GBRA River Run

A publication of the GUADALUPE-BLANCO RIVER AUTHORITY *Winter/Spring 2012*

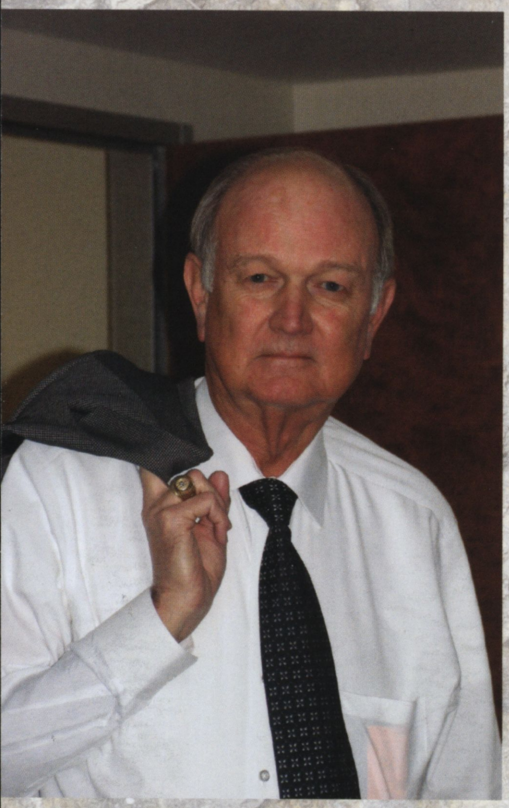
Building A Habitat Conservation Plan

50th Texas Water Safari ◆ *Board Elects Officers* ◆ *Whooper Lawsuit Update*

From the GM

Issues Affecting the Basin Are Reaching a Head

Recent rainfall across the state over the past two months has begun to change the severity of the drought in some areas. However, rainfall has not benefited the area above Canyon Reservoir as much as in other parts of the state. So as drought conditions persist in GBRA's upper basin region, GBRA and its peers must continue to be vigilant in stewardship of water resources. Two such efforts are worth review. The serious efforts of the stakeholders involved in the Edwards Aquifer Recovery Implementation Program (EARIP) are reaching fruition and will pay off in the long run, and the trial phase of the federal case of The Aransas Project (TAP) v. Shaw has ended.



The EARIP Steering Committee, including a representative of the GBRA, approved the draft habitat conservation plan (HCP) for critical period management of the Edwards Aquifer. The HCP completes four years of work to balance use of aquifer water supply with the needs of endangered and threatened species.

Ultimately, the HCP provides greater protection for Comal and San Marcos springs and those species dependent on the springs while responsibly managing cities', industries' and agricultural uses of the aquifer supply from these sources on down to San Antonio Bay. Thus, the plan will have impacts beyond the Edwards Aquifer region and the Guadalupe River Basin for the coming decades. The HCP must be reviewed by U.S. Fish and Wildlife Service staff, and upon approval, may be implemented. Barring any significant glitches, the HCP implementation could occur within a year. More details about this multi-year undertaking can be read in the story on page 8.

The other important issue I have referenced is the end of the trial phase of TAP v. Shaw, the lawsuit that alleged the Texas Commission on Environmental Quality (TCEQ) violated the "taking" provision of Section 9 of the Endangered Species Act through mismanaging water permitting on the Guadalupe and San Antonio rivers. TAP contends that the alleged mismanagement led to the deaths of more than 20 endangered whooping cranes that winter at the Aransas National Wildlife Refuge. GBRA's motion to intervene as defendants in the case was granted in April 2010. The trial began on Monday, Dec. 5, 2011, in U.S. District Court in Corpus Christi with Judge Janis Graham Jack presiding, and testimony ended Friday, Dec. 16, 2011.

This case is important to how GBRA and all of Texas manages its water resources because the remedies sought by TAP could require extensive intervention into Texas water resource management by the federal government and possibly reallocation of water rights, including senior water rights.

Final resolution of these two important issues will affect both surface and groundwater supplies in the Guadalupe River Basin and how those supplies are managed in the future, power availability and economic development and sustainability. Exceptional droughts like the one Texas most recently endured in 2011 will only add to the challenges this region faces. Be sure to read more about the status of the case on page 12.

W. E. "Bill" West, Jr.
General Manager

Guadalupe-Blanco River Authority

Board of Directors
Grace G. Kunde, Chair (Guadalupe County)
Oscar H. Fogle, Vice Chair (Caldwell County)
Arlene N. Marshall, Secretary/Treasurer (Calhoun County)
Rusty Brockman (Comal County)
Dennis L. Patillo (Victoria County)
Unfilled (DeWitt County)
Myrna McLeroy (Gonzales County)
Jim Powers (Hays County)
Tommy Mathews (Kendall County)
Frank J. Pagel (Refugio County)

Executive Management
William E. "Bill" West, Jr., President and General Manager
Alvin Schuerg, Executive Manager of Finance and Administration
Todd Votteler, Executive Manager of Science, Intergovernmental Relations and Policy
David Welsch, Executive Manager of Business Development and Resource Management
James Murphy, Executive Manager of Water Resources and Utility Operations
Bruce Wasinger, General Counsel

GBRA River Run
Winter/Spring 2012

Editor
LaMarriol Smith, Chief Strategic Communications and Public Affairs Officer

Art Direction and Design
Connie Rothe, Board Relations and Publications Specialist

Editorial
Tammy Beutnagel, Public Communications Assistant
Cinde Thomas-Jimenez, Environmental Education Administrator
LaMarriol Smith

GBRA River Run is published by the Office of Communications and Education of the Guadalupe-Blanco River Authority. The Office of Communications and Education retains the right to determine the editorial content and presentation of information contained herein. Articles or opinion written by guest writers do not necessarily reflect official views or policy of the GBRA or its Board of Directors.

Contact GBRA River Run:
Office of Communications and Education
Guadalupe-Blanco River Authority
933 E. Court
Seguin, TX 78155
Editor: (830) 379-5822
Email: editor@gbra.org

The Guadalupe-Blanco River Authority is an Equal Opportunity Employer. It is the policy of GBRA not to discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, political affiliation, veteran status or disability.

© 2012 Guadalupe-Blanco River Authority

w w w . g b r a . o r g

Contents

River Run **Winter/Spring 2012**

Departments

2 | Field and Office

11 | The Trust

15 | Inside GBRA

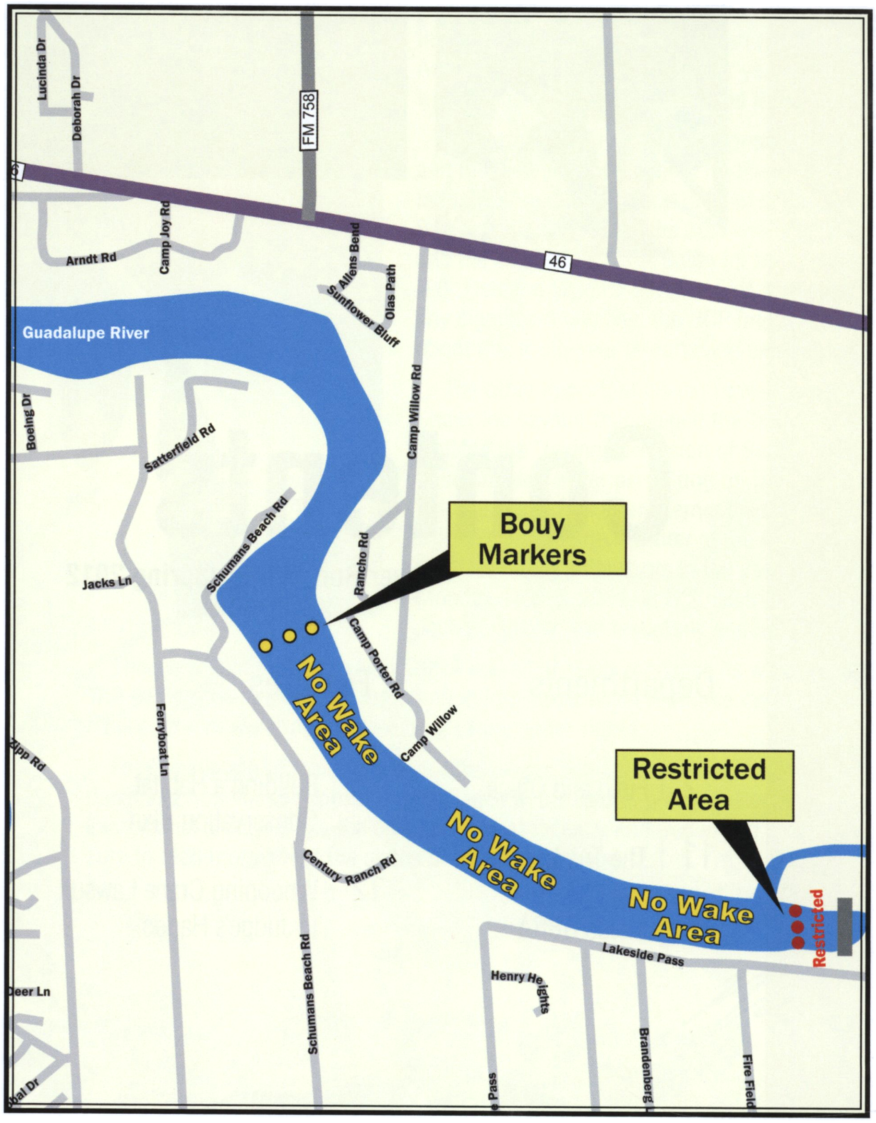
Features

8 | Building a Habitat Conservation Plan

12 | Whooping Crane Lawsuit in Judge's Hands

Front cover: by Connie Rothe
Back cover photo: by LaMarriol Smith

Lake DUNLAP Gets No-Wake Zone



Lake Dunlap No Wake Zone Near Dam Map by Janet Thorne

Stump Removal Guidelines Set

Effective Jan. 31, 2012, GBRA officials enacted a no-wake speed area on a portion of Lake Dunlap from the north end of Camp Porter Road to Lake Dunlap Dam.

The no-wake action resulted after private individuals, acting without authorization, partially removed a significant number of tree stumps within the stump field on Lake Dunlap causing potentially hazardous conditions in that area of the lake.

GBRA officials found that it was in the best interest of public safety to restrict the use of a portion of Lake Dunlap, and in accordance with a GBRA Board Resolution approved Jan. 18, 2012, the GBRA general manager established the no-wake zone. The affected area, which will remain in effect until further notice, has been identified with buoys.

In addition to setting the no-wake zone, GBRA officials also put into effect new stump-removal guidelines for all of GBRA's hydroelectric lakes, which include lakes Dunlap, McQueeney, Placid, Nolte, Gonzales (H-4) and Wood (H-5).

The stump-removal guidelines, which can be viewed online at http://www.gbra.org/documents/lakemanagement/StumpRemovalGuidelines.pdf, require individuals to coordinate with GBRA and complete a construction application that would detail the scope of the project, method of stump removal, disposal and mitigation measures related to adverse impacts to water quality and aquatic species.

Basin Shorts

GBRA Board Adopts Changes in Coleto Creek Reservoir Park Usage

The GBRA Board of Directors adopted several changes to its "rules and regulations" governing Coleto Creek Park and Recreational Facility during its October board meeting recently held in Port Lavaca, Texas.

The most significant change has to do with the prohibition of certain types of motor craft. "Effective immediately, the use of boats with above-water exhaust has been prohibited on Coleto Creek Reservoir," Wilfred Korth, chief ranger at GBRA's Coleto Creek Park, said.

Due to ever-changing use patterns and conditions, GBRA staff members review park use policies on a regular basis to ensure the ongoing safety and health of the general public who use the park and reservoir, Korth explained, adding that the latest rule changes were made with consideration of public safety in mind.

An overview of general rules at Coleto Creek Park may be viewed online at http://www.gbra.org/coletocreekpark/rules.aspx.

Agencies Sponsor Riparian Workshop

Landowners who have property located in riparian areas may benefit from a free workshop offered by the Guadalupe-Blanco River Trust (GBR Trust) along with resource management specialists from Texas Parks and Wildlife Department (TPWD) and the U.S. Department of Agriculture's Natural Resources Conservation Service.

The free riparian area workshop for landowners is being held March 28, 2012, from 9 a.m. to 4 p.m. in Victoria, Texas. Functional riparian, or streamside areas provide a wide range of advantages to both people and wildlife, and interest in management of such areas has been growing steadily throughout the state.

Workshop topics will include an introduction to riparian areas, riparian vegetation and hydrology along with information on riparian practices and programs and landowner management associations. Following the classroom session in the morning, participants will be taken on a field trip to a riparian area to observe and discuss some of the principles and concepts presented.

Lunch also will be provided, but space is limited. **Pre-registration is required**. Please contact Steve Jester with the GBR Trust at (830) 660-3486 or sjester@gbrtrust.org to reserve a place in the workshop.

Regional Lab Director Earns TWUA Award

The Texas Water Utilities Association (TWUA) recognized GBRA's Regional Laboratory Director Josephine "Josie" Longoria with an "Outstanding Service" award for the Lab Analyst Section during its Annual School held Mar. 4, 2012, in Corpus Christi.

The "Outstanding Service" award is given for Longoria's contributions to the industry, the environment and public health.

"TWUA's recognition of Josie is a confirmation of the qualities we've long known her to possess," said Debbie Magin, GBRA's director of Water Quality Services, adding, "But it is especially nice when our professional associations and peers take notice of those attributes as well."

Texas Lineman's Rodeo Approaching

The fun and festivities of the Texas Lineman's Rodeo Association's (TLRA) Rodeo will take place Friday and Saturday, July 20–21, 2012, at GBRA's Nolte Island in Seguin.

In addition to the actual lineman's rodeo, cooks will compete in the Seventh TLRA Annual Bar-B-Q Cook-Off, which presents trophies for first, second and third places and for "overall winner" in brisket, chicken and ribs categories.

Registrations for the cook-off must be turned in by June 29, 2012. Entry forms and copies of the rules and regulations may be obtained from Terry Thornhill, (830) 420-3600.

GBRA's Environmental Education Administrator Cinde Thomas-Jimenez goes over a water quality lesson with Lockhart students as part of the Lockhart State Park Program.

Photo by Josh Oyer, TPWD

CORDILLERA RANCH

WWTP Earns Plant of the Year

The Water Environment Association of Texas (WEAT) recently recognized GBRA's Cordillera Ranch Wastewater Treatment Plant as its "Municipal Wastewater Treatment Plant of the Year, Category 1."

In a notification letter from WEAT dated Feb. 28, WEAT Awards Committee Chair Kimberly Chanslor, P.E., said the award is "presented to a municipal wastewater treatment plant in Texas that has consistently exhibited outstanding performance of daily activities beyond the normal call of duty."

Category 1 facilities are those that have flow rates of less than a million gallons per day. Cordillera, which began operation in February 2008, is a membrane wastewater treatment plant and is authorized to discharge 64,000 gallons per day. The Cordillera Team has been able to operate the Cordillera Ranch WWTP so that it consistently produces high quality effluent for golf course reuse, while at the same time maintaining all equipment and ensuring a safe work environment.

Cordillera plant operators will receive the award during a ceremony at Texas Water 2012 on Thursday, April 12, 2012, at the Henry B. Gonzales Convention Center in San Antonio, Texas.

Mike Urrutia, GBRA's division manager for Comal and Kendall counties, said, "I am very proud of the work that the Cordillera Team has done at the Cordillera Ranch Wastewater Treatment Plant. They have learned a new state of the art technology to treat wastewater with little help.

"Jeff Hebert and Allen Lawson have done an exceptional job with the maintenance of the plant and have performed their job in a safe manner," Juan Vasquez, plant manager for Western Canyon, said, adding, "A lot of people forget that in order for the plant to win awards, the collection system needs to be at its best, and these guys have done a great job with little of my supervision."

Urrutia said, "The plant is in great shape due to the maintenance they perform routinely. Performing their jobs safely, organizing work areas and applying 'continuous improvement' also is a top priority. The Wastewater plant of the year award is a great honor for all of their hard work."

Vasquez described the operators as a "great team" and said, "I would not trade them for a new truck."

(L-R) Allen Lawson, Juan Vasquez and Jeff Hebert

Photo by Mike Urrutia

Lake Wood Park
Boat Ramp Opens

After a lengthy funding process and construction, a new boat ramp on the Guadalupe River located at the Lake Wood Recreation Area (H-5) in Gonzales County recently opened. Although crews still have to complete final enhancements at the ramp, it is open for use.

The Lake Wood boat ramp rehabilitation project primarily was funded by a grant obtained through the Texas Parks and Wildlife Department (TPWD).

The project, anticipated to cost about $100,000, involved removing an existing 12-foot wide concrete boat ramp that was to be replaced with a 14-foot wide ramp and sidewalk. Materials pulled from the water, such as concrete bulkheads and concrete ramp were hauled away. The new ramp construction design was built according to the States Organization for Boating Access (SOBA) guidelines and U.S. Access Board recommendations for accessible boating facilities.

TPWD awarded GBRA the maximum $75,000 allowable for this particular project with GBRA funding the remaining cost.

"Completion of this ramp couldn't come a moment too soon," said David Welsch, GBRA's executive manager for business development and resource management. "Having a ramp of this quality at Lake Wood will benefit all of the boaters, paddlers and lake users in Gonzales County and the lower basin region."

Texas Water Safari Celebrates 50 Years

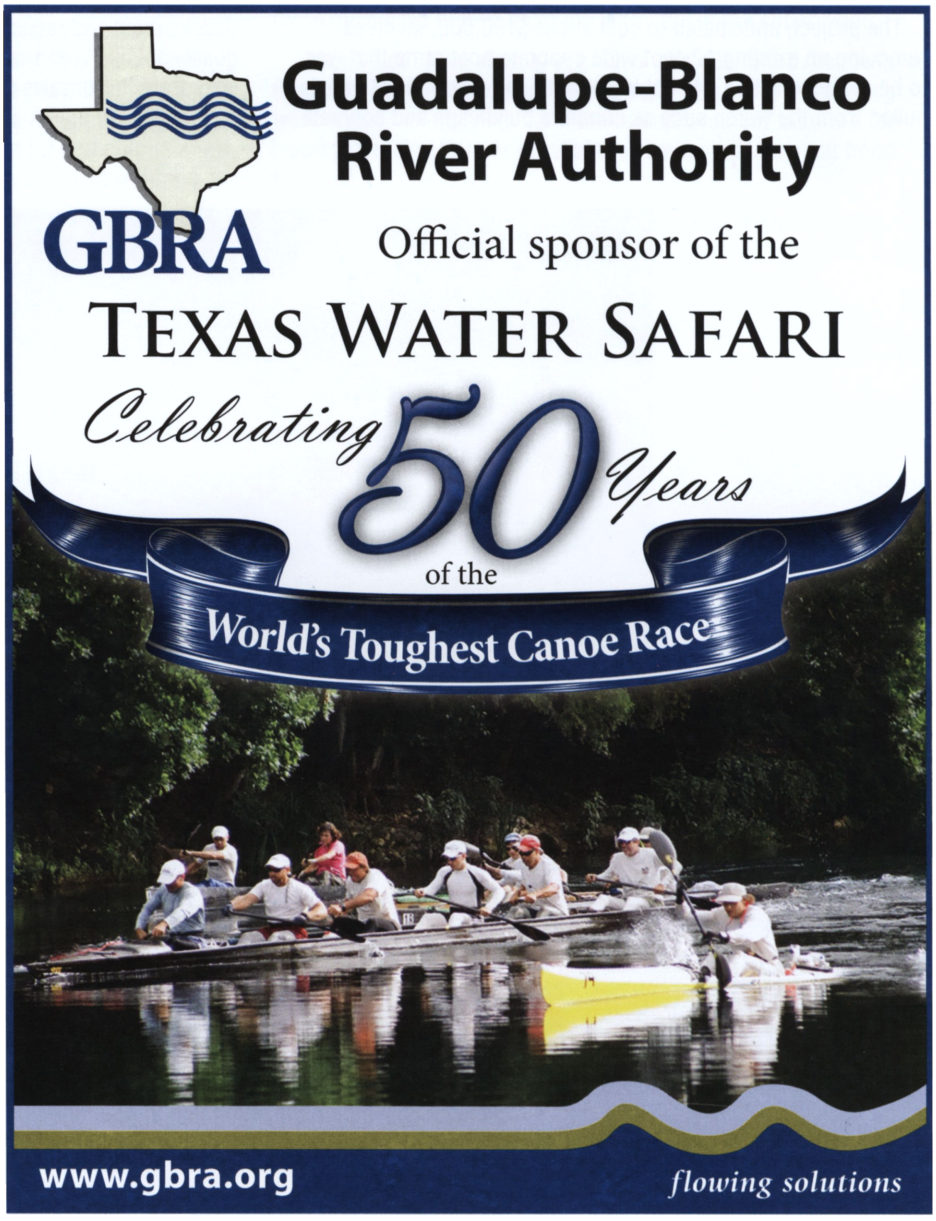
On June 9, 2012, paddlers from all over the world will line up at Spring Lake in San Marcos, Texas, for the 50th time to compete in the 260-mile Texas Water Safari.

This non-stop canoe/kayak race from San Marcos to the Texas coast is more than just a race – it is a test of endurance for the body and mind. Participants must endure not only Texas' hot summer weather, but also dam portages, poison ivy, rapids, snakes, alligators, insect bites, sunburn, sore muscles and the competition of about 100 other teams to see who reigns superior in the "World's Toughest Canoe Race!"

For some participants, the 2012 Texas Water Safari race will be their first entry on the waters of the San Marcos and Guadalupe rivers. For others, it will be a seasoned annual venture to paddle down to San Antonio Bay and cross over to the finish line at Seadrift, Texas. Details on how to sign up to compete in the Texas Water Safari are available on the website: http://www.texaswatersafari.org

---

For more information, contact:
Bob Spain 512-263-2751



GBRA Directors Re-Elect Kunde, Fogle and Marshall as 2012 Board Officers

At the December meeting in Seguin, the Guadalupe-Blanco River Authority (GBRA) Board of Directors re-elected current board officers for 2012. Grace Kunde of Guadalupe County, will continue as chair, Oscar Fogle of Caldwell County as vice-chair, and Arlene Marshall of Calhoun County as secretary/treasurer.

Kunde earned her bachelor's degree in accounting from Texas Lutheran University and her law degree from St. Mary's University School of Law. She is a private practice attorney in Seguin and a member of the College of the State Bar of Texas, the San Antonio Bar Association, and the Guadalupe County Bar Association.

Kunde volunteers her time to church, civic, and political activities. She is a member of Redeemer United Church of Christ, the Seguin Rotary Club, a member and former president of the Guadalupe County Republican Women, a former Guadalupe County Republican Party precinct chair and is a former member of the Board of Trustees of the Guadalupe-Blanco River Trust.

Kunde previously served on the Board of Directors for the Comal County Children's Shelter as treasurer and president and a member of the Advisory Board.

Fogle and his wife Susie own and operate Oak Hill Ranch, where they have a commercial cattle business and employ several wildlife management practices. He is a veteran of the United States Air Force and retired from a career with Exxon Corporation. As a member of Exxon's International Oil Spill Response Team, Fogle was a deputy taskforce commander during the Exxon Valdez oil spill clean-up operations.

Fogle attended Texas A&I University, now Texas A&M-Kingsville. He is a past president of the Texas A&I Alumni Association, and served for sixteen years on the Board of Trustees for the Texas A&M-Kingsville Foundation.

Fogle serves as chair of the Agricultural Advisory Committee for the Caldwell County Appraisal District, serves on the Executive Committee of Envision Central Texas, serves on the Steering Committee of the Plum Creek Watershed Partnership, serves on the Board of Trustees of the Guadalupe-Blanco River Trust, is an active member of the Caldwell County Republican Party, and is a life member of the National Rifle Association and Texas State Rifle Association. Fogle is a member of the First United Methodist Church in Lockhart, where he is a certified lay speaker and serves as the vice-chair of the Board of Trustees.

Marshall is a former County Judge for Calhoun County, served as president of the Calhoun County Economic Development Corporation, and owned and operated Newman International, Inc., in Houston, buying and exporting oil and gas field equipment.

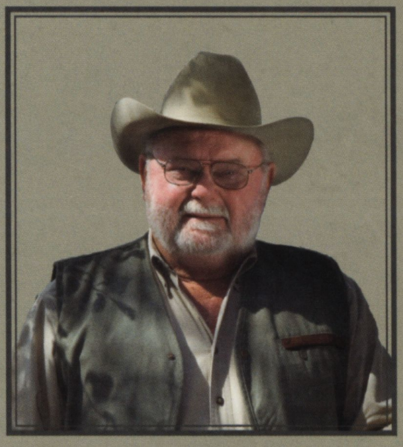
Marshall earned her bachelor's degree at the University of Houston, and currently serves on the Board of Directors for the University of Houston-Victoria Regional Advisory Board, the Victoria College Foundation, and serves as Chair of the Victoria College Calhoun County Campus Advisory Board.

Marshall also serves as director for the Workforce Solutions of Golden Crescent, is Past President of the Port Lavaca Rotary Club, Vice President of the Matagorda Island Foundation, and has been appointed a member of the Governor's EMS and Trauma Advisory Council. She is a member of Six Mile Assembly of God Church where she is a lay teacher/speaker.

Kunde, Fogle, and Marshall are appointees of Governor Rick Perry.

Other members of the GBRA board of directors are Rusty Brockman, Comal County; Myrna McLeroy, Gonzales County; Tommy Mathews, Kendall County; James L. Powers, Hays County; Dennis Patillo, Victoria County and Frank Pagel, Refugio County.

Grace Kunde



Oscar Fogle

Arlene Marshall

BUILDING A
CONSERVA

by LaMarriol Smith

Photo by Gary Nafis

Photo by Flo Oxley

The efforts of 26 stakeholders, a dedicated program manager, and another 60 regular participants over the past four years finally resulted in a Habitat Conservation Plan (HCP) designed to protect endangered species that depend on springflow emanating from the Edwards Aquifer springs. Getting the pulleys and wheels of varied interests to align in order to build an HCP that would pass muster with both the U.S. Fish and Wildlife Service (USFWS) and the Texas Legislature was itself an epic feat.

The initial vote of approval, which occurred in November 2011 during the height of one of the state's most exceptional drought years, was 24-1 with one abstention. The 26-member Edwards Aquifer Recovery Implementation Program (EARIP) steering committee, operating within the framework of state legislation passed in 2007 mandating this process, included representatives of state and regional water agencies, municipalities, industries, agriculture, environmental organizations, and the public. The program director hired to oversee and steer the entire process was Robert Gulley, Ph.D.

Through this deliberative process, EARIP stakeholders recommended that the Edwards Aquifer Authority (EAA), the City of San Antonio, acting by and through its San Antonio Water System (SAWS), City of San Marcos, City of New Braunfels, and Texas State University (collectively hereinafter applicants) apply for an Incidental Take Permit (ITP) under Section 10(a)(1)(B) of the Endangered Species Act (ESA).

The HCP is intended to support the issuance of an ITP, which would allow the "incidental take" of threatened or endangered species resulting from the otherwise lawful activities involving regulating and pumping of groundwater from the Edwards Aquifer within the boundaries of the EAA for beneficial use for irrigation,

HABITAT TION PLAN

Photo by LaMarriol Smith

industrial, municipal, domestic and livestock uses, and the use of Comal and San Marcos springs and river systems for recreational and other activities.

Chapter 5 of the HCP included minimization and mitigation measures designed to ensure that incidental take resulting from the covered activities will be "minimized and mitigated to the maximum extent practicable" and would not substantially reduce the likelihood of the survival and recovery of endangered species associated with the Aquifer and Comal and San Marcos springs and rivers ecosystems covered by the plan.

The Guadalupe-Blanco River Authority's Executive Manager of Science, Intergovernmental Relations and Policy, Todd Votteler, Ph.D., explained that the HCP has been approved by all of the respective entities' boards. While the EAA board initially voted 8-7 against funding the plan, EAA board members met in a special meeting after Christmas and unanimously approved the funding provision.

"Under the RIP when fully implemented, the Comal would not go dry during a repeat of the drought of record." — Todd Votteler

The plan allows greater limits on pumping from the aquifer during droughts and increased pumping fees that will pay for habitat improvements at the springs and for water conservation and storage projects.

"If we have a repeat of the drought of record without the plan in place, Comal Springs could be dry for 38 months," said Votteler, who served as GBRA's representative on the EARIP. "Under the RIP when fully implemented, the Comal would not go dry during a repeat of the drought of record."

EAA General Manager Karl Dreher said at the time that he thought paying farmers not to pump during a drought would be one of the more difficult and expensive components to implement along with storing water in a SAWS underground reservoir.

Overall, the HCP is expected to cost about $18.5 million annually. The largest Edwards Aquifer pumper is SAWS and its officials estimate the program will increase bills for the average water customer by $3.13 a month. GBRA, Dow Chemical and CPS Energy — all entities that benefit from flows from Comal and San Marcos springs— pledged to make annual contributions totaling $740,000.

Votteler said the funding agreement for the HCP is in effect, but the GBRA would not have to pay money until next year. However, the EAA wants to implement the plan now. "We don't know if they will ask for early payment, and we haven't budgeted for a payment this year," he added. GBRA agreed to pay $400,000 beginning in 2013 and that amount could be increased by 2 percent each year. That agreement goes to 2028, and at that time, the permit could be renewed.

Texas entities have been fighting over Edwards Aquifer usage for more than 50 years. The recent history of this ongoing saga can be traced back to 1991 when the Sierra Club filed a lawsuit under the ESA that ultimately resulted in the creation of the Edwards Aquifer Authority. The Texas Legislature directed the EAA to regulate, among other things, pumping from the aquifer, to implement critical period management restrictions, and to pursue a program "to ensure that the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law…"

In the fall of 2006, the USFWS brought together stakeholders from throughout the region to participate in a collaborative process to develop a plan to contribute to the recovery of federally listed species dependent on the aquifer. This process is what became

Habitat Conservation Plan, continued

known as the EARIP. In May 2007, the Texas Legislature codified the EARIP in state law and directed the EAA and certain other state agencies, local units of government, and other stakeholders to participate in the EARIP and to prepare a USFWS-approved plan by 2012 for managing the aquifer to preserve the federally-listed species. The Legislature directed that the plan must include, among other things, recommendations regarding withdrawal.

While the EARIP's HCP has not yet been approved by USFWS, the plan is under review with the Fish and Wildlife Service's Austin Ecological Services Office, Votteler said. From there, the HCP will be forwarded on to the national office in Washington, D.C.

"Austin may complete their review this month and we hope the federal review would be complete by this fall," Votteler said. "If the agreement is fully implemented, it should satisfy all participants."

After numerous studies, negotiations and compromises with so many divergent interests, a scientifically-based plan emerged that will protect the endangered species, Bill West, GBRA general manager said, adding, "We never would have made this process within the prescribed timeframe had it not been for Dr. Gulley."

No sooner than one clears a hurdle, there always seems to be another bump in the road, West said. "As you know, the Texas Supreme Court recently ruled unanimously in the Edwards Aquifer v. Day case that property owners own the water beneath their land just like they own oil and gas beneath their land."

"The Habitat Conservation Plan was a great milestone for the Edwards Aquifer region, but new challenges may be on the horizon." — Bill West

The court went on to say that regulations limiting the amount of groundwater those landowners pump could, in some cases, amount to an unconstitutional taking of property. "The Habitat Conservation Plan was a great milestone for the Edwards Aquifer region," West said, "but new challenges may be on the horizon."

Finally, a week after the decision by the Texas Supreme Court, Program Manager Gulley announced he would be leaving the EARIP in March 2012. Together, these developments demonstrate that while the stakeholders have an historic agreement in place, there will be many challenges to surmount over the 15-year term of the Edwards Aquifer HCP.

GBR Trust Honors Grace Kunde

Guadalupe-Blanco River Trust officials recognized Guadalupe-Blanco River Authority (GBRA) Board of Directors Chair Grace Kunde at the GBRA's January board meeting for her service as trustee of the GBR Trust.

The Board of Trustees of the GBR Trust unanimously approved a resolution recognizing Kunde's service during a recent meeting. Kunde had served as a GBR trustee for four years, during which time she served on the Development and Nominating Committee, provided leadership in achieving the milestone of the GBR Trust attaining national accreditation by the Land Trust Accreditation Commission, and assisted in the GBR Trust's acquisition and conservation of approximately 10,000 acres of land.

Photo by LaMarriol Smith

Kunde's expertise and leadership while serving on the GBR Trust board was essential to the conservation of natural resources and preservation of the basin's irreplaceable natural heritage and a benefit to all citizens of the Guadalupe River Basin.

GBR Trust Executive Director Steve Jester presented Kunde with a framed copy of the resolution at GBRA's January board meeting.

CIAP Funding Facilitates Purchase of Wildlife Habitat

by Steve Jester

The Guadalupe-Blanco River Trust (GBR Trust) recently purchased 170 acres in Calhoun County immediately adjacent to the existing 646 acre Hog and Schwing's Bayou Preserve. With funding provided from the Coastal Impact Assistance Program (CIAP) through the Texas General Land Office (GLO) the GBR Trust acquired an important parcel of wetlands and wildlife habitat that will link the original preserve property to the Guadalupe Delta Wildlife Management Area administered by the Texas Parks and Wildlife Department (TPWD).

The property lies in an area of the state important to both migratory and resident wildlife species and is just as important for the water quality as for the bays and estuaries just downstream.

This area of the Texas Coast is winter home to large numbers of waterfowl who migrate up and down the Central Flyway and also supports endangered species such as the Whooping Crane. "We are very pleased to be able to help conserve the wildlife and wetland resource of the Texas Coast through this acquisition" said Roger Welder, Board President of the Guadalupe-Blanco River Trust.

The GBR Trust purchase of the 170-acre tract was made possible through the CIAP, which is a federally funded program managed nationally by the Department of Interior. The CIAP program, administered in Texas by the GLO, provides a portion of federal royalties on oil and gas production back to the states for coastal projects, including the conservation of important wildlife habitats and wetlands.

"The Trust has been talking to the landowners about this purchase for some time and we are all very pleased to have completed this transaction," said Steve Jester, executive director of the GBR Trust.

Photo by Janaé Reneaud

Costly Whoopin

Flaws Exposed in TAP's Chain of Causation

by LaMarriol Smith

It may not have been the "Trial of the Century," but for Texas, The Aransas Project (TAP) vs. Shaw trial represented a challenge to more than a century of the state's surface water management and ultimately could deal a significant blow to economic development in Texas.

The well observed trial, in U.S. District Court in Corpus Christi and heard by Judge Janis Graham Jack, began Monday, Dec. 5, 2011, and lasted through Friday, Dec. 16, 2011. This trial, which featured more than 20 expert witnesses, including a judge-summoned, retired U.S. Fish and Wildlife (USFWS) employee, hundreds of exhibits and thousands of documents, now rests in the hands of Judge Jack.

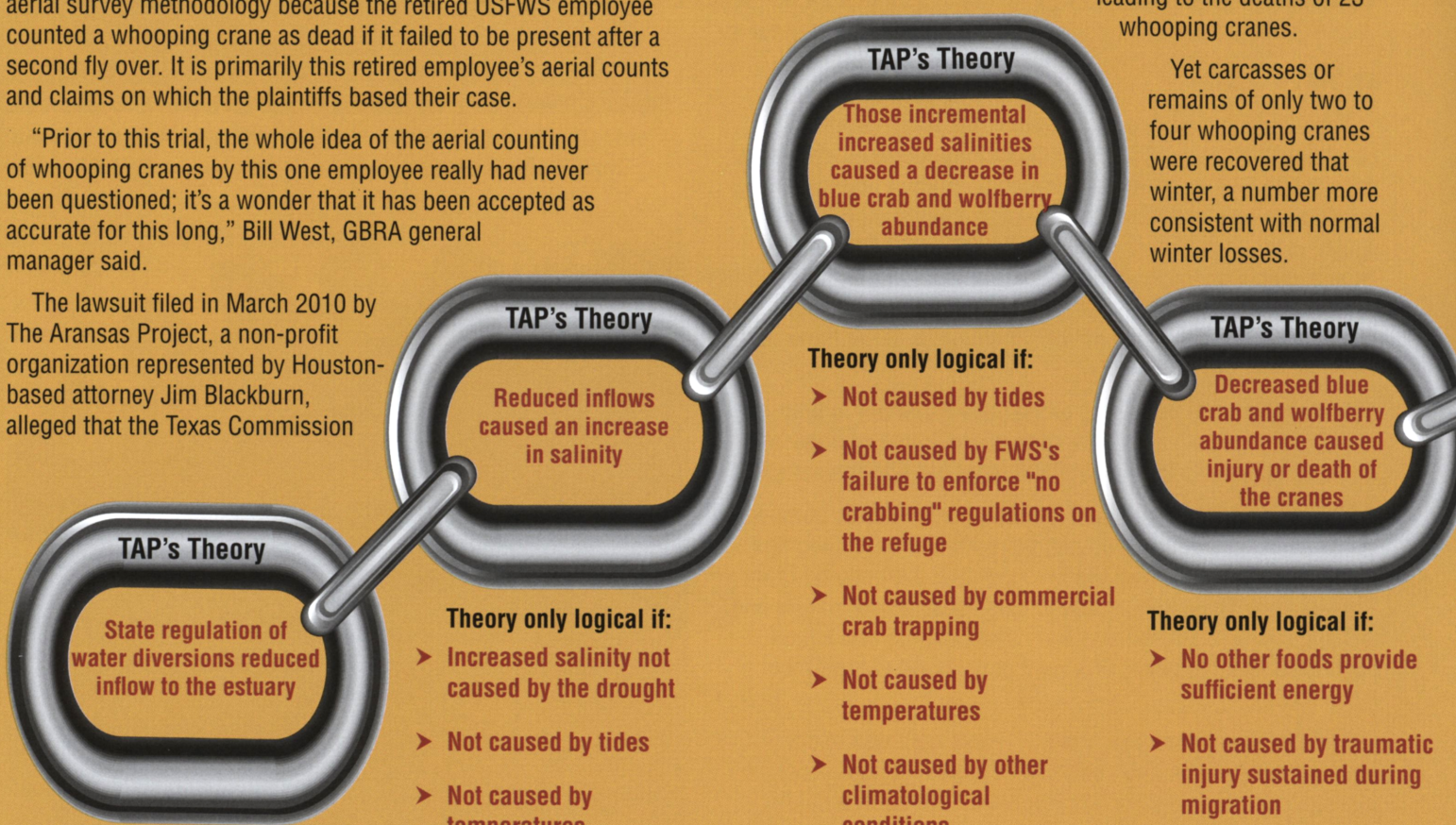
A significant point of contention was the accuracy of the aerial survey methodology because the retired USFWS employee counted a whooping crane as dead if it failed to be present after a second fly over. It is primarily this retired employee's aerial counts and claims on which the plaintiffs based their case.

"Prior to this trial, the whole idea of the aerial counting of whooping cranes by this one employee really had never been questioned; it's a wonder that it has been accepted as accurate for this long," Bill West, GBRA general manager said.

The lawsuit filed in March 2010 by The Aransas Project, a non-profit organization represented by Houston-based attorney Jim Blackburn, alleged that the Texas Commission on Environmental Quality (TCEQ) violated the "taking" provision of Section 9 of the Endangered Species Act (ESA). Blackburn also represents members of the D.M. O'Connor oil and ranch family in their attempt to block GBRA from entering into a contract that would provide surface water for a proposed nuclear power plant that would be located adjacent to O'Connor family property in Victoria County.

The "taking" provision prohibits any activity that kills or harms a listed species or that destroys its habitat. TAP contends that during the 2008-2009 drought, a reduced amount of fresh water reaching the coastal marshes caused the salinity to rise so high that whooping cranes wintering at Aransas National Wildlife Refuge (ANWR) were unable to find sufficient food and water, allegedly leading to the deaths of 23 whooping cranes.

Yet carcasses or remains of only two to four whooping cranes were recovered that winter, a number more consistent with normal winter losses.



TAP's Flawed Chain of Causation Theory

g Crane Trial

in Judge's Hands

"Because a remedy sought through this lawsuit could mean reallocating water rights on the Guadalupe River, the Guadalupe-Blanco River Authority immediately filed to intervene as a defendant intervener," explained West. And on April 23, 2010, Judge Jack issued an order granting GBRA's motion to intervene. After other denied motions to intervene went through appeals, defendants ultimately included the TCEQ, GBRA, San Antonio River Authority (SARA), and the Texas Chemical Council.

For the defendants, GBRA has incurred the lion's share of costs associated with defending the state's system of water permitting and protecting its senior water rights. By the end of January 2012, litigation expenses had cost GBRA $5.5 million.

At the beginning of the December trial, Judge Jack issued an order denying the plaintiff's Motion for Partial Summary Judgment on Standing, the State defendants' Motion for Summary Judgment, and the defendant-intervener's Motion for Summary Judgment.

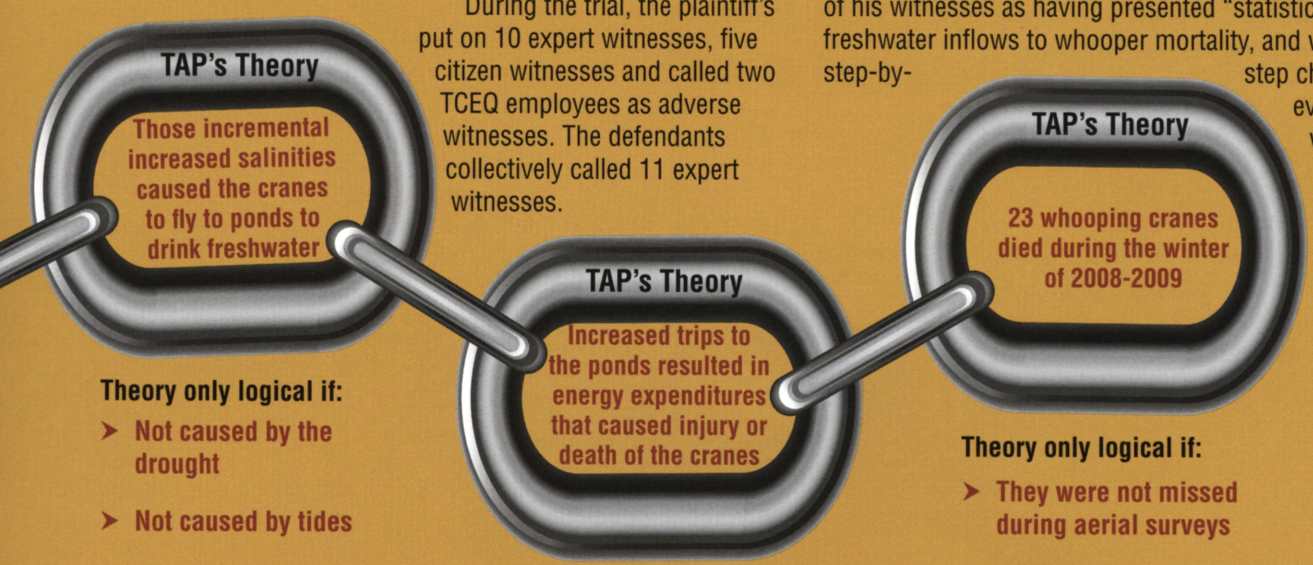
During the trial, the plaintiff's put on 10 expert witnesses, five citizen witnesses and called two TCEQ employees as adverse witnesses. The defendants collectively called 11 expert witnesses.

On the first day during cross examination by attorneys for GBRA, TAP's expert witnesses admitted to relying on data supplied by a retired U.S. Fish and Wildlife (USFWS) employee, who had conducted aerial surveys of the whooping crane flock for many years, as the basis for their own expert reports related to the case.

Judge Jack asked parties to the lawsuit if anyone had tried to subpoena that retired employee. Both sides indicated they had attempted, but internal USFWS protocol prevented them from compelling him to testify. Judge Jack then inquired as to whether a trial subpoena was issued for that retired employee. All parties joined in issuing a trial subpoena for his appearance. The retired USFWS employee would eventually testify on behalf of TAP, but without deposition.

In a "Coastal Update" disseminated by Blackburn shortly after the trial, Blackburn indicated he felt "very good" about the case and the evidence his team presented.

In that same communiqué, Blackburn described the testimony of his witnesses as having presented "statistical evidence linking freshwater inflows to whooper mortality, and we then put on a step-by-step chain of causation evidence that linked whooping crane mortality to poor food supply



Theory only logical if:

- Not caused by the drought
- Not caused by tides
- Not caused by high temperatures
- Not caused by evaporation
- Not caused by other climatological conditions

Theory only logical if:

- Not caused by traumatic injury sustained during migration
- Not caused by predation
- There were no known probable causes identified in prior years
- Not caused by disease or infection
- Not caused by other natural causes

Theory only logical if:

- They were not missed during aerial surveys
- Deaths not caused by tides
- The 17 cranes that unexpectedly arrived during the winter of 2009-10 did not include the 16 "missing" juveniles presumed dead in 2008-09

Whooping Crane Trial, *continued*

and needing to fly inland for fresh drinking water, rather than drinking brackish marsh water."

The State primarily presented evidence to prove the TCEQ had limited authority in changing and/or redistributing existing water permits.

GBRA presented experts to challenge TAP's entire causation theory, the actual number of whooping crane deaths, the accuracy of the aerial survey methodology, the causes of rising bay salinity, how salinity affects the abundance of whooping crane food sources, and even the notion that the whooping cranes' food sources are as limited as the plaintiff suggests.

And GBRA also presented an expert to explain the economic impact of the freshwater inflow requirements initially sought by TAP.

"TAP's causation theory was quite flawed," West said, adding, "And I thought our defense team, through cross examination and the witnesses presented, did an excellent job of exposing those flaws."

"This case was too important not to put up a fight because if TAP is successful, more than 100 years of precedent for how surface water is managed in Texas would be thrown away," West continued, adding, "The ESA would be used for the federal government to control how the state manages its surface water, blowing up our whole system."

Already, the 2011 drought has begun to shed light on the kinds of adjustments whooping cranes are able to make in dealing with exceptional drought conditions. This winter, the Aransas–Wood Buffalo flock of whooping cranes embarked on their 2,400-mile migration to the ANWR on the Texas coast. Since the trial, however, about five of the endangered whooping cranes stopped about 200 miles short of their usual destination in early December and have been wintering at Granger Lake, northeast of Austin near Georgetown.

The *Wichita* (KS) *Eagle* also reported that wildlife officials confirmed that five whooping cranes were seen as late as January wintering near Quivira National Wildlife Refuge and Cheyenne Bottoms State Wildlife Area in south-central Kansas or about 800 miles north of the ANWR on the Texas coast. In fact, the flock seems to have scattered even further as whooping cranes have been wintering in other areas of the country along the flyway route.

"TAP's causation theory was quite flawed and I thought our defense team, through cross examination and the witnesses presented, did an excellent job of exposing those flaws." — Bill West

Timeline for remaining items:

- Written Closing Arguments to Judge **April 2012**
- Judge to Review Trial Materials **Summer 2012**
- Judge to Issue Ruling **Post-Summer 2012**

WHERE ARE THEY NOW?

Frank Ceballos

Ask Frank Ceballos today what he loves about being retired and he will tell you, "No more 12-hour work days and not waking up to an alarm clock."

Ceballos enlisted in the U.S. Army in 1968, and served as a "Sky Soldier" of the 173rd Airborne Brigade Combat Team. The brigade was the first major U.S. Army ground formation deployed in Vietnam.

In 1975, Ceballos was hired at the Victoria Waste Water Treatment Plant and trained as a plant operator/belt press operator, where he earned his "A" wastewater license.

"Frank's attention to detail was evident in reading his daily operational log books. He logged every phone call, each visitor and all pump and motor adjustments," said David Weaver, plant manager for the City of Victoria's wastewater treatment plant where he worked with Ceballos for many years. "Today when someone comes across a process issue that can't be pinpointed, Frank's old log books are brought out to help figure out what we were doing, when things were working well," Weaver added.

Ceballos remembers the catastrophic flood event of 1998 that brought unimaginable damage to the Victoria Wastewater Plant.

That same October weekend, Ceballos and his wife, Lorena, traveled to Yorktown's annual Western Days event. A man standing behind him in a concession line said the town of Belvedere had just received 19 inches of rain. The Ceballos' decided to head back to Victoria.

The Victoria Wastewater Treatment Plant was inundated with water, only the treatment plant roofs and tree tops could be seen from the main road. "After the flood, the employees met on the highway for a tailgate meeting," said Ceballos. "Then we worked out of a local hotel for three to four weeks before we could even get into the plant to pump out water."

"Frank's dedication to service made him someone you could count on," said John Smith, GBRA operations manager. "Frank exhibited the highest level of professionalism and in addition to his technical knowledge; he participated in job safety audits and was a safety conscious employee." Ceballos recalls missing only two days of work throughout his 34 years of employment with GBRA.

Today spotting Frank and Lorena traveling the open Texas roads may be easier than catching them at home. Now, if Ceballos wants to have a 12-hour day, he can. But now it's spent traveling to day-trip hot spots like Gruene and New Braunfels—two of his favorite towns. No waking to an alarm clock required.

Frank Ceballos

Started at GBRA—1975
Retired at GBRA—2009

You may reach Frank at:
Phone—(361) 575-8709

In Memoriam: Margaret Anne Cooper

Margaret "Anne" Cooper, age 76, died from a stroke Dec. 16, 2011, in her San Marcos home. Appointed to the GBRA board of directors from 1995-2001, she served as the representative for Hays County. "She was an ideal board member, acting with both business and political sense," said Bill West.

Survived by her husband, Bob, of 54 years, the two met as children in Iowa while attending the same fishing camp with their families. Both attended Iowa State University, where they started dating in their senior year and later married. After receiving a bachelor of science degree, Cooper taught school in southern California while also being a Navy wife to Bob.

In 1961, the Cooper family moved to Texas when the opportunity arose to purchase a feedlot in San Marcos. Cooper became involved in the family business of agriculture and banking, and then joined the Hays County Republican Party where she ran for political office. Cooper was elected to the Texas House of Representatives in 1985 and served two terms representing Hays, Blanco, Llano and Travis counties.

Cooper's additional survivors include daughters and sons-in-law, Debra and Roland Sauermann, Robin and Clay Wilson, Holly and Scott Burner, and Damie Cooper and Dennis Bell; and grandchildren Robert Sauermann; Cooper, Georgia and Aden Burner, and Laura and Kimberly Wilson.

A memorial service was held Feb. 18, 2012, at the First Presbyterian Church in San Marcos.

employee anniversaries @ gbra

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

November			
11/21/2011	Stuart Evans	Regional Lab	New Hire
11/21/2009	Fred Hernandez	Shadow Creek	2
11/5/2008	John Moryl	Canyon Hydro	3
11/1/2007	Gynna Hernandez	General	4
11/29/2005	Juan Vasquez	Western Canyon WTP	6
11/1/2002	Jason Davidson	RUD	9
11/20/2000	Robert Scott	Hydro	11
11/8/1999	James Asbury	General	12
11/22/1999	Eric Mendez	Lockhart WWTP	12
11/19/1997	Angela Whitley	General	14
11/24/1997	Jeannine Herrmann	General	14
11/6/1995	Thomas McNeal	RUD	16
11/14/1983	Jason Lewis	Coleto Recreation	28
11/10/1981	Don Koble	Canal RWSS	30
11/19/1979	Wilfred Korth	Coleto Recreation	32
11/1/1976	Michael Gerdes	RUD	35
December			
12/20/2000	Wallis Gudgell	Hydro	11
12/29/2000	James Medrano	Hydro	11
12/10/1999	Jerry Sharp	San Marcos WTP	12
12/28/1992	Dianne Fly	Coleto Reservoir	19
12/6/1983	Constance Rothe	General	28
12/25/1981	Roy Odom	Hydro	30
January			
1/3/2012	Bryan Bertelson	San Marcos WTP	New Hire
1/16/2012	Toby Dennis	Western Canyon WTP	New Hire
1/16/2012	Derek Schedlbauer	Western Canyon WTP	New Hire
1/4/2010	Steven Maricle	Hydro	2
1/2/2008	Edwin Boettner	Shadow Creek	4
1/21/2008	James Murphy	Water Resources	4
1/2/2007	Sheryll Kisiah	Canal RWSS	5
1/24/2005	Susan Hubbert	General	7
1/27/2004	Steve Wallendorf	San Marcos WTP	8
1/6/1995	Sandra Terry	General	17
1/27/1988	Sara Vazquez	Coleto Recreation	24
1/5/1987	Samuel Widmer	Coleto Recreation	25
1/4/1983	Alan Schneider	Coleto Reservoir	29
1/16/1981	Curtis Seiler	Coleto Recreation	31
1/31/1981	David Lundin	Port Lavaca WTP	31
1/14/1980	Darel Ball	Water Resources	32
1/14/1980	Mark Henneke	Water Resources	32
1/11/1977	Rodney Voss	Hydro	35
1/28/1976	Bryan Serold	Water Resources	36
February			
2/5/2009	Trey Sibert	San Mrcos WTP	3
2/1/2007	Lamarriol Smith	General	5
2/18/2003	Richard Gonzales	Lockhart WTP	9
2/4/1999	Cheryl Gorden	General	13
2/1/1994	William West	General	18
2/1/1991	Richard Gaona	Calhoun Canal	21
2/27/1984	Linda McPherson	Port Lavaca WTP	28
2/29/1980	Jimmy Wyatt	Hydro	32
March			
3/7/2011	Lowell White	Western Canyon WTP	1
3/14/2011	Stephen Jester	Water Resources	1
3/21/2006	Leigh Crettenden	General	6
3/29/2005	Christopher Lewis	General	7
3/15/2004	Michael Helmke	Hydro	8
3/21/1988	Richard Matheaus	RUD	24
3/31/1986	Marlon McAdams	Coleto Reservoir	26
3/26/1984	Michael Tompkins	Calhoun Canal	28
3/23/1981	John Smith	Water Resources	31
3/4/1976	Michael Schultze	Hydro	36
April			
4/13/2011	Jason Penshorn	Coleto Recreation	1
4/18/2011	Billy Penney	Calhoun Canal	1
4/17/2010	Brent Howard	Port Lavaca WTP	2
4/5/2006	David Garcia	Port Lavaca WTP	6
4/13/2006	Paulette Cowey	General	6
4/22/2002	Curtis Gosnell	Calhoun Canal	10
4/11/1995	David Maltony	Hydro	17
4/8/1991	Robert Delgado	Lockhart WTP	21
4/7/1987	Reagan Ploetz	Hydro	25
4/24/1987	Roland Henry	Hydro	25
4/16/1982	Darryl Jandt	Hydro	30
4/26/1982	Jim Lumley	Calhoun Canal	30

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

Photo courtesy GBRA archives

Mike Schultze Photo by Connie Rothe

GBRA *Training & Licenses*

Michael Tompkins of Calhoun Canal attended GC TWUA Pipeline Repairs and Golden Crescent TWUA.

Wilfred Korth, Jr., of Coleto Recreation attended the Annual TX Aquatic Plant Management Conference, Annual TX Master Naturalist Conference, and the TX Invasive Plant and Pest Council Conference.

Jason Lewis of Coleto Recreation attended the Annual TX Aquatic Plant Management Conference.

Alan Schneider of Coleto Reservoir attended the Annual TX Aquatic Plant Management Conference.

John Urban of Coleto Reservoir attended the Annual TX Aquatic Plant Management Conference.

Eduardo Montana of Lockhart WWTP attended the Risk Management Program Internal Auditing for Water Facilities.

Jason Eeds of Lockhart WWTP attended the Risk Management Program Internal Auditing for Water Facilities.

Ronnie Parenica of Port Lavaca WTP attended Chlorinator and Chemical Handling.

Joseph Tschatschula of Port Lavaca WTP attended the Golden Crescent TWUA.

Josephine Longoria of GBRA Regional Lab attended the 21st Annual Quality Assurance Conference, the Lab Professionals Stakeholder Work Group, the Environmental Summit, Supervisor Harassment Policy Training, Fracking Consortieum, and the SWQM Workshop.

Emmylou Roberts of the GBRA Regional Lab attended the Lab Professionals Stakeholder Work Group, and the Environmental Summit.

Casey Salinas of the GBRA Regional Lab attended the Riparian Summit.

Jason Davidson of RUD earned his "A" Wastewater License.

Joel Heideke of RUD earned his "A" Wastewater License.

Ed Boettner of Shadow Creek attended the Technology Based Training: Chlorinator Systems and Chemical Handling.

Darel Ball of Water Resources attended the Water Quality Technology Conference, and the Supervisor Harassment Policy Training.

Mark Henneke of Water Resources attended the Annual TX Aquatic Plant Management Conference.

Recent Retirements @GBRA

Photo by Stephanie Shelly

Wally Aguillon

Wally Aguillon – March 10, 1995 to Jan. 3, 2012

GBRA Canal Water Tender Wally Aguillon retired Jan. 3, 2012, after 16 years of service. Aguillon, who was responsible for operating the diversion system and pumping facilities for industrial customers, regulated the control structures in the diversion system, including the Salt Water Barrier, and observed readings on U.S. Geological Survey gauge stations.

Charles Fennell

Charles Fennell – Feb. 18, 1980 to Jan. 6, 2012

Hydro Control Room Operator Charles Fennell retired Jan. 6, 2012, after 32 years of service to GBRA. During that time, he performed scheduled maintenance, emergency repairs, and worked controlling and monitoring equipment associated with the 82-year-old Guadalupe Valley Hydroelectric System that included six dams with 15 associated spill gates and nine hydroelectric generators, the Canyon Hydroelectric Power Plant, and two raw water delivery systems.

Photo by Connie Rothe

Guadalupe-Blanco River Authority
933 E. Court St.
Seguin, Texas 78155

Change Service Requested

PRST STD
U.S. POSTAGE PAID
Austin, TX
PERMIT NO. 1153

Gen/GRR/Winter-Spring 2012/Cap-5500

WWW.GBRA.ORG

Scan the QR code (left) with your cell phone using a barcode reader app to download or forward a link of this publication online to your friends.

Mark Your Calendar

MAR

Mar. 21, 2012
GBRA Board Meeting
River Annex Bldg., Seguin, TX
http://www.gbra.org/board/meetings.aspx

Apr. 10–13, 2012
WEAT / TAWWA Texas Water 2012™
Henry B. Gonzalez Convention Center, San Antonio, TX
http://www.texas-water.com/

APR

Apr. 18, 2012
GBRA Board Meeting
River Annex Bldg., Seguin, TX
http://www.gbra.org/board/meetings.aspx

May 16, 2012
GBRA Board Meeting
River Annex Bldg., Seguin, TX
http://www.gbra.org/board/meetings.aspx

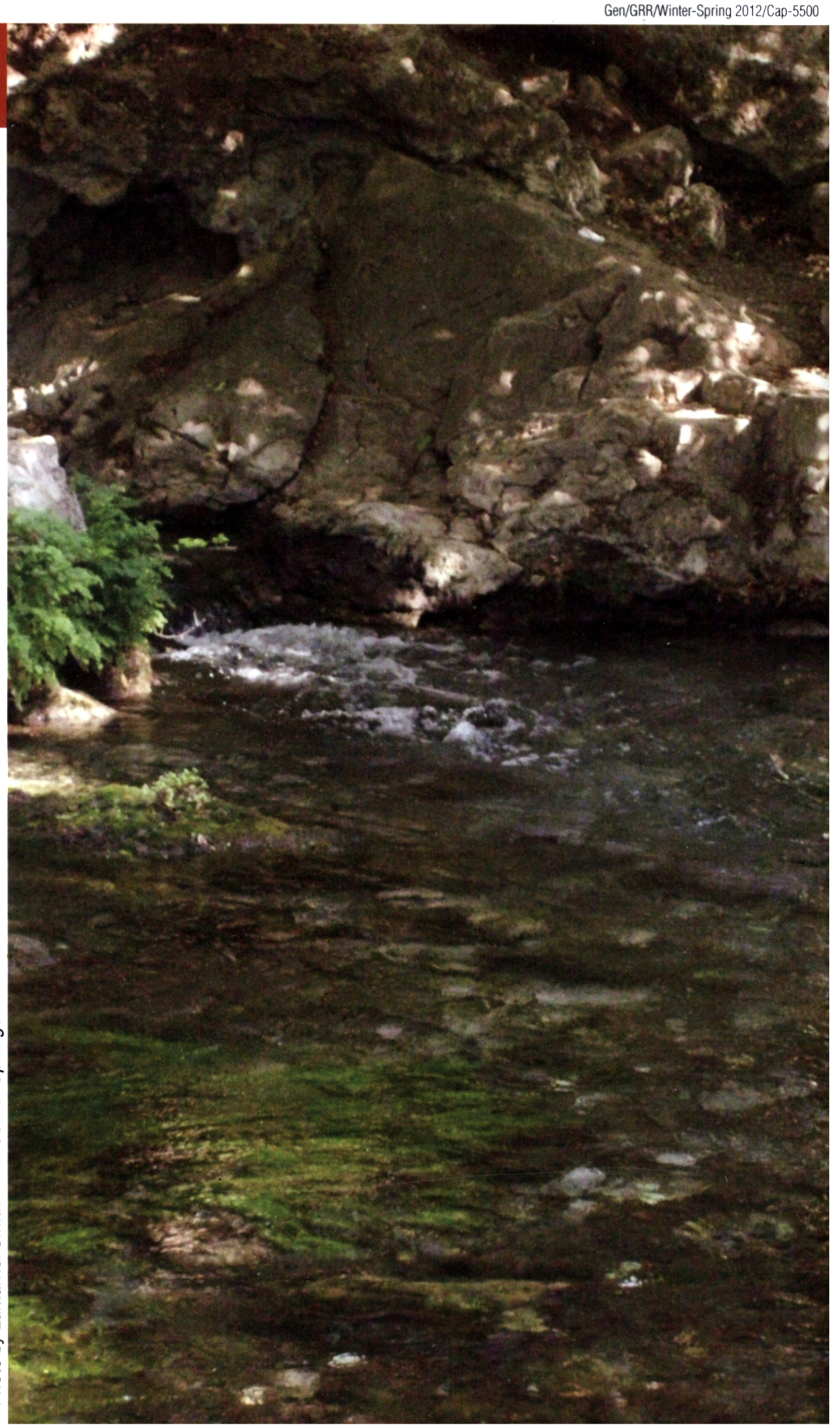
MAY

June 9–14, 2012
Texas Water Safari (50th Anniversary)
Start: 921 Aquarena Springs Drive, San Marcos, TX
End: Seadrift, TX
http://www.texaswatersafari.org/

June 13–15, 2012
Texas Water Conservation Association Mid-Year Conference
Horseshoe Bay Marriott Resort, Horseshoe Bay, TX
http://www.twca.org/meetings.html

JUN

June 20, 2012
GBRA Board Meeting
River Annex Bldg., Seguin, TX
http://www.gbra.org/board/meetings.aspx



Comal Springs

Photo by LaMarriol Smith