

**CONTRACT BETWEEN
GUADALUPE RIVER TROUT UNLIMITED AND
GUADALUPE-BLANCO RIVER AUTHORITY**

This Contract (this "Contract") is dated as of July 17, 2001, by and between Guadalupe River Trout Unlimited ("GRTU"), a Texas chapter of Trout Unlimited, a 501(c)(3) non-profit corporation, and Guadalupe-Blanco River Authority ("GBRA"), a conservation and reclamation district created and operating pursuant to Article XVI, Section 59, of the Texas Constitution.

Recitals

WHEREAS, GBRA holds Certificate of Adjudication No. 18-2074, as amended, (the "Canyon Water Right") which currently authorizes GBRA to impound water in Canyon Reservoir, located on the Guadalupe River in Comal County, Texas, and to divert and use therefrom not to exceed an average of 50,000 acre-feet of water per year for domestic, municipal, industrial, irrigation and recreational purposes; and

WHEREAS, GBRA has filed with the Texas Natural Resource Conservation Commission ("TNRCC") on August 29, 1997, an application for various amendments to the Canyon Water Right (hereinafter referred to as "GBRA's Application"), including a request to authorize use of an amount of stored water from Canyon Reservoir in excess of the 50,000 acre-foot-per-year average that is currently authorized to be used under the Canyon Water Right; and

WHEREAS, the amendments requested by GBRA's Application will provide significant water supply benefits to the region; and

WHEREAS, GRTU protested GBRA's Application and requested a contested case hearing because it seeks to provide for minimum flows below Canyon Dam for trout; and

WHEREAS, GRTU and GBRA both desire to enter into this agreement to settle this matter

Agreement

IN CONSIDERATION of the foregoing and the mutual benefits and agreements contained herein, GRTU and GBRA agree as follows:

1. GBRA agrees that the minimum daily release from Canyon Reservoir for each day during the months of May, June, July, August and September of each calendar year during the term of this Contract will be not less than the release specified below for that day (averaged over 24 hours), if and only if Canyon Reservoir reaches an elevation greater than 909.0 feet m.s.l. for any length of time prior to that day during the period

between January 1 and September 30 of that year:

<u>nth</u>	<u>Mo</u> <u>Day</u>	<u>Minimum</u> <u>Daily</u> <u>Release</u>
May	1-15	140 cfs
May	16-31	170 cfs
June	1-14	210 cfs
June	15-30	240 cfs
July	1-31	200 cfs
Aug	1-31	200 cfs
Sept	1-30	200 cfs

2. The daily releases specified in Paragraph 1, include, and are not in addition to, all water passed through, released or spilled from Canyon Reservoir for any other reason including, without limitation: inflows to Canyon Reservoir that are passed through pursuant to conditions contained within the Canyon Water Right, as it may be amended, or GBRA's license issued by the Federal Energy Regulatory Commission; inflows that are passed through to honor downstream senior water rights; and stored water that is released by GBRA for downstream delivery to GBRA or others. Releases during any day above the Minimum Daily Release specified for that day in Paragraph 1, above, may not be used to satisfy the Minimum Daily Release for any prior or subsequent day.

3. GRTU and GBRA agree to jointly file on July 18, 2001 with the State Office of Administrative Hearings ("SOAH") the pleading attached as Exhibit 1 (entitled "Withdrawal of Request for Contested Case Hearing of GRTU and Joint Motion for Remand of GRTU and GBRA"). GRTU and GBRA further agree to jointly file on July 18, 2001 with the TNRCC the pleading attached as Exhibit 2 (entitled "Withdrawal of Request for Contested Case Hearing and Withdrawal of Motion for Reconsideration or Rehearing of GRTU and Joint Motion to Enter Order Issuing Amendment of GRTU and GBRA").

4. The daily minimum release requirement set forth in Paragraph 1 shall not take effect unless and until the TNRCC enters an order granting GBRA's Application and issuing to GBRA the amendment requested, either in the form currently proposed by the Executive Director of the TNRCC or in such other form acceptable to GBRA, and that order becomes final and not appealable.

5. GBRA agrees to pay GRTU \$75,000 contemporaneously with their jointly filing on July 18, 2001, pursuant to Paragraph 3, the two pleadings attached as Exhibit I and Exhibit 2.

6. This Contract and all rights and obligations hereunder, including the release

requirement set forth in Paragraph 1, above, shall terminate on December 31, 2018.

7. GRTU and GBRA agree to cooperate in the furtherance of this Contract, to execute and deliver any and all other documents, and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this Contract.

8. This Contract shall be interpreted, construed and performed in accordance with the laws of the State of Texas.

9. Consideration having been given, this Contract is a binding contract on GRTU and GBRA and any successor to GBRA's powers, functions and duties. Neither party may assign this Contract without first obtaining the prior written consent of the other party.

10. If either party desires to initiate litigation relating to the interpretation, construction or performance of this Contract, including any claim alleging breach of this Contract by the other party, that action must be brought only in a Texas State court of proper jurisdiction. To the extent that the district court of Comal County, Texas, has jurisdiction, then any such action must be brought exclusively in that court. Either party may seek specific performance, or damages, or both. The prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees, experts' fees, expenses and costs of court.

11. This Contract may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, even though no one counterpart contains the original signatures of both parties.

12. GRTU notified GBRA on July 16, 2001 that GRTU would settle with GBRA only if a written settlement agreement was executed and delivered by both parties on July 17, 2001. GRTU represents that this Contract has been duly authorized, executed and delivered by GRTU. GBRA represents that, at a meeting of its Board of Directors held on July 17, 2001 after giving notice under §551.045, Government Code, the Board approved this Contract and authorized the General Manager to execute and deliver this Contract on behalf of GBRA.

13. This Contract constitutes the entire agreement between GBRA and GRTU and supersedes any prior understanding or oral or written agreements between GBRA and GRTU respecting the subject matter of this Agreement.

14. All notices ("notices") required or allowed by this Contract shall be in writing and be given by depositing the notice in the United States Mail postpaid and registered or certified, with return receipt requested, and addressed to the party to be notified. Notice deposited in the mail in the previously described manner shall be conclusively deemed to be effective from and after the expiration of three (3) days after the notice is deposited in the mail. For purposes of notice, the addresses of and the designated

representative for receipt of notice for each of the parties shall be as follows:

For GBRA:

Guadalupe-Blanco River
Authority Attention: General Manager
933 E. Court Street
Seguin, Texas 78155

For GRTU:

Guadalupe River Trout Unlimited
Attention: President
11505 Charred Oak Drive
Austin, Texas 78759

Either party may change its address by giving written notice of the changes to the other party at least fourteen (14) days before the change becomes effective.

IN WITNESS WHEREOF, this Agreement is executed on behalf of GRTU and GBRA by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

GUADALUPE RIVER TROUT UNLIMITED
BY, George Spalding, President

GUADALUPE-BLANCO RIVER AUTHORITY
BY, W.E. West, Jr., General Manager