

# A Message from the Executive Director

By Carol Batterton, Executive Director



HB 2694, the TCEQ's Sunset Bill, requires TCEQ to take several actions related to how they conduct enforcement actions and make compliance history determinations. These actions include: revising the agency's penalty policy, revising the Supplemental Environmental Projects (SEP) policy, adopting their enforcement policy in rule, and making changes to the way compliance history is calculated for regulated entities.

The agency held a public meeting on August 2, 2011, seeking stakeholder input on specific aspects of the rulemaking for the general enforcement policy. Of particular interest to WEAT, were proposals to outline the purpose of enforcement in rule, to describe when "no penalty" orders are warranted, and to include a description of how economic benefit is considered in assessing penalties. The agency also asked for input on whether to include language indicating when an entity would be offered a penalty deferral. WEAT's comments on these aspects of the proposed rule are posted on the Regulatory Page of our website. TCEQ is scheduled to propose these rules on January 25, 2012. At that time there will be an opportunity for public comment.

The agency held a second stakeholder meeting on August 22, 2011, to receive stakeholder comments on revisions to the compliance history rule as required or allowed by HB 2694. One of the most significant proposed revisions for our industry is that the revised rule will allow TCEQ the discretion to account for differences among regulated facilities in constructing their formula. The agency is proposing a separate category and separate ranking system for sewage treatment plants. WEAT will support this proposal and likely will ask for the agency to include

a size and complexity factor in the rating scheme as well. These rules will also be proposed on the January 25, 2012, agenda and be open for public comment.

At the Work Session on September 28, 2011, the TCEQ Commissioners adopted a revised penalty policy as required by the Sunset bill. The Sunset bill required the TCEQ to increase statutorily authorized penalty cap for water quality violations to \$25,000 and to cap the penalty enhancement attributable to compliance history at 100% of the base penalty for any individual violation. The commissioners adopted revisions to the tools used to calculate penalties known as matrices. They include the Environmental/Property and Human Health Matrix and the Programmatic Penalty Matrix. They also formally adopted a policy to eliminate the economic benefit enhancement to penalties for local governments.

At the same Work Session, the TCEQ Commissioners also considered proposed revisions to the supplemental environmental projects (SEP) policy. The Sunset bill included a provision that allows a local government to propose an SEP that would bring the entity into compliance in lieu of paying penalties. The agency is required to assess the local government's ability to pay the fine prior to approving the SEP. WEAT has previously stated that the agency should develop a simplified process for assessing financial capability. TCEQ staff proposed several options including screening criteria at Work Session, but no final action was taken. The staff proposals can be viewed at <http://www7.tceq.state.tx.us/uploads/eagendas/Worksession/2011-09-28/SEP.pdf>. This policy will be considered for final adoption at a future work session.

## Texas Operations Challenge Team's Bring Home Four Trophies Trinity River Authority CReWSers win Third Place Overall

2011 was a remarkable year for the three Operations Challenge Teams representing WEAT at the National Competition in Los Angeles. This would be the first year that all of the teams representing Texas would be competing in the ultra-competitive Division 1. This story starts back in April, when the Texas teams competed in the state competition to earn their spot at nationals. Making the trip this year was the state first place team the Trinity River Authority CReWSers, state second place team Austin Dillo XXpress, and state third place team, the Dallas Aqua Techs.

Due to a late season surge in Operations Challenge Sponsors, WEAT was able to send all three teams. While the accommodations in Los Angeles left a lot to be desired (The Rodeway Inn - Los Angeles Convention Center is

surprisingly not Zagat rated), the teams approached it with good spirit. James Ray, Dallas Aqua Techs claimed, "All I need is a place to lay my head." After making the journey to Los Angeles and checking in, the teams rallied with the WEAT Officers for a mini-pep rally in the "lobby" (parking lot) of the motel.

David Briggs, WEAT President, gave encouraging words to the teams, and spoke of how highly regarded the Texas Operations Challenge program is. Jeff Sober, WEAT Operations Challenge Chair, broke out the new competition t-shirts. Joe King, who recently passed away, was an ardent supporter of the Operations Challenge program. To recognize his contributions to the program, competition t-shirts were created that said "In Memory of Joe King" on the back, as well as "Don't Mess with Texas".