

mike Sandefur

SRBA

**SULPHUR RIVER BASIN AUTHORITY  
WRITTEN TESTIMONY  
SUNSET COMMISSION HEARING  
Austin, Texas  
June 23, 2016**

- 1. Proposed Oral Testimony Remarks by Mike Sandefur, President-Elect of the SRBA Board**
- 2. Written Testimony Regarding Consideration of Public Funding for SRBA as an appropriate Sunset Commission recommendation**
- 3. Agenda from SRBA Board Meeting – June 21, 2016 (all items passed unanimously)**
- 4. “Reorganization Plan” with yellow highlighting identifying those plan elements that have already been approved to start, primarily by approved agenda items at the June 21, 2016 board meeting.**

**SUNSET COMMISSION  
SRBA -- ORAL TESTIMONY**

**6/23/16**

**Timed: 3 minutes**

I am Mike Sandefur from Texarkana, one of three new board members of SRBA. 10 days after our first board meeting in April, the Sunset Staff report was released, which contained very specific criticisms of our board.

The Sunset report was painful to read. It addresses concerns of trust, of openness and transparency, and of competence.

We cannot adequately refute your staff's concerns and criticisms, nor can we adequately dispute the staff Recommendations 1.1-1.5.

As your staff knows, in my individual capacity I responded with a plan to reorganize our authority to address Sunset concerns. After review, our entire board has embraced this approach, and Tuesday, I became president-elect of the board.

There is new leadership at SRBA, helping start recommendation 1.1. The previous board president has resigned his office so that the board can take a new approach. He knows several areas of the report that he would very much like to debate. But instead, he has set the stage for the future, and our board appreciates it very much.

Instead of telling you what we might do in the future, I want to tell you what we have already done. Today I can testify that we added 9 Sunset-related agenda items from the reorganization plan to our Tuesday agenda, and all 9 items were adopted – unanimously. These yellow highlights on the original reorganization plan show those areas addressed by this initial action. These agenda items move us forward, but they are only a start, and there is a lot more to come.

So, our first request today is to encourage the Sunset staff to review our actual progress later this calendar year to see if, in fact, significant leadership and structural change has been embraced. If this is true, then your legislative Recommendation 1.1 to sweep the board can perhaps be refined.

Our second request is for the Commission to consider a crucial recommendation that is not in the staff report. Thus, we have prepared two pages of additional written testimony for you and the staff to review to put this request into perspective.

To briefly summarize, the Sunset Report observes that SRBA must effectively represent the public in this contentious “big-league” water environment. The Sunset Report also accurately reports that we have no public funding, thus fueling the perception that we are controlled by special interests.

The proposed recommendations from Staff appear to concentrate on treating the many symptoms of an underperforming SRBA. Members of the Commission know the long-term advantages of correcting an actual problem, and not just treating the symptoms. Comprehensive change for SRBA to balance public interests will require some level of public funding.

Finally, I will note that on Tuesday our board, like other river authorities, did express opposition to Recommendation 5.2(b) because of the potential for politics or delay.

Thank you for allowing this testimony, and considering our two requests. The proof will be in the pudding.

## **Written Testimony Regarding Consideration of Public Funding for SRBA as an appropriate Sunset Commission recommendation**

**The Sunset Commission Staff recognizes the SRBA's difficult environment, and forcefully reinforces the need for an effective entity to represent the public. However, their recommendations to the Commission did not address how to solve the underlying structural problem of representing the State and public in this environment without public funding.**

**This page contains word-for-word excerpts from the Sunset Commission Staff report on SRBA, organized to properly frame the inherent problem of no public funding. In the Sunset staff's own words:**

### **SIGNIFICANT PUBLIC RISK IN THE SULPHUR RIVER BASIN**

SRBA is at the center of one of the biggest water fights in the state. Controversy . . . has thrown an organizationally immature SRBA into the big leagues of water development. (Sunset Staff report page 3)

Having a trusted organization, capable of navigating the politics and competitive atmosphere within this broader water fight in the state, is critical to protect the best interests of the Sulphur River basin. (p. 12)

Because the SRBA is funded by entities in Region C to study water development projects, SRBA is at the center of these conflicts. (p. 11)

Without an entity to balance competing development and conservation interests, the state risks either overdeveloping the basin to the detriment of the environment or underdeveloping the basin and not meeting the state's water supply needs. (p. 12)

However, the difficulties of operating in this controversial environment only reinforce the importance of SRBA's mission and warrant an overhaul of SRBA's operations to better ensure its ability to successfully meet the watershed's growing and controversial needs. (p. 3)

The state needs an effective entity to help balance development and conservation efforts in the Sulphur River Basin. However, . . . , SRBA needs comprehensive change in its structure and operations to help restore public trust to serve as that basin-wide entity. (p. 5)

... demands that SRBA increase its maturity and sophistication to meet the heightened public and stakeholder expectations associated with the complex water-development projects being contemplated in the basin. (p. 12)

### **STRUCTURAL ABSENCE OF PUBLIC FUNDING EXISTS**

The Legislature created the Sulphur River Basin Authority (SRBA) in 1985 to provide for the conservation and development of natural resources in the Sulphur River basin in northeast Texas. . . . SRBA receives no state appropriations. (p. 9)

SRBA is not authorized to assess taxes. (p. 9)

Because the SRBA is funded by entities in Region C to study water development projects, SRBA is at the center of these conflicts. (p. 11)

The authorities' lack of stable revenue source also creates problems in organizational sustainability and continuity, mostly because the lack of – or threat of losing – staff. (p. 3)

**The proposed recommendations from Staff appear to concentrate on treating the symptoms of an underperforming SRBA. Members of the Commission know the long-term advantages of correcting the actual problem, and not just treating the symptoms. Comprehensive change for SRBA to balance public interests will require some level of public funding.**

**So, we ask you to go even further than your staff recommendations. We would like the Sunset Commission to consider including a legislative recommendation requesting temporary state funding for the SRBA over the next two bienniums. This public funding will enable the SRBA to re-establish itself for its important role in our Basin.**

**Over the next few months, your Staff will be able to verify and document the SRBA Board's efforts to treat the problematic symptoms that were documented in the report. If they then can confirm to you that our board is sincere and effective in our actions, then you may have some confidence to help us correct our problem.**

**Board of Directors  
Sulphur River Basin Authority  
June 23, 2016**

**NOTICE OF THE SULPHUR RIVER BASIN AUTHORITY  
BOARD OF DIRECTORS MEETING  
A REGULAR SRBA BOARD OF DIRECTORS MEETING WILL BE  
HELD ON  
TUESDAY, JUNE 21<sup>st</sup>, 2016 AT 1:00 P.M. AT THE  
MT. PLEASANT CIVIC CENTER AT 1800 N. JEFFERSON STREET IN  
MT. PLEASANT, TEXAS  
ALL INTERESTED PARTIES ARE INVITED TO ATTEND**

**A G E N D A**

1. Meeting called to order at 1:00 P.M.
2. Invocation.
3. Discuss and take action on the approval of the minutes for May 17<sup>th</sup>, 2016.
4. Public Comments.
5. Discuss and take action on the reports of the Cash Position & Expenditure.
6. Discuss and take action on Wilf & Henderson, P.C. conducting the Annual Audit for year ending August 31<sup>st</sup>, 2016.
7. Discuss and take action on response to the Sunset Advisory Commission's recommendations for presentation at the public hearing before the Sunset Advisory Commission on June 23, 2016.
8. Discuss and take action on the appointment of official spokesperson for the Board of Directors concerning the public hearing before the Sunset Advisory Commission on June 23, 2016.
9. Discuss and take action on electing a President of the Board of Directors to succeed Michael Russell, to be effective as of the date of the July, 2016 Board meeting.
10. Discuss and take action on electing two additional vice presidents.
11. Discuss and take action on assigning responsibilities to members of board of directors pending the hiring of an executive director.
  - a. Sedimentation
  - b. Liaison
  - c. Funding sources
  - d. Governance
  - e. Oversight of Consultant
12. Discuss and take action on reallocating funds for the remaining FY2015/2016 budget for new projects.
13. Discuss and take actions on securing of cost estimates for correction of deficient legal items set forth in the Sunset Advisory Commission's report.
14. Discuss and take action on authorizing Michael Sandefur to discuss additional procedures and costs with Wilf & Henderson, PC.
15. Discuss and take action on implementation of guidelines concerning solicitation of additional funding from governments, organizations and individuals.

- 16. Discuss and take action on travel arrangements and cost in connection with the hearing before Sunset Advisory Commission on June 23, 2016.**
- 17. Discuss and take action concerning legal clarifications recommended by the Texas Legislative Counsel in connection with legislation codifying laws governing Sulphur River Basin Authority.**
- 18. Updates on the Clean Rivers Program.**
- 19. Updates on the Feasibility Study.**
- 20. Updates on Region D.**
- 21. Announcements from the Board of Directors and/or Staff.**
- 22. Adjournment.**

## DRAFT PROPOSAL OF INTERIM REORGANIZATION PLAN

Developed May 1, 2016

Revised May 10, 2016

To help develop a proposed course of action, it was helpful (and painful) to review certain excerpted observations from the official Sunset Staff report, including the following:

- Organizationally immature (page 3)
- Hit the reset button (3)
- Stark assessment of the SRBA Board failing (3)
- Warrant an overhaul of SRBA operations (3)
- Actions of SRBA Board aggravate the atmosphere of distrust (5)
- SRBA needs comprehensive change (5, 12)
- Demands that SRBA increase its maturity and sophistication (12)
- SRBA Board has failed to take needed steps (12)
- SRBA needs sweeping changes (12)
- Distrust casts doubt on virtually every decision the SRBA Board makes (13)
- Restoring public trust in SRBA is essential (13)
- Raising concerns among stakeholders about SRBA independence and allegiance (13)
- Failed to effectively structure and manage the organization (13)
- To question SRBA competence and capacity to manage (13/14)
- One that is woefully underperformed (15)
- The SRBA does not embrace the full spirit of openness (16)
- No strategic planning (17)

It appears that drastic, immediate changes are called for. I would propose that the Sulphur River Basin Authority Board consider the following draft framework as a starting place for an interim reorganization and action plan to address the Sunset concerns. Obviously, getting input, incorporating better ideas, eliminating bad ideas, and getting buy-in from the entire board would be necessary to set the stage for a successful reorganization. It is important for the board to act together as a whole (page 5); a split board would clearly be best to avoid.

Following for discussion purposes is a specific proposal for an **Interim Reorganization** and reform of SRBA operations, in light of the above Sunset staff observations and their implied requirement for immediate implementation of significant reforms listed in the Sunset Report.

### A. Change of Board Leadership (preliminary to Recommendation (“R”)#1.1)

Elect transitional new President of the Board

Establish multiple vice presidents (per bylaw 6.01) and clarify their roles

Possible nominations:

Wally Kraft (incumbent) – vice-president of sedimentation

Katie Stedman (new) – vice-president of good governance and transparency

Bret McCoy (new) – vice president/liason with water planning groups

Vacant for now (\*) – vice-president of reservoirs

Dissolve all standing committees (bylaw 5.01)

Delay/defer as appropriate upcoming important board decisions pending implementation of an interim reorganization, completion of board training, and development of a strategic plan (which will help to ensure that each board “member has an adequate understanding of the authority’s governing laws, operations, and budget before making decisions regarding matters of public interest”) (page 43).

*(\* As reservoir issues appear to account for much of the SRBA’s perceived problems and controversies, my recommendation is to establish this office to reflect its obvious importance, but to temporarily delay filling it until such time as the SRBA has adopted an interim reorganization, completed the Sunset Review process, and implemented the management directives and good governance reforms suggested by the Sunset review process.*

#### **B. Budget**

Responsibility: Mike Sandefur and Mike Russell

Timetable: 60 days

Determine funding partner response to Sunset Staff report and proposed interim reorganization steps, and ascertain impact, if any, on funding.  
Develop backup plan in case stable funding is reduced or discontinued (page 3)  
Review current year budget and actual results, and investigate variances  
Review unallocated fund balance, net of contractual liabilities  
Develop next year’s proposed budget for review and approval

#### **C. Education plan for new board members (including 2 new members to be appointed 2/2017 and 2 new members to be appointed 9/2017) (Page 43 and R 5.2d)**

Responsibility: Mike Sandefur, Bret McCoy, Katie Stedman

Timetable: educate and bring the three new members somewhat up to speed over a 4-6 month period, mostly in public meetings and through public workshops.

**Goal 1:** Design an education plan to not only orient and inform the newest board members, but to also refresh older board members while educating the community, other stakeholders, and the media as well.

**Goal 2:** Make future board meetings substantially more informative than historically

has been done by facilitating preparedness, appropriately summarizing information, **having visual aids and resources on hand**, accepting stakeholder input, and promoting substantive discussion. (pages 15 and 42, R 1.5)

Goal 3: Capture selected training and presentations on video and handouts to accelerate the orientation process that will soon be needed for the upcoming 4 new board members who will presumably be appointed in 2017.

- Schedule orientation and public presentations by stakeholders (page 15)  
(JCPD, Region D, Region C, Ward Timber, City of Texarkana, Riverbend, Northeast Texas Water Coalition, International Paper, et al.)
- Schedule orientation and public presentations by Agencies and consultants (page 15)  
(USACE, TCEQ, TWDB, Sulphur Basin Group, Freese and Nichols, MTG, Jon-Lark, Kingwood Forestry, Texarkana College Clean Rivers, et al.)
- Schedule orientation and public presentations by similar organizations (page 15)  
(functioning river authorities, NETMWD, Red River Commission, et al)
- Ensure visual resources (maps/charts) are available at every meeting**
- Provide appropriate handouts at every meeting (page 17)**
- Develop and retain written monthly reports (page 42 and R 5.1e)
- Develop handbook and reference manuals
- Enable access to all resources on an organized SRBA website (page 15)
- Develop comprehensive calendar documenting past and future SRBA events**

#### **D. Good Governance and Transparency**

Responsibility: Katie Stedman

Timetable: now and forevermore

- Coordinate Sunset Review Process (now through Legislative Action Phase)**
- Adopt and enforce best practices for board meetings
- Coordinate directed Open Meetings workshop with Attorney General staff (R 1.5)**
- Maintain Conflict of Interest policy and document conflicts
- Maintain website (R 1.5)
- Manage and document Public Information Act requests (page 42, R 5.1d)
- Evaluate Audit and engagement of CPA firm for future audits**
- Evaluate application for Texas Comptroller **Transparency Stars** program
- Evaluate compliance with retention policy (page 41, R5.1c)
- Maintain audio and video logs of meeting recordings (page 17)
- Maintain system for acting on and documenting complaints (page 44, R5.2f)

### **E. Sedimentation (page 17)**

Responsibility: Wally Kraft, with Brad Drake, Mike Russell, Pat Wommack

Timetable: 12 months

While there are many controversies and differences of opinions regarding development of new long-term water resources, I believe there is a general consensus that identifying and addressing sedimentation issues in the near term would be advantageous to everybody. Thus, a new initiative of the SRBA would be to explore how best to proceed on other watershed issues such as sedimentation.

Evaluate Sedimentation education, programs, and best practices (page 17)

Evaluate effectiveness and expansion possibilities of Clean Rivers Program

Evaluate what other districts are doing and adopt appropriate practices

Evaluate funding opportunities (R 1.3)

Evaluate, provide oversight to, and obtain accountability from Consultant (page 14)

### **F. Liaison with Water Planning Organizations**

Responsibility: Bret McCoy (with Pat Wommack, Mike Russell, Brad Drake, et al)

Timetable: 12 months and then ongoing

Act as Board Liaison with some/all of following planning groups and governmental stakeholders

Region D Water Planning Group

JCPD

Riverbend Water Resources District

City of Texarkana

Red River Valley Association/Red River Compact Commission

US Army Corp of Engineers

NETMWD

and others as appropriate

Evaluate, provide oversight to, and obtain accountability from Consultant (page 14)

### **G. Begin Interim Strategic Planning sessions (2 year process) (page 17)**

Responsibility: Mike Sandefur, with Mike Russell, Brad Drake and others

Precondition: New board members and public have 4-6 months of education

Timetable:

Estimated start: Fall, 2016

Estimated end: Spring, 2018 (after education of newest board members)

The intent is to develop and approve a written strategic plan with measureable goals subject to ongoing review and updates.

### **H. Engage Executive Director (preliminary steps for R #1.2)**

Responsibility: Entire board

Precondition: New board members and public have 4-6 months of education

Precondition: Strategic planning process has been initiated

Precondition: Job Description/qualities needed for strategic goals developed

Precondition: Funding is available

Timetable: To be determined based on preconditions

### **I. Reservoir and Contracts**

Responsibility: President?, pending selection of VP-Reservoirs

Caveat: Not yet familiar enough to discuss this complex issue intelligently. Fortunately, there appears to be the possibility of diminished urgency in the short term due to the following:

SRBA board must focus on Sunset Review process

Implementation of Board Interim Reorganization plan

New drought of record will require new round of studies

Coordination of Texarkana-area entities has improved communication

Evaluate options to obtain local funding (R 1.3)

Evaluate, provide oversight to, and obtain accountability from Consultant (page 14)

Obtain input from stakeholders (R #1.5)

Establish structure to obtain, discuss, and evaluate “Doubts” and opposing viewpoints on Consulting Studies and Board actions. (page 13)

Obtain qualifications/bids for other consultants and engineers (R #1.4)

## **J. Applicable Laws**

Responsibility: Mike Sandefur, Katie Stedman and Mike Russell

Work with attorney regarding:

- Review PIA process and retention policy (if needed) (page 42)
- Evaluate presiding officer designation alternatives (page 43, R5.2b)
- Review policy-making and staff functions (if needed) (page 44, R5.2e)
- Review outdated governing laws (page 42, R5.1f)
- Review and incorporate alternate dispute resolution (page 44, R5.2g)
- Adoption of TCEQ administrative policies (pages 44,45, R 5.3)

**MIKE SANDEFUR PERSONAL RESPONSE TO SUNSET STAFF REPORT**

May 11, 2016

The Honorable Larry Gonzales, Chair  
Sunset Advisory Commission  
Robert E Johnson Building, 6th Floor  
1501 North Congress Ave.  
Austin, Texas 78701

Dear Chairman Gonzales:

I am one of 3 recently appointed Sulphur River Basin Authority (“SRBA”) board members, and attended my first meeting April 19, 2016. The transmittal letter dated April 29 that accompanied the Sunset Advisory Commission Staff Report requests the SRBA’s board formal response on the issues presented in the staff report by Friday, May 13. It also welcomes an individual response from SRBA board members.

The specified May 13 deadline for the SRBA board’s formal response falls before the next regular SRBA board meeting scheduled for May 17. As a special board meeting was not called, a formal SRBA board response does not look possible until after May 17.

I have carefully reviewed the Sunset Staff report, and do not take issue with the directives and recommendations in the report. Change is needed! As an individual board member, I have developed a draft interim reorganization plan in an attempt to comprehensively address the issues and concerns detailed in the report.

This interim plan is my personal response as a member of the board, and in no way attempts to be an official response by the Sulphur River Basin Authority, the SRBA board in whole or in part, or to otherwise represent the view of any other board member. I do intend to have the SRBA administrator distribute copies of this response to the other board members in advance of our board meeting May 17<sup>th</sup> so that it can be discussed at the meeting if desired.

Thank you for your consideration of these comments and the attached Draft Proposal of Interim Reorganization Plan for inclusion in the Sunset Review process.

Sincerely,

*Michael Sandefur*

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Timetable: 60 days

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Timetable: educate and bring the three new members somewhat up to speed over a 4-6 month period, mostly in public meetings and through public workshops.

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Responsibility: Katie Stedman

Timetable: now and forevermore

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Adopt and enforce best practices for board meetings  
Coordinate directed Open Meetings workshop with Attorney General staff (R 1.5)  
Maintain Conflict of Interest policy and document conflicts  
Maintain website (R 1.5)  
Manage and document Public Information Act requests (page 42, R 5.1d)  
Evaluate Audit and engagement of CPA firm for future audits  
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Responsibility: Wally Kraft, with Brad Drake, Mike Russell, Pat Wommack

Timetable: 12 months

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Responsibility: Mike Sandefur, with Mike Russell, Brad Drake and others

Precondition: New board members and public have 4-6 months of education

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Estimated start: Fall, 2016

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The intent is to develop and approve a written strategic plan with measureable goals subject to ongoing review and updates.

**H. Engage Executive Director (preliminary steps for R #1.2)**

- Responsibility: Entire board
  
- Precondition: New board members and public have 4-6 months of education
- Precondition: Strategic planning process has been initiated
- Precondition: Job Description/qualities needed for strategic goals developed
- Precondition: Funding is available
  
- Timetable: To be determined based on preconditions

**I. Reservoir and Contracts**

- Responsibility: President?, pending selection of VP-Reservoirs

Caveat: Not yet familiar enough to discuss this complex issue intelligently.  
Fortunately, there appears to be the possibility of diminished urgency in the short term due to the following:

- SRBA board must focus on Sunset Review process
- Implementation of Board Interim Reorganization plan
- New drought of record will require new round of studies
- Coordination of Texarkana-area entities has improved communication

- Evaluate options to obtain local funding (R 1.3)
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- Establish structure to obtain, discuss, and evaluate “Doubts” and opposing viewpoints on Consulting Studies and Board actions. (page 13)
- Obtain qualifications/bids for other consultants and engineers (R #1.4)

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  - Evaluate presiding officer designation alternatives (page 43, R5.2b)
  - Review policy-making and staff functions (if needed) (page 44, R5.2e)
  - Review outdated governing laws (page 42, R5.1f)
  - Review and incorporate alternate dispute resolution (page 44, R5.2g)
  - Adoption of TCEQ administrative policies (pages 44,45, R 5.3)

Thank you for your consideration of these comments and Draft Proposal of Interim Reorganization Plan for inclusion in the Sunset Review process.

Sincerely,

*Michael Sandefur*

Michael Sandefur, SRBA Board Member