



Texas Rivers Protection Association

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Texas Parks and Wildlife Commissioners

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Dear Sirs,

I am the president of the Texas Rivers Protection Association; a landowner on the San Marcos River (my wife, Paula, and I own a small campground that serves boy scouts and youth groups) and the guy who spearheaded the presentation that was given to you guys at your annual public meeting in Houston this past August regarding the problems with binge drinking by unruly tubers on the San Marcos River.

At that time I proposed that the TPWD should create a linear state park along the San Marcos River so that the "No Public Consumption" rule could be applied, and the river could be saved from the rowdy crowd that has confiscated it.

This concept, a linear state park, would be new for Texas, but other states have already been utilizing it. The price of riverfront property - especially in populous areas, has risen to the point where we can never expect to purchase the kind of large state parks that we acquired in the past. Nonetheless, rivers are where people love to recreate, so it is imperative that the state of Texas strive to provide safe, family friendly opportunities for river recreation; while, at the same time, protecting the rights of riparian landowners.

The San Marcos River is a navigable river with a state owned streambed. In other words, the state of Texas already owns the river and the banks. Obviously, there would have to be Memorandums of Understanding (MOA's) between the TPWD the General Land Office and the TCEQ to confirm that no property rights (and/or water rights) would be abridged. Landowners along this new state park must still be able to hunt, fish, raise cattle and farm in the same way they always have.

It is well established that, if the state of Texas owns the land, and other state agencies are in agreement, and if the department has the funds necessary to develop the park, then the approval of the legislature is not required for the creation of a new state park. In other words, if you have access to the land and you don't need funding, then the commission can create a state park.

I think the problem that most people have in this case, is trying to imagine a state park with none of the accoutrements that state parks normally have. Normally state parks are expensive: a superintendent, office employees, buildings, restrooms, maintenance crews, residences, all of those things cost money. But imagine a new kind of state park that has very little budget and no facilities. A linear river state park would be like a paddling trail on steroids. Like a paddling trail there will be no facilities or employees, and virtually no budget. But, unlike a paddling trail, the river state park will have state park rules and regulations.

Several folks have argued that the enforcement of state park rules on the San Marcos River will cost TPWD a lot of money. But keep in mind that a game warden is already working the river at least two Saturdays per month - the department is already spending as much on enforcement as it would need to spend. The problem is that without state park regulations, the wild party on the river continues unabated. But, give us the same reasonable rules that state parks have and the party will end. All one needs to do is look at what happened on the Comal River in New Braunfels during the season when the "can ban" was in effect - cost of enforcement and clean up dropped to almost zero. The citizens of New Braunfels had their river back. Families could recreate there again.

It is important to remember that any peace officer in the state can write a ticket for the violation of a state park rule. And, since the Caldwell County Sheriff's office is sick of the lawlessness on the San Marcos River, the sheriff should be happy to have his officers help to end the party. It is also important to remember that 80% of the fine that is imposed by a county court (85% in a JP court) for the violation of department rules is given to the department.

So, in effect, the department should actually make money on this new state park. It could be one of the few state parks that actually operates in the black.

I would recommend that the department give this new concept a season to see if state park rules alone will reclaim the river. I sincerely believe that, once the party ends there will be no need for additional funds. Nonetheless, if more funding and/or enforcement is required, then the tubing and canoeing outfitters on the river should be charged a concession fee for operating in a state park.

If the department wants such things as campgrounds, put ins and take outs, then perhaps those things can be added later (through donations, grants, or even legislation) but the landowners and the families that use the river need immediate help. A simple solution that doesn't require the expenditure of any state funds would be the best possible solution.

Paula and I just hosted a meeting in our chapel this past Tuesday night, of concerned landowners who own property along the river. Over 70 people attended. The overwhelming consensus of the group was that we need to limit the abuse of alcohol on the river. Everyone agreed that the creation of a linear state park would solve our problem. The biggest concern was not whether there should be a state park, everyone wants that, but they want it to extend down to protect their property (and they are sometimes quite a ways down the river). In fact, many people believe that the entire San Marcos River, from the city of San Marcos to the confluence with the Guadalupe should be protected. Several have suggested that the park should run from San Marcos to Palmetto State Park. A group of landowners showed up for the meeting that collectively own all the land on the river from the towns of Staples to Fentress on the Caldwell County side (approximately 9 miles) and they were all in favor of the state park plan.

This outpouring of support from landowners for the creation of a state park adjacent to their property is, I believe, very rare. I believe the norm is for landowners to be opposed to the creation of a park. Certainly, I saw a lot of opposition, at a meeting in Del Rio, to the TPW proposal to create a Devils River State Park using the Devils River Ranch property.

In fact, I have witnessed a lot of landowner opposition to TPW initiatives over the years. In the early 70's, I remember a huge outpouring of opposition to the Pathways and Paddleways Project that was proposed by the TPW for the Upper Guadalupe River. That plan, which was spearheaded by the late Senator Don Kennard would have created a park similar to a linear state park, with put ins and camp sites along the river and a hiking trail along an abandoned rail line. Landowner opposition killed the proposal during that legislative session.

Then, during the 80's, I worked with a coalition (including the Sierra Club, the Audubon Society, TCONR, and canoe clubs and flyfishing groups from all over the state) to attempt to pass the Texas Rivers Conservation Act. That act would have given the department the authority to protect select rivers of Texas from various destructive activities (like dam construction and/or channelization). It would have also given the department more control over recreational use of these rivers. Once again, landowners shot down that plan.

Very recently I served on the Devils River Working Group (a department project) whereby landowners and river users came together to try to find some common ground. It was hoped that the group could agree to a least a few campsites along the river where recreationists could camp without causing conflict with landowners. Once again, there was a good bit of landowner opposition to any plan that allowed camping.

But now we have a group of landowners begging the department to do its part to save a river from destructive behavior. This is an amazing opportunity for the department. I would call it unprecedented. I think it would be a real shame to let this opportunity pass

without acting on it. Here is a situation where the department can create a state park, with overwhelming landowner support, at almost no cost to the department, and solve a very big problem involving binge drinking on state property.

I would love to have the opportunity to talk to the commission again, this time during a regular commission meeting. I would love to have the opportunity to openly discuss the pertinent laws and regulations regarding the creation of state parks. I am absolutely convinced (and have talked to numerous lawyers who are also convinced) that the department can create this linear state park without the need to ask permission from the legislature.

Please give this matter your consideration. Thanks!

Tom Goynes,
president Texas Rivers Protection Association

PS. Here are some links to other linear state parks around the country:

<http://www.reserveamerica.com/camping/illini-state-park/r/campgroundDetails.do?contractCode=IL&parkId=452921>

<http://tnstateparks.com/parks/about/harpeth-river>

http://en.m.wikipedia.org/wiki/White_Pine_Trail_State_Park

<http://cpw.state.co.us/placestogo/parks/JamesMRobbColoradoRiver>

<http://www.southyubariverstatepark.org>