

Texas Rivers Protection Association • P.O. Box 219 •  
Martindale, TX 78655

[www.txrivers.org](http://www.txrivers.org)

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Fred Zagst Marble Falls 830-693-1054 <mailto:fredzagst@hotmail.com>

*"Do not burn yourselves out. Be as I am - a reluctant enthusiast, a part-time crusader, a half-hearted fanatic. Save the other half of yourselves and your lives for pleasure and adventure. It is not enough to fight for natural land and the west; it is even more important to enjoy it. While you can. While it's still there... Enjoy yourselves, keep your brain in your head and your head firmly attached to the body, the body active and alive, and I promise you this much: I promise you this one sweet victory over our enemies, over those desk-bound men with their hearts in a safe deposit box, and their eyes hypnotized by desk calculators. I promise you this: you will outlive the bastards." --Ed Abbey.*

I'm not sure whether the average reader of this newsletter is a fan of Mr. Abbey or not, but in either case, I think we can all agree that he was right on with the above advice. As we strive to protect the rivers of Texas we have to realize that we are up against water barons with tremendous financial backing. So when the Texas Commission on Environmental Quality denies a water rights permit to maintain environmental flows for the San Marcos River (see the story on page 2) we shouldn't be surprised or demoralized. What you should do is go paddling.

And when you spend the day picking up trash during some of the upcoming river clean ups, you must realize that next year there will be new trash to clean out of that same section of river. In spite of our efforts to educate the public and to clean up after some scoundrels, litter will find its way into our rivers. Enjoy the rivers anyway.

Keep in mind that we are winning a few battles. The paddlers of Texas now own access to the Brazos River at Hidalgo Falls. And we have increased our holdings there. Go enjoy Hidalgo Falls.

And, thanks in part to the efforts of this organization, it is now illegal to drive an off road vehicle for sport in the navigable rivers of this state. It's the first time a law supported by this group actually passed through the Texas Legislature. Hopefully the passage of this legislation will usher in a new period of cooperation between landowners and paddlers when it comes to environmental protection legislation. Go see the Nueces River the next time it's flowing well.

And for those of you who feel led to do more to protect our rivers, here are a few suggestions: 1) pay your dues - our coffers could use a shot in the arm; 2) offer to serve on our board of directors - we always have a member or two who would gladly give up their seat to some new enthusiastic volunteer; and 3) get involved - come to the clean ups, come to the meeting, write letters to your legislators about environmental inflows.

But most importantly, get out there and enjoy your rivers. Take your friends paddling. Convert as many people to the cause as you can. Have kids and teach them to love rivers. Who knows, we might not just outlive the bastards, we might eventually outnumber them.

Tom Goynes, President

## **Instream Flows for Texas Rivers**

The state of Texas has a system of allocating water from its rivers to water right holders. The problem is that until the state runs out of applications for folks to file asking for more water, the intention seems to be to over allocate water from our already stressed rivers.

Noticing this, a few years ago the San Marcos River Foundation (SMRF) applied for a water rights permit for an amount of water (that studies have shown is necessary for the health of the river and bays) from the Texas Commission on Environmental Quality (TCEQ). SMRF's intention has always been to donate this "instream flow" to the Texas Water Trust, an entity that guarantees that the water it owns stays in the stream for "instream use".

Last March TCEQ denied the SMRF permit (as they have since denied all other instream flow permits). Consequentially, SMRF filed a lawsuit in District Court in September, in an ongoing legal effort to get the SMRF water right permit.

Meanwhile, during the last session, the Texas Legislative established a study commission to determine how the state will keep its rivers flowing. This commission will meet for the first time on Wednesday, February 18, 10 am, City Council Chambers, San Antonio, TX. Time is growing short for that commission, since their report is due in December and the Legislature starts up again in January '05.

This coming session may be a hot one for water policy, since many other water issues besides freshwater inflows for rivers and bays will also be addressed. A Senate Select Committee has also been appointed to look at the rule of capture (a rule that says a person can have all the water he can pump from under his land). The next meeting of that committee is the same day as the study commission's meeting, Feb. 18, in San Antonio as well at 1:00 p.m., City Council Chambers, 114 West Commerce St. San Antonio, TX

## **Good News on the Bed and Banks Case!**

OK, so what's a bed and banks case? Well, in addition to over allocating rivers through the permit system, our state has other creative plans to create water with paper. One such plan is the use of a "bed and banks" permit. Here's how it works: any water hustler can get a permit to transport private water in a public stream (that is, using the bed and banks of a river as a pipeline). And that's fair. The problem arises when a city decides that the sewage it is disposing into a river is actually just private water and that that city should be allowed to take out its private water (sewage) downstream, or sell said water to someone else.

Lots of problems happen when this is permitted. First of all, the city is only given permission to dump its sewage into the river because there is adequate flow to dilute their stuff in the first place. If every city took out an amount of water equal to their discharge the flows in our rivers would probably cease altogether during dry periods. A bed and banks scam is just a clever trick whereby a city can claim it is "reusing" its wastewater, when actually the water it draws out contains some of its sewage but usually a whole lot of other, better quality water. If a city wants

to reuse its wastewater by irrigating golf courses, or using the water for industry, we applaud and support them. But this "indirect reuse" as it is called, is not reuse at all.

At any rate, the city of San Marcos applied for and received a bed and banks permit several years ago. Both TRPA and SMRF fought the permit and won a number of concessions - limits on the quantity of water that could be withdrawn and environmental quality concessions - that is, the river had to be left alone when the flow was low. The city didn't like these restrictions, so they appealed the decision. SMRF appealed the permit as well, trying to get it even more restrictive.

The District Court combined the two cases, heard it and took two years to decide to uphold the original permit as it was granted, with all the conditions. The City appealed to Third Court of Appeals last year, and so did SMRF. (TRPA made a major donation to cover the cost of this appeal.) In a major victory, the Third Court threw out the whole permit in late August!

But the case is not over---the City asked the Third Court to re-hear the case, and intends to take the case to the Texas Supreme Court. The Third Court came out with a confirmation of their decision in January, and now SMRF expects the City to appeal it to the Texas Supreme Court. Other cities like Austin are planning Bed & Banks applications like this. Thanks to Texas Rivers Protection Association who helped SMRF with this case, and thanks to all the members who have supported this important work for years which will affect many other Texas rivers as well as the San Marcos. Winning the appeal gives us hope that logic will prevail, and perhaps the Supreme Court will decide not to hear the case.

### **TRPA Financial Report 2003**

Beginning Balance, 1/1/03 \$7,386.59

\$ Earmarked for Hidalgo Falls, 1/1 1,095.57

Contributions Received for Hidalgo 7,923.40

Total Money available 15,309.99

Expenses, Hidalgo Falls:

Additional land purchase 8255.18

Electricity 227.01

Property Taxes 427.88

Bank Charges 15.00

Total expenses, Hidalgo Falls 8,925.07

Total available 6,384.92

\$ Earmarked for Hidalgo Falls, 12/31 93.90

Total general fund available \$6,291.02

Contributions received (general fund) \$6,004.03

Interest received 15.20

Subtotal 12,310.25

Expenses:

Lawyer (Guad Golf Course) 2,985.27

Post cards (4X4 legislation) 555.00

Newsletter 85.00

Postage 290.58

San Marcos River Foundation (dues) 35.00

Tax Return prep work 83.32

Office 140.24

Total general expenses \$4,174.41

Money Available General fund 8,135.84

Money earmarked for Hidalgo Falls 12/31 93.90

Total money available 12/31 8,229.74

Ending checkbook Balance, 12/31/03 8,144.68

Ending Cash 85.06

**THE 19 TH ANNUAL  
GREAT TEXAS RIVER CLEAN UP  
March 6, 2004**

On Saturday, March 6, 2004, folks from all over Texas will be participating in the world's longest river clean up. We will be picking up trash along the entire length of the San Marcos River (approximately 90 miles).

#### BANK CREWS

Everyone is urged to help. If you are unable to participate in the water, we need volunteers to work the banks of the river, especially at parks and highway crossings. Bring some trash bags (we will supply as many as possible) and perhaps a flounder gig to snag some goodies. Scuba divers and snorkelers are also urged to participate.

#### RECREATIONAL PADDLERS

We are asking recreational paddlers and canoe clubs to accept the challenge and volunteer for a section of river. If your group or club has not already been assigned a section, be sure to contact Tom Goynes and tell him what stretch you would like. The upper sections of the San Marcos River, particularly just downstream of the City of San Marcos, will require the most attention, and the short mileages set for these sections reflect this. Furthermore, the river becomes less accessible and more hazardous as one goes downstream. For that reason, novice boaters should volunteer for either section 1 or 2 and more experienced boaters for the other sections.

#### CANOE RACING ENTHUSIASTS

The lower river, from Luling to Gonzales, has several long sections with few bridge crossings and for that reason, we are asking canoe racers (especially teams that have competed in the Texas Water Safari) to volunteer for sections 9 - 11.

#### CAMPOUT AND GET-TO-GETHER

Everyone participating in this event is invited to camp free at either Shady Grove Campground/ Spencer Canoes or at Pecan Park Retreat for the weekend. Starting at 6 p.m. on Saturday evening there will be a free barbecue provided by the San Marcos River Foundation at Shady Grove/Spencer Canoes.

#### SUNDAY WORSHIP SERVICE

On Sunday morning at 8 a.m., there will be a non-denominational Christian worship service at Pecan Park. Duane TeGrotenhuis will lead the group in song and Tom Goynes will lead a short Bible study. Everyone is welcome.

#### MEETING TIMES AND SHUTTLES

A group meeting will be held for everyone working sections 3 through 7 at 9:00 a.m. Saturday morning at Spencer Canoes. Groups working sections 8 - 11 will arrange their shuttles as early as possible Saturday morning and try to put in the river by 9:00 a.m. Persons working sections 1 and 2 will meet at City Park in San Marcos at 10:00 a.m.

Tom Goynes (coordinator) 512-392-6171

e-mail: <mailto:goynes@centurytel.net>

## RIVER SECTION LISTINGS

1 San Marcos City Park to Thompson's Island (2 miles)

2. Thompson's Island to Pecan Park Retreat (3.5 miles)
3. Pecan Park Retreat to Spencer Canoes (6 mi.) Houston Canoe Club
4. Spencer Canoes to Staples - Hwy 1977 (5 miles) Jeff Pine: <mailto:txpine@swbell.net>
5. Staples to Fentress - Hwy 20 (9 miles) Austin Paddling Club: Robert Detjen:  
<mailto:RiverTalk@austin.rr.com>
6. Fentress to Stairtown (7miles) Bayou City Whitewater Club: Susan Eda:  
<mailto:sseda@mail.esc4.com>
7. Stairtown to Luling - Hwy 90 (6.5miles)
8. Hwy 90 to Luling City Park (6 mi.) Alamo City Rivermen
9. Luling City Park to Palmetto State Park (14.4 mi.) Texas Canoe Racing Assoc.: Ginger Turner: <mailto:gingerct@juno.com>
10. Palmetto State Park to Gonzales Hwy 90A (14.8 miles)Texas Canoe Racing Assoc.: Ginger Turner: <mailto:gingerct@juno.com>
11. Gonzales 90A to Gonzales 183 (10 mi.) Texas Canoe Racing Assoc.: Ginger Turner: <mailto:gingerct@juno.com>

## TRPA Annual Meeting

On Sunday, March 7 at 10 a.m. the Texas Rivers Protection Association will hold it's annual general meeting. We will meet at the Pecan Park Retreat office (which is also the home of Tom and Paula Goynes).

There will be an election of officers and board members and we will discuss ongoing river issues. Everyone is welcome to attend. We hope to adjourn by 1 p.m., at which time there will be a short meeting of the Texas River Recreation Association.

To get to Pecan Park Campground: coming from Interstate 35 in San Marcos, get on Highway 80 and head toward Luling for 1.8 miles. Take a right on county road 101. Take an immediate left onto county road 102. Go 1/2 mile on 102 and take a right on Pecan Park road. Keep going straight (past TG Canoe Livery) and the road will end at the Pecan Park Retreat Office. For more info call Tom Goynes at 512-392-6171 or visit our website at <http://www.pecanparkretreat.com/>

## Hidalgo Falls River Festival

**Sunday, April 18**

The third annual Hidalgo Falls River Festival will be held on Sunday, April 18, at the TRPA Hidalgo Falls property on the Brazos River near Navasota. About 125 paddlers and spectators attended last year's event, and this year's festivities are shaping up to be even bigger. Last year dealer reps and outfitters started arriving on Saturday (after a day at the Austin PaddleFest), and many boaters came earlier on Saturday to enjoy the nice play levels on the river and to camp in the upstream and downstream campgrounds.

Events will begin at 10:00 a.m. with a 6.5-mile downriver race from just downstream of the falls to Washington on the Brazos State Park. If last year is any indication, a number of paddlers will use the available shuttles simply to do a float trip. The downriver race is sponsored by the East Texas River Runners (contact Noel Kirkwood: <mailto:nkirkwood@tyler.net>) and coordinated by James Williams. While the racers/floaters are on the river, others will help set up the slalom race course or try out the latest whitewater kayaks on moving water. The slalom race will begin at 1:30 p.m., and the whitewater rodeo will occur at 3:00. The awards ceremony will be at 5:30 p.m. Free primitive camping is available at the TRPA property (limited toilet and water facilities available).

Directions: <http://philosophy.tamu.edu/~sdaniel/location.html>

Downriver race/float trip: James Williams 979-776-5530

Slalom race: John Criscione: <mailto:jccriscione@aol.com>

Whitewater rodeo: Bruce Litton: <mailto:dbl93@ev1.net>

Exhibits, demos, and classes: Patti Carothers: <mailto:swpaddle@swbell.net>

Overall coordination: Steve Daniel: <mailto:sdaniel@philosophy.tamu.edu>

## BY-LAWS OF TEXAS RIVERS PROTECTION ASSOCIATION

### A NON-PROFIT CORPORATION

#### PROPOSED AMENDMENTS (*ITALICIZED*) TO BE CONSIDERED MARCH 7, 2004

#### ARTICLE I

##### NAME AND OFFICES

###### Section One. Name of the Organization.

The name of the organization shall be the Texas Rivers Protection Association (TRPA), hereinafter known as "the Association," a non-profit corporation organized pursuant to the Texas Non-Profit Corporation Act.

###### Section Two. Mailing Address and Offices.

The Association shall maintain a mailing address and such offices as the Board of Directors may deem necessary in Austin, Texas or such other location as the Board of Directors may establish.

## ARTICLE II

### PURPOSES

The purposes of this organization are:

- a. To protect the flow, water quality and natural beauty of the rivers of Texas.
- b. To promote the safe and wise use of Texas rivers
- c. To develop an awareness of the rights of the public to use navigable rivers in the state of Texas and an awareness of the rights of riparian landowners to be protected from trespass and other intrusions;
- d. To foster an awareness and respect for the diverse natural waterway environments of Texas;
- e. To promote a mutual respect between river users and landowners for each other's legal rights;
- f. To educate its members and the public concerning conservation and preservation of Texas rivers and streams, and to perform such related educational services within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1954 and its Regulations as they now exist or as they may hereafter be amended.
- g. To acquire property and/or easements that provide its members and the public access to Texas rivers and streams.*
- h. To receive and maintain a fund or funds of real or personal property, or both, and, subject to the restrictions and limitations herein set forth, to use and apply the whole or any part of the income therefrom and the principal thereof exclusively for educational purposes either directly or by contributions to organizations that qualify as exempt organizations under the Internal Revenue Code and its Regulations as they now exist or as they may be amended.*
- i. No part of the net earnings of the corporation shall inure to the benefit of any director of the corporation, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no director or officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.*
- j. The corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to tax on undistributed income imposed by applicable provisions of the Internal Revenue Code or corresponding provisions of any subsequent federal tax laws.*

*k. The corporation shall not engage in any act of self-dealing as defined in the Internal Revenue Code or corresponding provisions of any subsequent provisions of any subsequent federal tax laws.*

*l. The corporation shall not retain any excess business holdings as defined in the Internal Revenue Code or corresponding provisions of any subsequent federal tax laws.*

*m. The corporation shall not make any investments in such manner as to subject the corporation to tax per the requirements of the Internal Revenue Code or corresponding provisions of any subsequent federal tax laws.*

*n. The corporation shall not make any taxable expenditures as defined in the Internal Revenue Code or corresponding provisions of any subsequent federal tax laws.*

*o. Notwithstanding any other provision of these Articles of Incorporation, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation of the Internal Revenue Code and its Regulations as they now exist or as they may be amended.*

*p. Upon dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed exclusively to charitable, or educational organizations which would then qualify under the provisions of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.*

### *ARTICLE III*

*No part of the net earnings of the nonprofit corporation shall inure to the benefit of or be distributed to its members, trustees, directors, officers or other private persons with the exception that the corporation is empowered to pay necessary and reasonable compensation and expenses for services rendered and to make payments and distributions in furtherance of the corporation's purposes as set forth in Article IV. The corporation's primary purpose shall not be used for the promotion of propaganda including, but not limited to, lobbying or influencing legislation and the corporation, however, may engage in legislative activities to the extent permitted by law. Furthermore, the corporation shall not engage in activities which are disallowed under the Internal Revenue Code and its regulations as they now exist or may be hereinafter amended. The corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate pecuniary gain or profit and is organized solely for nonprofit purposes.*

*Upon the dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed to another nonprofit organization engaged in similar activities and with similar purposes after all liabilities and obligations have been paid in full and are discharged and all assets subject to a condition upon transfer are conveyed according to said condition.*

## **Texas Rivers Protection Association**

## Election, 2004

Officers and board members of the TRPA serve two-year terms. Our by-laws state: "Election of the officers and other members of the board shall be conducted by mail prior to the annual meeting in such a manner as the Board of Directors shall determine."

This ballot contains a list of the current officers and board members who have agreed to serve another term. It also contains other nominees and blank spaces for all offices and board positions, allowing write-ins for some or all positions. Immediately prior to the annual meeting on Sunday morning, March 7, 2004, at 10 a.m. at Pecan Park Retreat, members present will discuss additional nominations or changes since this ballot was sent out. Members present will fill in their ballots and these ballots will be counted along with those ballots that have been received in the mail. A committee selected from persons present at that time will count the ballots. Once the election is over, the annual meeting will begin.

If you intend to be present at the meeting on Sunday, March 7, please bring this ballot with you. If you cannot attend, but wish to vote in this election, please fill in this ballot and return it. Make sure that your dues are paid, and that you attach a copy of this ballot to an application for membership. Your vote will be private, but we need to verify that everyone voting is a paid member, so one volunteer will determine that the voter is a paid member of TRPA first, then all the ballots will be privately counted by the election committee.

Officers:  check here or write in candidate

President  Tom Goynes (Martindale) \_\_\_\_\_

Vice President  David Reichert (San Antonio) \_\_\_\_\_

Secretary  Leslie Redwine (New Braunfels) \_\_\_\_\_

Treasurer  Duane TeGrotenhuis (Martindale) \_\_\_\_\_

Board of Directors:

Mark Andrus (Angleton) \_\_\_\_\_

David Davenport (New Braunfels) \_\_\_\_\_

Ann Derby (Houston) \_\_\_\_\_

Rich Grayson (Dallas) \_\_\_\_\_

Jim Hatcher (Fort Stockton) \_\_\_\_\_

Ed Lowe (Dallas) \_\_\_\_\_

Anne Olden (Houston) \_\_\_\_\_

Jeff Pine (Austin) \_\_\_\_\_

Ginger Turner (Austin) \_\_\_\_\_

Michael Van Winkle (Kerrville) \_\_\_\_\_

Fred Zagst (Marble Falls) \_\_\_\_\_

Other Nominees:

Kathy Cusick (San Antonio) \_\_\_\_\_

Amendments:

I support the amendments

I oppose the amendments

Return to: TRPA Ballot, P.O. Box 219, Martindale, TX 78655

## **Texas Rivers Protection Association Membership Application**

To join, or renew your membership, fill out the information below and include a check for your dues.

Name \_\_\_\_\_ Hm Phone \_\_\_\_\_ Wk  
phone \_\_\_\_\_

Street \_\_\_\_\_ City \_\_\_\_\_ State  
\_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_ Fax # \_\_\_\_\_

Check here if e-mail version of newsletter is sufficient \_\_\_\_\_

Levels of membership:

Regular: \$10\_\_\_ Protector: \$25\_\_\_ Guardian: \$50\_\_\_ Ranger: \$100\_\_\_ Bronze: \$500\_\_\_ Silver: \$1000\_\_\_ Gold: \$5000\_\_\_

Is this a renewal? \_\_\_\_\_ Check if new address \_\_\_\_\_

All members receive notices and newsletters and get to vote at general meetings. Protectors also receive a cloisonné pin with our emblem. Guardians receive the pin and either a logo cap or logo t-shirt. Rangers and above receive all three. Guardians need to indicate their choice (cap or t-shirt) and Rangers and Guardians wanting t-shirts should indicate their size (M,L, XL, or XXL).

### Protectors, Guardians, Rangers, Bronze, Silver and Gold members:

Please send the following: Protector \_\_\_ Cloisonné pin

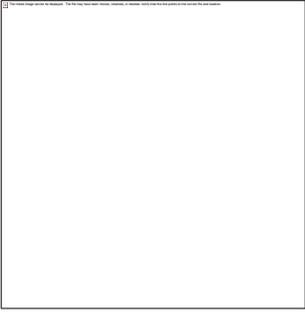
Guardian \_\_\_ Pin and \_\_\_ Cap or \_\_\_ t-shirt size \_\_\_M \_\_\_L \_\_\_XL \_\_\_XXL

Ranger & above \_\_\_ Pin and \_\_\_ Cap and \_\_\_ t-shirt size \_\_\_M \_\_\_L \_\_\_XL \_\_\_XXL

Check here if you do not wish to receive any merchandise \_\_\_\_\_

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