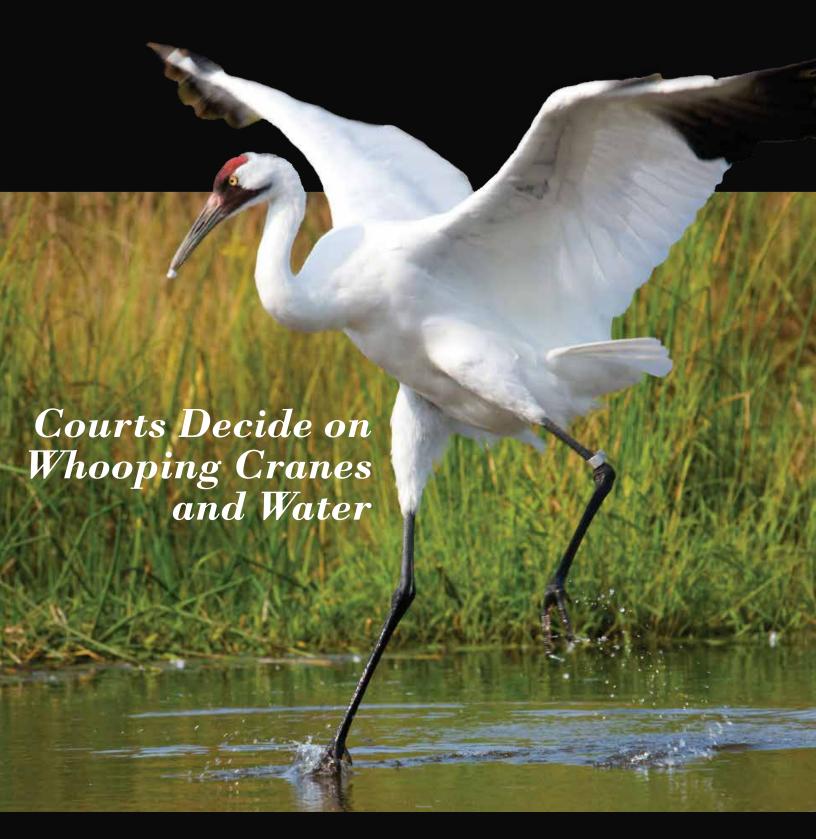
GBRA RIVER RUN

A publication of the Guadalupe-Blanco River Authority Spring 2013



From the GM

Potentially False Premise Drives Whooping Crane Decision

In March, Texas Attorney General Greg Abbott requested a stay of U.S. District Judge Janis Graham Jack's ruling that the Texas Commission on Environmental Quality (TCEQ) violated the Endangered Species Act (ESA) in its handling of water resources in 2008-2009, contributing to the deaths of 23 whooping cranes. Along with the stay, the state appealed the ruling to the Fifth Circuit Court of Appeals in New Orleans. GBRA, a defendant intervener in the

case, has maintained the ruling was based on a false premise, and many are starting to realize the case has less to do with protecting whooping cranes than with how and where Texas will secure enough water for the future. GBRA also filed an appeal.

Judge Jack's ruling ordered Texas not to issue any more water permits, except as required for "health and public safety," until a habitation conservation plan (HCP) is developed under her supervision for the region to protect the whooping cranes. This costly planning process duplicates existing state efforts. More importantly, the court's decision is based on a false premise about whooping cranes deaths.



- Whooping cranes have been found in various places far outside of their primary wintering area of the Aransas National Wildlife Refuge (ANWR) along the Texas coast at San Antonio Bay.
- There was no big drop off in crane population when they returned to ANWR the following winter, contrary to expectations.
- No one found 23 whooping crane carcasses to support the alleged deaths only two carcasses and two partial carcasses were found during the 2008-2009 winter.
- No one knows how many died before the whooping cranes ever reached the Texas coast.

It is critical that this false premise not be allowed to stand in the way of water resources that need to be shared for multiple purposes in this fast-growing area of the

state. Fortunately, the Fifth Circuit Court agreed that our position has significant merits and granted the requested stay as the case moves through the appeals process. Nevertheless, lack of a final resolution on this lawsuit continues to cast a shadow on new water resource projects proposed for the region.

U.S. Sen. John Cornyn (R-Tex.) has introduced legislation — Senate Bill 19 - designed to address regulatory impacts from federal ESA settlements that would give local governments, businesses, and landowners input. We support efforts that provide an avenue for stakeholders to contribute to issues that directly affect them. There are efforts underway to include amendments to the legislation to render the ESA to more closely resemble the original intent of the act.

Endangered whooping cranes need protection for their continued recovery, and GBRA has valued being a positive contributor to that endeavor. Still, GBRA has an obligation to find an appropriate balance for the finite water resources of the Guadalupe River Basin.

W. E. "Bill" West, Jr.

General Manager

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Spring 2013

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Front cover: by Jim Kruger © Jim Kruger 2010

Back cover photo: by Janet Thome

Addressing log jams

Stakeholders may raise the issue with local,

By Rose Marie Eash

n March 12, 2013, Guadalupe-Blanco River Authority officials, led by Bryan Serold, operations manager for GBRA's Lower Basin, briefed more than 30 stakeholders on the challenges related to log jams in the Guadalupe River Basin.

Until recent years, cooperative and cost-sharing agreements facilitated log jam removal

Starting in 1974, GBRA entered into a local cooperative agreement with the U.S. Army Corps of Engineers (USACE) to assist with the removal of major log jams from the mouth of the Guadalupe River at San Antonio Bay upstream to river mile 22 – keeping the mouth of the river free of log jams and accumulating debris. The agreement still exists, however, GBRA has not received any additional funding assistance from the USACE since 1974. The costs of removing most of the other log jams have been borne by GBRA without any mechanism to recover these costs.

The only exception was funding received as part of a cost share agreement GBRA entered into with the Natural Resources Conservation Service (NRCS, formerly the U.S. Soil Conservation Service) to remove the log jams following the 1998 flood event at a cost of \$367,119. GBRA subsequently cleared additional log jams on the San Antonio River in 2003, 2004 and 2008 without any compensation.

"One of the things we wanted to do was to make sure constituents understood the background regarding previous efforts and costs associated with clearing log jams on the Guadalupe and San Antonio rivers and which entities, if any, are responsible for that task," Serold said.

Significant costs, permitting requirements add to log jam challenges

Although GBRA has no legal obligation to remove log jams, the river authority has done so when financially able to maintain a healthy flow in the Guadalupe River. Currently, however, without some kind of funding, GBRA does not have the financial resources to continue to provide that service on the San Antonio River. The



Log jam on San Antonio River at Hwy 77 upstream of the Union Pacific railroad bridge

current estimated cost to remove log jams on the San Antonio River is at least \$250,000. Since 1980, GBRA has spent a total of \$1,113,200 in operations costs clearing log jams on the two rivers.

In addition, for the equipment to do the work and provide reasonable safety for employees, Serold explained, GBRA paid for the design and construction of an excavator work barge at a cost of \$330,000, the purchase of a long-reach track hoe to remove debris from the river at a cost of \$169,000, and a small track hoe used on the excavator work barge at a cost of \$41,000. Altogether, GBRA's expenses for log jam removal since 1980 are estimated at nearly \$1.7 million.

presents many challenges

state and federal agencies and lawmakers



Photo by Bryan Serold

The cost is not the only challenge, however. Texas Parks and Wildlife Department (TPWD), USACE and U.S. Fish and Wildlife Service (USFWS) discussed the issue of the permitting required to remove the logs. Because activities on navigable rivers, including the San Antonio, are regulated by USACE, they inspected the existing log jams to determine the kind of permitting required.

The conclusion was that the work necessary to remove the logs could have adverse environmental impacts and therefore would require an extensive and costly permitting process. There is also a possibility that USFWS and TPWD permitting approvals may be required should the removal of the logs impact any endangered species, native aquatic species and wildlife. The solution to the log jams in the Guadalupe-Blanco River

Basin therefore involves many federal, state and local entities.

Solutions are complex

Serold also explained that log jams are not a recent occurrence or an anamoly – they have been a natural occurrence in waterways for thousands of years and contribute to rivers changing course. It is simply a fact that over time the grade or profile of a river channel flattens and the velocity of water flowing within the channel slows down precipitating the formation of log jams.

Unfortunately, the complex oversight of navigable rivers means multiple state and federal agencies have to work together to address the hardship and environmental issues caused by this naturally occurring phenomenon. Such cooperation, however, does not typically occur naturally. It may require citizens lobbying the appropriate local, state and federal authorities to fund log jam removal – a solution expressed at the stakeholder meeting.

Presentation attended by stakeholders

In addition to several private landowners, attendees at the meeting included Refugio County commissioners Rod Bernal, Precinct No. 4, and Ann Lopez, Precinct No. 1, and former Refugio County Judge Ginger Fagan, Victoria County Commissioner Kevin M. Janak, Precinct No. 2, as well as representatives from Union Pacific Railroad, USFWS, the USACE, the Texas General Land Office, TPWD and the San Antonio River Authority.

Other representatives from the Guadalupe-Blanco River Authority included Director Dennis L. Patillo, Board of Directors Chair Oscar H. Fogle, and GBRA staff members Herb Wittliff, manager, Port Lavaca Operations, Tommy Schulte, regional representative, Charlie Hickman, engineer, and James Lee Murphy, III, executive manager of Water Resources and Utility Operations. The briefing was held at the Refugio County Community Center.

Photo by Bryan Serold



Log jam on San Antonio River upstream of the bridge on Fagan Ranch road

Creek Cleanup Reaps Almost 3,000 Pounds of Trash

By Debbie Magin, GBRA, and Ward Ling, Texas AgriLife Extension

successful first Geronimo and Alligator Creeks Cleanup event made a real impact by removing trash and debris from the creeks. The event, held Saturday, April 6, was coordinated by the Geronimo and Alligator Creeks Partnership, Texas AgriLife Extension and the Guadalupe-Blanco River Authority, as part of implementation efforts for the area's watershed protection plan.

Almost 100 participants met at the Navarro High School parking lot and the New Braunfels Airport parking lot at 9 a.m. for a light breakfast, safety briefing and event instructions. Event t-shirts, trash bags, certificates, gloves, and pick-up tools were available to those who came out to help clean up the creeks. "The response from the community was unbelievable. We had support from the City of New Braunfels and the City of Seguin, Guadalupe County Commissioner Greg Seidenberger, Thrivent Financial for Lutherans, Geronimo Creek Resort, and many citizens all wanting to give their time and resources to make a visible difference," said Debbie Magin, GBRA's Director of Water Quality Services. "It was exciting to see students from the Navarro High School Interact Club and the Seguin High School National Honor

Society, as well as students from Texas Lutheran University professor Mark Gustafson's environmental science class participating in the cleanup." Employees and their families from both Continental Corporation and Alamo Group spent their Saturday morning cleaning up assigned areas in the watershed. The City of New Braunfels donated the use of three large disposal containers to collect the trash and tires. and provided disposal free of charge for the event.

Cleanup efforts were focused at seven locations where roadways crossed Geronimo and Alligator creeks and their contributing streams, and the large storm water detention pond behind the Town Center at Creekside. "Volunteers collected 2,960 pounds of trash, 26 tires, and large items such as a stove, air conditioner, car battery, and a toilet," said Ward Ling, AgriLife Extension Program Specialist. The City of New Braunfels will recycle the tires and the metal materials collected were sent to recycling centers, as well. "We are so grateful for the overwhelming

support from the community for this first event—we plan to make next year's cleanup even better!" said Ling.

Geronimo Creek, and its tributary Alligator Creek, flows through Comal and Guadalupe counties. Both were identified for watershed protection plan development due to elevated levels of bacteria and concerns about high levels of nitrogen, as reported in the Texas Water Quality Inventory published by the Texas Commission on Environmental Quality.

The Geronimo and Alligator Creeks Watershed Protection Plan was developed by local stakeholders and outlines strategies to restore and protect water quality. Quarterly meetings are held to discuss progress and plan activities, and all citizens are encouraged to attend and get involved in the effort. For more information, visit www.geronimocreek.org/.

A Clean Water Act grant was provided to the GBRA by the Texas State Soil and Water Conservation Board and the U.S. Environmental Protection Agency to enable development of the watershed protection plan.

Photo by Cinde Thomas-Jiminez



L-R Lindsay Koenen, Gloria Venegas, Paola Escamilla, Liz Aguilar and Holly Lucas

GBRA Initiates Single II Orought Measures on Hydro Lakes

Guadalupe-Blanco River Authority (GBRA) officials on Tuesday announced Stage II restrictions in April to be effective immediately for diversions and use of water from its hydroelectric lakes in Comal, Guadalupe and Gonzales counties. Restrictions affect lawn watering, outdoor fountain use, vehicle washing and other areas.

According to the GBRA's Drought Contingency Plan, Stage II applies on any day following a day when the average 24-hour spring flow rate from the Comal Springs, when measured at the Comal River, is at or below 200 cubic feet per second (cfs), but greater than 150 cfs. As of Monday, April 8, 2013, Comal Springs flow rate was 198 cfs, thus triggering Stage II restrictions.

Critical period stages apply to any diverter of water other than contracted stored water that diverts and uses water from any of the GBRA Hydroelectric Lakes: Lake Dunlap, Lake McQueeney, Lake Placid, Lake Nolte, H4 or Lake Gonzales and H5 or Lake Wood.

The penalty for wasting water or any violation of Stage II restrictions as determined by the GBRA general manager, or his designee, is \$100 per day per violation.

Restrictions from Stage I already prohibited wasting water from irrigation or vehicle washing, and required the use of covers for swimming pools to prevent evaporation when not in use.

"During these times of drought, it is prudent for all of us to try to be good stewards and conserve our water resources," Bill West, GBRA general manager said.

Restrictions of a drought contingency stage may be terminated when the condition listed as the triggering event for such stage has ceased to exist for a period of 30 consecutive days. Upon termination of the restrictions of the applicable stage, the restrictions of the prior stage become operative.

GBRA's Drought Contingency Plan is available to read online at the following link:

http://www.gbra.org/documents/conservation/ GBRADroughtContingencyPlan.pdf

Other drought details and information may be found on GBRA's website at: http://www.gbra.org/drought/default.aspx

With Stage II in effect, the following restrictions on the Hydro Lakes will apply:

- ♦ All of the prohibitions applicable in Stage I apply in Stage II, except to the extent replaced by more restrictive conditions imposed by this stage.
- Landscape watering is prohibited between 9 a.m. and 7 p.m., and is further restricted such that properties with an odd-numbered address may landscape water only on Mondays, Wednesdays, and Fridays, and properties with an even-numbered address may landscape water only on Tuesdays, Thursdays and Saturdays. However, landscape watering by means of a bucket or hand-held or soaker hose, or a properly installed drip irrigation system is permitted at any time. This subsection does not apply to reclaimed, recycled or reuse water.
- No person may use water for an ornamental outdoor fountain or similar feature, unless the water is recycled and the only additional water used is to compensate for evaporative losses.
- ♦ No person may wash a vehicle at other than a commercial vehicle wash facility except over a pervious surface area, during the above designated watering days and times with a hand-hose with automatic shut-off nozzle or using a bucket.

BaSin horts

Bench Dedicated at Coleto for Winter Texan

In March, the Winter Texans dedicated a park bench they donated to Coleto Creek Park in memory of Sonny Meyer, a long-time park camper who died recently. Sonny, and his widow, Helen Meyer, were Coleto Creek Park's first "Winter Texans."

According to Coleto's Chief Ranger Wilfred Korth, the Meyers have camped at Coleto Creek Park every winter for more than 30 years. "Sonny was known as the unofficial 'mayor' of Coleto Creek Park." The Meyers had developed a large group of friends over the years among the Coleto campers. The bench was a way of honoring their long-time friend.



Photo by Wilfred Korth

Fish and Wildlife Approve Conservation Plan

The U.S. Fish and Wildlife Service officially approved the Edwards Aquifer Recovery Implementation Program's (EARIP) Habitat Conservation Plan (HCP) and incidental take permit for the EARIP in February. The Edwards Aquifer Recovery Implementation Program's HCP is the result of a successful consensus based collaborative effort by a diverse group of more than 40 groups and individuals from south central Texas to address the conservation needs of eight listed species and the needs of the communities' dependent upon the Edwards Aquifer.

Issuance of this incidental take permit will enable the Edwards Aquifer Authority; San Antonio Water Systems; the City of New Braunfels, Texas; the City of San Marcos, Texas; and Texas State University (collectively the Applicants) to continue their projects and operations, while preserving protected species and their habitat.

GBRA Assists Master Gardeners' Program

Because of a GBRA-provided grant to help with a rainwater storage tank on a facility run by the Gonzales Master Gardeners, more than 600 school children will benefit from conservation education.

"We hope that this very visible exhibit will remind everyone of the bounty available in rainwater and will encourage them to partake as well," Gail Johnson, Gonzales Master Gardeners president said.

Lake Wood KidFish Event Draws 125 Children

Children up to age 16 hauled in nearly 40 fish at the KidFish Event in February held at GBRA's Lake Wood Park near Gonzales.

"About 250 pounds of catfish were stocked for the KidFish Event," said Mark Henneke, Lake Wood chief ranger, adding, "This popular event has continued to grow over the years."

KidFish Event winners are as follows:

Age Group 6 and younger

-					
1st	Presley Just	3 yrs	10-1/4"		
2nd	Delilah Bernal	4 yrs	8-3/4"		
3rd	Katie Hyzal	3 yrs	8-3/4"		
Age Group 7-11					
1st	Josh Weinhardt	11 yrs	19-1/4"		
2nd	Brianna Perry	9 yrs	7-3/4"		
3rd	Dalton Collins	10 yrs	7-3/4		
Age Group 12-16					
1st	Hunter Mullins	12 yrs	7-1/2"		



Children L-R Delilah Bernal, Presley Just and Katie Hyzal

Photo by Mark Henneke

Nature Trail at Library Gets Funding

Jaynellen Ladd, GBRA natural resource specialist, presented a check in the amount of \$1,100 to Tye Preston Memorial Library in Canyon Lake to assist with the expansion of the nature trail on the library property.



Shown in the photo are (left) Robert Morris, Lindheimer master naturalist and trail master, (center) Ladd, and Roxanna Deane, library director.



Lake Dunlap Produces Toyota ShareLunker

By Larry Hodge, Texas Parks and Wildlife Department

ATHENS—Lake Dunlap, a small reservoir on the Guadalupe River near New Braunfels, became the sixty-third Texas reservoir to produce a largemouth bass weighing 13 or more pounds when Matthew Moccia of Manchaca caught a 13.34-pounder from the lake December 30.

Moccia was fishing in 10 feet of water using a DD22 lure when the bass hit about 10:15 a.m. It measured 26.25 inches long and 23.25 inches in girth.

The fish became Toyota ShareLunker539 and is currently at the A.E. Wood State Fish Hatchery in San Marcos awaiting the results of DNA testing. If the fish is pure Florida largemouth bass, it will be taken to the Texas Freshwater Fisheries Center and held for spawning. If it is not pure Florida, it will be returned to the lake as soon as possible.

Texas Parks and Wildlife Department stocked Florida largemouth bass into Lake Dunlap in 1978 and 1988.

The fish is the third to be entered into the Toyota ShareLunker Program during the current season, which runs until April 30.

Anyone legally catching a 13-pound or bigger largemouth bass from Texas waters, public or private, between October 1 and April 30 may submit the fish to the Toyota ShareLunker program by calling the ShareLunker hotline at (903) 681-0550 or paging (888) 784-0600 and leaving a phone number including area code. Fish will be picked up by TPWD personnel within 12 hours.

ShareLunker entries are used in a selective breeding program at the Texas Freshwater Fisheries Center (TFFC) in Athens. Some of the offspring from these fish are stocked back into the water body from which they were caught. Other ShareLunker offspring are stocked in public waters around the state in an attempt to increase the overall size and growth rate of largemouth bass in Texas.

Anglers entering fish into the Toyota ShareLunker program receive a free replica of their fish, a certificate and ShareLunker clothing and are recognized at a banquet at the Texas Freshwater Fisheries Center in Athens.

The person who catches the season's largest entry will be named Angler of the Year and will receive a prize package from G. Loomis. If a Texas angler catches the largest entry of the season, that person also receives a lifetime fishing license.

For complete information and rules of the ShareLunker program, tips on caring for big bass, a list of official Toyota ShareLunker weigh and holding stations and a recap of last year's season, see www.tpwd.state.tx.us/sharelunker. The site also includes a searchable database of all fish entered into the program along with pictures where available.

Information on current catches, including short videos of interviews with anglers when available, is posted on www.facebook.com/sharelunkerprogram.

The Toyota ShareLunker Program is made possible by a grant to the Texas Parks and Wildlife Foundation from Gulf States Toyota. Toyota is a long-time supporter of the Foundation and TPWD, providing major funding for a wide variety of education, fish, parks and wildlife projects.

Courts Weigh In On Whooping Cranes and Water

by Barbara Elmore



people could speak the language of the majestic white whooping crane, a recent lawsuit involving the endangered bird and the state's historical management of water supplies might not have been necessary.

Lacking a common language, birds and people must communicate through methods offering less clarity than plain speech. So, headlines like "Big legal victory for cranes in Texas," which appeared in the March 12 edition of the Milwaukee Journal-Sentinel, imply

that man, through the state of Texas's actions on water permits, was responsible for the deaths of 23 of the birds. The birds cannot verify or deny the deaths. The decision came from a federal judge in Corpus Christi, who heard testimony in a lawsuit against the state filed by an organization called The Aransas Project, which was formed to file this litigation.

A now-retired U.S. Fish and Wildlife Service (USFWS) employee decided that the 23 cranes were dead in the winter of 2008-2009 during a regular count of cranes that the USFWS was conducting to estimate the growth of the whooping crane flock. He did not find 23 dead birds, however. He declared that 23 cranes were dead because he did not see them in their usual territory during an airplane flyover.

The lack of 23 carcasses created a controversy. Neither the state nor intervenors in the lawsuit, including the GBRA, agree that 23 birds died.

USFWS scientists have recently revised the protocol for inspecting the whooping crane population and have used the protocol the last two winter seasons. Instead of trying to

March 10, 2010

The Aransas Project, created for the purpose of filing a lawsuit, filed a complaint in U.S. District Court, Southern District of Texas, Corpus Christi division, against officials of the TCEQ. The suit alleged "illegal harm and harassment of whooping cranes at and adjacent to Aransas National Wildlife Refuge in violation of the Endangered Species Act" caused by "reviews and approvals of water permits" on the Guadalupe and San Antonio rivers.

July 28, 2010

Judge Janis Jack rejected the state's and intervenors' arguments that the complaint should be dismissed because it did not state a valid legal claim for a number of reasons.

December 5,2011

Judge Jack holds an eight-day bench trial to hear the lawsuit. During the trial, the plaintiffs put on 10 expert witnesses, five citizen witnesses and two TCEQ employees as adverse witnesses. The defendants collectively called 11 expert witnesses.

March 1, 2012

Guadalupe-Blanco River Authority filed motion seeking that Judge Janis Jack recuse herself from the TAP vs. Bryan Shaw lawsuit, which the Judge subsequently denied.

"Examination of the 60-year trend in whooping crane abundance reveals a slow, incremental increase with occasional declines." — USFWS Report

count every crane, as the retired employee used to do, scientists now perform an abundance survey. USFWS changed its methods because agency scientists were not certain the previous counting method produced accurate numbers, given the crane's summer and winter homes, vast territory of 200 to 300 acres, movements, and ability to fly long distances.

The 2013 USFWS estimate puts whooping crane numbers for this year at a total of 279, including 257 in the birds' winter homeland on the Texas coast plus 22 out of the area. Last year's survey estimated a total of 267 cranes, including 254 on the primary grounds and 13 outside of the boundary.

"Examination of the 60-year trend in whooping crane abundance reveals a slow, incremental increase with occasional declines." said one Report. "Such increase has been the rule rather than large year-to-year fluctuation. We do not expect to see wide swings in population growth from one year to the next unless there is a catastrophic event, like a hail storm or chemical spill."

Combined with independent, GBRAfunded research occurring over seven years about crane habit and habitat, ongoing information indicates that the whooping cranes are increasing in Texas. However, because the issue of 23 cranes missing from a count was taken to court, the matter will be decided in court.

Here is the story of the most recent events in a tale that began in the 1940s, when whooping cranes dropped to an estimated 15 in number and were identified as an endangered species.

Battle over shrinking water supply

If it seems odd that whooping cranes are the focus of a Texas water battle, one has only to consider the intensity of the Texas drought. Rainfall far below normal has dropped lake levels and dried up rivers, wells, ponds and stock tanks, forcing those in charge of water policy to decide where to use it and search for new ways of responding to water demands.

Into this scenario came The Aransas Project (TAP), an organization that sued the Texas Commission on Environmental Quality (TCEQ), saying that upstream users were getting too much of the fresh water available and preventing more from flowing downstream. This practice, they said, increased the saltiness of the coastal bays that provide food for the cranes. This excess salinity, according to the court arguments, killed the cranes' major food source, blue crabs and wolfberries. TAP believes that cranes starved.

Whooping cranes spend about five months out of the year in Canada, and

migrate 2,500 miles between Canada and the Aransas National Wildlife Refuge (ANWR) in Texas each way. While flying to and from Canada, and while in Canada in the summer, whooping cranes do not have blue crabs and wolfberries available to eat. They therefore eat a varied diet.

Fueling TAP's claims was a report on 23 missing cranes made by that now-retired USFWS employee. He counted the birds from a Cessna aircraft above whooping crane wintering grounds near the ANWR on a portion of the Texas coast known as San Antonio Bay. When he flew over a crane territory, he assumed that a whooping crane was dead if he missed counting it on more than one flight. So when he counted 23 fewer whooping cranes during the winter 2008-2009 drought, he determined that 23 birds he did not see in the flyovers were dead.

The former employee predicted that the following year (winter 2009-2010), 247 cranes would arrive. But his peak estimate for that season was a "surprising high" of 264 cranes—17 more than he was expecting. This record low mortality rate, 2 percent, in the period immediately following the worst reported winter for whooping cranes is difficult to explain. The only reasonable explanation for the unexpected arrival of so many whooping cranes during 2009-2010 is that the

October 12,2012

Defendants and intervenors filed a motion to reopen the case to introduce into evidence the USFWS "Aransas-Wood Buffalo Whooping Crane Abundance Survey (2011-12)," which identified deficiencies in prior aerial survey methodology and described the protocol going forward for aerial surveys of whooping cranes for abundance estimates. The court denied the motion after finding the survey lacked probative value.

The Courts' Decisions

March 11,2013

Judge decided that TCEQ mismanagement of water permitting caused the death of 23 cranes, and issued an order prohibiting the TCEQ from issuing further water permits until the state creates a plan that protects the whooping cranes.

March 15, 2013

State Attorney General Greg Abbott moved that the federal district court stay its order. His motion was denied. He appealed on an emergency basis to the U.S. Fifth Circuit Court of Appeals.

March 26, 2013

The Fifth Court granted Abbott's stay request and agreed to hear the appeal in August 2013.

"GBRA's stewardship of the water resources within its territory is environmentally responsible and poses no threat to the whooping cranes." — Bill West



cranes he presumed were dead on the flyovers in 2008-2009 did not die , but went undetected.

The USFWS estimates the number of birds in the flock every year because the cranes are protected by the Endangered Species Act. In reporting by the USFWS, the estimates of the population of the flock have been increasing steadily. USFWS expects the whooping crane population estimates to surpass the 1,000 individuals needed for recovery and reclassification under the ESA by the target date of 2060.

Using the retired employee's 2008-2009 count as though it accurately identified not just an estimate of the flock but also the number of birds living and dead, TAP filed a lawsuit against the TCEQ in March 2010. The lawsuit claims the cranes died because the state allocated too much fresh water in the Guadalupe River for use upstream. GBRA filed a motion to intervene in the lawsuit as GBRA is the largest water rights holder in the basin.

The idea of 23 dead birds in a population of roughly 200 birds created concern among all parties involved in protecting whooping cranes. But people looking for 23 carcasses found only two full carcasses and two partial carcasses. The recovery of four carcasses represents less than 1.5 percent of the estimated whooping crane flock that year. In some prior years, the number of carcasses recovered as a percentage of the estimated flock has been much higher.

A veterinarian GBRA hired examined the necropsy reports conducted by the USFWS on the two carcasses at the national lab, explained Kathy Robb, an attorney working on behalf of GBRA. That veterinarian was one of the original founders of the lab, worked there for many years, and had

"The USFWS Whooping Crane Recovery Team has repeatedly stated that causes of whooping crane death cannot be determined unless a carcass is found and examined."

performed necropsies on whooping crane carcasses himself. He testified that the necropsy reports showed in one carcass an injury to the knee resulting in multiple infections. The former employee of USFWS had seen this injured crane alive and observed "limited foraging capability" as a result of the knee injury.

The necropsy report on the second carcass showed that the second crane had an infection and pustules in the esophagus, which would have caused difficulty eating. It had been killed and partially eaten by a predator. The two partial carcasses were not medically or forensically examined to determine a cause of death.

Because no one found more bird carcasses, some people believed that predators consumed the dead bodies. The USFWS Whooping Crane Recovery Team has repeatedly stated that causes of whooping crane death cannot be determined unless a carcass is found and examined.

U.S. Judge Janis Jack of Corpus Christi ruled March 11 in favor of TAP. Her ruling ordered the state to develop a plan to ensure fresh water for the cranes' habitat and further forbade the issuing of water permits in the meantime. At the request of the state and GBRA, the U.S. Fifth Circuit Court of Appeals stayed Judge Jack's ruling on March 26. The state asked for an emergency stay, saying the prohibition on issuing permits could cause the state harm. The stay means that Texas can issue water permits for now. The Fifth Court will hear the case in August.

What the parties' lawyers said

State lawyers did not want to comment for this story because of pending court action. But in a March 20 press release that announced the state was seeking a stay of the judge's order preventing TCEQ from issuing water permits, Attorney General Greg Abbott said, "Given the substantial threat that the lower court's decision poses to farmers, ranchers and communities along these significant Texas rivers, the State cannot afford to wait for the lengthy appeals process to play out — so we are seeking an emergency stay to set aside that legally flawed ruling as we vigorously pursue an appeal." He originally asked the federal district court in Corpus Christi for the stay on March 15. Judge Jack denied his request.

In his application to stay Judge Jack's final judgment pending appeal, Abbott said he thought the state would prevail for several reasons, including no causal link between the state's issuance of water withdrawal permits and effects on the whooping crane.

TAP attorney Jim Blackburn chose not to comment for this story. He said in a guest column in the *Victoria Advocate* that there were many ways to ensure that adequate fresh water reaches the bay in a balanced matter and urged against Texas "dragging its heels with lengthy appeals and the hefty price tag that goes with them."

Changing protocol on bird surveys

USFWS scientists changed the protocol from trying to count all the birds to estimating their numbers because of concerns about the methodology and accuracy of the count. The USFWS's "Aransas-Wood Buffalo Whooping Crane Abundance Survey (2011–2012)," published Sept. 24, 2012, says the agency knew it could not scientifically defend the agency's 60-year history of counting. Obtaining an accurate count of whooping cranes, or as they call it, a "true population

census," where every individual is counted, is not possible due to a large study area, the behavior of the birds--especially their movements, the density of vegetation, the fatigue of observers, and the methodology observers were using.

Three of the agency's scientists, Brad Strobel, Matthew Butler and Grant Harris, embarked upon a counting method that would include a scientifically defensible estimate of the annual peak abundance of the whooping crane population on and near Aransas Wildlife Refuge; the creation of models to help predict abundance of cranes in relation to the availability of food and water quality; and standardized data collection.

In previous surveys, the scientists noted, one observer and a pilot in an airplane surveyed the area. The observer examined the ground on the side of the plane away from the sun. When he saw a crane, the observer marked the location on a map. Afterward, the observer added the total numbers of adults and juveniles on each map. Even within the same year, the numbers varied. In two separate years, the method resulted in a bird being counted as "dead" and then identified as part of the flock count. That bird can be traced because it was color banded.

"The variability among surveys was likely caused by immigration and emigration of cranes to and from the surveyed area, difference in detectability, and observer errors," says the report from the three USFWS authors. "Crane sightings reported by the public led to conclusions of the minimum number of whooping cranes assumed to have been outside of the sampled area. The 'peak population size' reported each year was obtained by adding the highest number of cranes detected

"We are determined to ensure that this endangered species continues to thrive and the overall population to grow in their wintering quarters." — Bill West

during a given survey to the number of birds assumed to have been undetected within the surveyed area, or outside of the surveyed area at the time the survey was conducted."

The new protocol for inspecting the bird population includes seven surveys of the primary wintering grounds. Also, the agency has trained three new observers, said Wade Harrell, whooping crane recovery coordinator for the USFWS on the Texas coast. Harrell, who started in the position in September 2012, is one of the three, which includes two to do the surveys and an alternate.

Although state and GBRA officials provided the court with the USFWS revised protocol, the information came after testimony in the lawsuit had closed. The judge decided that the new counting protocol was preliminary and did not address the retired USFWS employee's concerns of whooping crane mortality and so refused requests to consider it as part of the evidence.

Harrell said the protocol will likely be preliminary for several years. "It's not quite ready for peer review yet," he said in an April interview for this story. The research scientists who devised the plan, the Inventory Monitoring Group, will send it out for "blind peer review," he said. That means they will not necessarily know the scientists who are reviewing the protocol. As comments come in, USFWS will continue to revise the protocol.

"The precision is broader than we would like right now," Harrell added. "The final draft will include tweaks for the next few years."

The state's water plan and GBRA

Although Judge Jack ruled that the state needs a new water plan to protect the

cranes, the state maintains that it already has one in place. Furthermore, neither the state nor GBRA officials agreed that 23 whooping cranes died. GBRA, which has studied the cranes extensively, said its own management of water supplies will be greatly hampered if the ruling stands.

Well in advance of the lawsuit filing, the GBRA, along with others including in-kind support from the USFWS, funded a seven-year, \$2 million Texas A&M scientific research study of the birds to better understand their needs and habitat. Because GBRA oversees a district encompassing 10 counties between Austin and San Antonio, including the migratory cranes' winter home at San Antonio Bay, the river authority's interest in the protected birds is intense. Final decisions coming from the lawsuit will affect Texas' ability to supply cities, farmers, businesses and homeowners with water, so the GBRA felt compelled to intervene in the lawsuit.

Bill West, GBRA's general manager, agrees with the attorney general that the federal government should not be making decisions about the state's use of water. GBRA determines water usage for its district in areas as near the coast as Victoria and Port Lavaca, and as far away from the coast as Refugio, Cuero, Gonzales, Seguin, San Marcos, Lockhart, Luling, Kerrville, Boerne and New Braunfels.

A look at a state map shows why West is concerned. The sprawling, diverse district cuts through the heart of Central Texas. A plan that rearranges how Texas allots water on the coast could result in shortages elsewhere. The state is already fighting the come-and-go drought, which has so far resulted in hundreds of acres of wildfires, water rationing in cities large and small, and a statewide cost of \$7.62 billion

in agricultural losses alone, according to a Texas A&M AgriLife Extension Service report.

West maintains that GBRA's thoughtful planning, made in concert with TCEQ and USFWS, helps maintain a healthy whooping crane flock while managing water for all. The judge's ruling encroaches on the state's responsibility, West said. "GBRA's stewardship of the water resources within its territory is environmentally responsible and poses no threat to the whooping cranes."

About the cranes

If birds and people speaking a common language is fantasy, the science of whooping cranes is not. The 5-foot-tall bird tells people about itself in numerous ways. From studying whooping cranes in depth since their numbers dropped to 15 in 1941, scientists can say where the birds eat, where they spend summers (Canada) and winters (Texas), what their territory is, and whether numbers in the whooping crane tribe are increasing or shrinking.

In short, people charged with overseeing their well-being are relying on hard science. The GBRA does not see the bird as an enemy or a burden, but as a resident of the planet that deserves human protection.

"We take enormous pride in the whooping cranes, and we are concerned with their well-being," West said. "We are determined to ensure that this endangered species continues to thrive and the overall population to grow in their wintering quarters." The lawsuit and the judge's order coming from it do not help the whooping cranes, he said -- contrary to headlines declaring "Big legal victory for cranes in Texas."

"The order assumes deaths that are not proven," West added, calling previous

"Given the substantial threat that the lower court's decision poses to farmers, ranchers and communities along these significant Texas rivers, the State cannot afford to wait for the lengthy appeals process to play out — so we are seeking an emergency stay to set aside that legally flawed ruling as we vigorously pursue an appeal." — Attorney General Gregg Abbott



bird counts "science that scientists have criticized."

As the state prepares for the August appeal of Judge Jack's order, West said he is looking forward to presenting GBRA's part of the case on its merits. "We are confident that the court will conclude that Judge Jack's decision should be reversed. In addition, we are proud that GBRA's stewardship of the water resources within its territory is environmentally responsible and poses no threat to the whooping cranes."

TPWD Provides Voluntary Conservation practices for Eagle Ford Shale Landowners

By Steve Jester

Oil and gas exploration has greatly increased in portions of the Guadalupe River basin primarily as a result of the discovery and development of the Eagle Ford Shale. The Eagle Ford Shale cuts from southwest to northeast across the middle part of the river basin. Landowners in this area are dealing with the infrastructure development that necessarily follows this activity including roads, well locations, pipelines and other development necessary for exploration and production of oil and gas resources.

Shale oil and gas in the United States is changing the global landscape of energy production and markets. The Eagle Ford Shale has been an economic boom for many Texas communities in south and south central Texas, but it has also brought challenges to surface landowners who manage their properties primarily for agriculture or wildlife. A challenge for many landowners in the region is that the mineral rights and surface rights have been severed in the past and in many instances voluntary cooperation with operators is the only option for surface owners. As a response to this development and associated challenges, Texas Parks and Wildlife Department has prepared a bulletin for landowners including voluntary conservation practices that can help balance wildlife conservation with oil and gas development in the Eagle Ford Shale region.

The bulletin is divided in to five sections including background, general guidance, planning before development, operations and

monitoring. The background information discusses the reasons behind the development of the bulleting. General guidance provides information on such things as utilizing existing roads and disturbed areas when possible and string to protect sensitive areas such as riparian areas. Planning discusses the need to engage petroleum operators with planning and preferred siting for activities from exploration through to remediation and restoration. Operations discusses items such as the importance of the location of fracking ponds, importance of erosion control and limiting introduction of exotic plan species among other issues. Finally, monitoring discusses the necessity of documenting the results of agreed to activities.

The bulleting, which was developed by the Texas Parks and Wildlife Department's Private Lands Advisory Committee, is available for both viewing or download at:

http://www.tpwd.state.tx.us/landwater/land/private/voluntary-conservation-practices/. Copies may be requested from county TPWD biologists — a list is available on the TPWD website: http://www.tpwd.state.tx.us/landwater/land/technical_guidance/biologists/.

Search Underway for New Executive Director

Executive Director of Guadalupe-Blanco River Trust (Trust) is an accredited 501(c)(3) land and water trust.

The Executive Director works closely with the Trust Board and the Guadalupe-Blanco River Authority. Position is responsible for implementing and managing a multi-faceted development program of land and water conservation projects including: finances; fundraising; administration; marketing, project development, implementation and monitoring; conservation easements; establishing landowner contacts; developing project partners; education and outreach; and board development.

Requirements:

- Bachelor's degree in related field; advanced degree desired.
- Five years experience with a land trust. Experience with an accredited land trust preferred. Land trust leadership experience desired.
- Must relocate within 60 miles of Seguin.

Competitive compensation and benefits. E-mail a detailed cover letter and résumé to Todd Votteler at tvotteler@gbra.org. Cover letter should include where applicant learned about the position. Position will remain open until filled. Please, no phone calls. A detailed position description is available online at http://www.gbra.org/documents/hr/ExecDirectorTrust.pdf.

Coleto Creek Reservoir Earns Best of the Best Recognition

In April, the *Victoria Advocate's* Annual "Best of the Best" segment announced Coleto Creek Reservoir was voted "Best Lake" for 2013.

Coleto Creek Park also picked up third place honors for both "Best Park" and "Best Picnic Spot" in the publication.

"We work very hard to make this reservoir and park a place where families can come to relax, play, and just have a good time," Wilfred Korth, Coleto's chief ranger said, adding, "So, we are pleased that the readers of the *Advocate* and who represent this region have selected Coleto as their recreational location of choice."



Magin Makes Environmental Excellence Finalist

The Texas Commission on Environmental Quality (TCEQ) named Debbie Magin, GBRA's director of Water Quality Services, a "finalist" for its 2013 Texas Environmental Excellence Awards.

For the recognition in the category of "Individuals," Magin will receive a certificate signed by Governor Rick Perry. All TCEQ Environmental Excellence honorees were recognized during a banquet May 1 at the Austin Convention Center.



In Memoriam: Bruce Wasinger 1952 – 2013



GBRA General Counsel Bruce Wasinger, 61, died peacefully on Saturday, April 20, 2013, at a Hospital in Austin, Texas, following a lengthy illness.

Wasinger, fondly called "Wasso," took on general counsel responsibilities at GBRA on May 19, 2008.

"I've known Bruce for many years and he wasn't just a colleague, he was a

friend," Bill West, GBRA's general manager said. "He was a very learned counsel and knew the water business as well as anyone. We will miss him both professionally and personally."

Before joining GBRA, he was a seasoned partner on water issues working for the law firm of Bickerstaff Heath Delgado Acosta, LLP. Wasinger also served as associate general counsel for the Lower Colorado River Authority for 17 years and was a staff attorney for the Texas Department of Water Resources. Prior to that, he was a staff attorney with the Kansas Department of Revenue and an assistant attorney general for the Office of the Attorney General of Kansas.

Wasinger earned his bachelor's degree in political science at Fort Hays State University in Kansas and his juris doctorate from Washburn Law School in Kansas.

Family and friends remembered Wasinger during a memorial service at 11 a.m. Saturday, April 27, in the Chapel of River Bend Baptist Church in Austin.

Wasinger is survived by his wife Shari, three stepsons, a stepdaughter, five grandchildren, his mother and two brothers.



GBRA recognizes the following employees for the dedication of service. (These employees started with GBRA between the months of February and May.)

February			
2/27/2013	Linda McPherson	Port Lavaca WTP	29
2/1/2013	Richard Gaona	Calhoun Canal	22
2/1/2013	William E. West, Jr.	General	19
2/4/2013	Cheryl Gorden	General	14
2/18/2013	Richard Gonzales	Lockhart WTP	10
2/1/2013	LaMarriol Smith	General	6
2/20/2013	Manuel Lopez	Hydro	1
2/27/2013	Enrique Segura	Western Canyon	1
March			
3/4/2013	Michael Schultze	Hydro	37
3/1/2013	Jim Wyatt	General	33
3/23/2013	John Smith	Water Supply	32
3/26/2013	Michael Tompkins	Calhoun Canal	29
3/31/2013	Marlon McAdams	Coleto Reservoir	27
3/21/2013	Richard Matheaus	RUD	25
3/15/2013	Michael Helmke	Hydro	9
3/29/2013	Christopher Lewis	General	8
3/21/2013	Leigh Crettenden	General	7
3/14/2013	Stephen Jester	General	2
3/7/2013	Lowell White	Luling WTP	2
3/11/2013	Amanda Johnson	General	New Hire
3/11/2013	Russell Hester	Hydro	New Hire
April			
4/16/2013	Darryl Jandt	Hydro	31
4/26/2013	Jim Lumley	Calhoun Canal	31
4/24/2013	Roland Henry	Hydro	26
4/7/2013	Reagan Ploetz	Hydro	26
4/11/2013	David Maltony	Hydro	18
4/22/2013	Curtis Gosnell	Calhoun Canal	11
4/5/2013	David Garcia	Port Lavaca WTP	7
4/13/2013	Paulette Cowey	General	7
4/17/2013	Brent Howard	Port Lavaca WTP	3
4/18/2013	Billy Penney	Calhoun Canal	2
4/24/2013	James Kelley	San Marcos WTP	1
4/8/2013	Rodney Guice	Calhoun Canal	New Hire

5/10/2013	Thomas Hill	Water Supply	3
5/17/2013	Juan Juarez	Hydro	3
5/2/2013	Joseph Downey	Luling WTP	3
5/5/2013	James King	Hydro	3
5/4/2013	Alvin Schuerg	General	3
5/31/2013	Alan Zolnosky	Coleto Recreation	3
5/19/2013	Michael Urrutia	Water Supply	2
5/1/2013	Leroy Garza	San Marcos WTP	2
5/1/2013	Yolanda Pierce	General	1
5/12/2013	Cynthia Thomas-Jime	enez General	1
5/2/2013	Norma Harvey	General	8
5/11/2013	Denise Lyssy	General	6
5/18/2013	Hunter Duncan	Western Canyon	6
5/19/2013	Bruce Wasinger	General	5
5/19/2013	Jaynellen Ladd	General	5
5/19/2013	Joey Kisiah	Port Lavaca WTP	5
5/4/2013	Clint Retzloff	Hydro	4
5/14/2013	Joseph Tschatschula	Port Lavaca WTP	2
5/23/2013	Casey Salinas	Lab	2
5/14/2013	Charles Hickman	Water Supply	1
5/21/2013	Charles Schnitz, Jr.	Hydro	1
5/7/2013	Daniel Beckendorf	Coleto Recreation	1

The information for the employee anniversary list was compiled by Dphne Harder, Human Resources Department of the Office of Finance and Administration.

Photo GBRA archives



Thomas Hill Photo by Connie Rothe

GBRA Training & Licenses

Richard Gaona of Calhoun Canal Division attended the TWUA Golden Crescent - Day School Pipeline Awareness training.

Rodney Guice of Calhoun Canal Division attended the TWUA Golden Crescent - Day School Pipeline Awareness training.

Billy Penney of Calhoun Canal Division attended the TWUA Golden Crescent - Day School Pipeline Awareness training.

Michael Tompkins of Calhoun Canal Division attended the TWUA Golden Crescent - Day School Pipeline Awareness and Revised Total Coliform Regs. training.

Herbert Wittliff of Calhoun Canal Division attended the TWUA Golden Crescent - Day School Pipeline Awareness training.

Ryan Boedeker of Calhoun County RWSS attended the TWUA Golden Crescent - Day School, TWUA - CSI/CCC and Pipeline Awareness training.

Kyle Caraway of Calhoun County RWSS attended the TWUA Golden Crescent - Day School, TWUA - CSI/CCC and Pipeline Awareness training.

Sheryll Kisiah of Calhoun County RWSS attended the TWUA Golden Crescent Revised Total Coliform Rule training.

Don Koble of Calhoun County RWSS attended the TWUA Golden Crescent - Day School Pipeline Awareness, Confined Space, and Revised Total Coliform Rule training.

Wilfred Korth, **Jr**. of Coleto Recreation attended the TWUA Day School and NOAA Drought and Fire Weather Symposium.

Jason Lewis of Coleto Recreation attended the TWUA Day School training.

Sara Vazquez of Coleto Recreation attended the IS-00100.b Introduction to the Incident Command System and the IS-00700.a National Incident Management System (NIMS) and Introduction training.

Alan Zolnosky of Coleto Recreation attended the TWUA Day School training.

Alan Schneider of Coleto Reservoir attended the NOAA Drought and Fire Weather Symposium.

Susan Hubbert of General Division attended the Advanced Financial Reporting in the field of Accounting (Governmental).

James King of Hydro Division attended the IS-00100.b Introduction to the Incident Command System and the IS-00700.a National Incident Management System (NIMS) and Introduction training.

Jeffrey McKee of Hydro Division attended Wastewater Collection training.

Roy Odom attended the IS-00100.b Introduction to the Incident Command System and the IS-00700.a National Incident Management System (NIMS) and Introduction training.

Kylie Gudgell of the water quality lab attended the GC/MS Training Seminar.

David Garcia of the Port Lavaca WTP division attended the TWUA Golden Crescent - Day School, Pipeline Awareness training, and the Texas Electrician CE Course.

Joey Kisiah of the Port Lavaca WTP division attended the TWUA Golden Crescent - Day School, Pipeline Awareness training.

David Lundin of the Port Lavaca WTP division attended the TWUA Golden Crescent - Day School, Revised Total Coliform Rule training.

Stephanie Shelly of the Port Lavaca WTP division attended the TWUA Golden Crescent - Day School, Revised Total Coliform Rule training.

Joseph Tschatschula of the Port Lavaca WTP division attended the TWUA Golden Crescent - Day School, Pipeline Awareness training.

Brian Lyssy of RUD attended Wastewater Collection training, and received his D Wastewater Treatment Operator license.

Ed Boettner of Shadow Creek Division attended the IS-00700.a National Incident Management System (NIMS) and Introduction, IS-00800.b National Response Framework, and Introduction and Technology Based Training: Water Utility Safety.

Darel Ball of Water Supply Division attended the TWUA Annual School - Trends and Technologies, and the TEXPERS Annual Conference.

Debbie Magin of Water Supply Division attended Introduction to Modeling Training.

Gerardo Rodriguez of Water Supply Division attended the IS-00100.b Introduction to the Incident Command System training.

Elizabeth Sedlacek of Water Supply Division attended the Disaster Management for Water and Wastewater Utilities training.

Hunter Duncan of Western Canyon attended Water Laboratory training.

Derek Schedibauer of Western Canyon attended Surface Water Production II training.

Joe Simmons of Western Canyon attended Surface Water Production I, Surface Water Production II, and Technology Based Training: Basic Water Works Operation.

Chris Harder of Western Canyon Division received his D Water Operator license.

Fred Hernandez of Shadow Creek Division received his C Wastewater Treatment Operator license.

James Kelley of San Marcos WTP received his C Surface Water Treatment Operator license.

Tommy Walenta of San Marcos WTP received his C Groundwater Treatment Operator license.



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Mark Your Calendar

May 15, 2013

GBRA Board Meeting River Annex Bldg., Seguin, TX

http://www.gbra.org/board/meetings.aspx

May 27, 2013

Memorial Day Observed GBRA Offices Closed

June 9-13, 2013

AWWA 2013 Annual Conference and Exposition Colorado Convention Center, Denver, CO

http://www.awwa.org/store/productdetail.aspx?productid=31811257

June 19, 2013

GBRA Board Meeting

River Annex Bldg., Seguin, TX

http://www.gbra.org/board/meetings.aspx

June 19-21, 2013

TWCA Mid-Year Conference

Moody Gardens Hotel, Galveston, TX

http://www.twca.org/meetings/midyear/2013/index.html

July 4, 2013

Independence Day GBRA Offices Closed

July 12, 2013

WRT / WEAT / TAWWA

Water Reuse in Texas: Extending Our Water Frontier

Austin Convention Center, Austin, TX

 $\label{lem:http://www.weat.org/events/2013TexasWaterReuseRegistrationFormFinal3.pdf$

July 17, 2013

GBRA Board Meeting

River Annex Bldg., Seguin, TX

http://www.gbra.org/board/meetings.aspx

July 29-31, 2013

NWRA Western Water Seminar

Skamania Lodge, Stevenson, WA

http://www.nwra.org/events/2013/7/western-water-seminar-3/

Coastal birds at the Aransas National Wildlife Refuge

