



**MARCH 10, 2013 FOR IMMEDIATE RELEASE**

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**RESOURCES:** District Court Opinion Available at: <http://bit.ly/ZEW1GZ>

## **JUDGE RULES IN FAVOR OF THE ARANSAS PROJECT IN WHOOPING CRANE CASE**

### *Effective Management Plan Ordered for Guadalupe River, Bays and Estuaries*

(Rockport, TX — March 10, 2013)— Today, The Aransas Project (TAP) applauded a major federal court decision in its legal battle to protect the last naturally migrating flock of endangered whooping cranes as a vindication of the need for an effective water management plan, especially during times of drought, for the Guadalupe and San Antonio River basins.

On March 10, 2010, TAP filed a lawsuit against several officials of the Texas Commission on Environmental Quality (TCEQ) in their official capacities for illegal harm and harassment of Whooping Cranes at and adjacent to Aransas National Wildlife Refuge in violation of the Endangered Species Act. The case went to trial before the United States District Court for the Southern District of Texas in December 2011. Today's historic decision by United States District Judge Janis Graham Jack comes three years to the day after the original filing.

"We are both humbled and pleased by the Court's historic decision," said TAP's Lead Counsel Jim Blackburn. "For this important river and for the whooping cranes, the Court's opinion provides a clear statement of the need for an effective management plan for this river basin during times of drought to ensure adequate freshwater flows reach the bay. The decision is also a vindication of the sound science and the dedicated efforts of the longtime Whooping Crane Recovery Coordinator, Mr. Tom Stehn, to preserve these magnificent birds."

#### **The Opinion**

In an exhaustive and detailed 124-page opinion, Judge Jack ruled that the water management practices of the Texas Commission on Environmental Quality (TCEQ) for the Guadalupe and San Antonio River basins violated the Endangered Species Act.

The Court issued an order preventing the TCEQ from approving or granting new water permits affecting the Guadalupe or San Antonio Rivers "until the State of Texas provides reasonable assurances to the Court" that new permits would not result in harm to the whooping cranes.

Importantly, the Court ordered the agency seek what is known as an Incidental Take Permit and develop a Habitat Conservation Plan. An Incidental Take Permit is a permit issued by the United States Fish and Wildlife Service (USFWS) that allows the holder to proceed with an otherwise lawful activity that results in "incidental" harm to an endangered species, but requires the permit holder to design, implement and fund a plan that minimizes and mitigates harm to the species while carefully balancing competing interests of various stakeholders in the basin.



Jim Blackburn remarks, "At the heart of this ruling, and this case, is the need for a habit conservation plan which will fairly protect the needs of all the river system, upstream interests and the vital whooping crane habitat."

### **Background on the Case**

The Aransas-Wood Buffalo flock of Whooping Cranes that winters on the Texas coast is the only natural wild flock remaining in the world. This flock of whooping cranes travels 2500 miles from their nesting grounds in Canada to reach this unique and rare ecosystem along the Texas coast. The flock has increased from 16 birds in the early 1940s to a high of 270 in the spring of 2008. The 2008-2009 year was the worst in recent history for the Whooping Crane, with a death toll of 57 birds, a staggering loss of 21.4% of the flock—of which 23 deaths, or 8.5% of the flock, occurred in Texas during their winter at Aransas. The lack of freshwater inflows to the bays from the Guadalupe and San Antonio Rivers, especially during times of low flows, resulted in very high salinity levels and depleted food and water sources for the Cranes.

The Aransas Project, a nonprofit alliance of municipalities, businesses, organizations and citizens, brought the lawsuit under the Endangered Species Act against officials of the TCEQ in their official capacities in March 2010.

At the heart of the case was the claim that TCEQ's failure to properly manage the state-owned freshwater inflows to the San Antonio and Guadalupe Bays during time of low flows had resulted in elevated salinity in the bays, lower availability of necessary food and water resources for the cranes, and the resulting death of at least 23 endangered cranes.

The Guadalupe-Blanco River Authority (GBRA), responsible for conserving and protecting the water resources of the Guadalupe River Basin, and the Texas Chemical Council, representing the interests of numerous industrial water permit holders in the basin, were allowed to intervene in the case. The San Antonio River Authority was later allowed to intervene following an appeal to the United States Court of Appeals for the Fifth Circuit. Numerous other interventions were denied.

The case was tried before the United States District Court for the Southern District of Texas (Corpus Christi Division) over eight days in early December 2011.

### **About The Aransas Project**

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

The Aransas Project (TAP) is 501(c)(3) nonprofit organization that brings together an alliance of municipalities, businesses, organizations, and citizens who want responsible water management of the Guadalupe River Basin to ensure freshwater flows to the bays and estuaries that it supports. These bays and estuaries provide critical habitat for the last freely migrating flock of endangered whooping cranes as well as serving as the lifeblood for coastal economies. TAP Members include Aransas County, Aransas County Navigation District, Town of Fulton, City of Rockport, International Crane Foundation, the Coastal Bend Guides Association and more.

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