

# Frequently-Asked Questions

## PLDA Lake Dunlap Restoration Project

### Background

*On May 14, 2019, a catastrophic failure of one of the Dunlap dam's spillway gates occurred, and the spillgate explosively detached from the dam with no indication of a problem beforehand. The lake subsequently dewatered within 24 hours.*

*The failure of the dam has had a devastating effect on the local and regional economy. Property values on the lake are estimated to be down by some 50%. Businesses whose livelihood was related to the lake or lake recreation have seen revenues plummet, and the ability of residents, their families, tourists, and visitors to enjoy and use the lake is greatly diminished.*

*The impact of this loss of value will dramatically affect tax revenues for both Comal and Guadalupe counties, as well as all the area school districts. This loss of public revenue will continue for years unless the dam is repaired, and the lake returned to its prior levels in a timely fashion.*

*Neither GBRA, Comal nor Guadalupe Counties, nor the City of New Braunfels has the funds to make the needed repairs. The dam does not qualify as a disaster, nor does it qualify for FEMA or similar support. Despite considerable efforts by community, business, state and federal political leaders, and others, there has been no source identified to date for the needed funds.*

*More than three months after the failure of the spillgate, all the spillways remain out of service, two spill gates are not repairable, there are no funded plans to replace them, and the lake is still down an estimated 14 feet. Residents are concerned about the safety and utility of their waterfronts, as well as the future. There is currently no ability to control or mitigate downstream effects from a flood, and no one knows what that may mean for lakefront property owners in that event.*

### The PLDA Lake Dunlap Restoration Project

#### **1a) What is the PLDA planning to do?**

PLDA is planning to restore the dam and refill the lake as soon as possible by creating a water control and improvement district (WCID) with the authority to levy a tax on waterfront property owners to fund the repairs. The WCID will work closely with the GBRA from both funding and construction perspectives to repair and improve the dam.

We plan to restore the lake to its original state prior to the spillgate failure by creating the WCID to fund the infrastructure improvements needed to bring the dam up to current standards, and to keep it maintained and in operating condition in perpetuity.

The WCID would include all waterfront real property, parcels, lots, and/or developments on the shores of Lake Dunlap, from the spillway upstream of Faust Bridge to the dam with McQueeney, on both sides of the lake.

Once the district is created, registered voters in the district would be asked to vote in an election to confirm creation of the WCID, to elect WCID directors, and to authorize the WCID to levy a tax to raise the funds necessary to repair and maintain the dam in conjunction with GBRA for purposes of restoring property values and economic viability for the Lake Dunlap community.

This plan will directly benefit all of the landowners included in the district and provide a significant indirect benefit to all the residents of both counties and the City of New Braunfels who use the lake, or make their living in ways related to it. Restoring the lake to its previous capacity would restore property values, return businesses that provide services to homeowners or users of the lake to viability, and restore tax revenues for area governments, schools, and roads.

**1b) Who is involved in this effort?**

The PLDA Board, our Advisory Committee, local and state political leaders, and PLDA members. We are working with representatives of the Texas Commission on Environmental Quality (TCEQ) and GBRA in connection with the project. PLDA is also working with legal counsel and a Financial Advisor. In addition, we have virtually every local and state political leader and entity expressing strong support for our efforts.

**1c) Who is on the Advisory Board and why were they selected?**

The Advisory Board is composed of individuals from the community who live in the proposed District. These outstanding individuals have expertise in engineering, construction, finance, communications, real property, and other special districts. They were selected by PLDA leadership based on their prior expertise and ability to advise PLDA on all aspects of decisions with regard to this project.

The Advisory Committee assists PLDA greatly in providing guidance and opinions on a variety of decisions necessary to keep the project moving forward as well as representing the members of the District.

**1d) Who is paying the attorneys and engineers?**

PLDA is currently paying all costs related to the District creation effort out of its general funds. We welcome donations to help fund these efforts.

**1e) How much is GBRA contributing?**

The leadership of the GBRA and PLDA have made substantial progress towards a firm cost-sharing agreement. It is currently contemplated that the WCID and GBRA would enter into one or more agreements providing for funding, repair, operation and maintenance of the dam facilities. We will announce details of any proposed agreements as soon as they are available. It is definitely fair to say the GBRA is offering to assist in a substantial way (both financially and with technical assistance).

**1f) Are the counties, cities, or State of Texas going to contribute?**

We are in discussions with both counties and the city on this point, as well as with state officials in Austin on a continuing basis. Those discussions are ongoing, and as soon as we have a definitive answer, we will post it here.

**1g) How can I get involved or donate to help the cause?**

We are making plans to build a team of volunteers for the election campaign, and would love to have lots of help! Expect to hear news about that very soon. Donations are also welcome. PLDA, Inc. is a tax-deductible 501(c)3 non-profit corporation.

Just mail your checks to PLDA, PO Box 312448, New Braunfels, TX 78131. We will earmark all donations for the Lake Dunlap Restoration Project.

**1h) How can I learn more?**

Follow our website at [PLDA.org](http://PLDA.org) for the latest information on every aspect of the project.

## **Lake Dunlap Water Control & Improvement District (WCID)**

**2a) What is a Water Control and Improvement District (WCID)? Why do we need it?**

A WCID is a type of conservation and reclamation district empowered by the State of Texas to control and preserve the waters of the State of Texas. A WCID is empowered to finance, build, construct, improve, reconstruct, repair and maintain dam facilities. It is a type of governmental entity, and will be governed by a board of directors elected by the registered voters within the District. Upon approval by voters, a WCID is authorized to levy an annual ad valorem property tax to fund district operations and costs. Our plan is for the WCID to work with GBRA to fund and cause repair of the Dunlap Dam and re-establish Lake Dunlap to its original condition. As all other efforts to seek funding have been unsuccessful, this District is the only current means of raising the necessary capital to make the repairs.

**2b) Who will run the WCID?**

We currently intend to seek creation of the WCID by application to TCEQ. In connection with approving creation of the District, TCEQ will also appoint a 5-member temporary board of directors. Thereafter, the registered voters within the District will elect members of the board of directors.

**2c) Why should lakefront owners say yes to this?**

After exhaustive research by PLDA and our state and county representatives to try to find grant money to repair our Dam without results, all involved have concluded that this is the best method for lake-related businesses and lakefront owners to be able to gain their lake back, which in turn will restore their revenues and property values, the recreational access they previously had, and preserve the legacy of Lake Dunlap for our families and future property owners for generations to come.

**2d) Will the Lake Dunlap WCID provide other services to the district, such as water or sewer service?**

The exclusive focus of the Lake Dunlap WCID is to generate the funds to repair and sustain the dam in perpetuity. We have no plans to provide any water, sewer, or wastewater services.

## **GBRA's Role**

**3a) Will the WCID own the dam and operate it or will GBRA still operate and maintain the dam?**

We have not yet made a decision on whether the WCID would own the dam. That is a complex choice and we have more to learn about the pros and cons before we can make that decision.

The specifics of an agreement with the GBRA are being worked out, but the big picture idea is that the WCID will fund our portion of the repairs and ongoing maintenance, and GBRA will contractually own, operate and maintain the dam. Any funding agreement between the WCID and GBRA will establish the rights and obligations of the parties to protect their respective interests.

**3b) What are the GBRA's responsibilities in the event of a flood? As an example, what if the gates are not lowered in a timely manner?**

The new dam will enable the gates to be operated remotely, which will both reduce the response time significantly, and make this kind of situation much less likely. It is currently contemplated that the WCID will contract with GBRA to manage all aspects of the dam operations, including flood events. Anything related to the operation and maintenance of the dam would be their contractual responsibility, but an interlocal agreement would protect the interests of the WCID and its property owners.

## **Property Taxes**

**4a) Can WCID taxes increase over time?**

Tax rates will be set annually like all tax districts based on annual budgets and appraised property values within the District. We envision most of the tax going away when any bonds (to be issued by GBRA or the WCID) to fund the dam improvements are paid off. The WCID would still need to collect some taxes thereafter for ongoing operation and maintenance of the dam.

**4b) What will happen to our property taxes?**

The County Appraisal Districts appraise property as of January 1 of each year. We anticipate that appraised values of lakefront property may decrease due to the current lake conditions. Our recommendation is that you should consider filing an appeal if your assessments have not been reduced.

**4c) How do you pass on the taxing responsibility to a prospective buyer of your property?**

That happens just like it does with schools or county taxes. The tax is attached to the property and transfers with it automatically if sold. When you sell, this tax will be handled like other property tax categories (schools, roads, etc), and managed by the county tax assessor/collector.

**4d) What happens if I refuse to pay the extra taxes?**

The taxes, like all property taxes, will be collected and enforced by your county tax collector. Once levied, they are like any other property tax. There are severe penalties for not paying assessed taxes, including foreclosure of property for nonpayment.

## Voting

**5a) How will the voting work?**

The vote will be held at your regular polling place, as part of the May 2020 election. Only registered voters within the district will be able to vote. We are currently identifying the exact parcels that will comprise the district and will put that information online as soon as it is done. The Counties will prepare voter lists that include all registered voters within the boundary of the proposed district. The vote will be decided by a simple majority of those registered voters who actually vote.

**5b) Why can't I vote if I own lakefront property but live (and vote) somewhere else?**

Like other political subdivisions in Texas, the vote is, by law, restricted to registered voters in the district. If you currently vote elsewhere, one option you have is to move your registration here for the May 2020 election.

**5c) How can I change my registration so that I can vote in the District election?**

If you wish to move your registration to your Lake Dunlap address so that you can vote in the district election, you can learn everything you need to know and also download the voter registration form at <https://www.votetexas.gov/register-to-vote/>. Key things to remember are to register early. We recommend changing your registration immediately after the November 2019 election to ensure you are registered. The deadline to register to vote in any election is 30 days before the election.

**5d) How will I know where to go to vote?**

You will vote at the regular polling station for your precinct on the official Election Day in May 2020. As we get closer to the election, we will have a team that will be able to give maps and precise directions, and even rides if you need one. We hope to help everyone to get to the polls and vote on this critical choice for our collective futures.

**5e) What happens if the vote does not pass?**

We have two options at that point, and would probably proceed with both of them in parallel. One would be to go back to the voters with a stronger case in six months. The other is to go to the legislature when it is in session in January 2021.

## Construction

**6a) Is there a temporary fix to bring the lake back while working on the long-term repairs?**

Sadly, no one has been able to present any viable alternatives that could do this. Our dam was not built to be easy to maintain. A new technology, stop logs, is how modern dams keep lake levels up during maintenance.

**6b) I have heard there are different options for repairs. Who is deciding which option is best?**

We have had a community-based Technical Workgroup looking at this deeply for several months. They have looked at all the three options, and given all the facts, plus the genuine need for stop logs to make maintenance safe and routine, they advise us that with stop logs the costs for all spill gate options are virtually the same.

The PLDA's leadership, its advisory board, and the GBRA are all in agreement that the option we want first is the ability to use stop logs. All of us, the PLDA's leadership, its advisory board, and our skilled Technical Workgroup have looked at all the options very hard, and all are in agreement that the plans GBRA has made are based on the best choice of action available to us.

**6c) What are stop logs?**

Stop logs are a ready-to-use way to isolate the spill gates for inspection or repair on very short notice. When put into place into channels in front of the spill gates, stop logs seal off the dam and allow it to be maintained with a much higher margin of safety, without the need to remove the water from the lake, greatly reducing maintenance costs. The stop logs are built along with the dam improvements, so they are always on site and ready to be used on short notice as needed.

**6d) What if the water district is formed and then it turns out that the cost of repairs/replacement is going to be a lot higher than anticipated?**

Given the nature of the design and bidding process, the contractual basis of the agreements, and other factors, we do not believe this is likely. The Board of Directors of the WCID, elected by district residents, must approve all funding by the District. Further, we anticipate that any contract between the WCID and GBRA will limit the District's financial obligations.

**6e) Can the repair/replacement process be speeded up?**

We think it can. Our Technical Workgroup is working on making sure we have planning and construction efficiencies in the plan, along with timing and performance incentives in the contractor agreements. Having said this, the dam repairs will require extensive engineering, and public improvement projects must be competitively bid. A funding mechanism such as the WCID must be created before the project can proceed.

**6f) What is to prevent this from happening in the future?**

Our plan is to restore the dam in a way that makes ongoing maintenance considerably safer and much cheaper. We plan to implement a cycle for gate replacements on a regular schedule that ensures that the gates will never fail again, and even if they do, we can fix them without draining the lake because the plan includes the addition of stop logs. The WCID will make it possible to create a maintenance fund in perpetuity, so this dam will always be operational for not just decades, but generations to come.

**Potential Liability****7a) Can the WCID and its members be sued?**

As a political subdivision with elected officials, the WCID and its directors will generally enjoy governmental immunity from claims. There are some exceptions to the immunity, but the WCID would secure insurance to protect the district and its directors from liability exposure.

Waterfront property owners (e.g, property owners within the District) will have no liability exposure arising out of the district's actions.

**7b) What if the dam breaks and there are injuries or fatalities? What are the consequences?**

The potential for litigation claims arising out of a dam failure or dam operations is one of the reasons why it may not be prudent for the WCID to acquire ownership of the dam or responsibility for operations. As the thinking stands now, the WCID would fund the dam repairs and maintenance, but probably would not have any ownership in the dam or responsibility for its operations.

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