

AGENDA

SPECIAL MEETING OF THE BOARD OF DIRECTORS

SAN ANTONIO RIVER AUTHORITY

June 28, 2010, 2:00 p.m.

**Estimated Presentation Time: 1.5 hours*



GENERAL AND CEREMONIAL ITEMS:

Estimated Presentation Time: 10 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**

BEXAR COUNTY:

- Sally Buchanan
- Michael W. Lackey, P. E.
- Hector R. Morales
- Názirite Rubén Pérez
- Roberto G. Rodríguez
- Thomas G. Weaver

GOLIAD COUNTY:

- Terry E. Baiamonte
- Adair R. Sutherland

KARNES COUNTY:

- Gaylon J. Oehlke
- H. B. Ruckman III

WILSON COUNTY:

- John J. Flieller
- A.D. Kollodziej, Jr.

**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.*

4. **CERTIFICATION OF A QUORUM BY THE SECRETARY**
5. **INTRODUCTION OF VISITORS**
6. **CITIZENS TO BE HEARD**
7. **THE SAN ANTONIO RIVER AUTHORITY EMPLOYEE VOLUNTEER OF THE YEAR AWARD**

INDIVIDUAL AGENDA ITEMS:

8. **PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING A DESIGN BUILD CONSTRUCTION CONTRACT FOR THE MISSION REACH ECOSYSTEM PROJECT - PACKAGE 3**
9. **EXECUTIVE SESSION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE FOR CONSULTATION WITH ATTORNEY ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH CHAPTER 551 OF THE TEXAS GOVERNMENT CODE CONCERNING A PROPOSED DESIGN BUILD CONSTRUCTION CONTRACT FOR THE MISSION REACH ECOSYSTEM PROJECT - PACKAGE 3**
10. **EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING *THE ARANSAS PROJECT V. SHAW, ET. AL.*, CIVIL ACTION NO. 10-75 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS – CORPUS CHRISTI DIVISION**
11. **PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING *THE ARANSAS PROJECT V. SHAW, ET. AL.*, CIVIL ACTION NO. 10-75 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS – CORPUS CHRISTI DIVISION**
12. **PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE SAN ANTONIO RIVER AUTHORITY’S FEDERAL LEGISLATIVE AGENDA FOR THE 111th SESSION OF CONGRESS, 2nd SESSION, AND UPDATE ON STATE LEGISLATIVE ISSUES**
13. **STATUS REPORT ON THE MEDINA DAM UPGRADES PROJECT CONTRACT AWARD**
14. **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**

15. ADJOURN

Estimated Presentation Time: 1.5 Hours

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 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.

Special Meeting of the Board of Directors

Ceremonial Items 7.

Date: 06/28/2010

Employee Volunteer of the Year

Submitted By: Lupe Sanchez, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

**THE SAN ANTONIO RIVER AUTHORITY EMPLOYEE VOLUNTEER OF THE
YEAR AWARD**

Presenter

Suzanne B. Scott

Megan Gunnells, Lock & Dam Operator, will be recognized as SARA's Employee Volunteer of the Year.

Discussion

Date: 06/28/2010

Mission Reach - Package 3 Contract

Submitted By: Russell Persyn, Technical Services

Division: Technical Services

Department: Engineering

Information

CAPTION

PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING A DESIGN BUILD CONSTRUCTION CONTRACT FOR THE MISSION REACH ECOSYSTEM PROJECT - PACKAGE 3

Presenter

Russell A. Persyn

Estimated Presentation Time: 20 minutes

Design-Build procedures were adopted by the Board of Directors on February 17, 2010. The Mission Reach - Package 3, which encompasses the remaining six miles of the project, utilized these procedures to develop a Request for Qualifications (RFQ). Three firms were qualified during that process and were issued a Request for Proposals (RFP) that requested a technical proposal and separate cost proposal for the project. The RFP was delivered on May 26, 2010, and the team evaluated those submissions and conducted interviews with two firms on June 7, 2010. The review team has finalized its recommendation for contract award. Funding for the project was previously authorized by Bexar County. The Operations Committee and the full Board were briefed of the process and status at their most recent meetings held respectively on June 7th and 16th, 2010.

The review panel for the Mission Reach Ecosystem Restoration and Recreation Project - Package 3 has concluded their evaluation. Based on the panel's review of the Qualifications, Technical Proposal, and Cost Proposal, the review panel will recommend that the SARA Board of Directors award a contract to Zachry Construction Corporation in the amount of \$99,333,333.20 (\$74.2M Base + \$25.1M Visitor Tax). Zachry Construction Corporation will team with Michael Baker, Jr. as their design firm on the project.

Panel scoring was based on criteria that were established and published in the Request for Qualifications and Request for Proposals. In addition, the panel conducted interviews and spent considerable time in dialogue with each firm.

The process has yielded a recommendation that is well below the estimated total \$124.1M (\$103.3M Base + \$20.8M Visitor Tax) project budget for this phase and will complete the largest portion of the restoration work that is required.

After award of the contract, the Bexar County Commissioner's Court will be notified of the selection, with notification currently scheduled to occur at the June 29, 2010, Commissioner's Court meeting.

Recommendation

Motion authorizing the General Manager to execute a contract with Zachry Construction Corporation for the Mission Reach Ecosystem Restoration and Recreation Project - Package 3 for \$99,333,333.20 and authorizing the General Manager or her designee to amend the contract if field changes are required up to the amount of the Cooperative Agreement with Bexar County and the City of San Antonio.

Discussion

Vote

Date: 06/28/2010

Executive Session: Mission Reach - Package 3 Contract

Submitted By: Lupe Sanchez, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

EXECUTIVE SESSION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE FOR CONSULTATION WITH ATTORNEY ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH CHAPTER 551 OF THE TEXAS GOVERNMENT CODE CONCERNING A PROPOSED DESIGN BUILD CONSTRUCTION CONTRACT FOR THE MISSION REACH ECOSYSTEM PROJECT - PACKAGE 3

Presenter

Russell Persyn and David Ross

Estimated Presentation Time: 15 minutes

Discussion

Date: 06/28/2010

Executive Session: Whooping Crane Lawsuit

Submitted By: Steve Raabe, Technical
Services

Division: Technical Services

Department:

Information

CAPTION

EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING *THE ARANSAS PROJECT V. SHAW, ET. AL.*, CIVIL ACTION NO. 10-75 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS – CORPUS CHRISTI DIVISION

Presenter

Steve Raabe and David Ross

Estimated Presentation Time: 10 minutes

Discussion

Date: 06/28/2010

Whooping Crane Lawsuit

Submitted By: Steve Raabe, Technical Services

Division: Technical Services

Department:

Information

CAPTION

PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING *THE ARANSAS PROJECT V. SHAW, ET. AL.*, CIVIL ACTION NO. 10-75 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS – CORPUS CHRISTI DIVISION

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

Date: 06/28/2010

Federal and State Legislative Issues

Submitted By: Brian Mast,
Intergovernmental and
Comm Relations

Division: Intergovernmental and
Comm Relations

Department: Intergovernmental Relations

Information

CAPTION

PRESENTATION, DISCUSSION, AND APPROPRIATE ACTION REGARDING THE SAN ANTONIO RIVER AUTHORITY'S FEDERAL LEGISLATIVE AGENDA FOR THE 111th SESSION OF CONGRESS, 2nd SESSION, AND UPDATE ON STATE LEGISLATIVE ISSUES

Presenter

Brian Mast and Suzanne Scott
Estimated Presentation Time: 15 minutes

Appropriation Requests

The following appropriation requests were made to support the San Antonio Channel Improvements Project:

- Congressman Cuellar: \$65.1 million
- Congressman Gonzalez: \$84.8 million
- Congressman Rodriguez: \$84 million
- Senator Hutchison: \$10 million
- Senator Cornyn: \$10 million

For the Guadalupe and San Antonio River Basins Study, Gonzalez and Rodriguez requested \$800,000.

Due to the House Republicans' ban on earmarks, Congressman Smith did not request fiscal year 2011 appropriations for either project listed above.

State Legislature

Speaker Joe Straus (R-San Antonio) announced in February the creation of the House Select Committee on Special Purpose Districts. The committee will review and make recommendations for improving public accountability and transparency in the governance and operation of special purpose districts with particular focus on water-related districts. In addition, the committee will study the effect multiple and overlapping special purpose districts have on taxpayers.

Interim Committee Reports

The House Natural Resources Committee has met twice with the first hearing addressing their groundwater charge. The meeting focused on groundwater conservation districts and their ability to develop desired future conditions.

The House Select Committee on Special Purpose Districts has met once examining Hospital Districts and Emergency Services Districts. On June 30th the Committee will receive testimony from Transportation Districts, Transit Authorities, Crime Control Districts, Library Districts, and Economic and Community Development Districts. Water districts including river authorities will be covered in a mid-summer hearing.

The Senate Natural Resources Committee has not met as the committee chair, Senator Kip Averitt, retired earlier this spring. Lt. Governor Dewhurst will name the new chairman sometime in the not too distant future.

82nd Legislative Agenda

Intergovernmental Relations staff is developing SARA's legislative agenda for the 82nd Legislature with the goal of presenting a draft legislative agenda to the Board of Directors at the August Regular Board of Directors meeting.

Recommendation

Motion to be crafted, as necessary, after discussion.

Discussion

Vote

Attachments

Link: [Speaker's Proclamation](#)

Link: [Committee on Special Purpose Districts](#)

Link: [81st State Legislative Agenda](#)

Link: [Tracked Interim Charges](#)

PROCLAMATION

**APPOINTMENT OF
SELECT COMMITTEE ON SPECIAL PURPOSE DISTRICTS**

Pursuant to Rule 1, Section 16, House Rules, I, Joe Straus, Speaker of the Texas House of Representatives, create the House Select Committee on Special Purpose Districts.

The committee shall study and make recommendations for improving public accountability and transparency in the governance and operation of special purpose districts with a particular focus on water-related districts. In addition, the committee shall consider the effect of multiple, overlapping special purpose districts on the taxpayer.

The committee shall have 15 members.

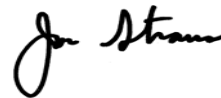
The following members are hereby appointed to the House Select Committee on Special Purpose Districts:

The Honorable Harvey Hilderbran, Chair
The Honorable Jose Menendez, Vice Chair
The Honorable Carol Alvarado
The Honorable Valinda Bolton
The Honorable Harold Dutton
The Honorable Charlie Geren
The Honorable Mike Hamilton
The Honorable Bryan Hughes
The Honorable Delwin Jones
The Honorable Tracy King
The Honorable Jodie Laubenberg
The Honorable Armando "Mando" Martinez
The Honorable Allan Ritter
The Honorable Patrick Rose
The Honorable Larry Taylor

The committee shall file a final report in the manner provided by Rule 4, Section 61, House Rules, not later than December 1, 2010.

The committee expires on the earlier of the date its final report is released or the date the 82nd Legislature convenes.

February 12, 2010



Joe Straus
Speaker of the House



HOUSE OF REPRESENTATIVES
JOE STRAUS
SPEAKER

FOR IMMEDIATE RELEASE
FRIDAY, FEBRUARY 12, 2010

CONTACT
TRACY YOUNG
DIRECTOR OF COMMUNICATIONS
512-463-0223

**SPEAKER JOE STRAUS ANNOUNCES APPOINTMENTS TO THE HOUSE SELECT COMMITTEE
ON SPECIAL PURPOSE DISTRICTS**

AUSTIN---Speaker Joe Straus (R-San Antonio) today announced the creation of the House Select Committee on Special Purpose Districts. The committee will review and make recommendations for improving public accountability and transparency in the governance and operation of special purpose districts with particular focus on water-related districts. In addition, the committee will study the effect multiple and overlapping special purpose districts have on taxpayers.

Special purpose districts are independent governmental units that exist at the local level separately from cities and counties. Examples of special purpose districts include hospital districts, crime control districts, emergency services districts, health service districts and water and waste water districts.

"Texans deserve efficiency and accountability at every level of government and it's important to help protect taxpayers from an undue and unwarranted tax burden," said Speaker Straus.

Speaker Straus has appointed Representative Harvey Hilderbran (R-Kerrville) to chair the committee and Representative Jose Menendez (D-San Antonio) to serve as vice chair.

The committee members include Representatives Carol Alvarado (D-Houston), Valinda Bolton (D-Austin), Harold Dutton (D-Houston), Charlie Geren (R-Fort Worth), Mike Hamilton (R-Mauriceville), Bryan Hughes (R-Mineola), Delwin Jones (R-Lubbock), Tracy King (D-Batesville), Jodie Laubenberg (R-Parker), Armando "Mando" Martinez (D-Weslaco), Allan Ritter (D-Nederland), Patrick Rose (D-Dripping Springs) and Larry Taylor (R-Friendswood).

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SAN ANTONIO

RIVER AUTHORITY
Water Brings Us Together

81st Texas Legislative Session

OVERVIEW OF 81st LEGISLATIVE AGENDA

In preparation for the 81st Texas Legislative Session the San Antonio River Authority (River Authority) identified nineteen 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 81st Texas Legislative Session includes nineteen issues placing them in the following categories; Items to Initiate, Items to Support, Items to Monitor, and Items to Oppose. Staff presented the issues and position statements to the River Authority Board of Director's Executive Committee on September 8, 2008. 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.
Edwards Aquifer Recovery Implementation Program (EARIP)	Staff recommends supporting funding efforts to implement the EARIP.
San Antonio Water System (SAWS) Connectivity Legislation	Staff supports SAWS’ efforts to link, modernize, and more efficiently move reuse water from one area of the city to another. The River Authority’s full support however is contingent on reviewing the final bill language.
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.

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.
State Water Plan	Staff recommends supporting funding efforts to implement the State Water Plan.
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.

Mercury, arsenic and emerging contaminants monitoring	Staff will monitor any legislation related to interim charge 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.
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 interim charge and may move this item to “support” category, particularly if legislation is filed which identifies further efficiencies and effectiveness of the NFIP.
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 interim charge.
Reuse and wastewater return flows	Staff will monitor any legislation related to this issue.

Items to Oppose	
Issue	Notes
Changes to Edwards Aquifer Pumping Cap	Per Board of Directors guidance staff will oppose legislation that would result in alterations in 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) accountants and the Clean Rivers Program (CRP) department, the River Authority learned that TCEQ is anticipating a \$40 million shortfall for the upcoming biennium in the Water Resources Management Account (Fund 153). This means TCEQ will need 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.

Senator Averitt, Chair of the Joint Committee on State Water Funding, is pursuing a dedicated funding stream to fund water infrastructure projects and TCEQ has indicated it may advocate for \$30 - \$40 million to be allocated to TCEQ's water resource programs out of the funding mechanism Senator Averitt is attempting to identify in order to ensure water quality (CRP) data continues to exist for future water infrastructure decision makers.

The interim House Committee on Natural Resources has also reviewed the TCEQ's fee structure for water programs and examined the scope of services being funded by such fees and the allocation of resources, including personnel to provide services on a timely basis. Therefore, it is possible that the House may initiate legislation to address TCEQ's fee structure.

At TCEQ's Legislative Budget Board Hearing held on September 22nd, TCEQ's Executive Director, Mark Vickery, testified that in order to mitigate the anticipated \$40 million shortfall the agency is considering raising the fee cap on the Waste Water Permit Fee and increasing the Public Health Service Fee:

- 1) The Waste Water Permit Fee is currently statutorily capped at \$75,000/year per permit. The Director testified that the agency is considering increasing the cap to as much as \$200,000/year per permit. The Director acknowledged the agency is cognizant that raising the fee cap may disproportionately affect smaller permittees (towns) therefore the agency will proceed judiciously.
- 2) The Public Health Service Fee is another fee that may see a fee increase in the coming year. This was mentioned as another avenue to raising funds for Fund 153.

Staff recommends supporting funding efforts to maintain the CRP at its current level. However, staff will proceed cautiously with this support until the funding mechanism designed to make up the projected \$40 million shortfall in Fund 153 is adequately identified.

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.

San Antonio Water System (SAWS) Connectivity Legislation

The San Antonio Water System (SAWS) is pursuing legislation that would enable the agency to connect three of their waste water treatment plants in order to facilitate meeting reuse water demands in various areas of their jurisdiction. The necessary infrastructure is already in place, and SAWS is now seeking the legal authority to open the connections between the Dos Rios WRC, Leon Creek WRC and the Medio Creek WRC which would allow for reuse water to flow between different watersheds. SAWS has an excellent record with regards to the quality of the reuse water that is returned to the San Antonio River. After being briefed by SAWS, the River Authority staff believes that the proposed plan has the appropriate safeguards in place to protect the San Antonio River, its tributaries and the environment supported by the reuse water.

The River Authority supports SAWS' efforts to link, modernize, and more efficiently move reuse water from one area of the city to another. The River Authority's full support however is contingent on reviewing the final bill language.

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 last session and its passage provides the River Authority with greater flexibility with regards to procurement activities.

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.

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, run-

off 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, 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 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 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)

During the interim session the Senate Subcommittee on Flooding and Evacuations studied the implementation of SB 1436 80(R) which transferred the National Flood Insurance Program (NFIP) from the TCEQ to the TWDB.

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

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 interim charge.

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.

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.

Interim Charges Intergovernmental Relations Staff are Tracking

House Interim Charges

House Committee on Culture, Recreation, and Tourism

Explore ways to promote and improve economic development through heritage, cultural, recreational, and historical programs. Consider the long-term economic impact of state parks in promoting tourism and recreation.

Monitor the long-term plans to improve state parks. Consider the feasibility of acquiring additional park land.

House Committee on Environmental Regulation

Survey existing recycling programs and suggest needed improvements.

Study the Texas Commission on Environmental Quality's use of supplemental environmental projects in its enforcement process.

House Committee on Land and Resource Management

Examine unresolved issues relating to eminent domain legislation introduced during the 81st Legislative Session. Monitor any pending litigation.

House Committee on Natural Resources

Evaluate groundwater regulations and permitting processes throughout the state, including the role of state agencies in groundwater management, the development of desired future conditions, and the adoption of groundwater management plans in relation to regional and state water planning.

Monitor the effects of current and proposed federal initiatives that could impact the implementation of the State Water Plan. Evaluate the policies and investments developed by other states dealing with water issues similar to the State of Texas.

Monitor ongoing drought conditions and initiatives to promote water conservation through the review of the following: state requirements for the submittal of water conservation plans and annual reporting; the "trigger" for use of drought contingency plans; recommendations by state agencies and the Water Conservation Advisory Council; and progress toward the development of recycled water resources and desalination projects.

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

House Committee on Ways and Means

Study methods for improving the quality and uniformity of, and communications to taxpayers about, property tax appraisals.

Monitor the implementation of property tax appraisal and alternative valuation appeal reforms enacted by the 81st Legislature.

Senate Interim Charges

Senate Committee on Finance

Identify and evaluate potential improvements to the property tax system. Consider and make recommendations relating to the following:

- Methods to increase public participation in the tax rate-setting process and ensure fairness in appraisal protests and appeals;
- Requirement that property appraisal values may not increase by more than inflation and/or population growth, or another amount to be determined by local taxing authorities, with a maximum cap of 10 percent;

Senate Subcommittee on Flooding & Evacuations

Monitor the implementation of legislation addressed by the Senate Subcommittee on Flooding & Evacuations, 81st Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and/or complete implementation.

International Relations and Trade

Review the effectiveness of the Coordination of Colonia Initiatives and related measures addressed by the Committee and develop recommendations to better address substandard communities across the state where no potable water or sewage services are provided. Review state and local laws and policies relating to development and growth in unincorporated regions of the state and develop recommendations aimed at providing local units of government the necessary local control tools to curtail the spread of colonia-like developments in their jurisdictions.

Natural Resources

Analyze and compare the differences in cost between immediate implementation of the State Water Plan compared to staged development over time. When calculating the costs attributable to staged implementation, consider rising material costs, meeting the needs of a growing population with temporary solutions, and the costs related to potential failure of existing, aging infrastructure. Review the development of State Water Plan infrastructure projects that have been funded during the FY 08-09 and FY 10-11 biennia. Consider short-term and long-term dedicated sources of funding.

Review the joint planning process for management of groundwater resources and monitor the progress of groundwater conservation districts' efforts to establish, before the statutory deadline, desired future conditions for aquifers. Identify any additional resources or statutory changes necessary to promote sound groundwater management, including promotion of desalination of brackish groundwater, elimination of any exemptions, and coordination between groundwater conservation districts and activities regulated by the Texas Commission on Environmental Quality, the Railroad Commission of Texas, and the state and regional water planning processes administered by the Texas Water Development Board.

Study the need for the state to regulate the drilling of new wells within proscribed depths and distances of Texas rivers, in order to prevent the draining of surface water from alluvial plains of river basins. Make recommendations for any needed legislation.

Monitor the implementation of legislation addressed by the Senate Committee on Natural Resources, 81st Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and / or complete implementation.

State Affairs

Study the Public Information Act and the Open Meetings Act to ensure that government continues to operate in a way that is open and transparent. The study should consider how advances in technology and the emergence of various forms of social media (e.g. Facebook, MySpace, Twitter) have affected communications by and within governmental bodies.

Date: 06/28/2010

Medina Dam Upgrades Project Contract Award Update

Submitted By: Lupe Sanchez, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

Information

CAPTION

**STATUS REPORT ON THE MEDINA DAM UPGRADES PROJECT CONTRACT
AWARD**

Presenter

Suzanne B. Scott

Estimated Presentation Time: 10 minutes

During the June 16th meeting, staff provided the Board a presentation on this project. Since the meeting, the bid opening date of June 23rd, was moved for the second time due to a delay in the issuance of the environmental permit for the project from U.S. Fish and Wildlife. The revised bid opening date is currently July 14th. Staff will provide additional project details during the Special Meeting.

Discussion

Submitted By: Lupe Sanchez, Executive
Offices

Division: Executive Offices

Submitted For: Suzanne B. Scott

Department:

14.

Information

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

15.

Information

CAPTION

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Presenter

Mr. Oehlke, Chairman
