

BEFORE THE
U.S. FISH AND WILDLIFE SERVICE

PUBLIC HEARING AND COMMENTS

Regarding proposed rule to list the Austin blind salamander, Jollyville Plateau salamander, Georgetown salamander, and Salado salamander as endangered under the Endangered Species of Act of 1973, as amended, and designate critical habitat.

The above-entitled matter came on for public hearing at 8:01 p.m., on Thursday, September 6, 2012, at the University of Texas, Joe C. Thompson Conference Center, 2405 Robert Dedman Drive, Room 2.102, Austin, Texas 78712, and was conducted by TOM BUCKLEY, Hearing Officer.

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P R O C E E D I N G S

(8:01 p.m.)

(Announcement off the record regarding
restrooms/facility.)

HEARING OFFICER: We are now on the
record.

Good evening. On behalf of the
United States Fish and Wildlife Service, I welcome you
to this public hearing regarding the proposed rule to
list the Austin blind salamander, the Jollyville Plateau
salamander, the Georgetown salamander, and the Salado
salamander under the Endangered Species Act under
"Designate Critical Habitat."

My name is Tom Buckley, and I am the
Public Affairs Specialist for the U.S. Fish and Wildlife
Service, Southwest Region, Regional Office. I will be
serving as the providing -- presiding official for this
hearing.

My role is to conduct this hearing in
order that we receive your comments accurately into the
record. I'm not involved in a decision-making role
regarding the issue at hand today.

The following U.S. Fish and Wildlife
Service representatives are here today to help us:
Michelle Shaughnessy, Assistant Regional Director,

1 Ecological Services; Gary Mowad, Texas State
2 Administrator, at the end of the table; Adam Zerrenner,
3 Austin Ecological Services, Field Office Supervisor; and
4 Lesli Gray, Public Affairs Specialist for State of
5 Texas.

6 We have a number of other U.S. Fish and
7 Wildlife Service staff assisting us here today, as well.

8 Also assisting us with his hearing, Rabin'
9 Moore -- I'm sorry -- Rabin' Monroe, court reporter,
10 with AcuScribe Court Reporters of Austin, Texas.

11 I apologize for murdering your name.

12 And you can laugh, but I'll probably
13 murder some of yours, too.

14 You will also find information materials
15 on tables along the side wall in the book and the maps
16 posted on the back to help you inform if you need more
17 information prior to presenting comment.

18 At this point I'd like to introduce
19 Michelle Shaughnessy, Assistant Regional Director,
20 Ecological Services, who will make a brief statement
21 about the proposed rule to list the Austin blind
22 salamander, Jollyville Plateau salamander, Georgetown
23 salamander, and Salado salamander as endangered under
24 the Endangered Species Act of 1973, as amended, and
25 designate critical habitat.

1 Michelle?

2 MICHELLE SHAUGHNESSY: Thank you.

3 Good evening and welcome. As Tom
4 mentioned, I'm Michelle Shaughnessy, the Assistant
5 Regional Director of Ecological Services for Fish and
6 Wildlife Service in our Southwest Region. Our office's
7 jurisdictional area includes Arizona, New Mexico, Texas,
8 and Oklahoma.

9 I and other Service representatives here
10 today are here to hear testimony and receive comments on
11 the proposed rules to list the Austin blind salamander,
12 the Jollyville Plateau salamander, the Georgetown
13 salamander, and the Salado salamander as endangered
14 under the Endangered Species Act, as well as to
15 designate critical habitat in Bell, Travis, and
16 Williamson Counties, Texas.

17 The proposal was published in the Federal
18 Register on August 22nd, 2012. It is our intent that
19 any final determination resulting from this proposal be
20 as accurate and as effective as possible, and towards
21 that end, we seek the best scientific and commercial
22 data available. We will base a final determination in
23 part on testimony received today, as well as comments
24 received in our office.

25 The four salamander species are presently

1 in danger of extinction throughout their range based on
2 threats from habitat degradation, including reduced
3 water quality and quantity and service of spring sites.

4 Water quality and quantity in Edwards
5 Aquifer is also being negatively impacted by increasing
6 urbanization and population growth in areas that flow to
7 where salamanders are found.

8 The four salamanders are entirely aquatic
9 and dependent upon water from the Edwards Aquifer for
10 their survival, growth, and reproduction.

11 The Austin blind salamander resides in the
12 Barton Springs segment of the Edwards Aquifer, while the
13 other three species reside in habitat dependent on the
14 northern segment of the Edwards Aquifer, including
15 springs and spaces in subsurface aquifer.

16 The Service is proposing to designate a
17 total of 5,983 acres of critical habitat in 53 units.
18 The service is proposing one unit, 120 acres, be
19 designated as critical habitat for the Austin blind
20 salamander in Travis County, Texas; 33 units, 4,460
21 acres total, be designated as critical habitat for the
22 Jollyville Plateau salamander in Travis and Williamson
23 County; 14 units, 1,031 acres total, be designated as
24 critical habitat for the Georgetown salamander in
25 Williamson County; and 4 units, 372 acres total, be

1 designated as critical habitat for the Salado salamander
2 in Bell County.

3 "Critical habitat" is a term in the
4 Endangered Species Act that identifies geographic areas
5 containing features essential for the conservation of a
6 threatened or endangered species and which may require
7 special management considerations or protection.

8 Designation of critical habitat does not
9 affect landownership, establish a refuge or preserve,
10 and has no impact on private landowners taking actions
11 on their land that do not require federal funding or
12 permits.

13 Federal agencies that undertake, fund, or
14 permit activities that may affect critical habitat are
15 required to consult with the Service to ensure such
16 actions do not adversely modify or destroy critical
17 habitat.

18 In conclusion, the Edwards Aquifer is an
19 important water source, not only for these four
20 salamander species, but also for those living and
21 working in the area.

22 Efforts to improve and conserve the water
23 and springs associated with Edwards Aquifer will help
24 ensure a healthy future for our community and the plants
25 and animals that depend upon the Edwards Aquifer.

1 Now I'd like to give the floor back to
2 Tom, who has a few words about the purpose of the
3 hearing, and some instructions about giving public
4 testimony.

5 HEARING OFFICER: Thank you, Michelle.

6 This is a public hearing under Section 4
7 of the Federal Endangered Species Act. Notice of these
8 public hearings was published in the Federal Register on
9 August 22nd, 2012, beginning on page 5,000 --
10 50,000 -- that's 50768. 50,768. We will accept
11 comments and information on this proposal until
12 October 22nd, 2012, either received or postmarked by
13 that date.

14 After review and consideration of your
15 comments and all other information gathered during this
16 and other comment periods, the Service will make a final
17 determination.

18 The purpose of this hearing is to receive
19 your comments on the proposal. Comments on all aspects
20 of the proposal are very important and will be carefully
21 considered.

22 Because of the importance of your
23 comments, it is necessary that we follow certain
24 procedures here this evening. If you want to present
25 comments at this hearing, please go to the registration

1 table along the side wall and sign up on the card that
2 they have for you for that purpose. When you register,
3 indicate any organization that you are representing in
4 your comments today.

5 When you are called to present your
6 comments, please come forward to the microphone here in
7 front, please begin your presentation by stating your
8 full name, spell it for the record, and indicate if you
9 represent an organization. If you are reading your
10 comments, please take care to read them slowly so the
11 court reporter will be able to understand what you have
12 to say. Also, if possible, reporter would appreciate a
13 copy of the comments you read.

14 If for some reason you don't get a chance
15 to finish your comments, you can leave the written
16 comments here with us, and they will be included in the
17 record.

18 This is an informal hearing, and therefore
19 you will not be questioned in connection with your
20 comments. Your comments or questions are being recorded
21 by the reporter to preserve them for the record.

22 If you are called to speak and choose not
23 to speak, or provide short remarks, you may not cede
24 extra time over to another speaker. Because the purpose
25 of the hearing is to receive your comments, we will

1 presume any questions are for the record.

2 The Agency's formal response to those
3 questions and issues raised during the comment period,
4 including at this hearing, will be published in the
5 final rule. We will not respond to questions at this
6 hearing.

7 Please keep in mind that the reporter will
8 not record any statements from the audience or
9 statements which are made to the audience.

10 Comments must be read directly into the
11 microphone, facing the front of the room.

12 We ask that you treat each speaker with
13 respect, and refrain from making comments from the
14 audience, whether you agree or not with their
15 statements.

16 And out of respect for the presenters, we
17 ask that you please refrain from photographing
18 individuals as they present their comments.

19 Instead of presenting oral comments here
20 today, or in addition to the oral comments today, you
21 may submit comments in writing. Written comments may be
22 submitted to the staff at the registration table on the
23 side of the room. We also have two other methods. They
24 can be submitted electronically or by hard copy. The
25 methods for that -- the specifics are posted on the wall

1 in the back. They'll be in the proposed rule. And
2 they're also in the Q and A located on the information
3 table in the back. This information is also available
4 at the registration table itself.

5 Written comments will be given the same
6 consideration as oral comments presented here.

7 Because of the size of our group today,
8 and the number of requests to speak, I'm not gonna place
9 a time restriction on speakers, but I do ask that you
10 consider others. We wanna be sure that everybody that
11 has requested has an opportunity, so if you can, try to
12 limit to around five minutes or so. If you need to take
13 a little bit extra time, that's okay; I won't stop you;
14 unless we start to get a larger stack of people
15 requesting to speak and the time starts to run short,
16 then we will limit the time that is left.

17 At this point, we are ready for our first
18 speaker. I'd like to call Dr. Craig Nazor, followed by
19 Jennifer Walker and Roy Wabau [ph].

20 ROY WALEY: Waley.

21 HEARING OFFICER: Waley. Sorry. I told
22 you I would murder your names. I apologize in advance.

23 DR. CRAIG NAZOR: I got here earlier
24 tonight. My name is Dr. Craig Nazor, C-R-A-I-G
25 N-A-Z-O-R. I'm here representing the Austin Sierra

1 Club. I'm also a member of the Austin Herpetological
2 Society, a long-time supporter of the SOS Alliance, and
3 cochair of the Parks Committee of the Gracywoods
4 Neighborhood Association, northern Travis County.

5 I'm speaking in support of listing these
6 four salamanders as endangered species and designating
7 critical habitat under the Endangered Species Act. I
8 attended the hearing yesterday in Round Rock. The
9 information section was excellent, but I was
10 disappointed that limiting oral . . . that some of the
11 oral comments were limited . . . it appeared to me that
12 some commenters were more equal than others, and it
13 was -- I was a bit sad about that, because what it did
14 is it gave a mistaken view to the media as to what
15 happened at that hearing. And I'm saying that after
16 reading media reports after what happened.

17 So it just . . . when -- when you do these
18 in the future, they -- sometimes they turn into
19 political things. And I know you don't mean that, and
20 you don't want that to happen, but they do, and they're
21 used in that way.

22 Most residents have little problem with
23 salamander listings in Travis County. The remaining
24 proposed salamander critical habitat in Bell and
25 Williamson Counties amounts to around .036 percent of

1 total land area of these two counties. I thought that
2 was interesting.

3 If the critical habitat for these
4 salamanders is preserved, recent history has shown that
5 the protected springs will become some of the most
6 valuable land in this entire region. Those owning
7 springs with salamanders on their property will be some
8 of the luckiest people in central Texas.

9 Rapid growth in our area has degraded many
10 of our local springs. There are springs in the park
11 right next to my house in northern Travis County that
12 have been degraded by suburban growth and park
13 management that did not take into account the need for
14 wildlife protection. This is up in the Walnut Creek
15 Watershed that goes across north Austin.

16 It's possible that salamanders once
17 occurred in these springs. It's the Old Gracy Farms. I
18 haven't seen them now.

19 But in the 1990's there was an event where
20 a local resident advertised a toxic-waste-dumping . . .
21 business, and he just dumped the toxic waste down the
22 storm drain into the watershed. Now, that's really
23 disappointing, and who knows what that did.

24 The watershed's coming back, though.
25 We're working on it. I don't know if we lost salamander

1 habitat there or not. But this is the kind of thing
2 that happens if it's not protected.

3 Also, I think anthropogenic global climate
4 change is reducing the flows of water in these springs.
5 It seems apparent over the past few years looking in the
6 park and walking in the park that the water levels are
7 getting lower and lower during the drought areas.
8 Although there still is an area in -- up there where,
9 you know, the water still stays in these springs even
10 during last year's drought.

11 There is . . . but anyway. I -- I
12 just . . . that -- that's pretty much what I wanted to
13 get in here. And thank you very much for doing this and
14 taking my comments.

15 HEARING OFFICER: Thank you, Dr. Nazor.

16 Miss Jennifer Walker?

17 JENNIFER WALKER: Good evening. My name
18 is Jennifer Walker. I am Water Resources Coördinator
19 for the Lone Star Chapter of the Sierra Club. I'm here
20 tonight to support the proposed listing of the four
21 salamander species discussed this evening as endangered
22 species and designation of critical habitat.

23 We support a thorough review of the
24 listing based on solid science.

25 These species have a very limited range

1 that just happens to be in one of the fastest-growing
2 areas of the state. Diminished habitat, reduced spring
3 flows, and habitat degradation are a threat to the --
4 are the two greatest . . . or are the greatest threat to
5 these species, and this trend will only continue and
6 intensify as this area continues to grow.

7 Another factor to be considered is the
8 increased unregulated well drilling in western Travis
9 County that puts these springs that feed this critical
10 habitat at additional risk.

11 We believe that the listing is warranted
12 for these four species. We believe that we can and
13 should make room in our society to allow all creatures
14 to survive and ideally thrive.

15 And lastly, there are a lot of opinions
16 and perspectives out there about this listing, and we
17 think that the Fish and Wildlife conclusion should be
18 based solely on sound science. And you've got a lot of
19 that to work with, and will be receiving more.

20 Thank you.

21 HEARING OFFICER: Thank you, Ms. Walker.

22 Mr. Roy Wallow [sic], followed by Robert
23 Kleeman and Skip Cameron.

24 ROY WALEY: Howdy, y'all. My name is Roy
25 Waley.

1 HEARING OFFICER: I apologize.

2 ROY WALEY: That's okay. That's okay.

3 I -- I have brothers and sisters that get it wrong
4 sometimes, too, so . . . it's all right. Spelled
5 W-A-L-E-Y.

6 HEARING OFFICER: L-E-Y. Thank you.

7 ROY WALEY: I am the cochair of the
8 Conservation Committee and the vice-chair of the
9 Executive Committee of the Austin Regional Group of the
10 Sierra Club. And as I'm sure you know, the Sierra Club
11 is the oldest environmental organization in the world.
12 And . . . very proud to be a part of that.

13 We also are speaking in support of this
14 listing. To echo what Dr. Nazor said, that . . . and
15 what Jennifer just said, that it needs to be based on
16 solid science, and that that science be clear and
17 detailed and unbiased. So we ask for that.

18 Also concerned about the -- the aquifers
19 in the region and -- and the impact that that will have
20 on all wildlife; not just the -- the subterranean
21 salamanders, but all endangered species, and species
22 that could become endangered by the lack of water.

23 I'm very happy to say that last night the
24 Environmental Board here in Austin, Texas, passed a
25 resolution to recommend that the Austin City Council

1 support the Fish and Wildlife Service endangered species
2 listing of the Austin blind and Jollyville salamanders.
3 That does not mean that they don't also support the
4 Georgetown and Salado listing. It means that they had
5 the information to say, "Yes, we support the Austin
6 blind and Jollyville."

7 And so I'm very happy about that. And
8 we've had some very good information that was presented
9 at that meeting last night by our . . . our City Staff
10 and our environmental department, and we -- we thank
11 them for that and the thoroughness of their approach and
12 their science, and we hope that you will take that into
13 consideration, also. And if you don't have that
14 information, please request that information from the
15 City of Austin.

16 And lastly, I will speak as an individual.
17 I'm a volunteer with the Sierra Club. Professionally I
18 am a realtor. And so I know that there are people that
19 are concerned that endangered-species listings impact
20 property value. Actually, it does, but not negatively.
21 It has a positive impact on property values.

22 I don't have the study with me, but
23 several years back, over 10/12 years ago, the . . .
24 Michigan State University did a study showing the impact
25 that preserve and habitat preserves and other open space

1 has on property values and tax value for the surrounding
2 areas. It has a positive impact.

3 So as Craig said, it is just a tiny, tiny
4 portion of Williamson County that will be affected. It
5 could still have a huge impact financially, in a
6 positive way.

7 And I thank you for your time and
8 attention this evening.

9 HEARING OFFICER: Thank you, sir.
10 Robert Kleeman?

11 ROBERT KLEEMAN: My name's Robert Kleeman,
12 K-L-E-E-M-A-N. I'm here on behalf of the Texas
13 Salamander Coalition, which is a nonprofit organization,
14 and we do oppose the listing of these salamanders, and
15 we will be some -- submitting substantial written
16 comments regarding the proposed listing package.

17 We -- I concur with the previous speakers.
18 We would like to see it also based on unbiased and
19 actually academic-quality or commercial-quality science,
20 which is woefully lacking in current document.

21 We have already previously submitted to
22 the Service on July 2nd three studies that indicate that
23 the taxonomy of the Jollyville Plateau salamander,
24 Georgetown salamander, and Salado salamanders is -- is
25 wrongly identified. They were identified using

1 morphology, which literature now indicates that is not a
2 very reliable means of identifying eurycea.

3 The DNA analysis, which we have provided
4 to y'all, based on nationally available online DNA
5 strands on eurycea, that when those are analyzed in the
6 context of all you -- eurycea found in the
7 United States, we're dealing with one species here. And
8 it's a very -- very strong hit, and we think that based
9 on the information that we provided, that there is now a
10 substantial disagreement regarding the sufficiency and
11 the accuracy of the -- of the information and data in
12 the administrative record regarding the taxonomy of
13 these -- what y'all call three species and we call one.

14 We will be submitting those again during
15 the public comment period, although they were submitted
16 to y'all two months ago, and we certainly are
17 disappointed there was no acknowledgement of the
18 existence of the conflict in the science in the proposed
19 listing package.

20 The next thing I wanna speak to is the
21 peer review that's going on. Sorry, guys, but it
22 looks -- looks a little secretive. We've sent you a
23 letter on July 26 commenting on the peer-review process
24 that's going on. We used the 2004 OMB standards for
25 peer review as our guidance to critique the peer review

1 that's going on.

2 We feel that this should be done in an
3 open process, we should know who the peer reviewers are,
4 and that the peer-review plan is inadequate.

5 And while I'm pleased to hear that there
6 will be -- there is a defined period to reopen the
7 comment period in January, one of our comments is we
8 really wanted to know that we would have an opportunity
9 to see the peer review and have the ability to comment
10 on it. But we're afraid that we don't know who it is,
11 we don't know how they were selected; that it brings
12 into question the quality of the process.

13 And I will quote from the OMB guidelines.
14 "Regardless of the peer-review mechanism chosen, Agency
15 should strive to ensure that their peer-review practices
16 are characterized by both scientific integrity and
17 process integrity."

18 We don't know what the process is, other
19 than it's being done in private.

20 I will hand to y'all in the record today
21 my letter from July 26, which articulates a number of
22 criticisms and suggestions on how to make this a more
23 open process for the public.

24 The final point I'm gonna make is the
25 amount of missing information in proposed listing

1 package. The dismissive quality -- and I dare say
2 probably doesn't rise to the level of analysis of the
3 critique of existing regulations is almost amazing.
4 There's no mention of 303D program under the Clean Water
5 Act, as well as at least a 20-year concerted effort by
6 the federal government, the state government, and local
7 governments to develop and implement land-development
8 and water-quality regulations. And just to say, "Well
9 doesn't work" or -- because it allows impervious cover
10 is a very weak effort, indeed.

11 And in fact, one of the key things that
12 seems to be missing in the record is a concurrence --
13 there was a -- what I'm reading from is a letter dated
14 September 4th, 2007, addressed to the governor of the
15 state of Texas from U.S. Fish and Wildlife Service. And
16 I will tender this into the record, as well. And this
17 is a concurrence letter regarding the optional enhanced
18 standards in the Edwards Rules.

19 And in this letter there is -- I'll read
20 from it. I'll read from it slowly. It's a short quote.

21 "The voluntary water-quality-protection
22 measures reflect our common goals while satisfying the
23 regulatory missions of both the state of Texas and the
24 Service. The Service is committed to continued
25 collaboration with TCEQ and monitoring in adaptive

1 management programs.

2 "Staff from the Service and TCEQ are
3 currently monitoring Edwards Aquifer water quality and
4 some cases biological resources using all available
5 data. This information will be shared and used for
6 trend analysis.

7 "My understanding is that if the analysis
8 of Edwards Aquifer monitoring information indicates
9 water-quality degradation that may impact the
10 aforementioned species, which includes the Georgetown
11 salamander, then TCEQ and the Service would meet to
12 evaluate the causes, and, if necessary, take additional
13 actions."

14 I saw no discussion in the proposed
15 listing package that the Service has ever contacted the
16 TCEQ saying, "We are seeing a -- a trend of
17 water-quality degradation in the Edwards Aquifer."

18 Now, if it occurred, then you need to put
19 it in there. But I suspect that it's not in there
20 because y'all never notified us -- the TCEQ that you
21 were aware of any decline in the water quality of the
22 Edwards Aquifer.

23 And -- and under the Information Quality
24 Act, y'all are supposed to recognize and analyze the
25 strengths as well as the weakness of your data, and I

1 think that this is one of several fundamental flaws.

2 And we will provide extensive comments.

3 I thank you for your time.

4 Who do I give my written things to?

5 Thank you.

6 HEARING OFFICER: Thank you, Mr. Kleeman.

7 Skip Cameron, followed by Gary Boyd and

8 Carlotta McLean.

9 SKIP CAMERON: Good evening. My name is
10 Skip Cameron, S-K-I P C-A-M-E-R-O-N. I'm president of
11 the Bull Creek Foundation in northwest Austin. We are a
12 volunteer citizen group since 1994. We have
13 voluntarily, without overhead costs and all those kinds
14 of bureaucratic things, managed to do countless hours of
15 volunteer work in our watershed to improve the water
16 quality in Bull Creek to improve the habitat for
17 species, all species, including the human species, in
18 the watershed, and to conduct educational activities
19 that let people know the beautiful environment that they
20 live in and how to live lightly on it and protect all
21 species in it.

22 I'm very saddened that my questions were
23 not answered in the question-and-answer period. I would
24 urge you as responsible parties, working for the federal
25 government, paid for by taxpayers, to get those

1 questions before the next public forum on this subject,
2 because it is important that we know exactly what tracks
3 that are called critical habitat are already under the
4 management of and owned by public entities and what they
5 are doing to manage the species under those
6 responsibilities.

7 And the second part of it is I would urge
8 you again to please put in the record a statement from
9 your own people who couldn't comment on that tonight as
10 to the entire geopolitical history -- and it is
11 geopolitical -- from April 1st, 1999, to present,
12 regarding the dialogue, discussion, actions, and plans
13 by government entities and personnel working for
14 government entities to preserve, protect, and enhance
15 the habitat for and the survival of the salamander
16 species.

17 When you can get that into the record,
18 then the public will know the history that's never been
19 told. And it needs to be told. And it needs to be a
20 part of your decision, because it is one of the most
21 important factors in this particular decision. Not
22 scientific. It's geopolitical. And you must understand
23 those factors before you can make a competent decision
24 about this species. And I think you will be surprised
25 what you learn.

1 So I urge you to do that. I could tell
2 the story, but it's not my duty as a citizen to give you
3 that story. It's your duty. Because the activity took
4 place in the Fish and Wildlife Department offices right
5 here in Austin for six years. So you guys tell the
6 public your story as you know it, and we can gladly
7 respond to that.

8 I do not believe that the species that you
9 are proposing for listing are deserving a listing at
10 this time. I believe that the consortium in Williamson
11 County that has undergone a five-year plan to get more
12 scientific data that is properly done and peer-reviewed
13 is a proper thing to do. And listing a species before
14 that is a absolute no-no. You should not even think of
15 it.

16 You need to gather much better science,
17 and not geopolitical science, that tells you what you
18 really need to know before you make a listing decision
19 on this species.

20 As citizens, we believe that the
21 Endangered Species Act has value, but it only has value
22 if it is done correctly and if it is done properly and
23 is done with the right kind of science that is properly
24 done.

25 And this case, on the Jollyville

1 salamander, the geopolitics of this whole process is so
2 sordid and so distorted that it would be impossible for
3 you to make a conscious-based, moral decision to list
4 any of these species at this time.

5 So I urge you: Dig deeper, get the whole
6 story, get it from your own people, and if you can't get
7 it from them, ask me.

8 Thank you.

9 HEARING OFFICER: Thank you, Mr. Cameron.
10 Mr. Gary Boyd?

11 GARY BOYD: For the record, my name is
12 Gary, G-A-R-Y, Boyd, B-O-Y-D. And I had planned for
13 only three minutes, so I'll talk real slowly.

14 I am the director of the Environmental
15 Programs for Williamson County and a manager of the
16 Williamson County Conservation Foundation, WCCF, whose
17 mission is to provide for the conservation of endangered
18 species in Williamson County while helping to promote
19 responsible development.

20 I speak this evening to present an
21 overview of comments from the WCCF and the Williamson
22 County Commissioners Court.

23 The Williamson County Regional Habitat
24 Conservation Plan, or RHCP, was approved and signed by
25 the service in 2008 --

1 (A discussion was held off the record
2 about the microphone.)

3 GARY BOYD: The Williamson County Regional
4 Habitat Conservation Plan, or RHCP, was approved and
5 signed by the Service in 2008, October of that year, and
6 is a 30-year plan. As one of the Foundation's
7 responsibilities under the RHCP, we have just completed
8 the second year of a five-year study for the Georgetown
9 salamander. We have also set aside preserve lands to
10 protect the species. In recognition of these efforts,
11 it led the Service to lower the listing priority number
12 for the Georgetown salamander from an eight to a two.

13 The WCCF has also committed funds for
14 research of the Jollyville Plateau salamander.

15 In the legal profession, there is a term
16 used when a potential case has yet to reach a point
17 where it is appropriate to pursue legal action. In
18 those instances, a case is considered not ripe for
19 litigation.

20 We understand that the Service has been
21 forced through a legal settlement to make listing
22 determinations on over 250 species. We do appreciate
23 the limitations and time constraints with which the
24 Service, and specifically the local Ecological Services
25 Offices, has been forced to contend, particularly in

1 light of the relatively limited research on these
2 particular species.

3 However, to steal a phrase from the legal
4 profession, the case for making a determination on these
5 salamanders is not ripe.

6 Williamson County will be providing a
7 detailed, written response during the comment period
8 that includes a review of existing literature and state
9 of the science which we believe is limited in
10 sufficient -- and efficient as a basis for the proposed
11 rule and that will make a detailed and systematic case
12 that there is no imminent threat to the species; that
13 current water-quality measures as provided throughout
14 the -- Williamson County provides protection through the
15 species.

16 And I would say also due to the Austin
17 Rule, water-quality measures, and that a primitive
18 correlation of impervious cover with poor water quality
19 is unwarranted. That weather and climatic conditions
20 are more accurate indicators of surface presence of
21 individuals, and that the resilience of the species is
22 underestimated.

23 Finally, under the Endangered Species Act,
24 the Service can extend administratively the comment
25 period, which is certainly warranted, given the size and

1 complexity of the proposed rule, and if, quote, there is
2 disagreement regarding the sufficiency or accuracy of
3 the available data, unquote, the time frame for issuing
4 a final rule may also be extended.

5 We think these conditions are meant for
6 this proposed rule, and accordingly request the Service
7 to extend the comment period and the listing period to
8 the maximum extent allowable.

9 As soon as Williamson County's written
10 comments have been presented to the Service, they will
11 also be made available online to the public and will be
12 submitted for peer review.

13 I appreciate the opportunity to provide
14 this oral comment, and we look forward to providing our
15 written comments.

16 Thank you.

17 HEARING OFFICER: Thank you, Mr. Boyd.

18 Charlotte -- pardon me -- Carlotta McLean,
19 followed by Stephen Berry and Nancy McDonald.

20 CARLOTTA MCLEAN: Hello. My name is
21 Carlotta McLean, C A-R-L-O-T-T-A M-C-L-E-A-N, and I'm
22 here on behalf of the Real Estate Council of Austin.

23 Our -- our organization is a nonprofit
24 501(c)(6) that advocates for sound public policy
25 affecting the real estate industry. We have 1500

1 members; represent a wide range of professions in the
2 development community. I am personally a real estate
3 broker, selling land in ten counties around the central
4 Texas area.

5 In the last two decades, RECA has
6 consistently been a moderate voice in matters relating
7 to the environment in central Texas. We are
8 long-standing participant and supporter of the Balcones
9 Canyon Land Preserve and involved in the Regional
10 Habitat Conservation Plan that was completed in 1996.
11 We have supported local wetlands protection and the
12 creation of the Barton Creek Wilderness Park, along with
13 a host of other projects over the years.

14 More importantly, RECA is the founding
15 member of the Hill Country Conservancy, and has raised
16 over 500,000 for that organization for purpose of
17 purchasing land for conservation. The area's natural
18 assets are an economic asset, and we have a long record
19 of seeking their protection.

20 I am telling you this because I'm proud of
21 the fact that central Texas and the developing community
22 here cares about responsible stewardship of our land,
23 including water quality.

24 I'm here tonight to deliver the written
25 comments of our board president, Scott Flack. It is my

1 understanding -- you heard say -- his same position from
2 elected officials in Round Rock last night, so I'll
3 briefly state our position and leave our comments with
4 you.

5 It is our position that the Williamson
6 County Conservation Foundation has a long history of
7 aggressive efforts. Purchasing and preserving habitat
8 in accordance with their Regional Habitat Conservation
9 Plan should be honored. This was approved by the
10 United States Fish and Wildlife Service.

11 RECA supports Williamson County
12 Conservation Foundation's position that a listing of
13 Georgetown and Jollyville Plateau salamanders is not
14 warranted.

15 As you know, the Foundation is halfway
16 through the five-year study, and in January 2012 the
17 Foundation approved an additional 250,000 to expand the
18 study and include the Jollyville Plateau salamander.

19 We need more science.

20 Thank you.

21 HEARING OFFICER: Thank you, Ms. McLean.

22 Stephen Berry.

23 STEPHEN BERRY: Good evening. My name is
24 Stephen Berry, S-T-E-P-H-E-N B-E-R-R-Y.

25 I'm here this evening at the request of

1 the Superintendent and Board of Trustees of Leander
2 Independent School District -- who are conducting a
3 regularly scheduled school board meeting tonight -- to
4 submit the following comments on their behalf.

5 The Leander ISD Board of Trustees supports
6 sound environmental regulations and we support the
7 protection of our resources, but we believe that due
8 diligence must be done before a listing is enacted. We
9 assert that more information is needed before a decision
10 is made.

11 The Jollyville Plateau salamander and
12 Georgetown salamander and Salado salamander are not
13 appropriate for listing as endangered species under the
14 SA for the following reasons: In arid landscapes, such
15 as central Texas, fluctuations in amphibian abundance
16 are normal, natural, and expected.

17 Studies carried out by scientists hired by
18 the Williamson County Conservation Foundation, the WCCF,
19 do not support Fish and Wildlife assertions that habitat
20 for these three species of salamanders is threatened by
21 declining water quality and quantity.

22 New information from water-quality studies
23 performed within the last three months at nine
24 Georgetown and Jollyville Plateau salamander sites
25 indicate that aquifer water is remarkably clean, and

1 that water-quality protection standards already in place
2 are working.

3 Ongoing conservation efforts in the form
4 of ESA permitted habitat conservation plans, state and
5 local water-quality protection standards, TCEQ
6 aquifer-protection rulings, county subdivision
7 regulations and municipal ordinances, and
8 drainage-criteria manuals are sufficient to prevent
9 significant habitat degradation throughout the range of
10 the Jollyville Plateau and Georgetown salamanders.

11 Independent analysis of over 40,000
12 individual records of Jollyville Plateau salamanders
13 collected by the City of Austin cannot duplicate nor
14 verify the alleged statistical significant declines in
15 salamander populations.

16 Studies in occupied salamander sites
17 within Williamson County indicate that salamanders are
18 doing fine, and would -- as expected. And as would you
19 would be expected, surface-count numbers rise and fall
20 as a function of rainfall and spring flow.

21 The WCCF has also collected water and
22 sediment samples from multiple springs in Williamson
23 County known to contain Jollyville and Georgetown
24 salamanders, had them analyzed for a comprehensive suite
25 of potential contaminants by the LCRA Environmental

1 Laboratory.

2 The sample locations occur in a variety of
3 settings, ranging from fully developed, busy
4 subdivisions to rural, undeveloped lands. And all the
5 Williamson County results indicate good water quality,
6 and none of the sites show signs of human-caused
7 water-quality degradation.

8 Assertions of statistically significant
9 population declines cannot be verified by independent
10 statistical analysis. Fluctuations in salamander
11 surface counts appear to be heavily tied to rainfall and
12 spring flow.

13 Claims that worsening water quality's
14 responsible for the alleged Jollyville Plateau
15 salamander population declines remain unsubstantiated.
16 The vast majority of the 90-plus known Jollyville
17 Plateau salamander sites are permanently protected
18 within nature preserves.

19 New Georgetown salamander locations have
20 recently been identified, and additional locations are
21 likely to exist on unsurveyed private lands.

22 Also, the Georgetown salamander's known
23 distribution is entirely contained within the
24 jurisdictional boundaries of the Williamson County
25 Regional Habitat Conservation Plan, which includes

1 measures benefiting the species.

2 And lastly, very little is known about the
3 Salado salamander, and it's not sufficiently studied at
4 this time to form any conclusions as to population
5 status and range. No direct evidence exists that would
6 list that -- listing as an endangered species is
7 warranted.

8 We believe the WCCF, through its research,
9 which it's been conducting on salamanders in the
10 northern Edwards Aquifer since 2008, should be allowed
11 to continue and finish its study, because the data that
12 it's collected so far indicates that Georgetown
13 salamander populations are stable and healthy, and that
14 the water quality in Williamson County springs remains
15 excellent.

16 The available Jollyville Plateau
17 salamander count data provide no basis for discerning
18 the signature of anthropogenic water-quality degradation
19 from the effects of natural variations in rainfall and
20 flood events.

21 Fundamental hydrogeological and ecological
22 differences between sites point to a natural dynamic
23 driving a differential response in surface counts to an
24 extended period of above-average rainfall, followed by
25 recent drought.

1 For these reasons, Leander ISD
2 respectfully requests that the Fish and Wildlife extend
3 the current comment period and listing period in order
4 to honor their existing agreement with the WCCF, and
5 allow the existing in-depth research to be completed so
6 that you truly have the best available science for
7 making your decision.

8 I thank you very much.

9 HEARING OFFICER: Thank you, Mr. Berry.

10 Next, Nancy McDonald, followed by Mr. Bill
11 bunch; Mr. Rusty Osborne.

12 NANCY MCDONALD: Nancy McDonald, N-A-N-C-Y
13 M-C-D-O-N-A-L-D. I am Director of Regional Outreach for
14 the Real Estate Council of Austin. You just heard from
15 one of my board members, who was representing our
16 president. I'll be also very brief.

17 I wanted to say that we monitor
18 governmental bodies and -- in the counties and cities in
19 central Texas area for policies that affect our
20 industry; most definitely water-quality regulations and
21 subdivision regulations in the counties outside of the
22 cities, but also the conservation foundations and the
23 Regional Habitat Conservation Plans, you know, to get
24 that permit.

25 Williamson County is -- is one of the

1 best, you know. Hays County's a little bit further
2 behind them. But we -- I watched that process closely
3 as it was being developed, and -- until -- up until you
4 guys signed off on it in October of 2008.

5 But the Williamson County Conservation
6 Foundation is doing a terrific job, and they've got a
7 lotta support from the elected officials in Williamson
8 County. And remember, these are elected officials that
9 are representing the citizens of Williamson County, so
10 to me, that means the citizens of Williamson County are
11 doing a good job.

12 So if I echo the urges of previous
13 speakers, that y'all base your decision on sound
14 science, and I submit to you that we don't have all the
15 sound science yet.

16 I'd also like to make one comment about
17 water-quality regulations in this part of the -- of the
18 state. Like I said, it's my job to watch those as
19 they're being revised and rewritten, and a lot of the
20 jurisdictions in this part of the state are going above
21 and beyond what TCEQ requires.

22 The water studies that the previous
23 speaker just mentioned that took place in July of 2012
24 showed remarkably clean water. And part of that has to
25 do with the increased -- increasingly high standards we

1 have for water-quality regulations during construction
2 and for development afterwards and what they do with
3 their runoff.

4 So I submit to you that, you know,
5 considering the fact that we have a Barton Springs
6 salamander who survived the '70s and '80s development,
7 where there was hardly any water-quality regulations in
8 place, that we're only gonna go to a higher and higher
9 standard.

10 And everybody in the region is committed
11 to responsible development. Growth is coming. We can't
12 stop that. And y'all know what the growth projections
13 are. So we wanna be reasonable and moderate, and we
14 want good science.

15 Thank you.

16 HEARING OFFICER: Thank you, Ms. McDonald.

17 Mr. Bill Bunch.

18 BILL BUNCH: Good evening. Bill Bunch,
19 Executive Director with Save our Springs Alliance.

20 That's Bunch, B-U-N-C-H.

21 I love your Daniel Johnston graphic there,
22 by the way.

23 We're in Austin. Welcome to Austin. I
24 know some of you are from out of town.

25 We will be submitting written comments

1 before the end of the comment period with significant
2 additional information, mainly to update the information
3 that y'all have compiled in the Federal Registered
4 Listing document, which is thoroughly documented in
5 support of the proposed listings.

6 We'll be also taking a closer look at the
7 critical-habitat designated/proposed areas, and very
8 likely recommending some significant expansions thereto.
9 The relatively small areas that are proposed for
10 designation in no way encompass the essential habitat
11 needs to protect the species, and are more like sort of
12 a physical fence, where you might find the individuals.

13 But we know that the water that they so
14 critically depend upon comes from well outside those
15 proposed critical-habitat areas.

16 Just wanted to make a few comments about
17 some of the information that we'll be updating, which we
18 think is important, and that is the increase in new
19 wells being drilled in the habitat areas; in particular,
20 in the Williamson and Bell County. Just in the last ten
21 years alone there have been almost 800 wells drilled in
22 Williamson County, just in the Edwards Aquifer region.
23 Vast majority of these are for consumptive water use.

24 There is no water district in Williamson
25 County that regulates pumping. So these wells continue

1 to be drilled. All of the wells can be pumped as much
2 as they want, with . . . a limit against waste that's
3 virtually never enforced in this state.

4 We have the problem with grandfathering
5 that y'all are well aware of through the Barton Springs
6 salamander listing process, and -- which is referenced
7 here.

8 Even if there were being significant
9 efforts by the local government agencies in Williamson
10 and Bell County to protect water quality, most of that
11 would be grandfathered. But in fact, those efforts are
12 not happening.

13 As y'all know, I think, and -- and as is
14 referenced, the science linking impervious cover to
15 water-quality deterioration is replete and is there in
16 the scientific record, confirmed in study after study,
17 for the last 25 or 30 years. If anything, more recent
18 studies have shown deteriorated water quality,
19 especially in these very sensitive, high-quality
20 systems, at impervious cover levels as low as, you know,
21 two or three percent.

22 These species are at extremely high risk
23 of very near-term extinction, and if anything, these --
24 these proposals for protection are years overdue, and we
25 urge you to move expeditiously to list them, based, of

1 course, on the additional information that you get
2 that's relevant.

3 The science is the only thing that counts
4 under the law, and we wanna see the science prevail
5 here. The science, as I think most of you know, about
6 the fact that there are three species is from Dr. Dave
7 Hillis here at UT, who is one of the top scientists in
8 the entire campus at UT, who's a biologist who happens
9 to be studying these species.

10 You can't find another scientist in the
11 whole country with the kind of credentials that
12 Dr. Hillis has on genetics and evolution of these
13 species.

14 The coauthor on these papers that were
15 published in peer-reviewed journals, Dr. Paul
16 Chippindale at UT Arlington, similarly, it's -- it's all
17 been well-documented, and I think you'll -- when it's --
18 when the record's closed, you'll see that these attacks
19 from the private sector for paid biologists from the
20 developers challenging that genetics is basically junk
21 science.

22 So we look forward to some -- submitting
23 additional data before the October 22nd deadline, and
24 thank you for your consideration this evening.

25 HEARING OFFICER: Thank you, Mr. Bunch.

1 Rusty Osborne, followed by Ms. Diane
2 Spencer and Scot Millican.

3 Mr. Osborne?

4 Okay. We'll go right directly to
5 Ms. Diane Spencer.

6 DIANE SPENCER: My name is Diane Spencer,
7 D-I-A-N-E S-P-E-N-C-E-R, and I'm a private landowner,
8 and I share my property with Jollyville salamander.

9 I'm reading off of the Fish and Wildlife
10 overview that says, "The Service defined an area as
11 occupied based upon reliable observation of a salamander
12 species by a knowledgeable scientist."

13 In 22 years, I have never, ever talked to
14 one person that has ever contacted me, written me,
15 called me, come to my house, or anything to talk about
16 the salamanders on my property. So I look forward to
17 receiving the information from Fish and Wildlife about
18 who this knowledgeable scientist is, and then I believe
19 I'll understand the geopolitical issue, as Mr. Cameron
20 explained.

21 So I think the current action's
22 presumptive, and I would wait for further science. And
23 actually, the greatest threat to our salamander is
24 actually the City of Austin, because with -- the runoff
25 is from the City of Austin property.

1 Thank you for allowing me to speak.

2 HEARING OFFICER: Thank you, Ms. Spencer.

3 Mr. Scot Millican?

4 SCOT MILLICAN: Hi. My name's Scot
5 Millican, S-C-O-T M-I-L-L-I-C-A-N. I'm a native
6 Austinite. Graduate of Stephen F. Austin High School,
7 University of Texas, and Stanford University.

8 During my time at Stanford University
9 Hospital, I lived remotely in a valley that I discovered
10 unusual salamanders there. I took photographs of them;
11 became educated on the subject; sent them to the
12 environmental agents in the area. They came out to
13 look. Because of my photographs, it did seem it was an
14 unknown species.

15 Unfortunately, on three visits, they were
16 unable to find the creature again. So I believe that I
17 witnessed in my time there the disappearance of that
18 species.

19 And since then, I've become a
20 herpetoculturist, promoter of reptile and amphibian
21 reproduction. And I'm not affiliated with any
22 organization, and I'm only self-educated on this
23 project.

24 I came tonight to speak because I saw the
25 media coverage of your meeting last night. The media

1 coverage itself seemed very one-sided, as if you were
2 opposed, overwhelmingly, so . . . I felt it my duty to
3 come at this time and speak in favor of it.

4 I believe that a map like this, were it
5 undertaken when I was at UT, it would show a much larger
6 coverage. Likely there is a diminishment of these
7 species. I would like to speak in support of their
8 listing.

9 Also, last evening on the news I saw
10 someone ask you a question during this time, which I
11 know you're not answering it, but they asked you if you
12 believed that this was the most appropriate use of tax
13 dollars. And I would like to say that I believe this is
14 very -- very appropriate use. I would like to thank you
15 for this study, and I'm hoping for your success in this
16 listing.

17 Thank you.

18 HEARING OFFICER: Thank you, Mr. Millican.

19 Is Rusty Osborne in the room?

20 Okay. Is there anybody else that has
21 signed up to speak at the tables? No.

22 Thank you, Mr. Stephen Beers.

23 STEPHEN BEERS: Yes. Thank you. So this
24 picks up my voice well enough?

25 HEARING OFFICER: Yes.

1 STEPHEN BEERS: Okay. I would like to ask
2 you all to please list the candidate species. I believe
3 critical-habitat designation should follow with the
4 spring and stream locations where salamanders live and
5 protected by building setbacks.

6 I'd like to further suggest that the
7 underground waters also be designated critical. I think
8 ideally this . . . this event wouldn't be happening if
9 we had rules in Texas that actually protected
10 groundwater.

11 I believe that with the current regulatory
12 regime we'll be drinking oil and -- and sand before
13 they're really effectively protected.

14 What the federal government proposes to do
15 for these creatures is really what we ought to be doing
16 for ourselves. I think it's pretty obvious that with
17 the last drought and the -- the huge problems we had
18 with surface water, that it makes groundwater all the
19 more important and precious.

20 I believe that best management practices
21 can infiltrate the clean runoff from certain impervious
22 surfaces, or relatively clean runoff, like rooftops,
23 sidewalks, et cetera, into soil.

24 But runoff from roads, streets, and
25 parking lots should and can be treated prior to

1 discharge, using coagulation and filtration, similar to
2 what we do with -- with drinking-water treatment.

3 So to me, the science says these creatures
4 only exist at certain limited places. If those places
5 go dry, they can't live. And I think it can be
6 adequately shown that certain kinds of pollution, as
7 well as water drying them out, is also a threat.

8 So to me, the argument that the science
9 isn't there seems on its face a big stretch.

10 And I think that these standards, these
11 new practices, can be incorporated and still allow
12 growth and still allow profit and still allow jobs, and
13 I believe that those good standards can be implemented
14 through Clean Water Act permits, the construction
15 general permit, and the municipal storm-water/sewage
16 permits. And that is a way that the federal government
17 can work harmoniously with local standards, and we can
18 maintain our -- our springs for both animals and people.

19 Thank you.

20 HEARING OFFICER: Thank you, Mr. Beers.

21 The time is 9:00 p.m. Having no further
22 requests at this moment to speak, I'm going to
23 suggest -- we're going to close here in a moment. But
24 before I do, I just want to remind folks that we have
25 our Fish and Wildlife Service biologists here. We will

1 remain here until 9:30. You have an opportunity now to
2 visit and ask questions and have a dialogue with our
3 biologists.

4 If I get any further requests to present,
5 then I will call this meeting back to order. For the
6 time being now, we are off the record. Thank you.

7 (A recess was taken at 9:02, pending any
8 further speakers.)

9 HEARING OFFICER: It is now
10 9:30 p.m. [sic]. There are no further requests for
11 comment. On behalf of the U.S. Fish and Wildlife
12 Service, we appreciate the time and effort you took this
13 evening to present your comments. They have been very
14 informative and will be fully considered in coming to a
15 final decision.

16 This hearing is concluded. We are off the
17 record.

18 (Proceedings concluded at 9:32 p.m.)

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C E R T I F I C A T E

I, Rabin' Monroe, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that I was present at and reported the proceedings in the aforementioned hearing by machine shorthand, and that the above pages contain a true and correct verbatim transcription of the proceedings on the date(s) indicated, done to the best of my skill and ability.

Certified to by me on this 16th day of September, 2012.



Rabin' Monroe

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