

The background of the entire page is a photograph of the interior of the Texas State Capitol dome. The image shows a grand, circular space with a high, vaulted ceiling. The walls are white and feature a series of columns and arches. A balcony with a dark railing is visible in the middle of the dome. Several framed portraits of men are mounted on the walls. The lighting is bright and even, highlighting the architectural details.

# SUNSET ADVISORY COMMISSION

STAFF REPORT WITH FINAL RESULTS

*Guadalupe-Blanco River Authority*

*Red River Authority of Texas*

*Nueces River Authority*

2018–2019  
86TH LEGISLATURE

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**GUADALUPE-BLANCO RIVER AUTHORITY  
RED RIVER AUTHORITY OF TEXAS  
NUECES RIVER AUTHORITY**

**SUNSET STAFF REPORT WITH FINAL RESULTS  
2018-2019  
86TH LEGISLATURE**

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## ***HOW TO READ SUNSET REPORTS***

Each Sunset report is issued *three times*, at each of the three key phases of the Sunset process, to compile all recommendations and actions into one, up-to-date document. Only the most recent version is posted to the website. (**The version in bold is the version you are reading.**)

### 1. SUNSET STAFF EVALUATION PHASE

Sunset staff performs extensive research and analysis to evaluate the need for, performance of, and improvements to the agency under review.

*FIRST VERSION:* The *Sunset Staff Report* identifies problem areas and makes specific recommendations for positive change, either to the laws governing an agency or in the form of management directives to agency leadership.

### 2. SUNSET COMMISSION DELIBERATION PHASE

The Sunset Commission conducts a public hearing to take testimony on the staff report and the agency overall. Later, the commission meets again to vote on which changes to recommend to the full Legislature.

*SECOND VERSION:* The *Sunset Staff Report with Commission Decisions*, issued after the decision meeting, documents the Sunset Commission's decisions on the original staff recommendations and any new issues raised during the hearing, forming the basis of the Sunset bills.

### 3. LEGISLATIVE ACTION PHASE

The full Legislature considers bills containing the Sunset Commission's recommendations on each agency and makes final determinations.

**THIRD VERSION: The *Sunset Staff Report with Final Results*, published after the end of the legislative session, documents the ultimate outcome of the Sunset process for each agency, including the actions taken by the Legislature on each Sunset recommendation and any new provisions added to the Sunset bill.**

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# FINAL RESULTS





# FINAL RESULTS

## *Guadalupe-Blanco River Authority — Senate Bill 626*

## *Red River Authority of Texas — Senate Bill 627*

## *Nueces River Authority — Senate Bill 625*

### Summary

The following material summarizes results of the Sunset review of the Guadalupe-Blanco River Authority (GBRA), Red River Authority of Texas (RRA), and Nueces River Authority (NRA), including management actions directed to the agency that do not require legislative action.

**Guadalupe-Blanco River Authority.** GBRA has worked to repair existing and past issues with the authority's management. However, addressing the past is not enough, especially as GBRA is working to quench the thirst of the basin's growing population along the I-35 corridor. Senate Bill 626 and the Sunset Commission's management actions focus on what GBRA needs to do to usher it successfully into the future, including both asset planning and strategic planning.

**Red River Authority of Texas.** RRA encounters many of the struggles that face rural utility providers. These obstacles, however, do not excuse the authority from meeting minimum safety and transparency standards. Senate Bill 627 and the commission's management actions focus not only on improving processes to come into compliance but also to increase accountability to stave off recurrence of the authority's current problems.

**Nueces River Authority.** NRA is a well-run, successful authority, but stands on the precipice of change. Senate Bill 625 and the commission's management actions focus on preparing the authority to engage in strategic management in preparation for future changes.

### ISSUE 1 — *GBRA Asset Management*

**Recommendation 1.1, Modified** — Require GBRA to develop and maintain a comprehensive asset management plan.

**Recommendation 1.2, Adopted** — Direct GBRA to ensure the asset management process is linked to the authority's public messaging and communications. (Management action – nonstatutory)

### ISSUE 2 — *GBRA Contracting*

**Recommendation 2.1, Adopted** — GBRA should take additional steps to centralize its approach to procurement and contracting functions. (Management action – nonstatutory)

**Recommendation 2.2, Adopted** — GBRA should ensure key procurement and contract management staff receive formal training. (Management action – nonstatutory)

**Recommendation 2.3, Modified** — GBRA should improve certain contracting activities to ensure consistency and enhance monitoring. Also direct GBRA to re-evaluate contracts for professional services every five years, and frequently compile updated vendor lists and best value practices for cost savings to use when re-evaluating contracts. (Management action – nonstatutory)

### **ISSUE 3** — *GBRA Nonprofits*

**Recommendation 3.1, Adopted** — Direct GBRA to consolidate the funds it provides to the Guadalupe-Blanco River Trust and San Antonio Bay Foundation to one organization and clearly define expectations tied to this funding. (Management action – nonstatutory)

**Recommendation 3.2, Adopted** — Direct GBRA to create clear boundaries and reporting structures between its staff and associated nonprofits. (Management action – nonstatutory)

**Recommendation 3.3, Adopted** — Direct GBRA to evaluate whether the Gorge Preservation Society’s narrow mission justifies GBRA support or whether its activities could be performed internally. (Management action – nonstatutory)

**Recommendation 3.4, Adopted** — Direct GBRA to evaluate the continuing need for relationships with any nonprofits every five years to ensure the nonprofits are achieving shared goals. (Management action – nonstatutory)

### **ISSUE 4** — *Red River Authority*

**Recommendation 4.1, Adopted** — Require RRA to develop and maintain a comprehensive asset management plan.

**Recommendation 4.2, Adopted** — Require the RRA board to adopt a policy to ensure meaningful public input on significant rate changes.

**Recommendation 4.3, Adopted** — Require RRA to inform customers of their right to appeal rate changes.

**Recommendation 4.4, Adopted** — Direct RRA to document and regularly update its key duties and procedures. (Management action – nonstatutory)

### **ISSUE 5** — *Nueces River Authority*

**Recommendation 5.1, Adopted** — Require NRA to adopt a formal, written five-year strategic plan and engage in a regular strategic planning process. Also require the strategic plan to be made public record online at the time of its completion and updated regularly when needed.

**Recommendation 5.2, Adopted** — NRA should take action to prepare for future retirements and workforce changes. (Management action – nonstatutory)

## ISSUE 6 — *Cross-Issue*

**Recommendation 6.1, Modified** — Require opportunities for public testimony at board meetings and direct river authorities to implement additional best practices to improve openness and transparency. (Management action – nonstatutory)

As a statutory change, as part of recommendation 6.1(d), related to updating the governing laws of GBRA, RRA, and NRA, include the series of agreed-to changes needed to allow the Texas Legislative Council to prepare these laws for codification.

**Recommendation 6.2, Modified** — Direct RRA and NRA to develop a policy to ensure all professional services contracts are reviewed every five years. RRA and NRA should also frequently compile vendor lists and best value practices for cost savings to use when re-evaluating contracts. (Management action – nonstatutory)

**Recommendation 6.3, Modified** — Apply good government standards to river authorities' governing laws to promote accountability, transparency, and best practices. Update the standard across-the-board requirement related to board member training, including a requirement for each board member to attest to both receiving and reviewing the training manual annually. Replace Recommendation 6.3(e) to read as follows.

Require GBRA, RRA, and NRA to include public testimony as an agenda item at every regular board meeting. GBRA, RRA, and NRA should clearly provide the public the opportunity to comment on each agenda item and any issue or matter under the river authority's jurisdiction at open board meetings, provided that board members do not engage in deliberation of or decisions about the subject of testimony that is not a specific agenda item other than to indicate they will place the subject on the agenda for a subsequent meeting if the board so desires.

**Recommendation 6.4, Adopted** — Direct RRA to comply with Texas Commission on Environmental Quality (TCEQ) rules by adopting required administrative policies. (Management action – nonstatutory)

Recommendation	GBRA	RRA	NRA
<b>Transparency</b>			
a. Website	MA	MA	MA
b. Record retention requirements	*	MA	*
c. Financial information	MA	*	*
f. Update governing laws	S.B. 626	S.B. 627	S.B. 625
<b>Long-Standing Contracts</b>			
<b>Good Government Standards</b>			
a. Presiding officer designation	S.B. 626	S.B. 627	S.B. 625
b. Grounds for removal	*	S.B. 627	*
c. Board member training	S.B. 626	S.B. 627	S.B. 625
d. Separation of duties	S.B. 626	S.B. 627	S.B. 625
e. Public testimony	S.B. 626	S.B. 627	S.B. 625
f. Complaint information	S.B. 626	S.B. 627	S.B. 625
g. Alternative dispute resolution	S.B. 626	S.B. 627	S.B. 625
<b>Compliance with TCEQ Rules</b>			
a. Prohibiting grant money or property	*	MA	*
b. Prohibiting nepotism	*	MA	*
c. Maintaining pre-qualified firms	*	MA	*
<b>New Recommendation</b>			
Adopt a formal, written five-year strategic plan	MA	MA	MA

\* Currently in place or required by river authority's governing law.

MA = Management action – nonstatutory

## NEW RECOMMENDATIONS ADDED BY THE SUNSET COMMISSION

**Red River Authority audit, Adopted** — Require the State Auditor's Office to conduct an audit of the Red River Authority no later than December 1, 2022 to evaluate whether RRA has addressed the operational challenges identified by Sunset.

**Red River Authority reporting, Adopted** — Direct RRA to provide written semi-annual reports to the Sunset Commission regarding the implementation of the recommendations adopted by the commission, beginning January 31, 2019. This provision would expire after two years to coincide with Sunset's compliance review. (Management action – nonstatutory)

**Strategic planning, Adopted** — Direct GBRA and RRA to adopt a formal, written five-year strategic plan and engage in a regular strategic planning process. Direct the written plan to be made public record online at the time of its completion and updated regularly when needed. (Management action – nonstatutory)

**Succession planning, Adopted** — RRA should take action to prepare for future retirements and workforce changes. (Management action – nonstatutory)

## Provisions Added by the Legislature

**Sunset review date** — Specify these three river authorities are subject to Sunset review, but not abolishment, again in 2031.

**GBRA contracting** — Increase the statutory threshold for board approval of contracts from \$10,000 to \$100,000.

## Fiscal Implication Summary

The Sunset Commission's recommendations, including those enacted in the three river authorities' Sunset bills, will not have a significant impact to the state. Minimal impacts to each of the three river authorities are discussed below.

***Guadalupe-Blanco River Authority*** — Senate Bill 626 will not have a significant fiscal impact to GBRA. The authority will have some costs associated with implementing a comprehensive asset management process and procuring a contract management system, but has already budgeted for these costs. Other provisions, such as implementing best practices for transparency, will not have a significant fiscal impact to GBRA and could be absorbed within existing resources.

***Red River Authority of Texas*** — Senate Bill 627 will have a minimal or temporary fiscal impact on RRA. For example, RRA may need to contract for expertise when first developing an asset management plan. However, quality comprehensive asset management will better ensure RRA funds are well spent and prevent excessive future costs or additional fines. The required audit by the State Auditor's Office will not result in direct costs to the authority, but will have a minimal impact on the authority in terms of staff time. The State Auditor's Office can conduct the audit within existing resources. Other changes reflecting improved management and open government practices can be absorbed within existing resources.

***Nueces River Authority*** — Senate Bill 625 will not have a significant fiscal impact to NRA. Preparing for future staff needs and ensuring a strategic vision for the agency are essential functions and should be absorbed using existing resources.



———— **SUNSET COMMISSION DECISIONS**  
**SEPTEMBER 2018**





# SUNSET COMMISSION DECISIONS

## Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendations for the Guadalupe-Blanco River Authority (GBRA), the Red River Authority of Texas (RRA), and the Nueces River Authority (NRA), as well as modifications and new recommendations raised during the public hearing.

Sunset finds these three river authorities at different stages of significant organizational transition. Along with such substantial changes come opportunities for a closer, more discerning look at the past and future of an organization, and thus fortuitous timing for these three river authorities to undergo a Sunset review.

**Guadalupe-Blanco River Authority (GBRA).** GBRA's new management team has begun work to repair existing and past issues with the authority's management. However, addressing the past is not enough, especially as GBRA is working to quench the thirst of the basin's growing population along the I-35 corridor. The Sunset Commission's recommendations therefore focus on what GBRA needs to do to usher it successfully into the future, including both asset planning and strategic planning.

**Red River Authority of Texas (RRA).** RRA encounters many of the struggles that face rural utility providers. These obstacles, however, do not excuse the authority from meeting minimum safety and transparency standards. The Sunset Commission's recommendations focus not only on improving processes to come into compliance but also to increase accountability to stave off recurrence of the authority's current problems.

**Nueces River Authority (NRA).** NRA is a well-run, successful authority, but stands on the precipice of change. The Sunset Commission's recommendations therefore focus on preparing the authority to engage in strategic management in preparation for future changes.

## GUADALUPE-BLANCO RIVER AUTHORITY

### ISSUE 1

*GBRA's Aging Infrastructure and Inadequate Asset Management Put Some Utility Operations at Risk.*

**Recommendation 1.1, Adopted as Modified** — Direct GBRA to develop and maintain a comprehensive asset management plan rather than requiring this in statute. (Management action – nonstatutory)

**Recommendation 1.2, Adopted** — Direct GBRA to ensure the asset management process is linked to the authority's public messaging and communications. (Management action – nonstatutory)

## ISSUE 2

### *GBRA's Procurement and Contracting Efforts Lack Coordination and Best Practices Needed to Ensure Adequate Expertise and Best Value.*

**Recommendation 2.1, Adopted** — GBRA should take additional steps to centralize its approach to procurement and contracting functions. (Management action – nonstatutory)

**Recommendation 2.2, Adopted** — GBRA should ensure key procurement and contract management staff receive formal training. (Management action – nonstatutory)

**Recommendation 2.3, Adopted as Modified** — GBRA should improve certain contracting activities to ensure consistency and enhance monitoring. Also direct GBRA to re-evaluate contracts for professional services every five years, and frequently compile updated vendor lists and best value practices for cost savings to use when re-evaluating contracts. (Management action – nonstatutory)

## ISSUE 3

### *GBRA Should Clarify and Better Manage Its Relationships With Associated Nonprofits.*

**Recommendation 3.1, Adopted** — Direct GBRA to consolidate the funds it provides to GBRT and SABF to one organization and clearly define expectations tied to this funding. (Management action – nonstatutory)

**Recommendation 3.2, Adopted** — Direct GBRA to create clear boundaries and reporting structures between its staff and associated nonprofits. (Management action – nonstatutory)

**Recommendation 3.3, Adopted** — Direct GBRA to evaluate whether GPS' narrow mission justifies GBRA support or whether its activities could be performed internally. (Management action – nonstatutory)

**Recommendation 3.4, Adopted** — Direct GBRA to evaluate the continuing need for relationships with any nonprofits every five years to ensure the nonprofits are achieving shared goals. (Management action – nonstatutory)

## RED RIVER AUTHORITY OF TEXAS

### ISSUE 4

#### *The Lack of Comprehensive Analysis Before Critical Decisions has Potentially Resulted in Missed Opportunities for RRA.*

**Recommendation 4.1, Adopted** — Require RRA to develop and maintain a comprehensive asset management plan.

**Recommendation 4.2, Adopted** — Require the RRA board to adopt a policy to ensure meaningful public input on significant rate changes.

**Recommendation 4.3, Adopted** — Require RRA to inform customers of their right to appeal rate changes.

**Recommendation 4.4, Adopted** — Direct RRA to document and regularly update its key duties and procedures. (Management action – nonstatutory)

## NUECES RIVER AUTHORITY

### ISSUE 5

*Additional Management Tools Could Help Guide Impending Change and Ensure Continued Success at NRA.*

**Recommendation 5.1, Adopted as Modified** — Require NRA to adopt a formal, written five-year strategic plan and engage in a regular strategic planning process. Also require the strategic plan to be made public record online at the time of its completion and updated regularly when needed.

**Recommendation 5.2, Adopted** — NRA should take action to prepare for future retirements and workforce changes. (Management action – nonstatutory)

## CROSS ISSUE

### ISSUE 6

*River Authorities Lack Certain Good Government Standards That Would Enhance Transparency, Accountability, and Compliance With State Law.*

**Recommendation 6.1, Adopted as Modified** — Require opportunities for public testimony at board meetings and direct river authorities to implement additional best practices to improve openness and transparency. (Management action – nonstatutory)

As a statutory change, as part of Recommendation 6.1(d), related to updating the governing laws of GBRA, RRA, and NRA, include the series of agreed-to changes needed to allow the Texas Legislative Council to prepare these laws for codification. (*See Adopted Language, page A5*)

**Recommendation 6.2, Adopted as Modified** — Direct RRA and NRA to develop a policy to ensure all professional services contracts are reviewed every five years. RRA and NRA should also frequently compile vendor lists and best value practices for cost savings to use when re-evaluating contracts. (Management action – nonstatutory)

**Recommendation 6.3, Adopted as Modified** — Apply good government standards to river authorities' governing laws to promote accountability, transparency, and best practices, replacing Recommendation 6.3(e) to read as follows.

Require GBRA, RRA, and NRA to include public testimony as an agenda item at every regular board meeting. GBRA, RRA, and NRA should clearly provide the public the opportunity to comment on each agenda item and any issue or matter under the river authority's jurisdiction at open board meetings, provided that board members do not engage in deliberation of or decisions about the subject of testimony that is not a specific agenda item other than to indicate they will place the subject on the agenda for a subsequent meeting if the board so desires.

**Recommendation 6.4, Adopted** — Direct RRA to comply with TCEQ rules by adopting required administrative policies. (Management action – nonstatutory)

## ADOPTED NEW RECOMMENDATIONS

### Red River Authority Audit

Require the State Auditor’s Office to conduct an audit of the Red River Authority no later than December 1, 2022. The purpose of this audit would be to evaluate whether RRA has addressed the operational challenges identified by Sunset.

### Red River Authority Reporting

Direct RRA to provide written semi-annual reports to the Sunset Commission regarding the implementation of the recommendations adopted by the commission, beginning January 31, 2019. This provision would expire after two years to coincide with Sunset’s compliance review. (Management action – nonstatutory)

### Strategic Planning

Direct GBRA and RRA to adopt a formal, written five-year strategic plan and engage in a regular strategic planning process. Direct the written plan to be made public record online at the time of its completion and updated regularly when needed. (Management action – nonstatutory)

### Succession Planning

RRA should take action to prepare for future retirements and workforce changes. (Management action – nonstatutory)

## Fiscal Implication Summary

The recommendations in this report would not have a significant impact to the state. Minimal impacts to each of the three river authorities are discussed below.

***Guadalupe-Blanco River Authority*** — Recommendations in this report would not have a significant fiscal impact to GBRA. The authority will have some costs associated with implementing a comprehensive asset management process and procuring a contract management system, but has already budgeted for these costs. Other recommendations, such as implementing best practices for transparency, would not have a significant fiscal impact to GBRA and could be absorbed within existing resources.

***Red River Authority of Texas*** — Recommendations in this report would have minimal or temporary fiscal impact on RRA. For example, RRA may need to contract for expertise when first developing an asset management plan. However, quality comprehensive asset management will better ensure RRA funds are well-spent and prevent excessive future costs or additional fines. A required audit by the State Auditor’s Office would not result in direct costs to the authority, but would have a minimal impact on the authority in terms of staff time. The State Auditor’s Office could conduct the audit within existing resources. Other changes reflecting improved management and open government practices could be absorbed within existing resources.

***Nueces River Authority*** — Recommendations in this report would not have a significant fiscal impact to NRA. Preparing for future staff needs and ensuring a strategic vision for the agency are essential functions and should be absorbed using existing resources.

## ADOPTED NEW LANGUAGE

### Recommendation 6.1(d)

As part of recommendation 6.1(d), related to updating the governing laws of GBRA, RRA, and NRA, include the series of agreed-to changes needed to allow the Texas Legislative Council to prepare these laws for codification, as summarized below.

#### Guadalupe-Blanco River Authority

- Makes grammar corrections to clarify meanings of various provisions
- Updates obsolete references to various state agencies, particularly the Texas Commission on Environmental Quality and the Texas Water Development Board
- Updates obsolete cross-references to other sections of law, including Chapters 5, 6, and 21 of the Texas Water Code
- Repeals or clarifies provisions that have been superseded by other laws, including
  - criminal penalties related to board member conflicts of interest, and
  - reimbursements for board member expenses and travel

#### Red River Authority of Texas

- Makes grammar corrections to clarify meanings of various provisions
- Updates obsolete references to various state agencies, particularly the Texas Commission on Environmental Quality and the Texas Water Development Board
- Updates obsolete cross-references to other sections of law
- Clarifies potential conflicts between controlling laws, specifically Chapters 49 and 62 of the Texas Water Code
- Repeals or clarifies provisions that have been superseded by other laws, including
  - criminal penalties related to board member conflicts of interest,
  - reimbursements for board member expenses and travel, and
  - the utility rate review process

#### Nueces River Authority

- Makes grammar corrections to clarify meanings of various provisions
- Updates obsolete references to various state agencies, particularly the Texas Commission on Environmental Quality and the Texas Water Development Board
- Updates obsolete cross-references to other sections of law, including Chapters 5, 6, 11, and 21 of the Texas Water Code, and Chapter 366 of the Texas Health and Safety Code
- Repeals or clarifies provisions that have been superseded by other laws, including
  - reimbursements for board member expenses and travel, and
  - private sewage regulations



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# INTRODUCTION





# INTRODUCTION

River authorities, a type of water district, are state governmental entities overseen by boards generally appointed by the governor. The Legislature created most river authorities to respond to water supply and flood control concerns beginning around the 1930s. Today, the authorities perform water quality and water supply activities in their respective watersheds, but many have other duties, such as generating electricity. River authorities' jurisdictions can be as small as one county, but the majority cover large portions of or entire river basins. River authorities receive no state appropriations and are often funded by water sales or other grants and contracts.

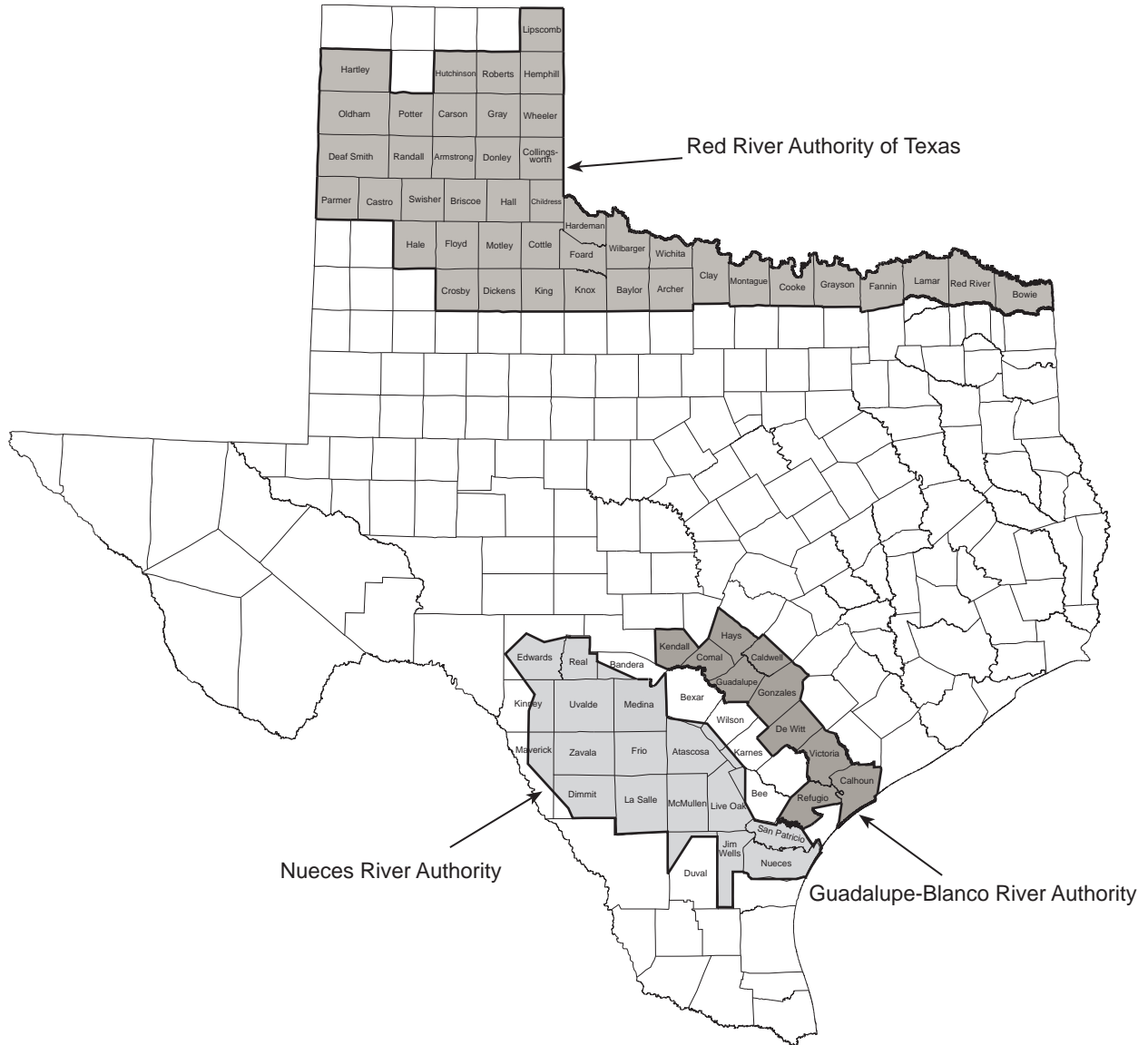
Each river authority is governed by its own law that grants it broad authority to engage in a wide range of functions authorized by the Texas Constitution. However, the actual functions each river authority performs vary widely depending on location, water needs, roles of other water entities, and the interest or initiative of the authority itself. Despite being state governmental entities, river authorities have historically received little state oversight.

In 2015, the 84th Legislature placed all 18 river authorities under Sunset review, scheduling four to five authorities for review each biennium over the following four biennia. Senate Bill 523 requires Sunset to evaluate river authorities' governance, management, operational structure, and compliance with legislative requirements, but specifies the authorities are not subject to abolishment. Four river authorities were reviewed for the 85th Legislature and four are assigned for this cycle. This report covers three of those authorities: the Guadalupe-Blanco River Authority, Red River Authority of Texas, and Nueces River Authority. The Lower Colorado River Authority will be addressed in a separate report later this year. In contrast to two authorities reviewed for the 85th session, all of these river authorities actually have a river and perform functions typical of river authorities. The chart below and the map on the following page provide additional detail on the three river authorities in this report.

## ***River Authorities Under Sunset Review (2019)***

<b>Authority</b>	<b>Headquarters</b>	<b>FTEs FY 2017</b>	<b>Budget FY 2017</b>
Guadalupe-Blanco River Authority	Seguin	172	Revenues: \$55,561,232 Expenditures: \$55,820,918
Red River Authority of Texas	Wichita Falls	28	Revenues: \$6,272,411 Expenditures: \$5,420,862
Nueces River Authority	Uvalde	9	Revenues: \$6,526,443 Expenditures: \$6,516,947

### River Authorities



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**SUMMARY OF SUNSET STAFF  
RECOMMENDATIONS**



# SUMMARY

Sunset finds these three river authorities at consecutive stages of significant organizational transition. The Nueces River Authority (NRA) has realized successful stewardship of the Nueces River basin and established a positive reputation in and outside its boundaries under the steady leadership of its general manager over the last several decades. However, with a general manager eligible for retirement and approaching 40 years into his tenure, and with the authority's first foray into utility operations drawing closer, the inevitability of substantial change looms on the horizon. Meanwhile, the Red River Authority of Texas (RRA) is currently in the midst of a changing of the guard, with the recent retirement of its own longtime general manager. RRA's new manager, only a few months into the position, is finding his footing with guidance from the outgoing manager, who remains on as a contracted consultant of the authority. The Guadalupe-Blanco River Authority (GBRA) finds itself securely on the other side of a major leadership transition. A new management team took the helm of the authority in 2016 and is looking at GBRA with fresh eyes. Along with such substantial changes come opportunities for a closer, more discerning look at the past and future of an organization, and thus fortuitous timing for these three river authorities to undergo a Sunset review.

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*The Sunset reviews of these three river authorities come at a time of transition for each.*

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**Guadalupe-Blanco River Authority.** GBRA's new management team has hit the ground running, identifying a long list of basic management practices and internal issues for the authority to improve or fix. They also have begun repairing GBRA's strained reputation with customers, partners, and other water entities, with whom the authority has clashed in the past. However, addressing the past is not enough, especially as GBRA is working to quench the thirst of the basin's growing population along the I-35 corridor. Sunset's recommendations therefore focus on what GBRA will need to have in place into the future: a thorough asset management planning process to care for its aging infrastructure and prepare for new projects, and a robust contracting team that can ensure proper execution of those plans.

**Red River Authority of Texas.** RRA is steered by traditionalists; the authority likes to do things the way they have always been done. Even in the midst of its own leadership change, the authority continues to live in the past, signaling resistance to change and new perspectives. As a provider of rural utility services, RRA encounters many of the struggles that face these types of services: low revenues, high costs of running a spread out system, and persistent issues with compliance due to naturally occurring contaminants that plague several small water systems across the state. These obstacles, however, do not excuse the authority from meeting minimum safety and transparency standards. Rather they signal the need for more robust and proactive management that is willing

to seek out solutions and address these problems head-on. As the authority's new general manager steps in, this is an opportunity for a fresh leadership perspective open to new ideas to ensure the best decisions are made for the authority's customers and the basin as a whole.

**Nueces River Authority.** NRA is a well-run, successful authority, but stands on the precipice of change with its first utility operation, a wastewater treatment plant and distribution system, starting up this year. NRA's seemingly limited functions, in comparison to the other authorities under review, are misleading at first blush. On the contrary, the authority has been exceptionally proactive in seeking out and spearheading important projects, like its successful Carrizo cane control campaign, which has become the model for other invasive plant control projects throughout the state. However, NRA's upcoming growth into utility operations and an inevitable future handover in leadership warrant strategic management and foresight to ensure the authority will continue to realize the same success going forward.

## Issues and Recommendations

### *Issue 1*

#### **GBRA's Aging Infrastructure and Inadequate Asset Management Put Some Utility Operations at Risk.**

GBRA is a sizeable utility provider, with hundreds of thousands of Texans relying on its services for their water and wastewater, and it sits positioned to serve many more in the upcoming decades. However, the authority has not implemented a comprehensive asset management process to ensure timely repair and replacement of its significant utility assets. Some of the authority's infrastructure is failing, either in critical condition or beyond repair, and GBRA faces potential service disruptions for its customers. GBRA will need to balance maintenance, repair, and replacement of its existing, aging infrastructure with the need for new development throughout the basin. Additionally, GBRA's communication strategies are not well-coordinated with asset management and operations, which may limit sensitive and timely messaging regarding asset needs to local communities.

#### **Key Recommendations**

- Require GBRA to develop and maintain a comprehensive asset management plan.
- Direct GBRA to ensure the asset management process is linked to the authority's public messaging and communications.

### *Issue 2*

#### **GBRA's Procurement and Contracting Efforts Lack Coordination and Best Practices Needed to Ensure Adequate Expertise and Best Value.**

Given GBRA will likely see its contracting activity increase to help meet the river basin's growing water needs, the authority needs to ensure it has a sound, well-coordinated procurement and contracting system in place. GBRA does not have fully centralized oversight of procurement and contracting functions to ensure proper development, tracking, and monitoring of contracts. Also, some of GBRA's contracting activities do not conform to typical best practices, such as ensuring procurement and contract management

staff receive formal and ongoing training. Addressing these issues would promote consistency and efficiency, ultimately improving the quality of GBRA's procurements and ensuring the authority gets best value for its contracts.

### **Key Recommendations**

- GBRA should take additional steps to centralize its approach to procurement and contracting functions.
- GBRA should ensure key procurement and contract management staff receive formal training.
- GBRA should improve certain contracting activities to ensure consistency and enhance monitoring.

## ***Issue 3***

### **GBRA Should Clarify and Better Manage Its Relationships With Associated Nonprofits.**

GBRA partners with three nonprofits it founded to assist in carrying out GBRA's educational and conservation activities. GBRA has provided significant funding to these organizations without defining a clear relationship with or expectations of the organizations in return for these contributions. Nonprofit staff members are also GBRA employees and report directly to GBRA's general manager as well as their respective boards. This creates a conflict of interest for nonprofit staff in balancing their obligations to both GBRA and the nonprofit boards. Although GBRA does appear to benefit from its relationship with these organizations, it has never fully evaluated the continued need for these partnerships.

### **Key Recommendations**

- Direct GBRA to consolidate the funds it provides to the Guadalupe-Blanco River Trust and San Antonio Bay Foundation to one organization and clearly define expectations tied to this funding.
- Direct GBRA to create clear boundaries and reporting structures between its staff and associated nonprofits.
- Direct GBRA to evaluate whether the Gorge Preservation Society's narrow mission justifies GBRA support or whether its activities could be performed internally.
- Direct GBRA to evaluate the continuing need for relationships with any nonprofits every five years to ensure the nonprofits are achieving shared goals.

## ***Issue 4***

### **The Lack of Comprehensive Analysis Before Critical Decisions has Potentially Resulted in Missed Opportunities for RRA.**

RRA is primarily a rural utility with operations stretching across 15 counties from the Panhandle to Lake Texoma. For decades, RRA failed to meet safe drinking water quality standards on some of its systems. When the U.S. Environmental Protection Agency fined RRA for violating the standards, the authority rushed to action without adequately evaluating all its options or fully considering the impact on customers. Had RRA had a more robust asset management approach, the authority would have identified and prioritized the needs of systems that were out of compliance with water quality standards,

which could have resulted in RRA taking action sooner to alleviate the issues, perhaps avoiding the fine and minimizing its significant rate increase. The recommendations would implement best practices for operations and ensure RRA does not make major decisions based on limited information.

### **Key Recommendations**

- Require RRA to develop and maintain a comprehensive asset management plan.
- Require the RRA board to adopt a policy to ensure meaningful public input on significant rate changes.
- Require RRA to inform customers of their right to appeal rate changes.

## ***Issue 5***

### **Additional Management Tools Could Help Guide Impending Change and Ensure Continued Success at NRA.**

While NRA performs its duties thoughtfully and proactively, it lacks a formal strategic plan to guide it through the significant operational changes it faces ahead. The authority has seen success as a small organization with limited duties, but as it grows into its new role as a utility provider and faces the future, a formal strategic plan would help ensure its vision is clearly communicated to and executed by the board and staff. Future retirements create risk that NRA could lose valuable institutional knowledge held by its small, tenured staff. Documentation of functions and duties is critical for small organizations with multitasking staff who have specialized knowledge, and would help keep NRA running smoothly through any future staffing changes.

### **Key Recommendations**

- Require NRA to adopt a formal, written five-year strategic plan and engage in a regular strategic planning process.
- NRA should take action to prepare for future retirements and workforce changes.

## ***Issue 6***

### **River Authorities Lack Certain Good Government Standards That Would Enhance Transparency, Accountability, and Compliance With State Law.**

Over the past 40 years, Sunset has observed, documented, and applied good government standards that reflect best practices designed to ensure open, responsive, and effective government. These three river authorities have not applied certain best practices that would improve openness and transparency. In addition, the river authorities' governing laws do not reflect good government standards, such as requirements for board member training or regarding conflicts of interest, typically applied during Sunset reviews. TCEQ has a continuing right of supervision over all water districts, including river authorities. RRA also has not fully complied with applicable state laws and additional good government policies in TCEQ rules.



## Key Recommendations

- Require opportunities for public testimony at board meetings and direct river authorities to implement additional best practices to improve openness and transparency.
- Direct river authorities to develop a policy to ensure all contracts are periodically reviewed.
- Apply good government standards to river authorities' governing laws to promote accountability, transparency, and best practices.
- Direct RRA to comply with TCEQ rules by adopting required administrative policies.

## Fiscal Implication Summary

The recommendations in this report would not have a fiscal impact to the state. Impacts to each of the three river authorities are discussed below.

*Guadalupe-Blanco River Authority* — Recommendations in this report would not have a significant fiscal impact to GBRA. The authority will have some costs associated with implementing a comprehensive asset management process and procuring a contract management system, but has already budgeted for these costs. Other recommendations, such as implementing best practices for transparency, would not have a significant fiscal impact to GBRA and could be absorbed within existing resources.

*Red River Authority of Texas* — Recommendations in this report would have minimal or temporary fiscal impact on RRA. For example, RRA may need to contract for expertise when first developing an asset management plan. However, quality comprehensive asset management will better ensure RRA funds are well-spent and prevent excessive future costs or additional fines. Other changes reflecting improved management and open government practices could be absorbed within existing resources.

*Nueces River Authority* — Recommendations in this report would not have a significant fiscal impact to NRA. Preparing for future staff needs and ensuring a strategic vision for the agency are essential functions and should be absorbed using existing resources.



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**GUADALUPE-BLANCO RIVER  
AUTHORITY  
APRIL 2018**



# AUTHORITY AT A GLANCE

## GUADALUPE-BLANCO RIVER AUTHORITY

The Legislature created the Guadalupe-Blanco River Authority (GBRA) in 1933 to develop, conserve, and protect the water of the Guadalupe and Blanco rivers.<sup>1</sup> Like other river authorities, GBRA is authorized to conduct a broad range of activities, including building and operating reservoirs; engaging in flood control; selling raw and treated water; conducting wastewater treatment; acquiring property by eminent domain; building and managing park land; and generating electricity. As one of the state's larger river authorities, GBRA engages in a number of these activities, including

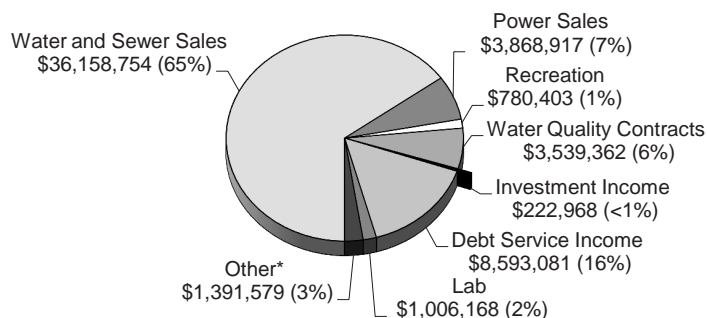
- developing and conserving water supply resources;
- providing water and wastewater services for cities, towns, and rural communities within its jurisdiction;
- generating and selling hydroelectric power;
- providing recreational opportunities;
- monitoring the water quality in the Guadalupe-Blanco river basin through the Texas Clean Rivers Program and other contracts; and
- serving as a voting member of the Region L Regional Water Planning Group.

The map on page 2 shows GBRA's jurisdiction, which covers 10 counties stretching from Central Texas down to Port Lavaca.

### Key Facts

- **Board.** GBRA is governed by a nine-member board appointed by the governor. Each board member must be a property taxpayer and reside in one of the counties within GBRA's jurisdiction, but only one member from each county may serve at the same time. Board members serve six-year staggered terms. The board meets monthly and elects a chair each year.
- **Funding.** GBRA receives no state appropriations. In fiscal year 2017, GBRA collected about \$55.5 million and spent nearly \$56 million, as shown in the following pie charts. Almost two-thirds of GBRA's funding comes from water and wastewater sales to wholesale and retail customers. Other funding comes from sales of hydroelectric power, grants for water quality monitoring, charges to laboratory customers, user fees for recreation programs, and income on investments and debt service. GBRA is not authorized to assess taxes.

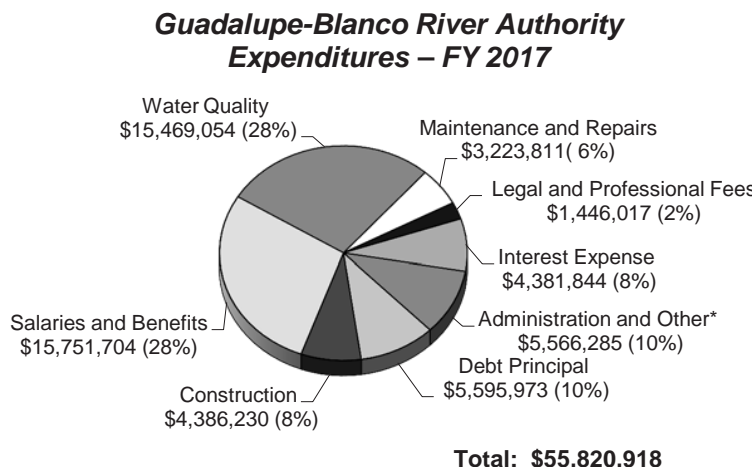
**Guadalupe-Blanco River Authority**  
**Sources of Revenue – FY 2017**



**Total: \$55,561,232**

\* Includes rental income, insurance claims, permit income, and other.

- **Staffing.** In fiscal year 2017, GBRA employed 172 staff, nearly 70 percent of whom are located at GBRA's headquarters in Seguin or its Port Lavaca office. GBRA's remaining staff work at water and wastewater treatment plants or other small regional offices throughout the basin.
- **Water quality.** As part of the Texas Clean Rivers Program, GBRA collects water quality samples and data at 33 sites and reports this information to the Texas Commission on Environmental Quality (TCEQ). The authority also contracts with TCEQ and the Texas State Soil and Water Conservation Board to conduct additional water quality projects at Plum Creek, Geronimo Creek, and Alligator Creek.



\* Includes depreciation, board expenses, and other.

GBRA operates a nationally certified laboratory to conduct chemical and biological testing. In addition to supporting the authority's own operations and water quality functions, the lab conducts testing for cities, water districts, industries, and private citizens in the basin.

- **Water supply.** GBRA holds rights to nearly 290,000 acre-feet of water, which represents 65 percent of all water permitted in the basin for diversion and consumptive use.<sup>2</sup> A significant portion of these rights are in Canyon Reservoir. A joint project between the U.S. Army Corps of Engineers and GBRA, the reservoir was built in 1964 to provide flood protection and water supply to the area. The corps owns and operates the dam and manages the release of water within the flood control pool. As a wholesale water provider, GBRA sells water to cities, industries, and agricultural customers.

GBRA also operates a 75-mile canal system that delivers water from the Guadalupe River to cities, industries, and agricultural customers in Calhoun County through a series of open-air irrigation canals, pump stations, and pipelines.

- **Utilities and recreation.** GBRA provides wholesale and retail water and wastewater services to urban and rural communities and residents across the river basin. Combined, GBRA's water and wastewater operations serve more than 350,000 individuals daily. The authority operates nine water systems that provide service to more than 300,000 individuals, including 8,000 retail customers, and 13 wastewater systems that provide service to nearly 50,000 individuals, including almost 14,000 retail customers.

GBRA also operates seven hydroelectric plants — one at Canyon Reservoir and six smaller plants on lakes in Guadalupe and Gonzales counties. GBRA sells the electricity it generates at Canyon Reservoir — roughly 14.3 million kilowatt-hours annually — to New Braunfels Utilities. The six smaller plants have limited production; combined, on average, they generate about 62 million kilowatt-hours of electricity per year. By comparison, the Hoover Dam generates about four billion kilowatt-hours of electricity annually.<sup>3</sup> Because these smaller plants rely on water being in the river to produce electricity, they do not always recoup their own costs from year to year. GBRA sells the electricity to the Guadalupe Valley Electric Cooperative.

At two of the smaller hydroelectric lakes, GBRA maintains recreation amenities, such as playgrounds and picnic and camp sites. GBRA also operates Coletto Creek Park, which consists of 40 developed acres of recreation space with camping, park, and fishing amenities.

- **Education and outreach.** GBRA works with students, teachers, and the general public to increase their awareness and appreciation of the natural resources in the basin through presentations, tours, and educational materials. The authority provides various programming to school-age students in the basin, such as water quality classroom presentations and water-related writing competitions. During the 2016–2017 school year, GBRA’s programs reached more than 13,000 students.

GBRA also funds three affiliated nonprofits that promote unique natural resources or respond to varying needs in the basin — the Guadalupe-Blanco River Trust, Gorge Preservation Society, and San Antonio Bay Foundation.

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<sup>1</sup> The Legislature first created the authority in 1933 as the Guadalupe River Authority. In 1935, the Legislature reauthorized it as the Guadalupe-Blanco River Authority.

<sup>2</sup> GBRA also has 3.8 million acre-feet worth of hydroelectric power generation rights that are not included in these totals as they are not for diversion or consumptive purposes.

<sup>3</sup> “Hoover Dam: Frequently Asked Questions and Answers,” U.S. Department of the Interior, Bureau of Reclamation, last modified February 7, 2017, <https://www.usbr.gov/lc/hooverdam/faqs/powerfaq.html>.





# ISSUE 1

## *GBRA's Aging Infrastructure and Inadequate Asset Management Put Some Utility Operations at Risk.*

### Background

The Guadalupe-Blanco River Authority (GBRA) is a sizeable utility provider with significant infrastructure to serve its retail and wholesale customers, including dams, canals, water and wastewater treatment plants, hydroelectric plants, and other long-term capital assets. GBRA provides utility services to customers throughout its basin, spanning from the Hill Country north of San Antonio, through the I-35 corridor, and all the way down to the San Antonio Bay on the coast. Many of GBRA's service areas, particularly in the I-35 corridor between Austin and San Antonio, are experiencing high population growth, which will increase the need for utility services. GBRA's capital assets total nearly \$160 million, including seven water and wastewater treatment plants, seven hydroelectric plants, six dams, three recreational operations, 80 miles of canals, 22 miles of electric transmission lines, and approximately 150 miles of pipeline.<sup>1</sup>

### Findings

#### **GBRA has not implemented a comprehensive asset management process to ensure timely repair and replacement of its significant utility assets, leading to failed infrastructure and potential service disruptions for its customers.**

GBRA owns and operates several aging plants and other infrastructure that date back nearly a century. While GBRA characterizes the overall condition of its infrastructure and capital assets as “generally good,”<sup>2</sup> significant areas of concern exist among some of the authority's major structures. Examples of GBRA's most pressing infrastructure needs are discussed below.

- Guadalupe Valley Hydroelectric System.** GBRA's primary concern among its aging assets is the Guadalupe Valley Hydroelectric System. This system consists of six hydroelectric plants positioned along the Guadalupe River, and has dams nearing 100 years old. One of the system's 15 spill gates broke irreparably in 2016, draining the lake behind the dam. Most of the other gates in this system need significant maintenance. In addition to the aging materials of the dams, the dam design is antiquated and relies on century-old engineering practices. GBRA's engineering staff have found very few still functional dams of this design in the world. The design, while technically still functional, does not allow GBRA the desired degree of control and precision in operating the dam, which creates difficulty for GBRA's operators, especially during high flow conditions. In fact, the now-broken spill gate blew off its hinges while being operated following heavy rainfall. GBRA has budgeted \$3.7 million for studies to determine options for repair or replacement of the gates and to make repairs at four of the dams. GBRA anticipates costs of \$50 million to \$80 million to make the needed upgrades to the entire system.

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*The dams in the Guadalupe Valley are nearing 100 years old.*

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*At the Port Lavaca plant, electrical boxes operating critical pumps have significantly deteriorated.*

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- **Port Lavaca Water Treatment Plant.** The Port Lavaca Water Treatment Plant has reached the end of its useful life and is in need of either complete rehabilitation or decommissioning. This plant was GBRA's first, built in 1969. While the plant underwent a major expansion from 1991 to 1993, many of its original components are still in place, nearing 50 years of age and dangerously outdated. For example, rusty parts are common and the electrical boxes operating critical pumps needed to move water into and out of the system have significantly deteriorated. Further, some of the plant's buildings lost walls and roofs in Hurricane Harvey, but the machinery survived in functional condition. The near-miss of that storm highlighted the risk inherent in Port Lavaca's reliance on a vulnerable, aging plant.

The city of Port Lavaca, population 12,400, along with 4,500 rural customers in Calhoun County, are single-source customers and rely entirely on this plant for their water. Additionally, 1,250 people in Port O'Connor receive 80 to 90 percent of their water from the plant. Despite the time-sensitive need for plant repair or replacement to ensure these customers will continue to have water, GBRA and its customers have not yet finalized a plan for a new plant, which will take years to design and construct. Details of additional issues with the plant are discussed in the textbox *Factors Complicating Plant Rehabilitation*.

#### **Factors Complicating Plant Rehabilitation**

The Port Lavaca plant can only hold an eight-hour supply of water for its customers at one time, so all regular maintenance that requires partial plant shutdowns is performed in short spurts overnight to minimize impacts to water service. However, six major pieces of machinery that consistently leak water into one of the mechanical rooms cannot be replaced without cutting off water to the city for an extended period of time.

GBRA has no formal system for identifying long-term infrastructure needs, setting priorities, and budgeting for repairs or replacement. Many of GBRA's needs have been looming for years, resulting in the authority's new leadership scrambling to address problems that were imminent long before its tenure began. GBRA recently took the first step toward an asset management process by completing an asset inventory. GBRA's next steps are to contract with an engineering firm and procure asset management software to help develop and implement a long-term asset management plan.

As the population in the basin grows, the authority will continue to build or acquire more infrastructure to meet increasing water demands. GBRA has begun operating three wastewater systems to service new residential developments in this area since 2015, and this growth is expected to continue in high volumes. The *2017 State Water Plan* projects four of GBRA's counties in the Austin-San Antonio corridor will see huge population increases ranging from 100 to more than 200 percent between 2020 and 2070.<sup>3</sup> The growth in water demands and capital assets compounds the need for GBRA to establish a long-term, continual plan to service new customers without neglecting its older, existing assets.

**GBRA’s communication strategies are not well-coordinated with asset management and operations, which may limit sensitive and timely messaging regarding asset needs to local communities.**

Infrastructure problems directly impact the public, underlining the need for coordinated communication strategies to ensure transparency and manage expectations. This is particularly true with utility operations because service interruptions can prevent customer access to fundamental necessities like water, and repair and replacement work often means rate increases to customers. GBRA staff indicated that the inability to reach a consensus with plant customers about the need for and costs of the repairs is part of the reason the Port Lavaca plant has reached such serious condition.

Even when infrastructure does not affect utility service or rates, it can have major impacts on local communities for other reasons. For example, the residents of the Lake Wood area — where the broken hydroelectric dam spill gate has drained the lake — have felt serious effects from the loss of the lake. The dams and lakes exist purely for hydroelectric generation and serve no flood control or water supply functions, so the only financial stakeholder is GBRA’s wholesale electric customer. However, this lake affects many aspects of the lives of Lake Wood residents, including quality of life, tax values on formerly lakefront property, property repair issues for dock and boat owners, and recreational income to the community. The residents of Lake Wood have been very vocal about the effects of the broken spill gate on their community and have raised questions about why GBRA did not have repair and replacement plans in place before the dam reached this critical breaking point.

Public communication and customer buy-in on asset management, especially with regard to the need for costly maintenance and new facilities, are important components of a successful asset management process. Specifically, this communication is needed to help secure funding from rate-payers, execute potentially disruptive repairs with minimal negative impact, and maintain strong, open relationships to promote transparency. To accomplish these goals, GBRA needs strong internal coordination to ensure leadership, communications staff, and operations staff are all on the same page regarding strategies to tackle upcoming issues and needs.

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*Residents of Lake Wood have questioned GBRA’s lack of repair and replacement plans for the dam.*

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## Recommendations

### ***Change in Statute***

#### **1.1 Require GBRA to develop and maintain a comprehensive asset management plan.**

This recommendation would expand on GBRA’s developing asset management process by requiring a comprehensive plan that incorporates the following activities:

- Prepare a detailed asset inventory, identifying each system’s assets and their condition
- Develop and document criteria for prioritizing assets for repair or replacement, considering how soon the asset will need to be repaired or replaced; its importance to the provision of safe drinking

water and meeting regulatory standards; its overall importance to the operation of the system; and any other criteria GBRA deems necessary

- Estimate asset repair and replacement costs
- Identify and evaluate all potential financing options
- Develop an asset management schedule for repairs and replacement based on priority and funding availability
- Review and revise the plan as necessary based on regulatory changes or other needs

The board would approve the plan annually as part of its budget process. A more complete asset management framework would help GBRA make more informed, strategic decisions about its infrastructure, identify financial resources needed to operate its systems, and determine how to execute future improvements necessary to maintain utility operations customers rely on.

### **Management Action**

#### **1.2 Direct GBRA to ensure the asset management process is linked to the authority's public messaging and communications.**

Under this recommendation, GBRA operations staff and leadership should work with communications staff to identify both asset management needs and communications needs in tandem with each other. Collaboration between these divisions would ensure GBRA better communicates impending needs and delivers consistent, understandable messages in advance of major rate changes or other impacts to customers or stakeholders who rely on GBRA infrastructure.

### **Fiscal Implication**

These recommendations would not have a significant fiscal impact to the state or GBRA. GBRA has already begun to develop an asset management process and budgeted for contracts related to implementing the process. Ensuring this process meets best practices and guidelines would have no additional cost and would better ensure funds are well-spent in the long term.

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<sup>1</sup> Guadalupe-Blanco River Authority (GBRA), *Comprehensive Annual Financial Report* (Seguin: Guadalupe-Blanco River Authority, 2017), 21; Guadalupe-Blanco River Authority, *Work Plan and Budget*, accessed March 5, 2018, <https://www.gbra.org/documents/public/fy2018budget.pdf>.

<sup>2</sup> GBRA, *Comprehensive Annual Financial Report*, 21.

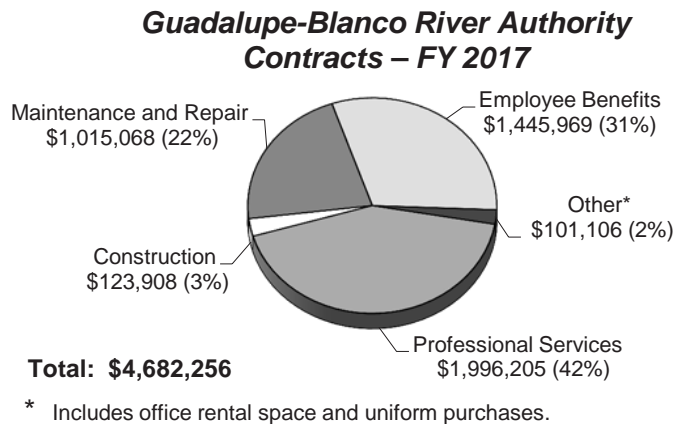
<sup>3</sup> Texas Water Development Board, *Water for Texas: 2017 State Water Plan* (Austin: Texas Water Development Board, 2017), 51.

## ISSUE 2

### *GBRA's Procurement and Contracting Efforts Lack Coordination and Best Practices Needed to Ensure Adequate Expertise and Best Value.*

#### Background

The Guadalupe-Blanco River Authority (GBRA) contracts primarily for professional services for water development projects and ongoing maintenance of existing infrastructure. The accompanying pie chart provides a breakdown of GBRA's contract expenditures in fiscal year 2017, which totaled nearly \$4.7 million.



#### Findings

##### **GBRA's procurement and contracting systems lack clear central oversight and coordination to ensure consistent, efficient operations.**

Centralized oversight of procurement and contracting functions can ensure inclusion of proper expertise in developing, monitoring, and enforcing contracts, and help identify problems before they negatively affect an organization. Coordination of procurements and contracts also promotes efficiency and consistency, helping save time and money by standardizing processes, avoiding duplication, and simplifying reporting. A sound procurement and contracting system is especially important for GBRA given that it will likely see its contracting activity increase to help meet the basin's growing water needs. According to the *2017 State Water Plan*, four counties within GBRA's jurisdiction in the Austin-San Antonio corridor are expected to see huge population increases ranging from 100 to more than 200 percent in the next 50 years.<sup>1</sup>

- No central point of control for procurements.** Historically, GBRA's purchasing and contracting functions have been decentralized, with each division doing its own purchasing. A decentralized system prevents GBRA from having a full picture of its purchases, missing potential benefits of economies of scale as well as oversight by dedicated procurement experts who can help ensure compliance with legal requirements and best practices. GBRA is in the early stages of developing a purchasing division and has centralized procurement of certain items, such as chemicals and mowing services. However, divisions responsible for large procurements, such as construction projects, still manage these procurements separately without leveraging centralized expertise.

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*A decentralized system prevents GBRA from having a full picture of its purchases.*

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*GBRA cannot produce timely and accurate contract reports for management.*

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- **No centralized system for contract reporting and tracking.** GBRA has no contract management system that allows the agency to effectively track and manage contracts. Failure to maintain a comprehensive central contract management database means GBRA cannot produce timely and accurate reports for upper management or easily identify and monitor problematic contracts.

Until early 2017, GBRA did not even have a comprehensive, centralized inventory of all contracts. While the authority is now capturing all contracts in its records management system, this system only houses documentation and cannot readily provide useful information. For example, to provide a list of significant contracts to Sunset staff, including the award amount, type of procurement, and contract term, GBRA had to review each individual contract in its system for the relevant information. To provide an overview of contract expenditures and status, GBRA management had to work with project staff in each division to compile the data. While GBRA recognizes its system limitations and has plans to obtain a new system, the authority should prioritize efforts to monitor its increasing contracting function to ensure projects are on time and within budget.

### **GBRA's approach to certain procurement and contract management activities does not conform to typical best practices.**

Standard best practices for contracting procedures emerge because of their proven value to organizations. Several aspects of GBRA's procurement and contract management approaches do not align with best practices.

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*GBRA does not require staff managing contracts to receive any training.*

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- **Lack of procurement and contract management training.** GBRA's procurement manual encourages employees involved in procurement to participate in trainings, but does not require any formal training to ensure expertise in legal requirements or best practices applicable to procurement functions. Further, GBRA does not require staff managing contracts to receive any training to ensure they understand how to properly monitor contracts for expected deliverables and when and how to address contractor performance problems. In comparison, state law requires typical state agency employees engaged in purchasing or managing significant contracts to receive training and continuing education. A keen understanding of the procurement and contracting processes is paramount to the success of these functions.
- **Inconsistent evaluation and performance documentation.** GBRA has not consistently documented its decision-making process related to contract awards and contractor performance. For example, for one of its engineering services solicitations, GBRA received multiple bids and had an evaluation team score the proposals, but was unable to locate any documentation related to the selection of the winning bid. GBRA also lacks a process to ensure staff adequately and consistently document contractor performance, often preferring to handle performance issues verbally. While Sunset did not

identify a pattern suggesting impropriety, GBRA should have sufficient documentation to support its decisions and protect the authority from challenges related to its contracts.

- **No signed conflict-of-interest disclosures.** Though GBRA's employee manual and board policies express the importance of avoiding even the appearance of conflicts of interest, it does not require written conflict-of-interest disclosures from employees involved in evaluating solicitations. Best practices suggest such disclosures would ensure bids are evaluated fairly and provide additional protections for GBRA should an award be challenged.
- **No systematic review of certain long-standing contracts.** Some GBRA contracts have open-ended terms that allow the authority to use the same vendor for an extended period of time without getting new qualifications. For example, the authority's bond counsel contract has been in place for over 20 years. Although GBRA has a policy to ensure auditor engagements do not exceed five years, it has no similar policy for other professional services. Policies to review and periodically rebid contracts would help ensure GBRA gets the best value for these services.
- **Lack of authority-wide escalation procedures.** GBRA does not have an ongoing and formal reporting structure to ensure contract managers bring significant contract problems to the attention of leadership. While GBRA staff escalate contract problems on an ad hoc basis, clear guidance on how and under what circumstances issues should be elevated would improve the authority's ability to resolve problems early.
- **Lack of contract award notification.** For engineering services, GBRA sends out formal letters to bidders not selected, but for other services the authority does not notify those not selected. Individuals or entities that are not awarded contracts often request information through public information requests when they do not hear back, demonstrating these bidders are interested in a more formal response from GBRA.

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*GBRA's bond  
counsel contract  
has been in place  
for over 20 years.*

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## Recommendations

### **Management Action**

#### **2.1 GBRA should take additional steps to centralize its approach to procurement and contracting functions.**

- **Establish a central procurement office.** The office would serve as a clear point of coordination and final approval for all procurements, and oversee standardization of major aspects of procurement. The office should develop standard procurement forms, evaluation structures, awards processes, contract management training, and other policies outlined below, as well as serve as a resource for staff on procurement and contracting related questions. To maintain needed subject-matter expertise in the process, GBRA should consider involving divisions in writing the initial scope of work as well as ultimately managing the contracts in their area of expertise. In developing new processes and forms, the procurement office should involve GBRA's legal staff and other divisions with significant roles

in procurements to ensure any new procedures reflect the various needs and perspectives of GBRA's divisions. A higher degree of centralization would help ensure processes are consistent and fair for all vendors, and improve procurement efficiency throughout the organization.

- **Procure or develop a contract management system.** Centralized information is necessary for GBRA management to easily obtain timely information to track and manage procurements and contractor performance.

## **2.2 GBRA should ensure key procurement and contract management staff receive formal training.**

The central procurement office should ensure staff involved in procuring and managing significant contracts receive formal and ongoing training related to

- purchasing methods;
- developing adequate statements of work and evaluation criteria;
- conflicts of interest;
- strategies for managing contractors;
- maintaining required documentation for procurement decisions, contract changes, and performance issues; and
- any other information GBRA deems necessary.

Comprehensive, mandatory training will ensure staff are familiar with the fundamentals of good contracting practices.

## **2.3 GBRA should improve certain contracting activities to ensure consistency and enhance monitoring.**

The central procurement office should ensure GBRA meets the following best practices:

- **Maintain adequate procurement and performance documentation.** To justify and document its decision-making process, GBRA should adopt and enforce a policy requiring adequate documentation of all aspects of the contracting process, including the scoring and ranking of solicitations, and significant contract performance issues.
- **Require signed conflict-of-interest disclosures.** Employees involved in evaluating proposals should complete a written conflict-of-interest disclosure identifying whether they have been previously employed by a potential contractor, have an economic interest in a business entity seeking to do business with GBRA, or have any other potential conflicts identified by the authority. Formal, written disclosures would encourage awareness of and compliance with the rules and protect GBRA from potential legal challenges.
- **Ensure all contracts are reviewed periodically.** GBRA should adopt a policy, similar to its existing policy for audit engagements, to periodically re-evaluate contracts for other types of professional services to ensure the authority is receiving the best value.



- **Adopt escalation policies.** These policies should outline criteria that indicate when a contract manager needs to involve legal and other management staff, such as continued delay in service or a failure to meet performance expectations.
- **Notify those not awarded contracts.** To promote transparency in the solicitation process and alleviate the need for individuals to go through the more formal Public Information Act process, GBRA should adopt a policy of notifying all bidders not awarded a contract.

## Fiscal Implication

These recommendations would not have a fiscal impact to the state since GBRA does not receive state appropriations. The requirement for GBRA to procure a contract management system would result in costs to the authority of approximately \$6,000; however, GBRA has already budgeted for a new system in its 2018 budget. Savings could result from a more efficient, centralized procurement and contracting approach and economies of scale in GBRA's purchasing.

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<sup>1</sup> Texas Water Development Board, *Water for Texas: 2017 State Water Plan* (Austin: Texas Water Development Board, 2017), 51.



# ISSUE 3

## *GBRA Should Clarify and Better Manage Its Relationships With Associated Nonprofits.*

### Background

Since 2001, the Guadalupe-Blanco River Authority (GBRA) has helped fund four nonprofits to assist in carrying out some of the authority's educational and conservation activities. GBRA created these nonprofits for a variety of reasons, including providing GBRA access to grants and funds that can only be given to 501(c)(3) organizations. The four nonprofits are further described below.

- **Guadalupe-Blanco River Trust (GBRT).** GBRT works to protect land in the Guadalupe River watershed, primarily through acquiring conservation easements to protect open landscapes and wildlife habitats and conducting educational conservation workshops in the basin. GBRT was established as a 501(c)(3) in 2001; it has acquired 18 conservation easements since its founding and is in the process of acquiring new conservation easements in the Hill Country.
- **San Antonio Bay Foundation (SABF).** Founded in 2008, SABF works to foster and steward the natural resources of the San Antonio Bay and surrounding areas to protect marine life, coastal wildlife, and recreational areas.
- **Gorge Preservation Society (GPS).** In 2005, the U.S. Army Corps of Engineers (USACE) approved GBRA to be the leaseholder of Canyon Lake Gorge (Gorge), a natural phenomenon that serves as a venue for ecotourism in the basin. GBRA created GPS to manage public access to and maintenance of the Gorge, and to promote conservation, primarily through educational tours. For more information about the Gorge see the textbox *Creation of the Gorge*.
- **Guadalupe River Foundation (GRF).** GBRA created GRF in 2013 to provide a system for funding and maintaining a proposed environmental education center near the Gorge, but GBRA's board chose to dissolve GRF in early 2018 because of inactivity.

#### ***Creation of the Gorge***

In 1958, USACE, with GBRA, built a dam at Canyon Lake to provide flood control and water supply for the Guadalupe River basin. In July 2002, a momentous flood caused the lake water to overrun the spillway. The powerful force of the water, moving at about one-third the flow of Niagara Falls, carved a gorge in the earth approximately a mile long and more than 50 feet deep. The Gorge is now home to diverse geological features more than 100 million years old, including fossil beds, springs, waterfalls, dinosaur tracks, and a thriving ecosystem for wildlife.

### Findings

#### **GBRA has provided significant funding to three nonprofits without defining clear expectations for its investments.**

- **Significant financial support.** Since 2001, GBRA has contributed more than \$4 million to GBRT, SABF, and GPS in the form of salaries, benefits, rent, and operating expenses. The table on the following page, *Cumulative GBRA Financial Contributions Since Founding*, provides a detailed summary

of money provided to each nonprofit. Additionally, GBRA staff provides support with seeking grants, budget assistance, and other administrative tasks for these nonprofits. Although the nonprofits apply for grants and collect donations to supplement their operational costs, GBRA continues providing salaries for staff, office rent, and other financial assistance. None of the three nonprofits have a goal or timeline for reaching self-sufficiency.

**Cumulative GBRA Financial Contributions Since Founding**

	<b>GBRT</b>	<b>SABF</b>	<b>GPS</b>
Founded	2001	2008	2005
Salary and Benefits	\$1,032,073	\$955,359	\$658,639
Insurance	\$31,972	\$8,449	\$1,894
Office Space and Supplies	\$252,547	\$93,162	\$163,456
Other*	\$598,525	\$165,188	\$157,538
<b>Total</b>	<b>\$1,915,117</b>	<b>\$1,222,158</b>	<b>\$981,527</b>
<b>Grand Total: \$4,118,802</b>			

\* Includes program expenses, administrative expenses, utilities, dues, professional services, and other costs.

- **Unclear and inconsistent expectations.** GBRA has not established consistent, clear expectations for its associated nonprofits, leaving the nonprofits unsure of their relationship with and obligations to GBRA. For example, GBRA’s intention was to provide money to get these nonprofits up and running and taper off its financial support over time as the organizations became financially independent. Because GBRA did not communicate these expectations clearly, the nonprofits continue to rely primarily on GBRA for funding, and have not worked toward the goal of covering the entirety of their costs.

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*Memorandums of understanding between GBRA and the nonprofits do not concretely outline expectations or goals.*

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Without well-defined expectations for its nonprofits, GBRA cannot ensure it benefits from relationships with these entities. Although GBRA has established memorandums of understanding (MOUs) with GBRT and GPS, they are vague and do not concretely outline what is expected of the organizations. The MOUs do not have performance measures or goals in place to ensure the nonprofits are pursuing their missions successfully or providing a return for GBRA’s investment. SABF does not have any formal written agreement with GBRA. Nonprofit staff also report to the GBRA board quarterly on ongoing activities, but no clear guidelines exist as to what these reports should contain.

The lack of concrete expectations in these MOUs likely contributes to the nonprofits’ scattered adherence to basic operational best practices. For example, GBRT and GPS have created strategic plans, while SABF has not. GBRT obtains yearly financial audits, while GPS last contracted for an audit in 2012 and SABF has never been audited. GBRA’s role also varies

among the nonprofits, assisting GBRT and SABF by compiling quarterly financial reports, but providing no assistance with GPS' financial activities.

- **Unclear lines of reporting.** Staff members of the nonprofits are officially GBRA employees, with their full salary and benefits provided by GBRA. Under GBRA's organizational chart, the executive directors of the three nonprofits report directly to GBRA's general manager, but each nonprofit's board also reasonably expects to manage its director's actions in running the organization. Having GBRA employees serve as nonprofit staff creates potential conflicts of interest as the staff balance their obligation to GBRA management with their duty to the nonprofit's board.

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*Having GBRA employees serve as nonprofit staff creates potential conflicts of interest.*

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### **GBRA has not fully evaluated the continued need for its partnership with these nonprofits.**

Since the creation of the various nonprofits, GBRA has not comprehensively evaluated the continued need for a relationship with all of these organizations. In 2017, new management at GBRA prompted the GBRA board to establish a nonprofit review committee to begin this process for the first time.

- **Duplicative missions.** SABF and GBRT both work to conserve natural resources in the basin and have worked together on several projects. Generally, GBRT engages in activities basin-wide, while SABF operates more narrowly in the San Antonio Bay. The overlap in mission of these organizations results in GBRA allocating resources to two organizations, doubling the cost for administrative expenses. Recently, the two entities jointly worked to acquire a federal grant for a conservation easement in the lower basin to extend whooping crane habitat. The directors of both nonprofits also informally assist each other and will step in to help complete the other organization's tasks. For example, the director of SABF has conducted annual easement reviews for GBRT in the lower basin.
- **Limited activities.** Because GBRA does not periodically review the nonprofits and their necessity, these stagnant nonprofits continue to operate with no clear objectives or significant outcomes. GBRA created GRF in 2013, but, despite the foundation conducting zero activities, did not dissolve it until 2018. Despite conservation easements being GBRT's primary activity, GBRT failed to conduct annual reviews to ensure compliance with easement requirements for two years, from December 2013 to December 2015. SABF conducts limited activities: an annual crab trap removal project along the coast is the organization's primary activity, but only lasts approximately 10 days a year. SABF also puts effort into procuring grants to facilitate other projects in the bay, but the nonprofit has only been awarded approximately \$370,000 in grants since its establishment 10 years ago, securing less than half the salary of the executive director per year. Beyond providing educational tours in the Gorge, GBRA founded GPS to create and operate an educational learning center, but the center never materialized and GPS has struggled to meet the increasing demand for tourism with its limited staff. GPS, however, has the greatest potential

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*GBRA dissolved the Guadalupe River Foundation only after nearly five years of inactivity.*

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to become self-sufficient and expand its functions because tour fees offer a ready revenue source, and GBRA and GPS are exploring these opportunities.

### **GBRA benefits from its relationship with nonprofit entities.**

The existence of these nonprofits has allowed GBRA to enhance its own mission by supporting activities that promote the protection and stewardship of the Guadalupe River basin. The nonprofits have access to grants and other funding streams for activities that support GBRA's mission, but can only be accessed by 501(c)(3) organizations. The nonprofits have also helped GBRA establish or strengthen relationships with local communities, government agencies, and conservation organizations, as discussed below.

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*The nonprofits have helped GBRA strengthen relationships with local communities, government agencies, and conservation organizations.*

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- GBRT's mission includes educating private landowners of their role in land conservation, which it accomplishes by conducting local workshops throughout the year. GBRT also partners with the Upper Guadalupe River Authority, Ducks Unlimited, and other local entities to support their conservation efforts.
- GPS fosters relationships with local elementary schools by providing educational tours that align with the statewide science curriculum. The majority of GPS' volunteers come from the Master Naturalists Program, a program sponsored by Texas Parks and Wildlife and the Texas A&M AgriLife Extension. Additionally, many GPS volunteers are active community members with connections to a variety of local organizations.
- SABF has established multiple partnerships with other nonprofits, private landowners, universities, government entities, and private industries through its work in the San Antonio Bay. For example, the foundation partnered with a variety of these organizations to remove crab traps from the bay, including the Friends of Aransas and Matagorda Island, the Coastal Bend Bays Estuary Program, U.S. Fish and Wildlife Service, and private fishing companies.

## **Recommendations**

### ***Management Action***

#### **3.1 Direct GBRA to consolidate the funds it provides to GBRT and SABF to one organization and clearly define expectations tied to this funding.**

GBRA does not legally have the ability to abolish or consolidate GBRT and SABF, which are independent nonprofit organizations. However, given the organizations' financial dependence on GBRA, streamlining GBRA's funding to one potentially consolidated nonprofit that could serve their shared mission would ensure GBRA is allocating resources strategically to further conservation in the river basin. Consolidated financial support to a single organization would achieve administrative efficiencies, allow better staffing, and dedicate more resources to accomplish the same mission. In implementing this recommendation, GBRA should assist this nonprofit in seeking supplemental funding sources and aim for it to become self-sufficient by 2023.

GBRA should define its relationship with, and create clear expectations of, the consolidated nonprofit through a formalized, regularly updated MOU that outlines funding levels, reporting requirements, and clear, measurable goals and objectives. GBRA should ensure the nonprofit has established a strategic plan and formal budget and is regularly audited.

In setting up a consolidated nonprofit, GBRA should consider the involvement of GBRA board members with the nonprofit board as a means to ensure consistency of mission.

### **3.2 Direct GBRA to create clear boundaries and reporting structures between its staff and associated nonprofits.**

This recommendation would prohibit GBRA from directly employing staff that report to the boards of the associated nonprofits. Instead, GBRA could contribute funds to the nonprofits to hire their own staff. The effect of this recommendation would be to remove any potential conflicts of interests created by having staff report to two separate entities. GBRA staff, such as financial staff, could continue to periodically assist the nonprofits with administrative tasks, but such agreements should specify clear reporting structures and thorough documentation of GBRA staff time spent on non-GBRA activities.

### **3.3 Direct GBRA to evaluate whether GPS' narrow mission justifies GBRA support or whether its activities could be performed internally.**

GBRA should evaluate whether it should discontinue funding to GPS and manage public access to the Gorge as an internal function, or work with GPS to become a fully functioning, self-sufficient organization capable of expanding community and financial support for conservation and education activities in and around the Gorge.

If GBRA determines it is beneficial to continue its relationship with GPS, GBRA should define its relationship with and create clear expectations of GPS, including establishing a formalized MOU with clear funding levels, reporting requirements, and clear, measurable goals and objectives. GBRA should assist GPS in becoming self-sufficient by 2023. GBRA should also ensure the nonprofit follows basic operational best practices, such as establishing a strategic plan, creating a formal budget, and obtaining regular financial audits.

If GBRA determines it would be advantageous to discontinue funding GPS' operations and manage Gorge access in-house, GBRA should consider working with the nonprofit in Recommendation 3.1 to accomplish other conservation or education activities the nonprofit could better provide, such as fundraising for the planned education center.

### **3.4 Direct GBRA to evaluate the continuing need for relationships with any nonprofits every five years to ensure the nonprofits are achieving shared goals.**

Ensuring GBRA reviews its relationships with associated nonprofits every five years will help the authority assess the nonprofits' effectiveness and determine whether the nonprofit continues to provide value to the basin through a shared mission with GBRA. This recommendation will also give nonprofits and GBRA the opportunity to revisit funding agreements and expectations, and adjust goals and strategic plans to meet changing needs in the basin.

## **Fiscal Implication**

These recommendations would not have a significant fiscal impact to the state because GBRA does not receive state appropriations. Depending on how GBRA implements these recommendations, GBRA would likely see a decrease in administrative costs as a result of its focused and efficient use of resources and any savings could be used for continued conservation activities.



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**RED RIVER AUTHORITY  
OF TEXAS  
APRIL 2018**



# AUTHORITY AT A GLANCE

## RED RIVER AUTHORITY OF TEXAS

The Legislature created the Red River Authority of Texas (RRA) in 1959 to conserve, develop, and control pollution of the water of the Red River and its tributaries. Like other river authorities, RRA is authorized to conduct a broad range of activities, including building and operating reservoirs; engaging in flood control; selling raw and treated water; conducting wastewater treatment; acquiring property by eminent domain; building and managing park land; and generating electricity. In practice, RRA's activities primarily consist of

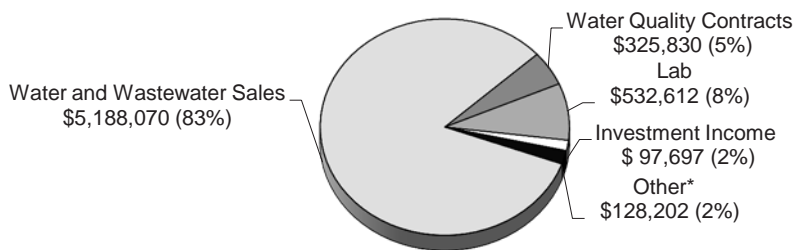
- providing water and wastewater services for towns, cities, and rural unincorporated communities within its jurisdiction;
- monitoring the water quality in the Red River and Canadian basins through the Texas Clean Rivers Program;
- serving as a voting member and the designated administrative agent for the Region B Regional Water Planning Group; and
- providing technical assistance and sponsorship for feasible water projects in the basin.

The map on page 2 shows RRA's large jurisdiction, which covers 43 counties in North Texas and the Panhandle.

### Key Facts

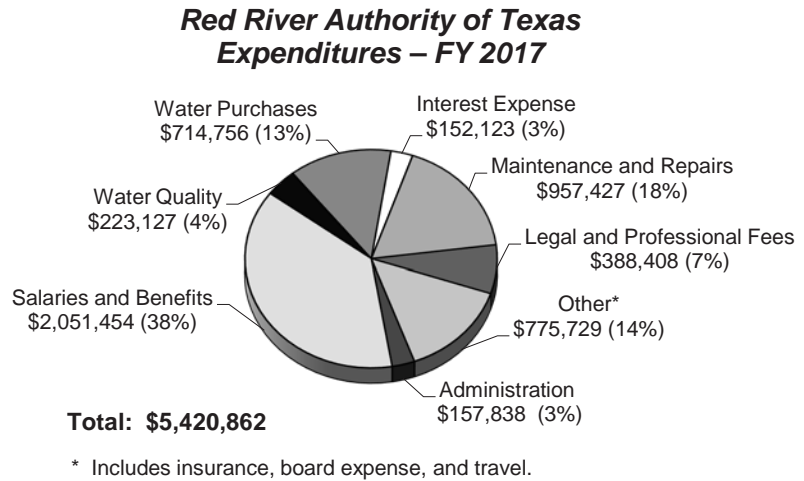
- **Board.** RRA is governed by a nine-member board appointed by the governor. The board consists of three property taxpayers from each of RRA's three regions.<sup>1</sup> Board members serve six-year staggered terms. The board meets quarterly and elects a president each year.
- **Funding.** RRA receives no state appropriations. In fiscal year 2017, RRA collected \$6.2 million and spent \$5.4 million, as shown in the following pie charts. More than 80 percent of RRA's revenue comes from its water and wastewater sales, which are primarily delivered to rural retail customers. The rest of the authority's funds come from a combination of grants for water quality, fees charged to laboratory customers, and investment income. RRA is not authorized to assess taxes.
- **Staffing.** In fiscal year 2017, RRA employed 28 staff. Most staff work out of RRA's headquarters in Wichita Falls or at the authority's water treatment plants, and 10 maintenance staff and water system operators work in the field.

**Red River Authority of Texas**  
**Sources of Revenue – FY 2017**



\* Includes rental income from radio towers and revenue from contract maintenance work for other utilities.

- Water quality.** The Texas Commission on Environmental Quality contracts with RRA to plan, coordinate, and monitor water quality within the Red River and Canadian basins through the Texas Clean Rivers Program. In fiscal year 2017, RRA collected water quality samples and data at 80 sites in the Red River basin and 15 sites in the Canadian River basin. The authority also operates a nationally certified laboratory to conduct chemical and biological testing. In addition to supporting RRA’s own water quality functions, the lab conducts testing for cities, water districts, industries, and private citizens in the basin.



RRA is the state sponsor for the federal Chloride Control Project, which aims to reduce the levels of chlorides in the Red River and its tributaries in Texas, Oklahoma, Arkansas, and Louisiana. In its current role, RRA works with the U.S. Army Corps of Engineers to apply for any permits necessary to facilitate chloride control projects, apply for funding, and oversee projects.

- Water supply.** RRA holds rights to just over 14,000 acre-feet of water in Lake Texoma and across King County primarily for municipal use and chloride control. These rights represent 1.4 percent of the water authorized for diversion in the Red River basin.
- Utilities.** RRA provides retail water and wastewater services to residents in mostly rural communities across 15 counties. The authority operates 33 water systems that provide service to nearly 10,000 people and three wastewater systems that provide service for about 400 people.<sup>2</sup> Within these systems, RRA operates two water treatment and three wastewater treatment plants. In 2017, RRA began extensive capital improvements to address water quality issues on some of its water systems and to enhance some of its other water and wastewater systems.

<sup>1</sup> The Red River basin is divided into three regions to ensure adequate geographic representation on the board. Region 1 includes Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, and Castro counties. Region 2 includes Swisher, Briscoe, Hall, Childress, Hale, Floyd, Motley, Cottle, Hardeman, Foard, Wilbarger, Wichita, Crosby, Dickens, King, Knox, Baylor, Archer, and Clay counties. Region 3 includes Montague, Cooke, Grayson, Fannin, Lamar, Red River, and Bowie counties.

<sup>2</sup> RRA has 29 public water systems as defined by the Texas Commission on Environmental Quality (TCEQ) as well as four that are too small to meet TCEQ’s definition of a public water system.

# ISSUE 4

## *The Lack of Comprehensive Analysis Before Critical Decisions has Potentially Resulted in Missed Opportunities for RRA.*

### Background

The Red River Authority of Texas (RRA) is primarily a rural utility. The authority operates 33 separate water systems — most of which have fewer than 100 connections — spread out across 15 counties in northern Texas. Like other rural utilities, RRA's operating costs are high — a natural result of a sprawling infrastructure with few customers to absorb the costs of maintaining the systems. Like all public water systems, RRA's systems must meet federal water quality standards in accordance with the Safe Drinking Water Act. To protect against health risks, the U.S. Environmental Protection Agency (EPA) sets maximum allowable levels for particular contaminants in drinking water and partners with states to enforce the standards. The Texas Commission on Environmental Quality (TCEQ) administers the Safe Drinking Water Act in Texas.

### Findings

#### **RRA did not meet certain water quality standards for decades and failed to adequately evaluate all potential solutions to address the problem.**

Several of RRA's groundwater supplies contain nitrates — naturally occurring contaminants that are regulated under the Safe Drinking Water Act. According to EPA and the Texas Department of State Health Services, elevated levels of nitrates in drinking water may interfere with the ability of an infant's blood to carry oxygen, which can result in the potentially fatal condition known as "blue baby syndrome."<sup>1</sup> RRA has three water systems that have been in violation of the drinking water standards for nitrates for decades. In public meetings and conversations with Sunset staff, RRA staff and board members expressed doubt that high levels of nitrates create a serious health risk to the public.<sup>2</sup> Sunset staff did not evaluate the appropriateness of the nitrate standard itself and instead focused its review on RRA's actions and decision making in fulfilling its duty to comply with the Safe Drinking Water Act.

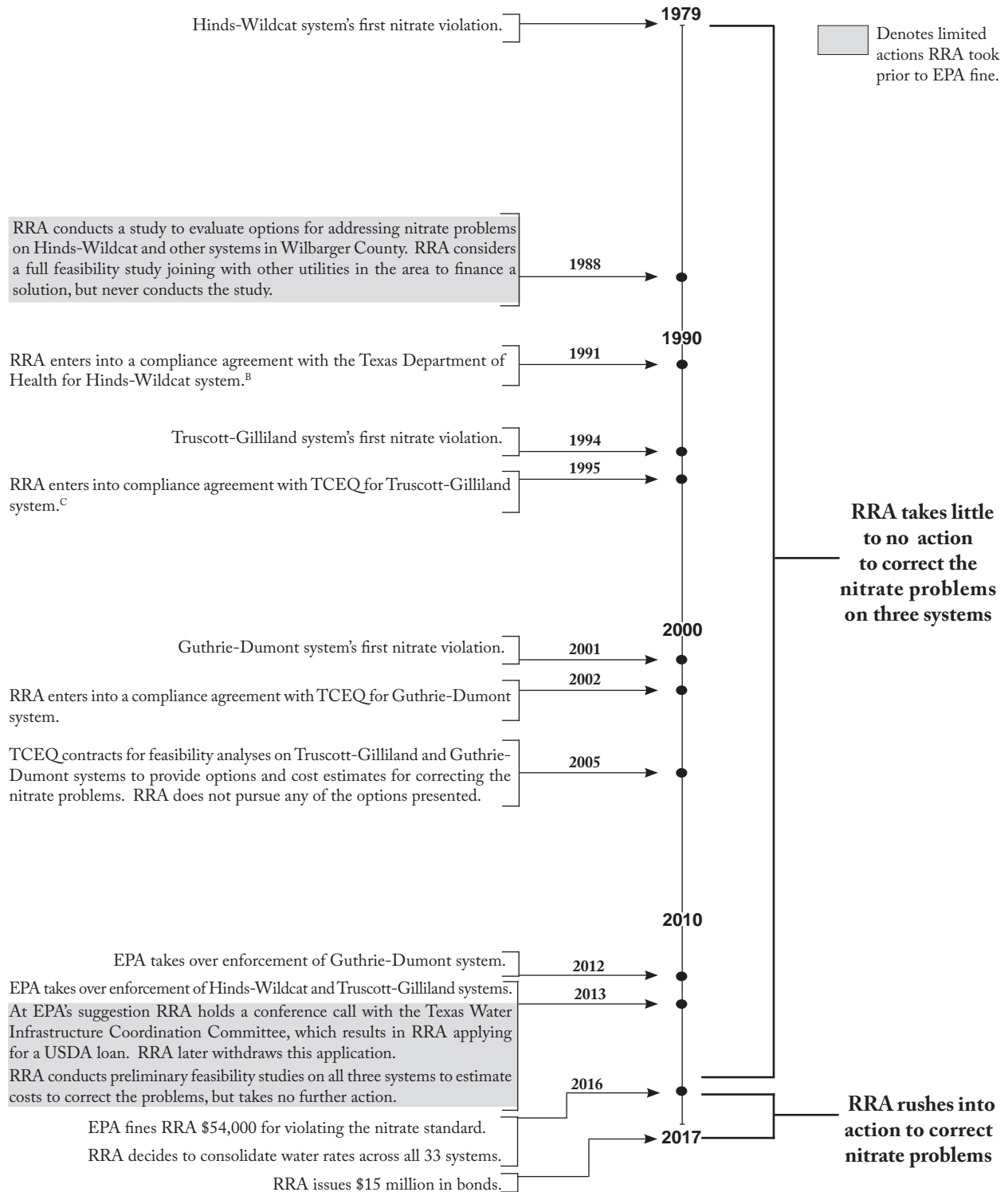
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*Three of RRA's water systems have been in violation of drinking water standards for nitrates for decades.*

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- **Little evaluation of options over time.** As described in the timeline on the following page, RRA took few steps over the last nearly 40 years to evaluate and correct the nitrate problems on its systems.
  - 1979–2011: RRA entered into compliance agreements beginning in 1991 that require the authority to provide bottled water to vulnerable populations and notify customers the water contains elevated levels of nitrates. However, the agreements with TCEQ did not contain enforcement penalties because the contaminants are naturally occurring. As a result, RRA had little incentive to fix the problem and took no action to develop a long-term solution.

### Red River Authority's Long History of Nitrate Problems<sup>A</sup>



<sup>A</sup> The first violations noted in the timeline are based on the best available historical records from TCEQ and RRA.

<sup>B</sup> Prior to 1992, public drinking water regulations were under the auspices of the Texas Department of Health, now called the Department of State Health Services.

<sup>C</sup> The compliance agreement was with the Texas Natural Resource Conservation Commission, which was renamed the Texas Commission on Environmental Quality in 2002.

- 2012–2015: Because of the lack of enforcement mechanisms in TCEQ’s compliance agreements, EPA took over enforcement of RRA’s nitrate cases. RRA took some limited steps to evaluate options for correcting the problems, but board meeting minutes show the authority’s focus was not on finding long-term solutions, but on buying time and getting EPA to allow the authority to continue providing bottled water to vulnerable populations indefinitely.<sup>3</sup>
- 2016–2017: EPA fined RRA \$54,000 for failing to meet the nitrate standard. The authority rushed to take action without fully evaluating its options and issued \$15 million in bonds to address the nitrate problems and make other capital improvements. RRA indicates it was forced to act quickly given EPA’s 18-month deadline to comply, but EPA worked with RRA for roughly three years before proceeding with the fine. EPA also has a history of giving systems additional time to come into compliance as long as they are proactively trying to address the problem.
- **Insufficient consideration of financing options that could have reduced the need for such a large rate increase.** RRA did not take advantage of all the financing options and resources that may have been available to help correct the water quality issues despite board meeting minutes and other documentation repeatedly suggesting the authority had evaluated all its options.<sup>4</sup> While Sunset staff cannot determine with certainty that RRA would have qualified for specific financial assistance programs, certain programs may have provided better interest rates or even grant funding, reducing the need for such a large bond package and ultimately lessening the rate increase for customers.
  - Texas Water Development Board (TWDB). RRA never applied for TWDB funding or even contacted the agency for assistance or guidance to address its nitrate issues. The Drinking Water State Revolving Fund provides below-market-rate financing and priority status for projects that facilitate compliance with the Safe Drinking Water Act. Both TCEQ and TWDB indicate the nitrate violations would have given RRA priority for funding over applicants without compliance violations. The fund also has a loan forgiveness component for eligible disadvantaged communities and very small systems. RRA also may have qualified for TWDB’s Economically Distressed Areas Program, which provides grants and loans to low-income areas where systems do not meet drinking water standards.

RRA staff indicate they did not approach TWDB because they believe the TWDB process is too cumbersome and time-consuming, and that the counties in its area would not qualify for low-income grants. Had RRA contacted TWDB, it would have found the agency’s funding process has become faster and more efficient since RRA last used TWDB financing decades ago, and TWDB is able to expedite the process under certain circumstances. Income-based funding also could

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*RRA’s focus was not on finding long-term solutions, but on buying time.*

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*TCEQ and TWDB indicate the nitrate violations would have given RRA priority for state drinking water funds.*

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have been an option, since programs are based on the income of the actual service area, not the entire county, but RRA never evaluated income levels of its customers.

- American Water Works Association. Despite being a member of this association, RRA never reached out to access its resources like the Community Engineering Corps, which provides engineers and other technical professionals who volunteer their time and expertise to help underserved communities with various aspects of infrastructure projects.<sup>5</sup>
- Communities Unlimited. RRA did not contact this organization, which is a partner for the Rural Community Assistance Program and operates a loan program for funding small, rural community water and wastewater projects.<sup>6</sup>

In comparison, the Nueces River Authority (NRA) was in a situation similar to RRA when the Department of State Health Services determined a public health risk existed due to inadequate wastewater services in the city of Leakey. Even though financing the development and construction of the Leakey wastewater treatment plant took seven years, NRA did so using only TWDB and U.S. Department of Agriculture grants and loan forgiveness to avoid high rates on future customers.

- **Lack of a comprehensive rate analysis to determine the extent of needed rate increases.** To finance the \$15 million bond package, RRA decided to consolidate its rates across all 33 water systems and conducted a rate analysis to determine the rates necessary to finance the bonds. However, RRA only calculated its preferred option. This analysis was essentially a calculation of one inevitable rate based on the assumption that RRA would issue bonds and consolidate rates, instead of a full evaluation of different options to ensure rates were the most fair and equitable for all customers before making a decision. For example, RRA did not consider regional or geographic consolidation of system rates in conjunction with a TWDB loan or grant and evaluate the impact these other options may have had on the customers of systems with nitrate problems as well as those without. While RRA says it researched various options, the authority could not provide documentation of such efforts.

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*RRA did not fully evaluate different options to ensure rates were the most fair and equitable.*

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### **In a rush to consolidate water rates, RRA missed opportunities to fully engage and inform customers.**

Before the rate consolidation, RRA had maintained individual rates for each of its 33 systems, with base rates ranging from \$30 to \$73.50 per month.<sup>7</sup> The consolidation raised all systems to the highest rate, meaning customers on all but one system paid more for water under the new \$73.50 per month minimum charge. Despite the impact to 84 percent of its customer connections, RRA had only one public hearing on the rate change. RRA is not required by law to hold public hearings on rate increases, but the fact that its customers are



spread out across roughly 300 miles — from the Panhandle to Lake Texoma — necessitates a more deliberate approach to getting customer input that takes into account this large geographic distribution.

Further, RRA's new rate structure significantly increased the number of customers needed to meet the minimum requirement to appeal the rate increase at the Public Utility Commission (PUC). Because of the move to a single rate, 10 percent of RRA's total customer base — rather than 10 percent of each individual system — needed to sign a petition for the appeal to be valid. RRA customers attempted to appeal the significant rate increase, but the appeal was not valid because it did not meet this higher threshold. Despite this rate change triggering an increased threshold for a valid appeal, RRA did not communicate with customers at all about their rights to appeal the authority's decision. As RRA now maintains a single rate across 15 counties, the higher threshold will continue to be in place for future rate changes. Although neither statute nor PUC rule requires RRA to notify customers of their rights, transparency in the rate setting process is a best practice and the increased threshold for appeal rights warrants RRA being even more open with customers about their options.

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*RRA did not communicate with customers about their rights to appeal the rate increase.*

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### **RRA lacks a comprehensive asset management approach that could have improved the authority's ability to address water quality concerns.**

RRA identifies the capital improvement needs of its systems and equipment every five years, but has no comprehensive, ongoing asset management approach to fully evaluate and budget for its future needs. Instead, the general manager works informally with the district managers to decide which projects to fund in a given fiscal year. RRA makes these decisions based primarily on the severity of the need, but without taking into account broader, longer-term impacts. Also, the board does not get public input on, discuss, or approve the plan regularly to ensure all projects are captured and thoroughly vetted.

Before 2016, RRA never considered the nitrate problem as a capital improvement need, so the authority never included the nitrate issues in its capital planning process. The feasibility studies contracted by TCEQ in 2005 noted "the lack of long-term planning may have limited the public water system's ability to address the nitrate compliance issue."<sup>8</sup> RRA insists the lack of a long-range plan did not inhibit its ability to correct the nitrate problems, but a more robust approach would have identified and prioritized the needs of systems that were out of compliance with water quality standards and could have resulted in RRA taking action sooner to alleviate the issues.

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*Before 2016, RRA never considered the nitrate problem as a capital improvement need.*

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A best practice for water utilities is to have a comprehensive asset management strategy that includes detailed asset inventories, operation and maintenance tasks, and long-range financial planning. Such an approach is especially important for RRA given its consolidated rate structure — the single rate must pay for all improvements and any changes will impact customers across all 33 systems.

### **RRA is missing opportunities to better prepare for future staffing changes.**

With several key staff eligible to retire within the next few years, including the controller, utility manager, and two-thirds of the district managers, documentation of staff duties and procedures is especially important due to the risk of losing valuable institutional knowledge. RRA does not adequately document key staff functions for the purpose of ensuring retention of specialized knowledge developed by staff and for training new staff. RRA's administrative manual provides general policies for each division and some positions document specific operating procedures, but the authority does not sufficiently describe day-to-day responsibilities of all key positions in a format that could be used as a training resource.

## **Recommendations**

### ***Change in Statute***

#### **4.1 Require RRA to develop and maintain a comprehensive asset management plan.**

This recommendation would expand on RRA's existing capital improvement planning process by requiring a more comprehensive asset management plan that incorporates the following activities:

- Prepare a detailed asset inventory, identifying each system's assets and their condition
- Develop and document criteria for prioritizing assets for repair or replacement, considering how soon the asset will need to be repaired or replaced; its importance to the provision of safe drinking water and meeting regulatory standards; its overall importance to the operation of the system; and any other criteria RRA deems necessary
- Estimate asset repair and replacement costs
- Identify and evaluate all potential financing options
- Review and revise the plan as necessary based on regulatory changes or other needs

Systems not in compliance with federal or state regulatory standards, including water quality standards, must be included and prioritized in the plan. The board would approve the plan annually as part of its budget process to ensure adequate public input. A more complete asset management framework would help RRA make more informed, strategic decisions about its infrastructure; identify financial resources needed to operate its systems; and determine how to pay for future improvements necessary to provide safe drinking water to customers.

#### **4.2 Require the RRA board to adopt a policy to ensure meaningful public input on significant rate changes.**

This recommendation would require RRA to develop a public involvement policy that ensures customers have the opportunity to review and comment on any potentially significant rate changes in advance of board decisions. Due to the spread out nature of RRA's utility operations, the authority should go beyond the minimum notice requirement by developing a multi-pronged approach to obtaining stakeholder input. The policy should include website updates, customer notices in utility bills, and informational meetings or rate hearings in various parts of the basin to ensure all affected customers have ample opportunity

to participate. The board would set the threshold that would trigger the policy based on a percentage change in rate. Early and frequent involvement with customers and other stakeholders in the rate-setting process would result in more informed decision making by providing a forum for RRA to learn about and better understand the different perspectives of its various customers. The recommendation would also provide RRA the opportunity to educate customers on the systems' maintenance needs and costs, and help generate customer buy-in for any necessary rate increases.

#### **4.3 Require RRA to inform customers of their right to appeal rate changes.**

The notice would be required to include a description of the process by which customers may appeal RRA's decision affecting their water or sewer rates to PUC and the location where additional information related to RRA's rates can be obtained. The notice should clearly explain appeal requirements, such as the number of signatures needed to appeal a rate change affecting multiple systems. RRA should include this information in any notices related to rate changes, in utility bills sent within the 90-day appeal timeframe, and on its website. Customers should be informed about PUC's appeal process because it exists to protect customers from unfair or inequitable rate increases. By indicating the number of signatures needed for an appeal, the notice also could help mitigate the effects of RRA's broad geographic distribution by helping customers understand the threshold for mounting a successful appeal.

### ***Management Action***

#### **4.4 Direct RRA to document and regularly update its key duties and procedures.**

This recommendation would help RRA prepare for both anticipated and unanticipated departures of key staff by capturing institutional knowledge. RRA should document day-to-day responsibilities and provide guidance on how to accomplish key tasks. For example, regional utility managers should document workload distribution and frequency of tasks necessary to accomplish their duties, as well as how needs are communicated up and down the chain of command. RRA should also continue its practice of identifying positions at risk of becoming vacant and providing training and development opportunities to successors identified within the organization.

### **Fiscal Implication**

These recommendations would not have a fiscal impact to the state since RRA does not receive state appropriations. The recommendations are intended to implement best practices for operations and would have minimal or temporary fiscal impact on RRA. For example, RRA may need to contract for expertise when first developing an asset management plan. However, quality comprehensive asset management will better ensure RRA funds are well-spent by prioritizing needs, taking longer-term financial impacts into account, identifying potential financing options, and focusing on activities critical for ensuring systems provide safe drinking water to customers and preventing excessive future costs or additional fines. Other changes simply reflect improved management and open government practices that, while requiring additional effort, have negligible associated costs.

- .....
- <sup>1</sup> “Nutrient Pollution — The Effects: Human Health,” United States Environmental Protection Agency, last modified March 10, 2017, <https://www.epa.gov/nutrientpollution/effects-human-health>; Texas Department of State Health Services, *Nitrates in Drinking Water: Is the Water Your Children Drink Safe?* (Austin: Texas Department of State Health Services, 2015), accessed February 7, 2018, [www.dshs.texas.gov/epitox/educational/nitrate\\_booklet.pdf](http://www.dshs.texas.gov/epitox/educational/nitrate_booklet.pdf).
  - <sup>2</sup> Red River Authority of Texas Board of Directors Meeting, July 25, 2007, meeting minutes.
  - <sup>3</sup> Red River Authority of Texas Board of Directors Meeting, May 8, 2013, April 15, 2015, and July 15, 2015, meeting minutes.
  - <sup>4</sup> Letter from Red River Authority of Texas to Environmental Protection Agency, Water Enforcement Branch, February 18, 2014; Red River Authority of Texas Board of Directors Meeting, January 20, 2016 and July 20, 2016, meeting minutes.
  - <sup>5</sup> “About: Who we are,” Community Engineering Corps, accessed February 9, 2018, <https://www.communityengineeringcorps.org/about/>.
  - <sup>6</sup> “Water/Wastewater Loans,” Communities Unlimited, Inc, accessed February 9, 2018, <https://www.communitiesu.org/index.php/How-We-Help/water-waste-water-loans.html>.
  - <sup>7</sup> Red River Authority of Texas, *Annual Operating Budget Fiscal Year 2015–2016* (Wichita Falls: Red River Authority of Texas, 2015), 26.
  - <sup>8</sup> The University of Texas Bureau of Economic Geology and Parsons, *Pilot Project Preliminary Report Feasibility Analysis of Water Supply for Small Public Water Systems: RRA Truscott–Gilliland and RRA Gutbrie–Dumont*, 2005, 4–4.

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**NUECES RIVER AUTHORITY**  
**APRIL 2018**



# AUTHORITY AT A GLANCE

## NUECES RIVER AUTHORITY

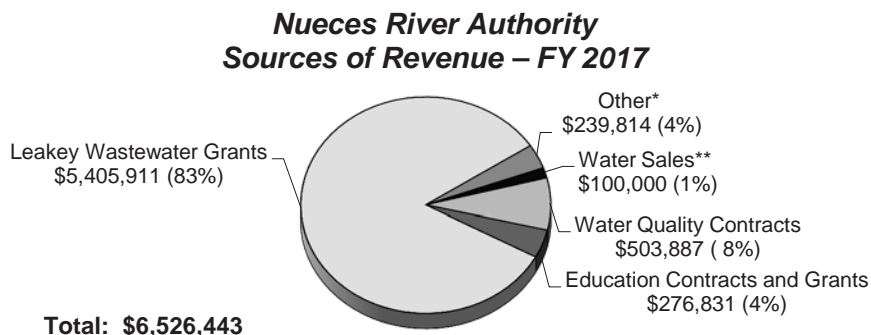
The Legislature created the Nueces River Authority (NRA) in 1935 to provide for the conservation and development of natural resources in the Nueces River basin in southwestern Texas. Like other river authorities, NRA is authorized to conduct a broad range of activities, including building and operating reservoirs, selling raw and treated water, conducting wastewater treatment, acquiring property by eminent domain, building and managing park land, and generating electricity. In practice, NRA's activities primarily consist of

- monitoring the water quality in the Nueces and adjoining coastal basins through the Texas Clean Rivers Program and other contracts;
- providing resource protection and educational programs throughout the basin;
- developing a new regional wastewater collection and treatment system for the city of Leakey and adjacent subdivisions in Real County; and
- serving as a voting member of the Region L and N Regional Water Planning Groups and the designated administrative agent for the Region N Regional Water Planning Group.

The map on page 2 shows NRA's jurisdiction, which covers 22 counties in the Hill Country and South Texas from Edwards County down to Corpus Christi.

### Key Facts

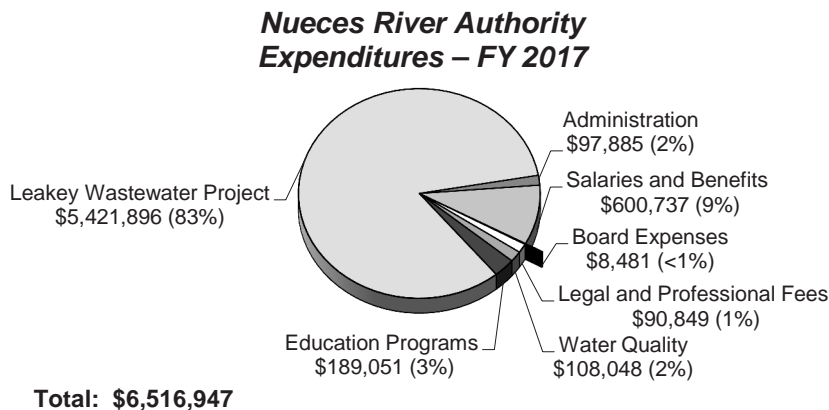
- **Board.** NRA is governed by a 21-member board appointed by the governor. Four board members must reside in Nueces County, two in San Patricio County, and two in Jim Wells County. The remaining 13 members may be from any other county located wholly or partially within NRA's jurisdictional boundaries. Other than Nueces County, no more than two directors from any county may serve. Members serve six-year staggered terms. The board meets quarterly and elects a president each year.
- **Funding.** NRA receives no state appropriations. In fiscal year 2017, NRA collected about \$6.5 million and spent about the same amount, as shown in the following pie charts. NRA's funding comes from a combination of grant and contract revenue from various state agencies, groundwater conservation districts, and private foundations for education



\* Includes investment income and intergovernmental administrative services.

\*\* The city of Corpus Christi pays this annual amount for the rights to sell NRA's share of water from Choke Canyon Reservoir.

and conservation programs, as well as contracts with the city of Corpus Christi for water sales and administrative services related to Choke Canyon Reservoir. More than 80 percent of the authority's budget in fiscal year 2017 was dedicated to building a wastewater collection system and treatment plant for the city of Leakey and other parts of Real County. NRA is not authorized to assess taxes.



- **Staffing.** In fiscal year 2017, NRA employed nine full-time staff. Three staff work in NRA's headquarters in Uvalde, four in a field office in Corpus Christi, and two in its Utility Division office in Leakey. Six additional part-time employees help administer NRA's public education programs in classrooms.
- **Water quality.** As part of the Texas Clean Rivers Program, NRA collects water quality samples at 47 sites and reports this information to the Texas Commission on Environmental Quality (TCEQ) for the statewide water quality database. The authority contracts with TCEQ and the Texas State Soil and Water Conservation Board to conduct additional water quality projects at Petronila Creek and San Miguel Creek. Additionally, the authority contracts with the city of Corpus Christi to test and maintain water quality data for the Choke Canyon Reservoir and the surrounding water supply system. In fiscal year 2017, this contract included collecting sediment for metal analysis in Choke Canyon Reservoir and Lake Corpus Christi.
- **Water supply.** A joint project between NRA, the city of Corpus Christi, and the U.S. Bureau of Reclamation, Choke Canyon Reservoir was built in 1983 to provide water to meet the municipal and industrial water needs in the Coastal Bend. Although NRA holds rights to 20 percent of the 139,000 acre-feet of water permitted in the reservoir, NRA sells its portion of the water to the city of Corpus Christi, which operates and maintains the reservoir.
- **Utilities.** NRA is in the process of developing a new regional wastewater collection and treatment system for the city of Leakey and surrounding areas. The project is the result of findings by the Department of State Health Services that existing private septic tanks were creating a public health hazard. NRA is funding the project strictly through grants and forgivable loans to lower costs for future customers. NRA expects to begin operating the plant by summer 2018.
- **Education and outreach.** NRA's education and outreach programs include a variety of resource protection initiatives, such as control and prevention of the invasive Carrizo cane plant and an anti-litter campaign that provides reusable litter bags to recreationists at rivers and beaches. In addition, NRA administers water stewardship curricula to fifth- and seventh-grade classrooms throughout the basin, through partnerships with a number of groundwater conservation districts. In 2017, NRA's classroom programs reached nearly 15,000 students.



# ISSUE 5

## *Additional Management Tools Could Help Guide Impending Change and Ensure Continued Success at NRA.*

### Background

With a staff of nine, the Nueces River Authority (NRA) primarily performs water quality and regional water planning functions and engages an active and involved stakeholder base in basinwide education, conservation, and resource protection activities. NRA is also expanding its functions into utility services for the first time, planning to open the Leakey Regional Wastewater Treatment Plant in summer 2018.

### Findings

**While NRA performs its duties thoughtfully and proactively, it lacks a formal strategic plan to guide the significant operational changes ahead.**

NRA stands on the precipice of significant organizational change. The construction of the Leakey wastewater plant signals a substantial shift and marked growth for NRA and its operations. NRA expects the plant to launch to a limited population in summer 2018 and service 20,000 residents, businesses, and visitors to Real County by the end of the year. To operate the plant and service its new utility customers, NRA plans to hire up to four additional employees, which will increase its staff size by 44 percent.

NRA is also positioned to grow beyond the Leakey plant operations. NRA leadership has considered the potential to contract its services for operating and maintaining water and wastewater facilities to other communities, along with the possibility of expanding into municipal solid waste services. Because NRA is seen as an active community partner in the basin, and the nature of NRA's broad governing law allows it to establish new functions and meet local needs as they arise, NRA's functions likely will change over time.

Despite its position on the cusp of such change, NRA lacks a formal strategic plan that explicitly captures NRA's short- and long-term goals. Staff and board members can verbalize clear strategic ideas, but a formalized document would help ensure a consistent vision that can be revisited and benchmarked, even as NRA leadership may change. A management audit conducted in 2012 noted NRA's lack of long-term strategic planning and the sole recommendation in the audit report directed NRA management to consider the development of a formal five-year strategic plan. However, NRA has made no moves toward developing such a plan. While priorities and goals in a strategic plan will depend on funding and may shift over time, establishing a regular planning process will help actively engage the board in goal-setting and considering NRA's future.

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*A 2012 management audit noted NRA's lack of long-term strategic planning.*

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### **Future retirements create risk that NRA could lose valuable institutional knowledge held by its small, tenured staff.**

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*By January 1, 2020, nearly half of NRA's staff will be eligible for retirement.*

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As one of the smallest river authorities in the state, NRA is particularly susceptible to loss of institutional knowledge and expertise through turnover resulting from both anticipated and unanticipated staff departures. Within the next two years, by January 1, 2020, four people — nearly half of NRA's staff — will be eligible for retirement. While NRA's small staff size allows for efficient, lean operations, the departure of just one person may represent the replacement of an entire department or several functions. In addition, because NRA has built and benefited from strong ties to communities and landholders throughout its basin for many of its educational and conservation programs, significant staff transitions are of particular importance to the future of these programs. The continued involvement of community members connected to NRA and its staff will depend on a smooth and positive transition.

Despite these looming retirements, NRA has not fully documented important staff functions and knowledge. While NRA has administrative policies that govern basics like financial management and ethical conduct, it does not maintain documentation, other than job descriptions, covering the specialized functions and job duties of key staff positions, including the executive director and deputy executive director. Documentation of staff functions and duties is critical for succession planning at small organizations, not only for training new staff, but for retention of specialized knowledge. Without documentation of these duties, consistent and competent performance of NRA's critical functions after staff departures may be more difficult. Many NRA employees must cover a broad range of duties for NRA to complete all the basic administrative functions required of a government body as well as perform its substantive work as a river authority. Because of this diversity of duties, capturing the varied functions each member of staff carries out is especially important.

## **Recommendations**

### ***Change in Statute***

#### **5.1 Require NRA to adopt a formal, written five-year strategic plan and engage in a regular strategic planning process.**

This recommendation would require NRA to develop a formal, written strategic plan that establishes its mission and goals and sets forth a long-term vision for the authority and its activities in the basin. This written document would ensure the vision for NRA's future is supported by board members and clearly communicated to NRA staff. An ongoing planning process would also actively engage the board in directing how NRA should adapt to meet needs as they arise, and provide an opportunity to more explicitly revisit and adjust these goals as NRA moves through periods of operational change.

## ***Management Action***

### **5.2 NRA should take action to prepare for future retirements and workforce changes.**

NRA should ensure it is prepared for anticipated and unanticipated departures of key staff by documenting duties and procedures, particularly in key leadership positions. Documenting current practices would allow NRA to record valuable knowledge and expertise before staff leave. A forward-thinking succession process would reposition NRA to better address future needs and ensure continuity of leadership.

## **Fiscal Implication**

These recommendations would not have a significant fiscal impact to NRA or to the state. Preparing for future staff needs and ensuring a strategic vision for the agency are essential functions and should be absorbed using existing resources.



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**CROSS ISSUE**



# ISSUE 6

## *River Authorities Lack Certain Good Government Standards That Would Enhance Transparency, Accountability, and Compliance With State Law.*

### Background

Senate Bill 523, 84th Legislature, directed Sunset staff to assess the governance, management, operating structure, and compliance with legislative requirements of the state's river authorities. During the 2016–2017 biennium, the Sunset Commission reviewed the first four of these 18 river authorities and identified several good government policies, as observed and documented by Sunset staff during 40 years of state government review, that would benefit river authorities. The following material summarizes Sunset staff's analysis of how the Guadalupe-Blanco River Authority (GBRA), Red River Authority of Texas (RRA), and Nueces River Authority (NRA) could benefit from application of good government policies and compliance with requirements of the Texas Commission on Environmental Quality (TCEQ) and state law.

### Findings

#### **River authorities have not applied several best practices that would improve openness and transparency.**

Transparency encourages honesty, openness, and accountability in government actions. The Legislature cited problems with transparency and accountability in placing river authorities under Sunset review. While the Texas Open Meetings and Public Information acts set out minimum requirements for open government, application of the best practices below would further encourage transparency of, and meaningful public involvement in, river authority operations.

- **Website.** Websites have become a primary way governmental organizations interact with the public. RRA's website contains basic information about the agency, but is not updated regularly, often listing outdated information on the front page. The website is also difficult to navigate and misleading. The "Highlights" section on the front page directly links to information about water restrictions from 2011 and 2012, while current boil water notices are either not posted at all, or buried under several clicks in links with inscrutable labels.

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*On RRA's website, boil water notices are buried under several clicks with inscrutable labels.*

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Providing board materials on the river authority's websites is also critical for allowing meaningful participation by the public. The maintenance of a transparent website to communicate board actions is especially important for river authorities given their wide geographic regions and direct impact on customers through utility operations. While GBRA posts agendas and videos of board meetings on its website, it does not provide detailed materials in advance of board meetings. NRA posts agendas of board meetings on its

website, but citizens would benefit from increased availability of meeting information in light of NRA's expansion of its services to include utility operations. RRA has not consistently posted meeting dates or agendas on its website, despite the difficulty the public would have following its actions from across its 43-county jurisdiction.

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*GBRA staff rely on verbal guidance from management 40 years ago to categorize expenditures.*

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- **Record retention requirements.** The Texas State Library and Archives Commission requires river authorities to submit and comply with record retention policies, which vary depending upon the authority's size and functions. Record retention policies are important to ensure an organization adequately responds to public information requests. RRA has not filed required record retention schedules with the commission and had some difficulty providing documents in response to information requests from Sunset staff.
- **Financial information.** All three authorities create a yearly financial report and budget and post them on their websites. However, the expenditures in GBRA's budget are difficult for a lay member of the public to decipher because GBRA staff lack internal guidance to ensure consistent and understandable expenditure data. For example, the bulk of expenditures, from professional association fees to plant operation expenses to chemicals for the lab, appear under the category "Operating Services and Supplies." Staff also differentiates between "Operating Services and Supplies" and another major expense category — "Maintenance and Repair" — based on verbal guidance from management about 40 years ago. GBRA has indicated it is currently reviewing its financial procedures and intends to create more clear and discrete categories.
- **Outdated governing laws.** While some water districts and river authorities are governed by laws that are fully compiled in a specific Texas code or statute, GBRA, RRA, and NRA exist solely in session law. In the absence of a codified statute, members of the public and even the river authorities themselves struggle to correctly compile all of the changes to their laws and understand their cumulative impact. These three river authorities' governing laws also contain out-of-date references to defunct state agencies and code sections that have been amended, renamed, or no longer exist, further complicating full understanding of these authorities' powers and duties.

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*In the absence of a codified statute, the public and river authorities struggle to correctly compile all the changes to their laws.*

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### **River authorities lack systematic review of certain long-standing professional services contracts.**

RRA and NRA both have long-standing contracts with professional services providers and have not sought new qualifications for these services for an extended period of time. RRA has used the same engineering contractor for at least 20 years and NRA's bond counsel contract has been in place for at least 30 years. RRA and NRA do not have clear policies in place to re-evaluate long-standing contracts to ensure they are receiving best value for these services. GBRA's long-standing contracts are discussed with other contracting concerns in Issue 2.



## River authorities' governing laws do not reflect several good government principles typically applied during Sunset reviews.

The Sunset Commission has developed a set of standard recommendations it applies to all state agencies reviewed unless an overwhelming reason exists not to do so. These across-the-board recommendations (ATBs) reflect an effort by the Legislature to place policy directives on agencies to prevent problems from occurring instead of reacting to problems after an issue arises. ATBs are statutory administrative policies adopted by the Sunset Commission that contain “good government” standards and reflect review criteria contained in the Sunset Act designed to ensure open, responsive, and effective government. These ATBs are applicable to river authorities, though some may need modification to match river authorities' unique structure and function. As quasi-state agencies created by the Legislature, river authorities directly serve the public interest and are funded with public money.

- **Presiding officer designation.** Having the governor designate the presiding officer of agency boards ensures a more direct connection between the board and the state's highest elected official and increases the agency's accountability to the state's leadership. GBRA, RRA, and NRA annually elect their board chairs. In contrast, the governor appoints the presiding officers of the boards of two of the largest river authorities in Texas, the Lower Colorado River Authority and Brazos River Authority.
- **Grounds for removal.** RRA's governing law lacks the standard provision relating to grounds for removal of board members. Having a statutory basis and process for removing a member of a policymaking body who does not maintain the qualifications, has a conflict of interest, or has neglected duties can help ensure the sound function of the policymaking board. GBRA and NRA's governing laws specify the grounds for board member removal, including inefficiency, neglect of duties, or misconduct in office.<sup>1</sup>
- **Board member training.** The laws governing GBRA, RRA, and NRA do not establish the type of training and information board members need to properly discharge their duties. State law requires board members to obtain Texas open meetings and public information trainings upon taking their oath of office. However, river authorities' governing laws require no additional training to ensure each member has an adequate understanding of the authority's governing laws, operations, and budget, and the scope and limitations of its rulemaking authority, before making decisions regarding matters of public interest.
- **Policymaking and staff functions.** The laws governing GBRA, RRA, and NRA do not provide for separating the policymaking functions of the boards from day-to-day administrative functions of managing the authorities. Such a provision would help avoid confusion about who is in charge of operations, which can undermine an authority's effectiveness. Additionally, RRA's governing law allows a board member to serve as the general manager, which could lead to additional confusion about the separation of these duties.<sup>2</sup>

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*The river authorities' boards elect their chairs in contrast to standard state practice of governor designation.*

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*A complaint tracking system could raise awareness of high-risk issues.*

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- **Public testimony.** The laws governing GBRA, RRA, and NRA do not require an opportunity to provide public comment at open board meetings. NRA does not provide a formal opportunity to appear and speak before the board, though in practice, it allows for public comment. GBRA includes an agenda item for public comment, but the language is confusing, allowing only for items not related to the agenda. When people affected by a river authority's decisions have an opportunity to provide meaningful input to the board, the additional information and perspective improves the overall decision-making process. To Sunset's knowledge, these river authorities have never denied a member of the public an opportunity to speak at a board meeting, but requirements for a clear, formal agenda item for public comment would reassure the public that the boards encourage and value their comments.
- **Complaint information.** The laws governing GBRA, RRA, and NRA do not require these authorities to maintain complete information on complaints. Maintaining a system for acting on complaints and keeping proper documentation helps protect the public by ensuring river authorities address problems in a timely fashion. While smaller river authorities like RRA and NRA receive few complaints, a complaint tracking system could help improve management of authority operations, alert the authority to damages in the authority's infrastructure, and raise awareness of high-risk issues, especially if the authorities grow or take on controversial projects in the future.
- **Alternative dispute resolution.** The laws governing GBRA, RRA, and NRA do not include a standard provision encouraging use of alternative dispute resolution procedures as state law requires for typical state agencies. Without this provision, river authorities could miss ways to improve dispute resolutions through more open, inclusive, and conciliatory processes designed to solve problems by building consensus rather than through contested proceedings or lawsuits. Alternative dispute resolution procedures could apply to internal employee grievances, interagency conflicts, contract disputes, actual or potential contested matters such as water rights disputes, and other areas of potential conflict.

### **RRA has not fully complied with TCEQ rules.**

TCEQ has a continuing right of supervision over all water districts, including river authorities.<sup>3</sup> TCEQ rules require certain river authorities and water districts to adopt and comply with a combination of requirements in state law and other good government policies, described in the textbox on the following page, *Policies Required by TCEQ*.<sup>4</sup>

RRA complies with most of the TCEQ policies, but has not adopted the following ethics and contracting policies as required:

- A policy prohibiting it from granting money or other valuable property to individual citizens, associations, or corporations<sup>5</sup>

- A policy prohibiting nepotism<sup>6</sup>
- A policy requiring a list of three pre-qualified persons or firms for professional services contracts expected to exceed \$25,000<sup>7</sup>

***Policies Required by TCEQ***

- Code of ethics – must include provisions to address conflicts of interest, nepotism, standards of conduct, and a prohibition on granting public money
- Travel expenditures – must provide for reimbursement of necessary and reasonable travel expenditures
- Investments – must comply with the Public Funds Investment Act and Public Funds Collateral Act
- Professional services – must prohibit use of competitive bids and maintain a list of at least three pre-qualified persons or firms for contracts over \$25,000 for professional services
- Industrial development and pollution control bonds – must comply with disclosure requirements of these bonds
- Management policies – must obtain an independent management audit and comply with the intent of HUB and EEO laws

## Recommendations

### ***Management Action***

#### **6.1 Require opportunities for public testimony at board meetings and direct river authorities to implement additional best practices to improve openness and transparency.**

- a. **Website.** RRA should maintain a website that provides clear, updated information about its operations. At a minimum, current urgent notices for utility customers, such as boil water notices, should be clearly labeled and available within one click of the front page.

This recommendation would also direct GBRA, RRA, and NRA to make their board packets available to the public on their websites at least one day before the board meetings. RRA should post board meeting dates and agendas on its website in a clear and easy-to-access location with at least as much notice as it provides in the Texas Register.

- b. **Record retention plan.** RRA should create and file all necessary record retention schedules with the Texas State Library and Archives Commission to ensure proper compliance with state and local record retention requirements.
- c. **Financial information.** Direct GBRA to review and document criteria for categorizing budget expenditures and ensure its internal budget guidance is clear and consistent.
- d. **Update governing laws.** This recommendation requests that the Texas Legislative Council prepare legislation codifying the governing GBRA, RRA, and NRA for introduction during the 87th Legislative Session. This recommendation also requests that by May 16, 2018, the legislative council provide a list of any issues regarding the law governing each authority that presents an impediment to codifying that law and should be addressed in the authority's Sunset bill to facilitate the codification of that law. Sunset staff would work directly with the authorities and the legislative council to determine whether and how to address the identified issues before the Sunset Commission votes on the recommendations for GBRA, RRA, and NRA.

## 6.2 Direct river authorities to develop a policy to ensure all contracts are periodically reviewed.

RRA and NRA should adopt a policy to periodically re-evaluate contracts for professional services to ensure they are receiving the best value.

### *Change in Statute*

## 6.3 Apply good government standards to river authorities' governing laws to promote accountability, transparency, and best practices.

- a. **Presiding officer designation.** This recommendation would require the governor to designate the presiding officers of the GBRA, RRA, and NRA boards to serve in that capacity at the pleasure of the governor.
- b. **Grounds for removal.** This recommendation would apply the same reasons and processes for removal of a board member in GBRA's governing laws to RRA. The recommendation would specify the grounds for board member removal, including inefficiency, neglect of duties, or misconduct in office. The recommendation would also provide a process for board member removal, including guidelines for timelines, public hearings, and action by appointing bodies.
- c. **Board member training.** This recommendation would clearly establish the type of information to be included in the board member training for GBRA, RRA, and NRA. This training would need to provide board members with information regarding the authority's governing laws; its programs, functions, by-laws, and budget; the scope of and limitations of its rulemaking authority; the results from its most recent formal audit and any previous TCEQ management audit; the requirements and training available related to open meetings, open records, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies.
- d. **Separation of duties.** This recommendation would require GBRA, RRA, and NRA to adopt policies to clearly separate board policy functions from the agency staff's day-to-day operations. This recommendation would also remove the provision in RRA's governing law that allows a board member to be employed as the general manager.
- e. **Public testimony.** As one of Sunset's cross-the-board good governance standards, this recommendation would require in law that GBRA, RRA, and NRA include public testimony as an agenda item at every regular board meeting. GBRA, RRA, and NRA should clearly provide the public the opportunity to comment on each agenda item and any issue or matter under the river authority's jurisdiction at open board meetings.
- f. **Complaint information.** This recommendation would require GBRA, RRA, and NRA to maintain a system for receiving and acting on complaints and to make information available regarding its complaint procedures. These river authorities also would maintain documentation on all complaints and periodically notify complaint parties of the status of complaints.
- g. **Alternative dispute resolution.** This recommendation would require GBRA, RRA, and NRA to develop and implement a policy to encourage alternative procedures for dispute resolution. These river authorities also would coordinate implementation of the policy, provide training as needed, and collect any related data concerning the effectiveness of these procedures.

## Management Action

### 6.4 Direct RRA to comply with TCEQ rules by adopting required administrative policies.

RRA should adopt or amend the following policies to comply with state law and TCEQ rules:

- a. A policy prohibiting the authority from granting money or other valuable property to individual citizens, associations, or corporations
- b. A policy to prohibit nepotism
- c. A policy for pre-qualified professional services vendors for contracts expected to exceed \$25,000

### Summary of Recommendations

Recommendation	GBRA	RRA	NRA
<b>Recommendation 6.1 — Transparency</b>			
a. Website	Apply	Apply	Apply
b. Record retention requirements		Apply	
c. Financial information	Apply		
d. Update governing laws	Apply	Apply	Apply
<b>Recommendation 6.2 — Long-Standing Contracts</b>	See Issue 2	Apply	Apply
<b>Recommendation 6.3 — Good Government Standards</b>			
a. Presiding officer designation	Apply	Apply	Apply
b. Grounds for removal		Apply	
c. Board member training	Apply	Apply	Apply
d. Separation of duties	Apply	Apply	Apply
e. Public testimony	Apply	Apply	Apply
f. Complaint information	Apply	Apply	Apply
g. Alternative dispute resolution	Apply	Apply	Apply
<b>Recommendation 6.4 — Compliance With TCEQ Rules</b>			
a. Prohibiting granting of money or property		Apply	
b. Prohibiting nepotism		Apply	
c. Maintaining pre-qualified firms		Apply	

## Fiscal Implication

These recommendations would not have a significant fiscal impact to GBRA, RRA, or NRA, or to the state. Any costs related to posting of additional materials to river authorities' websites could be absorbed within existing resources.

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<sup>1</sup> Section 4, Chapter 410 (H.B. 138), Acts of the 44th Texas Legislature, 1st Called Session, 1935; Section 2, Chapter 427 (H.B. 141), Acts of the 44th Texas Legislature, 1st Called Session, 1935.

<sup>2</sup> Section 11, Chapter 279 (S.B. 419), Acts of the 56th Texas Legislature, Regular Session, 1959.

<sup>3</sup> 30 T.A.C. Section 292.1(a).

<sup>4</sup> 30 T.A.C. Section 292.13.

<sup>5</sup> 30 T.A.C. Section 292.13(1)(D).

<sup>6</sup> 30 T.A.C. Section 292.13(1)(B).

<sup>7</sup> 30 T.A.C. Section 292.13(4)(B). RRA has a similar policy, but the existing policy only applies to contracts expected to exceed \$50,000.

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# APPENDIX





# APPENDIX A

## ***Staff Review Activities***

During the review of the Guadalupe-Blanco River Authority, Red River Authority of Texas, Nueces River Authority and Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with authority personnel; attended board meetings; met with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed authority documents and reports, state statutes, legislative reports, previous legislation, and literature; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to these authorities:

- Toured the main offices of each river authority as well as various water and wastewater treatment plants, lakes, dams, rivers, recreational facilities, and other portions of the authorities' river basins
- Accompanied authority staff performing water quality monitoring activities
- Toured sites of authority projects for water quality, conservation, and resource protection
- Participated in demonstrations of classroom education programs
- Met with staff and board members from the Guadalupe-Blanco River Trust, Gorge Preservation Society, and San Antonio Bay Foundation
- Attended a meeting of the Friends of Lake Wood
- Attended an annual Red River Valley Association meeting
- Met with city officials within the authorities' river basins
- Interviewed staff from the Texas Commission on Environmental Quality, Public Utility Commission of Texas, Texas State Library and Archives Commission, Texas State Soil and Water Conservation Board, Texas Water Development Board, and U.S. Environmental Protection Agency



Sunset Staff Review of the  
*Guadalupe-Blanco River Authority*  
*Red River Authority of Texas*  
*Nueces River Authority*

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