



Con Mims Nueces River Authority

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TESTIMONY OF NUECES RIVER AUTHORITY AT SUNSET ADVISORY COMMISSION PUBLIC HEARING ON MAY 24, 2018, AUSTIN, TEXAS

BY
CON MIMS, EXECUTIVE DIRECTOR

Chairman Birdwell and Commission Members:

I am Con Mims, Executive Director of the Nueces River Authority.

Since early last summer, the Nueces River Authority (NRA) has been under review by the Sunset Advisory Commission. I want you to know that, during this process, the professionalism of Director Ken Levine and Project Manager Danielle Nasr has been most impressive and their courtesies and guidance have been greatly appreciated.

The recently released "Staff Report on the Guadalupe-Blanco River Authority, Red River Authority of Texas and the Nueces River Authority" contains several recommendations applicable to NRA that I want to address. Please note that, since this testimony is being presented before the NRA Board meets on May 31, it has not been, formally, approved by my Board. The positions presented have been submitted to my Board for review and many of my Directors have given their approval, including all members of the Executive Committee. No objections have been expressed.

A. The following recommendations we support without comment:

- That we adopt a formal, written five-year strategic plan and engage in a regular strategic planning process.
- That we make our board packets available to the public on our website at least one day before our board meetings;
- That we develop a policy to ensure all contracts are periodically reviewed;
- That we maintain a system for receiving and acting on complaints, to make information available regarding our complaint procedures, and to maintain documentation on all complaints and periodically notify complaint parties of the status of complaints; and
- That we develop and implement a policy to encourage alternative procedures for dispute resolution and coordinate implementation of the policy, provide training, as needed, and collect any related data concerning the effectiveness of these procedures.

B. The following recommendations we support with some clarifying comments:

- One recommendation is that we prepare for future retirements and workforce changes by documenting duties and procedures.

At different times, we have lost the Director of our Coastal Bend Division, the Manager of our Clean Rivers Program, and the Administrative Assistant and Finance Director and were able to perform without much problem during the replacement processes. Their duties were covered in their job descriptions and the remaining staff was familiar with the procedures needing to be followed within those positions and was able to help with transitions. We, also, note that personnel losses create opportunities to re-evaluate staff responsibilities and to change duties and procedures. So, while documentation may be important, upon the loss of a employees, duplication of duties and procedures should not be assumed.

- There is a request that the Texas Legislative Council prepare legislation codifying the (laws) governing NRA for introduction during the 87th Legislative Session.

We appreciate this recommendation as it will make all of our governing laws available in one place.

- There is a recommendation that we to clearly establish the type of information to be included with our board member training, mentioning information regarding our governing laws, programs, functions, by-laws, and budget; the scope of and limitations of our rulemaking authority; the results from our 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.

We cover most, if not all, of this, in our new Director orientations, but having a minimum required set of topics can be helpful.

- Another recommendation would require us to adopt policies to clearly separate board policy functions from the agency staff's day-to-day operations.

In my decades of serving as NRA's Executive Director, intrusion by the Board of Directors into day-to-day operations has never been an issue.

- There is a recommendation that would require in law that we include public testimony as an agenda item at every regular board meeting and clearly provide the public the opportunity to comment on each agenda item and any issue or matter under our jurisdiction at open board meetings.

We provide these opportunities in practice and have never prevented a person from speaking.

C. We oppose the following recommendation:

- The recommendation that would require the Governor to designate the presiding officer of the NRA Board to serve in that capacity at the pleasure of the Governor.

Our Board Presidents are elected based on their dedication, leadership and the respect they have earned from their peers. Being appointed by the Governor will remove that value. I will add, further, that, as I understand, this is one of a set of standard recommendations that the Sunset Advisory Commission applies to all "state agencies" reviewed, referred to as "across-the-board recommendations". NRA is not

a state agency. In fact, the character of most river authorities is more grass roots related. They are unique because they are closer to the public than many state agencies are and further removed from Austin, which many of their constituents appreciate. This recommendation would, unnecessarily, politicize the presiding officer position.

In summary, we support all of the recommendations, except the one requiring the Governor to designate the presiding officer of our board.

In closing, in connection with the Sunset bills relating to NRA to be filed next Legislative Session, any initiative you could take to make possible reimbursement of the large fee we had to pay to cover the cost of this review would be appreciated. We have no state appropriations or tax revenues available to cover this nearly \$50,000 cost, all of which is coming straight from our hard earned savings. We are proud of our organization and have never objected to being reviewed. We have objected to having to pay for it, and any help the Commission can offer in support of reimbursement would be greatly appreciated by us and our constituents.

I will be pleased to answer any questions.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Con Mims', is written over a horizontal line.

Con Mims
Executive Director

Cc: Nueces River Authority Board of Directors



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April 26, 2018

Mr. Ken Levine, Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

Re: Sunset Staff Report on the Nueces River Authority

Mr. Levine and Project Staff members:

The Sunset Commission has requested our position on issues presented in the recently released Sunset Staff Report on the Guadalupe-Blanco River Authority, Red River Authority of Texas and the Nueces River Authority. Our positions on those issues pertaining to the Nueces River Authority (NRA) are provided, below.

Since this response is due to the Commission by May 10, and the next NRA Board of Directors meeting is on May 31, this letter has not been, formally, approved by the NRA Board. However, it has been submitted to the Board for review. A number of Directors have approved this letter, including all members of our Executive Committee, and there have been no objections to it. I am confident that this letter would be approved at a formal meeting.

GENERAL COMMENT

We believe the information on NRA's authority, operations, finances, and other background material are comprehensive and fairly and accurately presented.

POSITIONS ON RECOMMENDATIONS

The Report contains several recommendations applicable to NRA which are listed, below, along with our positions on each.

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

We support this recommendation.

- **Prepare for departures of key staff - NRA should take action to prepare for future retirements and workforce changes by documenting duties and procedures.**

We support this recommendation, but note that, in the past at different times, we have lost the Director of our Coastal Bend Division, the Manager of our Clean Rivers Program, and our Administrative Assistant/Finance Director and were able to perform our critical functions without much problem.

- **Website - Direct NRA to make their board packets available to the public on its website at least one day before its board meetings.**

We support this recommendation.

- **Update governing laws - This recommendation requests that the Texas Legislative Council prepare legislation codifying the (laws) governing 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.**

We strongly support and appreciate this recommendation.

- **Periodic review of contracts - Direct NRA to develop a policy to ensure all contracts are periodically reviewed**

We support this recommendation.

- **Presiding officer designation - This recommendation would require the governor to designate the presiding officer of the NRA board to serve in that capacity at the pleasure of the governor.**

We object to this recommendation. Our Board Presidents are elected based on their dedication, leadership, and the respect they have earned from their peers. Being appointed by the Governor will remove that value and make the Board more political than it needs to be.

- **Board member training - This recommendation would clearly establish the type of information to be included in the board member training for 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.**

We support this recommendation and note that, while we do most, if not all, of this, routinely, we can place more emphasis on it.

- **Separation of duties – This recommendation would require NRA to adopt policies to clearly separate board policy functions from the agency staff's day-to-day operations.**

We support this recommendation, but note that this has never been an issue between the NRA Board and staff.

- **Public testimony – This recommendation would require in law that NRA include public testimony as an agenda item at every regular board meeting. 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.

We support this recommendation, and note that, in practice, we always provide these opportunities.

- **Complaint information** – This recommendation would require NRA to maintain a system for receiving and acting on complaints and to make information available regarding its complaint procedures. NRA also would maintain documentation on all complaints and periodically notify complaint parties of the status of complaints.

We support this recommendation.

- **Alternative dispute resolution** – This recommendation would require NRA to develop and implement a policy to encourage alternative procedures for dispute resolution. NRA also would coordinate implementation of the policy, provide training, as needed, and collect any related data concerning the effectiveness of these procedures.

We support this recommendation.

I trust this letter satisfies the Commission's request, but will be pleased to follow up.

Sincerely,



Con Mims
Executive Director

CC: NRA Board of Directors