

Evaluation of the Nueces River Off-Road Vehicle Conflict in Uvalde, Texas

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For:
PLAN 620
Dispute Resolution
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March 2003

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I. Summary:

As the cool water of the Nueces River weaves its way through the heart of Texas, a heated debate is occurring over the importance of private property rights, public access rights, and the degradation of the Nueces River ecosystem. The river and its surrounding natural beauty is a prize all want to capture. Everyone believes they should have a part in planning the river's future, which is sparking a debate among numerous stakeholders including off-road vehicle users, local river recreationalists, river landowners, the Texas Riparian Association, Texas Parks and Wildlife, and the Nueces River Authority.

The story of the Nueces River can be related in five parts: Background, Stakeholder Analysis, Task Force Process, Suggestions and Recommendations, and Final Conclusions. The issue and area of conflict is defined in the Background section. The Stakeholder Analysis discusses the diverse positions of the stakeholders along with the effectiveness of the collaborative decision making process utilized in this conflict. The Task Force Process analyzes the collaborative process used and the feasibility of parties reaching a collaborative decision. The Recommendations and Suggestions section discusses how the negotiation process can be improved. Final options and the future direction of the conflict are addressed in Final Conclusions.



II. Background



II. Background:

A. Introduction and Problem Identification

The Nueces River off-road vehicle conflict is centered in Uvalde County, Texas. Stakeholders involved in this dispute not only include the people and organizations in the Uvalde area, but also downstream users of the Nueces River and many local, state, and federal agencies. The overall problem generating the dispute between stakeholders lies in the conflicting values of private property rights held by river landowners, public access rights held by groups such as off-road vehicle users and local river recreationalists, and the protection of the Nueces River ecosystem by environmental agencies.

The Nueces River is one of the state's most scenic rivers which also provides valuable wildlife habitat to many native Texas species (TPWD, 2002). Currently, the issue of off-road vehicles on the river has placed the health of the Nueces River and surrounding riparian areas on center stage in the fight between public access rights and private property rights. As a state owned and navigable river, the Nueces is subject to unlimited public access. Section 11.021 of Texas Water Code states, "Water of ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is property of the state." Overuse by the public, especially off-road vehicle users, will potentially cause harm to the environment and increase instances of trespassing onto private property along the riverside. This problem has motivated landowners controlling property adjacent to the Nueces River, along with other stakeholders, to take action.

Disputed research from Garret (2001) and Taylor (2001) reveals that off-road vehicle use has prohibited the establishment of first stage successional growth of vegetation on the riverbanks, destroyed secondary stage bank vegetation, uprooted grasses and other vegetation exposing soil to erosion, damaging fisheries habitat, and disrupting and diverting stream flow (TPWD, 2002). Although evidence shows off-road vehicles do play a role in disturbing the river environment it must be remembered that all visitors to the river, including adjacent property owners, affect the environment as well. Thus, even though destructive, there is not enough information to determine whether or not off-road vehicle use is causing a significantly negative impact to the Nueces River and riparian area deterioration. The stakeholders are faced with the

problem of determining which group or groups of stakeholders are negatively affecting the Nueces River environment and how to mitigate these deleterious effects.

B. Study Site Description and History

Between 1836 and 1845, the Nueces River was the border between the Republic of Texas and Mexico (San Antonio Riverwalk, 2002). Over the years, much of the soil along the river has eroded leaving the river lined with gravel riverbanks. The Nueces River begins about 14 miles southeast of Rocksprings, Texas (Figure 1). From here, it flows through southeast Texas past the cities of Uvalde, Crystal City, and Cotulla. Just north of George West, Texas, the Frio and Atacosa Rivers flow into the Nueces River. The combined river continues to flow southeast and then splits to flow partially into Lake Corpus Christi and partially into the Gulf of Mexico at Nueces Bay, just north of Corpus Christi (Nueces River, 2002).

In Texas, state-owned rivers are open to the public, and there is little regulation over the control of public access to these rivers. This can cause problems of overcrowding, pollution, and degradation to the river and riparian environment. The Nueces River is state-owned and considered navigable; consequently, public access rights apply and no single governmental entity has total control over the river (RENR, 2002).

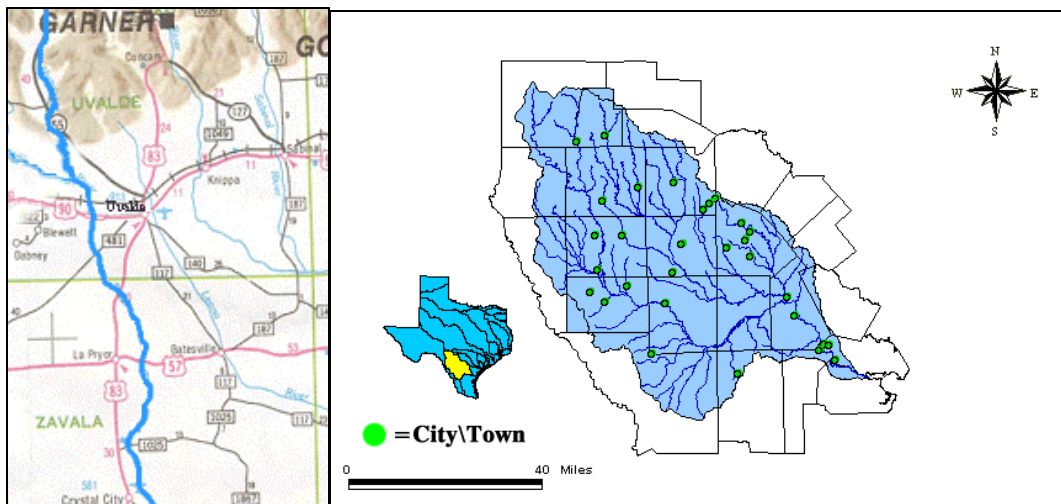


Figure 1. Maps of the City of Uvalde, left, and the Nueces River Basin in Southwest Texas, right, (Texas River Guide, 2001).

Uvalde is located approximately 80 miles southwest of San Antonio. The average annual precipitation in Uvalde is 25 inches. The annual average high temperature is 81°F and the

annual average low temperature is 55°F (Uvalde, 2002). Soils throughout the area consist of a silty clay loam that is part of the Uvalde series which exhibit an extremely slow infiltration rate.

As the Nueces River flows through Uvalde County, it passes along many individual tracts of privately owned land and campground sites. The Nueces can only be accessed by the public at 25 points along the river in Uvalde County, one point approximately every four miles. These points are located at road and highway crossings over the river. Historically, the public has had the right to use the river and riverbed, which is defined by the “gradient boundary” which separates private land from the state-owned riverbeds (Figure 2). Currently, the use of the Nueces River and surrounding riparian environment by an excessive number of off-road vehicles has spurred a debate over the rights of the public to access the river versus the landowners’ private property rights. The central question underlying the dispute is whether off-road vehicles should be controlled or even eliminated from river use to keep the area safe and undisturbed for other river users and river property owners, and to maintain and improve the health of the river ecosystem.

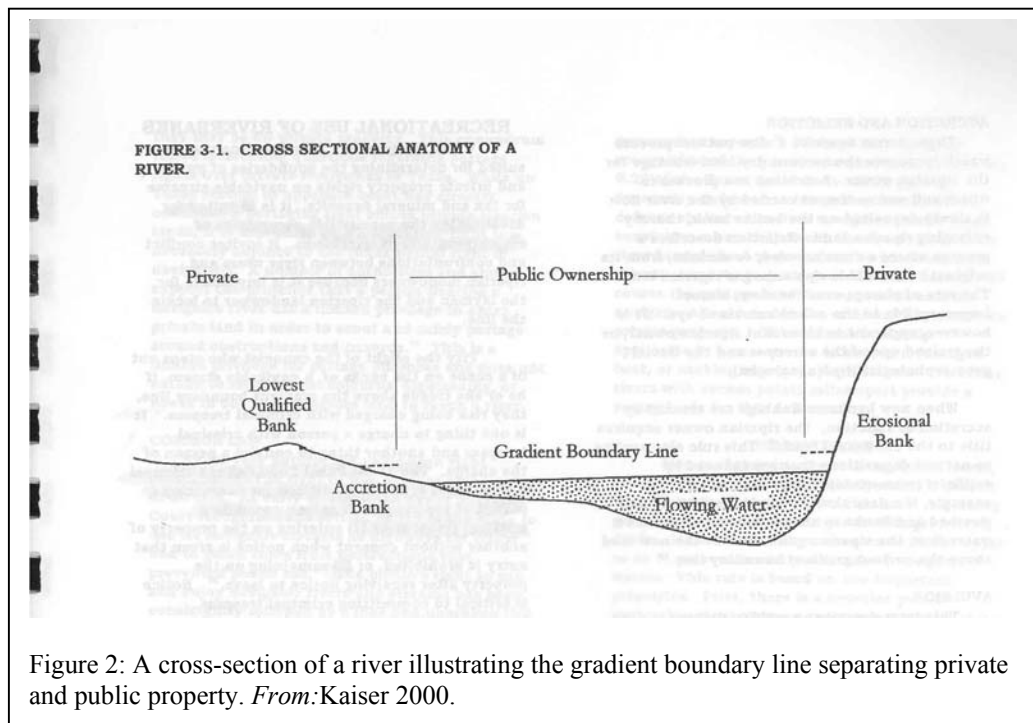


Figure 2: A cross-section of a river illustrating the gradient boundary line separating private and public property. From: Kaiser 2000.

II. Stakeholder Analysis



III. Stakeholder Analysis:

A. Identification of Stakeholders

The Nueces River off-road vehicle debate has grown over time to encompass the interests of many stakeholder groups. When TPWD took over management of the conflict, they invited twenty stakeholders to participate in the Motorized Vehicles in Navigable Rivers Task Force (Task Force). Thirty-two people became regular attendees and were included on the membership list (Table 1). The stakeholders presented their personal or their organization’s positions and issues. Primary Task Force stakeholders included off-road vehicle users, local river recreationalists, river landowners, TPWD, the Nueces River Authority (NRA), and the Texas Riparian Association. Secondary stakeholders represented within the Task Force included local businesses, the Lower Colorado River Authority, county commissioners, the Texas General Land Office, the San Marcos River Foundation, the Guadalupe

Table 1: Task Force Membership List. *Names changed to protect identities of stakeholders.*

Name	Group
Joe Michaels	Local recreationalist
Ryan Andrews	Congressial intern
Kyle Donalson	Texas Riparian Association
Brian Alan	Stewards of the Nueces/ river landowner
Jim Johnson	TNRCC (TCEQ)
Pete Rey	Local recreationalist
Kay Fischer	Stewards of the Nueces/ river landowner
Gary Garrett	Expert/Scientific report
John White	LRCA
Harvey Mitchell	TPWD
Nathan Olday	Local recreationalist
Nicole Bosenbark	ORV
Sarah Powers	Stewards of the Nueces/ river landowner
Kyle Fields	ORV
Robert Rudder	TPWD
George Jones	NRA
Michael Dyke	County Commissioners
Christy Thomas	No affiliation/ ATV
Parker Ryan	TPWD
Richard Perry	Llano River landowner
Chris Dictson	Department of Agriculture
Rob Jacobs	Llano River landowner
Roger Little	TPWD
Nate Parker	River landowner
Emma Maye	ATV
Alan Alexander	TPWD
Patrick Tula	TPWD
Tomas Trevolta	GLO
Rick Taylor	Expert/Scientific report
Donny Garcia	No affiliation
Tony West	Local recreationalists/canoeing
Mary Martin	San Marcos River Foundation

Blanco River Authority, the Department of Agriculture, the Texas Council on Environmental Quality (TCEQ) formerly the Texas Natural Resource Conservation Commission (TNRCC), and the Texas Watercraft Association (Report, 2002).

B. Issues

After a series of interviews and meetings with the stakeholders, it was determined that there were twelve main issues underlying the dispute. These issues encompassed water quality and quantity, riparian ecosystem health, channel obstruction, litter and pollution, the excessive number of users on the river, noise, river access for off-road vehicles, economic impacts, river access for local river recreationalists, legal boundaries, racism, and “getting into nature.”

Five of the issues dealt with the following specific environmental problems: 1) Water quality and quantity included fish habitat, automobile chemical pollution, and the amount of water available for downstream water use. This issue also included increased flow from the upper watershed as a result of upper watershed management. 2) Riparian ecosystem health included soil disturbance due to erosion and sedimentation. Vegetation and animal habitat were also included in this issue. 3) The issue of channel obstruction included the accumulation of matter within the river blocking water flow. 4) Litter and pollution included litter that people leave in and along the riverbank and chemical pollution from off-road vehicles’ leaking gas, oil, or other fluids. 5) The final environmental issue, excessive number of users, revealed that many were concerned about the number of people on the river at one time. The river ecosystem can support some use, but there is a point where the river’s carrying capacity is overwhelmed and any more use leads to significant adverse environmental impacts.

The remaining six issues were concerned with the social aspects of the conflict. 6) The issue of noise from off-road vehicle use, especially at night, was a major concern to property owners along the river. 7) River access to off-road vehicles meant unlimited access to state-owned riverbeds for off-roading. 8) Economic impacts included revenue and jobs within the area of the Nueces River, which were created or benefited by the river’s location. 9) Access for local river recreationalists included uses such as swimming, hiking, boating, and fishing. Many of these local recreationalists used ORV’s to take their families to a favorite picnic or swimming place on the river. 10) The legal boundaries issue was generally in response to the location of the gradient boundary, the line between public land and private property. 11) In Uvalde County, 66% of the residents are Hispanic while in Zavala County 91% of the residents are Hispanic

(U.S. Census Bureau, 2002). A majority of the landowners are Caucasian. This made racism a potential issue of concern between stakeholders. 12) The final issue, “Getting into Nature” included activities such as swimming, picnicking, fishing, boating, and limited motorized vehicle use.

A matrix examining stakeholders and their interests reveals where interests overlap and identifies opportunities for building consensus (Table 2). All stakeholders felt as if their use of the Nueces River was focused on “getting into nature.” Strong commonalities also existed for concern about access to the Nueces River by motorized vehicles, water quality and quantity, access for local river recreationalists, and the legal boundaries of the Nueces River.

Table 2. Matrix designed to answer the question, “Are stakeholders concerned about the issue?” A plus sign indicates “yes” and a minus sign indicates “no.”

Are the Stakeholders Concerned About the Issue?													
	Water Quality & Quantity	Riparian Ecosystem Health	Channel Obstruction	Litter and Pollution	Excessive # Users	Noise	River Access to ORV's	Economic Impacts	Access for Other River Rec	Legal Boundaries	Racism	"Getting into Nature"	# Issues Concerned About (+/-)
Primary Stakeholders													
ORV Users	-	-	+	-	+	-	+	-	-	+	+	+	6
Local River Reactionalists	+	+	+	+	+	+	+	-	+	+	+	+	11
River Landowners	+	+	+	+	+	+	+	+	+	+	+	+	12
TX Parks & Wildlife Dept.	+	+	+	+	+	-	+	-	+	+	-	+	9
Nueces River Authority	+	+	+	+	+	-	+	-	+	+	-	+	9
TX Riparian Association	+	+	+	+	+	-	+	-	+	+	-	+	9
Secondary Stakeholders													
Local Businesses	+	-	-	-	-	-	+	+	-	-	-	+	5
Local Townspeople	+	-	-	-	-	-	-	+	-	-	-	+	5
Lower CO River Authority	+	+	+	+	+	-	+	-	-	-	-	+	7
County Commissioners	+	+	+	+	+	+	+	+	+	+	-	+	11
TX General Land Office	-	-	-	-	-	-	+	-	+	+	-	+	4
San Marcos River Foundation	+	+	+	+	+	-	+	-	+	+	-	+	9
Guadalupe Blanco River Authority	+	+	+	+	+	-	+	-	+	+	-	+	9
Dept. of Ag	+	+	+	+	-	-	-	-	+	-	-	+	6
TNRCC	+	+	+	+	+	-	+	-	+	+	-	+	9
TX Watercraft Association	-	-	-	-	-	-	+	+	+	+	+	+	6
Number Concerned:	13	11	12	12	11	3	14	6	13	13	4	16	

If stakeholders work together on commonalities, they can successfully make concessions between stakeholders to achieve everyone’s interests. For example, in the matrix above, the TPWD, NRA, Texas Riparian Association, TCEQ, San Marcos River Foundation, and the Guadalupe Blanco River Authority are all concerned about the same issues. Therefore, these groups can form a coalition and work together to achieve common goals. Coalitions are

beneficial because they help mobilize support for a particular stance by focusing on a common goal. Coalitions are also important because larger groups have access to more resources and information (Lewicki, 2001). They can also have negative affects on the negotiation process. While coalitions give selected groups common objectives and shared resources, they also create unequal power balances.

C. Stakeholder Interests and Positions

Although some stakeholder areas of concern overlapped, each stakeholder group possessed its unique positions, interests, and goals for negotiation (Table 2). For example, the top priority of off-road vehicle users was to achieve unlimited access to the river. As a member of the Task Force representing Texas 4x4 Cyber Club, Ingrid Hollinger desired access to the river, yet was open to the Hybrid Option idea of developing off-road vehicle parks. She believed that these parks could be successfully created if people familiar with off-roading were involved in the process and if clubs were able to voluntarily assist these people in developing the trails (Report, 2002).

Another stakeholder group was made up of local recreationalists. These stakeholders were often lumped in with the ORV groups, yet they had different interests. These stakeholders did use ORVs and ATVs; however, they used their vehicles to access a favorite fishing or camping destination by driving along the riverbank. Local river recreationalists agreed with the landowners that there were ORV and litter problems. Local recreationalists were in favor of Option II, which gave control of the river to local authorities. When speaking with Joe Michaels, local recreationalist, he wished the landowners and NRA would have started a local initiative that would have produced a collaborative solution before heading to Austin.

Extremely polarized from off-road vehicle users were river landowners who did not want any off-road vehicle use on the river. Talking to Kay and Steven Fischer, owners of the Weidner Ranch along the Nueces River, it was clear they opposed off-roading on the Nueces. Commenting on the TPWD's options created during the Task Force meetings, Mrs. Fischer agreed with Option I, which stated, "ban by statute, with limited exceptions, motor vehicle use in state-owned riverbeds" (Report, 2002). Citizens owning land along the river were concerned about off-road vehicle use due to riparian area destruction, noise from off-road vehicles, trespassing, poaching, and the definition of the gradient boundary, the legal boundary between public and private land. The Riverside Landowners Association and Stewards of the Nueces

were composed of citizens owning property along the Nueces River. These organizations were very supportive of the river landowner's position to ban off-road vehicle use in the river.

As an impartial state agency, the TPWD's responsibility was to be the facilitator for the Task Force meetings. TPWD lawyer Bob Sweeney stated that the TPWD was pleased that the current situation was proceeding to legislation. Currently, neither the TPWD nor any other state agency has any authority to do anything about the current situation on the Nueces River. However, they do have authority to implement hunting and fishing regulations (Texas River Guide, 2002). They felt that legislation would provide the legal authority and information to the proper individuals to handle the situation. However, the TPWD believed the best prescription for solving the conflict would be a collaborative process where all parties would work together to form a consensus-based decision which could then be sent to the legislature (Sweeney, 2002).

The Nueces River Authority's (NRA) goal was to "preserve, protect, and develop surface water resources including flood control, irrigation, navigation, water supply, wastewater treatment, and water quality control" (NRA, 2002). In most South Texas counties, The NRA has broad responsibility over water resources which mainly consist of the Nueces River, its drainage basin, and its tributaries. George Jones of the NRA stated that it was the NRA's responsibility to "preserve the river." He believed the issue was that off-road vehicles did not belong on the river because they damaged the riparian environment and were a threat to public safety. Overall, George Jones said the NRA was a strong supporter of an entire ban on all off-road vehicles in state owned riverbeds, making it clear that although the organization did not want off-road vehicle's on the river they were a strong supporter for river access for other uses.

The final primary stakeholder on the Task Force was Kevin Anderson representing the Texas Riparian Association. He is the current president of the Texas Riparian Association, a non-policy, neutral group that believes in scientific land management. He stated the organization's main concern was off-road vehicle impact on riparian areas along the river. He believed the problem was "tricky" in that during dry periods, many off-road vehicle users believed there was no important natural habitat in areas along the river (Anderson, 2002).

Many commonalities were shared between the primary and secondary stakeholders. Local businesses benefited from off-road vehicle users and river tourists, which brought a large amount of business and money into the community; therefore they were mainly supportive of

off-road vehicle use in the river. Area auto mechanics and campgrounds also benefited greatly by off-road vehicle use.

The Lower Colorado River Authority, the San Marcos River Foundation, and the Guadalupe Blanco River Authority had much in common with the Nueces River Authority. They wanted to protect the riparian environment and were concerned about the quality of water in the Nueces River for downstream water use.

Nathan Olday, Task Force member representing the Texas Watercraft Association, was supportive of off-road vehicle use because he felt that if off-road vehicle use was banned in the river, other uses such as motorized boating might also be restricted. He also believed banning off-road vehicle use was an ethical issue which involved racism within the communities along the Nueces River (Report, 2002).

The Honorable Michael Dyke represented the Uvalde County Commissioners on the Task Force. The Texas Constitution or statutes grant Texas counties the authority to govern. However, there is no state law giving counties the authority to regulate off-road vehicles within state-owned rivers (Texas River Guide, 2002). As governmental representatives, the county commissioners are actively involved in community decision making. Thus, to keep the local county government informed on the Nueces River situation and to learn the options available for a resolution, the Honorable Michael Dyke was included in the Task Force.

TCEQ, a state agency, desired results similar to those TPWD wanted from the process. Being a state agency, it is their responsibility to protect the water quality of Texas' waters (Texas River Guide, 2002). Therefore, TCEQ wanted regulatory authority over the river to be given to an individual governing body.

Texas General Land Office (GLO) "serves all people of Texas by preserving their history, protecting their environment, expanding economic opportunity, and maximizing state revenue" (GLO, 2002). GLO also has authority over riverbeds because they are unappropriated public lands (Texas River Guide, 2002).

The Department of Agriculture was involved in the negotiation process as part of its mandate to help farmers and ranchers (USDA, 2002). Their stance on the conflict was to protect the farmland and ranches surrounding the Nueces River.

Several local townspeople were also involved with the Task Force. Many of these local citizens were afraid that if off-road vehicle use was banned, other river uses would also be

banned. Therefore, many were fighting for continued access to the river for purposes other than off-road vehicle use. Some of these uses would include swimming, camping, hiking, fishing, and boating.

D. Role of Power

Power can be explained as leverage or the ability to persuade others to achieve a desired outcome. The following three forms of power describe the actions of the Nueces River stakeholders: information, control over resources, and placement within an organizational structure (Lewicki 2001).

For a successful collaborative process to be possible, an even balance of power between stakeholders is crucial during negotiations. The top six stakeholders were examined on the basis of power to understand the role power played. The results indicated that power between stakeholders varied greatly. A strong, neutral facilitator was needed to help balance power between stakeholders and enable every party to have an equal say in the negotiation process.

Off-road vehicle users possessed legitimate power in that they had legitimate authority to use the river. Currently, state laws allow unlimited public access to state owned, navigable rivers such as the Nueces. There are over 59 organized off-road vehicle clubs within the state of Texas; hence there is a powerful amount of support for the use of off-road vehicles in riverbeds. The issue of off-roading is also important because it is not confined to the Nueces River, but is a problem on all state-owned rivers within Texas. Off-roading is a national issue affecting not only riverbeds but also areas used by snowmobiles (Texas River Guide, 2001).

River landowners had informational and legitimate power. Many of these landowners had lived along the Nueces for a long time and had documented the changes the river had progressed through. These landowners also had private property laws on their side, giving them a legitimate right to own property and not allow trespassing.

The mission of the Texas Riparian Association is to “encourage healthy riparian systems within Texas” (Texas, 2002). The Texas Riparian Association was developed through the Center for Environmental Research (Texas, 2002) to educate citizens about the importance of long term management techniques on riparian ecosystems. The Texas Riparian Association had informational power to influence stakeholders and the general public through their education programs.

The TPWD had informational, legitimate, and resource power. The TPWD has been involved in ongoing studies on the Nueces River conditions. Being a large state department, the TPWD had access to personnel and resources to help them negotiate. They also had experts within the department who could testify concerning impacts on the river ecosystem. Being head of the Task Force, the TPWD also had the power to influence other members of the Task Force. Also, the TPWD submitted the final findings to the Interim House Committee. Therefore, they possessed enormous power to influence the legislative report and, consequently, the legislative bill that was introduced in Congress.

The NRA possessed legitimate and informational power. In 1935, a special act was passed by the 44th Texas Legislature creating the Texas Water Code Auxiliary Laws. The NRA has broad authority to use these laws to preserve and protect surface water resources along the Nueces watershed (NRA, 2002). Thus, these laws gave the NRA legitimate power to be involved in the Nueces River situation. Being a large organization, the NRA had access to many resources and information that may have helped them negotiate.

The role of power could have also been demonstrated in the formations of coalitions. As stated earlier, the TPWD, the NRA, the Texas Riparian Association, the TCEQ, the San Marcos River Foundation, and the GBRA could have formed a coalition. This coalition would have been a powerful force since all these stakeholders had legitimate power. Potentially, they could have significantly influenced the legislative options. The formation of coalitions can increase the power and strength of stakeholders by increasing the numbers that agree on a position. By forming coalitions, stakeholders gained power to influence the final decisions of the task force process, therefore influencing the legislative decision.

A missing element of power in the Task Force was the power of implementation. All stakeholders had some source of power, but no one had the power to implement the decisions the group had made. Two congressional representatives were present at the Task Force meetings, but were only there to observe. Even TPWD who led the initiative had no power to enforce or implement any group decision.

E. Role of Personal Styles

The personal styles of stakeholders can greatly affect the negotiation process by affecting how a position is presented, how facts are organized, and how stakeholders interact with one

another. Stakeholder credibility and personal attractiveness are two sources parties can use to persuade others (Lewicki, 2001).

For the purpose of this analysis, the role of personal styles was interpreted from written letters to TPWD, Task Force records, and personal interviews. Some personal styles were more apparent than others.

One of the representatives for river landowners was Kay Fischer. Kay and her husband have lived on the Weidner Ranch bordering the Nueces River for many years and have observed change in the river ecosystem first hand. When speaking with Kay, it was evident that she felt strongly that the river was not the place for off-road vehicles. She felt the presence of ORVs is disruptive and destructive to the river ecosystem. Kay was one of the first stakeholders to vocalize her concern to the TPWD. Growing up on the Nueces, Kay developed a strong connection to the river that resulted in an adamant position which she vigorously negotiated to the TPWD and then in the Task Force process. Kay believed that a strong state agency, not a small local agency should have control over regulations on the river to ensure its protection. Most property owners along the Nueces knew Kay and her family, which made her a trusted representative to lead the river landowners.

The Texas Riparian Association was represented by Kevin Anderson on the Task Force. Kevin Anderson was the president of the Texas Riparian Association, making him the logical choice to be Task Force representative for the organization. As president, the members of the Texas Riparian Association trusted him to work in the best interest of the organization and believed that he could do the best job negotiating for their issues (Anderson, 2002). The personal negotiation style of Mr. Anderson could be considered more passive compared to other stakeholders involved in the Task Force.

TPWD controlled the negotiations and placed Robert Rudder, TPWD Senior Director for Aquatic Resources, on the Task Force. Robert was an expert in water resources and therefore represented TPWD interests in the negotiation process (McKinney, 2002). Pat Smith from the TPWD acted as the Task Force facilitator. To be the Task Force facilitator, Smith had to have worked well with people and been fair in directing the negotiation process. Conversations with Pat Smith indicated that he attempted to look at all sides of the issue equally. However, it appeared as if legislation was Pat Smith's ultimate objective. Although legislation may have

been the ultimate objective, many stakeholders commented that they believed Mr. Smith acted fairly.

When speaking to NRA representative George Jones, it was evident that he felt passionately about his position of no off-road vehicle use on the river. George Jones' unwavering personal style was dangerous to negotiations because he was indifferent to a collaboration process. He stated that continued negotiations would be non-productive because both sides were not giving enough. Part of this adamant stance might have been due to the fact that Mr. Jones did not want to separate himself from his position.

IV. Task Force Process



IV. Task Force Process:

A. Pre-Task Force

As the temperatures began to rise on a hot August Texas afternoon, so did the temperatures inside the TPWD conference room. On that August day, several landowners brought forth the issue of off-road vehicular use degrading the Nueces River. Based on pictures and illustrations of motorized vehicle destruction, this group wanted the TPWD to regulate and control the users on the Nueces River. However, TPWD had no regulatory authority to manage or do anything about the problem. Nonetheless, TPWD did agree that the situation was “out of control” and something needed to be done.

TPWD’s solution was to convene along with other interested parties (stakeholders) as part of the Motorized Vehicles in Navigable Streambeds Task Force. The Task Force’s purpose was to allow TPWD to become more informed about the conflict and the issues involved. The Task Force was comprised of twenty stakeholders, which were invited by the TPWD. The meetings were not closed to the public, but space was limited. Approximately forty people attended the meetings, including two staffers from the House of Representatives.

Pat Smith acted as facilitator for the group. Participants were selected first by those who had expressed concern and interest about the issue to TPWD. Other groups were included because their interests were needed to balance the conflict. TPWD wanted to make sure that all sides were represented. In total, twenty stakeholders were asked to attend the meetings. Meetings were not advertised to the public, yet no one who chose to attend was turned away. TPWD was concerned that the conflict would result in a competition of who could bring the most people to the table; they wanted to ensure that every issue/position was heard.

The Task Force partly addressed collaboration techniques outlined by Godschalk and Patterson (1999) (Table 3). Pat Smith ensured that all key stakeholders were involved by conducting interviews, which ensured representation for each position. Sending out agendas prior to meetings and summaries after meetings ensured group memory. A shared purpose was established by agreement with the mission statement of the Task Force, which was “to bring together a broad spectrum of stakeholders to provide perspective to the TPWD and Commission regarding the issue of motorized vehicles in navigable streambeds” (Report, 2002).

Table 3: Comparison of Nueces River/ORV dispute to principles of collaboration and consensus building. Adapted from Godschalk and Patterson (1999).

Collaboration Techniques	Did Task Force Address These Techniques?
A. Pre-Task Force	
Ensure all stakeholders are involved/inclusive	Yes
Representation and responsibilities established	Yes
Group memory ensured/informed	Yes
Established shared purpose	Yes
B. Task Force Process	
Opportunities to educate about others interests	No
Opportunities to ensure ownership	Partly
Establishment of formal ground rules	No
Stakeholders share in process and design	Partly
Opportunities to invent options for mutual gain	Partly
Multiple options identified	Yes
Decisions are made by consensus	No
Jointly produce a written agreement	No
Ratification	No
C. Post-Task Force	
Linking informal agreements to formal decision making	No
Monitoring for implementation	No
Re-negotiation contingency	No

The House of Representatives' interim committee, House Committee on State Recreational Resources, is currently developing a bill (SB 155) to address the conflict between motorized vehicle users and other river users. House staffers attended the Task Force meetings to gain a better understanding of the issues. The House encouraged the TPWD to conduct the meetings because they possessed a better understanding of natural resources, had handled conflicts over natural resources before, and had more resources to facilitate management of the conflict.

B. Task Force Process

Tensions were escalating between stakeholders and time was running out, so only two meetings were planned to discuss the conflict. However, the Task Force process eventually evolved into four meetings. Table 4 outlines the flow of events that occurred within the Task Force process.

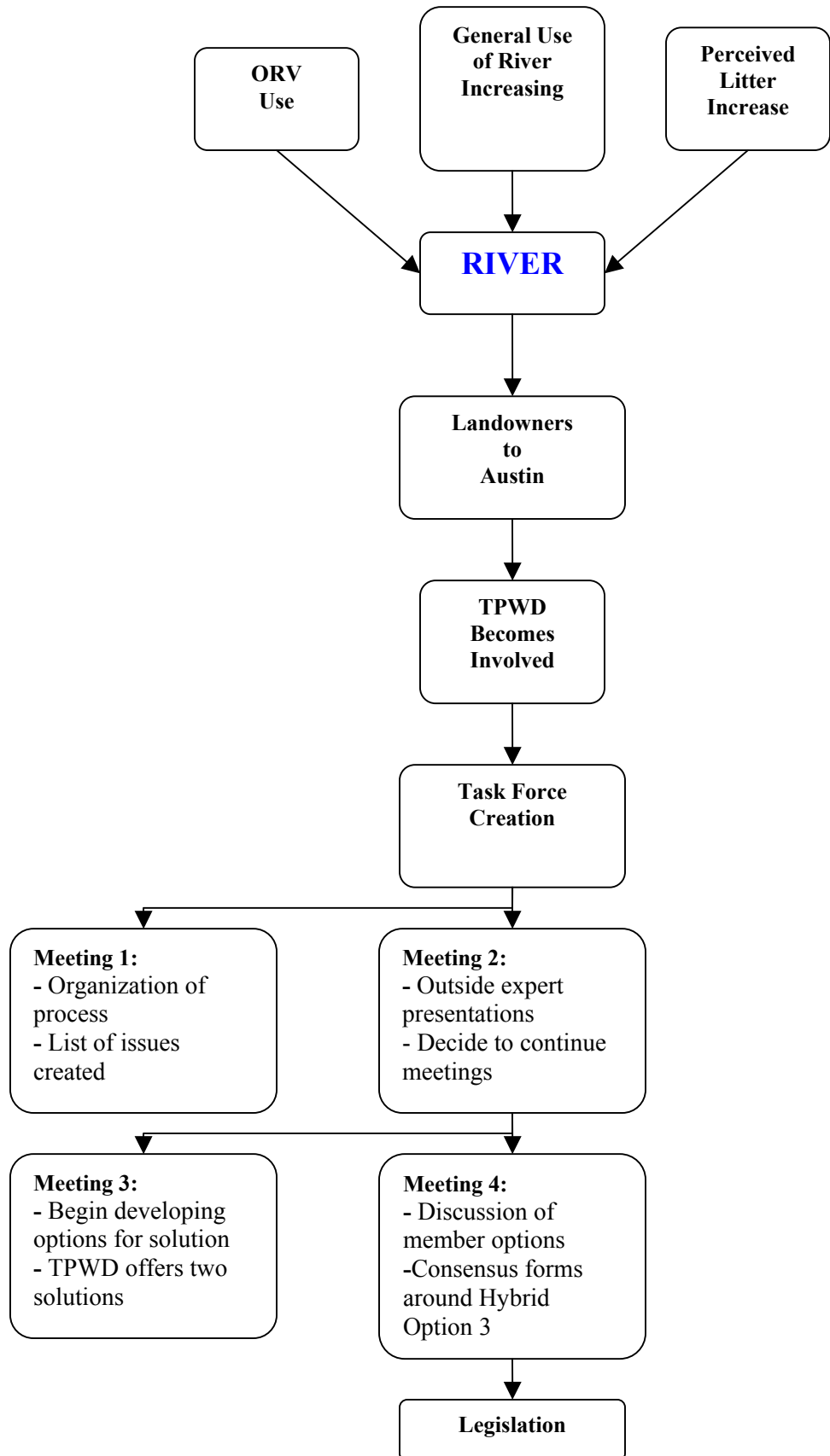
Initially, the Task Force was formed only to determine what was happening on the Nueces River and who was involved. At the first meeting, TPWD established the organization of the process. Stakeholders were allowed to contribute their ideas on options and to create their own options for implementation. Ground rules were never formally addressed; however, behavior ground rules were assumed. Participants were expected to respect each other and allow others to speak without interruption. TPWD also agreed to prepare agendas for the meetings ahead of time so participants would be ready and assured they would have the opportunity to speak.

The first two meetings were aimed at revealing the perceived problem and the stakeholders' issues and positions. At the end of the first meeting, comments were collected from the stakeholders. TPWD then compiled a list of issues on which the stakeholders agreed and disagreed (Table 5).

Agree	Disagree
Legal access needs to be defined.	The effects of motorized vehicles on fish and habitat.
Existing laws need to be enforced.	Need for laws and regulations.
Private property rights.	Defining "appropriate use" on streambeds.
Alternative recreation sites should be available.	
Streambeds are diverse and need to be considered independently.	
Natural events have significant effects on streambeds.	

During the second meeting, three panels of outside experts were invited to give presentations on a variety of issues; the expert panels included the law enforcement community, experts on river access information, and resource experts.

Table 4: Task Force Process



After the first two informational meetings, the House Committee on State Recreational Resources asked TPWD to continue their work and develop options for a solution. The additional two meetings focused on developing and identifying multiple options. The TPWD developed two options for review by the Task Force; these were reviewed during the third meeting. Task Force members were then allowed to submit oral and written comments on the options. Members were also allowed to submit their own options, provided a summary was submitted one-week prior to the next meeting so all Task Force members would have an opportunity to develop their opinions. At the fourth meeting, a level of consensus began to develop around a hybrid option; noted as Option Three.

Creating opportunities for stakeholders to interact and educate each other about their interests could have enhanced the collaborative process. This would have provided opportunities to invent options for mutual gain. Decision making was not a part of the Task Force process; therefore, neither a jointly produced written agreement nor ratification resulted.

C. Post-Task Force

Collaborate techniques were not used in the post-task force process because a plan was not implemented. After the initial four meetings, the Task Force participants did not meet again.

Review of Options

Option One provided for a statewide statutory riverbed management plan. This meant that most vehicular use would be banned, and a state agency would have the authority to adopt rules and regulations. Option Two designated local political authorities with power to manage recreational uses of rivers and riverbeds. The third option was created as a hybrid between option one and an option suggested by another Task Force member. This option banned all motorized vehicle use on state-owned rivers, while creating parks specifically designed for off-road vehicle users. Stakeholder opinions were mixed over the options presented by TPWD in the Task Force meeting and the Hybrid Option Three. Both options presented by the TPWD were met adversely, while general consensus began to develop around the Hybrid Option Three.

Off road vehicle users and local river recreationalists were strongly against Option One because it would deny public access entirely to some areas of the river. This option would also drastically reduce the areas for recreational off road vehicles. However, natural resources would

be protected and better clarification of public versus private property rights would be accomplished with this option (Report, 2002).

Many felt that Option Two would be expensive, impractical, and might result in inaction or inappropriate measures. This option would also be confusing to out-of-area river users, since regulations could change at county lines. Advantages of Option Two discussed by TPWD are increased local control and less financial requirements from state agencies (Report, 2002).

The third option received the most favorable reviews from a majority of the stakeholders. However, questions still need to be answered regarding Option Three. For example, who would oversee the motorized vehicle parks, where would the funding for land acquisition come from, where would they be located, what about the local river recreationalists who use the river for family outings, and how would these activities be implemented (Report, 2002).

Negotiation Techniques

Planning and strategizing performed by stakeholders is called framing (Lewicki et al., 2001). Three approaches could have been utilized by the stakeholders during their framing process; cognitive heuristics, categories of experience, and issue development. Many stakeholders probably framed the agencies by cognitive heuristics. They believed the agencies would have a biased perception of the outcome due to their agency associations. The landowners are likely to possess categories of experience frames. For example, Kay Fischer remembers childhood memories of the river and perceives motorized vehicles as the only cause of degradation to the river. Communication plays a large role in categories of experience frames. Frames as issue development also rely on communication, but focus on the patterns of change through communication. Its role in negotiation is to further joint problem solving. An important aspect of this type of framing is the concept of reframing. Reframing is the dynamic process in which the stakeholders modify the way they see the problem. Reframing is an important part of a successful negotiation because it brings multiple points of view to a single agreed on point of view (Lewicki et al., 2001).

TPWD used several conflict-reduction strategies described by Lewicki et al. (2001) including reducing tension and managing the de-escalation of tension, enhancing communication to improve party's understanding, controlling the number and size of stakeholder, and establishing common ground. Simply bringing the parties together was reduced tension because motorized vehicle users and other stakeholders were becoming frustrated with the situation.

Allowing parties to meet and express their opinions and hear other sides of the issue created a better environment for all sides. The meeting also enhanced communication between the parties which fostered a better understanding of each side's standpoint. Although TPWD did not prevent anyone from attending the meetings, they restricted the number of attendees to approximately forty people with only twenty members on the Task Force. Common ground was established by meeting in Uvalde, Texas, which is near the Nueces River and the center of the controversy. More importantly, TPWD established commonalities by first having the stakeholders agree on the mission statement and procedural rules.

Analysis of Feasibility

The Nueces River conflict is a highly polarized issue. However, when examining the commonalities of the various parties, it becomes apparent that these groups can work together and develop a collaborative, consensus based decision. A level of consensus was reached on the Hybrid Option Three, but a consensus-building decision process was not fully utilized to create a collaborative environment. The issue has now moved into legislation, and it is not yet known what will happen with the bill proposed by the House Committee on Recreational Resources.

Time, a neutral third party, and the purpose of the Task Force were limiting factors to a successful collaboration effort. The Task Force should have been a stepping-stone for the continuation of a collaborative process, which TPWD suggested. However, without a central facilitator bringing the group together, this may be impossible.

Many of the stakeholders felt that four meetings provided sufficient time to accomplish what they set out to do. The Task Force wanted to report and discover the stakeholder options with data that was already available by communicating with stakeholders and other experts. More time needed to be allotted for activities such as joint fact-finding and field trips to ensure successful collaboration.

Defining the gradient boundary line is a source of technical data that was used in this conflict. The gradient boundary line is the dividing line between public and private property ownership on navigable rivers. The line is defined by the Texas Supreme Court as the "line midway between the lower level of the flowing water that just reaches the 'cut bank' and the higher level that just overtops the 'cut bank'" (Figure 2) (Kaiser, 2002). Surveys and extensive fieldwork are needed to make this classification, so private and public property lines are more easily distinguishable.

Overall, the stakeholders seemed pleased with the outcome of the Task Force because it opened up dialogue between stakeholders. It appears that all the stakeholders wanted a legislative outcome that would set definite parameters. The bill proposed for legislation could accomplish this task, but may or may not satisfy all stakeholders.

V. Suggestions and Recommendations



V. Suggestions and Recommendations:

The Task Force incorporated principles of collaboration and consensus building, but many aspects of their decision making process could have been improved. More time, funding, and increased scientific research are areas that need to be developed to foster a more successful collaborative process. Wondolleck and Yaffee (2000) outlined a process to make collaboration work, which included building common ground, creating opportunities for interaction, looking at the problem in different ways, and creating partnerships between stakeholders. Specific recommendations on improving the collaborative process and generating a more enduring agreement are revealed in Table 6.

First, an outside facilitator may have done a better job emphasizing the commonalities between stakeholders, such as enjoying nature. A neutral third party was also needed to encourage stakeholders to separate their positions from their interests. While interviewing several stakeholders, it was clear that they were still holding on to their positions. However, over time and through increased communication, commonalities began to arise and ultimately produced a third hybrid option. Second, formal ground rules should have been created and established by the stakeholders themselves instead of assuming informal behavior etiquette. Development of ground rules by stakeholders encourages implementation and ownership. Suggested ground rules include:

- Prepare agendas with a timeline for each meeting
- Be punctual and have a set meeting time and date
- One person speaks at a time (don't interrupt)
- Set a time limit for speakers
- Be open minded and respectful
- Focus on the issue, not personal positions
- Use consensus voting

Third, workshops with more outside experts and fieldtrips to the river could have created opportunities for interaction and turned viewpoints of the stakeholders from their own beliefs into a group belief. The workshops and fieldtrips could also have been an opportunity for joint-fact finding. These types of activities also could have given stakeholders opportunities to see the commonalities they shared with other stakeholders. Workshops and fieldtrips would have also helped the stakeholders understand each other's viewpoints. According to Meffe, et al. (2002),

another component of successful collaboration is the ability of stakeholders to understand each other. Shared ownership and innovative ideas can be created when partnerships are established across lines.

Finally, a unified written agreement should have been ratified on one option. A unified agreement provides a baseline for monitoring and implementation. If this is not accomplished, the issues are not resolved and the debate continues.

Table 6: Recommendations to Improve Collaboration

Proposed Recommendations	Benefits of Recommendation
Neutral Facilitator	<ul style="list-style-type: none"> • Keeps negotiations peaceful and flowing • Illustrates commonalities • Helps stakeholders to separate issues and positions (focus on the issues)
Establish Formal Ground Rules	<ul style="list-style-type: none"> • Provide stakeholder ownership • Develop better balance of power
Workshops and Field Trips	<ul style="list-style-type: none"> • Allows for joint fact finding • Allows for stakeholder education
Ratification of a Plan	<ul style="list-style-type: none"> • Provides better chance for implementation

IV. Final Conclusions:

The overall process of the Task Force did not follow all consensus building techniques. Its mission was a fact-finding process more than a negotiation process. However, TPWD did incorporate several techniques that could have been used in a consensus building process.

The Interim Committee on State Recreational Resources has made recommendations regarding the dispute between motorized vehicles, river users and the river's protection. The Committee has recommended three topics for the Legislature to consider.

- TPWD should continue its investigation on motorized vehicle impacts in streambeds.
- A single state agency should be appointed to oversee, monitor, and regulate streambed use.
- TPWD and GLO should work together to establish funding and land availability for the creation of parks for motorized vehicles.

In January of 2003, the 78th Texas Legislature will convene and rule on the final decision. As the Nueces River continues to flow and change, so does the debate over its future.



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Acknowledgements

The following people were instrumental in providing background information for this study:

- ❖ Kevin Anderson
- ❖ Joe Alejandro
- ❖ Jeannie and Bobby Dullnig
- ❖ Bubba Hickman
- ❖ Con Mims
- ❖ Larry McKinney
- ❖ Robert Sweeny

- ❖ This research was funded by the Center for Teaching and Learning at Texas A&M University.