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March 7, 2008

The Honorable Joe Luna  
County of Zavala  
200 E. Uvalde Street  
Crystal City, Texas 78839

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Dear Judge Luna:

Our review of the proposed Zavala County Local River Access Plan (LRAP) as received on 06 February 2008 has been completed. Because of the findings described below we cannot approve the plan as submitted.

Senate Bill 155 (Chapter 90, TPW Code) prohibited, with limited exemptions, motor vehicle use in protected freshwater areas. Incorporated into this legislation is the ability for local governmental entities to adopt LRAPs to allow for limited vehicular use of the streambed to allow for access, when necessary, to a navigable stream or a particular location on a navigable stream. These plans must be adopted by the local governmental body, and then sent to TPWD for review and approval or disapproval. We reviewed the proposed Zavala County LRAP according to the established guidelines, which encompass resource protection measures, public safety, enforcement criteria, coordination with adjacent and overlapping jurisdictions, adequate publicity of public access locations, adequate public services, and protection of private property rights.

The review and field assessment of the proposed LRAP revealed significant problems. First, the plan proposes to link four existing public river access sites together in a driving trail that spans 13 river miles. This is contrary to SB155, which specifies that LRAPs can allow for limited motor vehicle use in a navigable streambed. Thirteen miles does not constitute limited motor vehicular use of a navigable streambed, and will instead create a motor vehicle trail. Additionally, the need to drive in the streambed is not demonstrated since there are already four public access locations within the 13 miles of river, two of which are county properties that can be improved to create public access "parks" without the need to drive in the streambed. The advantage of multiple, reasonably spaced public river access sites such as in Zavala County is that paddling, hiking, tubing, wade fishing, and other lawful activities are possible within a reasonable distance from access points, which allows the public to enjoy the river without the need to use motor vehicles within the riverbed.

Secondly, because the gradient boundary (ownership line between private property and the state's streambed) is often very close to the water's edge on the Nueces River, vehicles would be forced to drive in the water or on private property, which is again contrary to the purpose of SB155. Additionally, the proposed methods of delineating property boundaries in the plan are not legal. For example, this plan proposes to delineate property boundaries "in the future". This is not sufficiently protective of private property rights, a requirement of SB155. By law, property boundaries can only be located by licensed surveyors, and in the case of gradient boundaries, which move at

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