

GUADALUPE BASIN COALITION

c/o Greater New Braunfels Chamber of Commerce
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RESOLUTION NO. 2006-1

A RESOLUTION EXPRESSING THE GUADALUPE BASIN COALITION'S POSITION ON POSSIBLE AMENDMENTS TO THE EDWARDS AQUIFER AUTHORITY ACT

WHEREAS, the Texas Legislature, in enacting the Edwards Aquifer Authority Act (EAA Act) as Senate Bill 1477 in 1993, recognized the fact that the Edwards Aquifer and the Guadalupe River basin comprise a unified hydrologic system, and increasing withdrawals from the Edwards Aquifer have the direct effect of decreasing the flows at the two largest spring systems in Texas, Comal Springs in New Braunfels and San Marcos Springs in San Marcos, with corresponding decreases in flows in the Guadalupe River basin; and

WHEREAS, the EAA Act sets limits on permitted pumping from the aquifer (450,000 acre-feet/year, decreasing to 400,000 as of January 1, 2008), but the Edwards Aquifer Authority (EAA) has issued permits that total approximately 549,000 acre-feet/year; and

WHEREAS, the EAA's Board of Directors has proposed the following four-element plan (EAA Plan) for amending the EAA Act:

1. Increase the limit on authorized annual withdrawals from the Aquifer from the present cap of 450,000 acre-feet to the sum of the initial regular permits (approximately 549,000 acre-feet), and eliminate the reduction to 400,000 acre-feet scheduled to occur in 2008;
2. Define critical period reduction parameters in the EAA Act rather than by rules adopted by the EAA Board. A limit on permitted withdrawals to an annual rate of 340,000 acre-feet per year would apply "when all of the pools of the Aquifer are at the most severe critical period levels";
3. Provide that any reductions in permits would be paid for 50% by downstream water rights holders in the Guadalupe River Basin and 50% by the EAA (with all EAA permit holders contributing proportionally to the cost); and
4. Allow for the EAA to build recharge structures and issue bonds; and

WHEREAS, under Item 1 of the EAA Plan, the total amount of authorized permits would increase by 22%. This could lead to a sustained increased reliance on the Edwards Aquifer. This increased reliance on the Aquifer, combined with the critical period reduction "floor" of 340,000 acre-feet per year in Item 2 of

the EAA Plan, would likely lead to cessation of the flow of the Comal Springs, and perhaps even the San Marcos Springs, in dry periods. This would mean that downstream interests would have little to no river flow while at the same time Edwards pumpers would be guaranteed 75% of their current senior permit amounts; and

WHEREAS, Items 1 and 2 of the EAA Plan represent a significant departure from the original intent of the EAA Act, tipping the balance dramatically towards those who rely on Aquifer pumping at the expense of those who rely on Aquifer springflows; and

WHEREAS, Item 3 of the EAA Plan flies in the face of the entire reason for increasing the permit cap, i.e., to eliminate any need for compensation related to permit reductions. Compared with existing provisions of the EAA Act which make EAA permit holders responsible for any needed compensation for a) the reduction from 549,000 to 450,000 acre-feet and b) one-half of the reduction from 450,000 to 400,000 acre-feet, with Guadalupe basin permit holders responsible for the other half of the reduction from 450,000 to 400,000 acre-feet, the EAA proposal would increase the cost share burden for Guadalupe basin permit holders from 17% to 50%; now therefore

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GUADALUPE BASIN COALITION:

SECTION 1. The Guadalupe Basin Coalition would not oppose legislation to increase the limits on withdrawals from the Edwards Aquifer to the sum of all permits issued by the EAA, under the following conditions:

- A. The legislation must include a five-stage critical period management plan. Critical period stages would be triggered by the level of flows at Comal Springs or San Marcos Springs or the J-17 Index Well level. To determine whether a reduction to the level I, II, or III maximum amount is required, the EAA would track the average daily Comal Springs and San Marcos Springs discharge rates and J-17 Index Well level measured over each period of five consecutive days. To determine whether a reduction in pumping to the level IV or V maximum amount is required, the EAA would track the average daily Comal Springs and San Marcos Springs discharge rates and J-17 Index Well level measured for any five days in a period of 10 consecutive days. Required reductions would be in accordance with the following:

Critical Period Withdrawal Reduction Stages

Comal Springs Flow cfs	San Marcos Springs Flow cfs	Index Well J-17 Level MSL	Critical Period Stage	Withdrawal Reduction - San Antonio Pool	Withdrawal Reduction - Uvalde Pool
<300	110	675	I	10%	5%
<250	96	665	II	15%	10%
<200	80	650	III	25%	15%
<150	60	640	IV	35%	20%
<100	50	630	V	40%	30%

- B. The legislation must create an Emergency Task Force, to remain in place until the Cooperative Agreement in Section 1 C. below is executed by all parties. The Task Force would be convened by the EAA board chair or chief executive officer during periods when Stage IV or Stage V of the critical period management plan is in effect. The Task Force would be composed of the presiding officer or chief executive officer of the EAA, GBRA, Texas Parks and Wildlife Department, the San Antonio Water System, the Texas Water Development Board, and the Texas Commission on Environmental Quality. The Task Force would be empowered to decrease the maximum levels of aquifer withdrawals for periods of not more than 30 days. The EAA would publish a public notice of each decrease, together with a statement of justification provided by the Task Force. The Task Force would be required to conclude its activities upon return of the flows at Comal Springs to a level above the Stage I trigger level for at least 30 consecutive days.
- C. The legislation must require the State (through the Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, Texas Department of Agriculture and Texas Water Development Board) to develop a draft Cooperative Agreement under Section 6 of the Endangered Species Act for conservation of the endangered and threatened species in the Comal Springs and San Marcos Springs ecosystems, and submit the Cooperative Agreement to the U.S. Fish and Wildlife Service no later than January 1, 2008. The primary purposes of the agreement will be to 1) achieve a consensus agreement among stakeholders on a management plan to conserve the spring ecosystems and the listed species, and 2) preclude litigation related to the spring ecosystems and the listed species. The legislation must require the State to secure approval of the Cooperative Agreement from the U.S. Fish and Wildlife Service no later than January 1, 2012, and it must require the State to execute the agreement no later than January 1, 2012. Other signatories to the Cooperative Agreement could include the EAA, SAWS, GBRA, SCTWAC, the Guadalupe Basin Coalition, the Texas Farm Bureau, and environmental groups.
- D. The Cooperative Agreement in C. above would include agreements by the

parties to pursue grant funding to the greatest extent possible from all available state, federal and other sources for eligible elements of the programs included in the Cooperative Agreement.

- E. The legislation must not provide for permit holders in the Guadalupe basin to contribute to any needed compensation for reductions in EAA permits because the increase in the permit cap would eliminate any need for compensation related to permit reductions, and the Cooperative Agreement described in C. above would minimize the risks of litigation over management of the Aquifer.

SECTION 2. This Resolution takes effect immediately upon adoption.

ADOPTED on November 9, 2006.

C H A I R M A N

Attest:

S E C R E T A R Y