

Chairman Kathleen White  
Commissioner Larry Soward

OLD BUSINESS AGENDA  
Wednesday, May 31, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Continued from the March 29, 2006 agenda.

- Item 1. **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 December 13, 2006 agenda.

Continued from the April 26, 2006 agenda.

- Item 2. **Docket No. 2003-1195-PST-E.** Consideration of a Default Order assessing administrative penalties against **Haafiz & Aman, Inc. in Orange County**; TCEQ ID Nos. 0000630 and RN101794758; 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. (Xavier Guerra, Jennifer Cook)

Item remanded to the Executive Director.

## AGENDA

Wednesday, May 31, 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. 2006-0250-MWD.** Consideration of the application by the **Moscow Water Supply Corporation** for a major amendment and renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011139001 to authorize a relocation of Outfall 001. The existing permit authorizes the discharge of treated domestic wastewater with a daily average flow not to exceed 40,000 gallons per day. The wastewater treatment facility is located at approximately 600 feet southeast of the intersection of U.S. Highway 59 and Loop 177 in the City of Moscow, in **Polk 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. (Claudia Russell/Kent H. Trede)

Grant the hearing requests of the McManus Group on the issues of: 1. whether the proposed discharge violates the antidegradation policy found in 30 TAC Section 307.5; 2. whether nutrient loading will be increased; 3. whether the effluent limits support attainable uses; 4. whether the effluent limits support contact recreation; and 5. whether Applicant's compliance history warrants denial of the application; deny the request for reconsideration and refer the matter to SOAH with a maximum hearing duration of six months. KW/LS; all agree.

- Item 2. **Docket No. 2004-1627-WR.** Consideration of Application No. 5754 from **Scott Kellam**, who seeks authorization to divert and use 10 acre-feet of water per year for agricultural (irrigation) and industrial (dust control) purposes at a maximum rate of 0.23 cfs (100 gpm) from Martinez Creek, tributary of Cibolo Creek, tributary of the San Antonio River, San Antonio River Basin in **Bexar County**, Texas. The Executive Director recommends denial of the Application based on its finding that water is not available for the requested appropriation. The Application was set for Commission agenda because the Applicant has been unresponsive to the Executive Director's directive to either request a hearing or withdraw the application. The Commission will also consider hearing requests, related responses and replies, and public comment. (Craig Mikes/Ross Henderson)

Approve the Executive Director's determination to deny the permit application. KW/LS; all agree.

- Item 3. **Docket No. 2006-0221-WR.** Consideration of Application No. 4108C from **M.E. Young and Sons** ("Applicant") for an amendment to Water Use Permit No. 4108B. Water Rights Permit No. 4108B authorizes Applicant to divert and use from the Brazos River, Brazos

River Basin, not to exceed 900 acre-feet of water per annum for irrigation purposes, in **Falls County**, Texas until December 31, 2004. With this application, Applicant seeks to extend or delete the existing expiration date of December 31, 2004. The Executive Director recommends denial of the Application based on its finding that water is not available for the requested appropriation. The Application was set for Commission agenda because the Applicant has been unresponsive to the Executive Director's directive to either request a hearing or withdraw the application. The Commission will also consider hearing requests, related responses and replies, and public comment. (Julie Stiles/Ross Henderson)

Approve the Executive Director's determination to deny the permit application. KW/LS; all agree.

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

Item 4. **Docket No. 2002-1299-AGR-E.** Consideration of an Agreed Order assessing administrative penalties against **Steve Henricus Byl dba Dutch Cowboy Dairy** in **Erath County**; TCEQ ID Nos. 003316-000 and RN101516359; for dairy operation 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. (Justin Lannen, Jennifer Cook)

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

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

Item 5. **Docket No. 2003-1470-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation** in **Jefferson County**; TCEQ ID Nos. JE-0067-1 and RN102450756; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohworho, Jennifer Cook)

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

Item 6. **Docket No. 2005-1774-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Huntsman Petrochemical Corporation** in **Jefferson County**; TCEQ ID No. RN100217389; 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. (Kathleen Decker, Jennifer Cook)

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

Item 7. **Docket No. 2005-0224-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BP Products North America Inc.** in **Galveston County**; RN102535077; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on

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

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

Item 8. **Docket No. 2006-0028-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Delek Refining, Ltd. in Smith County**; RN100222512; 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 9. **Docket No. 2006-0039-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Continental Carbon Company in Moore County**; RN102321577; 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 10. **Docket No. 2005-1769-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP in Orange County**; RN100215615; 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/LS; all agree.

Item 11. **Docket No. 2005-0006-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Lanxess Corporation in Orange County**; TCEQ ID Nos. OC0004P and RN100825363; for air 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, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 12. **Docket No. 2005-2059-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Eagle Railcar Services, L.P. in Anderson County**; RN102955150; 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. (Sherronda Martin, David Van Soest)

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

Item 13. **Docket No. 2005-0585-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Premcor Refining Group Inc.** in **Jefferson County**; RN102584026; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jaime Garza, David Van Soest)

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

Item 14. **Docket No. 2005-1554-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 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 15. **Docket No. 2005-1658-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Sabine Cogen, LP** in **Orange County**; RN100209766; 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/LS; all agree.

Item 16. **Docket No. 2005-1770-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **National Oilwell Varco, L.P.** in **Midland County**; RN100825231; 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. (Carolyn V. Lind, David Van Soest)

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

Item 17. **Docket No. 2005-2049-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Maverick Tube, L.P.** in **Montgomery County**; RN100543131; 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. (Sherronda Martin, David Van Soest)

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

Item 18. **Docket No. 2005-2073-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **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 19. **Docket No. 2006-0109-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hueco Quarry, Inc. in El Paso County**; RN102645272; 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/LS; all agree.

Item 20. **Docket No. 2005-1688-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **H.E. Butt Grocery Company in Bexar County**; RN104163308; 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/LS; all agree.

Item 21. **Docket No. 2006-0100-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enterprise Products Operating L.P. in Harris County**; RN102580834; for air quality violations pursuant to Tex. Health & Safety Code ch. 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. (Scott Barnett, David Van Soest)

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

Item 22. **Docket No. 2005-1979-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hope Agri Products of Texas, Ltd. in Lamar County**; RN101797256; 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. (Carolyn V. Lind, David Van Soest)

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

Item 23. **Docket No. 2005-1792-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation in Harris County**; RN102579307; 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 24. **Docket No. 2005-1809-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. (Amy Burgess, David Van Soest)

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

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

Item 25. **Docket No. 2005-0785-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rose T. Wong and Mitchel Wong in Williamson County**; RN102757010; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 26. **Docket No. 2005-1817-IHW-E.** Consideration of an Agreed Order assessing administrative penalties against **Centauri Technologies, L.P. in Harris County**; RN101057263; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Joseph Daley, David Van Soest)

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

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

Item 27. **Docket No. 2005-1927-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gulbrandsen Technologies Inc. in Harris County**; RN101720035; 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 28. **Docket No. 2005-1061-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **TXI Operations, LP in Denton**,

**Dallas, Harris, Tarrant, Gregg, and Collin Counties;** RN102740073, RN102845005, RN102453081, RN104124292, RN102707866, RN102707700, RN102149747, RN102455540, RN102707361, RN102455235, and RN102707684; 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/LS; all agree.

Item 29. **Docket No. 2005-1254-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Huntsman Petrochemical Corporation in Montgomery County;** RN100219740; 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/LS; all agree.

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

Item 30. **Docket No. 2004-0827-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **McCulloch County in McCulloch County;** TCEQ ID Nos. F1759 and RN104219928; for air, water quality, industrial and hazardous waste, municipal solid waste, petroleum storage tank, used oil and used oil filter violations pursuant to Texas Health & Safety Code chs. 361, 371, and 382, 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. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 31. **Docket No. 2005-2036-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Regent Coach Line, Ltd. in Bexar County;** RN103729752; for water quality and municipal solid waste violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lynley Doyen, David Van Soest)

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

Item 32. **Docket No. 2005-1947-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jon-Lin Corp. in Falls County;** RN102276797; for air quality and water quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Laurie Eaves, David Van Soest)

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



## MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 33. **Docket No. 2005-2060-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Central Freight Lines, Inc.** in **Tarrant County**; RN100712983; 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. (Edward R. Moderow, David Van Soest)

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

Item 34. **Docket No. 2005-1988-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Robert Lee in Coke County**; RN102143658; 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.

## MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 35. **Docket No. 2005-0628-MSW-E.** Consideration of a Default Order assessing administrative penalties against **Harvey Gillespe** in **Bailey County**; TCEQ ID No. RN104452719; for municipal solid waste violations pursuant to Tex. Water Code chs. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

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

## MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 36. **Docket No. 2003-1443-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Mirage Stop, Inc.** in **Harris County**; TCEQ ID Nos. 003517-000 and RN101520344; 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. (Courtney St. Julian, Ed Moderow)

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

Item 37. **Docket No. 2005-1896-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Criminal Justice** in **Anderson County**; RN102315553; 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 38. **Docket No. 2005-0673-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Teague in Freestone County**; Texas Pollutant Discharge Elimination System Permit No. 10300002, RN101607935; 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. 2006-0058-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Monument Inn, Inc. in Harris County**; RN101527737; 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/LS; all agree.

Item 40. **Docket No. 2005-1066-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Floresville in Wilson County**; RN101916336; 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. (Mac Vilas, David Van Soest)

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

Item 41. **Docket No. 2005-0969-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Special Camps for Special Kids in Bosque County**; RN102078409; 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.

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

Item 42. **Docket No. 2004-1666-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Feroz Ali Jivani dba MC Food Store 2 in Harris County**; TCEQ ID Nos. 24403 and RN103101572; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca M. Combs, Jennifer Cook)

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

Item 43. **Docket No. 2003-0897-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Shawn & Shawn, Inc.** in **Tarrant County**; Petroleum Storage Tank Facility ID No. 0044847, Regulated Entity Reference No. RN101799559; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Dana Shuler, David Van Soest)

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

Item 44. **Docket No. 2005-1547-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **WTG Fuels, Inc. dba Plaza Self Serve 150322** in **Lamb County**; RN102043718; 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/LS; all agree.

Item 45. **Docket No. 2005-2019-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **We Are Crazy, Inc. dba Country Pantry 10** in **Orange County**; RN102855947; 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. (Kent Heath, David Van Soest)

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

Item 46. **Docket No. 2005-1465-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Public Safety** in **Bowie County**; RN102718848; 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. (Nadia Hameed, David Van Soest)

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

Item 47. **Docket No. 2005-1851-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **United Petroleum Transports, Inc.** in **Tarrant and Dallas Counties**; RN102881711; 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. (Deana Holland, David Van Soest)

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

Item 48. **Docket No. 2006-0116-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Trany Inc. dba Ms Express 722** in

**Harris County**; RN101846384; 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. (Rajesh Acharya, David Van Soest)

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

Item 49. **Docket No. 2005-1716-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Gulamali Bharwani dba Texfra in Erath County**; RN103794194; 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 50. **Docket No. 2005-0922-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Transportation in Dewitt County**; RN101745032; 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. (Deana Holland, David Van Soest)

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

Item 51. **Docket No. 2005-1847-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Department of Public Safety in Lubbock County**; RN101045656; 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. (Deana Holland, David Van Soest)

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

Item 52. **Docket No. 2005-1573-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wafia Hanif dba Super Stop Texaco in Rains County**; RN104661384; 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/LS; all agree.

Item 53. **Docket No. 2005-2076-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KBC Services, Inc. dba Marina Bay Harbor Yacht Club in Galveston County**; RN104777149; 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. (Rajesh Acharya, David Van Soest)

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

Item 54. **Docket No. 2005-1561-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **J.D. Abrams, L.P.** in **Harris County**; RN102274123; 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. (Jason Kemp, David Van Soest)

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

Item 55. **Docket No. 2006-0059-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **H.R.N. Inc. dba Collins Food Mart** in **Tarrant County**; RN101532232; 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. (Rajesh Acharya, David Van Soest)

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

Item 56. **Docket No. 2005-1484-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **A & K Enterprises, Inc. dba Country Food Store** in **Wharton County**; RN101183861; 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. (Edward R. Moderow, David Van Soest)

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

Item 57. **Docket No. 2005-1377-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **William DeWitt dba 45 Kwik Stop** in **Navarro County**; RN102235611; 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. (Carolyn V. Lind, David Van Soest)

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

Item 58. **Docket No. 2005-1578-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mehdi Maredia dba AA & RL Kountry Store** in **Robertson County**; TCEQ ID Nos. RN102044468 and 46001; 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. (Robert R. Mosley, Jennifer Cook)

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

Item 59. **Docket No. 2003-0257-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **YJK Inc. dba Granger Food Mart** in **Williamson County**; TCEQ ID Nos. 0068960 and RN101375889; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

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

Item 60. **Docket No. 2004-1253-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jeffy's, Inc.** in **Harris County**; TCEQ ID Nos. 26689 and RN102262730; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

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

#### **FIELD CITATION**

Item 61. **Docket No. 2006-0344-PST-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Tina Lee dba Village Grocery** in **Calhoun County**; Petroleum Storage Tank Registration No. 29414, RN104426853; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, David Van Soest)

Approve the Field Citation. KW/LS; all agree.

#### **PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 62. **Docket No. 2004-1960-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Pak Convenience Store Inc. dba 1 Stop 15** in **Dallas County**; TCEQ ID Nos. 9090 and RN102402179; 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. (Justin Lannen, Jennifer Cook)

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

Item 63. **Docket No. 2004-1235-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Aarish Investments, Inc. dba Convenient Corner** in **Freestone County**; TCEQ ID No. RN102276839; 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. (Kari L. Gilbreth, Jennifer Cook)

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

## PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 64. **Docket No. 2005-2002-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bell County Water Control & Improvement District 1 in Bell and Coryell Counties**; RN101223956; 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/LS; all agree.

Item 65. **Docket No. 2005-1346-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Firoz A. Kurjee dba Wee Mart in Brazoria County**; RN101190262; 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 66. **Docket No. 2005-1717-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Timberlane Estates Property Owners Association, Inc. in Sabine County**; RN101178531, RN101458594; for drinking water quality violations pursuant to Tex. Water Code ch. 13, 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 67. **Docket No. 2005-1169-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Houston Fruitland Inc. in Bexar County**; RN101253359; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Edward R. Moderow, David Van Soest)

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

Item 68. **Docket No. 2005-1841-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Buda/Kyle Church of Christ in Hays County**; RN101197820; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Elvia Maske, David Van Soest)

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

Item 69. **Docket No. 2006-0129-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Beacon Estates Water Supply Corporation in Waller County**; RN101262897; 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.

### **PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDERS**

Item 70. **Docket No. 2005-0655-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Gary Don Stahlheber dba Oak Hollow Mobile Home Park** in **Brazoria County**; TCEQ ID No. RN101453843; for public water system violations pursuant to Tex. Water Code ch. 5, 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 71. **Docket No. 2005-1120-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Curtis Shupak dba Village WSC** in **Burleson County**; TCEQ ID No. RN101191708; for public water supply violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Shawn Slack, Jennifer Cook)

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

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

Item 72. **Docket No. 2005-1756-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **John Daugherty dba John Daugherty Homes** in **Wichita County**; TCEQ ID No. RN104666458; 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. (Shana L. Horton, Jennifer Cook)

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

Item 73. **Docket No. 2005-1071-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **A B C Concrete, Inc.** in **Travis County**; TCEQ ID No. RN102071826; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shana L. Horton, Jennifer Cook)

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

### **RULE MATTER**

Item 74. **Docket No. 2005-2087-RUL.** Consideration of the adoption of amendments to Sections 11.103 - 11.105 and 11.108 of **30 TAC Chapter 11**, Contracts.

The adopted rulemaking amends Chapter 11 to implement House Bill 1940, 79th Legislature, 2005, Regular Session. The amendments to Chapter 11 change the time frame



that the commission has to file a counterclaim and enter into negotiations with a contractor for claims made against the commission to reflect statutory language. Specifically, the commission will have 60 days to file a counterclaim after receiving a notice of contract claim from a contractor and 120 days to enter into negotiations to resolve the claim. The proposed rules were published in the March 10, 2006, issue of the *Texas Register* (31 TexReg 1597). (Evelyn W. Njuguna, Patricia Robards) (Rule Project No. 2005-071-011-LS)

Adopt amendments to Sections 11.103 - 11.105 and 11.108 of 30 TAC Chapter 11. KW/LS; all agree.

### **EXECUTIVE SESSION**

Item 75. **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 76. **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 77. **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 31, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **Docket No. 2005-0976-MWD.** Consideration of the application by **AUC Group, L.P.** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014554001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 180,000 gallons per day. The facility will be located approximately one mile southeast of the intersection of Interstate 10 and Sjolander Road in **Harris 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. (Scott Shoemaker/Amewusika Clara Dake)

Deny the hearing request, adopt the Executive Director's revised Response to Comments and approve the draft permit filed on May 11, 2006. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 2004-0241-PST-E; SOAH Docket No. 582-05-1529.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **JNS & Samir Corporation** in **Williamson County**, Texas; TCEQ ID Petroleum Storage Tank Registration No. 36538; regarding petroleum storage tank violations pursuant to 30 Tex. Admin. Code §§ 334.48(c), 334.50(b)(1)(A), 334.50(b)(2), 334.50(b)(2)(A)(i)(III), 334.8(c)(4)(B), and 334.8(c)(5)(A)(i), Tex. Water Code §§ 26.3475(c)(1), 26.3475(a), 26.346(a), 26.3467(a), and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's amended proposed Order. KW/LS; all agree.

- Item 3. **TCEQ Docket No. 2003-1070-PST-E; SOAH Docket No. 582-05-9442.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Lakhani Investments, Inc. dba Alamo Food Mart** in **Bexar County**, Texas; TCEQ PST Registration No. 39291; regarding petroleum storage tank violations pursuant to 30 Tex. Admin. Code § 37815(a) and (b), and the rules of the Texas Commission on Environmental Quality.

Adopt the ALJ's Order with the suggested changes as outlined in the ALJ's Response dated March 14, 2006, and with the amendment to Ordering Provision 1 to change the wording of "imposition of this administrative penalty" to "payment of this administrative penalty" as proposed by the Commission at the dais. KW/LS; all agree.

Item 4. **TCEQ Docket No. 2006-0361-MSW.** Consideration of the Motion to Overturn filed by **Republic Waste Services of Texas, Ltd.**, concerning the Executive Director's approval of the transfer of MSW Registration No. 40147 from American Refuse, Inc., to Astro Waste, Inc., under Chapter 361 of the Texas Health and Safety Code and Chapters 305 and 330 of the Commission's rules. The Commission will also consider the Response briefs filed by Astro Waste, Inc., the Executive Director, and the Office of Public Interest Counsel. **(Harris County)**

Grant the Motion to Overturn, set the current registration aside and remand to the Executive Director. 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/ Greg Merrell  
Assistant General Counsel,  
Greg Merrell

8-1-2006  
Date