TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

A RESOLUTION concerning the delegation of certain duties and authority to the General Counsel. Docket No. **2009-0059-RES.**

WHEREAS, the Texas Commission on Environmental Quality ("Commission") is an Agency of the State of Texas;

WHEREAS, in accordance with applicable law, the Commission has appointed a General Counsel to serve as the Commission's chief legal officer;

WHEREAS, the Commission's General Counsel is empowered by statute to perform such duties as authorized by law or delegation by the Commission;

WHEREAS, the Commission has determined that it is in the best interests of the Commission to include within the General Counsel's duties the responsibility to manage the Commission's public meetings, including the management of the number and type of matters to be considered at a particular meeting;

WHEREAS, the Commission has determined that it is in the best interests of the Commission to include within the General Counsel's duties the responsibility to advise the Commission on legal matters, including litigation matters, and the duty to take certain actions in legal matters;

WHEREAS, the Commission has determined that it is in the best interests of the Commission to include within the General Counsel's duties the responsibility to approve publication of and hearings on certain rule projects involving routine, non-controversial matters, such as quadrennial rule reviews and incorporation of federal and state requirements by reference;

WHEREAS, the Commission does not intend by the issuance of this resolution to affect the duties and authority of the Executive Director; and

WHEREAS, the Commission does not intend by the issuance of this resolution to repeal or change the additional duties and authority delegated to the General Counsel by Commission rule.

NOW, THEREFORE, BE IT RESOLVED, that the Texas Commission on Environmental Quality delegates to its General Counsel the following:

1. Management of the Commission's public meetings, including the number and types of matters to be considered, whether argument or comment will be held and time limits, granting a request by the Executive Director that an item scheduled for a Commission public meeting be remanded to staff for further evaluation, remanding a matter to the State Office of Administrative Hearings if the General Counsel determines notice is not adequate or proper, rescheduling of matters and related deadlines, and referral of matters to the Alternative Dispute Resolution Office when the interested persons agree to referral;

2. Management of motions to overturn, motions for reconsideration, certified questions or motions for rehearing, whether by setting such motions for Commission public meetings, or by allowing such motions to expire by operation of law;

3. Management of requests for reconsideration, whether by setting such requests for Commission public meetings, or by denying such requests.

4. Representation of the Commission, including discussions with the Office of the Attorney General of the State of Texas or discussions with other state or federal officials;

5. Referral of matters in litigation to the Texas Attorney General or other appropriate officials;

6. Authority to make decisions for the Commission in litigation matters involving Commission permits and orders or in which the Commission is a named party;

7. Retention and management of outside counsel to represent the Commission in litigation matters;

8. Authority to make requests to the Texas Attorney General to issue a written opinion on a question concerning the open records of the Commission;

9. Management of the contested case hearings contract with the State Office of Administrative Hearings;

10. Authority to approve publication of and any hearings on proposed rules involving only incorporation by reference of federal or state requirements or proposed notices of intention to review rules;

11. Management of administrative matters in the Office of the Commissioners;

12. Authority to delegate the duties and authority set forth in this resolution to the attorneys in the Office of the General Counsel; and

13. Authority to make clerical and clarification changes to Orders and documents adopted by the Commission, to effectuate the clear intent of the Commission's action taken.

THE COMMISSION FURTHER RESOLVES that the Commission's resolutions of March 25, 1996 (Docket No. 96-0406-RES), November 25, 1997 (Docket No. 97-1061-RES), April 7, 2000 (Docket No. 2000-0327-RES), June 30, 2005 (Docket No. 1999-0024-EXE), August 14, 2006 (Docket No. 2006-0973-RES), and any other previous resolution concerning the delegation of certain duties to the General Counsel, are hereby rescinded and replaced by this resolution.

Issue Date:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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Buddy Garcia, Chairman

ATTEST:

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LaDonna Castanuela, Chief Clerk