



AN UPDATE ON OUR ACTIVITIES

BY CAROL BATTERTON

TCEQ PROPOSES OPERATOR RULES

On March 7, 2012, TCEQ proposed rules to implement HB 965 passed by Rep. Bill Callegari in the 82nd Regular Session of the Texas Legislature. This bill allows A and B water and wastewater operators to certify at the time their license is renewed that they have complied with the commission's continuing education requirements including, but not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ. This change will open the way for these operators to use webinars to satisfy continuing education requirements. WEAT President, John Bennett, and WEAT President Elect, Curtis Smalley, both testified in favor of these rules before the Commission. The agency held a public hearing on April 12, 2012, and accepted public comments until April 23, 2012. TCEQ anticipates final adoption of these rules on July 11, 2012.

HOUSE NATURAL RESOURCES COMMITTEE HOLDS SECOND HEARING ON DROUGHT

On March 22, 2012, the House Natural Resources Committee held a second interim hearing on the drought. The focus of this hearing was threefold: the ongoing statewide drought and the performance of state, regional and local entities in addressing it; the status of desalination projects in Texas; and water conservation in agricultural irrigation. Notable comments from the hearing included testimony from LCRA's General Manager, Becky Motal, who said that more water evaporated from the Highland Lakes in 2011 than was consumed by the City of Austin, and that evaporation from the lakes exceeded inflows. Dr. Robert Mace of the Texas Water Development Board noted that Texas currently has 44 desalination plants producing more than 134,000 ac-ft of water yearly. L'Oreal Stepney of TCEQ noted that nine



(L-R) Richard Talley, Mary Guigliuzza, Christianne Castleberry, Charlie Maddox, Mike Howe, Carol Batterton, Glenda Dunn and Betty Jordan.

new desalination plants have approved permits, but have not been built, and that another 21 plants have submitted plans, but are not yet approved. Dr. Mace also noted that, by 2060, desalination in the State Water Plan is projected at 180,000 acre-feet of brackish water and 125,000 acre-feet of seawater. There was no discussion of specific mechanisms to fund the State Water Plan at this hearing.

PH OBJECTION LETTERS

TCEQ has recently received letters from EPA Region 6 challenging the use of 'boiler plate' permit language in wastewater discharge permits calling for a pH in the range of 6.0-9.0 standard units in the discharged effluent. EPA maintains that the permit limits for pH should conform to the pH criteria range in the Water Quality Standards for the segment where the discharge occurs. TCEQ is preparing a response to EPA clarifying the basis for TCEQ's current practice of setting

pH limits of 6.0 to 9.0 standard units (s.u.) using EPA's technology-based limits based on Federal secondary treatment standards for wastewater treatment facilities (40 CFR Part 133.102). Although segment criteria within the TX Surface Water Quality Standards vary in range from 5.5 to 9.0 s.u.; end-of-pipe compliance with the technology-based limits of 6.0 to 9.0 s.u. reasonably assures compliance with TX Surface Water Quality Standards, due to instream buffering. However, EPA's recent comments indicate that TCEQ's current approach is no longer acceptable and justification for pH limitations must be provided within the permit Fact Sheet. The justification must demonstrate that the pH limitation is protective of TX Surface Water Quality Standards criteria for pH.

TCEQ is considering the proposal of a mixing zone evaluation procedure for pH. Texas state water quality standards allow consideration of mixing of effluent and receiving water

when determining reasonable potential and calculating water quality-based limits. The water quality standard criterion for pH does not have to be met within the mixing zone. TCEQ will most likely propose a mixing zone model to demonstrate that effluent meeting the 6.0 to 9.0 s.u. pH limits at the point of discharge meets the TX water quality standard criterion for pH at the edge of the chronic mixing zone.

WEF/AWWA FLY-IN

Eight representatives of WEAT and TAWWA attended the WEF/AWWA Fly-in on March 7-8, 2012, in Washington, DC. WEAT and TAWWA members met with staff of selected members of the Texas Congressional delegation to discuss *WIFIA*, the *Water Infrastructure Financing and Innovation Act*. Through *WIFIA*, Congressman Bob Gibbs, R-Ohio, Chair of the House Subcommittee on Water Resources and Environment, is actively addressing water infrastructure finance issues. The act would create a finance mechanism modeled after the successful Transportation Infrastructure Finance and Innovations Authority (commonly called TIFIA) and provide access to lower-cost

capital for investments in water infrastructure. This mechanism would have little or no long-term effect on the federal budget deficit. As in TIFIA, *WIFIA* would, under the *Federal Credit Reform Act*, only require appropriated funding sufficient to cover the subsidy cost, or risk, of loans. Fitch Ratings, a top credit rating agency, calculates that the historical default rate on water bonds is 0.04%. Indeed, water service providers are among the most fiscally responsible borrowers in the United States. Moreover, those states that leverage their SRF programs all have AAA or AA bond ratings and no history of defaults, placing them among the strongest credits in the country.

WIFIA would access funds from the U.S. Treasury at Treasury rates and use those funds to support loans and other credit mechanisms for water projects at or near Treasury rates. Although interest fluctuates, such rates are currently significantly better than municipal bond rates. The benefit to local communities of lower interest rates is significant. Lowering the cost of borrowing by 2.5% on a 30-year loan reduces the lifetime project cost by almost 26%, the same result as a 26% grant. *WIFIA* loans

would be repaid to the Authority – and thence to the Treasury – with interest. Consequently, *WIFIA* – because it would involve loans that are repaid – would involve minimal risks and minimal long-term costs to the federal government. WEAT and TAWWA members encouraged the Texas Congressional delegation to actively support the *WIFIA* bill when filed.

In addition to providing information on *WIFIA*, WEAT and TAWWA members also thanked members of the Texas Congressional delegation for their support of Texas utilities' position on sub-lethal WET limits over the past year. We provided information on the current status of implementation of sub-lethal WET limits and requested their continued support as TCEQ prepares to submit its revised implementation procedures.

Members attending included: Christianne Castleberry, Glenda Dunn, Richard Talley, Mary Gugliuzza, Betty Jordan, Charlie Maddox, Mike Howe, and Carol Batterton. WEAT and TAWWA members visited with staff from both Sen. Hutchison's and Sen. Cornyn's offices, as well as the offices of Texas Representatives Olsen, Gonzalez, Flores, Carter, Burgess, Doggett, Farenthold, Gohmert, Culberson, and Barton. ➔

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