



NEWS

GUADALUPE-BLANCO RIVER AUTHORITY
933 EAST COURT STREET □ SEGUIN, TEXAS 78155 □ FAX [830] 379-9718

For more information, contact Judy Gardner, Guadalupe-Blanco River Authority
Tel: 830/379-5822; or email jgardner@gbra.org

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GBRA FACT SHEET IN RESPONSE TO FOCL NEWS RELEASE DATED APRIL 22, 2002

FOCL Statements and *GBRA Responses*

1. Judge Margaret Cooper’s decision “allows the Guadalupe-River Blanco Authority (*sic*) to begin selling bonds for a project to divert up to 90,000 acre-feet of water a year from Canyon Lake and sell it to various developers and municipalities.”
 - a. *Since 1956, GBRA has held a permit from the Texas Natural Resource Conservation Commission (TNRCC) to deliver 50,000 acre-feet of stored water each year from Canyon Reservoir. The permit amendment FOCL opposes was filed in 1997 for an additional 40,000 acre-feet, and has already been approved by TNRCC.*
 - b. *The additional water can be delivered without adversely affecting lake levels, because GBRA has subordinated its senior downstream hydroelectric water rights. GBRA no longer passes water through the lake just for hydro generation.*
 - c. *In addition to the flood control protection provided by Canyon Reservoir, its stored water capacity provides a primary source of water for some communities and industries, and a backup source for others during periods of low flow or drought.*
 - d. *Unfortunately, despite the fact that many communities such as Bulverde and Fair Oaks Ranch have signed contracts and are in desperate need of the newly-permitted water, GBRA cannot begin selling bonds until it has a final, unappealable permit. This will not happen until FOCL’s lawsuit has been dismissed, or settled.*
2. “FOCL had challenged the legality of that increased diversion, citing 19 specific administrative violations of state statutes in the preparation, filing and approval of the water diversion permit. Judge Cooper...refused to consider 18 of the pleas, and ruled

that the remaining plea, an alleged violation of the Open Meetings Act, was insufficient reason to delay issuance of the bonds.”

- a. *FOCL’s release incorrectly summarizes the issues and Judge Cooper’s rulings. Judge Cooper did not ‘refuse’ to consider 18 of FOCL’s points. She did consider them –and then she **denied** them as not having any merit!*
 - b. *She later ruled that GBRA did **not** violate the Open Meetings Act and she denied FOCL’s plea.*
 - c. *Most important, but not mentioned in the FOCL release, Judge Cooper enjoined (has forbidden) FOCL from filing additional suits regarding the permit.*
3. “The Guadalupe River Association notes that the demand on the Guadalupe River above Canyon Lake has become so extreme that the river went dry for three miles in length during the recent, relatively mild drought of 2000. GRA notes that there was no recharge to Canyon Lake at that time and there was no ability to pump from the river. A drought such as the one in 2000 would mean no recharge to the lake.....”
 - a) *Low flows are not the result of demand. They are a result of low rainfall and can be historically documented. During the summer of 2000, the lowest recorded inflow at the Spring Branch gauge (above the reservoir) was 5.7 cfs. There have been many other years when the flow approached zero, including:
1923 –5.4 cfs
1928 – 11 cfs
1934 – 7.5 cfs
1939 – 2.8 cfs
1948 – 13 cfs
1951 and 1952 – 0 cfs
1953 – 1.4 cfs

All these flow rates occurred during years when **very few** people placed ‘demand’ on the river. This reinforces the fact that drought is part of the river’s natural cycle.*
 - b) *The TNRCC (not GBRA) issues permits for use of river water, which belongs to the state. It does not issue permits that will ‘over-use’ or ‘overappropriate’ a river’s flow. During a drought, all permit holders are cut back or cut off. Contrary to FOCL’s claim, when shortages occur, they are the result of low rainfall, not ‘demand.’*
4. “American Rivers...announced two weeks ago that the Guadalupe River is now the 10th most endangered river in the United States, due, it claims to mismanagement and to the increasing demands on the river’s water for consumptive use. GBRA continues to commit to more uses of Guadalupe River water.”
 - a. *TNRCC is the state agency that ‘manages’ the demands and use of rivers in Texas. It does so by issuing permits for water consumption and use.*

- b. *The water that GBRA ‘commits’ is water that has first been authorized and approved by TNRCC.*
- c. *American Rivers, in order to continue to attract donations and members, must ‘create’ issues that generate public interest. Issuing lists of ‘endangered rivers’ serves this purpose and also supports their national position of ‘no growth.’ Texas has some of the best-managed rivers in the nation and the Guadalupe is one of them, as stated in American Rivers own news release:*

"From its spring-fed headwaters between Austin and San Antonio, the Guadalupe River crosses rugged limestone hill country until it reaches the Balcones Escarpment, where the hills give way to rolling prairies. Here the river is bolstered by the San Marcos River, a spring-fed tributary. **Both rivers are favorites with anglers, boaters, and other outdoor enthusiasts, and support diverse aquatic plant and animal life. Unfortunately, the high quality and the reliability of the water makes it an attractive target for water supply development.**

- d. *GBRA has been the steward of the Guadalupe River Basin for almost 70 years. We are very proud of the fact that under our care, its rivers have thrived as part of our efforts to protect these precious natural resources.*
5. "GBRA operates a large, wastewater treatment plant on the north shore of Canyon Lake...this plant is to be expanded to accommodate a large addition to a huge time-share resort. An environmental assessment appears necessary to assure water quality...."
- a) *The Canyon Park Wastewater Treatment Plant is not a ‘large’ plant, but rather one of five, small plants operated by GBRA’s Rural Utilities Division. The plant has a daily capacity of 0.1 million gallons per day (mgd), compared to GBRA’s largest plant that has a daily capacity of 9.6 mgd. Since the early 1970’s, these plants have treated wastewater, produced high quality effluent, and helped protect the water quality in rural communities that would otherwise rely on septic tanks.*
 - b) *The Canyon Park Plant uses tertiary treatment that meets the highest TNRCC standards and all environmental permits.*
 - c) *By opposing the possible expansion of the Canyon Plant and its state-of-the-art wastewater treatment, FOCL ensures that the only alternative for development around Canyon Reservoir will be the use of septic tanks—with the potential for leakage of pollutants into ground and surface water.*
6. "A geologist. . .claims that the soft terrain in which the lake was formed is fragile and subject to crumbling when subjected to alternate periods of wetting and drying. FOCL is hiring another independent geologist to verify those claims."
- a) *GBRA has obtained a copy of this report and is studying it. The geologist mentioned by FOCL is referring to shoreline area around Canyon Reservoir, not the dam. He raises the issue but makes no conclusions.*
 - b) *This area was studied extensively for many years by the U.S. Army Corps of Engineers, prior to the construction of Canyon Dam and Reservoir. One of the*

study components was the fact that the lake's elevation would fluctuate due to flooding and drought. The Corps' Engineers concluded that the geology was suitable and selected this site for the dam and reservoir.

- c) *The dam is examined regularly for structural integrity and there has never been cause for concern – it regularly passes every inspection.*
7. “GBRA is funded through the capture and sale of water from the river and lake...also receives some income from hydroelectric, wastewater treatment and interest. This method of state funding creates an inherent conflict of interest for GBRA, since unused and unsold water generates no revenue....GBRA's interest is in committing every drop of water possible for sale....”
- a) *GBRA receives no state funding and has no taxing authority.*
 - b) *GBRA's revenue is derived from a wide variety of sources, including the sale of water, hydroelectric generation, recreation use fees and some rental income. The water treatment and wastewater treatment operations that GBRA provides to communities are 'cost of service' – which means that the customer only pays GBRA's actual costs incurred in operating the plant.*
 - c) *Any revenue derived from GBRA hydroelectric generation, water sales, and other operations is used to provide services to the citizens and communities of the river basin..*
 - d) *The water that GBRA is authorized to sell is water that has been authorized by TNRCC. GBRA does not 'create' sales – we simply respond to the needs of customers. The customers will only contract for water if, and only if, there is a bona fide need.*
8. “GBRA's rates are based on their cost – the higher the cost, the higher GBRA's fees and resultant revenues. There are no incentives to keep costs down as there are in the private sector. **Significant legislative reform is needed to curb these abuses of government power.....**”
- a) *There are **no** 'abuses of government power.'*
 - b) *GBRA's rates are based on cost and follow state regulatory guidelines.*
 - c) *There are **most definitely** incentives to keep costs down. The cities and industries we serve must stay within their budget, which helps to ensure that our rates are competitive with other providers.*
 - d) *Because GBRA is subject to TNRCC regulatory rate review and oversight in the case of hydroelectric and water rates, there is **most definitely** legislative oversight in these areas.*
 - e) *Any revenues retained by GBRA must be used to provide services to our constituents – unlike private corporations, there are no “owners” benefiting from profits.*
9. “GBRA's board of directors includes a number of developers and real estate agents, thus inviting further claims of a conflict of interest. FOCL ...would like to see GBRA and

other quasi-governmental agencies funded from the state's General Fund, and fewer developers on the GBRA board.”

- a) *GBRA does not select its Board members. They are appointed by the Governor and confirmed by the Texas Senate.*
- b) *Great care is taken to appoint board members who represent a broad range of interests across the public sector.*