

Chairman Kathleen White  
Commissioner Larry Soward  
Commissioner Martin Hubert

OLD BUSINESS AGENDA

Wednesday, September 6, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the August 9, 2006 agenda.

- Item 1. **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)

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

## AGENDA

Wednesday, September 6, 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. 2006-0601-AIR.** Consideration of application by **Lone Star Aggregates, Ltd.** for Air Quality Permit No. 75012L001 to authorize the construction and operation of a portable rock crusher. The facility is located at 7329 Southwest County Road 0030, in Richland, **Navarro 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. (David Trujillo, Les Trobman)

Item continued to a future agenda to be determined by General Counsel.

Item 2. **Docket No. 2005-1577-WR.** Consideration of Application No. 5832 from **Westerra Stonebridge, L.P.** ("Applicant"), a Texas Corporation, for a Water Use Permit. The proposed Water Use Permit No. 5832 would authorize the Applicant to maintain three dams and reservoirs having a combined surface area of 12 acres and impounding a total of 78 acre-feet of water on unnamed tributaries of Wilson Creek, tributary of the East Fork Trinity River, tributary of the Trinity River, for in-place recreational purposes in **Collin County**, Texas. The proposed reservoirs currently exist as exempt reservoirs pursuant to Chapter 30 Texas Water Code, § 11.142. The Applicant would be required to maintain the reservoirs full, at all times, with an alternative supply of water and maintain suitable outlets in the dams to allow for the free passage of State water that the Applicant is not authorized to impound. The Commission will also consider hearing requests, related responses and replies, and public comment. (Craig Mikes, Ross Henderson)

Item continued to a future agenda to be determined by General Counsel.

#### **AGRICULTURAL ENFORCEMENT AGREED ORDERS**

Item 3. **Docket No. 2005-0418-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The Estate of Robert Walker in Fayette County**; TCEQ ID No. RN103022364; for agriculture/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. (Rachael Gaines, Jennifer Cook)

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

Item 4. **Docket No. 2006-0415-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kempenaar Real Estate, Ltd. dba Still Meadow Dairy in Hopkins County**; RN101523629; 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/MH; all agree.

Item 5. **Docket No. 2006-0354-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mike Moyers dba Sandy Creek Farm in Wise County**; RN104321625; 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/MH; all agree.

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

Item 6. **Docket No. 2006-0262-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BP Products North America Inc. in Galveston County**; RN102535077; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

Item 7. **Docket No. 2006-0366-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chevron Pipe Line Company in Brazoria County**; RN104320924; 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/MH; all agree.

Item 8. **Docket No. 2006-0233-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Exxon Mobil Corporation in Harris County**; RN102579307; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Muennink, David Van Soest)

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

Item 9. **Docket No. 2006-0252-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. (Cari-Michel La Caille, David Van Soest)

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

Item 10. **Docket No. 2006-0310-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BP Products North America Inc. in Galveston County**; RN102535077; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, David Van Soest)

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

Item 11. **Docket No. 2006-0285-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **National Oilwell Varco, L.P. in Harris County**; RN100215268; 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/MH; all agree.

Item 12. **Docket No. 2006-0399-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/MH; all agree.

Item 13. **Docket No. 2006-0615-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Carbon Silica Partners, L.P. dba Diamond Fiberglass Fabricators in Victoria County**; RN100219443; 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/MH; all agree.

#### **AIR QUALITY ENFORCEMENT DEFAULT ORDERS**

Item 14. **Docket No. 2005-0966-AIR-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **A.K.S. Construction L.P. in Montgomery County**; TCEQ ID No. RN104155197; for air violations pursuant to Tex. Water Code chs. 5 and 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. (Mark Curnutt, Jennifer Cook)

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

Item 15. **Docket No. 2005-1581-AIR-E.** Consideration of a Default Order assessing administrative penalties against **Osama Azzam dba Super Stop 3 in El Paso County**; TCEQ ID No.

RN102022241; 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. (Robert Mosley, Jennifer Cook)

Approve the Default Order. KW/MH; LS oppose.

### **FIELD CITATIONS**

Item 16. **Docket No. 2006-0922-PST-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Arlamar LLC dba Kwik Kar Lube in Tarrant County**; RN100539741; 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/MH; all agree.

Item 17. **Docket No. 2006-0928-PWS-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Robert C. Manning in Coryell County**; RN103628053; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, David Van Soest)

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

Item 18. **Docket No. 2006-0900-WQ-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Clarence Jolly in Houston County**; RN104955893; for licensing violations pursuant to Tex. Health & Safety Code ch. 366 and the rules of the Texas Commission on Environmental Quality. (Melissa Keller, David Van Soest)

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

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

Item 19. **Docket No. 2005-1916-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **AAA Industrial Chromium Company in Tarrant County**; RN103156006; 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. (Cari-Michel LaCaille, David Van Soest)

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

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

Item 20. **Docket No. 2006-0320-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **FMC Technologies, Inc. in Harris County**; RN100558022; 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/MH; all agree.

#### **LICENSED IRRIGATORS ENFORCEMENT AGREED ORDERS**

Item 21. **Docket No. 2005-1689-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Albert Rivera** in **Harris County**; TCEQ ID No. RN104745906; for landscape irrigator installer violations pursuant to Tex. Occupations Code ch. 1903, Tex. Water Code chs. 7 and 37, and the rules of the Texas Commission on Environmental Quality. (Mark Curnutt, Jennifer Cook)

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

Item 22. **Docket No. 2006-0460-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Phillip P. Hamer** in **Williamson County**; RN104105739; for licensing violations pursuant to Tex. Water Code ch. 7, Tex. Occupations Code ch. 1903, and the rules of the Texas Commission on Environmental Quality. (Libby Hogue, David Van Soest)

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

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

Item 23. **Docket No. 2005-1430-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 waste, air and water quality violations pursuant to Texas Health & Safety Code chs. 361 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/MH; all agree.

#### **MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER**

Item 24. **Docket No. 2005-1225-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **McCarty Road Landfill TX, LP** in **Harris County**; RN100213602; for municipal solid waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward R. Moderow, David Van Soest)

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

#### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 25. **Docket No. 2006-0502-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Brazoria in Brazoria County**; RN101613552; 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/MH; all agree.

Item 26. **Docket No. 2006-0298-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Commerce in Hunt County**; RN102178233; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

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

Item 27. **Docket No. 2006-0331-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Cal Farley's Boys Ranch in Oldham County**; RN101720548; 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/MH; all agree.

Item 28. **Docket No. 2005-0886-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of East Tawakoni in Rains County**; RN101917847; 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/MH; all agree.

Item 29. **Docket No. 2004-0371-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Hempstead in Waller County**; RN101920692; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

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

Item 30. **Docket No. 2005-0902-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Rhome in Wise County**; RN102701620; 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/MH; all agree.

Item 31. **Docket No. 2006-0396-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Kennedale in Tarrant County**; RN101248656; 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/MH; all agree.

Item 32. **Docket No. 2006-0286-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Houston in Harris County**; RN102546199; 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/MH; all agree.

Item 33. **Docket No. 2006-0255-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ellinger Sewer and Water Supply Corporation in Fayette County**; RN101529022; 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/MH; all agree.

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

Item 34. **Docket No. 2005-1553-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **AJMM, Inc. dba E-Z Food Store in Harris County**; TCEQ ID No. RN102892213; 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/MH; all agree.

Item 35. **Docket No. 2005-1796-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sona Stores, Inc. dba Sunshine Groceries in Newton County**; TCEQ ID No. RN102789138; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts and Jennifer Cook)

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

Item 36. **Docket No. 2005-0203-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kamal Chowdhury dba Prime Stop 1 in Hunt County**; TCEQ ID No. RN102049202; 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/MH; all agree.

Item 37. **Docket No. 2006-0258-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Ronnie Butler dba Butler and Perry in San Augustine County**; RN101793958; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Deana Holland, David Van Soest)

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

Item 38. **Docket No. 2005-0778-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Timpson Independent School District in Shelby County**; Petroleum Storage Tank Facility ID No. 31443, RN101759199; 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. (John Barry, David Van Soest)

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

Item 39. **Docket No. 2006-0192-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **NASIB, Inc. dba Discount Food Mart in Tarrant County**; RN101433167; 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/MH; all agree.

Item 40. **Docket No. 2006-0622-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Meador Chrysler-Plymouth, Inc. dba Meador Chrysler Jeep in Tarrant County**; RN102050481; 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/MH; all agree.

Item 41. **Docket No. 2006-0473-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Chil L. Baldridge dba Lou's All Season Market in Harris County**; RN102019809; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

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

Item 42. **Docket No. 2006-0544-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **KDGG Investments Partners, Ltd. dba LT Country Market in Travis County**; RN104694385; for petroleum storage tank violations

pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, David Van Soest)

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

Item 43. **Docket No. 2005-0530-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jose R. Garcia dba Joe's Texaco in Hidalgo County**; RN102035136; 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. (Bryan Elliott, David Van Soest)

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

Item 44. **Docket No. 2004-1842-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kash 'N' Karry, Inc. dba Magic Texaco in Tarrant County**; TCEQ ID Nos. 65383 and RN101542330; 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 Oloko, Jennifer Cook)

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

Item 45. **Docket No. 2005-0178-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Lakhani Ashraf dba Easy Shop in Brazos County**; TCEQ ID Nos. 45256 and RN102250693; 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 Okpohworho, Jennifer Cook)

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

Item 46. **Docket No. 2005-1381-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kelly Williamson in Potter County**; TCEQ ID No. RN104747514; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7, 26, and 37, and the rules of the Texas Commission on Environmental Quality. (Rachael Gaines, Jennifer Cook)

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

Item 47. **Docket No. 2005-1690-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Pirafzal Corporation dba Star Stop 4 in Orange County**; TCEQ ID No. RN101734952; 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/MH; all agree.

Item 48. **Docket No. 2004-1499-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Ennis West End, Inc. dba Tiger Mart 23 in Ellis County**; TCEQ ID Nos. 73349 and RN101566081; for petroleum storage tank violations pursuant to Tex. Water Code

chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts and Jennifer Cook)

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

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

Item 49. **Docket No. 2005-0649-PST-E.** Consideration of a Default Order assessing administrative penalties against **Metroplex Lucky Star, LLC dba Coastal 1** in **Grayson County**; TCEQ ID No. RN101560977; 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 Default Order. KW/MH; all agree.

Item 50. **Docket No. 2005-1645-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Sylvia Cervantes dba PDS General Store** in **Johnson County**; TCEQ ID No. RN101554731; 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. (Deanna Sigman, Jennifer Cook)

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

Item 51. **Docket No. 2005-1546-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **World Class Enterprises, Inc. dba MS-2 Express** in **Fort Bend County**; TCEQ ID No. RN101843266; 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. (Robert R. Mosley, Jennifer Cook)

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

### **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 52. **Docket No. 2006-0598-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against the **City of Burnet** in **Burnet County**; RN100824895; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, David Van Soest)

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

Item 53. **Docket No. 2006-0323-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **The City of Eagle Pass** in **Maverick County**; RN101182285; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Colin Barth, David Van Soest)

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

Item 54. **Docket No. 2006-0552-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Alex Addy dba USA Truck Stop in Harris County**; RN101228773; 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/MH; all agree.

Item 55. **Docket No. 2006-0412-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **T.O.P. Ministries, Inc. in Bexar County**; RN101273746; 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/MH; all agree.

Item 56. **Docket No. 2006-0389-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Darryl Wheeler dba Magnolia Lake RV Park in Polk County**; RN101237154; 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/MH; all agree.

Item 57. **Docket No. 2005-0657-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Paul Leggett dba Country Lake Water Supply and Steve Boone dba Country Lake Water Supply in Panola County**; RN103196879; 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, Steven Lopez)

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

Item 58. **Docket No. 2005-2003-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Robert Pine dba Willow Manor Mobile Home Park in Brazoria County**; TCEQ ID No. RN101239549; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Deanna Sigman, Jennifer Cook)

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

Item 59. **Docket No. 2005-1350-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Pat Hornsby dba Pat's Place in Palo Pinto County**; TCEQ ID No. RN102680196; for public water system violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

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

**PUBLIC WATER SYSTEM ENFORCEMENT DEFAULT ORDER**

Item 60. **Docket No. 2005-1789-PWS-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Saira & Rizwan, Inc. dba Salt Grass Kountry 1 in Brazoria County**; TCEQ ID No. RN104422159; for public water supply violations pursuant to Tex. Water Code ch. 5, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality. (Mark Curnutt, Jennifer Cook)

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

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

Item 61. **Docket No. 2005-1509-WQ-E.** Consideration of an Agreed 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)

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

Item 62. **Docket No. 2006-0599-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **DDC Construction, Inc. in Walker County**; RN104501788; 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/MH; all agree.

### **SHUTDOWN ORDER**

Item 63. **Docket No. 2005-1168-PST-E.** Consideration of a Shutdown Order requiring **Heart of Texas Investments, Inc. dba A&A Chevron** to cease operations of the non-compliant UST systems at the Facility in **Coryell County**; TCEQ ID Nos. 32073 and RN101672632; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality. Operations may not recommence until the Facility demonstrates to the satisfaction of the Executive Director that it has corrected the violations. (Lena Roberts, Jennifer Cook)

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

### **EMERGENCY ORDERS**

Item 64. **Docket No. 2006-0780-UCR.** Consideration of whether to affirm, modify, or set aside the Emergency Rate Order issued by the Executive Director, without a hearing, on July 13, 2006 approving the application by **Patrick C. King, as Court Appointed Receiver for Lamar Water Supply Corporation**, Certificate of Convenience and Necessity No. 20607, for an emergency sewer rate increase. The order was issued pursuant to Sections 5.508 and 13.4133, Texas Water Code, and 30 Texas Administrative Code Section 35.202. The utility serves approximately 36 connections in **Aransas County**, Texas. The Emergency Rate Order

authorized a rate increase for sewer customers from a monthly flat rate of \$61.13 per connection to a monthly rate of \$62.30 per connection and \$0.10 per gallon of water used effective July 14, 2006 with a termination date of October 14, 2006. (Brian MacLeod/Andy Lutringer)

Issue a Commission Order that affirms and modifies the Emergency Order to include a six month extension to the three month duration of the Emergency Order and directs the Chief Clerk's Office to refer the matter to SOAH to determine the final rate. KW/LS; all agree.

Item 65. **Docket No. 2006-0860-UCR.** Consideration of whether to affirm, modify, or set aside the Emergency Rate Order issued by the Executive Director, without a hearing, on July 11, 2006 approving the application by **Bret Fenner, Court Appointed Receiver for William A. Swinney d.b.a. High Sierra Water System and P.K.C.C., L.P.**, Certificate of Convenience and Necessity No. 12855, for an emergency water rate increase. The order was issued pursuant to Sections 5.508 and 13.4133, Texas Water Code, and 30 Texas Administrative Code Section 35.202. The utility serves approximately 33 connections in **Burnet County, Texas**. The Emergency Rate Order authorized an Emergency Plant Repairs Surcharge of \$23.49 per month for 12 months starting July 18, 2006 and ending July 18, 2007. (Gabe Soto/Andy Lutringer)

Continue the matter to the October 4, 2006 agenda and direct the Receiver to provide the Utility's customers with notice of the emergency rates and the agenda setting. KW/LS; all agree.

#### **MISCELLANEOUS**

Item 66. **Docket No. 2006-1039-MIS.** Consideration of a resolution to fill **22 vacancies on the Galveston Bay Council**. The Council is an advisory body to the Texas Commission on Environmental Quality whose function is to advise the commission on the implementation of The Galveston Bay Plan.

Approve the resolution presented by the Executive Director. KW/MH; all agree.

#### **STATE IMPLEMENTATION PLAN**

Item 67. **Docket No. 2006-0229-SIP.** Consideration for publication of, and hearing on, proposed revisions to the state implementation plan (SIP) to incorporate a plan for maintenance of the **8-hour ozone national ambient air quality standards (NAAQS) in Victoria County** as required by 40 Code of Federal Regulations Section 51.905(a)(3). The proposal contains results of an updated attainment emissions inventory and technical analysis in support of the projections demonstrating maintenance of the 8-hour ozone standard through 2014; a discussion of monitoring data demonstrating attainment of the 8-hour ozone NAAQS; and a discussion of the contingency plan. (Kathy Singleton, John Minter) (Project No. 2006-023-SIP-NR)

Approve publication of, and hearing on, proposed revisions to the state implementation plan to incorporate a plan for maintenance of the 8-hour ozone national ambient air quality standards. KW/MH; all agree.

#### **RULE MATTERS**

Item 68. **Docket No. 2005-2040-RUL.** Consideration of the adoption of amended Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31, 291.34, and 291.81 and new Section 291.35 of **30 TAC Chapter 291**, Utility Regulations.

The adoption would revise Chapter 291 to implement Texas Water Code (TWC), Section 13.004, as added by House Bill (HB) 1358, 79th Legislature, 2005, Regular Session; TWC, Section 13.187(c), as amended by HB 2301, 79th Legislature; and TWC, Section 13.145, as amended by Senate Bill (SB) 1063, 79th Legislature. SB 1063 also removes a provision enacted by SB 2, 77th Legislature, 2001, Regular Session, that exempts from specific requirements a public utility that provided service in only 24 counties on January 1, 2003. TWC, Section 13.004 outlines the jurisdiction of the commission over certain water supply or sewer service corporations. TWC, Section 13.187(c) clarifies that the regulatory authority may disallow nonsupported costs in a rate application. Additionally, new subsection (b) of TWC, Section 13.145 states, "this section does not apply to a public utility that provided utility service in only 24 counties on January 1, 2003." Finally, the commission adopts revisions to Chapter 291 relating to when a utility may not recover rate case expenses, which may include attorney fees and expert witness fees incurred as a result of a rate change application. The proposed rules were published in the April 14, 2006, issue of the *Texas Register* (31 TexReg 3192). (Sheresia Perryman, Brian MacLeod) (Rule Project No. 2005-061-291-PR)

Adopt amended Sections 291.8, 291.15, 291.21, 291.22, 291.24, 291.26, 291.28, 291.29, 291.31, 291.34, and 291.81 and new Section 291.35 of 30 TAC Chapter 291 with modified language provided by the Chairman at the dais. 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 and General Counsel, 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.

No action taken.

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.

No action taken.

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.

No action taken.

**(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).**



## AGENDA

Wednesday, September 6, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

Item 1. **Docket No. 2006-0569-MWD.** Consideration of the application by **Northwest Harris County Municipal Utility District No. 5** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011824002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.400 million gallons per day. The facility will be located 3,000 feet east and 1,300 feet south of the intersection of Telge Road and Grant Road in **Harris County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Claudia Russell, Amewusika Clara Dake)

Item continued to a future agenda to be determined by General Counsel.

Item 2. **TCEQ Docket No. 2003-0809-PST-E; SOAH Docket No. 582-06-0335.** Consideration of the Administrative Law Judge's Proposal for Decision and Default Order assessing administrative penalties and requiring certain actions of **M & C Enterprises, Inc. dba Handi Plus 25** in **Harris County**, Texas TCEQ PST Registration No. 54921; regarding petroleum storage tank violations pursuant to Texas Water Code §§ 5.702 and 26.352; 30 Tex. Admin. Code §§ 37.815 (a) and (b) and 334.22(a); and Tex. Water Code ch. 7. (Courtney St. Julian)

Item continued to a future agenda to be determined by General Counsel.

Item 3. **TCEQ Docket No. 2005-1592-UCR; SOAH Docket No. 582-06-0424.** Consideration of the Administrative Law Judge's Proposal for Decision regarding **Old Tamina WSC's** request for a cease and desist Order against the City of Shenandoah, Texas. The alleged violation is in **Montgomery County**, Texas. The Commission will also consider timely public comments, the petition, related filings, exceptions and replies. (David J. Klein, Brian Dickey)

Item continued to a future agenda to be determined by General Counsel.

Item 4. **TCEQ Docket No. 2003-0029-MSW-E; SOAH Docket No. 582-05-5033.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Murrill Len Baxley dba Texas Defensive Shooting Academy** in **Dallas County**, Texas; regarding municipal solid waste violations pursuant to Tex. Health & Safety Code Ann. § 361.112(a), 30 Tex. Admin. Code § 328.60(a), and Tex. Water Code ch. 7. (Shana L. Horton)

Item continued to a future agenda to be determined by General Counsel.

**(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](http://www.texasadmin.com/cgi-bin/tnrcc.cgi).**

/s/ Elaine Lucas  
Assistant General Counsel,  
Elaine Lucas

12-8-2006  
Date