

# A Message from the Executive Director



By Carol Batterton, Executive Director

## Interim Charges

On November 30, 2007, Texas House Speaker Tom Craddick issued interim charges for House Committees in the Texas Legislature. Interim charges for the House Natural Resources Committee are listed below.

### House Natural Resources

1. Monitor ongoing efforts related to joint planning in groundwater management areas, including progress toward setting desired future conditions for aquifers. Examine and evaluate the process relating to an appeal challenging the approval of desired future conditions.
2. Review and evaluate the regulatory model for investor-owned water and wastewater utilities as provided in the Water Code, especially Chapter 13, and Article 1440a of the Public Utility Regulatory Act; rate case processes and timing, consultant fee recovery, and overall cost reductions; and, options for more effective customer participation. Consider consolidated tariffs for companies owning more than one system, and review and evaluate methods for financing expansion to new developments.
3. Monitor the implementation of HB 2876, 79th Legislature, Regular Session, relating to certificates of public convenience and necessity for water service and wastewater service.
4. Monitor the implementation of legislation enacted by the 80th Legislature, including HB 3, HB 4 and SB 3; work in conjunction with legislatively created committees, such as the Environmental Flows Advisory Group, the Water Conservation Advisory Council, the Bexar Metropolitan Water District Oversight Committee, and the Joint Interim Committee on State Water Funding.
5. Evaluate creating a uniform template for the creation of Municipal Utility Districts or other special districts with addendums for special powers to expedite the creation of new districts.
6. Examine "resign to run" rules for soil and water conservation district members in comparison to groundwater district members.
7. Study issues related to the current efficacy of flood control devices in Texas, including the condition of aging infrastructure, liability issues, and the legal authority and financing needed to make repairs.
8. Review the Texas Commission on Environmental Quality fee structure for water programs and examine the scope of services being funded by such fees and

the allocation of resources, including personnel to provide services on a timely basis.

9. Monitor the agencies and programs under the committee's jurisdiction.

Legislative committees typically hold hearings between legislative sessions to take testimony on the charges. A report will then be issued in the fall prior to the next session (January 2009) with recommendations concerning the possible need for legislation on any of the interim charges. WEAT will be monitoring the interim hearings and will provide testimony as appropriate at these hearings.

### Water Quality Standards Resolution

WEAT has signed off on a resolution co-authored by the Texas Water Conservation Association, the Texas Association of Clean Water Agencies, Texas Municipal League, and WEAT, which articulates our associations' joint position on revision of the Texas water quality standards. Jennifer Benaman and Michael Bloom, along with WEAT's Watershed Management Committee, provided excellent leadership on this project.

Once the sign-off process has been completed in all organizations, the resolution will be forwarded to the TCEQ. We believe that the fact all four organizations were able to join in a common position on these issues will make a positive statement to the agency about the direction of the upcoming revisions.

Excerpts from key provisions of the resolution are shown below:

#### 1. Surface Water Quality Standards for Water-Based Recreation (Bacteria)

Surface water quality standards to protect recreational uses should be revised to embody the following principles:

- A tiered set of recreational uses should be defined and incorporated into the Texas Surface Water Quality Standards that recognizes the true range of variation in recreational activities. The tiers should be created considering the relative amount of water exposure (contact and ingestion) so that uses (activities) with a relatively low potential for water exposure, such as bank fishing and boating, are distinct and separate from those uses (activities) with a higher potential for water exposure, such as full head-immersion swimming. Possible uses (activities) could include: swimming, wading, fishing, and boating; and
- Criteria to protect the tiered set of uses should be based on an appropriate exposure assessment where-

in numeric criteria are inversely proportional to the amount of exposure to water.

## 2. Surface Water Quality Standards in Relation to Eutrophication (Nutrient) Criteria

The parties recognize that some waters exhibit undesirably elevated levels of algae and/or aquatic plant growth, characterized as eutrophication, and that addressing this concern is an important water quality management function. In addition, the parties recognize that current TCEQ efforts related to eutrophication (nutrient) criteria have focused on reservoirs. Consequently, our recommendations also focus on these criteria as they relate to reservoirs. The parties recognize additional work will be performed to develop criteria for other types of water bodies (e.g., rivers, streams, estuaries, etc.) and may amend these recommendations to reflect this additional work in the future. Accordingly, the parties recommend the following:

- TCEQ should use chlorophyll *a* measurements to assess water bodies (in this case, reservoirs) and should develop numerical criteria based on chlorophyll *a*; and
- When assessing waters with respect to chlorophyll *a*, the TCEQ should assess the water quality using the

median value of the data collected over at least a 5-year period. The data set should contain at least 10 samples taken over at least two different years. In reservoirs, the TCEQ should base the assessment on samples collected from the station on which the original criterion was based. This station should be located in the main pool of the reservoir nearest the downstream dam.

## 3. Surface Water Quality Standards and Implementation for Whole Effluent Toxicity

TCEQ is urged to continue the current approach included in the TSWQS and Implementation Procedures for Whole Effluent Toxicity (WET) given that there has been no evidence that the current program is not protective of waters of the state. The Environmental Protection Agency has consistently approved the TCEQ WET program since 1995. There has been no change in the WET requirements in either the Clean Water Act or EPA regulations since 1995. The current approach is appropriate because it takes into account the variability of a test that relies on the responses of living organisms. There is significant test variability that is solely attributable to the variation in sensitivity among individual organisms. This is especially true of sublethal tests.

# Tragic Loss of David Barber

By Orren West

The Austin Water Utility is mourning the loss of a long time employee, co-worker and friend. David Barber died suddenly on November 18, 2007, while playing basketball with his son and nephew. He was just 45 years old.

David worked at the South Austin Regional Treatment Plant as a Senior O&M Tech. He was a dedicated, hard worker and a valuable employee to the Utility.

In addition to his commitments at work, David took part in the Op's Challenge over the past five years. He was a fierce competitor and at the same time loved to have a good time and make people laugh. At Texas Water 2006 in Austin, David won the Texas Shoot-out with a seven second cut on the pipe. At WEFTEC 2006 his team, led by those seven second cuts, had a 1st Place Collection event with a total time of 87 seconds. That time may be the fastest time in competition to date. That trophy will be dedicated in his honor.

If you spent much time with David, you would know how much he loved his family. In fact, he resigned from the Op's Challenge team this year so that he could spend more time with them. He is survived by his wife Judy and son Mathew. He was preceded in death by his oldest son A.J. just a few years ago.

David was a man of integrity and compassion. In early 2004, A.J. was diagnosed with leukemia. Undergo-



ing treatments left him weak. He was at the end of a major project that he had been working on, and was too weak to make the final trip. David took vacation time and drove to Tennessee where he worked ten straight 16-hour days in his son's place so that he could complete the project.

Amazingly, David then flew into DFW to participate with the Op's Challenge team at Texas Water in Arlington. TRA allowed the team a place to practice the day before the competition. Though completely exhausted on the day of competition, David pushed his way through the events, anchoring the Austin team as he would each year from 2002 through 2006.

He will be missed.