

AGENDA

MEETING OF THE BOARD OF DIRECTORS' EXECUTIVE COMMITTEE AND/OR OF THE BOARD OF DIRECTORS

SAN ANTONIO RIVER AUTHORITY

October 13, 2010, 1:00 p.m.

**Estimated Presentation Time: 1.75 hour*



GENERAL AND CEREMONIAL ITEMS:

Estimated Presentation Time: 5 minutes

1. **CALL TO ORDER BY THE CHAIRMAN, MR. GAYLON J. OEHLKE**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL BY THE SECRETARY, MR. ROBERTO G. RODRÍGUEZ**
 - Terry E. Baiamonte
 - Sally Buchanan
 - A.D. Kollodziej, Jr.
 - Hector R. Morales
 - Roberto G. Rodríguez
 - Gaylon J. Oehlke
4. **CERTIFICATION OF A QUORUM BY THE SECRETARY**
5. **INTRODUCTION OF VISITORS**
6. **CITIZENS TO BE HEARD**

**Represents the time staff anticipate that it will take to make presentations or give briefings; does not include an estimate of the time required for discussions generated by Board members.*

7. **APPROVAL OF THE MINUTES FOR THE EXECUTIVE COMMITTEE MEETING HELD ON SEPTEMBER 2, 2010**
8. **DISCUSSION AND APPROPRIATE ACTION REGARDING ARTICLE III, COMMITTEES, OF THE BYLAWS OF THE SAN ANTONIO RIVER AUTHORITY**
9. **PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING THE 2010 BOARD HANDBOOK**
10. **DISCUSSION AND APPROPRIATE ACTION REGARDING THE SAN ANTONIO RIVER AUTHORITY'S LEGISLATIVE AGENDA AND OTHER POTENTIAL ACTIVITIES ASSOCIATED WITH THE 82nd SESSION OF THE STATE LEGISLATURE**
11. **EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY FOR A BRIEFING ON PENDING OR CONTEMPLATED LITIGATION UNDER THE ENDANGERED SPECIES ACT REGARDING AN ALLEGED TAKE OF WHOOPING CRANES**
12. **PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION ON PENDING OR CONTEMPLATED LITIGATION UNDER THE ENDANGERED SPECIES ACT REGARDING AN ALLEGED TAKE OF WHOOPING CRANES**
13. **GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:**
 - **UPCOMING EVENTS CALENDAR,**
 - **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
 - **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**
14. **ITEMS FOR FUTURE CONSIDERATION**
15. **NEXT MEETING DATE**
16. **ADJOURN**

Estimated Presentation Time: 1.75 Hour

SAN ANTONIO RIVER AUTHORITY
General Statements

This meeting is wheelchair accessible. Accessible parking is located at 100 E. Guenther Street. Requests for an interpreter for the hearing impaired must be received at least 48 hours prior to the meeting, or, to arrange for special assistance to attend this meeting, please call the Operator at 210-227-1373.

The Board of Directors' Executive Committee of the San Antonio River Authority may discuss and/or take action on any item listed in this agenda while convened in open session. The Board of Directors of the San Antonio River Authority may also meet in Executive Session, pursuant to Section 551.071 of the Texas Government Code, to receive advice from legal counsel on any item listed in this agenda.

Date: 10/13/2010

Approval of the Minutes

Submitted By: Linda Whitaker, Technical Services

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

APPROVAL OF THE MINUTES FOR THE EXECUTIVE COMMITTEE MEETING HELD ON SEPTEMBER 2, 2010

Presenter

Mr. Oehlke, Committee Chair

Estimated Presentation Time: 5 minutes

Recommendation

Motion to approve the minutes of the Executive Committee meeting held on September 2, 2010, as presented.

Discussion

Vote

Attachments

Link: September 2, 2010, Executive Committee Meeting Minutes

MINUTES

MEETING OF THE BOARD OF DIRECTORS' EXECUTIVE COMMITTEE AND OF THE BOARD OF DIRECTORS

SAN ANTONIO RIVER AUTHORITY

September 2, 2010, 1:00 p.m.



GENERAL AND CEREMONIAL ITEMS:

1. **IN THE ABSENCE OF THE CHAIRMAN, MR. OEHLKE, CALL TO ORDER WAS MADE BY THE VICE CHAIR, MS. BUCHANAN, AT 1:14 P.M.**
2. **PLEDGE OF ALLEGIANCE WAS RECITED**
3. **THE BOARD SECRETARY, MR. ROBERTO G. RODRÍGUEZ, CALLED THE ROLL AND REPORTED THE FOLLOWING BOARD MEMBERS PRESENT:**

- Terry E. Baiamonte (absent)
- Sally Buchanan
- A.D. Kollodziej, Jr.
- Hector R. Morales
- Roberto G. Rodríguez
- Gaylon J. Oehlke (1:16 p.m. arrival)

The Secretary observed that other Board members were present in the audience, as follows:

Adair R. Sutherland
Nazirite Rubén Pérez
Michael W. Lackey, P.E. (2:04 p.m. arrival)

4. **CERTIFICATION OF A QUORUM**

Upon certifying that a quorum of the full Board was in attendance, Mr. Rodríguez requested that, and the Chair did, convene the meeting as a meeting of the Board of Directors.

5. **INTRODUCTION OF VISITORS**

Ms. Scott announced the visitor who was present in the audience.

6. CITIZENS TO BE HEARD

Ms. Scott announced that there were no citizens signed up to speak.

7. APPROVAL OF THE MINUTES FOR THE EXECUTIVE COMMITTEE MEETING HELD ON AUGUST 11, 2010

Staff recommended a motion to approve the minutes of the Executive Committee meeting held on August 11, 2010, as presented. Mr. Rodríguez requested an amendment of the draft Rules of Order to say, "Chair and Board member may vote, make a motion, etc."

Motion made by Sally Buchanan

Seconded by Hector R. Morales

Motion passed unanimously

8. PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE SAN ANTONIO RIVER AUTHORITY'S DRAFT STATE AND FEDERAL LEGISLATIVE AGENDAS FOR THE 82nd STATE LEGISLATURE AND THE 112th SESSION OF CONGRESS, 1st SESSION

There being no action taken on this item, Mr. Oehlke called for Agenda Item 9.

9. EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING *THE ARANSAS PROJECT V. SHAW, ET. AL.*, CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

After appropriate disclosure in accordance with Chapter 551 of the Texas Government Code, the Open Meetings Act, Section 551.071, Mr. Oehlke then recessed to meet in Executive Session at 1:50 p.m. for consultation with attorney regarding The Aransas Project v. Shaw, et al., Case No. 10-40633 in the United States Court of Appeals for the Fifth Circuit. The Executive Session having concluded, the Executive Committee meeting resumed into Open Session at 3:29 p.m.

10. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING *THE ARANSAS PROJECT V. SHAW, ET. AL.*, CASE NO. 10-40633 IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

There being no action taken on this item, Mr. Oehlke called for Agenda Item 11.

11. GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- **UPCOMING EVENTS CALENDAR,**
- **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
- **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**

There being no action taken on this item, Mr. Oehlke called for Agenda Item 12.

12. ITEMS FOR FUTURE CONSIDERATION

Board member Lackey requested that staff invite the Executive Director of the Bexar County Performing Arts for a presentation of our role in a section of the river. The General Manager assured the Board that this is currently in progress and most likely will go before the Board on November's agenda.

Chairman Oehlke requested that an item be placed on the next Executive Committee's agenda to re-visit the committee's current structure.

13. NEXT MEETING DATE

After brief discussion, it was decided that the next Executive Committee meeting will be Wednesday, October 13, 2010, at 2:00 p.m.

14. ADJOURN

There being nothing further to report, Mr. Oehlke called the Executive Committee meeting adjourned at 3:43 p.m.

**PREPARED AND RECOMMENDED FOR COMMITTEE APPROVAL BY THE
GENERAL MANAGER.**

SUZANNE B. SCOTT, General Manager

**APPROVED BY THE BOARD OF DIRECTORS AT THE EXECUTIVE COMMITTEE
MEETING HELD ON OCTOBER 13, 2010.**

GAYLON J. OEHLKE, Committee Chairman

ATTEST:

ROBERTO G. RODRÍGUEZ, Committee Secretary

Date: 10/13/2010

Bylaws Review of Article III, Committees

Submitted By: Lupe Sanchez, Executive
Offices

Division: Executive Offices

Submitted For: David Ross, Attorney

Department:

Information

CAPTION

**DISCUSSION AND APPROPRIATE ACTION REGARDING ARTICLE III,
COMMITTEES, OF THE BYLAWS OF THE SAN ANTONIO RIVER AUTHORITY**

Presenter

David Ross, Legal Counsel

Estimated Presentation Time: 10 minutes

The current Committee structure of the Board of Directors was adopted to assist the Board of Directors and to reduce the length and frequency of meetings of the Board of Directors. On occasion, Board members may attend meetings of a Committee of which they are not a member. The Attorney General has ruled that attendance by a Board member at a Committee meeting makes that meeting subject to the Open Meetings Act.

To comply with the Open Meetings Act and to allow Board members to attend meetings of committees of which they are not members, Committee meetings are currently noticed as potential Board meetings. If the non-members of the Committee wish to participate in the Committee meeting, that meeting must be conducted as a meeting of the Board of Directors.

Although this practice complies with the Open Meetings Act, it does weaken the Committee structure of the Board of Directors. It also results in Board meetings being conducted in the absence of those Directors who do not attend a particular Committee meeting.

Recommendation

Motion to be crafted, if necessary, after Committee discussion.

Discussion

Vote

Date: 10/13/2010

2010 Board Handbook

Submitted By: Linda Whitaker, Technical Services

Division: Executive Offices

Submitted For: Karen Bishop

Department:

Information

CAPTION

PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING THE 2010 BOARD HANDBOOK

Presenter

Karen Bishop

Estimated Presentation Time: 10 minutes

Staff will be updating the Board Handbook in November to reflect changes in elected official contact information due to election results. During the edit process, staff will incorporate any changes recommended by the Executive Committee. At the October 13 meeting, staff will record Committee input.

Recommendation

Motion to be crafted, if necessary, after Committee discussion.

Discussion

Vote

Date: 10/13/2010

State and Federal Legislative Agendas for 2011 Sessions

Submitted By: Linda Whitaker, Technical
Services

Division: Intergovernmental and
Comm Relations

Submitted For: Brian Mast

Department:

Information**CAPTION****DISCUSSION AND APPROPRIATE ACTION REGARDING THE SAN ANTONIO RIVER AUTHORITY'S LEGISLATIVE AGENDA AND OTHER POTENTIAL ACTIVITIES ASSOCIATED WITH THE 82nd SESSION OF THE STATE LEGISLATURE****Presenter**

Brian Mast

Estimated Presentation Time: 30 minutes

The San Antonio River Authority was recently asked to testify to the Select Committee on Special Purpose Districts on October 7th. SARA will provide a high level overview of our statute, elected board, taxing authority, budget, agency goals, and programs implementing our goals. SARA received a request to testify following another river authority's withdrawal from the hearing.

SARA has also been asked to testify at the Senate Subcommittee on Flooding and Evacuations on October 18th. SARA has been asked to share our experiences regarding the creation and our participation in the Bexar Regional Watershed Management Program (BRWM). We were asked to testify as the BRWM may be able to serve as a model for how other government agencies can collaborate to address flood and evacuation issues.

An update on other legislative issues will be provided if needed.

In preparation for the 82nd Texas Legislature Session, the San Antonio River Authority staff, with assistance from Tuggey Rosenthal Pauerstein Sandoloski Agather LLP, has identified particular issues that are germane to the River Authority. The legislative recommendations discussed in this briefing will be divided into four categories: items to initiate; items to monitor; items to support; and items to oppose. At this time, staff is not recommending any legislative items for the River Authority to initiate.

Please see Attachment 1 for the staff's legislative recommendations.

The timeline related to the 82nd Texas Legislature Session is as follows:

- January 11, 2011: 82nd Texas Legislature Session begins
- February 15, 2011: VIVA San Antonio Greater Chamber of Commerce

Note: The date for a Board visit to the Capitol during the session has yet to be determined.

Recommendation

Motion to be crafted, if necessary, after Committee discussion.

Discussion

Vote

Attachments

Link: [State Legislative Agenda](#)



SAN ANTONIO

RIVER AUTHORITY
Water Brings Us Together

82nd Texas Legislative Session

OVERVIEW OF 82nd DRAFT LEGISLATIVE AGENDA

In preparation for the 82nd Texas Legislative Session the San Antonio River Authority (River Authority) identified twenty-four major legislative initiatives for the staff to track, support, and / or oppose over the next regular session. In addition to the specific items listed, staff will monitor and track any legislation that may impact the River Authority's elections, taxing authority and general operations. The River Authority staff will also monitor water-related legislation pertaining to our four-county district and as these issues arise positions will be developed and presented.

The River Authority's Legislative Agenda for the 82nd Texas Legislative Session includes twenty-four issues placing them in the following categories; Items to Initiate, Items to Support, Items to Monitor, and Items to Oppose. Staff will present the issues and position statements to the River Authority Board of Director's Executive Committee on September 15, 2010. The Committee reviewed the issues, identified the priorities, and revised the statements to better reflect the position of the River Authority.

The Intergovernmental and Community Relations Department (IGCR) at the River Authority coordinates the legislative agenda. During the session, IGCR staff will work with the members of the Legislature, committee staff, professional organizations and the River Authority's lobby team to convey and obtain feedback regarding the River Authority's legislative positions and on individual bills under consideration. Reports tracking the status and progress of priority issues and legislation will be presented regularly at the River Authority's monthly Board of Directors meetings.

This report contains a summary of the staff legislative recommendations followed by a more detailed explanation of each recommendation. For more information on the River Authority's Legislative Agenda, please contact Brian Mast, Intergovernmental Relations Specialist, at (210) 302-3287.

SUMMARY OF STAFF LEGISLATIVE RECOMMENDATIONS

The legislative recommendations are divided into four categories: items to initiate; items to support; items to monitor; and items to oppose. The following items have been identified.

Items to Initiate	
Issue	Notes
No items to recommend at this time	

Items to Support (not in a particular priority order)	
Issue	Notes
Clean Rivers Program	Staff recommends supporting funding efforts to maintain the Clean Rivers Program at its current level.
Procurement Process	Staff recommends supporting legislation that would allow for further flexibility in the River Authority’s procurement process.
Tax Increment Financing (TIF)	Staff recommends supporting an amendment to the Tax Code with regards to formation of the TIF oversight board. Staff may recommend initiating this legislation.
State Water Plan	Staff recommends supporting funding efforts to implement the State Water Plan.
State Environmental Water Policy	Staff recommends supporting legislation that would initiate State agency discussions regarding a unified environmental water policy.
Tire Recycling Program (State or County led)	Staff recommends supporting legislation that would implement a tire recycling program.
Plastic Bag Use Reduction	Staff recommends supporting legislation that would seek to limit the number of plastic bags that enter the human and natural environment.
Stormwater runoff reduction	Staff recommends supporting legislation that would phase in a reduction of stormwater runoff for new development.

Items to Monitor (not in a particular priority order)	
Issue	Notes
Review of all state-created river authorities	Staff will monitor any legislation related to this interim charge and will move this item to “oppose” category if River Authority is negatively impacted.
Dam safety issues	Staff will monitor any legislation related to

	this interim charge and may move this item to either the “support” or “oppose” category depending upon the impact of the proposed fees on the River Authority and how the newly generated funds specifically support the Dam Safety Program.
Pharmaceuticals / emerging contaminants monitoring	Staff will monitor any legislation related to SB 1757 passed in the 81 st session and/or other water monitoring issues and may move this item to “support” category, particularly if legislation is filed to fund further water monitoring programs and/or limit pharmaceuticals entering the wastewater stream.
Environmental Flows	Staff will monitor any legislation related to this issue.
Desalination issues	Staff will monitor any legislation related to this interim charge and may move this item to “support” category, particularly if legislation is filed to fund desalination.
Eminent Domain issues	Staff will monitor any legislation related to this issue.
State implementation of the National Flood Insurance Program (NFIP)	Staff will monitor any legislation related to this issue and may move this item to “support” category, particularly if legislation is filed which identifies further efficiencies and effectiveness of the NFIP.
Edwards Aquifer Recovery Implementation Program (EARIP)	Staff will monitor any legislation related to this issue.
Groundwater management issues	Staff will monitor any legislation related to this interim charge.
Property Appraisals and Revenue Caps	Staff will monitor any legislation related to this issue.
Regional water quality standards	Staff will monitor any legislation related to this issue.
Reuse and wastewater return flows	Staff will monitor any legislation related to this issue.
Texas Parks and Wildlife Department (TPWD) Matching Grants	Staff will monitor any legislation related to this issue and the budget process to ensure these programs remain funded.
Texas Bottle Bill – Beverage container deposit bill.	Staff will monitor any legislation related to this issue.
Bexar Met Oversight Committee issues	Staff will monitor any legislation related to this issue and may move this item to the “support” or “oppose” category depending on the impacts to SARA and community.

Items to Oppose	
Issue	Notes
Changes to Edwards Aquifer Pumping Cap	Staff recommends opposing legislation that would result in alterations to the Edwards Aquifer pumping cap that was implemented by the 80 th Legislature in SB 3. The current pumping cap is set at 572,000 acre-feet of water during a calendar year.
Unfunded Mandates	Staff will recommend opposing legislation that would result in additional unfunded state mandates.

Items to Initiate

At present there are no items to recommend; however, as issues develop staff may shift items into this category.

Items to Support

Clean Rivers Program

In a recent meeting with Texas Commission on Environmental Quality (TCEQ) water program executives, the River Authority learned that TCEQ they do not anticipate reducing funding to the Clean Rivers Program. However in this tight budget cycle where agencies have been asked to identify 5, 10, and 15% cuts the Clean Rivers Program remains vulnerable.

In the 81st Legislature TCEQ anticipated a \$40 million shortfall for the 2009-2010 biennium in the Water Resources Management Account (Fund 153). This means TCEQ needed to identify \$40 million during the 81st Session appropriations process just to maintain the current funding levels that support water resource programs, including the CRP.

In the 81st Legislature (HB 1433) TCEQ was permitted to raise the fee cap on the Waste Water Permit Fee:

- 1) The Waste Water Permit Fee was raised on September 1, 2009, to \$100,000 and each subsequent years fee cap could be further raised based upon an inflation index. The fee cap cannot rise above \$150,000 / permit.

Staff recommends supporting funding efforts to maintain the CRP at its current level remaining cognizant of this tough budget cycle.

Procurement Process

House Bill (HB) 1886 80(R), Design Build and Alternative Project Delivery, made a number of positive changes in construction project delivery procedures. The bill expanded the use of competitive sealed proposals and construction management at risk into infrastructure markets. Included in the bill are design-build for roads, water facilities, and other civil works projects. The River Authority supported this bill in the 80th session and its passage provides the River Authority with greater flexibility with regards to procurement activities. Senate Bill (SB) 229 81(R), further expanded the use of Design Build and Alternative Project Delivery to governmental bodies serving populations of 100,000 or more people.

Staff recommends supporting legislation that would allow for further flexibility in the River Authority's procurement process.

Tax Increment Financing (TIF)

The River Authority recently encountered opposition when appointing a staff member to serve on a Tax Increment Financing (TIF) Board of Directors. Presently, § 311.0091 of the Tax Code stipulates that to be eligible for appointment to a TIF Board of a reinvestment zone, a person must be a qualified voter of the municipality that designated the zone; or be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

It has been the River Authority's policy to name an experienced and knowledgeable staff member to TIF Boards in order to best represent the River Authority's interests on said Boards. The current eligibility requirements potentially prohibit the River Authority from appointing the most highly qualified individual to represent the River Authority on a TIF Board.

The River Authority supports amending the Tax Code with regards to the formation of TIF oversight boards. Staff may recommend initiating this legislation if additional research indicates such an amendment is feasible.

Tire Recycling

The River Authority has witnessed more used tires being illegally dumped within our basin. This issue was brought to the attention of the Bexar Regional Watershed Management Committee of Seven (BRWM C7) Commissioner Adkisson expressed interest in the County pursuing legislation. River Authority intergovernmental staff have discussed legislation with Senator Uresti's staff as the Senator introduced a tire recycling bill for Maverick County in the 81st Legislature. If the River Authority and / or Bexar County are interested in pursuing a local bill that implements a tire recycling fee or tire recycling program the Senator would be a potential bill sponsor.

Staff recommends supporting legislation that would address tire recycling through either a statewide or local initiative.

Plastic Bag Use Reduction

The River Authority encourages our basin residents to use reusable shopping bags whenever they shop through education outreach activities and reusable bag give-a-ways. In the 81st Legislature a couple of bills were filed that aimed at reducing the use of single use plastic bags. Neither of the bills made it out of committee but the groundwork was laid for the 82nd Session.

Staff recommends supporting legislation that would reduce our reliance and use of single-use plastic bags.

Stormwater Runoff Reductions for New Development

The River Authority recommends legislation that would require zero stormwater runoff for the first ½” of rain for new development construction. Legislation could phase in the stormwater reduction over time (ex. ¼” by 2015 and ½” by 2020).

Items to Monitor

Review of State-Created River Authorities

The Senate Natural Resources Committee reviewed the advisability of subjecting river authorities to Sunset Committee review. The Committee considered options for ensuring adequate protection of public assets, improving transparency of operations, enhancing appropriate access to financial and management records, and authorizing audits by the State Auditor’s office.

The River Authority is one of two river authorities in Texas that has an elected Board. Since the River Authority has an elected board there is built in electorate oversight that allows for public oversight and ensures agency transparency.

Staff will monitor any legislation related to this interim charge and will move this item to the “oppose” category if the River Authority is negatively impacted.

State Water Plan

The development of the State Water Plan has made the State of Texas a national leader in the area of water planning. However, if adequate funds are not in place to implement the water plan, then the full benefits of the State Water Plan will not be realized. The Joint Committee on State Water Funding is exploring several funding mechanisms in an effort to identify a dedicated stream of monies to fund the projects listed in the State Water Plan. Potential funding mechanisms identified by the Joint Committee include imposing a fee on bottled water sales, sales tax on retail sales (where households using in excess of 5000 gallons/month would be charged a sales tax), water conservation and development fee, a water rights fee, and a tap fee on public water supply corporations. Senator Robert Duncan advocated for a constitutionally dedicated funding mechanism rather than a statutorily created dedicated funding mechanism.

Staff will monitor the legislature’s efforts to find a steady dedicated funding source to fund the State Water Plan and will make further recommendations as necessary depending upon the determination of the legislature’s proposed funding mechanism.

Dam Safety

During the interim session the Senate Natural Resources Committee studied the safety of major dams, levees, and other flood control structures across Texas. The Committee sought to determine which agency [Texas Commission on Environmental Quality

(TCEQ), Texas Water Development Board (TWDB), or the Governor's Office of Homeland Security] is most appropriate for handling dam safety issues, the level of authority and funding needed to inventory, assess, repair, or replace those structures with impairments. The Committee also sought to develop liability and control standards for flood control structures and make recommendations to properly and safely manage these assets in the future.

TCEQ's Executive Director testified to the Legislative Budget Board on September 22nd that the agency is considering implementing new fees to fund the Dam Safety Program. Two fees were discussed; a Dam Inspection Fee and an Annual Dam Registration Fee. The funds raised by the proposed fees would support the Dam Safety Program however the fee amounts and how they would support the program have yet to be disclosed.

Staff will monitor any legislation related to this issue and may move this item to either the "support" or "oppose" category depending upon the impact of the proposed fees on the River Authority and how the newly generated funds specifically support the Dam Safety Program.

Monitoring Emerging Contaminants: Mercury, Arsenic, and Pharmaceuticals

The interim Senate Natural Resources Committee assessed issues concerning mercury and arsenic emissions to identify the sources of mercury and arsenic pollution in water. The Committee also investigated the status of drinking water, reservoir, river, estuary, and fish and wildlife mercury and arsenic monitoring programs in Texas.

"Emerging contaminants" can be broadly defined as any synthetic or naturally occurring chemical or any microorganism that is not commonly monitored in the environment but has the potential to enter the environment and cause known or suspected adverse ecological and/or human health effects.

A study of 139 streams throughout the country detected 82 chemicals in 80 percent of the waterways tested in 1999-2000, according to the U.S. Geological Survey's (USGS) Toxic Substances Hydrology Program. The most common chemicals were steroids (anti-inflammatory drugs), antibiotics, nonprescription drugs, caffeine and insect repellent.

Potential water quality contaminants are flushed into ground and surface water from a variety of sources. The most common are wastewater from sewage treatment plants, runoff from agricultural land uses, particularly from industrial scale livestock facilities, and discharge from individual septic systems. Conventional sewage treatment varies greatly in its ability to eliminate drug or personal care product residues.

Staff will monitor any legislation related to the interim charge and/or other water monitoring issues and may move this item to the "support" category, particularly if legislation is filed to fund further water monitoring programs.

*Emerging Contaminant information comes from USGS and the Water Systems Council.

Environmental Flows

The Texas Legislature passed environmental flow provisions in the Texas Water Code with Senate Bill 3, Article I 80(R). In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of our state, the 80th Texas Legislature created the Environmental Flows Advisory Group. The Environmental Flows Advisory Group recently appointed the nine-member Texas Environmental Flows Science Advisory Committee of which the River Authority nominated two, George Ward and Paul Montagna. Senate Bill 3 provides for adaptive management strategies as better science is developed, acknowledges the uniqueness of each river basin, and establishes regional bay and basin stakeholder groups and expert science teams to recommend environmental flow levels needed for the bay and basins to maintain the essential balance between human needs and environmental needs. The River Authority firmly believes the state needs to develop statewide consistency and coordination to environmental flow studies and methodologies for our rivers, streams, bays, and estuaries as laid out in Senate Bill 3, Article 1.

Senator Hegar recently indicated that the legislature may explore appointing an environmental flows coordinator to lead each basin and bay science and stakeholder group in order to keep the program on the optimum schedule.

Staff will monitor any legislation related to this issue.

Desalination Issues

During the interim session the Senate Natural Resources Committee inventoried and analyzed bodies of water with high salinity. The Committee explored new technologies and approaches to reduce salinity in the state's surface and groundwater. The Committee also examined the need for state action to address salinity levels in surface waters of the state. The Committee's interim report will include an assessment of the following:

- brackish desalinization projects, including brine disposal options;
- permitting of brackish water by groundwater districts;
- the value and potential uses for brackish water; and
- the imposition of export fees for brackish as opposed to potable water.

Staff will monitor any legislation related to this interim charge and may move this item to the "support" category, particularly if legislation is filed to fund desalination research and projects.

Eminent Domain

As a result of the U.S. Supreme Court decision in *Kelo vs. City of New London*, which affirmed the right of some governments to exercise the power of eminent domain for economic development purposes, many state Legislatures such as Texas passed new laws

to clarify how some governments can exercise the power of eminent domain for economic development purposes. During a special session of the 80th Legislature, the Legislature passed a bill explicitly prohibiting the Department of Transportation from condemning private property for ancillary facilities (gas stations, restaurants, etc.), unless the property is for one of multiple facilities included in a comprehensive development plan approved by the county commissioners court of each county in which the property is located. It is possible that the Legislature may revisit this issue to further ensure protection of private property rights.

In the 80th and 81st interim sessions, the House Committee on Land and Resource Management examined the body of law to determine the amount of compensation property owners receive when their land is condemned and studied the appropriateness of Texas' scheme as compared to others.

Staff will monitor any legislation related to this issue and may move this item to the "oppose" category, particularly if legislation limits or prohibits the use of eminent domain for the types of infrastructure that the River Authority and other water agencies implement.

State Implementation of the National Flood Insurance Program (NFIP)

SB 1436 80(R) transferred the National Flood Insurance Program (NFIP) from the TCEQ to the TWDB.

Staff will monitor any legislation related to this issue and may move this item to the "support" category, particularly if legislation is filed which identifies further efficiencies and effectiveness of the NFIP.

Edwards Aquifer Recovery Implementation Program (EARIP)

In Senate Bill (SB) 3 80(R), the legislature created the Edwards Aquifer Recovery Implementation Process (EARIP) and imposed statutory deadlines for the EARIP team to meet. Thus far the EARIP team has met all of the statutory deadlines; however, to continue to meet future timelines, the EARIP will require funding from sources other than the partners in the process. The River Authority has already contributed \$25,000 and will likely contribute this much on an annual basis while the EARIP process continues.

Staff recommends supporting state funding for the EARIP.

Groundwater Management Issues

During the interim session the House Committee on Natural Resources monitored joint planning efforts in groundwater management areas, including progress toward setting desired future conditions for aquifers.

Staff will monitor any legislation related to this interim charge.

Property Appraisals and Revenue Caps

In the interim session the House Committee on Land and Resource Management examined the body of law to determine the amount of compensation property owners receive when their land is condemned, in whole or in part, and studied the appropriateness of Texas' compensation scheme as compared to others.

Staff will monitor any legislation related to this issue and may shift this issue to the "oppose" category, particularly if legislation would imbalance the compensation equation disproportionately towards property owners.

Regional Water Quality Standards

In the interim session the Senate Natural Resources Committee studied the need for regional water quality standards, particularly in the Edwards and Barton Springs recharge zones.

Staff will monitor any legislation related to this issue.

Reuse and Wastewater Return Flows

Reuse (treated wastewater return flows) is an important conservation and water management strategy. It is a key component to meeting the needs of manufacturing, irrigation and municipal demands. The State Water Plan identifies an increase in the usage of reuse over the 50-year planning horizon from three percent in 2000 to seven percent in 2050. Reuse reduces the need for costly investment in the development of new surface or groundwater supplies. Reuse water is also critical to supporting environmental needs, particularly base instream flows and freshwater inflows to bays and estuaries. Many years ago the San Antonio River relied on the spring flows from San Antonio and San Pedro Springs; however increased pumping on the Edwards Aquifer resulted in minimal or intermittent spring flow. In spite of this, the river still flows but relies on a spring flow surrogate—treated wastewater return flows. Downstream water needs on the San Antonio River are also currently being met by treated wastewater return flows. Wastewater return flows are critical for managing our river's environmental ecosystem and supporting the health of San Antonio Bay.

Staff supports a state policy that links environmental flows and the use of wastewater return flows (reuse) that will provide adequate protections for downstream flows for the environment. An ideal state policy will allow for a basin by basin or regional approach to the reuse issue rather than a one size fits all statewide solution.

Staff will monitor any legislation related to this issue.

Texas Parks and Wildlife Department Matching Grant Programs

With the continued and perhaps expanded reductions in state agency budgets, the defense needs to be strong to preserve the funding for the matching grant programs administered by TPWD. Parks are proven to be solid and sound investments that return monies to communities through offsetting/preventing health and wellness issues, economic development, increased property values, and lower crime rates. The matching grant programs stimulate local governments to take on the responsibility for park improvements and expansions. As the population of Texas grows, the State should continue to help stimulate local governments to meet the needs of existing and future Texans.

Staff will monitor any legislation and budgetary issues related to this issue.

Items to Oppose

Changes to Edwards Aquifer's Pumping Cap

Per Board of Directors guidance on March 18, 2009 staff will oppose legislation that would result in alterations to the Edwards Aquifer pumping cap that was implemented by the 80th Legislature in SB 3. As established in SB 3 the current pumping cap is 572,000 acre-feet of water during a calendar year.

Unfunded Mandates

Staff will recommend opposing legislation that would result in additional unfunded state mandates.

Date: 10/13/2010

Executive Session: Whooping Crane Lawsuit

Submitted By: Linda Whitaker, Technical
Services

Division: Technical Services

Submitted For: Steve Raabe

Department:

Information

CAPTION

**EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION
551.071 FOR CONSULTATION WITH ATTORNEY FOR A BRIEFING ON
PENDING OR CONTEMPLATED LITIGATION UNDER THE ENDANGERED
SPECIES ACT REGARDING AN ALLEGED TAKE OF WHOOPING CRANES**

Presenter

Steve Raabe and David Ross

Estimated Presentation Time: 10 minutes

Discussion

Date: 10/13/2010

Whooping Crane Lawsuit Briefing

Submitted By: Linda Whitaker, Technical Services

Division: Technical Services

Submitted For: Steve Raabe

Department:

Information

CAPTION

PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION ON PENDING OR CONTEMPLATED LITIGATION UNDER THE ENDANGERED SPECIES ACT REGARDING AN ALLEGED TAKE OF WHOOPING CRANES

Presenter

Steve Raabe and David Ross

Estimated Presentation Time: 10 minutes

A citizen group named The Aransas Project filed suit against the Texas Commission on Environmental Quality on March 11, 2010 for violations of Section 9 of the federal Endangered Species Act regarding alleged takes of whooping cranes at the Aransas National Wildlife Refuge. "Take" is broadly defined in the Endangered Species Act to include harassing, harming, pursuing, wounding or killing of a species covered under the Act. The briefing will focus on what potential impact the suit would have regarding the San Antonio River Authority's activities.

Recommendation

Motion to be crafted, if necessary, after Board discussion.

Discussion

Vote

Executive Committee

Individual Items 13. - 15.

Date: 10/13/2010

GM's Report / Items for Future Consideration / Next Meeting Date

Submitted By: Lupe Sanchez, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

13.

CAPTION

GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- **UPCOMING EVENTS CALENDAR,**
- **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
- **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**

Presenter

Suzanne B. Scott

Estimated Presentation Time: 10 minutes

Discussion

Information

14.

CAPTION

ITEMS FOR FUTURE CONSIDERATION

Presenter

Suzanne B. Scott

Estimated Presentation Time: 5 minutes

Discussion

Information

15.

CAPTION

NEXT MEETING DATE

Presenter

Mr. Oehlke, Committee Chairman

Estimated Presentation Time: 5 minutes

Unless otherwise decided by the Committee, the next Executive Committee meeting will be Wednesday, November 10, 2010, at 1:00 p.m.

Discussion

Executive Committee

16.

Date: 10/13/2010

Adjourn

Submitted By: Linda Whitaker, Technical
Services

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

ADJOURN

Presenter

Mr. Oehlke, Board Chairman
