

Chairman Kathleen White
Commissioner Larry Soward

OLD BUSINESS AGENDA
Wednesday, May 17, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the March 8, 2006 agenda.

- Item 1. **Docket No. 2006-0104-MIS.** Approval of the recertification of the **Houston-Galveston Area Emission Reduction Credit Organization** (AERCO) for another twelve-year term.

Senate Bill 513 73rd R.S.(1993) (Texas Health and Safety Code, Sections 384.001-018) gave the council of governments in an ozone nonattainment area the authority to establish an AERCO with the commission's approval. The purpose of the Houston-Galveston AERCO is to promote air quality improvement and economic development through the reduction of ozone precursor emissions and by generation of emission reduction credits certifiable by the TCEQ's bank for the nonattainment area. The Houston-Galveston AERCO was approved on March 23, 1994 and is due for recertification on March 23, 2006. Upon approval, the AERCO exists for a twelve-year term or in the absence of recertification, dissolution, pursuant to the Texas Health and Safety Code Section 384.018. The recertification would prevent dissolution of the Houston-Galveston AERCO. (Steve Sun, Pinar Dogru)

Approve the recertification of the Houston-Galveston Area Emission Reduction Credit Organization for another twelve-year term. KW/LS; all agree.

Continued from the April 26, 2006 agenda.

- Item 2. **Docket No. 2005-1606-RUL.** Consideration of the adoption of the repeal of Section 111.155 of **30 TAC Chapter 111**, Control of Air Pollution from Visible Emissions and Particulate Matter; and corresponding revisions to the state implementation plan (SIP) and approval to withdraw Section 111.155 from consideration as a SIP revision.

The proposed repeal was published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7821). (Kathy Singleton, Alicia Lee) (Rule Project Number 2005-013-111-EN)

Adopt the repeal of Section 111.155 of 30 TAC Chapter 111, corresponding revisions to the state implementation plan (SIP), and approve the withdrawal of Section 111.155 from consideration as a SIP revision. KW/LS; all agree.

AGENDA

Wednesday, May 17, 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. 2005-1964-MWD.** Consideration of the application by **Galveston County Municipal Utility District No. 1** for a major amendment of TCEQ Permit No. WQ0011477001 to authorize the discharge of treated domestic wastewater to a receiving body of water and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 300,000 gallons per day to a daily average flow not to exceed 624,000 gallons per day. The facility is located approximately 0.5 mile north of Stewart Road and 0.25 mile east of 12-Mile Road on Galveston Island in **Galveston 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. (Marc Friberg/Julian Centeno, Jr.)

Grant the hearing request of Lafitte's Cove at Pirates Beach Nature Society on the issues relating to: 1. whether the proposed discharge into Eckert Bayou will cause degradation of water quality or impair the existing uses within Eckert Bayou, as well as within the canal system throughout Lafitte's Cove, and 2. whether an alternate to discharging the effluent into Eckert Bayou, which would be more protective, be investigated; refer the matter to ADR then, if necessary, to SOAH with a hearing duration of 6 months; request that the ALJ submit proposed Findings of Fact, Conclusions of Law, and Ordering Provisions with their PFD. KW/LS; all agree.

- Item 2. **Docket No. 2006-0079-DIS.** Consideration of an application by **Roman Forest Consolidated Municipal Utility District of Montgomery County** for approval of standby fee. The District's application requests approval of the levy of a uniform annual standby fee to supplement its operations and maintenance account pursuant to Texas Water Code, Section 49.231. The Commission will consider the application and the hearing request that has been filed on the application. (TCEQ Internal Control No. 11012004-D20; Rob Cummins, Spencer Marks)

Grant the hearing request and refer this matter to SOAH with a maximum hearing duration of three months; request that the ALJ submit proposed Findings of Fact, Conclusions of Law, and Ordering Provisions with their PFD. KW/LS; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDERS

- Item 3. **Docket No. 2005-1815-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **Comtex Dairies, L.L.C.** in **Comanche County**;

RN103769881; 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. (Anita Keese, David Van Soest)

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

Item 4. **Docket No. 2005-1834-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rodney Warren McNeal dba McNeal Dairy in Erath County**; RN102900875; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward R. Moderow, David Van Soest)

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

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 5. **Docket No. 2001-0232-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **Texas Department of Transportation in El Paso County**; TCEQ ID Nos. EE-1695-P, EE-2161-E, and RN102534633; for air quality violations pursuant to the Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Jennifer Cook)

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

Item 6. **Docket No. 2003-0166-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sid Richardson Energy Services, Ltd. in Winkler County**; TCEQ ID Nos. WM0011U and RN100238633; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, 40 CFR part 60, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (James P. Biggins, Jennifer Cook)

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

Item 7. **Docket No. 2006-0008-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Air System Components LP in El Paso County**; RN102316981; 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. (Jason Kemp, David Van Soest)

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

Item 8. **Docket No. 2003-1429-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Azteca Milling, L.P. in Hale County**; Air Account No. HA0106T, Regulated Entity Reference No. RN100215086; 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. (Cari-Michel La Caille, David Van Soest)

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

Item 9. **Docket No. 2005-1636-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Dynegy Midstream Services, Limited Partnership in Chambers County**; RN100222900; 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/LS; all agree.

Item 10. **Docket No. 2005-1863-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **K-T Galvanizing Co., Inc. in Johnson County**; RN100578368; 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. (Jason Kemp, David Van Soest)

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

Item 11. **Docket No. 2005-1902-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Penreco in Galveston County**; RN100221282; 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/LS; all agree.

Item 12. **Docket No. 2005-1020-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Lubrizol Corporation in Harris County**; RN100221589; for air quality violations pursuant to Tex. Health & Safety Code chs. 341 and 382, Tex. Water Code chs. 5 and 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, David Van Soest)

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

Item 13. **Docket No. 2006-0036-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Sunset Logistics, Inc. in Tarrant County**; RN102863529; 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/LS; all agree.

Item 14. **Docket No. 2005-1972-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Stonewater Pipeline Company, L.P. in Sutton County**; RN100215607; 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/LS; all agree.

Item 15. **Docket No. 2005-2056-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. (Samuel Short, David Van Soest)

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

Item 16. **Docket No. 2005-1985-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Lyondell-Citgo Refining LP in Harris County**; RN100218130; 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/LS; all agree.

Item 17. **Docket No. 2005-1941-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enbridge Pipelines East Texas L.P. in Freestone County**; RN100224914; 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/LS; all agree.

Item 18. **Docket No. 2005-2065-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Avis Rent A Car System, Inc. in El Paso County**; RN100814912; 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/LS; all agree.

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 19. **Docket No. 2005-1765-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Wolf Hollow I, L.P. in Hood County**; RN100219195; 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/LS; all agree.

Item 20. **Docket No. 2005-1761-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Amerada Hess Corporation in Nueces County**; RN102536836; 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/LS; all agree.

Item 21. **Docket No. 2005-1701-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Beall Concrete Enterprises, Ltd. in Denton and Tarrant Counties**; RN102707643 and RN100706852; 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/LS; all agree.

Item 22. **Docket No. 2005-1983-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Zoltek Corporation in Taylor County**; RN100543867; 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/LS; all agree.

LICENSED IRRIGATOR ENFORCEMENT AGREED ORDERS

Item 23. **Docket No. 2005-1434-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Juan Jose Ruiz in Harris County**; RN104692660; for licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Brent Hurta, David Van Soest)

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

Item 24. **Docket No. 2005-1599-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **James T. Marcum Jr. and Joseph H. Marcum in Denton County**; RN104707229, RN104283304; for licensing violations

pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

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

Item 25. **Docket No. 2005-1273-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Charles Harrell in Tarrant County**; TCEQ ID No. RN103565396; for landscape irrigator 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. (Rachael Gaines, Jennifer Cook)

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

LICENSED IRRIGATOR ENFORCEMENT DEFAULT ORDER

Item 26. **Docket No. 2005-0883-LII-E.** Consideration of a Default Order assessing administrative penalties against **William C. Barfield in Parker County**; TCEQ ID Nos. 25520 and RN103567715; for landscape irrigator 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. (Kari L. Gilbreth, Jennifer Cook)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

Item 27. **Docket No. 2005-1311-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cemex Construction Materials, L.P. in Comal County**; RN102437274; 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/LS; all agree.

Item 28. **Docket No. 2003-1266-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Century Industrial Coatings Incorporated in Cherokee County**; TCEQ ID Nos. RN101933976, 87233, F1590, 47583, CJ0159M; for air and industrial hazardous waste violations pursuant to Texas Health & Safety Code chs. 361 and 382, Texas Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia N. Fasoyiro, Jennifer Cook)

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

Item 29. **Docket No. 2005-1388-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Horral Ingram Jones, Jr. dba Jones Septic Tank Cleaning in Montgomery County**; RN101525566; for air quality, water quality, and municipal solid waste violations pursuant to Tex. Health & Safety Code

chs. 361 and 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. (J. Mac Vilas, David Van Soest)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 30. **Docket No. 2005-1950-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Cody Byrom** in **Bexar County**; RN104662135; 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. (Anita Keese, David Van Soest)

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

Item 31. **Docket No. 2006-0094-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **J. W. Turner Construction, Inc. dba James W. Turner Construction LTD.** in **Harris and San Patricio Counties**; RN104812748; 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. (Colin Barth, David Van Soest)

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

Item 32. **Docket No. 2005-1763-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Eisenberg Properties, Ltd.** in **Bexar County**; RN101628410; 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/LS; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 33. **Docket No. 2004-2127-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **5510 Acorn L. L. C. dba Acorn Mobile Home Park** in **Harris County**; Texas Pollutant Discharge Elimination System Permit No. 12772-001, RN101511566; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26, Tex. Health & Safety Code ch. 341, 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/LS; all agree.

Item 34. **Docket No. 2005-1901-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Beaumont in Jefferson County**; RN101612224; 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/LS; all agree.

Item 35. **Docket No. 2005-0740-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Dodd City in Fannin County**; RN101608867; 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. (Sandy VanCleave, David Van Soest)

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

Item 36. **Docket No. 2005-0191-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Harmony Independent School District in Upshur County**; RN101720837; 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/LS; all agree.

Item 37. **Docket No. 2004-0573-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Dublin in Erath County**; Texas Pollutant Discharge Elimination System Permit No. WQ0010405001, Regulated Entity ID No. RN101918308; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., David Van Soest)

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

Item 38. **Docket No. 2005-1866-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cardinal Meadows Improvement District in Jefferson County**; RN104416417; 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/LS; all agree.

Item 39. **Docket No. 2006-0037-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bridgeport Utilities, LLC in Navarro County**; RN102342821; 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/LS; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 40. **Docket No. 2003-1188-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **AGA Enterprises, Inc. in Orange County**; TCEQ ID Nos. 54159 and RN102041571; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health and Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Jennifer Cook)

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

Item 41. **Docket No. 2003-0218-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Marine Quest-Captain's Cove, L.P. dba Captain's Cove Marina in Dallas County**; TCEQ ID Nos. 0041272 and RN101555084; 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. (James P. Biggins, Jennifer Cook)

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

Item 42. **Docket No. 2005-0278-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Midway Truck Stop, Inc. in Victoria County**; TCEQ ID No. RN101261535; 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. (Deanna Sigman, Jennifer Cook)

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

Item 43. **Docket No. 2005-2014-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GL James Investments, L.L.C. dba Country Boy Store in Collin County**; RN101540854; 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/LS; all agree.

Item 44. **Docket No. 2005-2050-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Petroleum Wholesale, L.P. dba Sunmart 153 and Sunmart 289 in Harris County**; RN101932127, RN102060324; 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. (Thomas Greimel, David Van Soest)

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

Item 45. **Docket No. 2003-1114-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sami Awad dba Sammys Memorial Texaco Inc.** in **Harris County**; Petroleum Storage Tank Facility No. 23177; 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. (Pamela Campbell, David Van Soest)

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

Item 46. **Docket No. 2005-1848-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shawn & Sameer, Inc. dba Breckenridge Minit Mart** in **Stephens County**; RN101443166; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, David Van Soest)

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

Item 47. **Docket No. 2005-0689-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **S. M. S. Enterprises, Inc. dba AZ Food Store** in **Harris County**; RN100872761; 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. (Tel Croston, David Van Soest)

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

Item 48. **Docket No. 2005-1957-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Neutze Properties, Ltd. dba Kwik Pantry FFP 5167** in **Val Verde County**; RN102353141; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Howard G. Willoughby, David Van Soest)

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

Item 49. **Docket No. 2005-1877-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Dallas Convenience Stores Inc. dba Mesquite Mini Mart** in **Dallas County**; RN102375367; 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. (Kent Heath, David Van Soest)

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

Item 50. **Docket No. 2005-0230-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pro Corporation dba Flagship Car Wash and Lube Center in Tarrant County**; Petroleum Storage Tank Registration No. 50069, RN101637148; 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. (Bryan Elliott, David Van Soest)

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

Item 51. **Docket No. 2005-1929-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **A J & P Investors, Inc. dba Poolville One Stop in Parker County**; RN101557841; 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. (Kent Heath, David Van Soest)

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

Item 52. **Docket No. 2004-1603-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Clara, Inc. dba Chevron Clara's Store and Bakery in Bastrop County**; TCEQ ID Nos. 71980 and RN101497071; 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. (Becky Combs, Jennifer Cook)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER

Item 53. **Docket No. 2002-0751-PST-E.** Consideration of a Default Order assessing administrative penalties against and requiring certain actions of **Mehmood Lakhani dba C-Store in Dallas County**; TCEQ ID No. RN102360716; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 54. **Docket No. 2005-1229-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hamshire Community Water**

Supply Corporation in Jefferson County; TCEQ ID No. RN101283208; for a public drinking water violation pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Shana L. Horton, Jennifer Cook)

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

Item 55. **Docket No. 2005-1968-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wright City Water Supply Corporation in Smith County**; RN101238459; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Ruben Soto, David Van Soest)

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

Item 56. **Docket No. 2005-1954-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wickson Creek Special Utility District Grimes County in Grimes County**; RN101278232; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

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

Item 57. **Docket No. 2005-2022-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of West Tawakoni in Hunt County**; RN101423671; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Colin Barth, David Van Soest)

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

Item 58. **Docket No. 2005-0932-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Volente Beach Restaurant in Williamson County**; RN101227627; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Michael Limos, David Van Soest)

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

Item 59. **Docket No. 2006-0064-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Municipal Power Agency in Grimes County**; RN100214550; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, David Van Soest)

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

Item 60. **Docket No. 2005-2021-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Talley Water Supply Corporation**

in **Harrison County**; RN101221646; 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/LS; all agree.

Item 61. **Docket No. 2006-0054-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Reno in Parker County**; RN102686581; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Daniel Siringi, David Van Soest)

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

Item 62. **Docket No. 2005-1887-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Pflugerville in Travis County**; RN101430064; 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/LS; all agree.

Item 63. **Docket No. 2005-1349-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Taylor Petroleum Companies, Inc. in Lubbock County**; RN101885069; 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/LS; all agree.

Item 64. **Docket No. 2005-2020-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **El Camino Bay Water Supply Corporation in Sabine County**; RN101199560; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jaime Garza, David Van Soest)

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

Item 65. **Docket No. 2005-1854-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Camp Eagle in Real County**; RN103203063; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Samuel Short, David Van Soest)

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

Item 66. **Docket No. 2004-2098-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Lawn in Taylor**

County; Public Water Supply ID No. 2210005, RN101406916; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Craig Fleming, David Van Soest)

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

Item 67. **Docket No. 2005-2034-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **International A.L.E.R.T. Academy** in **Upshur County**; RN101193167; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Anita Keese, David Van Soest)

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

Item 68. **Docket No. 2005-1526-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Elsa** in **Hidalgo County**; TCEQ ID Nos. 1080005 and RN101219665; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Deanna Sigman, Jennifer Cook)

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

Item 69. **Docket No. 2005-1923-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Hillsboro** in **Hill County**; RN102327004; 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/LS; all agree.

Item 70. **Docket No. 2005-2063-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Len D. Jordan dba Sail Haven** in **Travis County**; RN101213452; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Dana Shuler, David Van Soest)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDERS

Item 71. **Docket No. 2005-1202-PWS-E.** Consideration of a Default Order assessing administrative penalties against **Tashi Enterprise, Inc. dba Star Jet Truck Stop** in **Wharton County**; TCEQ ID Nos. 2410064 and RN102280518; for public water system violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

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

Item 72. **Docket No. 2005-1368-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Wayne Chadick dba A & A Longhorn Trailer Park** in **Potter County**; TCEQ ID No. RN101203677; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Jennifer Cook)

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

DISTRICT MATTERS

Item 73. **Docket No. 2005-1652-DIS.** Consideration of a petition by LGI Land, LLC, as landowner; Woodforest National Bank, as first lienholder; and Vision Mortgage, Inc., as second lienholder (Applicants), for dissolution of **Montgomery County Municipal Utility District No. 72** (District) in **Montgomery County**. The Applicants request that the Commission dissolve the District pursuant to Texas Water Code, Sections 49.321 through 49.327 and the rules of the Commission. (TCEQ Internal Control No. 08082005-D09; Rob Cummins, Spencer Marks)

Approve the dissolution of Montgomery County Municipal Utility District No. 72, request that the Commission file a certified copy of the Order with the Secretary of State. KW/LS; all agree.

Item 74. **Docket No. 2005-1650-DIS.** Consideration of a petition by LGI Land, LLC, as landowner; Woodforest National Bank, as first lienholder; and Vision Mortgage, Inc., as second lienholder (Applicants), for dissolution of **Montgomery County Municipal Utility District No. 70** (District) in **Montgomery County**. The Applicants request that the Commission dissolve the District pursuant to Texas Water Code, Sections 49.321 through 49.327 and the rules of the Commission. (TCEQ Internal Control No. 08082005-D02; Rob Cummins, Spencer Marks)

Approve the dissolution of Montgomery County Municipal Utility District No. 70, request that the Commission file a certified copy of the Order with the Secretary of State. KW/LS; all agree.

MOTION TO OVERTURN

Item 75. **TCEQ Docket No. 2006-0276-EAQ;** Consideration of the Motion for Reconsideration filed by John B. Luce on the behalf of the **New Braunfels Church of Christ** with regard to the Executive Director's denial of its Water Pollution Abatement Plan application (Edwards Aquifer Protection Program No. 2377.00) by letter dated February 17, 2006, and related filings. The New Braunfels Church of Christ has proposed to build within the Edwards Aquifer Recharge Zone a new church and associated parking area on a site located on the North side of State Highway 46 at its intersection with State Highway 1863, West of Loop 337, in New Braunfels, **Comal County**.

Grant the Motion for Reconsideration, set aside the denial, and direct the Executive Director allow another period of 30 days for the Applicant to address his concerns prior to entry of his decision on the application. KW/LS; all agree.

RULE MATTER

- Item 76. **Docket No. 2006-0292-RUL.** Consideration for publication of proposed amendments to **30 TAC Chapter 334**, Underground and Aboveground Storage Tanks, Sections 334.2, 334.5, 334.8, 334.71, 334.84, 334.301, 334.302, 334.303, 334.306, 334.310, and 334.313.

The proposed rulemaking would incorporate into agency rule, changes to statute which were effective September 1, 2005, based on language in Senate Bill 485, House Bill 1987, and Senate Bill 1863 (Article 5) from the 79th Legislature, 2005 Regular Session, and on suggested changes by stakeholders. This rulemaking would add language defining the term subsurface soils to the definition of a release; remove common carrier liability with respect to deliveries into underground storage tanks; simplify owner/operator notification of underground storage tank (UST) compliance to common carriers; extend the sunset date of the Petroleum Storage Tank Reimbursement Account and applicable deadlines by two years; provide enhanced opportunity for owners/operators of eligible leaking petroleum storage tank sites to transfer them into the agency's Petroleum Storage Tank State Lead Program; and allow the commission to consider the reimbursement of non-preapproved claims. (Anton Rozsypal, Cullen McMorrow) (Rule Project No. 2005-056-334-PR)

Approve the publication of proposed amendments to 30 TAC Chapter 334, Sections 334.2, 334.5, 334.8, 334.71, 334.84, 334.301, 334.302, 334.303, 334.306, 334.310, and 334.313. KW/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.

The Commission did not meet in executive session.

- 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.

The Commission did not meet in executive session.

- 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.

The Commission did not meet in executive session.

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

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

AGENDA

Wednesday, May 17, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

Item 1. **TCEQ Docket No. 2004-0839-AIR; SOAH Docket No. 582-05-1040.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Southern Crushed Concrete, Inc.** to change the location of a previously permitted portable concrete crushing facility in **Harris County**, Texas. The Commission will also consider timely public comments, the application, related filings, exceptions and replies.

Item continued to the June 28, 2006 agenda.

Item 2. **TCEQ Docket No. 2005-0781-AIR; SOAH Docket No. 582-05-5612.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Sandy Creek Energy Associates, L.P.** for Air Quality Flexible Permit No. 70861 authorizing the construction and operation of an 800 megawatt(MW) pulverized coal (PC) boiler steam electric power generation plant in **McLennan County**, Texas. The Commission will also consider timely public comments, the application, related filings, exceptions and replies.

Approve and Issue the proposed draft permit and adopt the ALJ's Order with revisions to Findings of Fact 75, 79, and 225 and Conclusions of Law 7, 23, and 49 as proposed at agenda; adopt the Applicant's exceptions 11-19; add new ordering provision which will adopt the Executive Director's response to comments; and adopt the Executive Director's response to comments to be consistent with the stated revisions to the Findings of Fact and Conclusions of Law. If any conflict should exist between the Commissioner's Order and the Executive Director's Response to Comments, the Commission's Order prevails. KW/LS; all agree.

(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/ Tracey Gross
Assistant General Counsel,
Tracy Gross

7-31-2006
Date