

## **JOINT RESOLUTION REGARDING THE IMPLEMENTATION OF SUBLETHAL WHOLE EFFLUENT TOXICITY PERMIT LIMITS**

**WHEREAS**, the Water Environment Association of Texas (“WEAT”), a member association of the Water Environment Federation (“WEF”), is a nonprofit organization made up of individual members interested in advancing the science of water quality management; and

**WHEREAS**, the Texas Association of Clean Water Agencies (“TACWA”), a member association of the National Association of Clean Water Agencies (“NACWA”), is a nonprofit organization made up of wastewater utilities across the State of Texas likewise interested in advancing the science of water quality management and wastewater collection and treatment; and

**WHEREAS**, the Texas Water Conservation Association (“TWCA”) is a statewide nonprofit organization made up of individuals, firms, corporations, cities, water districts and authorities, public and private agencies, and groups dedicated to the task of conserving, developing, protecting, and utilizing the water resources of Texas for beneficial purposes; and

**WHEREAS**, the Texas Section of the American Water Works Association (“TAWWA”) is a non-profit organization made up of individuals dedicated to the promotion of a sufficient and safe supply of drinking water; and

**WHEREAS**, WEAT, TACWA, TWCA and TAWWA (collectively “the Parties”) share a common goal of promoting environmental stewardship, sound science, and efficient government in developing regulations related to water quality management; and

**WHEREAS**, representatives of the Parties have been participating in stakeholder meetings and discussions with the Texas Commission on Environmental Quality (“TCEQ”), as well as the U.S. Environmental Protection Agency (“EPA”) and elected officials regarding implementation of sublethal whole effluent toxicity permit limits in Texas wastewater permits; and

**WHEREAS**, the Parties desire to work with the TCEQ to the fullest extent to provide information and assistance in the implementation of sublethal WET limits; and

**WHEREAS**, in the interest of providing a common position on certain matters related to surface water quality management, and to provide recommendations to the TCEQ as it proceeds with its implementation of sublethal WET limits in Texas wastewater permits, the parties desire to enter into this resolution (the “Resolution”) regarding common principles and recommendations related to the implementation of sublethal WET limits.

**NOW, THEREFORE**, the Parties are hereby resolved and do adopt the following principles related to establishing and implementing sublethal Whole Effluent Toxicity (“WET”) limits in Texas Pollutant Discharge Elimination System (“TPDES”) permits:

1. The U.S. Environmental Protection Agency (“EPA”) is requiring the Texas Commission on Environmental Quality (“TCEQ”) to implement unnecessary and expensive permit

requirements for sublethal whole effluent toxicity (“WET”) limits. This will require Texas cities, river authorities, and other political subdivisions to spend millions of unnecessary dollars trying to determine alleged toxicity when there is no clear indication of such. EPA cannot demonstrate a benefit to the environment for this requirement, or even demonstrate that it is an achievable requirement.

2. EPA developed the WET test, in which aquatic organisms are exposed to treated wastewater effluent, to determine whether the organisms are adversely affected. Effects can be lethal (death) or sublethal (impaired growth or reproduction, for example). While there is evidence that tests demonstrating significant lethality can be indicative of adverse effects on aquatic life in receiving waters, there is no evidence in the scientific community that sublethal test failures in a laboratory are indicative of similar impacts in the actual environment. In addition, studies to determine how to eliminate WET test failures, when only sublethal effects are present, have not been successful in eliminating these test failures. Unsuccessful and inconclusive studies can result in expensive corrective actions being implemented that ultimately do not achieve permit compliance.
3. EPA does not have a technical basis to support its position that sublethal WET permit limits are needed to protect the environment or that studies to identify and eliminate the causes of WET test failures are practical when only sublethal effects are exhibited.
4. The Parties oppose EPA’s implementation of an overly restrictive regulatory program based on the sublethal WET test protocol unless the following requirements can be met:
  - The frequency and magnitude of effluent sublethal test failures that are a meaningful predictor of adverse impacts on aquatic life in the receiving waters are identified.
  - It can be demonstrated that there are reliable scientific methods that permittees can use to identify and eliminate the cause of sublethal test failures.
5. Texas cities, river authorities, and other political subdivisions are committed to protecting the water resources of the State for the benefit of their residents. However, with limited public funds available, those funds should be expended for programs with demonstrated benefit and feasibility, not on implementing regulations with no clear scientific certainty or benefit to the environment.

The Parties appreciate the hard work of the TCEQ’s staff on this important issue and look forward to working with the agency in the future.

**WATER ENVIRONMENT  
ASSOCIATION OF TEXAS**



Carol Batterton  
Executive Director

12/22/10

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Date

**TEXAS WATER  
CONSERVATION ASSOCIATION**



Leroy Goodson  
Executive Director

12/18/10

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Date

**TEXAS ASSOCIATION OF  
CLEAN WATER AGENCIES**




Richard Talley  
President

12/22/10

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Date

**TEXAS SECTION AMERICAN  
WATER WORKS  
ASSOCIATION**



Mike Howe  
Executive Director

12/10/10

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Date