

Chairman Kathleen White
Commissioner Larry Soward

AGENDA

Wednesday, August 9, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Items from the morning agenda may be continued to the afternoon 1:00 P.M. agenda if necessary.

HEARING REQUEST(S)/REQUEST(S) FOR RECONSIDERATION

Item 1. **Docket No. 2006-0476-IWD.** Consideration of the application by **Plains Cotton Cooperative Association** for renewal of TPDES Permit No. WQ0000335-000 which authorizes the discharge of treated process wastewater, boiler blowdown, cooling water, and storm water runoff at a daily average flow not to exceed 3,000,000 gallons per day via Outfall 001. The facility is located at 555 Porter Street in the City of New Braunfels, **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. (Alicia Lee, Tres Koenings)

Deny hearing requests; adopt the Executive Director's Response to Comments and issue the permit renewal. KW/LS; all agree.

Item 2. **Docket No. 2006-0483-MWD.** Consideration of the application by the **City of Gunter** for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010569001 which authorizes the discharge of treated domestic wastewater with a daily average flow not to exceed 240,000 gallons per day. The Major Amendment would authorize less stringent seasonal effluent limitations for Ammonia-Nitrogen and a modification in the permitted effluent pH limit range. The facility is located adjacent to the St. Louis-San Francisco and Texas Railway, approximately 2,300 feet west of State Highway 289 and approximately 1,400 feet north of Farm-to-Market Road 121 in the City of Gunter in **Grayson 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. (Alicia Lee/Kent H. Trede)

Deny hearing requests; adopt the Executive Director's Response to Comments and approve the major amendment. KW/LS; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 3. **Docket No. 2005-1186-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Waco Infinity Properties, Ltd.**, in **McLennan County**; TCEQ ID No. RN104665351; for air quality violations pursuant to Tex. Water Code ch. 7, Tex. Health & 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 4. **Docket No. 2004-1702-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Arkema Inc. fka Atofina Chemicals Inc. in Jefferson County**; TCEQ ID Nos. JE0074L and RN100216373; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch.7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rebecca Davis, Jennifer Cook)

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

- Item 5. **Docket No. 2006-0355-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Nova Chemicals Inc. in Harris County**; RN100542224; 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 6. **Docket No. 2006-0107-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Huntsman Petrochemical Corporation in Jefferson County**; RN100219252; 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 7. **Docket No. 2004-1968-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **D & H Pump Service, Inc. in El Paso County**; Air Account No. EE21220, RN100812221; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rebecca Johnson, David Van Soest)

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

- Item 8. **Docket No. 2006-0319-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Wall Co-operative Gin in Tom Green County**; RN101912806; 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. 2005-0018-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Flint Hills Resources, LP in Nueces County**; RN102534138 and RN100235266; 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 10. **Docket No. 2006-0329-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Dupont Performance Elastomers L.L.C.** in **Jefferson County**; RN100218239; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Daniel Siringi, David Van Soest)

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

EDWARDS AQUIFER ENFORCEMENT AGREED ORDER

- Item 11. **Docket No. 2005-1873-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hunters Creek Business Park, Ltd.** in **Comal County**; TCEQ ID No. RN104590567; 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.

FIELD CITATIONS

- Item 12. **Docket No. 2006-0669-MSW-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Charles E. Tenery, Sr.** in **Irion County**; RN104928908; 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. (Melissa Keller, David Van Soest)

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

- Item 13. **Docket No. 2006-0640-PST-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Hooma Investments, Inc. dba Barton Springs Food Mart** in **Travis County**; RN102362126; 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.

- Item 14. **Docket No. 2006-0644-WQ-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Hexion Specialty Chemicals** in **McCulloch County**; RN102201688; 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.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER

- Item 15. **Docket No. 2005-1835-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chambers County** in **Chambers County**; RN100922392; 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. (Edward R. Moderow, David Van Soest)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDER

- Item 16. **Docket No. 2006-0316-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Centex Materials LLC** in **Hays County**; RN102190592; 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.

LICENSED IRRIGATOR ENFORCEMENT AGREED ORDER

- Item 17. **Docket No. 2006-0280-LII-E.** Consideration of an Agreed Order assessing administrative penalties against **Gregory Scott Sharp dba D&G Sprinklers** in **Denton and Tarrant Counties**; RN103540563; for licensing/certification violations pursuant to Tex. Water Code ch. 7, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (J. Craig Fleming, David Van Soest)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDERS

- Item 18. **Docket No. 2004-0800-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **YFZ Land, LLC** in **Schleicher County**; TCEQ ID No. RN104250626; for occupational certification, underground injection control, municipal solid waste, air, public water supply, used oil and water quality violations pursuant to Texas Health & Safety Code chs. 341, 361, 366, 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 19. **Docket No. 2006-0263-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hirschfeld Steel Co., Inc.** in **Tom Green County**; RN102862679; for industrial & hazardous waste and used oil violations pursuant to Tex. Health & Safety Code chs. 361 and 371, 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.

MULTI-MEDIA MATTER ENFORCEMENT DEFAULT ORDER

Item 20. **Docket No. 2005-1054-MLM-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jim Kelso dba Kelso Water System Inc 1, dba Kelso Water System Inc 2, and dba Kelso Water System Inc 3 in Lubbock County**; TCEQ ID Nos. 1520224, 1520148, 1520080, RN102817038, RN101232403, and RN101264372; for public water supply and water quality violations pursuant to Texas Health & Safety Code ch. 341, Texas Water Code chs. 5 and 11, and the rules of the Texas Commission on Environmental Quality. (Shawn Slack, Jennifer Cook)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDERS

Item 21. **Docket No. 2006-0368-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Waste Works, LLC in Grayson County**; RN104891718; 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. (Marlin Bullard, David Van Soest)

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

Item 22. **Docket No. 2006-0501-MSW-E.** Consideration of an Agreed Order assessing administrative penalties against **Wholearth Organic Composting, LLC in Bexar County**; RN101478071; 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.

MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER

Item 23. **Docket No. 2005-1521-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Big Chipper of Texas, Inc. dba Big Chipper Parker Road Recycling Facility in Denton County**; TCEQ ID No. RN104497490; 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. (Robert R. Mosley, Jennifer Cook)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 24. **Docket No. 2005-1107-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Town of Hackberry in Denton County**; TCEQ ID No. RN102077054; 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 25. **Docket No. 2006-0305-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Angelina and Neches River Authority Industrial Development Corporation in Angelina County**; RN103019709; 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 26. **Docket No. 2005-1998-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Cooper in Delta County**; RN101918019; 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 27. **Docket No. 2005-2094-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Troy in Bell County**; RN102844321; 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. 2006-0297-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Frost in Navarro County**; RN103138228; 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. 2006-0122-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Southside Place in Harris County**; RN101384758; 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.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 30. **Docket No. 2005-1571-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Highness Enterprises, Inc. dba All Time Food Store in Montgomery County**; TCEQ ID No. RN101798361; 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. (Rachael Gaines, Jennifer Cook)

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

Item 31. **Docket No. 2004-1785-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **TOKO FOKO, INC. dba MSM Food Mart in Chambers County**; TCEQ ID Nos. 49985 and RN102029402; 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. (Laurencia Fasoyiro, Jennifer Cook)

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

Item 32. **Docket No. 2005-1514-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rudolphs, Inc. dba Cuero One Stop dba Lantz Shell and dba One Stop 5 in Dewitt County**; TCEQ ID Nos. RN101872679, RN101882694, and RN102235249; 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 33. **Docket No. 2006-0224-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Coronado Golf and Country Club in El Paso County**; RN100819820; 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 34. **Docket No. 2006-0369-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Charles H. Preddy in Crocket County**; RN101903953; 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 35. **Docket No. 2006-0334-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Oscar S. Knowles, Jr. dba Donna's Pak A Sak** in **Lubbock County**; RN103052221; 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 36. **Docket No. 2006-0397-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **James Bob Childress** in **Crockett County**; RN101740116; 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. (Christina J. Martinez, David Van Soest)

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

Item 37. **Docket No. 2006-0215-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Akber R. Kurji dba Collins Food Store** in **Tarrant County**; RN101444792; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Kent Heath, David Van Soest)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 38. **Docket No. 2004-1971-PST-E.** Consideration of a Default Order assessing administrative penalties against **Dexter Simpson dba Overton Road Chevron** in **Dallas County**; TCEQ ID Nos. 75267 and RN102835766; 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 Davis, Jennifer Cook)

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

Item 39. **Docket No. 2003-1154-PST-E.** Consideration of a Default Order assessing administrative penalties against **Mohammad Salman dba Jeff's Grocery** in **Montgomery County**; TCEQ ID Nos. 38836 and RN102457785; 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 Default Order. KW/LS; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 40. **Docket No. 2006-0336-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Childress Creek Water Supply Corporation** in **Bosque County**; RN101248904; 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 41. **Docket No. 2006-0359-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Waco in McLennan County**; RN101384212; 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)

Item continued to the September 6, 2006 agenda. KW/LS; all agree.

Item 42. **Docket No. 2005-0862-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Rivero Restaurants, Inc. in Tom Green County**; RN102683240; 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 43. **Docket No. 2006-0425-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Post Oak Development of Texas, Inc. in Medina County**; RN103172078; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Rebecca Clausewitz, David Van Soest)

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

Item 44. **Docket No. 2006-0451-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mr. Robert N. Freeman II dba Las Aves Country Retreat in Bandera County**; RN104490685; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Yuliya Dunaway, David Van Soest)

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

Item 45. **Docket No. 2005-1564-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Katy Family YMCA in Fort Bend County**; RN101273837; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Dana Shuler, David Van Soest)

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

PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER

Item 46. **Docket No. 2005-1487-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jon A. Friend dba Besaw's Cafe in Harris County**; TCEQ ID No. RN101191484; for public drinking water violations pursuant to Tex. Water Code

ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Deanna Sigman, Jennifer Cook)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 47. **Docket No. 2006-0482-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Larry Stewart Custom Homes, L.P. in Tarrant County**; RN104921796; 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. (J. Craig Fleming, David Van Soest)

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

Item 48. **Docket No. 2006-0426-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Weatherford International, Inc. in Harris County**; RN102586088; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, David Van Soest)

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

Item 49. **Docket No. 2006-0492-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **J. A. Hatfield, Inc. in Tarrant County**; RN104921853; 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. (J. Craig Fleming, David Van Soest)

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

Item 50. **Docket No. 2004-2094-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Metroplex Sand & Gravel, Ltd. in Tarrant County**; TCEQ ID No. RN103959144; 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 51. **Docket No. 2005-1665-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jerry Barger dba Barger Salvage Yard in Lampasas County**; TCEQ ID No. RN104458294; 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)

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

MISCELLANEOUS

Item 52. **Docket No. 2006-1016-BGT.** Consideration and Approval of the Agency's FY 2007 Recommended Operating Budget and the Agency's 2008/2009 Legislative Appropriations Request (LAR).

Item continued to the August 9, 2006 afternoon 1:00 P.M. agenda.

RULE MATTERS

Item 53. **Docket No. 2006-0730-RUL.** Consideration for approval of the substitution of certain transportation control measures originally adopted in the December 2004 state implementation plan (SIP) for the **Houston-Galveston-Brazoria** (HGB) ozone nonattainment area. Approval would substitute certain transportation control measures originally adopted in the HGB SIP. The proposed substituted measures would achieve a net emission reduction of .0407 tons/day of volatile organic compounds and .0418 tons/day of nitrogen oxides in the following categories: 1) bicycle / pedestrian projects; 2) Intelligent Transportation Systems; 3) park and ride projects; and 4) Transportation System Management. Approval of the substituted measures would allow the Houston-Galveston-Brazoria region to update its transportation plan and demonstrate conformity with the SIP. (Koy Howard, Terry Salem)

Approve the substitution of certain transportation control measures originally adopted in the December 2004 state implementation plan (SIP) for the Houston-Galveston-Brazoria ozone nonattainment area. KW/LS; all agree.

Item 54. **Docket No. 005-2006-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 114**, Control of Air Pollution From Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, Division 3, Sections 114.620, 114.622, new 114.624; and Subchapter K, new Division 4, new Sections 114.640, 114.642, 114.644, 114.646, and 114.648; with the amended Sections 114.620 and 114.622 and new Section 114.624 to be submitted to the United States Environmental Protection Agency (EPA) as revisions to the state implementation plan (SIP).

The adoption would implement House Bill 3469 and House Bill 2481, 79th Legislature, 2005, Regular Session. The adopted rulemaking would establish rules for the Texas Clean School Bus Program as directed by House Bill 3469. The adopted rulemaking would also clarify cost effectiveness requirements for the Texas Emissions Reduction Plan, establish a rebate grant program as part of the Texas Emissions Reduction Plan, and provide for clarification of scrappage requirements for repower and replacement projects under the Texas Emissions Reduction Plan grant program as provided in House Bill 2481. The proposed rules were published in the April 14, 2006, issue of the *Texas Register* (31 TexReg 3187-3192). (Erik Gribbin, Brad Patterson) (Rule Project No. 2006-016-114-EN)

By order of the General Counsel this item has been continued to the September 20, 2006 agenda.

Item 55. **Docket No. 2006-0228-RUL.** Consideration for publication of, and hearing on, proposed new Sections 116.1500, 116.1510, 116.1520, 116.1530, and 116.1540 of **30 TAC Chapter 116**,

Control of Air Pollution by Permits for New Construction or Modification, and corresponding revisions to the State Implementation Plan.

The proposed rulemaking would implement federal requirements concerning the use of best available retrofit technology (BART) at certain statutory sources that have the potential to emit 250 tons per year of any visibility-impairing air pollutant. (Margaret Earnest, John Minter) (Rule Project No. 2006-022-116-EN)

Approve the publication of, and hearing on, proposed new Sections 116.1500, 116.1510, 116.1520, 116.1530, and 116.1540 of 30 TAC Chapter 116 and corresponding revisions to the State Implementation Plan. KW/LS; all agree.

Item 56. **Docket No. 2005-2024-RUL.** Consideration of the adoption of amended Sections 295.2, 295.171, 295.172, 295.173, and 295.174, and new Section 295.42 of **30 TAC Chapter 295**, Water Rights, Procedural; and amended Sections 297.46 and 297.71 of **30 TAC Chapter 297**, Water Rights, Substantive.

The adopted revisions to Chapter 295 implement Texas Water Code (TWC), Section 11.124, as amended by House Bill (HB) 2140, 79th Legislature, 2005, Regular Session, and TWC, Section 5.103. These revisions require six copies of applications and supplemental materials to be submitted with the original application, require that notice of storage reservoir applications be given to governing bodies of each county or municipality in which the reservoir will be located, change the references in several rules from public hearings to contested case hearings, and make these hearing rules consistent with other commission rules. The adopted revisions to Chapter 297 implement TWC, Section 11.173(b)(5), as amended by HB 1225, 79th Legislature, and TWC, Section 5.103. These revisions add conservation as an exemption from cancellation of state water rights and change one rule to delete an obsolete reference to Chapter 261. The proposed rules were published in the March 10, 2006, issue of the *Texas Register* (31 TexReg 1605). (Kathy Hopkins, Julie Stiles, Robin Smith) (Rule Project No. 2005-057-297-PR)

Adopt amended Sections 295.2, 295.171, 295.172, 295.173, and 295.174, and new Section 295.42 of 30 TAC Chapter 295; and amended Sections 297.46 and 297.71 of 30 TAC Chapter 297. KW/LS; all agree.

Item 57. **Docket 2005-2039-RUL.** Consideration of the adoption of Section 291.146 of **30 TAC Chapter 291**, Utility Regulations.

The adoption implements Texas Water Code, Section 13.087, as amended by House Bill 841, 79th Legislature, 2005, Regular Session. The adoption adds new Section 291.146, which defines nonsubmetered master metered utility service. It also gives the commission enforcement authority over municipally owned utilities that do not determine rates charged to recreational parks in the same manner as they do for other commercial businesses that serve transient customers. The proposed rules were published in the March 10, 2006 issue of the *Texas Register* (31 TexReg 1603). (Lisa Mejia, Todd Galiga) (Rule Project No. 2005-059-291-PR)

Adopt Section 291.146 of 30 TAC Chapter 291 with revisions provided by the Executive Director at the agenda. KW/LS; all agree.

- Item 58. **Docket No. 2005-1480-RUL.** Consideration of the adoption of amendments to Sections 335.1, 335.10 - 335.12, 335.15, 335.41, 335.67 - 335.69, 335.76, 335.112, and 335.152 of **30 TAC Chapter 335**, Industrial Solid Waste and Municipal Hazardous Waste.

The adoption would implement the United States Environmental Protection Agency's new uniform manifest form, continuation sheet, and instructions for completing the form, as published in the March 4, 2005, issue of the Federal Register (70 FR 10776), and amended in the June 16, 2005, issue of the Federal Register (70 FR 35034). The adopted rulemaking would also add three definitions, change when a container is empty, and modify placarding requirements. Manifesting requirements for Texas Class 1 wastes are adopted to conform to the new hazardous waste manifest requirements. The new form standardizes the content and appearance; enhances reporting of international waste shipments (imports and exports); establishes processing procedures for rejected waste shipments and shipment container residues; and reduces or eliminates many of the variabilities in state manifest requirements. The proposed rules were published in the March 24, 2006, issue of the *Texas Register* (31 TexReg 2422). (Ellette Vinyard, Daniel Long) (Rule Project No. 2005-060-335-PR)

Adopt amendments to Sections 335.1, 335.10 - 335.12, 335.15, 335.41, 335.67 - 335.69, 335.76, 335.112, and 335.152 of 30 TAC Chapter 335. KW/LS; all agree.

EXECUTIVE SESSION

- Item 59. **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 60. **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 61. **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](http://www.texasadmin.com/cgi-bin/tnrcc.cgi).

OLD BUSINESS AGENDA

Wednesday, August 9, 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 and June 28, 2006 agendas.

- 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 a future agenda to be determined by the General Counsel.

Item continued from the 9:30 A.M. agenda for August 9, 2006.

- Item 2. **Docket No. 2006-1016-BGT.** Consideration and Approval of the Agency's FY 2007 Recommended Operating Budget and the Agency's 2008/2009 Legislative Appropriations Request (LAR).

Approve the 2007 Recommended Operating Budget as amended at agenda. KW/LS; all agree.

Agency's 2008/2009 Legislative Appropriations Request item has been continued to the August 23, 2006 agenda. KW/LS; all agree.

AGENDA

Wednesday, August 9, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **TCEQ Docket No. 2005-2026-OSS; SOAH Docket No. 582-06-0942.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Arthur L. Byrd** to renew his Class II On-Site Sewage Facility License No. OS0000065. (Claudia Russell)

Adopt the ALJ's Order as revised by the parties at agenda, ordering the issuance of a two-year probationary license. KW/LS; all agree.

- Item 2. **TCEQ Docket No. 2005-0147-IWD; SOAH Docket No. 582-06-0017.** Consideration of the Administrative Law Judge's Proposal for Decision and order regarding the application of **City of Cactus** to amend its Permit No. WQ0003436000 for its wastewater treatment plant in Moore County, Texas. The Commission will also consider timely public comments, the application, related filings, exceptions and replies. (Anthony Tatu)

Adopt the ALJ's Order, as modified by the ALJ's letter dated July 7, 2006, granting the permit application, with a new ordering provision that assesses 75% of the transcription cost to the Applicant and 25% to the Protestant; add new section N.2.d to the permit to read, "if it is demonstrated that final phase schedule requirements as identified in section 'U.'" on page 11 are not necessary, then the maximum nitrogen loading rate shall be 420 pounds/acre/year." KW/LS; all agree.

- Item 3. **Docket No. 2006-0548-WQ.** Consideration of the issuance of a renewal with changes to **General Permit No. TXR050000**, which authorizes on a state-wide basis, the discharge of storm water and allowable non-storm water into or adjacent to surface water in the state from certain types of industrial activities. This permit specifies which facilities may be covered under this general permit. The Commission will also consider public comment and the Executive Director's response to comments. (David Waterstreet/Robert Brush)

Adopt the revised Resolution issuing the renewal of General Permit No. TXR050000 with changes. KW/LS; all agree.

- Item 4. **Docket No. 2006-0973-RES.** Consideration of a resolution delegating certain duties and authority to the General Counsel, including the authority to remand a matter to the State Office of Administrative Hearings if the General Counsel determines that notice is not adequate or proper, pursuant to Texas Water Code Section 5.110.

Adopt the proposed resolution. 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.)

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/s/ Tracy Gross
Assistant General Counsel,
Tracy Gross

12-7-2006
Date