

**TCEQ DOCKET NO. 2014-1658-WR**

|                                |          |                              |
|--------------------------------|----------|------------------------------|
| <b>APPLICATION OF THE</b>      | <b>§</b> | <b>BEFORE THE</b>            |
| <b>GUADALUPE-BLANCO RIVER</b>  | <b>§</b> | <b>TEXAS COMMISSION ON</b>   |
| <b>AUTHORITY FOR WATER</b>     | <b>§</b> | <b>ENVIRONMENTAL QUALITY</b> |
| <b>RIGHTS PERMIT NO. 12378</b> | <b>§</b> |                              |

---

**REPLY OF GUADALUPE RIVER TROUT UNLIMITED TO RESPONSES  
TO HEARING REQUESTS**

---

**I. SUMMARY**

Guadalupe-Blanco River Authority's (GBRA) pending application would significantly impact protected interests held by members of Guadalupe River Trout Unlimited (GRTU), as well as protected interests held by GRTU itself. Thus, GRTU qualifies as an affected person, and the Commission should grant GRTU's hearing request.<sup>1</sup>

**II. GRTU POSSESSES IMPACTED ENVIRONMENTAL INTERESTS IN  
THE RECEIVING WATERS**

GRTU is the largest Trout Unlimited chapter in the nation, and has spearheaded the development of a year-round rainbow trout fishery on the Guadalupe River downstream of Canyon Lake. For this reason, Texas Parks and Wildlife Department has recently announced that in June of 2015 TPWD will induct GRTU into the Texas Freshwater Fishing Hall of Fame.

---

<sup>1</sup> By its Response to Hearing Requests, the Office of the Public Interest Counsel requested an explanation of how GRTU meets the requirements of 30 TAC § 55.252(a). In addition to generally serving as GRTU's reply to responses to its hearing request, GRTU provides the information contained in this reply in response to OPIC's request.

In 2014, Trout Unlimited recognized the Guadalupe River fishery as one of America's top 100 trout streams. TPWD studies show this fishery has an annual positive economic impact of \$1.9 million on the local economy. GRTU facilitates this fishery, and maintains a leadership role in conservation and development of public access to the fishery. For example, GRTU and its members have put in time and money to improve the habitat for fish in the trout fishery stretch of the Guadalupe River downstream of Canyon Lake.

### **III. GRTU POSSESSES IMPACTED PROPERTY INTERESTS AND ECONOMIC INTERESTS**

GRTU possesses property and economic interests impacted by GBRA's requested permit, and thus GRTU qualifies as an affected person in its own right.

GRTU holds leases for several riparian properties on the Guadalupe River within approximately 12 miles downstream of Canyon Lake. GRTU receives income from persons who purchase passes to access the River through these leases. This income is used to pay the lease fees and purchase approximately 12,000 pounds of large rainbow trout for stocking into the river each year.

GBRA's proposed mid-basin project could damage the trout fishery in a number of ways. Depending upon how GBRA proposes to operate the new reservoir, it could allow GBRA to sell more water upstream of Canyon Lake, reducing flows downstream. The timing and quantity of release from Canyon Lake are important to the health and value of the trout fishery. Thus, any permit for the new project without sufficient limits on operations would impair the value of GRTU's leases, GRTU's income needed to protect the trout fishery, the value of GRTU's habitat

restoration efforts, and GRTU's ability to protect and promote the trout fishery in conjunction with the Texas Parks and Wildlife Department.

GRTU has made significant investments to maintain the trout fishery that could be adversely impacted by the proposed permit. For example, GRTU has:

- Funded several studies of macroinvertebrate populations, trout diet, and feeding habits in downstream waters;
- Funded a tracking study in 2009 to assess trout movements and migration within the river;
- Planted watercress near Canyon Lake dam to improve in-stream habitat;
- Planted sycamores and willows in downstream waters to restore riparian habitat and provide shade for the Guadalupe river;
- Planted other in-stream vegetation for habitat improvement in coordination with TPWD;
- Funded a current study of trout habitat characteristic preferences in downstream waters with TPWD and Texas State University;
- Coordinated numerous volunteer river cleanups to remove trash and debris from the river; and,
- Conducted temperature monitoring along the immediate downstream waters to determine temperature profile and assess temperature and flow relationships.

As these activities reflect, GRTU has made a significant economic investment in order to maintain and protect the environmental integrity of the downstream waters—a key component of the basis for GRTU's existence. If the mid-basin project resulted in reductions in flows, or changes in timing of releases from Canyon Lake, GBRA's proposed diversion and the project would impair GRTU's use of this environmental resource that GRTU has devoted significant money,

time, and resources towards protecting. GRTU believes that the mid-basin can be designed and operated such that it does not result in damage to GRTU and the trout fishery.

Moreover, the work GRTU has done can provide significant information not available from others on conditions in the Guadalupe River and impacts on changes of flows. GRTU's participation in the hearing on the GBRA application will assist TCEQ its decisions on the application.

#### **IV. MEMBERS OF GRTU OWN IMPACTED RIPARIAN PROPERTY USED FOR RECREATIONAL PURPOSES**

GRTU includes several members that have standing to request a hearing in their own right by virtue of their property and recreational interests.

Jimmy Martens is a member of GRTU. Mr. Martens owns two properties impacted by the requested permit.

Mr. Martens' most upstream property is at 754 Whippoorwill Drive in New Braunfels, Texas.<sup>2</sup> This property is on the Guadalupe River within 0.5 miles downstream of Canyon Lake. He keeps several kayaks at this property, and he has a cabin on this property. Mr. Marten uses this property to kayak and fish in the Guadalupe River, and the cabin on his property is generally used for recreational purposes twice a month by himself or friends and family.

Mr. Martens also owns riparian property located at 2408 Ponderosa, in New Braunfels, Texas. That property is approximately 7 river miles downstream of Canyon Lake. Mr. Martens uses this property to fish from the bank of the

---

<sup>2</sup> Attachment 1 to this filing is a map depicting the location of property owned by Mr. Martens, as well as property owned by Mr. Riha also discussed in this Reply.

Guadalupe River. He and his children regularly wade into the Guadalupe River from this property. Mr. Martens has invested in improvements to this property, in order to facilitate the use of the property for fishing from the banks of the Guadalupe River.

Additionally, David Riha is a member of GRTU who holds interests impacted by the proposed permit. Mr. Riha owns property located at 7886 River Road in New Braunfels. This property is approximately 12.5 river miles downstream of Canyon Lake. Mr. Riha fishes for trout in the Guadalupe River from this property, and he has a travel trailer on this property for use when he visits the property. He also wades into the Guadalupe River from this property. During the summer months, he visits this property approximately twice a month.

The authorization sought by GBRA will impair the value of these members' properties and their use and enjoyment of these properties if the application is granted without adequate safeguards to protect flows in the River that pass these properties. Reduced releases from Canyon Lake will raise the temperature of the water in the Guadalupe River at the location of these properties, thereby reducing the ability of the river to support trout. The permit would reduce flows in the River also. It could also adversely affect the fish and wildlife habitat used by members and those members' ability to use the river for boating and fishing for trout and other fish in the river. In these ways, Mr. Martens and Mr. Riha possess justiciable interests in the application, and qualify as affected persons with respect to GBRA's requested permit.

## V. PRAYER

For the reasons stated above, GRTU respectfully asks that the Commission grant GRTU's hearing request and refer the matter to the State Office of Administrative Hearings (SOAH) for a contested case hearing.

Respectfully Submitted,



Eric Allmon  
State Bar No. 24031819  
***Frederick, Perales, Allmon &  
Rockwell, P.C.***  
707 Rio Grande, Suite 200  
Austin, Texas 78701  
Telephone (512) 469-6000  
Facsimile (512) 482-9346  
*Attorneys for GRTU*

## CERTIFICATE OF SERVICE

I, Eric Allmon, hereby certify that on January 26, 2015, the foregoing document was electronically filed with the Chief Clerk at the Texas Commission of Environmental Quality in accordance with TCEQ rules and the instructions as set forth by the Chief Clerk on the Commission's website, and that copies were served on all parties listed below via facsimile transmission or by deposit in the United States Mail.



Eric Allmon

### FOR THE APPLICANT:

Molly Cagle  
Carlos R. Romo  
Baker Botts LLP  
98 San Jacinto Blvd., Ste. 1500  
Austin, Texas 78701  
t: (512) 322-2505  
f: (512) 322-2501

Tom Bohl  
W.E. West, Jr.  
Guadalupe-Blanco River Authority  
933 East Court Street  
Seguin, Texas 78155  
t: (830) 379-5822  
f: (830) 379-9718

### FOR THE EXECUTIVE DIRECTOR:

Dinniah Tadema, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087  
t: (512) 239-0600  
f: (512) 239-0606

### FOR ALTERNATIVE DISPUTE RESOLUTION:

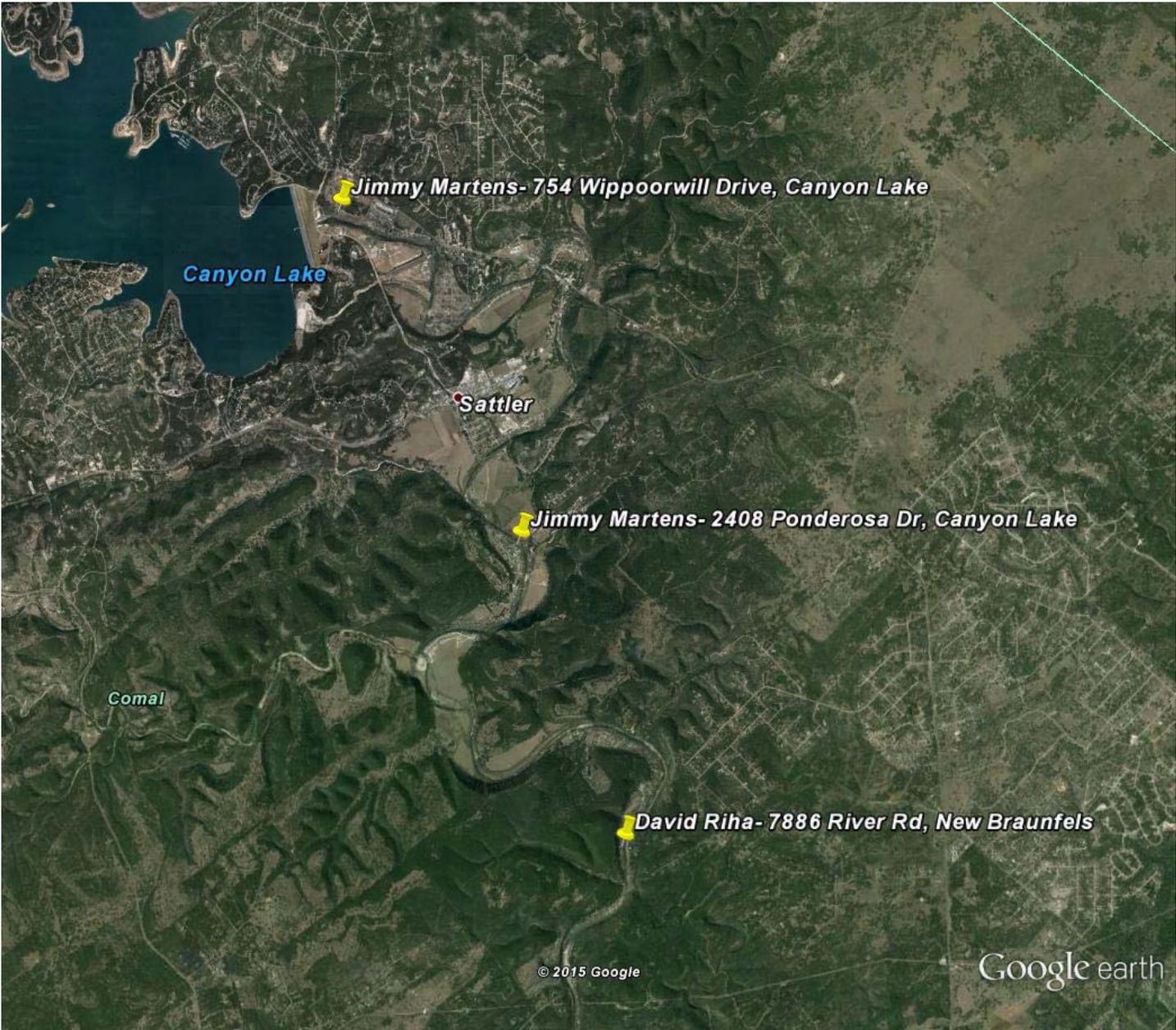
Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711-3087  
t: (512) 239-4010  
f: (512) 239-4015

### FOR PUBLIC INTEREST COUNSEL:

Eli Martinez  
Assistant Public Interest Counsel  
Texas Commission on Environmental  
Quality  
Public Interest Counsel, MC-107  
P.O. Box 13087  
Austin, Texas 78711-3087  
t: (512) 239-6823  
f: (512) 239-6377

# ATTACHMENT 1

Map depicting locations of properties  
owned by Mr. Martens or Mr. Riha



Google earth

