

Chairman Kathleen White
Commissioner Larry Soward
Commissioner Martin Hubert

OLD BUSINESS AGENDA

Wednesday, September 20, 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. 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)

Adopt amendments to 30 TAC Chapter 114 to be submitted to the United States Environmental Protection Agency as revisions to the state implementation plan. KW/LS; all agree.

Item continued from the September 6, 2006 agenda.

- Item 2. **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)

Grant the hearing request of Patrick Patterson on the issues of whether the air emissions from Lone Star Aggregate's proposed rock crusher facility adversely affect the requester's health and whether the air emissions from Lone Star Aggregate's proposed rock crusher facility adversely affect the requester's use and enjoyment of property; deny all other hearing requests and request for reconsideration; if parties are willing, refer the matter to ADR for a duration of 6 weeks then, if necessary, to SOAH with a hearing duration of 6 months; direct SOAH to submit Findings of Fact and Conclusions of Law with their PFD. KW/MH; all agree.

AGENDA

Wednesday, September 20, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

HEARING REQUESTS/REQUESTS FOR RECONSIDERATION

- Item 1. **Docket No. 2006-0687-MWD.** Consideration of the application by **Point Aquarius Municipal Utility District** for a major amendment of a wastewater permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011219001, to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 390,000 gallons per day to a daily average flow not to exceed 700,000 gallons per day. The wastewater treatment facility is located approximately 1 mile southwest of the intersection of Farm-to-Market Road 1097 and Aquarius Boulevard in **Montgomery 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. (Marc Friberg, Bijaya Chalise)

Grant the hearing request of Richard Simms on the issues of whether the location of the discharge pipe allows for proper mixing and whether the Executive Director should require Point Aquarius to extend its discharge pipe for public safety reasons; deny all other hearing requests and requests for reconsideration; refer the matter to ADR with a concurrent referral to SOAH with a hearing duration of 6 months; direct SOAH to issue Findings of Fact and Conclusions of Law with their PFD. KW/LS; all agree.

- Item 2. **Docket No. 2005-0998-MWD.** Consideration of the application by **Driftwood Utility Company, L.L.C.** for a new permit, proposed TCEQ Permit No. WQ0014480002, to authorize the disposal of treated domestic wastewater with a daily average flow not to exceed 96,200 gallons per day via subsurface drip irrigation on approximately 22.1 acres of public access land. The facility and disposal site will be located approximately 1 1/3 miles southeast of the intersection of Farm-to-Market Road 1826 and Bear Creek Pass, approximately 1 1/3 miles south-southeast of the intersection of Farm-to-Market Road 1826 and proposed Barrett Boulevard in **Hays County**, Texas. The facility and disposal site are located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Michael Northcutt, Kent H. Trede)

Deny all hearing requests and requests for reconsideration, adopt the Executive Director's Response to Comments and issue the new permit. KW/MH; all agree.

AGRICULTURAL ENFORCEMENT AGREED ORDER

- Item 3. **Docket No. 2005-2028-AGR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **David Medina dba Whitis Dairy in Erath County;** RN102169059; 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 4. **Docket No. 2005-1982-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Stephenville Mobile Home Park, Ltd. dba Shady Oaks Mobile Home Park, Maylar, L.P. dba Shady Oaks Mobile Home Park, and Arthur Hendricks dba Shady Oaks Mobile Home Park in Erath County;** TCEQ ID No. RN102683448; 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 R. Mosley, Jennifer Cook)

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

- Item 5. **Docket No. 2003-0145-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Lime Company in Johnson County;** TCEQ ID No. RN100210889; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

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

- Item 6. **Docket No. 2006-0365-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil 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 7. **Docket No. 2006-0146-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Southwest Recycled Materials, LP in Kaufman County;** RN102537909; 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 8. **Docket No. 2006-0230-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Texas Aero Engine Services, L.L.C. in Tarrant County**; RN100216225; 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/MH; all agree.

Item 9. **Docket No. 2006-0497-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Williams Field Services Group, LLC in Galveston County**; RN100906155; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Sherronda Martin, David Van Soest)

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

Item 10. **Docket No. 2006-0379-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Darryl Weishuhn in Tom Green County**; RN104820741; 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. (Jessica Rhodes, Steven Lopez)

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

Item 11. **Docket No. 2006-0266-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **TM Chemicals Limited Partnership in Harris County**; RN102844271; 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. (J. Craig Fleming, David Van Soest)

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

Item 12. **Docket No. 2006-0296-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas A&M University in Brazos County**; RN100216274; RN102974839; RN102181302; RN102061165; and RN102077849; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Carolyn V. Lind, David Van Soest)

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

Item 13. **Docket No. 2006-0512-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Huntsman Petrochemical Corporation in Jefferson County**; RN100217389; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on

Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, Steven Lopez)

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

Item 14. **Docket No. 2005-0644-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **ExxonMobil Oil Corporation in Jefferson County**; RN102450756; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (John Barry, David Van Soest)

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

Item 15. **Docket No. 2006-0140-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Border Steel, Inc. in El Paso County**; RN100213941; 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.

AIR QUALITY ENFORCEMENT DEFAULT ORDER

Item 16. **Docket No. 2005-1885-AIR-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Jason Beam dba Case By Case in Dallas County**; TCEQ ID No. RN104599972; 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. (Deanna Sigman, Jennifer Cook)

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

DRY CLEANER ENFORCEMENT AGREED ORDERS

Item 17. **Docket No. 2006-0805-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Viney Kharbanda dba Berry East Cleaners in Tarrant County**; RN103957445; for a dry cleaning registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Libby Hogue, Steven Lopez)

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

Item 18. **Docket No. 2006-0667-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **William A. Ansley, Jr. dba Lone Star Cleaning & Laundry in Wharton County**; RN100602705; for a dry cleaner registration violation

pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Audra L. Ruble, David Van Soest)

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

Item 19. **Docket No. 2006-0790-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Dunky LLC dba Country Cleaners in Kaufman County**; RN104104278; for a dry cleaning registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Jorge Ibarra, P.E., Steve Lopez)

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

FIELD CITATION

Item 20. **Docket No. 2006-0510-PST-E.** Consideration of an Field Citation assessing administrative penalties and requiring certain actions of **Mrs. Frank (Ann) Vaughn dba Pete's Brake & Alignment in Wichita County**; RN104896436; 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.

EDWARDS AQUIFER ENFORCEMENT AGREED ORDERS

Item 21. **Docket No. 2006-0367-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Driftwood 323 Vineyard, LTD. in Hays County**; RN104873088; 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. (Trina Grieco, David Van Soest)

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

Item 22. **Docket No. 2005-0212-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **FSSM Limited Partnership dba Franklin Square Section 2 in Hays County**; RN102727278; 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/MH; all agree.

INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDERS

Item 23. **Docket No. 2006-0442-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Butch Hall dba East Texas Waste Management in Smith County**; RN104860051; 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.
(Marlin Bullard, Steven Lopez)

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

Item 24. **Docket No. 2006-0277-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **GSF Energy, L.L.C.** in **Harris County**; RN100222710; 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. (Michael Limos, David Van Soest)

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

INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 25. **Docket No. 2006-0315-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Agrifos Fertilizer Inc.** in **Harris County**; RN101621944; 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 Limos, David Van Soest)

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

Item 26. **Docket No. 2006-0456-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **U.S. Denro Steels, Inc.** in **Chambers County**; RN100217421; 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, Steven Lopez)

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

LICENSED IRRIGATORS ENFORCEMENT AGREED ORDER

Item 27. **Docket No. 2006-0499-LII-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Tyler Ray De La Cerda** in **Denton and Dallas Counties**; RN103403713; for licensing/certification violations pursuant to Tex. Occupations Code ch. 1903, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Elvia Maske, Steven Lopez)

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

MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER

Item 28. **Docket No. 2006-0500-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas Sludge Disposal, Inc.** in **San Patricio County**; RN103197638; for air quality and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas

Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, David Van Soest)

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

MUNICIPAL SOLID WASTE ENFORCEMENT AGREED ORDER

Item 29. **Docket No. 2006-0458-MSW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hossein Lahiji dba Lahiji Urology Center in Hidalgo County**; RN104890397; 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. (Michael Limos, David Van Soest)

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

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 30. **Docket No. 2004-0687-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **City of Quinlan in Hunt County**; TCEQ ID No. RN101917565; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Justin Lannen, Jennifer Cook)

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

Item 31. **Docket No. 2005-0686-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Bremond in Robertson County**; RN101720910; 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 32. **Docket No. 2006-0417-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Kyle and Aqua Operations, Inc. in Hays County**; RN102182680; 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.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 33. **Docket No. 2005-1558-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sultana Interstate Inc. dba Handi Stop 50 in Harris County**; TCEQ ID No. RN101749554; 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/MH; all agree.

Item 34. **Docket No. 2005-0142-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Maks Corporation, Inc. dba Quick & Easy 2 in Wharton County**; TCEQ ID No. RN101810687; 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. (Kathleen C. Decker, Jennifer Cook)

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

Item 35. **Docket No. 2004-1224-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Tsuo-Min Chi dba A-Sunnys in Harris County**; TCEQ ID Nos. 43969 and RN102281268; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Lena Roberts, Jennifer Cook)

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

Item 36. **Docket No. 2005-0513-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **City of Weslaco in Hidalgo County**; PST Facility ID No. 18587, RN101688984; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Edward Moderow, David Van Soest)

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

Item 37. **Docket No. 2006-0410-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Razeen Enterprises, Inc. dba Cleburne Food Express in Tarrant County**; RN102381688; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Steven Lopez)

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

Item 38. **Docket No. 2006-0207-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Jesus L. Huereca dba Quick Trip in El Paso County**; RN102491230; 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 39. **Docket No. 2006-0257-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Umar Bhatti Ltd. dba One Stop Food Store 2 in Dallas County**; RN101557809; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Shontay Wilcher, David Van Soest)

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

Item 40. **Docket No. 2006-0691-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **John Pavlis dba Exxon RS 64935 in Chambers County**; RN102652005; 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 41. **Docket No. 2006-0475-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Rahim Ali Maknoja dba All Seasons Food Store in Harris County**; RN101273738; 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. (Shontay Wilcher, David Van Soest)

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

Item 42. **Docket No. 2006-0658-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Advance Petroleum Distributing Company, Inc. in Tarrant County**; RN102485877; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, David Van Soest)

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

PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS

Item 43. **Docket No. 2005-0581-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Fuller Oil Co., Inc. dba Country Corner in Liberty County**; TCEQ ID No. RN102441706; 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. (James Sallans, Jennifer Cook)

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

Item 44. **Docket No. 2003-0240-PST-E.** Consideration of a Default Order assessing administrative penalties against **Crest Enterprises, Inc. dba Chevron Mart in Collin County**; TCEQ ID

No. RN101566412; 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. (Robert R. Mosley, Jennifer Cook)

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

Item 45. **Docket No. 2005-0825-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Gita K. Samadi dba Joe's Country Store in Denton County**; TCEQ ID Nos. 58198 and RN101549178; 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)

Item remanded to the Executive Director.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 46. **Docket No. 2005-1199-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Graham in Young County**; TCEQ ID No. RN101386308; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 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. 2005-0732-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Chong Bai Xia dba Twin Lakes Water Co. in Tarrant County**; TCEQ ID No. RN101453512; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Jennifer Cook)

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

Item 48. **Docket No. 2004-1387-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Robert Wilson dba Brenham South Mobile Home Park in Washington County**; TCEQ ID No. RN101202232; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Kari L. Gilbreth, Jennifer Cook)

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

Item 49. **Docket No. 2006-0155-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Chris Hanks dba Moss Lake Community Store in Cooke County**; RN101279982; for drinking water quality violations pursuant to Tex. Health

& Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Libby Hogue, David Van Soest)

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

Item 50. **Docket No. 2006-0218-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Texas H2O, Inc. in Hood County**; RN101992188; 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/MH; all agree.

Item 51. **Docket No. 2005-2062-PWS-E.** Consideration of an Agreed Order assessing administrative penalties against **Comal County in Comal County**; RN101202745; 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/MH; all agree.

Item 52. **Docket No. 2006-0020-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Archer City in Archer County**; RN101206050; 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, Steven Lopez)

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

WATER QUALITY ENFORCEMENT AGREED ORDERS

Item 53. **Docket No. 2006-0413-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Vanity Homes, LLC in Montgomery County**; RN104915236; 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 54. **Docket No. 2006-0712-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Wadsworth Golf Construction Company of the Midwest in Nueces County**; RN104959515; 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. (Libby Hogue, David Van Soest)

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

Item 55. **Docket No. 2006-0672-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Nexus Homes, Inc. in Dallas County**; RN104959168; 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. (Harvey Wilson, David Van Soest)

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

WATER QUALITY ENFORCEMENT DEFAULT ORDER

Item 56. **Docket No. 2005-0699-WQ-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Joe Smith** in **Polk County**; TCEQ ID No. RN104459383; 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. (Xavier Guerra, Jennifer Cook)

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

SUPERFUND

Item 57. **Docket No. 2006-0880-SPF.** Consideration of an agreed administrative order regarding the **San Angelo Electric Service Company** (SESCO) State Superfund Site (**San Angelo, Tom Green County**), which includes requirements for parties agreeing to perform the remedial investigation and feasibility study as well as the terms of settlement with certain potentially responsible parties. (Barbara Watson, Sarah Schreier)

Approve the agreed administrative order regarding the San Angelo Electric Service Company State Superfund Site. KW/LS; all agree.

POST-CLOSURE ORDER

Item 58. **TCEQ Docket No. 2006-0347-IHW.** Consideration of the application by the **United States Department of the Navy on behalf of its Naval Weapons Industrial Reserve Plant (NWIRP)** for issuance of a post-closure order under Industrial Solid Waste Registration No. 30056 and Permit No. 50081 to authorize soil and groundwater remediation activities and to require alternative corrective action for commingled groundwater contaminant plumes pursuant to Tex. Health & Safety Code Ch. 361, Tex. Water Code Ch. 7, and the rules of the Texas Commission on Environmental Quality. The facility is located at McGregor, Texas, in **McLennan and Coryell counties**, approximately 20 miles southwest of Waco, Texas, near the intersection of State Highway 317 and U.S. Highway 84. (Joy Hilado-Archuleta, Mark Arthur, Susan White)

Approve the issuance of the Post-Closure Order. KW/MH; all agree.

RULE MATTERS

Item 59. **Docket No. 2005-2093-RUL.** Consideration of the adoption of amendments to **30 TAC Chapter 321**, Control of Certain Activities by Rule, Subchapter B, Concentrated Animal Feeding Operations, Section 321.33, Applicability and Required Authorizations.

The adopted rulemaking would implement Senate Bill (SB) 1707, 79th Legislature, 2005, Regular Session, which changed the permitting requirements under Texas Water Code, Chapter 26 for dry litter poultry concentrated animal feeding operations (CAFOs) in sole-source surface drinking water protection zones. SB 1707 removes the requirement for dry litter poultry CAFOs located in a protection zone of a sole-source surface drinking water supply to obtain an individual permit. This allows these facilities the ability to apply for coverage under the CAFO general permit. The adopted rulemaking would also modify the permitting requirements for new source dry litter poultry CAFOs and expanding dry litter poultry animal feeding operations (AFOs) for consistency with TCEQ regulations regarding existing dry litter poultry CAFOs. The proposed rules were published in the May 19, 2006, issue of the *Texas Register* (31 TexReg 4166). (Beth Helms, Bob Brush) (Rule Project No. 2005-062-321-PR)

Adopt the amendments to 30 TAC Chapter 321 with changes made by the Commission from the dais. KW/MH; all agree.

Item 60. **Docket No. 2006-0185-RUL.** Consideration of adoption of amended Section 116.603 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 adoption would amend Chapter 116 to require newspaper notice of proposed standard permits with statewide applicability in Austin, Dallas, Houston, and any other regional newspapers designated by the commission on a case-by-case basis. Also, the commission would use press releases and notify select state and local officials by electronic means for public notice of standard permits. The proposed rules were published in the May 12, 2006, issue of the *Texas Register* (31 TexReg 3839). (Phil Harwell, Brad Patterson) (Rule Project No. 2005-038-116-PR)

Adopt amended Section 116.603 of 30 TAC Chapter 116. KW/MH; all agree.

EXECUTIVE SESSION

Item 61. **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 62. **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 63. **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>

OLD BUSINESS AGENDA

Wednesday, September 20, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Item continued from the September 6, 2006 agenda.

- Item 1. **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 the October 4, 2006 agenda.

AGENDA

Wednesday, September 20, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

- Item 1. **Docket No. 2006-0885-AIR.** Consideration of application by **Ryno Materials, Inc.** for a New Air Quality Standard Permit No.75805, to authorize the construction of a concrete batch plant. The proposed facility is to be located on County Road 1219, one and one half miles south of Highway 380, south of Princeton, in **Collin County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Helga Chatelle, Brad Patterson)

Refer the matter to SOAH to determine whether Rodrigo and Juanita Lopez and John Lopez are affected persons pursuant to THSC §382.058(c). If SOAH determines any requesters are affected, then refer the issue of whether the air emissions from the proposed facility will adversely affect the health of the requesters and their families; set a hearing duration of 4 months with a concurrent referral to ADR for six weeks; direct SOAH to issue Findings of Fact and Conclusions of Law with the PFD. KW/MH; all agree.

- Item 2. **TCEQ Docket No. 2004-1433-PST-E; SOAH Docket No. 582-06-0882.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Tres NLSS MG Corporation dba Sam's Food Mart** in **Harris County**, Texas; TCEQ PST Registration No. 75271; regarding petroleum storage tank violations pursuant to Texas Water Code § 26.3475(c)(1); 30 Tex. Admin. Code §§ 334.48(c), 334.50(d)(1)(B)(ii), 334.50(b)(1)(A), and Tex. Water Code ch. 7. (Shawn Slack)

Adopt the ALJ's Order as amended by the Executive Director's exceptions and agreed to by the ALJ. KW/MH; all agree.

- Item 3. **TCEQ Docket No. 2005-0875-UCR; SOAH Docket No. 582-05-7838.** Consideration of the Administrative Law Judge's Proposal for Decision and Order regarding the application of **Don M. Bryant dba Buena Vista Water System** seeking to increase rates for retail water utility service it provides under CCN No. 11656 in **Burnet County**, Texas. The Commission will also consider the application, the related filings, and exceptions. (Ross W. Henderson)

Adopt the ALJ's proposed Order with the modifications to Finding of Fact Nos. 21 and 25 and the additions of Conclusion of Law No. 11 and Ordering Provision No. 4 made by the Chairman at the dais. KW/MH; 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/ Anne Rowland
Assistant General Counsel,
Anne Rowland

11-27-2006
Date