

Chairman Kathleen White  
Commissioner Larry Soward

OLD BUSINESS AGENDA  
Wednesday, June 28, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the June 14, 2006 agenda.

- Item 1. **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)

Adopt amendments to 30 TAC Chapter 111 and corresponding revisions to the state implementation plan. KW/LS; all agree.

## AGENDA

Wednesday, June 28, 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. 2006-0220-DIS.** Consideration of a petition from New Sweden MPC, L.P., et al (Petitioners), for the creation of **New Sweden Municipal Utility District No. 1 in Travis County**, Texas, pursuant to Texas Water Code Chapters 49 and 54. The Commission will also consider hearing requests and related responses and replies. (TCEQ Internal Control No. 11022005-D03; Rob Cummins, Jessica Luparello)

Item continued to the July 12, 2006 agenda.

Item 2. **Docket No. 2006-0239-MWD.** Consideration of the application by the **City of Richmond** for a major amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010258003, to authorize an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 3,000,000 gallons per day to an annual average flow not to exceed 6,000,000 gallons per day. The facility is located at 220 Legion Drive on the northeast corner of Rabbs Bayou and Golfview Drive, approximately 300 feet north of Golfview Drive in **Fort Bend County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Pinar Dogru, Phillip Urbany)

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

Item 3. **Docket No. 2006-0284-AIR.** Consideration of application by **Premier Entertainment, Inc.** for New Air Quality Permit 74355 to authorize the construction and operation of a pet crematory. The proposed facility is located at 215 South 4th Street, Wallis, **Austin 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. (Erik Hendrickson, Les Trobman)

Grant the hearing requests of requesters who reside, own property, work, or have children in daycare within one mile of the facility on the issues of: 1. will the air emissions from the facility adversely affect the health of the hearing requesters or their children; and 2. will the air emissions from the proposed pet crematorium adversely affect the requesters' use and enjoyment of property by creating a nuisance; refer the matter to SOAH with a hearing duration of six months to be held in or near Wallis, Austin County, Texas; all other hearing requesters may seek party status with SOAH; strongly urge the Executive Director to participate as a party; request the ALJ file an Order with proposed Findings of Fact, Conclusions of Law, and Ordering Provisions with their PFD. KW/LS; all agree.

## AGRICULTURAL ENFORCEMENT AGREED ORDER

- Item 4. **Docket No. 2006-0174-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Larry West dba West Dairy Farm in Grayson County**; RN104348537; 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.

## AIR QUALITY ENFORCEMENT AGREED ORDERS

- Item 5. **Docket No. 2006-0068-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BP Amoco Chemical Company in Galveston County**; RN102536307; 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 6. **Docket No. 2005-1974-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **C & R Distributing, Inc. and C & R Distributing, Inc. dba Piggy Bank 1 in El Paso County**; RN102614203 and RN102598109; 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. (Suzanne Walrath, David Van Soest)

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

- Item 7. **Docket No. 2006-0006-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Celanese LTD. in Harris County**; RN100227016; 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. (Scott Barnett, David Van Soest)

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

- Item 8. **Docket No. 2005-1904-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ConocoPhillips Company in Brazoria County**; RN101619179; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Amy Burgess, David Van Soest)

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

Item 9. **Docket No. 2005-1903-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. (Terry Murphy, David Van Soest)

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

Item 10. **Docket No. 2006-0029-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **G S I II in Jim Wells County**; RN104707633; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Bryan Elliott, David Van Soest)

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

Item 11. **Docket No. 2004-0483-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Brant-Sta, Inc. dba Wilmer Food Mart in Dallas County**; TCEQ ID No. DB5318B and RN100746510; 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 12. **Docket No. 2004-0508-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Laredo Paving, Inc. in Sterling County**; TCEQ ID Nos. 946667U and RN102298916; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health and Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rachael Gaines, Jennifer Cook)

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

Item 13. **Docket No. 2005-2074-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Goodyear Tire & Rubber Company in Jefferson County**; RN102561925; 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 14. **Docket No. 2006-0073-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **SAF-T-BOX INCORPORATED in Tarrant County**; RN104207733; 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 15. **Docket No. 2003-0609-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Waste Management of Texas, Inc. in Bexar County**; TCEQ ID Nos. BG-1066-M and RN100218338; 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 Tex. Admin. Code ch. 60. (Rebecca Davis, Jennifer Cook)

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

Item 16. **Docket No. 2005-0794-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Sunoco, Inc. (R&M) in Harris County**; TCEQ ID No. RN102888328; 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 17. **Docket No. 2006-0023-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Phillips Chemical Company LP in Jefferson County**; RN100209857; 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. (Suzanne Walrath, David Van Soest)

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

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

Item 18. **Docket No. 2005-1986-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Hewlett Holdings, Ltd. in Williamson County**; RN104498118; 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. (Colin Barth, David Van Soest)

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

Item 19. **Docket No. 2006-0253-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **NNN AmberOaks, LLC in Williamson County**; RN102133238; 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. (Carolyn V. Lind, David Van Soest)

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

## **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER**

- Item 20. **Docket No. 2006-0178-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Delta Tubular International, L.P.** in **Harris County**; RN100650621; 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.

## **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER**

- Item 21. **Docket No. 2005-1082-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Raymond Balderas** in **Bexar and Kendall Counties**; RN104598842; for licensing violations pursuant to Tex. Water Code chs. 7 and 37, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Trina Grieco, David Van Soest)

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

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

- Item 22. **Docket No. 2006-0042-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pavestone Company, L.P.** in **Waller County**; RN101054633; for water quality and industrial & hazardous 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. (Catherine Albrecht, David Van Soest)

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

- Item 23. **Docket No. 2006-0032-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rockdale** in **Milam County**; RN101190189, RN101388288; for water quality and drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, David Van Soest)

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

- Item 24. **Docket No. 2006-0173-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Superior Stone Inc.** in **Williamson County**; RN104796594; for water quality and 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. (Brent Hurta, David Van Soest)

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

Item 25. **Docket No. 2004-1146-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U.S. Ecology Texas, L.P.** in **Nueces County**; RN101445666; for industrial & hazardous waste and underground injection control violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 27, 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 26. **Docket No. 2006-0033-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **John Dudley Batla dba Texana Vacuum** in **Colorado County**; RN103155412; 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. (Laurie Eaves, David Van Soest)

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

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

Item 27. **Docket No. 2006-0069-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rollins E. Bilby** in **Wise County**; RN104781901; 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. (Dana Shuler, David Van Soest)

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

Item 28. **Docket No. 2006-0180-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Danny Wilde** in **Tom Green County**; RN103670071; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

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

Item 29. **Docket No. 2004-0907-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Maverick Trucking Company, Inc.** in **Williamson County**; TCEQ ID No. RN104273768; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

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

## MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 30. **Docket No. 2005-1894-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Dalworthington Gardens in Tarrant County**; RN101390110; 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 31. **Docket No. 2005-0930-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Orange County Water Control and Improvement District No. 1, Oak Lane Facility, and Oak Lane Tiger Creek Facility in Orange County**; RN102182755 and RN102183159; 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 32. **Docket No. 2006-0152-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Monarch Utilities I L.P. in Henderson County**; RN102287125; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brian Lehmkuhle, David Van Soest)

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

Item 33. **Docket No. 2003-1242-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Texline in Dallam County**; TCEQ ID Nos. 11029-001 and RN102844073; 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. (Alfred Okpohworho, Jennifer Cook)

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

Item 34. **Docket No. 2006-0222-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Katy-Hockley Corp. in Harris County**; RN101525319; 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 35. **Docket No. 2003-0036-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Hillsboro in Hill County**; RN102844180; 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.

#### **ON SITE SEWAGE FACILITY INSTALLERS ENFORCEMENT AGREED ORDERS**

Item 36. **Docket No. 2006-0317-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Phillip M. Grisham, Sr. in Madison and Leon Counties**; RN103337218; for water quality violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Lynley Doyen, David Van Soest)

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

Item 37. **Docket No. 2005-1005-OSI-E.** Consideration of an Agreed Order assessing administrative penalties against **Marcus Ivan Thomas in Kimble County**; TCEQ ID Nos. OS0009110 and RN103350997; for on-site sewage facility installer violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 366, and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

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

#### **ON SITE SEWAGE FACILITY AUTHORIZATION ENFORCEMENT AGREED ORDER**

Item 38. **Docket No. 2006-0025-OSS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jasper Oil Company in Tyler County**; RN101735165; for water quality violations pursuant to Tex. Health & Safety Code ch. 366, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, David Van Soest)

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

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

Item 39. **Docket No. 2006-0060-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GWD Operating, LTD. dba Vintage Car Wash in Dallas County**; RN101546299; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, David Van Soest)

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

Item 40. **Docket No. 2004-0293-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **N. H. Kim, Inc. dba Fast Stop Mart a/k/a J. S. Kim, Inc. dba Fast Stop Mart in Travis County**; TCEQ ID No. RN101488591; 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. 2006-0097-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **NNS Enterprises Inc. dba EZ Mart in San Patricio County**; RN102349743; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cheryl Thompson, David Van Soest)

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

Item 42. **Docket No. 2004-1341-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tanoli Enterprises, Inc. dba Super Star II in Jefferson County**; TCEQ ID Nos. 6520 and RN101911352; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Justin Lannen, Jennifer Cook)

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

Item 43. **Docket No. 2005-1343-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Noor Suteria dba M & S Kountry Grocery in San Jacinto County**; RN102839644; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, David Van Soest)

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

Item 44. **Docket No. 2006-0301-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Manh Le dba M & D Grocery in Jefferson County**; RN102714169; 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. (Steven Mahr, David Van Soest)

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

Item 45. **Docket No. 2003-1249-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Saniha & Associates, Inc. dba Brothers Future Food Mart in Tarrant County**; TCEQ ID No. RN101432268; 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. (Amie Richardson, Jennifer Cook)

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

Item 46. **Docket No. 2005-0384-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Colorado Fayette Medical Center in Colorado County**; TCEQ ID Nos. 74916 and RN100906957; 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. (Amie Richardson, Jennifer Cook)

Item continued to the 1:00 P.M. June 28, 2006 agenda. KW/LS; all agree.

Item 47. **Docket No. 2005-0372-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Inara Convenience, Inc. dba Rosedale Texaco in Tarrant County**; TCEQ ID No. RN101534790; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

Item remanded to the Executive Director.

Item 48. **Docket No. 2006-0198-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **M. A. D. Property Mgt., L.P. dba J & H Exxon in Tarrant County**; RN102250081; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, David Van Soest)

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

Item 49. **Docket No. 2004-1160-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **R & B Scobee's Mini Mart #3, Inc. dba R & B Scobee's Mini Mart 3 in Wichita County**; TCEQ ID Nos. 37308 and RN101883676; 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. (Justin Lannen, Jennifer Cook)

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

Item 50. **Docket No. 2003-1156-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Mohammad Salman dba Stop N Drive 1 in San Jacinto County**; TCEQ ID Nos. 0064345 and RN102025178; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Okpohoworho, Jennifer Cook)

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

Item 51. **Docket No. 2005-1589-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **New Braunfels Aero Service, Inc. dba Brauntex Aviation in Guadalupe County**; TCEQ ID No. RN102247574; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission

on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rachael Gaines, Jennifer Cook)

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

Item 52. **Docket No. 2003-0972-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Zulfigar K. Momin dba Hungerford Supermarket 344 in Wharton County**; PST ID No. 27984; 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. (Harvey Wilson, David Van Soest)

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

#### **FIELD CITATION**

Item 53. **Docket No. 2006-0463-PST-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Producers' Cooperative Elevator in Floyd County**; RN102789062; 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 54. **Docket No. 2004-2005-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Felipe Gutierrez dba Buffalo Drive In Grocery in Hidalgo County**; TCEQ ID Nos. 45316 and RN102048642; 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. (Xavier Guerra, Jennifer Cook)

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

Item 55. **Docket No. 2005-0341-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Z.A.O., Inc. in El Paso County**; TCEQ ID Nos. 104137 and RN102281177; 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)

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

Item 56. **Docket No. 2005-0043-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Marvin's Chevron Service Center, Inc. dba Marvin's Chevron in Nueces County**; TCEQ ID Nos. 31786 and RN101794097; 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. (Alfred Okpohoworho, Jennifer Cook)

Item continued to the July 12, 2006 agenda.

#### **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDER**

Item 57. **Docket No. 2005-0481-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Bexar County** in **Bexar County**; Public Water Supply No. 0150476, RN101273167; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Trina Grieco, David Van Soest)

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

Item 58. **Docket No. 2006-0119-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Community Water Company dba Rolling Hills Water System** in **Hunt County**; RN102690310; 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 59. **Docket No. 2006-0049-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Maxine McMurry dba Primrose Mobile Home Park** in **Johnson County**; RN101228005; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Trina Grieco, David Van Soest)

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

#### **SLUDGE ENFORCEMENT AGREED ORDER**

Item 60. **Docket No. 2006-0120-SLG-E.** Consideration of an Agreed Order assessing administrative penalties against **Robert Dwayne Wankan dba Wankan Distribution Services** in **Angelina County**; RN104808852; 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. (Merrilee Hupp, David Van Soest)

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

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

Item 61. **Docket No. 2005-2086-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Clark Miller dba American Underground Utilities** in **Brown County**; RN104788906; 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 62. **Docket No. 2005-0997-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lone Star Crushed Stone and Sand, Inc.** in **Cooke County**; TCEQ ID No. RN103936878; 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.

### **WATER QUALITY ENFORCEMENT DEFAULT ORDER**

Item 63. **Docket No. 2005-1509-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Sand & Gravel, Inc.** in **Young County**; TCEQ ID No. RN102993300; 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. (Robert R. Mosley, Jennifer Cook)

Item remanded to the Executive Director.

### **TMDL MATTER**

Item 64. **Docket No. 2006-0485-TML.** Consideration for approval to publish and solicit public comment on a draft TMDL for zinc in oyster tissue in **Nueces Bay** (Segment 2482), in **Nueces and San Patricio Counties**. Nueces Bay drains the Nueces River Basin, along with portions of the San Antonio-Nueces and Nueces-Rio Grande Coastal Basins. (Tom Weber, Marc Friberg)

Approve draft TMDL to be published and solicit public comment. KW/LS; all agree.

### **RULE MATTERS**

Item 65. **Docket No. 2005-2069-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 35**, Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions, Subchapter K, Air Orders, Sections 35.801, 35.802, 35.804, 35.805, 35.807, and 35.808. The adopted amendments will be submitted to the United States Environmental Protection Agency as a revision to the state implementation plan.

The adopted rulemaking would implement requirements of House Bill 2949, 79th Legislature, 2005, Regular Session. The adopted rulemaking would add language authorizing emergency orders to include repair or replacement of roads, bridges, or other infrastructure improvements to the list of actions that can be authorized by an emergency order. Additionally, the adopted rulemaking would authorize an applicant to list loss of a critical transportation thoroughfare as a reason why the construction and emissions are essential. The proposed rules were published

in the March 10, 2006, issue of the *Texas Register* (31 TexReg 1599). (Les Trobman) (Rule Project No. 2005-070-035-LS)

Adopt amendments to 30 TAC Chapter 35. KW/LS; all agree.

- Item 66. **Docket No. 2005-1359-RUL.** Consideration for adoption of proposed amendments to **30 TAC Chapter 39**, Public Notice, Sections 39.501, 39.503, and 39.651. The adopted rulemaking would implement the requirements of Sections 1, 2, and 3 of House Bill 1609, 79th Legislature, 2005, Regular Session.

The adopted rulemaking would make public meetings for solid waste applications discretionary rather than mandatory. The proposed rules were published for comment in the March 24, 2006, issue of the *Texas Register* (31 TexReg 2403). (John E. Williams) (Rule Project No. 2005-068-039-LS)

Adopt the proposed amendments to 30 TAC Chapter 39. KW/LS; all agree.

- Item 67. **Docket No. 2005-1963-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 25**, Environmental Testing Laboratory Accreditation and Certification, Section 25.9 and Section 25.62.

The adoption will update a reference to the agency's laboratory accreditation standards and add another potential source of proficiency test samples for drinking water laboratories. The proposed rules were published in the March 24, 2006, issue of the *Texas Register* (31 TexReg 2389). (Steve Stubbs, Kathy Brown) (Rule Project No. 2006-014-025-CE)

Adopt amendments to 30 TAC Chapter 25. KW/LS; all agree.

- Item 68. **Docket No. 2006-0385-RUL.** Consideration for publication of, and hearing on, proposed amendments to Sections 115.10, 115.119, 115.129, 115.139, 115.149, 115.219, 115.239, 115.319, 115.359, 115.419, 115.439, 115.449, 115.519, and 115.539 of **30 TAC Chapter 115**, Control of Air Pollution from Volatile Organic Compounds, and corresponding revisions to the state implementation plan.

The proposed rulemaking would subject certain volatile organic compound-emitting facilities located in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties to the same control, monitoring, testing, recordkeeping, and reporting requirements to which facilities in the other four counties in the Dallas-Fort Worth nonattainment area are subject. (Teresa Hurley, P.E., Brad Patterson) (Rule Project No. 2006-011-115-EN)

Approve publication of, and hearing on, proposed amendments to 30 TAC Chapter 115. KW/LS; all agree.

## **EXECUTIVE SESSION**

- Item 69. **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 70. **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 71. **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.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: <http://www.texasadmin.com/cgi-bin/tnrcc.cgi>**



OLD BUSINESS AGENDA

Wednesday, June 28, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the May 17, 2006 agenda.

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

Item continued to the August 9, 2006 agenda.

Item continued from the June 28, 2006 morning agenda.

- Item 2. **Docket No. 2005-0384-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Colorado Fayette Medical Center** in **Colorado County**; TCEQ ID Nos. 74916 and RN100906957; 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. (Amie Richardson, Jennifer Cook)

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

AGENDA

Wednesday, June 28, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

- Item 1. **Docket No. 2004-1998-AIR-E; SOAH Docket No. 582-06-1446.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Jose Garcia dba Neighborhood Trucks & Auto Repair** in **Harris County**, Texas; regarding air quality violations pursuant to 30 Tex. Admin. Code §§ 115.421(a)(8)(B)(i), 115.421(a)(8)(B)(iv), 115.421(a)(8)(B)(ix), 115.422(1)(A), 115.426(1)(B), 116.110(a), Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a), and Tex. Water Code ch. 7.

Set aside the ALJ's PFD and Order and remand this item 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.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: <http://www.texasadmin.com/cgi-bin/tnrcc.cgi>**

/s/ Celeste Baker  
Assistant General Counsel,  
Celeste Baker

10-13-2006  
Date