

Chairman Kathleen White
Commissioner Larry Soward

AGENDA

Wednesday, June 14, 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. 2006-0005-MWD.** Consideration of the application by **New Braunfels Utilities** for a renewal of TPDES Permit No. WQ0010232001 which authorizes the discharge of treated domestic wastewater with an annual average flow not to exceed 4,200,000 gallons per day. The facility is located 2000 feet south and 3700 feet east of the intersection of Farm-to-Market Road 725 and Interstate Highway 35, in **Comal County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (John Williams/Kent H. Trede)

Deny all hearing requests; adopt the Executive Director's November 2005 Response to Comments; approve the issuance of the renewal with a change to correct a typographic error to the entities name in the draft permit and the addition of the following to the end of provision #7, "Phosphorus limitations on point source discharges from the treatment facility that are appropriate to prevent excessive growth of aquatic vegetation in receiving waters will be required in the next permit action with the inclusion of a compliance schedule.". KW/LS; all agree.

- Item 2. **Docket No. 2006-0199-MWD.** Consideration of the application by **City of Weston** for a new permit, proposed Texas Commission on Environmental Quality (TCEQ) Permit No. WQ0014602001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day via surface irrigation of 118 acres of municipal park and golf course. The facility and disposal site will be located approximately 1.6 miles east of the intersection of Farm-to-Market Road 2478 and Farm-to-Market Road 170, at the intersection of Farm-to-Market Road 170 and Honey Creek in **Collin 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/Julian Centeno, Jr.)

Grant the hearing requests of Thomas Backwell Crossland, Sr., Susie Dell Crossland, and Eleanor Searcy McKee, on her behalf and the behalf of Mike McKee on the issues of: 1. Whether the proposed facility is located in the 100-year floodplain, and if so, whether the draft permit contains adequate provisions to protect the facility from inundation by such a flood event; 2. Whether the draft permit

contains adequate provisions to prevent nuisance odors from the Facility; 3. Will the amount of treated water disposed of by irrigation saturate the soil to create a health hazard, including during periods of heavy rain, freezing weather, and ice storms; 4. Will the treated water disposed of by irrigation seep into the shallow water table and adversely impact the spring-fed ponds in the area, including during periods of heavy rain, freezing weather, and ice storms; and 5. Whether the City has demonstrated sufficient need for the proposed facility; deny all other hearing request as untimely; deny the request for reconsideration; if the parties are willing, refer the matter to ADR; and if not, then refer the matter to SOAH for a hearing with a maximum duration of six months; and direct the ALJ to file a proposed order with Findings of Fact, Conclusions of Law, and Ordering Provisions. KW/LS; all agree.

Item 3. **Docket No. 2004-0892-WR.** Consideration of Application No. 14-5435B from **Tri-Gen Land Corp.**, a Texas Corporation ("Applicant"), for an amendment to Certificate of Adjudication No. 14-5435. Certificate of Adjudication No. 14-5435 authorizes the owner to divert and use not to exceed 2,200 acre-feet of water per annum from a point on Blue Creek, a tributary of the Colorado River, Colorado River Basin for irrigation of 603 acres of land in **Wharton County**, Texas. The Certificate has an expiration date of December 31, 2002. With this application, Applicant seeks to extend or delete the existing expiration date on the Certificate. The Executive Director recommends denial of the Application based on its finding that water is unavailable 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)

Item remanded to the Executive Director.

Item 4. **Docket No. 2004-0889-WR.** Consideration of Application No. 4120C from **Oehmig Land & Cattle Company, a Texas Corporation** ("Applicant"), for an amendment to Water Use Permit No. 3830. Water Use Permit No. 3830 authorizes the owner to divert and use not to exceed 450 acre-feet of water per annum from a point on Blue Creek, a tributary of the Colorado River, Colorado River Basin for irrigation of 250 acres of land in **Wharton County**, Texas. With this application, Applicant seeks to extend or delete the existing expiration date of December 31, 2001. The Executive Director recommends denial of the Application based on its finding that water is unavailable 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)

Item remanded to the Executive Director.

AGRICULTURAL ENFORCEMENT AGREED ORDER

Item 5. **Docket No. 2005-1969-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gil Villa dba Villa Dairy** in **Runnels County**; RN104772207; 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. (Suzanne Walrath, David Van Soest)

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

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 6. **Docket No. 2004-1450-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Goodyear Tire & Rubber Company in Harris County**; TCEQ ID Nos.: HG0289K and RN100870898; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 7. **Docket No. 2005-0007-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Chevron Phillips Chemical Company, LP in Harris County**; TCEQ ID No. RN103919817; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 8. **Docket No. 2006-0157-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **ConocoPhillips Pipe Line Company in Ector County**; RN100213313; 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. 2006-0007-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation in Jefferson County**; RN100542844; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, David Van Soest)

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

Item 10. **Docket No. 2005-1905-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Enterprise Products Operating L.P. in Chambers County**; RN102323268; 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.

Item 11. **Docket No. 2006-0131-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Diamond Shamrock Refining Company, L.P.** in **Moore County**; RN100210517; 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. (Nadia Hameed, David Van Soest)

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

Item 12. **Docket No. 2005-2066-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation** in **Harris County**; RN102574803; 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 13. **Docket No. 2005-1864-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hirschfeld Steel Co., Inc.** in **Tom Green County**; RN100680081; 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. (J. Craig Fleming, David Van Soest)

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

Item 14. **Docket No. 2005-2012-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Lyondell Chemical Company** in **Harris County**; RN102523107; 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 15. **Docket No. 2005-0938-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Formosa Plastics Corporation, Texas** in **Calhoun County**; RN100218973; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental

Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS

Item 16. **Docket No. 2005-1733-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **CP Red Oak Partners, Ltd. dba Red Oaks** in **Williamson County**; RN104445523; 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. (Dana Shuler, David Van Soest)

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

Item 17. **Docket No. 2005-1661-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Parmer-McNeil Holdings, Ltd.** in **Travis County**; RN104421573; 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. (Ruben Soto, David Van Soest)

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

Item 18. **Docket No. 2005-1096-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **MMR Joint Ventures, Ltd.** in **Bexar County**; TCEQ ID No. RN104548904; 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. (Kathleen C. Decker, Jennifer Cook)

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

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

Item 19. **Docket No. 2004-1369-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **P&J Industries, Inc.** in **El Paso County**; TCEQ ID No. RN101517753; for industrial hazardous waste violations pursuant to the Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

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

LICENSED IRRIGATOR ENFORCEMENT DEFAULT ORDER

Item 20. **Docket No. 2005-0729-LII-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jose A. Menjivar, Sr.** in **Grayson County**; TCEQ ID No. RN104191622; 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 21. **Docket No. 2005-2010-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Coast to Coast Investments, Inc. dba Carryon** in **Bexar County**; RN102356557; for Edwards Aquifer and 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 22. **Docket No. 2005-1152-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Pacifico Transportation, LTD.** in **Tom Green County**; RN102923489; for water quality and used oil violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 371, 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.

Item 23. **Docket No. 2005-1435-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Manville Water Supply Corporation** in **Travis County**; RN101271088; for water quality and drinking water quality violations pursuant to Tex. Water Code chs. 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. (Audra L. Ruble, David Van Soest)

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

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 24. **Docket No. 2004-0252-MLM-E.** Consideration of a Default Order assessing administrative penalties and requiring corrective actions of **Torres Ready-Mix, Inc.** in **Zavala County**; TCEQ ID Nos. 70774 and RN103967469; for air quality violations and used oil violations pursuant to Tex. Health & Safety Code chs. 382 and 371, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (James P. Biggins, Jennifer Cook)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 25. **Docket No. 2003-1522-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Uni-Wide Auto Imports, Inc. in Harris County**; TCEQ ID No. RN102999968; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 26. **Docket No. 2006-0047-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Covenant Health System in Hockley County**; RN104795299; 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. (Jaime Garza, David Van Soest)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 27. **Docket No. 2006-0101-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Fort Bend County Municipal Utility District No. 124 in Fort Bend County**; RN101390995; for water quality violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Catherine Albrecht, David Van Soest)

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

Item 28. **Docket No. 2006-0142-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Harris County Water Control and Improvement District No. 70 in Harris County**; RN102183654; 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.

Item 29. **Docket No. 2005-1895-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Syed N. Hyder in Brazos County**; RN102097789; 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. (Thomas Greimel, David Van Soest)

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

Item 30. **Docket No. 2005-2075-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Morton in Cochran County**; RN102077385; 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 31. **Docket No. 2006-0168-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Willis in Montgomery County**; RN102075793; 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 32. **Docket No. 2003-0115-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Yorktown in De Witt County**; TCEQ ID Nos. 10323-001 and RN103025805; 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. (Justin Lannen, Jennifer Cook)

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

Item 33. **Docket No. 2003-1298-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Lovelady in Houston County**; TCEQ ID Nos. 10734-001 and RN102185543; 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. (Deborah A. Bynum, Jennifer Cook)

Item continued to a future agenda. KW/LS; all agree.

Item 34. **Docket No. 2005-1503-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **Town of Mustang in Navarro County**; RN102807864; 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 35. **Docket No. 2005-1255-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Department of Transportation in Johnson County**; RN102078755; 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. (Joseph Daley, David Van Soest)

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

Item 36. **Docket No. 2005-2013-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Lubbock in Lubbock County**; RN101609949; 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.

ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT DEFAULT ORDER

Item 37. **Docket No. 2005-1205-OSS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Darren Taylor in San Augustine County**; TCEQ ID No. RN104026380; for on-site sewage facility violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Deanna Sigman, Jennifer Cook)

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

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 38. **Docket No. 2005-1146-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Star Tex Gasoline & Oil Distributors, Inc. dba Star Trac 1 in Nueces County**; TCEQ ID Nos. 23481 and RN101378263; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shawn Slack, Jennifer Cook)

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

Item 39. **Docket No. 2004-1347-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gary P. Jaquess dba Gary's Haltom City Car Wash in Tarrant County**; TCEQ ID Nos. 01059 and RN101553816; 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)

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

Item 40. **Docket No. 2003-1172-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Aristos, Inc. dba Smart Stop in Orange County**; TCEQ ID Nos. RN102256088 and 71598; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental

Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Jennifer Cook)

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

Item 41. **Docket No. 2005-1525-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Town & Country Enterprises Inc. dba Town & Country Food Mart** in **Brazos County**; TCEQ ID Nos. 632 and RN102018603; 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 42. **Docket No. 2002-1016-PST-E.** Consideration of a Agreed Order assessing administrative penalties against **A P G & Z, Inc. dba McKinney Food Store** in **Denton County**; TCEQ ID Nos. 49369 and RN102049228; 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. (Mark Curnutt, Jennifer Cook)

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

Item 43. **Docket No. 2005-1406-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gateway Truck Terminal, Inc.** in **Webb County**; TCEQ ID Nos. 49732 and RN102405719; 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. (Mark Curnutt, Jennifer Cook)

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

Item 44. **Docket No. 2005-1640-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Oak Tree Properties, Inc. dba Oak Tree Deli** in **De Witt County**; RN101888600; for petroleum storage tank violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jason Kemp, David Van Soest)

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

Item 45. **Docket No. 2005-0588-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mercedes Independent School District** in **Hidalgo County**; RN101684942; 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. (Rebecca Clausewitz, David Van Soest)

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

Item 46. **Docket No. 2006-0053-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **K-Yoba, Inc. dba Jedco 21 in Bexar County**; RN101738979; 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 47. **Docket No. 2005-0531-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Edinburg in Hidalgo County**; Petroleum Storage Tank Facility ID No. 62575, RN102064102; 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. (Jaime Garza, David Van Soest)

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

Item 48. **Docket No. 2005-1153-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Brownsville Independent School District in Cameron County**; RN101646370; 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. (Rebecca Johnson, David Van Soest)

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

Item 49. **Docket No. 2006-0009-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hermenegildo Bueno dba Paisano Truck Stop in El Paso County**; RN100809995; 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.

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDER

Item 50. **Docket No. 2004-1904-PST-E.** Consideration of Default Order assessing administrative penalties and requiring certain actions of **Robert Beltran in Brazoria and Harris Counties**; TCEQ ID Nos. 22038 and RN104416433; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

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

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 51. **Docket No. 2005-1347-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **May Carson dba Cornudas Restaurant in Hudspeth County**; RN101198265; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Audra L. Ruble, David Van Soest)

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

Item 52. **Docket No. 2005-1922-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Farmers Transport, Inc. dba Enchanted Harbor Utility in Calhoun County**; RN101442556; 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 53. **Docket No. 2004-0932-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Huxley in Shelby County**; Public Water Supply ID No. 2100019, Regulated Entity ID No. RN101193803; 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 54. **Docket No. 2005-2004-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **MPR Investments, LLC dba Oakridge Square Mobile Home Park in Johnson County**; RN101256832; 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 55. **Docket No. 2004-0328-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **United States Army Corps of Engineers in McLennan County**; Reynolds Creek North (RN102690146), Reynolds Creek South (RN102690427), and Speegleville (RN102690708); for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kent Heath, David Van Soest)

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

Item 56. **Docket No. 2005-1043-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Baird in Callahan County**; TCEQ ID Nos. RN101387462 and 0300001; for public water supply violations 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 57. **Docket No. 2006-0117-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Temple in Bell County**; RN101249308; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Cari-Michel LaCaille, David Van Soest)

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

Item 58. **Docket No. 2006-0089-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Overton in Rusk County**; RN103934733; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Cari-Michel La Caille, David Van Soest)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 59. **Docket No. 2004-1016-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Arlin Terrell dba Terrell's Mobile Home Park in Lubbock County**; TCEQ ID Nos. RN101249852 and 1520192; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (James Sallans, Jennifer Cook)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 60. **Docket No. 2006-0210-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Bontke Brothers Construction Company in Taylor County**; RN104867296; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

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

Item 61. **Docket No. 2006-0027-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Wichita Falls in Wichita County**; RN103049557, RN102980687; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26 and the rules of the Texas Commission on Environmental Quality,

including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

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

Item 62. **Docket No. 2005-2064-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Overseas Enterprises USA, Inc. dba Gateway Travel Plaza in Orange County**; RN101743730; 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 63. **Docket No. 2006-0248-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Buddy's Testers, Inc. in Nolan County**; RN101903219; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

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

RULE MATTERS

Item 64. **Docket No. 2005-1799-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 111**, Control of Air Pollution from Visible Emissions and Particulate Matter, Subchapter B, Outdoor Burning, Section 111.203 and Section 111.209, and corresponding revisions to the state implementation plan. The adoption implements House Bill 39 and Senate Bill 1710, 79th Legislature, 2005, Regular Session.

The adoption prohibits the burning of all household refuse on certain properties in a limited demographic region, authorizes by rule the burning of plant growth in attainment areas on the property on which it was generated, and provides for the burning of plant growth from specific residential properties on designated sites in counties with a population of less than 50,000. The proposed rules were published in the February 10, 2006, issue of the *Texas Register* (31 TexReg 819). (Ronnie Kramer, Pinar Dogru) (Rule Project No. 2005-041-111-CE)

Item continued to the June 28, 2006 agenda.

Item 65. **Docket No. 2005-1767-RUL.** Consideration of the adoption of new **30 TAC Chapter 222**, Subsurface Area Drip Dispersal Systems, and the amendments to **30 TAC Chapter 30**, Occupational Licenses and Registrations, Sections 30.340, 30.342, and 30.350; **30 TAC Chapter 55**, Requests for Reconsideration and Contested Case Hearings; Public Comment, Sections 55.101, 55.150, and 55.200; **30 TAC Chapter 281**, Applications Processing, Sections 281.2, 281.5, and 281.121; **30 TAC Chapter 305**, Consolidated Permits, Sections 305.1, 305.2, 305.41, 305.45, 305.121, 305.123, 305.125, and 305.127; **30 TAC Chapter 309**, Domestic Wastewater Effluent Limitation and Plant Siting, Sections 309.3 and 309.4;

and **30 TAC Chapter 331**, Underground Injection Control, Sections 331.2, 331.7, 331.9, and 331.132.

Adopted new 30 TAC Chapter 222 and the other rule amendments implement House Bill (HB) 2651, 79th Legislature, 2005, Regular Session. HB 2651 amended the Texas Water Code by adding Chapter 32, Subsurface Area Drip Dispersal Systems. The adopted rulemaking regulates subsurface area drip dispersal systems associated with industrial wastewater treatment facilities of any capacity and domestic wastewater treatment facilities that treat more than 5,000 gallons per day. In addition, the adopted rulemaking provides a permitting procedure and scientifically based requirements for siting, design, and operation of these systems. The proposed rules were published in the February 17, 2006, issue of the *Texas Register* (31 TexReg 970). (Sherry Smith, Michael Northcutt) (Rule Project No. 2005-050-222-PR)

Adopt the new 30 TAC Chapter 222 and the amendments to 30 TAC Chapter 30, Sections 30.340, 30.342, and 30.350; 30 TAC Chapter 55, Sections 55.101, 55.150, and 55.200; 30 TAC Chapter 281, Sections 281.2, 281.5, and 281.121; 30 TAC Chapter 305, Sections 305.1, 305.2, 305.41, 305.45, 305.121, 305.123, 305.125, and 305.127; 30 TAC Chapter 309, Sections 309.3 and 309.4; and 30 TAC Chapter 331, Sections 331.2, 331.7, 331.9, and 331.132. KW/LS; all agree.

EXECUTIVE SESSION

Item 66. **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 67. **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 68. **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, June 14, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **Docket No. 2005-1457-PST-E; SOAH Docket No. 582-06-1404.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Diversified Investments, Inc. dba Courtesy Mart 109** in **Brazoria County**, Texas; TCEQ PST Registration No. 23887; regarding 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.

Adopt the ALJ's Order with the changes as outlined in the ALJ's Response dated June 7, 2006, and the modification to ordering provision #2 as outlined by the Chairman. KW/LS; all agree.

- Item 2. **Docket No. 2005-1168-PST-E; SOAH Docket No. 582-06-0663.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Heart of Texas Investments, Inc. dba A&A Chevron, and Nabil Hakim** in **Coryell County**, Texas; TCEQ PST Registration No. 32073; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including 30 Tex. Admin. Code ch. 60.

Grant the request for a second SOAH hearing for Mr. Nabil Hakim; adopt the ALJ's Order, Findings of Fact, and Conclusions of Law that are applicable to Heart of Texas Investments, Inc. dba A&A Chevron with modifications relating to revocation of the UST delivery certificate offered by the Commission at the dais. KW/LS; all agree.

- Item 3. **Docket No. 2004-0862-PST-E; SOAH Docket No. 582-05-4255.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Sattar Investments, Inc. dba Fuel Distributor, Inc. dba Lorena Fastime** in **McLennan County**, Texas; TCEQ PST Registration No. 11749; regarding petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including 30 Tex. Admin. Code ch. 60.

Adopt the ALJ's Order with the exceptions provided by the Executive Director. KW/LS; all agree.

- Item 4. **Docket No. 2004-1315-PST-E; SOAH Docket No. 582-05-8335.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing certain actions of

Manuel Manriquez dba M&A Oil Co. in Presidio County, Texas; TCEQ PST Registration No. 15928; regarding 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.

Item continued to a future agenda.

(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/ Elaine Lucas
Assistant General Counsel,
Elaine Lucas

7/27/2006
Date