID None; regarding failure to abate and contain a spilled substance and fully cooperate with the Executive Director as required by Tex. Health & Safety Code ch.361 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60.

Set PFD aside, remand the item to the Executive Director. KW/LS; all agree.

- Item 3. **TCEQ Docket No. 2006-0294-MIS.** Consideration of **Enforcement Review Implementation** status, as it relates to implementation of Penalty Policy Issues.

The Commission directed staff to schedule individual briefings with the Commissioners on calculating the penalty adjustment for Economic Benefit.

Consensus of the Commission is that a definition for small businesses and small local governments should be developed by the Executive Director through the rulemaking process. Rulemaking should allow for deferral of an administrative penalty on a case-by-case basis taking into account the Respondent's financial ability to pay the penalty and to complete corrective actions. Deferrals should not be limited to only small businesses and small local governments. There was also consensus on allowing staff to continue to allow longer compliance deadlines for small businesses and small local governments as circumstances warrant.

The Commission agreed that good faith effort reductions should be eliminated in Default Orders. The Commission also agreed that good faith reductions should be allowed when some, but not all, of the violations are corrected.

The Commission directed staff to schedule individual briefings with the Commissioners on what the Commission should consider when calculating the penalty adjustment related to Culpability.

Consensus of the Commission is that standard base penalties should be developed for programmatic violations (those that do not involve actual discharges or emissions and/or documented environmental or human health effects). Duration of the violation and the number of violation events should be factored into the calculation of the penalty in proposed rulemaking.

The Commission directed staff to schedule individual briefings with the Commissioners on better means of determining the number of events for a given violation than the methodology expressed in the Commission's current penalty policy.

**(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 12:30 P.M. UNTIL 1:00 P.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

/s/ Celeste Baker  
Assistant General Counsel,  
Celeste Baker

05-05-2006  
Date