



TO: BOARD OF DIRECTORS
FROM: EXECUTIVE COMMITTEE
SUBJECT: EARIP FUNDING

STATUS: ADOPTED

DATE: March 24, 2011

RECOMMENDATION: That the Board of Directors of The Greater San Antonio Chamber of Commerce adopt the following statement as policy:

STATEMENT: The Chamber supports allowing the qualified voters of the 16-county Edwards Aquifer Recovery Implementation Program (EARIP) region to vote on a regional sales tax as a funding mechanism for the EARIP program provided that alternative, regional funding concepts not involving a sales tax continue to be explored and developed. The Greater Chamber continues to be a long-standing advocate for ensuring safe, affordable and reliable water service for our community and understands that implementing the federally approved Edwards Aquifer Habitat Conservation Plan (HCP) is necessary and critical to the future and prosperity of our region in addition to preventing Federal intervention.

BACKGROUND:

The Edwards Aquifer (Aquifer) is a unique and complex hydrological system, and has a hydrologic interrelationship with the Guadalupe River and San Antonio River basins. It is the primary source of drinking water for over 2 million people in south central Texas and serves the domestic, agricultural, industrial, and recreational needs of the area. The Aquifer is the source of two major springs in Texas - the San Marcos and the Comal. These springs feed the San Marcos and Comal Rivers which are tributaries to the Guadalupe River and comprise the San Antonio bay and estuary system. We refer to those who rely on the Guadalupe River as "downstream users".

The legislature passed the Edwards Aquifer Authority Act (Act) in 1993 and created the Edwards Aquifer Authority (EAA) to provide for the necessary regulation and management of the Aquifer. Eight species depend directly on water in, or discharged from, the Aquifer system and are federally-listed as threatened or endangered species. The primary threat to the Aquifer-dependent species is the intermittent loss of habitat from reduced springflows. Springflow loss is the combined result of naturally fluctuating rainfall patterns, regional intermittent pumping, and temporal drawdown of the Aquifer. The Act seeks to balance the reliance on Aquifer water by historic pumpers with the requirements of other users as well as the protected species.

SB 3

The Chamber worked along-side local leaders to help pass Senate Bill (SB) 3 in the closing hours of the 2007 Legislative Session. While the bill did a number of things, SB 3 mandated all aquifer stakeholders to participate in the EARIP and prepare a federally-approved HCP for managing the Aquifer to protect the endangered species at Comal

and San Marcos Springs associated with the Aquifer. The Legislature directed that the HCP must include recommendations regarding withdrawal adjustments during critical periods that ensure that federally-listed species associated with the Aquifer will be protected. The HCP is to be submitted and approved by the United States Fish and Wildlife Service (USF&WS) by the fall of 2012.

Most critical to San Antonio, the bill raised the pumping cap on EAA permitted withdrawals from 450,000 acre-feet to 572,000 acre-feet. As a trade-off for raising the cap, downstream users insisted that stronger critical period Aquifer withdrawal reduction levels ("trigger levels") be included in the Act. These numbers were formerly set by EAA rules. The downstream interests insisted these new levels be effective immediately and negotiated the deal for a statutory procedure for setting even further reduction levels in the future if scientific studies showed stricter levels were necessary to protect the species. SB 3 designated the EARIP, a consensus-based, stakeholder driven process as the vehicle to establish the science behind the new "trigger levels".

EARIP

The EARIP is governed by a 26-member Steering Committee with representatives from various federal, state and local entities and interests including the USF&WS, other federal agencies, the EAA, the Texas Commission on Environmental Quality, the Texas Parks and Wildlife Department, the Texas Department of Agriculture, the Texas Water Development Board, the Guadalupe-Blanco River Authority, the San Antonio River Authority, the San Antonio Water System, industry representatives, irrigators and environmental groups. Other stakeholders were encouraged to participate in the EARIP and sign onto a Memorandum of Agreement (MOA). In February 2008, The Chamber Board of Directors agreed to sign onto the MOA and designated Mary Q. Kelly of the Gardner Law Firm to represent The Chamber as a stakeholder in the EARIP process. Mary has represented The Chamber in this process for three years.

Phase I Package

The EARIP Steering Committee adopted a two phase plan, with Phase I sometimes referred to as the "Bottom-Up" Package. In Phase I, a number of remediation and conservation measures would be funded and undertaken over a seven-year period to stabilize springflows at San Marcos Springs and Comal Springs and accommodate further study. These measures include use of the SAWS Twin Oaks Aquifer Storage and Recovery (ASR) Facility, a voluntary irrigation suspension program and additional Aquifer management programs during periods of critical drought. The success of these initial measures will determine if, and to what extent, additional measures are required during a second phase of action beginning in year eight and continuing for another seven years or more. Action in the second phase, if required, could range from a continuation of phase-one initiatives to an engineered solution in the nature of a new aquifer storage and recovery facility.

Funding

In amending the Act to institute the EARIP, no funding mechanism was identified for the implementation of Phase I of the HCP which is estimated to cost almost \$30M annually. The program area is a 16 county region, which includes the counties in the Edwards Aquifer Authority (including Bexar County), and the counties inside the San Antonio and Guadalupe River basins. The EAA is comprised of an 8-county region. Within these 8 counties, SAWS is the largest user of the Aquifer followed by agricultural users. While San Antonio has the largest stake in this funding mechanism, it is also equitable that downstream users (non-Aquifer pumpers) participate in EARIP funding.

For this reason, the EARIP Steering Committee is recommending legislation for a voter approved broad-based regional funding mechanism dedicated to the implementation of the HCP. If approved by a majority of the qualified voters of the species protection program area, the ¼-of-a-cent sales tax would be separate from the two-cent local sales tax cap currently required by the Tax Code. The program area is a 16 county region, which includes the counties in the EAA (including Bexar County) and counties inside the San Antonio and Guadalupe River basins. Half of the ¼-of-a-cent would go directly to fund the Phase I HCP projects and the remaining would be held to fund Phase II HCP projects, if necessary, or downstream water-related species protection projects in the Guadalupe or San Antonio River basins. The priority will be to fund EARIP implementation, provided, however, that not less than \$1.5M per year must be appropriated to fund other water-related species protection projects.

The alternative funding option would require the Edwards Aquifer Authority to increase "aquifer management fees." This increase will probably apply only to municipal and industrial Edwards pumpers. Fees charged to irrigated agricultural pumpers are capped by state law. SAWS would share this cost by passing an increased fee to ratepayers, possibly raising the rates for the average residential customer from \$1.38 per month to as much as \$4.14 per month. Industrial users, however, will be forced to pay more than double their current cost for aquifer management fees.

REASONS FOR SUPPORT OF THIS STATEMENT:

1. Without adequate funding, the HCP cannot be implemented and lawsuits may result with the chance of Federal Court intervention
2. Proposals for alternative mechanisms to the regional sales tax, not involving a sales tax, will continue to be investigated while EARIP is seeking authority for a regional sales tax from the Legislature, the Governor, and the voters.
3. Funding the HCP is necessary to meet requirements for compliance with the federal Endangered Species Act of 1973 and is vital to the general economy and welfare of this state, and particularly to the Edwards Aquifer region in South Central Texas and the Guadalupe River and San Antonio River basins.

REASONS FOR OPPOSING THIS STATEMENT:

1. The State leadership is on record of not supporting any new or additional fees or taxes.
2. Legislators are focused on big picture issues such as the massive budget shortfall and redistricting and this local issue may not make it through the legislative process.

IMPLEMENTATION: The Chamber will communicate this position to the EAA Board of Directors, Bexar County delegation, the media and The Chamber membership through public testimony, letters, media releases and publication in *The Chamber Today*.