

Appendix "

Notice of Availability

Public Meeting Materials

public access denied and no alternative method to gain access w/out compromising national security.

Reasons: Floodway; Secured Area

Tennessee

Wears Valley Quarters/
Ranger Station
3443 Wears Valley Road
Sevierville TN 37862
Landholding Agency: Interior
Property Number: 61201440014

Status: Unutilized

Comments: Documented deficiencies structurally unsound; extensive deterioration; severe mold infestation; represents a clear threat to personal physical safety.

Reasons: Extensive deterioration

Texas

87

Air Force Plant 4
Ft. Worth TX
Landholding Agency: Air Force
Property Number: 18201440026
Status: Underutilized

Comments: Public access denied and no alternative method to gain access w/out compromising national security.

Reasons: Secured Area

127

Air Force Plant 4
Ft. Worth TX
Landholding Agency: Air Force
Property Number: 18201440027
Status: Unutilized

Comments: Public access denied and no alternative method to gain access w/out compromising national security.

Reasons: Secured Area

Land

Indiana

Bryant Creek Access Site
State Road 156
Patriot IN 47038
Landholding Agency: GSA
Property Number: 54201440009
Status: Excess
GSA Number: 1-D-IN-608

Directions: Disposal Agency: GSA;
Landholding Agency: COE

Comments: Entire property located within floodway which has not been corrected or contained.

Reasons: Floodway

North Carolina

Photovoltaic (PV) Building
Site 45
Marine Corps Base Camp Lejeune
Camp Lejeune NC
Landholding Agency: Navy
Property Number: 77201440024
Status: Unutilized

Comments: Public access denied and no alternative method to gain access w/out compromising Nat'l Security.

Reasons: Secured Area

[FR Doc. 2014-29458 Filed 12-18-14; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2014-0053; 20124-1112-0000-F2]

Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and announcement of public hearings.

SUMMARY: Bexar County and the City of San Antonio (applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP, TE-48571B-0) under the Endangered Species Act of 1973, as amended (Act). The requested permit would authorize incidental take of nine federally listed species in Bexar County and the City of San Antonio. The applicants have completed a draft Habitat Conservation Plan, referred to as the Southern Edwards Plateau (SEP dHCP), as part of the application package. The Service also announces the availability of a draft Environmental Impact Statement (dEIS), which has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA). We are making the permit application package, including the SEP dHCP and dEIS, available for public review and comment.

DATES: *Submission of Comments:* We will accept comments received or postmarked on or before March 19, 2015. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on these actions.

Public Meetings: The Service will hold public meetings during the public comment period. The dates, times, and locations of these meetings will be noticed in local newspapers at least 2 weeks before each meeting and will also be posted on the Web sites <http://www.fws.gov/southwest/es/AustinTexas/> and <http://www.sephcp.com>.

ADDRESSES: *Obtaining SEP dHCP and dEIS for Review:* You may obtain copies of the dEIS and dHCP by going to the Service's Web site at <http://www.fws.gov/southwest/es/AustinTexas/>, the SEP's Web site at <http://www.sephcp.com>, or at the Federal eRulemaking Portal at <http://www.regulations.gov> (Docket Number FWS-R2-ES-2014-0053). Alternatively, you may obtain compact disks with electronic copies of these documents by writing to Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; calling (512) 490-0057; or faxing (512) 490-0974. A limited number of printed copies of the SEP dHCP and dEIS are also available, by request, from the Field Supervisor. Copies of the SEP dHCP and dEIS are also available for public inspection and review at the following locations, by appointment only:

• Department of the Interior, Natural Resources Library, 1849 C St. NW., Washington, DC 20240.

• U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 4012, Albuquerque, NM 87102.

• U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758.

- Department of the Interior, Natural Resources Library, 1849 C St. NW., Washington, DC 20240.
- U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 4012, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758.

Obtaining Incidental Take Permit Application for Review

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4012, Albuquerque, NM 87103.

Submitting Comments

To submit written comments, please use one of the following methods, and note that your comment is in reference to the SEP dHCP and dEIS:

- **Electronically:** Go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R2-ES-2014-0053.
- **U.S. Mail:** Public Comments Processing, Attn: FWS-R2-ES-2014-0053; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

• **Public Meetings:** We will also accept written or oral comments at the public meetings (see **DATES**).

We request that you submit comments by only the methods described above. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Availability of Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S.

Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; (512) 490-0057 (telephone).

SUPPLEMENTARY INFORMATION: Bexar County and the City of San Antonio (applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP, TE-48571B-0) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; Act). The requested permit, which would be in effect for a period of 30 years, if granted, would authorize incidental take of the following federally listed species: Golden-cheeked warbler (*Setophaga [=Dendroica] chrysoparia*) (GCWA), black-capped vireo (*Vireo atricapilla*) (BCVI), Government Canyon Bat Cave spider (*Neoleptoneta microps*), Madla Cave meshweaver (*Cicurina madla*), Braken Cave meshweaver (*Cicurina venii*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), *Rhadine exilis* (no common name), *Rhadine infernalis* (no common name), and Helotes mold beetle (*Batrisesodes venyivi*) (collectively, covered species).

Incidental take would be covered in Bexar County and the City of San Antonio, including current and future portions of the City's extra-territorial jurisdiction (ETJ), which currently extends outside of Bexar County into Comal, Medina, and Kendall Counties. However, the City is projected to expand into Bandera County in the future. Therefore, the permit area—*i.e.*, where incidental take will be permitted—includes Bexar County and those portions of the City's ETJ that do/ will expand into Medina, Kendall, and Bandera Counties over the life of the permit. While the ETJ currently extends into Comal County, incidental take will not be covered other than on preserves, since Comal County has its own habitat conservation plan (HCP).

Covered activities include construction, use, and/or maintenance of land development projects; farm and ranch improvements; commercial or industrial projects; construction, maintenance, or improvement of public infrastructure; installation and/or maintenance of utility infrastructure; construction, use, maintenance and/or expansion of quarries, gravel mining, or other similar extraction projects; and any activities necessary to manage habitat for the covered species that could temporarily result in incidental take. The applicants have completed a draft Habitat Conservation Plan, referred to as the Southern Edwards Plateau (SEP dHCP), as part of the application package.

The Service also announces the availability of a draft Environmental Impact Statement (dEIS), which has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*; NEPA). We are making the permit application package, including the dHCP and dEA, available for public review and comment.

Background

We initially prepared a notice of intent (NOI) to prepare an EIS, which was published in the **Federal Register** on April 27, 2011 (76 FR 23619). We also held public scoping meetings in connection with the applicants' requested permit. A summary of comments provided during the 2011 scoping period, which included public meetings held June 6, 2011, in Bandera, Texas; June 7, 2011, Boerne, Texas; June 9, 2011, Blanco, Texas; June 13, 2011, Kerrville, Texas; and June 14, 2011, Helotes, Texas, are available on the Service's Web site at <http://www.fws.gov/southwest/es/AustinTexas/> and on the applicants' Web site at <http://www.sephcp.com> (Appendix F of the dEIS).

Proposed Action

The proposed action, involves the issuance of an ITP by the Service for the covered activities in the permit area, pursuant to section 10(a)(1)(B) of the Act. The ITP would cover "take" of the covered species associated with public and private projects occurring within the permit area.

The requested term of the ITP is 30 years. To meet the requirements of a section 10(a)(1)(B) ITP, the applicants developed and propose to implement the SEP dHCP, which describes the conservation measures the applicants have agreed to undertake to minimize and mitigate for the impacts of the proposed incidental take of the covered species to the maximum extent practicable, and ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild.

Section 9 of the Act and its implementing regulations prohibit "take" of fish and wildlife species listed as threatened or endangered under section 4 of the Act. However, section 10(a)(1)(B) of the Act authorizes us to issue permits to take listed wildlife species where such take is incidental to, and not the purpose of, otherwise lawful activities and where the applicant meets certain statutory requirements.

Alternatives

Four alternatives to the proposed action we are considering as part of this process are:

1. *No Action Alternative.* Under the No Action Alternative, Bexar County and the City of San Antonio would not seek, and the Service would not issue, an ITP. Under this alternative, compliance with the Act would continue to occur only on an individual basis through project-specific consultations with the Service. Local governments, business entities, private landowners, and others would independently determine whether or not ESA compliance is necessary for a particular project and, if needed, would work with the Service to obtain authorization for incidental take. Each independent consultation would require an analysis of the incidental take and impacts to listed species, the identification and implementation of appropriate and practicable mitigation measures, and the preparation of appropriate documentation to support the permitting action.

Mitigation requirements would be individually negotiated with the Service on the basis of the level of impact to listed species and the conservation value of the mitigation options and opportunities available to the individual applicant. Possible forms of mitigation could include on-site preservation of habitat, acquisition of off-site preserve lands, or purchase of conservation credits from an independent conservation bank. With the exception of conservation bank credit purchases, it is likely that many preserve lands offered as mitigation for individual projects would be relatively small, isolated, and/or widely distributed across the region.

2. *Ten-Percent Participation Alternative.* The 10-Percent Participation Alternative would be a regional HCP that is sized to address only 10 percent of the anticipated future habitat losses for the covered species over the next 30 years within the permit area. Therefore, this alternative would request substantially less incidental take authorization for the covered species and would (at full implementation) result in proportionately less conservation within the plan area. With a smaller plan, the overall estimated costs for implementation would be less than one-half of the estimated cost to implement the proposed SEP dHCP. However, since there would be fewer participants paying fees to use the plan, a larger portion of the revenue needed for implementation of this alternative would require more public funding.

3. *Single-County Alternative.* The Single-County Alternative would essentially be limited to the extent of the permittees' jurisdictions. This would include both incidental take coverage and mitigation. It is assumed that the plan area for the Single-County Alternative would include Bexar County and the area within 10 miles outside of Bexar County (which would be generally sufficient to accommodate the City of San Antonio's current extra-territorial jurisdiction and possible future expansions). As habitat for the covered species within Bexar County only occurs in the northwest half of the county, the plan area for this alternative is still roughly equivalent to the geographic area of a single central Texas county.

Since all mitigation would occur in the vicinity of San Antonio, the price of land is substantially higher compared to more rural parts of the plan area. This alternative assumes that approximately 75 percent of the GCWA and BCVI preserve lands would be acquired in relatively "suburban" areas, and approximately 25 percent of the land would be acquired in relatively rural areas. This distribution of preserve lands would have a significant impact on the method of acquisition (fee simple vs. easement), the anticipated cost for acquisition, and the costs to manage suburban preserves compared to rural preserves. This alternative could cost nearly twice as much overall to implement over 30 years compared to the proposed alternative.

4. *Increased Mitigation Alternative.* The Increased Mitigation Alternative would implement recommendations passed by the SEP HCP's Biological Advisory Team (BAT) pertaining to mitigation for the GCWA and the karst invertebrates (BCVI mitigation would be the same as the Proposed Alternative). These recommendations were also strongly favored by many members of the Citizens Advisory Committee (CAC).

The BAT passed a recommendation calling for impacts to GCWA habitat within Bexar County to be mitigated at a 3:1 ratio (*i.e.*, 3 acres of habitat protected for each acre of direct habitat loss) and that at least 60 percent of that mitigation be placed within Bexar County or within 5 miles outside of Bexar County. The BAT also passed a recommendation that the karst preserve system be sized to achieve roughly twice the level of conservation specified by the Service's downlisting criteria for the karst invertebrates. For the purpose of modeling this alternative, it is assumed that all of the incidental take of the GCWA requested by the Permittees would be mitigated at a 3:1

ratio and that 60 percent of the GCWA preserve system would be acquired in relatively suburban parts of the Plan Area, with the remaining preserve lands acquired in rural areas. This recommendation is modeled as a requirement to acquire approximately 2,000 acres of recovery-quality karst preserves over 30 years, with at least two high-quality (100 acres each) and four medium-quality preserves (50 acres each) created in each of the five regions where the karst invertebrates occur.

Similar to the Single-County Alternative, this Increased Mitigation Alternative requires the acquisition of a large portion of the preserve system in relatively high-cost suburban or (for the karst preserves) urban areas, which would disproportionately increase the expected preserve acquisition and management costs. This alternative would achieve a higher level of conservation for the GCWA and karst invertebrates, but at a financial cost that would be approximately 275 percent higher than the proposed SEP HCP.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2014-29525 Filed 12-18-14; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R5-ES-2014-0051;
FXES111205000000-156-FF05E00000]

Receipt of an Application for an Incidental Take Permit for Piping Plover, From the Town of Orleans, MA, and Availability of Proposed Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or "we"), announce the availability of an application for an Incidental Take Permit (ITP) and a proposed Habitat Conservation Plan (HCP) from the Town of Orleans (Town) for public review and comment. We received the permit application from the Town for incidental take of the threatened piping plover (*Charadrius melodus*) resulting from the Town's authorization and management of over-sand vehicle (OSV) activities over the next 3 years. Our preliminary determination is that the proposed HCP qualifies as low-effect under our final Handbook for Habitat Conservation Planning and Incidental Take Permitting Process. To make this determination, we used our Low-Effect HCP Screening Form/Environmental Action Statement (EAS), the preliminary version of which is also available for review.

We provide this notice to (1) seek public comments on the proposed HCP and application; (2) seek public comments on our preliminary determination that the HCP qualifies as low-effect and is therefore eligible for a categorical exclusion under the National Environmental Policy Act (NEPA); and (3) advise other Federal and State agencies, affected Tribes, and the public of our intent to issue an ITP.

DATES: To ensure consideration, we must receive your written comments by January 20, 2015.

ADDRESSES: Written comments may be submitted electronically by any one of the following methods:

Electronically: www.regulations.gov. Follow the instructions for submitting comments on Docket No. FWS-R5-ES-2014-0051.

U.S. mail: Public Comments Processing, Attn: FWS-R5-ES-2014-0051; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, Virginia 22041-3803.

FOR FURTHER INFORMATION CONTACT: Susi vonOettingen, by U.S. mail at U.S. Fish



News Release

Public Affairs Office
PO Box 1306
Albuquerque, NM 87103
505/248-6911
505/248-6915 (Fax)

Southwest Region (Arizona • New Mexico • Oklahoma • Texas) <http://southwest.fws.gov>

For Release: January 20, 2015

Contacts: Adam Zerrenner, 512-490-0057, ext. 248, adam_zerrenner@fws.gov
Lesli Gray, 972-569-8588, lesli_gray@fws.gov

Public Meetings Scheduled on the Southern Edwards Plateau draft Habitat Conservation Plan and draft Environmental Impact Statement

The U.S. Fish and Wildlife Service (Service), in cooperation with the City of San Antonio and Bexar County will conduct public meetings in Helotes, Texas and Kerrville, Texas, to obtain comments on the Southern Edwards Plateau draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS) and an incidental take permit application.

The Southern Edwards Plateau dHCP outlines conservation actions designed to ensure that development occurring in one of the most rapidly growing areas of the country will not jeopardize the survival of the golden-cheeked warbler, black-capped vireo, Government Canyon Bat Cave spider, Madla Cave meshweaver, Braken Cave meshweaver, Government Canyon Bat Cave Meshweaver, Helotes mold beetle, and two ground beetle species, each of which has no common name (*Rhadine exilis* and *Rhadine infernalis*).

The dHCP and associated permit would cover lands within Bexar County and the City of San Antonio's extra-territorial jurisdictional boundaries. If the permit is approved, the Service would authorize the incidental take of the nine federally listed species for a period of 30 years.

Public meetings are scheduled for 5:00 p.m. – 7:00 p.m. at each location. The dates and locations for the public meetings are:

Tuesday, February 3rd
Casa Helotes Senior Center
12070 Leslie Road
Helotes, Texas 78023

Wednesday, February 4th
YO Ranch Conference Center
2033 Sidney Baker
Kerrville, Texas 78028

Public meetings will consist of an Open House/Exhibit Review that will provide the public an opportunity to view the dHCP, dEIS, and exhibits and to learn more about the proposed action, permit area, and species covered. A presentation of the proposed action and summary of the National Environmental Policy Act (NEPA) process will be provided beginning at 5:30 p.m. The public is invited to provide written or oral comments in an informal, open-house setting until 7:00 p.m.

The Service encourages the public to review and provide comments on the documents during the 90-day public comment period. Written comments must be received by March 19, 2015.

Information on how to obtain or review copies of these documents, or how to provide comments can be found at <http://www.fws.gov/southwest/es/AustinTexas/>.

America's fish, wildlife, and plant resources belong to all of us, and ensuring the health of imperiled species is a shared responsibility. We're working to actively engage conservation partners and the public in the search for improved and innovative ways to conserve and recover imperiled species.

The U.S. Fish and Wildlife Service works with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. For more information, visit www.fws.gov, or connect with us through any of these social media channels:



-FWS-

<http://www.fws.gov/southwest/>

NOTICE OF PUBLIC MEETINGS

Source: San Antonio Express-News

Category: Legal & Public Notices

<http://mysa.kaango.com/ads/viewad?adid=23543742>

Ad Details:

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| Ad ID: | 23543742 |
| Created: | Jan 18, 2015 |
| Expires: | Jan 31, 2015 |

NOTICE OF PUBLIC MEETINGS The U.S. Fish and Wildlife Service will conduct two public meetings regarding the publication of the draft Environmental Impact Statement (EIS) for the Southern Edwards Plateau Regional Habitat Conservation Plan (SEP-HCP) and the final draft of the SEP-HCP. The EIS evaluates the impacts of, and alternatives to, the proposed issuance of an incidental take permit under the Endangered Species Act to the applicants, Bexar County and the City of San Antonio. The proposed plan area allows for potential preserve areas in Bexar, Blanco, Medina, Bandera, Kerr, Kendall, and Comal counties. DATE: Tuesday, February 3, 2015 CITY: Helotes LOCATION: Casa Helotes Senior Center 12070 Leslie Road, Helotes, TX 78023 DATE: Wednesday, February 4, 2015 CITY: Kerrville LOCATION: YO Ranch Conference Center 2033 Sidney Baker, Kerrville, TX 78028 Both meetings will include an open house at 5:00 pm with a formal presentation at 6:00 pm, followed by a continuation of the open house until 7:00 pm. The public is invited to provide comments and input. Similar information will be available at both meetings. If you have special communication needs, please contact Christina Williams by telephone at (512) 490-0057 or by email at christina_williams@fws.gov, no later than Monday February 2, 2015 All comments received on or before March 20, 2015 will become part of the public record and considered in the EIS. Comments can be submitted at the meeting, by US Mail to Public Comments Processing, Attn: FWS-R2-ES-2014-0053, Division of Policy Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MS 2042-PDM, Arlington, VA 22203, or online at www.regulations.gov (search for document number FWS-RS-ES-2014-0053 under "Document Type," and click on "Notices" to locate the document and submit a comment. For more information about the draft EIS or the final draft of the SEP-HCP, visit the project website: www.sephcp.com.

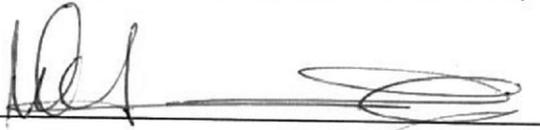
AFFIDAVIT OF PUBLICATION

The State of Texas:
The County of Kerr

I, Mike Graxiola, publisher of the Kerrville Daily Times, a newspaper published in the County of Kerr, State of Texas, do swear that the foregoing and attached citation was Published in Kerrville, Kerr County, Texas, a newspaper of general circulation published regularly in said Kerr County, Texas for more than one year before this date on the following dates wit:

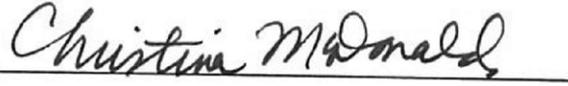
January 18, 2015
_____, 2015
_____, 2015
_____, 2015

A printed copy of said writ as it was published is attached hereto as a part hereof.



Mike Graxiola
Publisher of THE KERRVILLE DAILY TIMES
Kerrville, Kerr County, TX

Sworn to and subscribed before me by the said Mike Graxiola, Publisher of the Kerrville Daily Times, on this the 20 day of January A.D. 2015, to certify which witness my hand and seal of office.



Notary Public,
Kerr County, Texas

PRINTER'S FEE





NOTICE OF PUBLIC MEETINGS

The U.S. Fish and Wildlife Service will conduct two public meetings regarding the publication of the draft Environmental Impact Statement (EIS) for the Southern Edwards Plateau Regional Habitat Conservation Plan (SEP-HCP) and the final draft of the SEP-HCP. The EIS evaluates the impacts of, and alternatives to, the proposed issuance of an incidental take permit under the Endangered Species Act to the applicants, Bexar County and the City of San Antonio. The proposed plan area allows for potential preserve areas in Bexar, Blanco, Medina, Bandera, Kerr, Kendall, and Comal counties.

| DATE | CITY | LOCATION |
|--------------------------------|-----------|--|
| Tuesday, February 3, 2015 | Helotes | Casa Helotes Senior Center 12070 Leslie Road, Helotes, TX 78023 |
| Wednesday, February 4, 2015 | Kerrville | YO Ranch Conference Center 2033 Sidney Baker, Kerrville, TX 78028 |

Both meetings will include an open house at 5:00 pm with a formal presentation at 6:00 pm, followed by a continuation of the open house until 7:00 pm. The public is invited to provide comments and input. Similar information will be available at both meetings. *If you have special communication needs, please contact Christina Williams by telephone at (512) 490-0057 or by email at christina_williams@fws.gov, no later than Monday February 2, 2015*

All comments received on or before March 20, 2015 will become part of the public record and considered in the EIS. Comments can be submitted at the meeting, by US Mail to Public Comments Processing, Attn: FWS-R2-ES-2014-0053, Division of Policy Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MS 2042-PDM, Arlington, VA 22203, or online at www.regulations.gov (search for document number FWS-RS-ES-2014-0053 under "Document Type," and click on "Notices" to locate the document and submit a comment. For more information about the draft EIS or the final draft of the SEP-HCP, visit the project website: www.sephcp.com.



Endangered Black-capped Vireo

**BEXAR COUNTY
INFRASTRUCTURE
SERVICES DEPARTMENT**

PROGRAM CONTACT—Andrew Winter
Bexar County Environmental Engineer
233 N. Pecos, Suite 420
San Antonio, TX 78207

Phone: 210-335-6487
Fax: 210-335-6713
E-mail: awinter@bexar.org



My County Commissioners passed a resolution to “opt out” of the SEP-HCP, so why does the Plan Area include my county?

The SEP-HCP will not create any new regulations or restrictions, nor will it provide Bexar County or the City of San Antonio with any new land use or zoning authority over private landowners or other governmental entities in Bexar County or any other county.

The SEP-HCP is simply a voluntary tool to help people achieve compliance with the ESA and to leverage resources for achieving conservation at a regionally significant scale.

Bexar County and the City of San Antonio believe that the SEP-HCP’s Plan Area is needed to achieve the biological goals of the Plan. Taking a regional approach to conservation opens up more opportunities for the Plan to contribute in a meaningful and lasting way to the recovery of the region’s endangered species.

Participation in the SEP-HCP will be entirely voluntary for people seeking to comply with the ESA and for people wishing to become a SEP-HCP conservation partner.

Anyone, including private landowners or other local governments, wishing to use the SEP-HCP for ESA compliance must specifically request to enroll in the Plan. Neither Bexar County nor the City of San Antonio will require or otherwise compel any landowner, developer, local governmental entity, or any other person to participate in the SEP-HCP.

Those wishing to not participate in the SEP-HCP may conduct their activities in a way that does not harm endangered species or may seek other options for ESA compliance, such as consulting individually with the Service.



Photo from Deirdre Hisler, TPWD
Government Canyon State Natural Area, Bexar County

What is the status of the SEP-HCP?

Development of the SEP-HCP began in mid-2009, and the plan sponsors (Bexar County and the City of San Antonio) have been working extensively with stakeholder and scientific advisory groups to gain input on what to include in the Plan.

A first draft of the SEP-HCP will be available for review in April 2011 and the final version should be completed by September 2012, subject to approval by the Plan sponsors and the U.S. Fish and Wildlife Service.

How can I learn more about the SEP-HCP?

- Explore the SEP-HCP website at www.sephcp.com
- Sign up for email notices of meetings and other events on the SEP-HCP website.
- Attend meetings of the SEP-HCP advisory committees. Meeting notices, agendas, materials, and minutes are posted on the SEP-HCP website.
- Participate in open public meetings—check the website for upcoming opportunities.
- Contact us with questions or comments at info@sephcp.com

**SOUTHERN EDWARDS
PLATEAU HABITAT
CONSERVATION PLAN**

**INFORMATION &
FREQUENTLY
ASKED QUESTIONS**



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City of San
Antonio

What is the SEP-HCP?

The Southern Edwards Plateau Habitat Conservation Plan (or "SEP-HCP") is an effort by Bexar County and the City of San Antonio to create a program for local administration of certain aspects of the federal Endangered Species Act (the "ESA"). The SEP-HCP will provide an alternative to dealing directly with the U.S. Fish and Wildlife Service for obtaining compliance with endangered species regulations.

The SEP-HCP is intended to simplify compliance with the ESA. Compliance with this existing federal regulation is needed when people conduct activities, such as land development, that would harm endangered species or their habitats. The ESA requires people to perform conservation actions to help offset the harm that may be caused by their actions.

By electing to participate in the SEP-HCP, people will work with the Plan's administrator to determine the level of harm their actions may have on endangered species. Participants in the SEP-HCP would pay a fee to the Plan in proportion to the level of harm their activities may cause. The SEP-HCP will pool these participation fees and use them to protect and manage habitats for the endangered species.

Therefore, by promoting better compliance with the ESA, the SEP-HCP will increase the level of conservation for endangered species and help balance the harmful aspects of habitat loss.

Participation in the SEP-HCP will be entirely voluntary for people seeking to comply with the ESA and for people wishing to become a SEP-HCP conservation partner. In no case will anyone be required to use the SEP-HCP.

What is the reason for the SEP-HCP?

South-central Texas is home to several federally listed threatened or endangered species, including several birds and cave-dwelling spiders and beetles. The ESA prohibits harm to these species, including actions that could impact endangered species habitat.

The presence of endangered species can conflict with the desirable economic growth of communities that share the same area.

In the Greater San Antonio area, such conflicts have received considerable attention in recent years and have been cited as a significant threat to the military's training mission at Camp Bullis. The presence of these military facilities is a key factor contributing to the economic vitality of the region.

Consulting individually with the U.S. Fish and Wildlife Service to achieve compliance with the ESA is often a cumbersome and lengthy process, sometimes taking years to complete. Too often, the burden of compliance leads to a decision to disregard the ESA in favor of risking enforcement action by the Service. Not complying with the ESA means that the corresponding conservation actions for the affected species do not occur.

The SEP-HCP will simplify, streamline, and shorten the process of achieving ESA compliance, thereby reducing regulatory uncertainty for voluntary SEP-HCP participants and increasing the level of conservation for the region's natural resources.



Photo by Jennifer Blair, Loomis Partners
Endangered Golden-cheeked Warbler

Can I participate in the SEP-HCP?

Endangered species conservation and economic development are both issues with regional implications. Therefore, the SEP-HCP has a regional scope that includes a 7-county Plan Area.

Subject to certain limitations, people within the Plan Area may choose to use the SEP-HCP to comply with the ESA when their actions would harm one or more of the Plan's covered species. However, **in no case will anyone be required to use the SEP-HCP.**

Each individual has the responsibility to decide whether or not to seek compliance with the ESA. The SEP-HCP is only one option for achieving compliance and people may choose which option best suits their needs and circumstances. Other options include implementing activities in such a way as to avoid harming an endangered species or by seeking individual authorization from the Service.

The SEP-HCP will also seek partnerships with landowners in the Plan Area to protect endangered species habitat. Again, the SEP-HCP will seek conservation opportunities **only from willing landowners**. The SEP-HCP will not require any landowner to provide lands for conservation.

7-County Plan Area

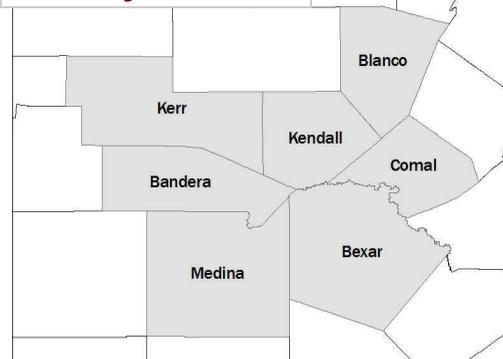


Photo by Jean Krejca, Zara Environmental

Endangered Karst Beetle

Which species does the SEP-HCP cover?

Golden-cheeked Warbler – This endangered migratory songbird uses relatively mature and closed-canopy juniper-oak woodlands in central Texas as breeding habitat during the spring and early summer months. The species was listed as federally endangered on May 4, 1990.

Black-capped Vireo – Another endangered migratory bird that utilizes a range of deciduous shrub habitats across central Texas during its breeding season in the spring and summer months. The vireo was listed as federally endangered on November 5, 1987.

9 Karst Invertebrates – A group of nine cave-adapted invertebrates including five spiders, three beetles, and one harvestman. These species live entirely underground in the limestone caves and passages of the karst geologic formations that underlie the northern part of Bexar County. These species were federally listed as endangered on December 26, 2000.



Photo by Jean Krejca, Zara Environmental

Endangered Karst Spider



Bexar County Environmental Services

**233 North Pecos La Trinidad, Suite 420, San Antonio, Texas 78207
(210) 335-6700 Office (210) 335-6713 Fax**

- The Southern Edwards Plateau Habitat Conservation Plan (or "SEP-HCP") is an effort by Bexar County and the City of San Antonio to obtain a regional permit allowing the community to more easily comply with the Federal Endangered Species Act
- The SEP-HCP is needed because south-central Texas is home to several federally threatened or endangered species, including some birds, plants, and cave-dwelling spiders and beetles.
- The presence of threatened or endangered species can conflict with or complicate the desirable economic growth of communities that share the same area. For example, in the San Antonio area, endangered species issues in the vicinity of Camp Bullis have affected the military training mission at this installation.
- The SEP-HCP is intended to simplify, streamline, and shorten the process of getting an Endangered Species Act permit from US Fish and Wildlife Service, thereby improving compliance with this existing federal regulation and increasing the level of conservation for the region's threatened and endangered species.
- Preparation of the SEP-HCP involves a public process, whereby citizens are encouraged to attend and participate in open meetings of the advisory committees and other public meetings. Information on the progress of the plan is regularly posted on the SEP-HCP website (www.sephcp.com).
- Participation in the SEP-HCP will be voluntary for those that own land or conduct business within the plan area.
- The SEP-HCP is currently under development and Bexar County anticipates that it will be submitted to US Fish and Wildlife Service by September 2011.
- The SEP-HCP website (www.sephcp.com) is the best place to find information about the plan. The website is regularly updated with meeting announcements, status updates, and the minutes and materials from committee meetings. The website also includes a place to post comments, contains contact information for project managers, and has a form to sign up for email announcements.

BACK-UP INFORMATION

What is the Southern Edwards Plateau Habitat Conservation Plan?

The Southern Edwards Plateau Habitat Conservation Plan (or "SEP-HCP") is an effort by Bexar County and the City of San Antonio to create a program for local administration of certain aspects of the federal Endangered Species Act. The SEP-HCP is intended to make the Endangered Species Act (or "ESA") easier to comply with by simplifying the process for obtaining a permit to harm endangered species during the course of otherwise lawful activities, such as public and private-sector land development. The SEP-HCP also includes a conservation plan that will help protect threatened and endangered species on an ecologically significant, regional scale. Participation in the program will be entirely voluntary, either to comply with the Endangered Species Act or become a conservation partner.

Why is the SEP-HCP needed?

South-central Texas is home to several federally threatened or endangered species, including some birds, plants, and cave-dwelling spiders and beetles. The Endangered Species Act prohibits harm to listed species, including actions that could impact endangered species habitat.

The presence of threatened or endangered species can conflict with or complicate the desirable economic growth of communities that share the same area. For example, in the San Antonio area, endangered species issues in the vicinity of Camp Bullis (in combination with other land use conflicts) have affected the military training mission at this installation. A withdrawal of the military from San Antonio could have wide-spread and potentially devastating effects on the regional economy.

Recognizing the need to allow communities and economies to flourish, the Endangered Species Act includes provisions that allow harm to endangered species at a project site in return for conservation actions that benefit those species elsewhere. The U.S. Fish and Wildlife Service (FWS) administers a permitting program that authorizes "incidental take" of endangered species for applicants that implement an approved Habitat Conservation Plan. The Habitat Conservation Plan describes conservation measures that the applicant will implement to compensate for the harm to threatened or endangered species caused by the applicant's activities.

The process to prepare a Habitat Conservation Plan and obtain an incidental take permit from the FWS can be cumbersome and lengthy, sometimes taking two or more years to complete. For someone seeking to comply with the Endangered Species Act, this process can have a serious impact on their ability to conduct otherwise lawful activities on their property. Too often, the burden of compliance leads to a decision to disregard the Endangered Species Act in favor of risking enforcement action by the Service. Non-compliance with the Endangered Species Act means that corresponding conservation actions for the affected species do not occur.

The SEP-HCP is intended to simplify, streamline, and shorten the process of getting an Endangered Species Act permit, thereby improving compliance with this existing federal regulation and increasing the level of conservation for the region's threatened and endangered species.

Who is involved with preparing the SEP-HCP?

Bexar County and the City of San Antonio combined local funds with a grant from the U.S. Fish and Wildlife Service to prepare a regional Habitat Conservation Plan and develop a process for local administration of an Endangered Species Act incidental take permit. Bexar County is taking the lead role in preparing the SEP-HCP and has assembled two advisory committees to assist with crafting the plan.

The Citizens Advisory Committee (or "CAC") represents a variety of community and stakeholder interests, including rural landowners, developer and business groups, environmental organizations, and local government and utility representatives. Members of the CAC represent stakeholders in each of the counties included in the SEP-HCP plan area. The CAC is charged with providing guidance on the overall goals and objectives of the plan, the preferred alternatives for various components of the plan, and the form and level of conservation that the plan should provide.

The Biological Advisory Team (or "BAT") is composed of species, conservation, and land management experts. The BAT is charged with assisting in the calculation of the amount of harm to endangered species from the activities covered by the plan, the size and configuration of any endangered species preserves, and providing input on other biological aspects of the plan.

Preparation of the SEP-HCP is a public process, whereby citizens are encouraged to attend and participate in open meetings of the advisory committees and other public meetings. Information on the progress of the plan is regularly posted on the SEP-HCP website (www.sephcp.com). The public is encouraged to submit comments on the plan at any time via the project website, email to project managers and committee chairpersons, and comments at open meetings. The public will also be invited to review and comment on drafts of the plan, as they become available.

Bexar County has also obtained the assistance of environmental consultants and independent legal counsel to navigate the permitting process and prepare the plan documents.

Who will be affected by the SEP-HCP?

Based on recommendations from the SEP-HCP advisory committees, the area that will be covered by the plan includes 7 counties: Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal counties. These counties were included in the plan area since they are each affected by the San Antonio economy and include a similar suite of endangered species and habitats.

Participation in the SEP-HCP will be voluntary for those that own land or conduct business within the 7-county SEP-HCP plan area. Landowners, developers, local governments, utility service providers, and other non-federal entities may elect to participate in the plan in one of two ways. Non-federal entities may choose to use the SEP-HCP to achieve compliance with the Endangered Species Act by paying a mitigation fee to the plan that will be pooled with fees collected from other participants and used to implement conservation measures for endangered species within the plan area. Willing landowners who wish to become a conservation partner in the plan would be eligible to negotiate a conservation easement or sale

of land (funded in part by the mitigation fees collected from plan participants) as a habitat preserve for one or more of the endangered species covered by the SEP-HCP.

It is also likely that some amount of public funds will be needed to help implement the plan; however, the availability of any such public funding will be subject to the approval of each local government seeking to be involved as a formal partner in the plan.

What is the status of the SEP-HCP and when will the plan go into effect?

The SEP-HCP is currently under development and must be submitted to FWS by September 2012.

Bexar County and its advisory committees are currently evaluating alternatives for the conservation program. To-date, the advisory committees have provided recommendations to Bexar County on several aspects of the SEP-HCP, including the extent of the plan area, the species covered by the plan, the types of activities that will be covered by the plan, and a set of general goals and objectives for the plan (see file SEPHCP_General_Conservation_Strategy_Proposal_20100727_draft.doc). The committees are currently considering recommendations for the amount of incidental take to authorize through the plan, the mitigation that will be needed to compensate for impacts to endangered species, the processes for evaluating the effects of participating projects, and standards for the acquisition and management of endangered species preserves. Future topics of discussion for the committees will include considering alternatives for how the plan is administered and funded.

A first draft of the plan is expected to be completed next spring (April 2010) and the final draft of the plan is expected to be submitted to the U.S. Fish and Wildlife Service next fall (September 2011). However, this schedule may change as the process unfolds.

How can the public participate in the formation of the SEP-HCP?

The SEP-HCP website (www.sephcp.com) is the best place to find information about the plan. The website is regularly updated with meeting announcements, status updates, minutes and materials from committee meetings, and draft committee recommendations and other planning documents. The website also includes a place to post comments, and contact information for project managers, and a form to sign up for email announcements. Interested parties can also register through the web site for email notification of scheduled meetings and recent developments.

The public is encouraged to attend the open meetings of the CAC and BAT to hear the discussions and provide comments on the planning process and components of the conservation program. Meetings of the advisory committees are posted on the SEP-HCP website and announced through the project's email distribution list. If you can not attend the meetings in person, brief meeting summaries are posted on the SEP-HCP website homepage shortly after each meeting, and detailed meeting minutes are posted on the Committees page once they are approved by the committee.

The public will also be invited to participate in formal public meetings and comment periods on the scope and content of the plan. These opportunities will also be announced on the SEP-HCP website, through the email distribution list, and by notices published in local newspapers.

Links to additional information:

- SEP-HCP website homepage: www.sephcp.com
 - o Current events and project history: <http://www.sephcp.com/news.html>
 - o Committee meeting agendas, materials, and approved minutes:
<http://www.sephcp.com/committees.html>
 - o Draft plan documents, committee recommendations, and other reports:
<http://www.sephcp.com/documents.html>
 - o Contact information: <http://www.sephcp.com/contact.html>
- U.S. Fish and Wildlife Service and the Endangered Species Act:
<http://www.fws.gov/endangered/>
 - Habitat Conservation Planning: <http://www.fws.gov/endangered/what-we-do/hcp-overv>



**Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement - Public Meetings
February 3 and 4, 2015**

Instructions for Submitting Comments after the Meeting

After tonight's meeting, comments on the draft Environmental Impact Statement may be submitted via U.S. mail or online. Comments must be post-dated **on or before March 19, 2015** to become part of the public record and considered in the final Environmental Impact Statement.

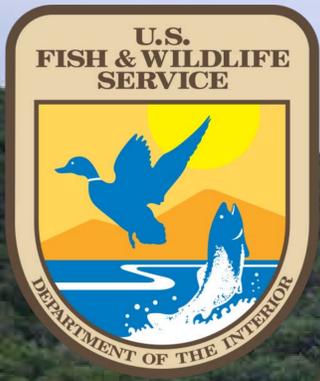
Comments submitted by U.S. Mail:

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive
MS 2042-PDM
Arlington, VA 22203

Comments submitted Online:

- Go to website: www.regulations.gov
- Search for document number **FWS-RS-ES-2014-0053** under "Document Type"
- Click on "Notices" to locate the draft Environmental Impact Statement and to submit a comment.

For more information about the draft Environmental Impact Statement or the final draft Southern Edwards Plateau Habitat Conservation Plan, please visit the project website: www.sephcp.com.



WELCOME to the

Southern Edwards Plateau Habitat Conservation Plan Environmental Impact Statement Public Meetings

February 3, 2015
Helotes, TX

February 4, 2015
Kerrville, TX

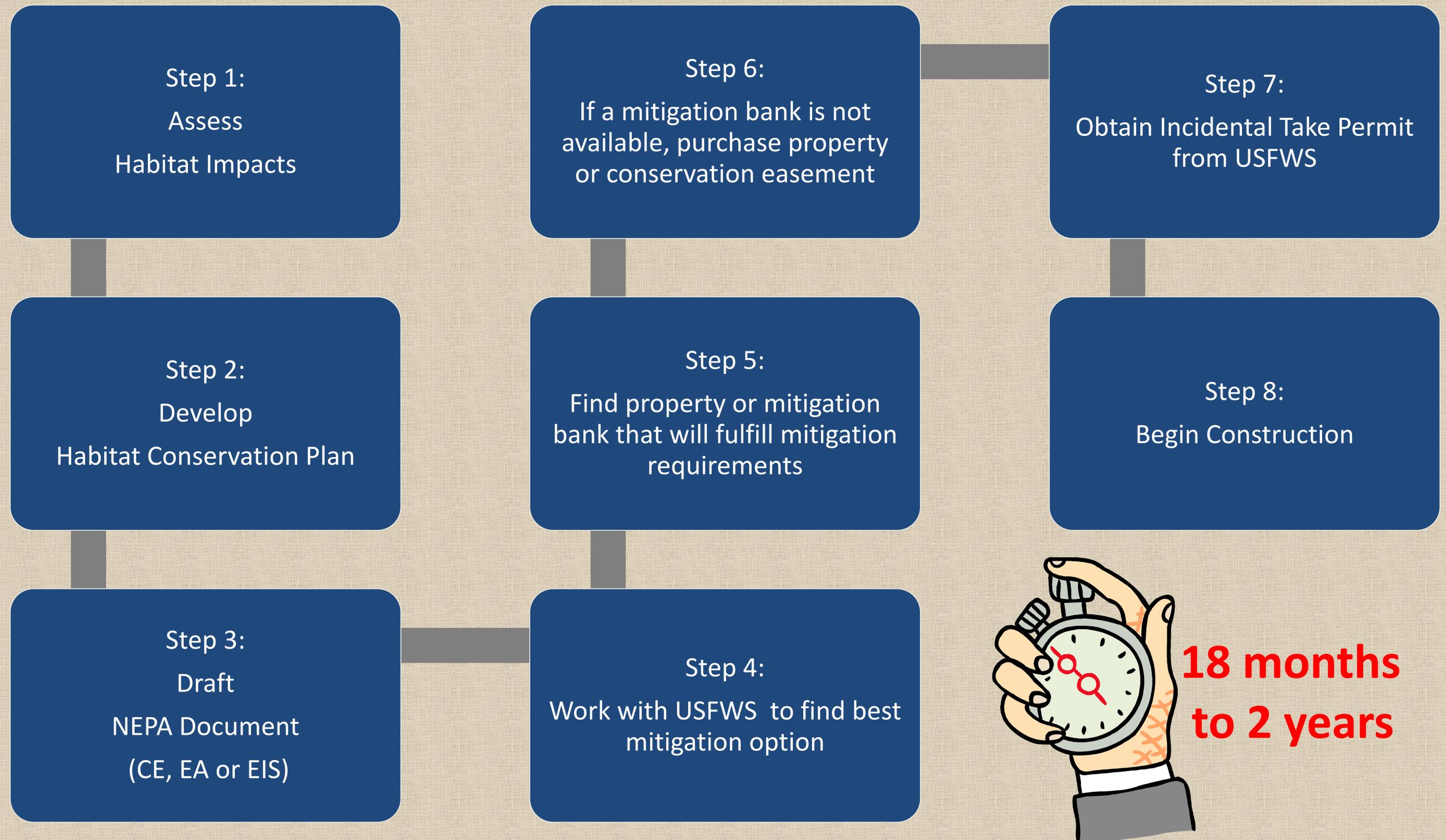
Why are we here tonight?

- Provide an overview of the federal:
 - Endangered Species Act
 - Section 10 Permitting Process
 - National Environmental Policy Act (NEPA)
- Provide an overview of the draft Environmental Impact Statement (dEIS)
- Present the Final Draft Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP)
- Explain Next Steps



USFWS Permitting Process*

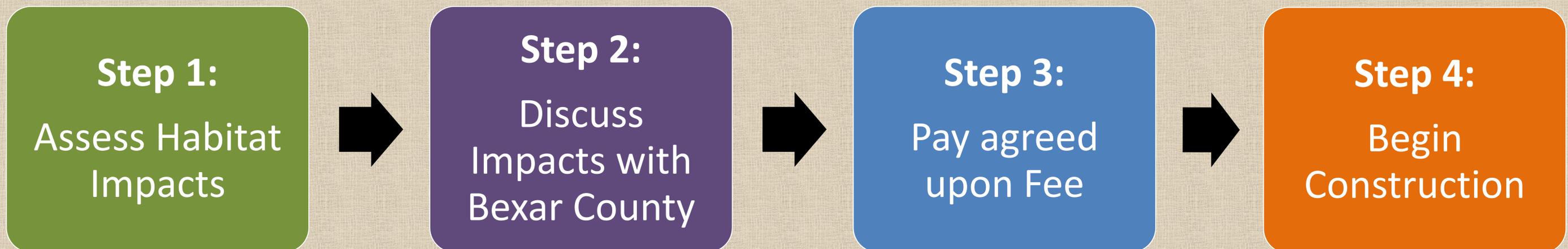
without a Regional Habitat Conservation Plan



*Endangered Species Act Section 10 Permit Process (Individual Non-Federal Projects)

USFWS Permitting Process with a Regional Habitat Conservation Plan

- Simplified, locally managed and voluntary option to comply with the Endangered Species Act
- Permits incidental take of endangered species habitat

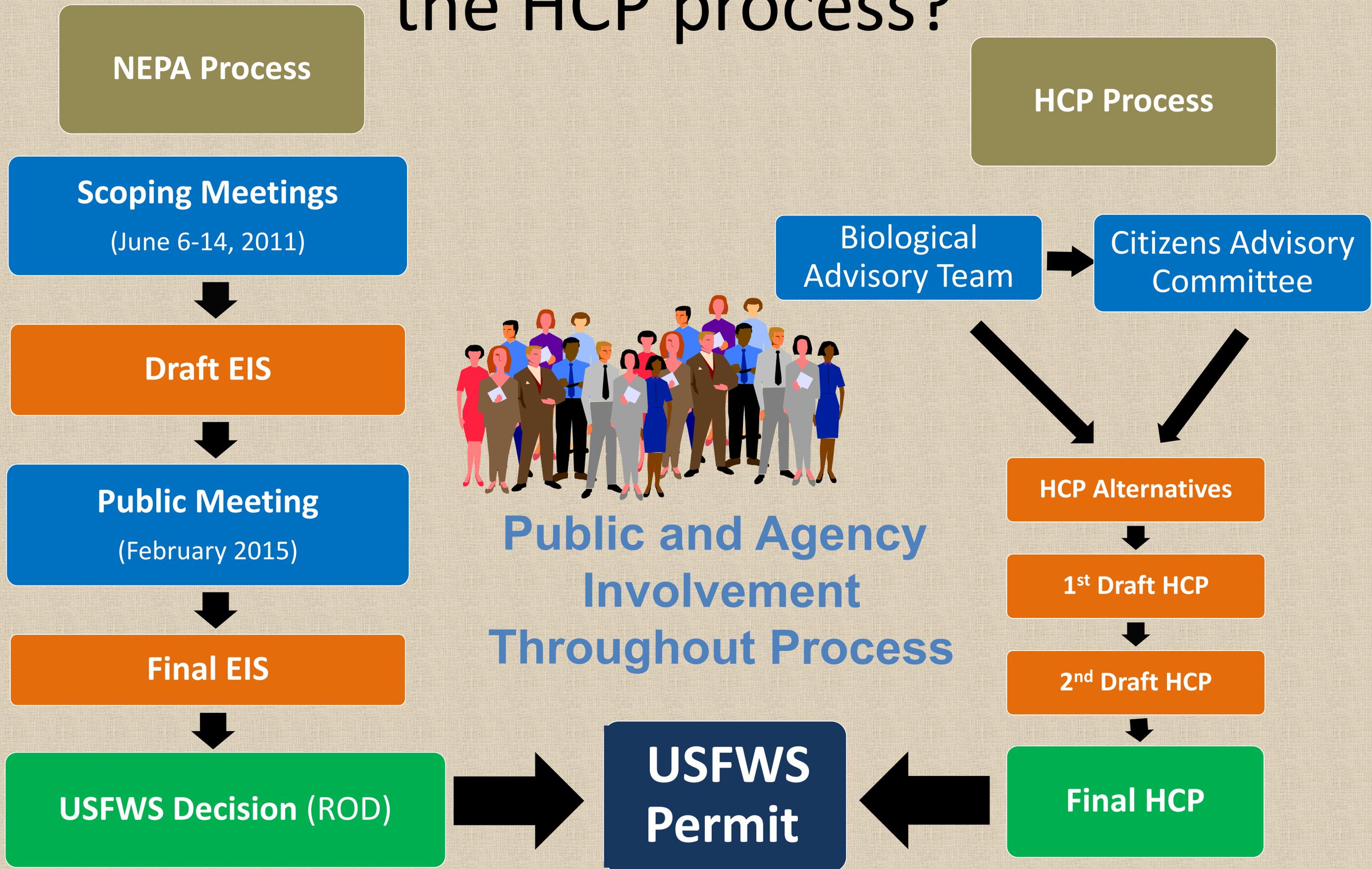


Saves Time and Money



1 month

How does the NEPA process relate to the HCP process?



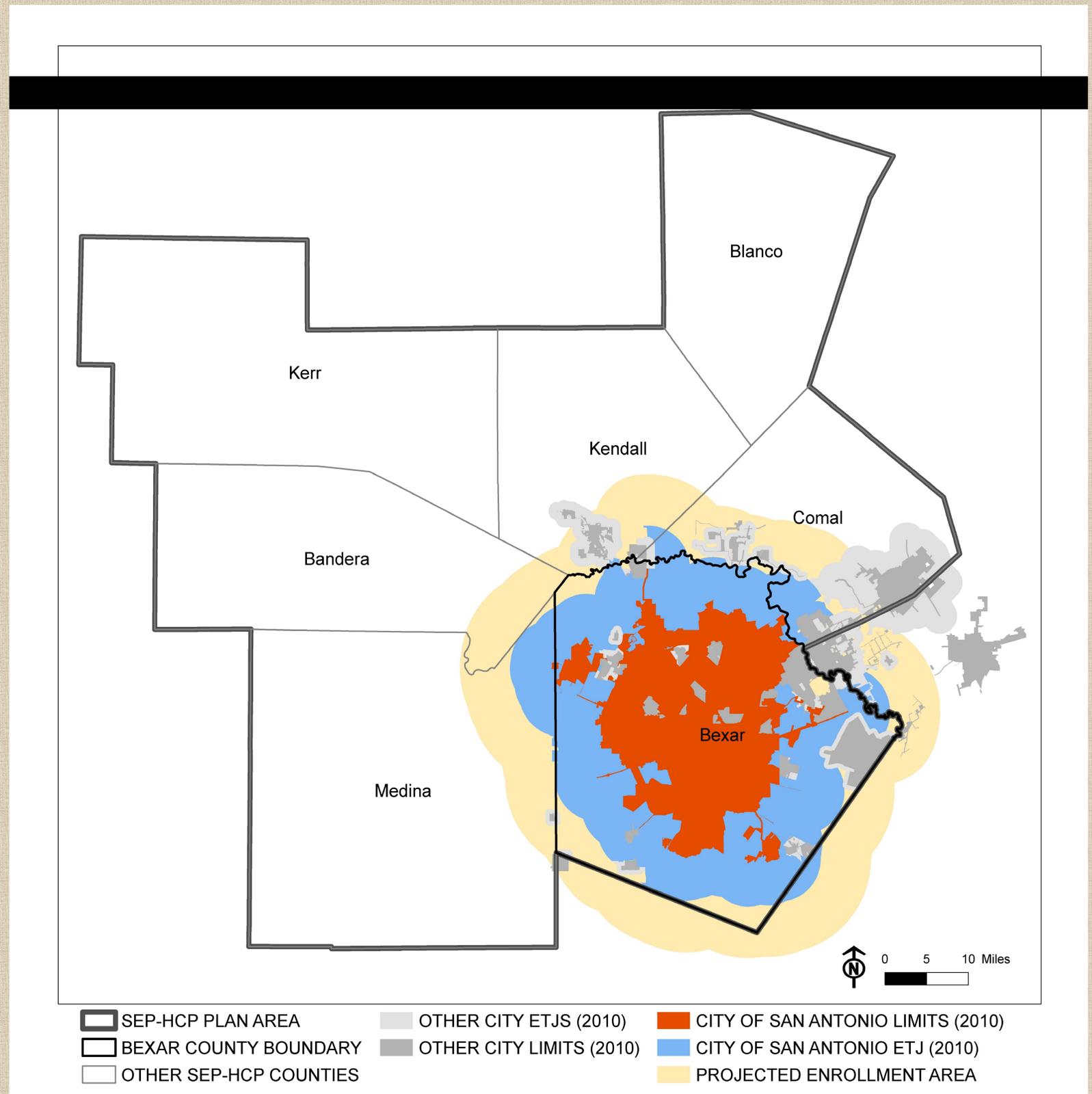
SEP-HCP Plan Area & Enrollment Area

Plan Area:

- 7-County Region

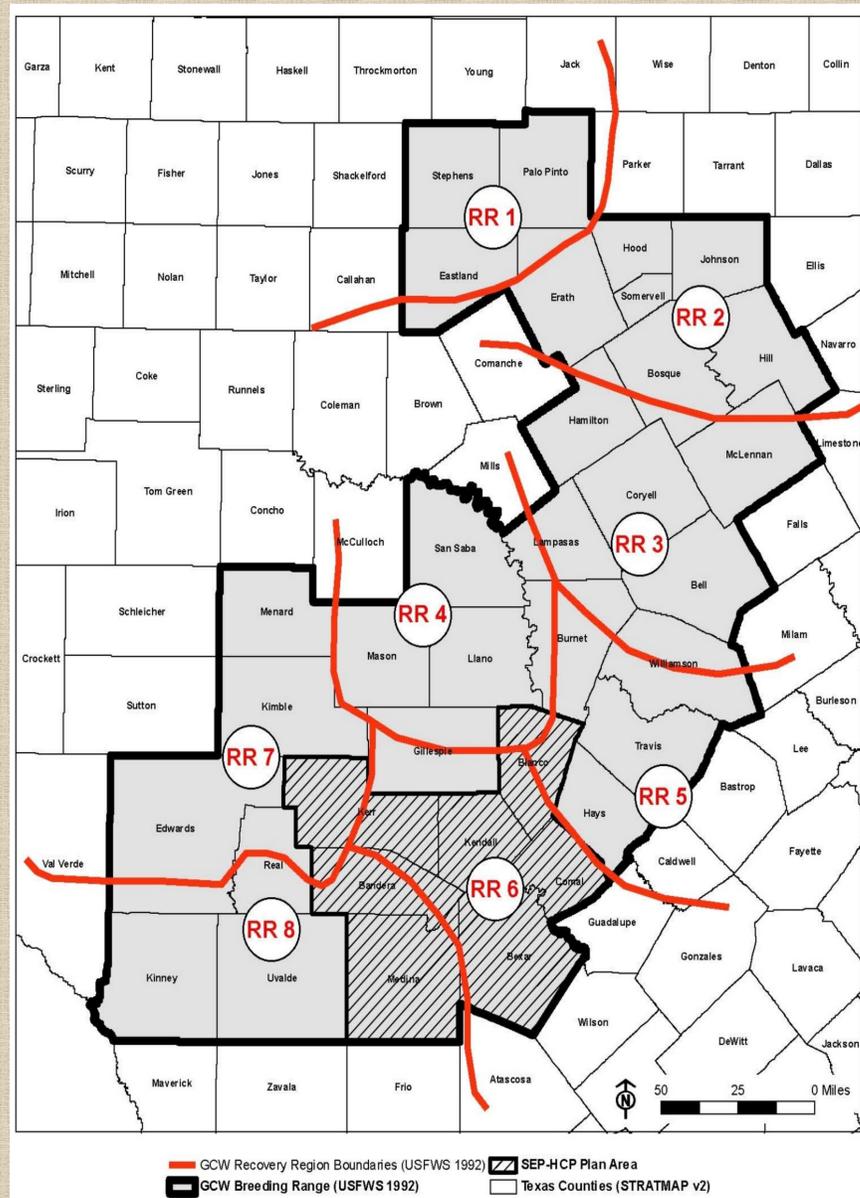
Enrollment Area:

- Bexar County
- City of San Antonio
- San Antonio's 30 year ETJ
- Excludes Comal County and counties outside the Plan Area

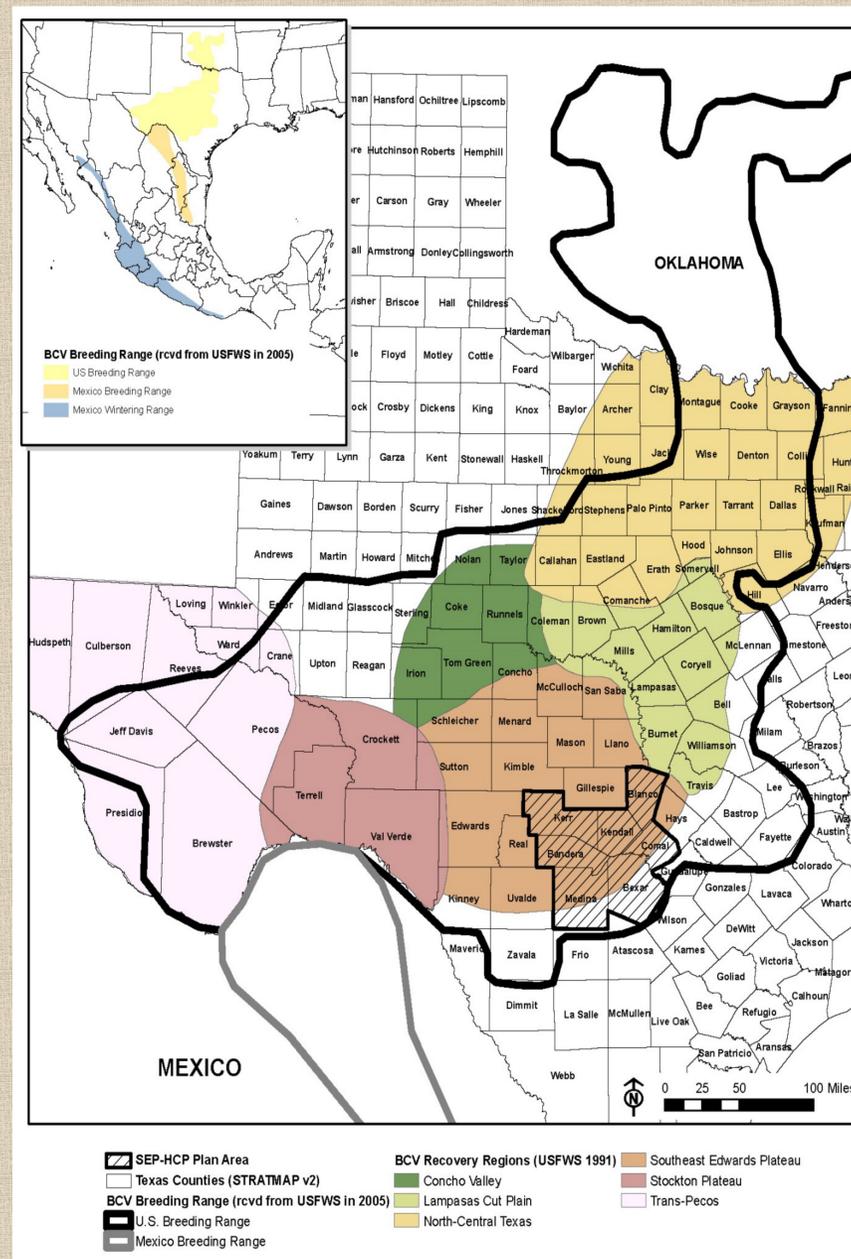


SEP-HCP Covered Species

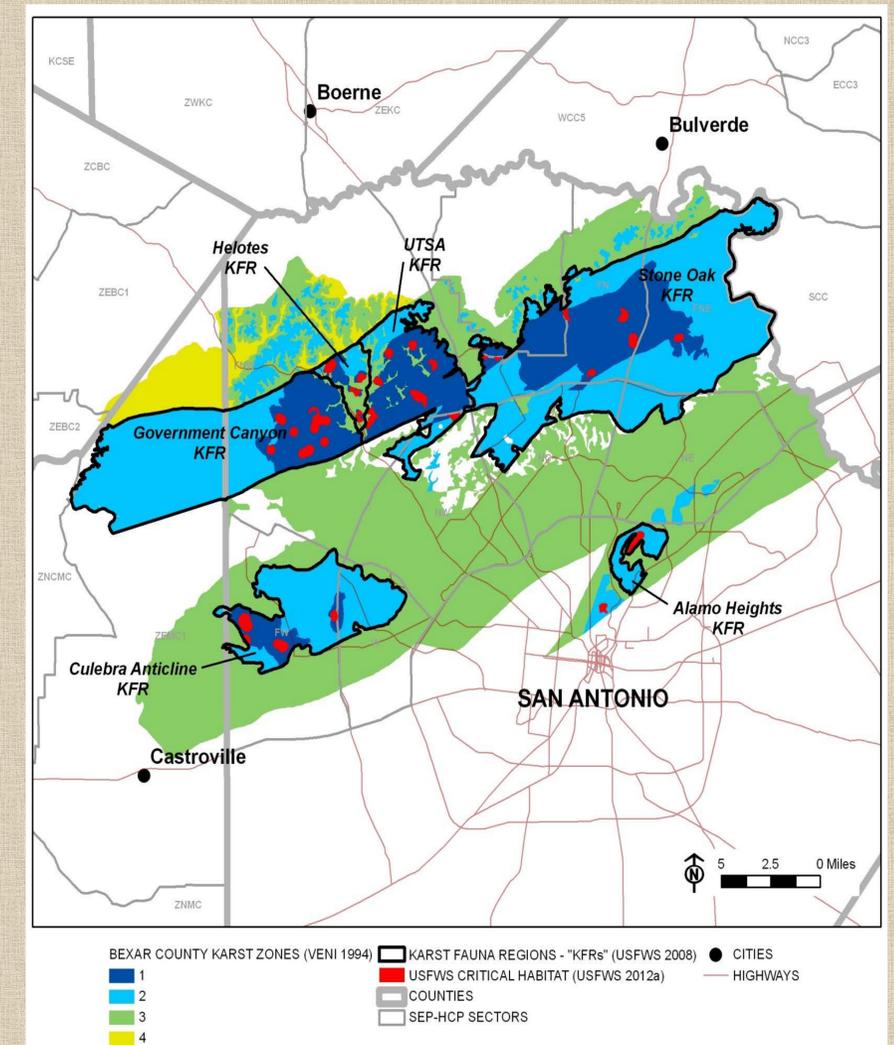
Golden-cheeked Warbler Recovery Zones



Black-capped Vireo Recovery Zones



Bexar County Karst Zones & Critical Habitat Units



Your Comments are Very Important

Document Availability:

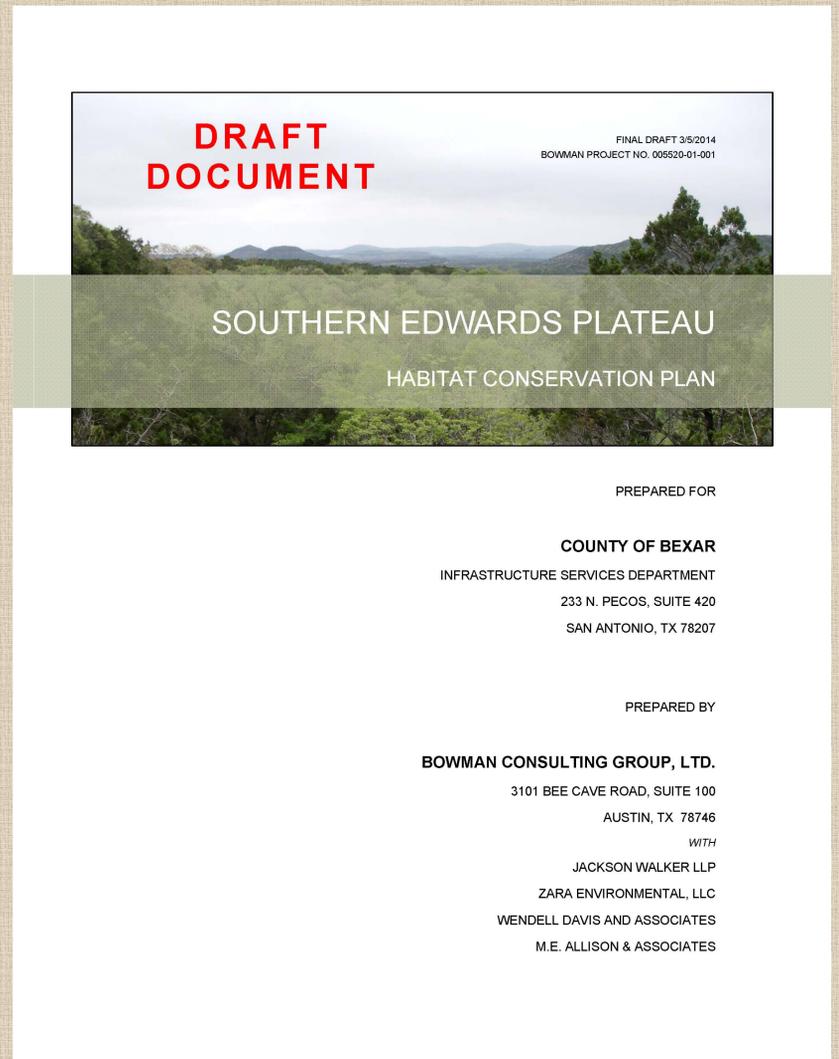
- Copies available for review at public meetings
- Copies are available at the following libraries:
 - Bandera County Library
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At the Meeting:

- Fill out a comment card and drop in the comment box
- Give your comments verbally to the Court Reporter

After the Meeting (post-marked March 19, 2015):

- U.S. Mail
- Website: www.regulations.gov



The Preferred Alternative

(Proposed SEP-HCP Alternative)

- **Plan Area** – Bandera, Bexar, Blanco, Comal, Kendall, Kerr and Medina counties
- **Enrollment Area** – Bexar County, San Antonio, San Antonio's 30-year ETJ (except Comal County)
- **Plan & Permit Duration** - 30 years
- **Covered Species** – Golden-cheeked Warbler, Black-capped Vireo, 7 Karst Invertebrates
- **Covered Activities** – Construction Activities and Activities to Manage Covered Species Habitat
- **Incidental Take Authorization**
 - **Golden-cheeked Warbler** – 9,371 acres of habitat loss or degradation in the Enrollment Area
 - **Black-capped Vireo** – 2,640 acres of habitat loss or degradation in the Enrollment Area
 - **Karst Species** – 10,234 acres in Karst Zone 1 & 2; 10,852 acres in Karst Zone 3 & 4; or 49 occupied karst features
- **Mitigation Measures**
 - **Golden-cheeked Warbler** – 23,430 acres of preserved habitat in the Plan Area
 - **Black-capped Vireo** – 6,600 acres of preserved habitat in the Plan Area
 - **Karst Species** – 1,000 acres of occupied cave zone (OCZ)
- **Management, Monitoring & Conservation Actions** – adaptive preserve management, monitoring of species and habitat in the preserves, education and outreach to increase awareness of endangered resources
- **Funding** – \$299.5 million 30-year plan cost
 - **Participation Fees:** 56%
 - **Public Funding:** 26%
 - **Investment:** 18%

Your Comments are Very Important

Document Availability:

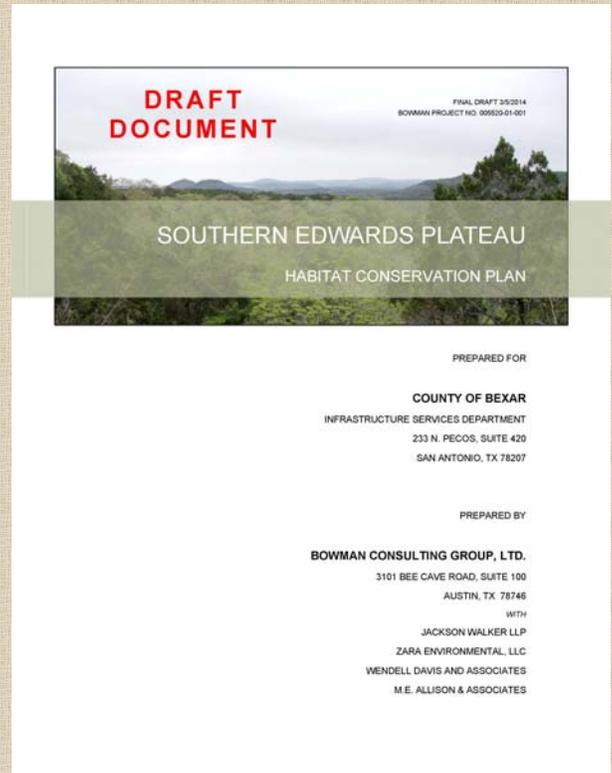
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AGENDA

5:00 p.m. - Registration/Sign-In/Open House

5:30 p.m. – Presentation

6:00 p.m. - Open House

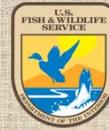
7:00 p.m. – Adjourn

Comments may be submitted throughout meeting



Why are we here tonight?

- Provide an overview of the federal:
 - Endangered Species Act
 - Section 10 Permitting Process
 - National Environmental Policy Act (NEPA)
- Provide an overview of the draft Environmental Impact Statement (dEIS)
- Present the Final Draft Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP)
- Explain Next Steps

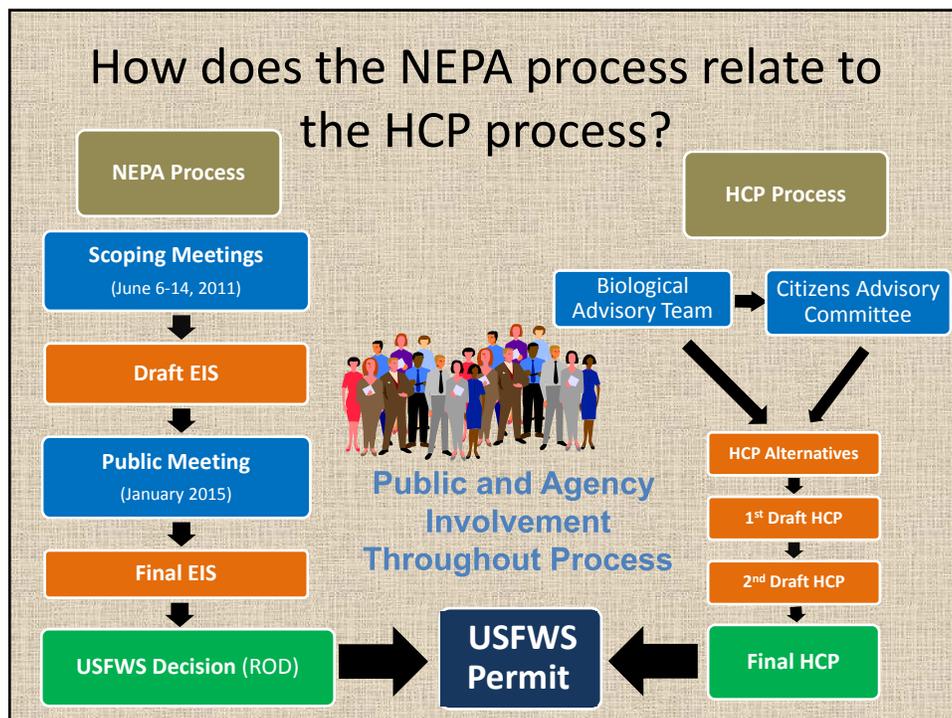


The Endangered Species Act (ESA)

- Provides a means to conserve the ecosystems upon which threatened and endangered species depend
- Provides a program for the conservation of threatened and endangered species
- The ESA prohibits the “taking” of endangered and threatened species without a permit
 - “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.
 - “Incidental take” is take that is incidental to carrying out otherwise lawful activities, such as take resulting from construction of homes and buildings

ESA Section 10 Permits

- A Habitat Conservation Plan (HCP) must accompany an application for an incidental take permit
 - Project-specific HCP
 - Regional HCP (RHCP)
 - Chapter 83 of the Texas Parks & Wildlife Department Code describes the authority and limitations of an RHCP applicant
- National Environmental Policy Act (NEPA) process must be followed
- A Section 10 Permit is issued by the USFWS



Purpose & Need for the Permit

- **Purpose**

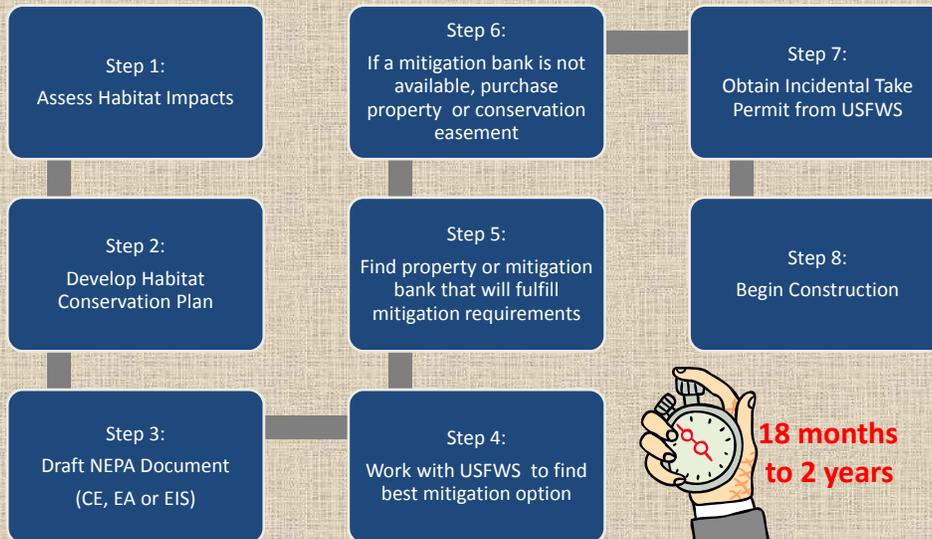
- The purpose of issuing an ITP is to authorize the Applicants to “take” the Covered Species in the Enrollment Area while conserving their habitat.

- **Need**

- The need for issuing the permit is to conserve the covered species and the ecosystems upon which they depend and to ensure ESA compliance while allowing economic development to move forward.

USFWS Permitting Process

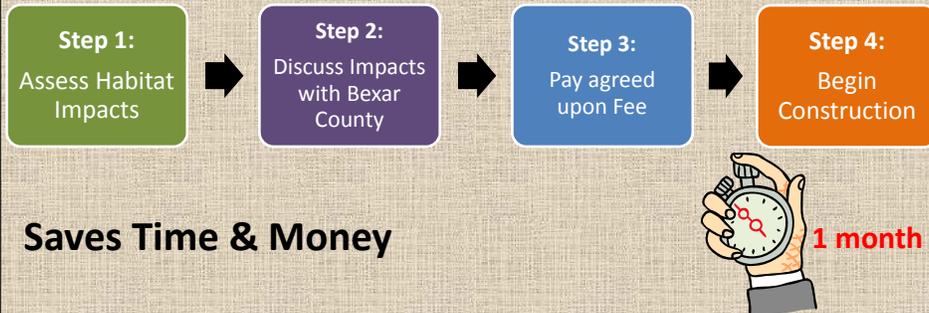
without a Regional Habitat Conservation Plan



Endangered Species Act Section 10(a) Permit Process (Individual Non-Federal Projects)

USFWS Permitting Process with a Regional Habitat Conservation Plan

- Simplified, **locally** managed and **voluntary** option to comply with the Endangered Species Act
- Permits incidental take of endangered species habitat

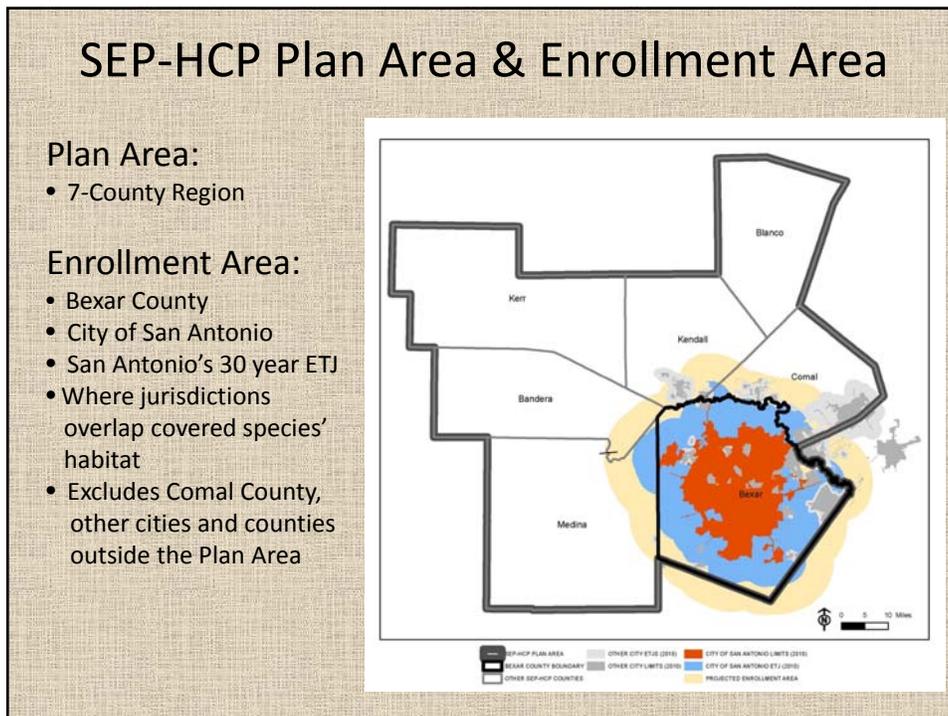


Alternatives Analyzed in the DEIS

- **No Action Alternative**
 - Section 10(a) Permits would be issued by USFWS on a project-by-project basis
- **10% Participation Alternative**
 - 10% of the activities requiring a permit would be covered by the Plan
- **Single-County Alternative**
 - The preserve system limited to Bexar County and within 10 miles
- **Increased Mitigation Alternative**
 - Higher habitat conservation for the Covered Species
- **Proposed SEP-HCP Alternative**
 - 50% of the activities requiring a permit would be covered by the Plan

Comparison of Alternatives

| Resource | No Action | Proposed SEP-HCP | 10% Participation | Single-County | Increased Mitigation |
|-------------------------------|------------------|----------------------------|-------------------|----------------------------|----------------------|
| Land Development | -- | ++++ | ++ | ++ | + |
| Water Resources | --- | ++ | + | ++ | ++ |
| Vegetation | ---- | +++++ | +++ | ++++ | +++++ |
| General Wildlife | ---- | +++++ | +++ | ++++ | +++++ |
| Golden-cheeked Warbler | --- | +++++ | +++ | ++++ | +++++ |
| Black-capped Vireo | +/- | ++++ | +++ | +++ | ++++ |
| Karst Invertebrates | --- | ++++ | +++ | +++ | ++++ |
| Socioeconomics | - | - | - | - | --- |
| Climate Change | --- | +++ | + | +++ | ++++ |
| Funding | N/A | \$299 million | \$131 million | \$564 million | \$1.1 billion |
| + = Beneficial - = Adverse | +/- = Negligible | ++/- = Negligible to Minor | +++/- = Minor | ++++/- = Minor to Moderate | +++++/- = Moderate |



Covered Species

Golden-cheeked Warbler
Black-capped Vireo
7 Karst Species



Covered Activities

- Construction, operation, and maintenance of:
 - Public projects (schools, hospitals, etc.)
 - Utility and transportation infrastructure
 - Private residential, farm and ranch, commercial and industrial development
 - Quarries and mines
 - Activities necessary to manage habitat for the Covered Species

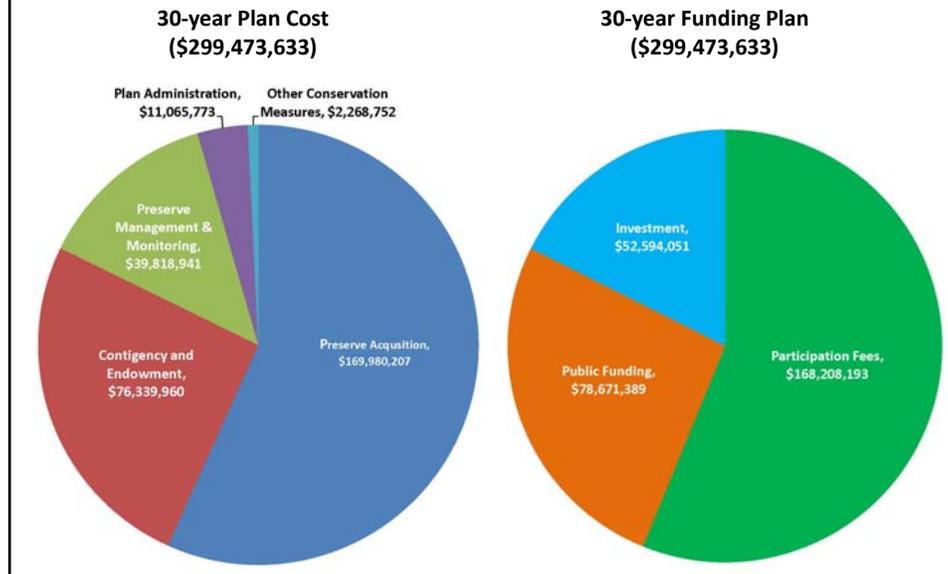
Incidental Take Authorization

- **Golden-cheeked Warbler** - 9,371 acres of habitat loss or degradation in the Enrollment Area
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Mitigation Measures

- **Golden-cheeked Warbler** – 23,430 acres of preserved habitat in the Plan Area
 - 2 preserve credits for 1 acre of direct take (\$4,000 per credit)
 - 0.5 preserve credit for 1 acre of indirect take (\$4,000 per credit)
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 - 0.5 preserve credit for 1 acre of indirect take (\$4,000 per credit)
- **Karst Species** – 1,000 acres of Occupied Cave Zone (OCZ)
 - Avoid OCZ (\$40,000 to \$400,000 per acre depending on proximity to an OCZ and only after caves have been protected according to the Karst Invertebrate Recovery Plan)

SEP-HCP Funding



Roles and Responsibilities

- US Fish & Wildlife Service (USFWS)
 - Lead Federal Agency/NEPA Decision-maker
 - Issues Incidental Take Permit
 - Oversees the Permit Compliance
- Bexar County & City of San Antonio (Applicants/Permittees)
 - Plan Administration and Maintenance
 - Adaptive Preserve Management and Monitoring
 - Secures Public Funding
 - Annual Reporting to USFWS
- SEP-HCP Participants
 - Those that voluntarily enroll a property in the SEP-HCP for the purpose of obtaining ESA compliance for the Covered Species and must comply with the permit.

Your Comments are Very Important

Document Availability:

- Copies available for review at public meetings
- Copies are available at the following libraries:
 - Bandera County Library
 - Blanco Library
 - Boerne Public Library
 - Hondo Public Library
 - Kerr Regional History Center
 - San Antonio Central Library
- Copies are available online at www.sephcp.com and <http://www.fws.gov/southwest/es/AustinTexas/>



At the Meeting:

- Fill out a comment card and drop in the comment box
- Give your comments verbally to the Court Reporter

After the Meeting (post-dated March 19, 2015):

- U.S. Mail
- Website: www.regulations.gov.

What's Next?

- Public Comments on the Draft EIS & SEP-HCP
- Preparation of the Final EIS & Final SEP-HCP
- USFWS Record of Decision

Please see a Project Staffer or USFWS personnel for any questions





Draft Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement Public Meeting
Tuesday, February 3, 2015 5:00pm to 7:00pm
Casa Helotes Senior Center, 12070 Leslie Road, Helotes, TX 78023

| Name (Please Print) | Organization | Address | Zip Code | Email | Phone |
|------------------------|-------------------|------------------------|----------|------------------------------|--------------|
| JACK M. FINGER | | P.O. Box 12048 S. Atx | 78212 | | |
| RICHARD ELKINS | KC Commissioner | Kerball County | | | 830 299 9343 |
| ALAN MUDENMAYOR | | 1126 JACKSON KLEWER | SA 78213 | | 210 342 9721 |
| MIKE LUCKEY | | 110 Walters Rd. Boerne | 78006 | stillwatersfarm@gmail.com | 210-724-8900 |
| Fernando H. Garza | | 727 E. Cesar Chavez | 78206 | fernando.garza@tx.nps.gov | 210-472-5527 |
| ANNA LISA PEACE | GENA | PO Box 15618, SA | 78212 | annalisa@aquiferalliance.org | |
| Chyfe MOON | HENC + SENC | 603 RIVER Rd | 78212 | muffc@mwmll.com | 210-320-6299 |
| Susan Beavin | SLBSA | 19807 Service highway | 78023 | shelba4uspsbeslab@net | 210-695-6627 |
| Charlotte Kahl | Old Spanish Trail | | 78238 | OST100Kahl@aol.com | |
| Aime-Mark | | | | | |
| Fran Hutchins | BCI | 146 Devonshire Dr | 78209 | fhutchins@bat.com.org | 512 848 9404 |
| Pradya Subramanian | Bartwa SWCD | 6121 Pando Rd 37 | 78063 | pradya.schroeder@gmail.com | |
| Hannelore Schmitt | | 6121 Pando Rd 37 | 78063 | | 830-612-2069 |
| Steve Pearson | Sen. Cornyn | 113 Farnham | 78232 | stave@senator.m.com | 210-275-4747 |
| Jonathan Fuhs | | 600 Nevada St. | 78205 | Jonathan.Fuhs@nps.gov | 210-224-7485 |
| Juan Sandoval | CPS Energy | 145 Nevada SA TX 78926 | | Juan.Sandoval@cpsenergy.com | 210-353-6510 |
| Erin Lowt | Bexar Co. | 237 N. Pecos | 78207 | Erin.Lowt@bexar.org | 210-375-6663 |
| Mary Kennedy | Bexar Audubon | 3005 Center Circle | | mkenned@audubon.com | 210-678-2864 |
| Judith Dunn | | Fair Oaks TX 78 | 78015 | | |
| | | | 78266 | judie.dunn@yohae.com | 210-410-414 |
| JOHN MALCOCCIMACH | SA EXPRESS-NEWS | | | | |
| Richard Heilbrun | TPWD | | 78254 | | |
| KAMALA PLATT | SC ETC | 5910 W. MARTIN, SA | 78207 | kamalaplatt@earthlink.net | 210 438 8710 |

22



Draft Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement Public Meeting
Wednesday, February 4, 2015 5:00pm to 7:00pm
YO Ranch Conference Center, 2033 Sidney Baker Street, Kerrville, TX 78028

| Name (Please Print) | Organization | Address | Zip Code | Email | Phone |
|-------------------------|-------------------|------------------------------|-----------|---------------------------|------------------|
| ROBERT IMLER | SELF | 101 DOME MEADOW | 78006-710 | TEXAS BOSSY@GVT.COM | 210 569-2322 |
| GAVE RICHARDSON | TEXAS FARM BUREAU | PO Box 2689 WACO, TX | 76702 | grichardson@tffb.org | 254-751-2263 |
| Larry Cichno | SELF | 425 Summit Trboen | 78006 | | 830 249 1541 |
| THIEDA SUELTEHUS | SELF | 138 LITTLE JOSHUA CR. RD | 78006 | | 830-537-4389 |
| Jane Wone | Furcaching | 716 Agave | | | |
| John Bright | Nature Center | FW 78621 | 78624 | | |
| Charly Drake | SELF | 33 Teeple Rd. Boerne | 78006 | | 830-230-5373 |
| Dick Hoffman | EWIA | 105 Henderson Dr. Rt 11 | 78011 | | 830 367 7761 |
| Rolando TREES | REGARO | 1347 TREES RANCH RD | 78058 | Rolando TREES@Yahoo.COM | 830 459 2167 |
| Lynn Smith | SELF | P.O. Box 1000 Comfort, TX | 78013 | | 830-431-0442 |
| Suzanne Kesterman | | 11451 KCE 320 | 78859 | Unmanned, Tex | |
| ARLEY BERTSY SUELTENHUS | | 149 Upper Salcombe Rd | 78006 | | 830-755-4418 |
| Milford Zirkel Jr | RANCH | 20279 Hwy. 16 N Medina | 78055 | | 830.589.2450 |
| Greg Young | Self/Radro | 4511 Fm 3246 Bandera | 78003 | | 830 446 3624 |
| DH WILSON | RANCH | 100 N. CRESTLINE KV | 78008 | dhwilson@GOMNUG.COM | 830-755-4418 |
| Jim Foster | Ranch | 114 CR 116 Llano | 78643 | fastjim@gmail.com | 325-248-3188 |
| Betty beifste | Cottlevale | 1294 Bunderlyth, Kerrville | 78028 | | 830-896-4600 |
| Joel P. | REGED | PO Box 807 Camp Wood | 78833 | joelp@recrd.org | 830-597-3322 |
| JERRY PIERCE | SELF | 3190 Mickle Creek Road | 78055 | J.PIERCE@HCTX.com | 830 589 2329 |
| BOB GIMES | Bandera County | POB 3129 | 78003 | | |
| Fidel G. Samiriz | RRAT | 604 P.R. 1501 Bandera | 78003 | CarreandRidey@aol.com | 830 896 4376 |
| Raeet Moran | SELF | 902 JEFFERSON ST Llanite | 78008 | Amoranz@tcc.com | 830 896 3433 |
| Tenny Perrier | Family, pet 3 | 201 E. Saldana St | 78006 | | 289-5548 EXT 539 |
| JOHNATHAN JOHNSON | | PO BOX 290283 KERRVILLE, TX. | 78029 | JUAN-gilberto@Hotmail.com | |



Draft Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement Public Meeting
Wednesday, February 4, 2015 5:00pm to 7:00pm
YO Ranch Conference Center, 2033 Sidney Baker Street, Kerrville, TX 78028

| Name (Please Print) | Organization | Address | Zip Code | Email | Phone |
|------------------------|---------------------|-----------------------------|----------|------------------------------|--------------|
| Tara Kehoe | | 5 Sky Ross Ranch | 78006 | kehoe@gvtc.com | 830-537-4402 |
| Cleo MARGART | | 204A Old #9 Rd Com Fort | 78013 | | |
| Jeri Thomsmaehlen | Retired | 123 Park Place Spring | 78006 | jerallynt@yaboo.com | |
| Ann DIETER | RETIRED | 106 GREEN MEADOWS | 78006 | ann.dieter@cox.com | |
| Barbara White | RETIRED | 1645 Stringtown Rd | 78055 | | |
| Bruce White | RETIRED | 1645 Stringtown Rd | 78055 | | |
| Judith Foster | Cattle Woman | 114 CR 116 Glenn | 78043 | | |
| EARL SMITH | | KENDALL County TX | 78004 | | |
| Alan Smith | Retires | 52 Market Center | 78013 | asmith@chc.net | |
| Jeanne Abrams | HILLW | 3531 Jenner-Abrams Rd | 78028 | abrensen@att.net | |
| Dorothy Blokman | Appraiser | 149A Upper Belanger Bohme | 78006 | | 830-755-4492 |
| Cynthia Reinhardt | | 1204 N. N St. Bandera | 78003 | | |
| Wendy Corans | Bandera CAD | " " " | | bandera@indiana | CREK-NET |
| Tomás Dominguez | NACS | 13434 Leavel | 78410 | | 361-246-0600 |
| Harley D. Belew | Rev. Bradest | 1465 WTC Rd | 78028 | harley@krvl.com | 830-896-1230 |
| Lindy Chapman | self | 175 Hidden Hills Ranch Rd | 78010 | | |
| Jim FALGOT | | 463 Indian Lake Kerrville | 78028 | | |
| JESSE McLEAN | BCCB | | | jmclean@bandera.corridor.com | |
| Richard Erwins | Bandera Co | P08877 Bandera TX 78013 | | | 830-796-3781 |
| Lloyd Leibeste | SPB | 1294 Bandera Hwy, Kerrville | 78028 | lp@bandera.org | 830-896-1800 |
| BUSTER BALDWIN | KERR COUNTY | 700 Mann Kerr | " " | gbaldwin@co.kerr.tx.us | 792-2213 |
| Alex GURR | First American Corp | 1810 Turnhill St. | 78718 | agurra@firstam.com | |
| JACK PHILLIPS | RETIRED | 805 LAKE DR | 78028 | jwp@ktx.com | 830-257-5441 |
| ROBERT HURT | | 245 HENRY PRIOUR | 78058 | | 830-866-3424 |
| JUSTIN CAMPB | SABOR | 9110 W. HT 10 | 78230 | justinc@abcr.com | 210-268-5664 |
| Jeannie Zinkel | retired ISD Admin | 20279 Hwy 16N | 78055 | jzinkel@junior.com | 830-589-2450 |

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SOUTHERN EDWARDS PLATEAU
HABITAT CONSERVATION PLAN
ENVIRONMENTAL IMPACT STATEMENT

Casa Helotes Senior Center
12070 Leslie Road
Helotes, Texas
February 3, 2015

| | | |
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| 1 | INTRODUCTION BY MR. ADAM ZERRENNER..... | Page 3 |
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1 MR. ZERRENNER: On behalf of the U.S. Fish
2 and Wildlife Service, Bexar County and the City of San
3 Antonio, I'm want to welcome each of you to the public
4 meeting on the draft Environmental Impact Statement and
5 draft Southern Edwards Plateau Habitat Conservation
6 Plan. Thank you for attending tonight's meeting. My
7 name is Adam Zerrenner. I'm with the U.S. Fish and
8 Wildlife Service.

9 Tonight's meeting is intended to provide
10 you information on the draft Southern Edwards Aquifer
11 Habitat Conservation Plan and the draft Environmental
12 Impact Statement as well as the process that we're
13 using as we move forward.

14 You also have the opportunity to provide
15 verbal comments to the court reporter or submit them in
16 writing. Staff will be available to answer any
17 questions you may have on an individual basis after the
18 presentation.

19 Bexar County and the City of San Antonio
20 have been working on this project for some time. It is
21 not an easy task to draft a plan of this scope and that
22 will benefit so many endangered species and allow for
23 economic growth in the area.

24 I would like to introduce our permit
25 applicant representative, Andy Winter from the Bexar

1 County engineer; the county's consultants, Jenny Blair
2 of Bowman Consulting. Jenny is over there. Jenny
3 prepared the draft Habitat Conservation Plan; Leonard
4 Voellinger with Jacob Engineering, who prepared the
5 draft Environmental Impact Statement for Fish and
6 Wildlife Service. I would also like to welcome Richard
7 Elkins, Kendall County commissioner. Commissioner
8 Elkins. Jonathan Cune of the staff of Senator Cornyn.
9 John, thank you for attending. And Larry Sitter. I
10 hope I'm pronouncing that correct. So Commissioner
11 Sitter is with Medina County, and thank you also for
12 attending. I'd also like to introduce Laura Joseph.
13 Where is Laura? Please stand up, Laura. So Laura is
14 our Spanish translator, and then sitting next to her is
15 Anna-Marie Revenberg and she is our German translator.
16 Our court reporter is available for those who would
17 like to provide -- verbally provide their comments to
18 the meeting. So, Court Reporter, your name, ma'am?

19 THE REPORTER: Stephanie Garrett.

20 MR. ZERRENNER: Stephanie Garrett. Thank
21 you, Stephanie. And we have rest rooms in the far back
22 right-hand corner as well as up front. Emergency
23 exits, of course the doors that you came in and also
24 off here to the left.

25 The presentation will conclude at

1 approximately 6:00 o'clock tonight and the open house
2 will remain open for an additional hour. The meeting
3 will adjourn at approximately 7:00 p.m.

4 Our agenda for the meeting includes an
5 open house and a presentation. The open house exhibits
6 will be available for you to look at throughout the
7 evening. Project staff will be stationed at each
8 exhibit to answer your questions. They are wearing
9 name tags.

10 Your feedback is important to us.
11 Comments may be submitted anytime during the meeting.
12 In addition to the court reporter, Stephanie, we also
13 have a comment box on the other side of the room. If
14 you would like to provide comments to be a part of the
15 official record, be sure to write them down both in the
16 comment box or to our court reporter. After the
17 meeting you may submit questions or comments online or
18 through mail. Instructions for submitting comments
19 after the meeting are on the back of the comment card.
20 Comments must be received by March 19th.

21 Now I'm going to turn the presentation
22 over to Leonard. I ask that you allow him to complete
23 the presentation. After the presentation we'll take a
24 five-minute break, enable staff that are here to go to
25 the back of the room to transition for our open house.

1 Staff will be available throughout the room to answer
2 your questions again until 7:00 p.m. tonight.

3 UNKNOWN SPEAKER: So we won't have any
4 public comments here? Only on writing back there?

5 MR. ZERRENNER: No, there is a court
6 reporter, ma'am. You can also provide comments to that
7 reporter. So, Leonard.

8 MR. VOELLINGER: Thank you very much.
9 Good evening. Why are we here tonight? Because Bexar
10 County and the City of San Antonio are requesting an
11 Endangered Species Act Section 10 permit from the U.S.
12 Fish and Wildlife Service.

13 The issuance of a Section 10 permit is a
14 federal action which triggers compliance with the
15 National Environmental Policy Act, or NEPA, as it's
16 called, and for this project NEPA required the drafting
17 of an Environmental Impact Statement. In addition, a
18 permit application must be accompanied by a Habitat
19 Conservation Plan.

20 So we're here tonight to, one, provide an
21 overview of the draft Environmental Impact Statement,
22 to present the draft Southern Edwards Plateau Habitat
23 Conservation Plan, which spells out the terms of the
24 permit, and to explain the next steps in the permitting
25 process.

1 We're also here tonight to request your
2 comments on the draft EIS and the draft HCP, Southern
3 Edwards Plateau Habitat Conservation Plan.

4 Comments must be received during the
5 comment period, which closes March 19th, to be a part
6 of the official record. You'll probably hear that
7 several times tonight.

8 The Endangered Species Act, or ESA,
9 provides a means to conserve the ecosystems upon which
10 endangered species depend and also provides a program
11 for the conservation of these species. The Endangered
12 Species Act achieves these objectives by prohibiting
13 the take of endangered species without a permit. The
14 U.S. Fish and Wildlife Service may issue a permit for
15 incidental takes of endangered and threatened species
16 provided that the terms of the permit are met. Taking
17 in this instance -- and you will hear that often
18 tonight, also. A taking of endangered and threatened
19 species is anything that harms that species, while
20 incidental take is take that is incidental to carrying
21 out otherwise lawful activities, such as take resulting
22 from the construction of houses and buildings.

23 Endangered Species Act Section 10 permit:
24 A Section 10 permit is the permit that the Service
25 issues to an applicant after they have an approved

1 conservation plan, so the plan must accompany the
2 permit application. Remember, under the permit the
3 applicant can take the species as long as it is
4 incidental to otherwise lawful activities.

5 According to Texas law, the Habitat
6 Conservation Plan must also comply with Chapter 83 of
7 the Texas Parks and Wildlife Code, which applies
8 specifically to regional Habitat Conservation Plans.

9 The National Environmental Policy Act is a
10 law that requires agencies to disclose the impacts of
11 their actions on the human environment and to consider
12 public comments before they decide to take an action
13 that could affect the human environment. In this case
14 the Service will consider the impacts and your comments
15 before it decides whether or not to issue a permit. A
16 Section 10 permit can only be issued by the Service
17 after these steps are complete.

18 There are two parallel processes that are
19 running here. One is the Habitat Conservation Plan
20 process, the other is the NEPA process. The NEPA
21 process began with the scoping meetings to solicit
22 input from agencies and the public. Five scoping
23 meetings were held in June of 2011. I see many faces
24 that I saw at those meetings. Those comments were
25 considered in the development of the draft EIS. The

1 draft EIS is available now and the final EIS will be
2 written after the review and in consideration of the
3 feedback received during this comment period.

4 The NEPA process will conclude with a
5 Record of Decision, which documents U.S. Fish and
6 Wildlife Service's decision whether or not to issue a
7 permit.

8 The Habitat Conservation Plan process
9 began with the formation of a BAT, Biological Advisory
10 Team, made up of qualified biological experts and a
11 Citizens Advisory Committee, a CAC, which included
12 landowners from the plan area, environmental and
13 conservation groups, real estate and business interests
14 and government entities and utility providers.

15 The CAC members were appointed as required
16 by Texas state law. These groups met approximately 20
17 times in 2010 and 2011. The recommendations from the
18 BAT and CAC helped to identify the HCP alternatives,
19 which were then developed further in the draft EIS and
20 analyzed in the draft EIS. The draft Habitat
21 Conservation Plan is also available here for comments.
22 The comments received during the comment period will be
23 considered in the final Habitat Conservation Plan.

24 The U.S. Fish and Wildlife Service will
25 consider both the Record of Decision and the final

1 Habitat Conservation Plan prior to issuing a Section 10
2 permit.

3 The purpose and need for the permit: As
4 previously stated, the federal action here is the
5 issuance of a permit. The purpose of the Section 10
6 permit is to authorize the applicants to take a covered
7 species in an enrollment area while conserving their
8 habitat and provide a tool to protect endangered
9 animals from the encroachment from land development
10 while allowing land development to proceed with minimal
11 delay.

12 The need for issuing the permit is to
13 conserve the covered species and the ecosystems that
14 they depend on and ensure Endangered Species Act
15 compliance while allowing economic development to
16 proceed.

17 The Southern Edwards Plateau is the home
18 of several endangered animals and San Antonio's
19 population is growing and continues to grow. San
20 Antonio's population has grown more than 75 percent
21 since 1980 and is anticipated to grow another 60
22 percent in the next 30 years.

23 If approved, the permit and the Habitat
24 Conservation Plan will provide a long-term
25 comprehensive solution to allow otherwise lawful

1 activities -- again, such as building roads and housing
2 -- that could result in the taking of these species
3 covered in the plan while facilitating Endangered
4 Species Act compliance.

5 This slide outlines the individual
6 permitting process. This is the permitting process
7 that an applicant goes through right now when they want
8 to construct something. It's important to understand
9 that it's against the law to destroy threatened and
10 endangered species habitat without a permit. Projects
11 that impact threatened and endangered species habitat,
12 such as land development projects, are required to
13 acquire a permit to be in compliance with the
14 Endangered Species Act.

15 Without a regional habitat conservation
16 plan in place, each construction project affecting
17 habitat would have to prepare a habitat conservation
18 plan and a NEPA document. They'd have to coordinate
19 with U.S. Fish and Wildlife Service, they'd have to
20 propose mitigation and obtain an incidental take permit
21 before construction, and as many of you know, this can
22 take years to do this. These steps can take years and
23 they're also very expensive.

24 In comparison, the regional Habitat
25 Conservation Plan reduces the time and money needed to

1 complete the permitting process. Regional Habitat
2 Conservation Plans provide a simplified locally-managed
3 voluntary option to comply with the Endangered Species
4 Act. Projects affecting habitats still have the choice
5 of going through the individual permitting process with
6 the Fish and Wildlife Service or utilizing the
7 locally-managed Habitat Conservation Plan.

8 The alternatives analyzed in the draft
9 Environmental Impact Statement: There are five
10 alternatives that were analyzed. These alternatives
11 are described so that anyone can compare the effects
12 and the trade-offs of different alternatives, including
13 what would happen if the Service does not issue the
14 permit.

15 So the first alternative is the No Action
16 Alternative. The No Action Alternative assumes that a
17 permit for a regional Habitat Conservation Plan is not
18 issued and individual Section 10 permits would need to
19 be issued by the Service on a project-by-project basis.

20 The second alternative is a 10 Percent
21 Participation Alternative. This assumes that 10
22 percent of the activities requiring a permit would be
23 covered by the Habitat Conservation Plan.

24 The Single County Alternative then assumes
25 that the preserve system would be limited to Bexar

1 County and within 10 miles of Bexar County.

2 An Increased Mitigation Alternative was
3 analyzed that would require higher habitat conservation
4 for the covered species than the other action
5 alternatives.

6 And then finally Proposed Habitat
7 Conservation Plan Alternative assumes that 50 percent
8 of the activities requiring a permit would be covered
9 by the plan, and this is the preferred alternative of
10 the Service and the applicant both at this time.

11 This slide provides a simplified summary
12 of the information that's provided in the EIS to
13 compare the alternatives. The alternatives were
14 evaluated based on their potential to result in adverse
15 or beneficial impacts on land development, water
16 resources, vegetation, general wildlife; golden-cheeked
17 warbler, black-capped vireo, karst invertebrates,
18 socioeconomics, climate change and funding and costs.

19 The Increased Mitigation Alternative
20 offers the most benefits; however, it comes at a great
21 cost, a cost of \$1.1 billion in comparison to the
22 Proposed SEP-HCP Alternative, which offers similar
23 levels of benefits and costs significantly less.

24 After comparing the adverse and beneficial
25 impacts, the indirect and cumulative impacts, the

1 Proposed SEP-HCP Alternative provides -- was determined
2 to provide the most benefits while meeting the purpose
3 and need.

4 The following slides describe the Proposed
5 SEP-HCP Alternative in more detail.

6 The plan area is a seven-county region
7 that includes Bandera, Bexar, Blanco, Comal, Kendall,
8 Kerr and Medina Counties. The plan area is where
9 preservation of habitat for covered species would
10 occur. The enrollment area only includes the
11 jurisdictions of the SEP-HCP applicants; that is, Bexar
12 County and the City of San Antonio. This includes San
13 Antonio's extraterritorial jurisdiction, or ETJ,
14 projected over the next 30 years, or the life of the
15 permit.

16 The enrollment area excludes Comal County
17 because they have their own Habitat Conservation Plan.
18 Other cities and jurisdictions in the plan also
19 excluded and the counties outside the plan area.

20 Land development projects that would
21 impact habitat in the enrollment area may use the
22 SEP-HCP or comply with the Endangered Species Act
23 individually.

24 This figure shows the potential extent of
25 San Antonio's ETJ by 2040, and that's the cream-colored

1 area.

2 Covered species: The Section 10 permit
3 would cover two endangered song birds, the
4 golden-cheeked warbler and black-capped vireo, and
5 seven endangered karst invertebrates that are pictured
6 here that live in underground caves and karst features.

7 The Section 10 permit would authorize a
8 certain amount of take of these species associated with
9 the covered activities provided that the terms of the
10 SEP-HCP are met.

11 The covered activities: The SEP-HCP could
12 be used for a range of non-federal projects in the
13 enrollment area, including public projects, private
14 land development projects, roads, bridges,
15 transportation projects and utility infrastructure.
16 Covered activities also include activities necessary to
17 manage the habitat for the covered species that could
18 result in incidental take but would have long-term
19 benefits for the species.

20 The Incidental Take Authorization: Over
21 the 30-year plan, the incidental take permit would
22 allow for the taking of 9,371 acres of golden-cheeked
23 warbler habitat, and this is the taking of habitat,
24 meaning that construction activities occur in those --
25 this number of acres of habitat, of golden-cheeked

1 warbler habitat. 2,640 acres of black-capped vireo
2 habitat, and karst here is divided into five zones,
3 where Zone 1 is the best quality habitat with the
4 greatest likelihood of containing karst invertebrate
5 species and where Zone 5 does not contain habitat for
6 karst species. The incidental take permit would allow
7 for the taking of 10,234 acres of karst habitat in
8 Zones 1 and 2, 10,852 acres in Zones 3 and 4, and 49
9 occupied karst features. I want to emphasize that this
10 take authorization is in the enrollment area, not in
11 the whole plan area.

12 Now, mitigation. To mitigate for the take
13 allowed from the permit, habitat for the covered
14 species would be conserved in the plan area, including
15 23,430 acres of habitat for the golden-cheeked warbler,
16 6,600 acres of habitat for the black-capped vireo, and
17 1,000 acres of occupied cave zone for karst species.

18 Conservation land would be incorporated
19 into the SEP-HCP voluntarily; that is, through an
20 exchange between willing property owners and the
21 project applicants.

22 In order for a project to enroll in the
23 SEP-HCP a participant would be required to purchase two
24 preserve credits for each acre of direct take of bird
25 habitat and one-half of a preserve credit for each acre

1 of indirect take. The cost per credit would be
2 \$4,000.00. The direct take would occur on an enrolled
3 property, whereas indirect take would be within 300
4 feet of that property.

5 The take of karst habitat in an occupied
6 cave zone, or OCZ, would be prohibited until sufficient
7 caves have been protected according to the Karst
8 Invertebrate Recovery Plan. Once this level of
9 conservation has been achieved, a plan participant
10 would be required to pay a fee ranging between 40 and
11 \$400,000.00, depending on the proximity of the activity
12 to an occupied cave zone. The closer the activity to
13 the occupied cave zone, the more costly.

14 The funding: The cost of the 30-year plan
15 would be approximately \$299.5 million, of which 57
16 percent would be used for preserve acquisition, 25
17 percent would be put towards the contingency and an
18 endowment fund, 13 percent would be used for preserve
19 management and monitoring, 4 percent would be used for
20 plan administration and 1 percent would be used for
21 other conservation measures.

22 The plan would be paid for through a
23 combination of participation fees, public funding and
24 investments. Plan participants would contribute 56
25 percent, public funding would contribute 26 percent and

1 returns on investments would account for the remaining
2 18 percent. Public funding sources could include
3 impact fees, grants, sales tax revenue, tax increment
4 financing revenue or other real estate transfer taxes.

5 Roles and responsibilities: The U.S. Fish
6 and Wildlife Service in this Habitat Conservation Plan
7 is the lead agency in the NEPA process and will issue
8 the permit and oversee its compliance, including
9 monitoring and mitigation.

10 Bexar County and the City of San Antonio
11 are the applicants. They will administer and maintain
12 the plan, manage and monitor preserves, secure funding
13 and provide annual reports to the U.S. Fish and
14 Wildlife Service.

15 Finally, plan participants would be those
16 that select to enroll in the SEP-HCP for the purpose of
17 obtaining Endangered Species Act compliance. By
18 enrolling in the SEP-HCP, participants are responsible
19 for paying the participation fee and complying with the
20 conditions of the permit.

21 Your comments are important to us.
22 They're important to the NEPA process and to the
23 decision-making process. All the comments must be
24 received by March 19th, 2015 to become part of the
25 official project record. Documents are available on

1 the back table, both the NEPA document, the
2 Environmental Impact Statement and the Habitat
3 Conservation Plan and on the libraries that are listed
4 here and they can be downloaded from the websites.

5 There are several ways you could make a
6 comment. At tonight's meeting you can fill out the
7 comment card and drop it into the comment box on the
8 table in the back or provide us a verbal comment to the
9 court reporter. As a reminder, we have here tonight
10 translators for your -- if anybody needs translation
11 services into Spanish or German. After the meeting you
12 may mail your comments to the U.S. Fish and Wildlife
13 Service or provide your comment online at this address.
14 These instructions are found on the back of the comment
15 card and are described on the project website, which is
16 www.sephcp.com.

17 So what's next? The next step in the
18 process is to receive public comment and public input
19 from the draft EIS and the SEP-HCP. After the comment
20 period closes, all comments will be considered and
21 responses will be prepared. Comments and responses
22 will be included in final EIS and the final SEP-HCP.
23 U.S. Fish and Wildlife Service will then issue a Record
24 of Decision, or ROD, which will document the decision
25 to either issue the permit or not issue the permit.

1 The ROD is anticipated during the spring of this year,
2 2015. And, Adam, you want to say a few words of
3 closing for the U.S. Fish and Wildlife Service?

4 MR. ZERRENNER: Thank you, Leonard, for
5 your presentation and thank you everybody for coming
6 out on what is a wet, rainy and cold night and gettin
7 through the traffic to learn about the draft Habitat
8 Conservation Plan and also to provide comments.

9 I'd like to take -- or we would like to
10 take five minutes for staff to go into the back of the
11 room. They're going to be around the various posts and
12 signage and they are there to answer questions for the
13 next hour. And, please, there's a number of ways to
14 provide public comments and the comment period again
15 closes March 19th. So, with that, thank you all very
16 much for coming out.

17 UNKNOWN SPEAKER: What is your name again?

18 MR. ZERRENNER: Adam Zerrenner,
19 Z-e-r-r-e-n-n-e-r. So we'll take a break and we'll
20 look forward to talking with you.

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1 ANONYMOUS COMMENTER: All right. This is
2 for our family in Boerne, Texas, Kendall County. We
3 want No Action Alternative. Leave property -- private
4 property owners alone. Back off. Get your own land to
5 develop in Bexar County and stop looking around at
6 other counties. It's private property we've paid for.
7 Buy your own land. I have no intention of paying a
8 fine to use my own land. Thank you.

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ANONYMOUS COMMENTER: I feel that mitigation for Bexar County take property with property outside of Bexar County is unacceptable.

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ANONYMOUS COMMENTER: It seems to me that the proposal is unfair in two ways. One, the proportion of take exceeds fairness in that it's some ratio between 2 and 3 acres per acre of land that's put under development in Bexar County. And, two, going outside of the county that's directly affected by the development, to take land from surrounding counties seems unjust. That's it.

1 MR. DAVID PURDY: To whom it may concern:
2 I find it very disturbing that elements of the San
3 Antonio business community are trying to force the
4 rural areas of Bexar County, Medina County and Kendall
5 County to give up their rights of property and
6 development because San Antonio is maxed out. I find
7 it very disturbing that the link on Texans Against
8 Tollways website link to the federal website is
9 disconnected because I believe to stop me from stating
10 my say online. I find it very disturbing that the
11 rights of the citizens of Boerne, Texas in particular
12 to be heard is being abridged by not having a third
13 meeting in Boerne, Texas regarding this issue. I do
14 not feel that the time being allotted is sufficient for
15 large numbers of average folk to attend this meeting
16 when they work and not getting off work between 5:00
17 and 6:00 p.m. and this meeting ends at 7:00 o'clock. I
18 find also that this action that is being proposed is
19 detrimental to Texas' growth, and particularly the
20 energy industry's growth, to folks being able to use
21 the mineral rights on their properties and potentially
22 dangerous to just -- I think it borders on being
23 somewhat unconstitutional as far as depriving folks of
24 their rights of their property. But no action is my
25 response and a request for my complaints to be publicly

1 reviewed and a meeting in Boerne, Texas to be held is
2 definitely what I'm requesting. David J. Purdy, P, as
3 in Paul, U, as in useful, R, as in ready, D, as in
4 daring, wise and Y, as in young.

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1 STATE OF TEXAS
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COURT REPORTER'S CERTIFICATE

I, STEPHANIE GARRETT, the undersigned Certified Shorthand Reporter in and for the State of Texas, certify that the foregoing is a true and correct transcription, to the best of my ability, of the proceedings in the above-entitled matter.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the _____ day of _____, 2015.

STEPHANIE GARRETT, CSR
Expires: 12/31/15

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SOUTHERN EDWARDS PLATEAU
HABITAT CONSERVATION PLAN
ENVIRONMENTAL IMPACT STATEMENT

YO Ranch
2033 Sidney Baker
Kerrville, Texas
February 4, 2015

1 **COMMENTS TO COURT REPORTER**

2 **Ms. Cleo Marquart..... Page 3**

3

4 **INTRODUCTION BY MR. ADAM ZERRENNER..... Page 7**

5 **PRESENTATION BY MR. LEONARD VOELLINGER..... Page 12**

6 **CLOSING STATEMENT BY MR. ADAM ZERRENNER..... Page 25**

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1 MS. CLEO MARQUART: I think this is an
2 accurate statement when I say every person in this room
3 likes to share their environment with all living
4 things. Most of us have been fortunate to live in a
5 rural area, where we have the best of all worlds near
6 to where most of our needs are met. A way of life that
7 includes making a living from the land and sharing that
8 with an abundance of wildlife. We not only love our
9 environment but we are good stewards of it.

10 Do we like growth and change to this rural
11 setting? Not really, but we understand it. With this
12 growth, the infrastructure has to change. Our local
13 government, county and city, with citizen
14 participation, work to meet this challenge. It is done
15 with transparency and within the law.

16 When I refer to your agency, I mean the
17 U.S. Fish and Wildlife Services. Your agency, many
18 environmental groups and other groups that spring up
19 daily with a mission of their own wants full control of
20 everything we hold dear. Your agency works diligently,
21 with the help and funds of many, to disrupt and take
22 away using the Endangered Species Act as your tool.

23 I recently read that since 2007 in Texas
24 there have been 1,230 petitions filed to have something
25 added to the endangered species list. That is more

1 than the entire previous 30 years. Your agency does
2 not have the capacity in research nor administratively
3 to substantiate these petitions as you did not 20-plus
4 years ago.

5 The yellow-cheeked warbler was put on the
6 endangered species list 20-plus years ago. Following
7 the listing, your agency held public meetings, such as
8 this meeting, informing the public a permit would be
9 required with instructions of how much juniper could be
10 removed, the declared habitat for the bird, and, if
11 violated, the landowner would be subject to a fine or
12 arrest. A public outcry resulted and a public hearing
13 was held at our state capitol.

14 Myself and, I feel, others in this
15 audience attended. Your agency, Sierra Club and others
16 spoke defending the bird and its much-needed habitat.
17 What problem came into play was that none that was
18 speaking could bring forth with documented proof that
19 the bird should be on the endangered list. The
20 question asked was how many birds were there when you
21 determined it was endangered and how many are there
22 now. No one could give the numbers.

23 Following was testimony by individuals
24 with various credentials that disputed your agency's
25 claim. Slides were presented showing the warbler

1 nesting in other locations than the juniper. Outer
2 building ledges, woodland trees and bushes. Its nest
3 was made, as other birds, with dried twigs, grasses,
4 string, pieces of paper, et cetera. The birds adapted
5 or someone made a mistake that the juniper was the only
6 nesting habitat. The yellow-cheeked warbler after
7 20-plus years is still on the endangered list.

8 Recently in one of our local newspapers an
9 article was written on the Ashe Juniper, the type in
10 our area. The title of the article was Ashe Juniper is
11 really more good than bad. It listed its many benefits
12 to the ecosystem, a food source and habitat for the
13 yellow-cheeked warbler.

14 It did not mention the most important
15 feature of the juniper, a very bad one: How much water
16 it takes from the soil. The juniper, mesquite tree and
17 cactus are the biggest water takers of all, often
18 referred to as prairie parasites. Each of these spread
19 and take over, eliminating native grasses, growth or
20 stifle growth of woodland trees such as all species of
21 oak, elm, walnut, ash, buckeye, hackberry, cherry.
22 Uncontrolled and overgrowth of these invaders has a
23 detrimental effect on wildlife and bird populations.
24 Grasses and a mixture of woodland trees are primarily
25 responsible for attracting the insect population upon

1 which birds feed and provide shelter.

2 A large juniper can consume 40 gallons of
3 water daily. They have a deep root structure and a
4 dense mat of fibrous roots near the soil surface that
5 allow them to absorb moisture from the driest of soils
6 to the detriment of grasses, creeks and springs. Where
7 the junipers have been removed native grasses return,
8 woodland trees flourish and in some areas springs and
9 dry creekbeds begin to flow. This is the science of
10 it.

11 The Citizens Advisory Committee meetings
12 for the SEP-HCP held a couple of years ago, this
13 meeting and others that you will hold meets a regulator
14 requirement prior to your agency continuing on with
15 your mission, bottom line, to stop all growth of any
16 kind that it takes to provide for this nation of
17 people.

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1 MR. ZERRENNER: Good evening, everyone,
2 and thank you for coming out to this public meeting.
3 We appreciate you taking the time to come and learn
4 about the draft HCP. So on behalf of the U.S. Fish and
5 Wildlife Service, Bexar County and the City of San
6 Antonio --

7 UNKNOWN SPEAKER: You're going to have to
8 speak up.

9 MR. ZERRENNER: I can do that, sir. My
10 apologies. On behalf of the U.S. Fish and Wildlife
11 Service, Bexar County and the City of San Antonio, I
12 want to welcome each of you to the public meeting on
13 the draft Environmental Impact Statement and the draft
14 Southern Edwards Plateau Regional Habitat Conservation
15 Plan.

16 Thank you for attending tonight's meeting.
17 My name is Adam Zerrenner and I am with the U.S. Fish
18 and Wildlife Service. Bexar County and the City of San
19 Antonio have been working -- or tonight's meeting is
20 intended to provide you information on the draft
21 Southern Edwards Plateau Habitat Conservation Plan and
22 the draft Environmental Impact Statement as well as the
23 process that will go forward.

24 You have the opportunity to provide verbal
25 comments to the court reporter, Stephanie, who's in the

1 back right there in the room, or to provide them into
2 writing, and you can provide them in writing either
3 online through March 19th, and we have that information
4 here, or there's also a comment box. It's important to
5 note that all comments are treated the same whether
6 they're verbally to the court reporter, written
7 comments, either mail or provided here to the comment
8 box, or online through March 19th.

9 Bexar County and San Antonio have been
10 working on this for some time. Not an easy task of
11 drafting a plan with a scope that will benefit so many
12 endangered species while allowing for the inevitable
13 economic growth of the area.

14 I would like to introduce our permit
15 representative, the applicant, Andy Winter of Bexar
16 County. Andy is standing right there. Andy is with
17 the Bexar County engineer's office. Jenny Blair, who's
18 with the Bowman Consulting Group, she helped draft the
19 HCP. Jenny. So she's over there. So both of those
20 folks will be -- have a wealth of information. Leonard
21 Voellinger with Jacobs Engineering. Leonard is right
22 here to y'all's left. He prepared the draft
23 Environmental Impact Statement. And I would also like
24 to thank a number of elected officials who attended
25 tonight. Tommy Pfeiffer with the Kendall County

1 Commissioners Office. Tommy, or Commissioner Pfeiffer.
2 Darrell Lux, Kendall County judge. Judge Lux, I've met
3 you. Bob Grimes of Bandera County, county
4 commissioner. Buster Baldwin, county commissioner of
5 Kerr County. Commissioner Baldwin?

6 COMMISSIONER BALDWIN: Here.

7 MR. ZERRENNER: County commissioner Bob
8 Reeves. Ann Overby, who is with Congressman Lamar
9 Smith's office. And then we have Richard Evans, who is
10 the Bexar County judge. I'm sorry. Bandera. My
11 apologies. My apologies.

12 Laura Joseph; we have a Spanish
13 translator. Laura is in the back. As well as a German
14 translator, Anna-Marie Revenberg. Anna. As I
15 mentioned before, our court reporter is available,
16 Stephanie Garrett, over in the corner there, for those
17 who would like to provide verbal comments. Of course,
18 rest rooms right around the corner. Emergency exits,
19 both sides.

20 So our agenda for tonight includes the
21 open house and presentation. The purpose is really to
22 get information about the draft Habitat Conservation
23 Plan that Bexar County and San Antonio has provided the
24 service as well as the draft Environmental Impact
25 Statement.

1 There are a number of exhibits here for
2 you and information. We have about 10 project staff of
3 both Fish and Wildlife Service as well as county staff
4 and a lot of consultants that helped draft these
5 documents that are here to help answer any questions.

6 There will be a presentation from Leonard,
7 which will adjourn at about 6:00 p.m. We're then going
8 to change the meeting into an open house format and
9 there's going to be a little bit of a transition.
10 Because we have so many folks here, we're probably
11 going to try to move some of the chairs over here to
12 have some more space for folks to have Q and As with
13 Fish and Wildlife Service Staff.

14 UNKNOWN SPEAKER: Can we just have an
15 official question-and-answer period?

16 MR. ZERRENNER: This meeting was noticed
17 publicly not as a public hearing, which is more the
18 process of what you described, sir. The meeting has
19 been set up as a public meeting and was noticed as this
20 and the goal is ultimately to convey information. I
21 understand that a lot of people have expressed concerns
22 specifically about not having the public hearing style.
23 The comments --

24 UNKNOWN SPEAKER: Is there some law that
25 would keep you from doing that?

1 MR. ZERRENNER: We're not set up
2 specifically to do that with so many people in the time
3 that we --

4 UNKNOWN SPEAKER: You can't answer public
5 questions?

6 MR. ZERRENNER: No, absolutely. We're
7 here to do that and what I would suggest is we could
8 open up some space over here. We would have project
9 staff and then we could have those Q and As. I think
10 that would probably be the easiest -- I mean, just a
11 lot of the information is in the back as well as I've
12 got a number of staff who can help with that, so that
13 really is the -- how the meeting has been structured
14 and then -- I'll keep going, then. So, you know, the
15 bottom line, your feedback is important.

16 UNKNOWN SPEAKER: Then we would have an
17 open dialogue and a conversation. You don't want to
18 have a conversation, so obviously the feedback is not
19 that important. And you're holding the meeting in
20 Kerrville when you're impacting Bandera County, when
21 you're impacting Kendall County and Medina County. Why
22 hold a meeting in Kerrville in an unaffected county?
23 Is there an answer to that?

24 MR. ZERRENNER: We initially had our
25 scoping meetings in a whole spate of counties. There

1 was a lot of people that attended this particular
2 meeting, so that was the emphasis to say that based on
3 attendance and a lot of folks came to this meeting.

4 (Off the record while audience addresses
5 Mr. Zerrenner)

6 MR. ZERRENNER: So just to stress, all
7 public comments are weighted equally to the court
8 reporter or online. The comment period is open until
9 March 19th. So at this time I'll turn it over to
10 Leonard, who will go through the presentation.

11 MR. VOELLINGER: Thank you very much.
12 I'll try and speak loud enough so you can hear me.

13 I'll start with, why are we here tonight?
14 We're here because Bexar County and the City of San
15 Antonio are requesting an Endangered Species Act
16 Section 10 permit from the U.S. Fish and Wildlife
17 Service.

18 The issuance of a Section 10 permit is a
19 federal action which triggers compliance with the
20 National Environmental Policy Act and for this project
21 the National Environmental Policy Act required the
22 drafting of an Environmental Impact Statement. In
23 addition, the permit application must be accompanied by
24 a Habitat Conservation Plan, so we're here tonight to
25 provide an overview of the draft EIS and to present a

1 draft of the Southern Edwards Plateau Habitat
2 Conservation Plan, which spells out the terms of the
3 permit, and also to explain the next steps in the
4 permitting process.

5 We are also here tonight to request your
6 comments on the draft EIS and the draft Southern
7 Edwards Plateau Habitat Conservation Plan, and those
8 comments will be received three ways, which Adam
9 described. The comments must be received during the
10 comment period, which closes March 19th. We'll be at
11 the boards afterwards and you may ask a question at
12 that time. Comments must be received during the
13 comment period, which closes on March 19th, 2015, to be
14 part of the official record.

15 The Endangered Species Act provides a
16 means to conserve ecosystems upon which threatened and
17 endangered species depend and it provides a program for
18 the conservation of these species.

19 The Endangered Species Act achieves these
20 objectives by prohibiting the take, the take of
21 endangered species without a permit. The U.S. Fish and
22 Wildlife Service may authorize, however, incidental
23 take of endangered and threatened species, provided
24 that the terms of a permit are met. A taking of an
25 endangered and threatened species is anything that

1 harms a listed species. They may authorize incidental
2 take. An incidental take is a take that is incidental
3 to carrying out otherwise lawful activities such as
4 building roads and homes and buildings.

5 A Section 10 permit is the permit --

6 UNKNOWN SPEAKER: Sir, sir, sir, sir?

7 MR. VOELLINGER: You can ask questions
8 later, if you don't mind. Can you hear me? A Section
9 10 permit is a permit that the Service issues to an
10 applicant after they have an approved conservation
11 plan, so the plan must accompany the permit
12 application. Remember, under the permit the applicant
13 can take a species as long as it is incidental to
14 otherwise lawful activities.

15 The National Environmental Policy Act is a
16 law that requires federal agencies to disclose the
17 impacts of their actions on the human environment and
18 consider public comments before they decide to take an
19 action that could affect the human environment. In
20 this case, the Service will consider the impacts and
21 your comments before it decides whether or not to issue
22 a permit that the City of San Antonio and Bexar County
23 have applied for. The Section 10 permit can only be
24 issued by the Service after these steps are completed.

25 We have two parallel processes going on

1 here, the HCP process and the NEPA process, the
2 National Environmental Policy Act process. The NEPA
3 process began with scoping meetings to solicit input
4 from agencies and the public. Five scoping meetings
5 were held in June of 2011. Those comments were
6 considered in the development of the draft EIS. The
7 draft EIS is available now and the final EIS will be
8 written after review and in consideration of the
9 feedback that's received during these meetings and
10 during the comment period.

11 The NEPA process will conclude with a
12 Record of Decision. That Record of Decision will
13 document the U.S. Fish and Wildlife's decision whether
14 or not to issue a permit.

15 The HCP process began with the formation
16 of a biological advisory team, or BAT, made up of
17 qualified biological experts and a Citizens Advisory
18 Committee, which included landowners from the plan
19 area, environmental and conservation groups, real
20 estate and business interests and government entities
21 and utility providers. The CAC members were appointed
22 as required by Texas state law. These groups met
23 approximately 20 times in 2010 and 2011 and the
24 recommendations from the BAT and CAC helped identify
25 the Habitat Conservation Plan alternatives, which were

1 then developed further in the draft HCP and analyzed in
2 the draft EIS. The draft HCP is also available for
3 comment. Comments received during the comment period
4 will be considered in the final Habitat Conservation
5 Plan and the U.S. Fish and Wildlife Service will
6 consider both the Record of Decision and the final
7 Habitat Conservation Plan prior to issuing the permit.

8 The purpose and need for this permit: As
9 previously stated, the federal action is the issuance
10 of a permit, the Section 10 permit. The purpose of the
11 Section 10 permit is to authorize applicants to take
12 covered species within the enrollment area while
13 conserving their habitat. It would provide a tool to
14 protect endangered animals from encroachment from land
15 development while allowing land development to proceed
16 with minimal delay. The need for issuing the permit is
17 to conserve the covered species and the ecosystems upon
18 which they depend and to ensure Endangered Species Act
19 compliance while allowing economic development to
20 proceed.

21 The Southern Edwards Plateau is the home
22 of several endangered animals, and San Antonio's
23 population continues to grow. San Antonio's population
24 has grown 75 percent since 1980 and is anticipated to
25 grow another 60 percent in the next 30 years, the life

1 of this permit.

2 UNKNOWN SPEAKER: And that's not our
3 problem.

4 MR. VOELLINGER: If approved, the permit
5 and the Habitat Conservation Plan will provide a
6 long-term comprehensive solution to allow otherwise
7 lawful activities, such as road building and housing,
8 that could result in the taking of endangered species
9 covered in the plan while facilitating Endangered
10 Species Act compliance.

11 This slide outlines the individual
12 permitting process that developers have to go through
13 now. It's important to understand that it's against
14 the law to destroy threatened endangered species
15 habitat without a permit. Projects that impact
16 threatened or endangered species habitat, such as land
17 development projects, are required to acquire a permit
18 to be in compliance with the Endangered Species Act.

19 Without a regional Habitat Conservation
20 Plan in place, each project affecting habitat would
21 have to prepare a Habitat Conservation Plan and a
22 National Environmental Policy Act document and
23 coordinate with U.S. Fish and Wildlife Service, propose
24 mitigation and obtain an incidental take permit before
25 construction can occur. These steps can take up to two

1 years and it's legendary that it can also take more.

2 In compliance with a regional Habitat
3 Conservation Plan -- or in comparison, a regional
4 Habitat Conservation Plan reduces the time and money
5 needed to complete the permitting process. Regional
6 Habitat Conservation Plans provide a simplified
7 locally-managed voluntary option to comply with the
8 Endangered Species Act.

9 Projects affecting habitat still have the
10 choice of individual permitting and going through that
11 lengthy process directly with the U.S. Fish and
12 Wildlife Service or utilizing the locally-managed
13 Habitat Conservation Plan.

14 Five alternatives were analyzed in the
15 Environmental Impact Statement. These alternatives are
16 described so that anyone can compare the effects and
17 the trade-offs of the different alternatives, including
18 what would happen if the Service does not issue a
19 permit.

20 The No Action Alternative assumes that a
21 permit for a regional Habitat Conservation Plan is not
22 issued. Individual Section 10 permits would be issued
23 by the Service on a project-by-project basis, as it
24 occurs today.

25 A 10% Participation Alternative assumes

1 that 10% of the activities requiring a permit would be
2 covered by the plan.

3 The Single County Alternative assumes that
4 a preserve system would be limited to Bexar County,
5 within 10 miles of Bexar County.

6 The Increased Mitigation Alternative would
7 require higher habitat conservation for the covered
8 species than the other action alternatives.

9 Then the -- finally, the Proposed Southern
10 Edwards Plateau Habitat Conservation Plan Alternative
11 assumes that 50% of the activities requiring a permit
12 would be covered by the plan, and this is the Service's
13 preferred alternative.

14 A comparison of those alternatives: This
15 slide shows a simplified summary of the information
16 provided in the EIS to compare the alternatives. The
17 alternatives were evaluated based on their potential to
18 result in adverse or beneficial impacts to land
19 development, water resources, vegetation, general
20 wildlife, the golden-cheeked warbler, black-capped
21 vireo, karst invertebrates, socioeconomics, climate
22 change and funding and cost.

23 The Increased Mitigation Alternative
24 offers the most benefits; however, it costs \$1.1
25 billion. In comparison, the proposed SEP-HCP

1 Alternative offers similar levels of benefits but would
2 cost significantly less. After comparing the
3 alternatives and the adverse and beneficial effects and
4 direct and indirect and cumulative effects, the
5 Proposed SEP-HCP Alternative was found to provide most
6 benefits while meeting the purpose and need for the
7 permit.

8 The following slides describe the Proposed
9 SEP-HCP Alternative in more detail.

10 The plan area is the seven-county region
11 including Bandera, Bexar, Blanco, Comal, Kendall, Kerr
12 and Medina Counties. The plan area is where
13 preservation of habitat can occur. The enrollment area
14 only includes the jurisdictions of the SEP-HCP
15 applicants and the City of San Antonio. This includes
16 San Antonio's extraterritorial jurisdiction, or ETJ,
17 over the next 30-year period. The enrollment area
18 excludes Comal County because they have their own HCP
19 and other cities and jurisdictions in the plan area and
20 the counties outside of the plan areas.

21 Land development projects that would
22 impact habitat in the enrollment area may use the
23 SEP-HCP or comply individually with the Endangered
24 Species Act. This picture shows the potential extent
25 of San Antonio's ETJ by approximately 2040.

1 The covered species: The Section 10
2 permit would cover two endangered song birds; the
3 golden-cheeked warbler and the black-capped vireo, and
4 seven endangered karst invertebrates, a few of which
5 are shown here that live in underground caves.

6 The Section 10 permit would authorize a
7 certain amount of take of these species associated with
8 covered activities, provided that the terms of the
9 SEP-HCP are met.

10 The covered activities: The SEP-HCP could
11 be used for a broad range of non-federal projects in
12 the enrollment area, including public projects, private
13 land development projects, roads, bridges,
14 transportation projects and utility infrastructure.
15 Covered activities also include activities necessary to
16 manage the habitat for the covered species that could
17 result in an incidental take but would have long-term
18 benefits to the species.

19 The incidental take authorization: Over
20 the 30-year plan period, the incidental take permit
21 would allow for the taking of 9,371 acres of
22 golden-cheeked warbler habitat, 2,640 acres of
23 black-capped vireo habitat, and karst is divided into
24 five zones, where Zone 1 is the best quality habitat
25 with the greatest likelihood of containing karst

1 invertebrates and where Zone 5 does not contain habitat
2 for karst species. The incidental take permit would
3 allow for the taking of 10,234 acres of karst species
4 habitat, known as Karst -- in Karst Zones 1 and 2;
5 10,852 acres in Karst Zones 3 and 4, or 49 occupied
6 karst features. I want to emphasize that this take
7 authorization is in the enrollment area only, not the
8 whole plan area.

9 To mitigate for the take allowed by the
10 permit, habitat for the covered species would be
11 conserved in the plan area including 23,430 acres of
12 golden-cheeked warbler habitat, 6,600 acres of habitat
13 for the black-capped vireo, and 1,000 acres of occupied
14 cave zones for the karst species. Conservation land
15 would be incorporated into the SEP-HCP voluntarily;
16 that is, through an exchange between willing landowners
17 and the applicants. In order for a project to enroll
18 in the SEP-HCP, a participant would be required to
19 purchase two preserve credits for each one credit of
20 direct take of bird habitat and one-half of a credit
21 for each acre of indirect take. The cost per credit
22 would be \$4,000.00. Direct take would occur in the
23 enrollment property where indirect take would occur
24 in -- within 300 feet of the enrolled property. The
25 take of karst habitat in an occupied cave zone would be

1 prohibited until sufficient caves have been
2 protected among the Karst Invertebrate Recovery Plan.
3 Once this level of conservation has been achieved, a
4 plan participant would be required to pay a fee ranging
5 from \$40,000.00 up to \$400,000.00, depending upon the
6 proximity of the activity to an occupied cave zone.
7 The closer the activity to the occupied cave zone, the
8 more costly the fee.

9 The funding of the plan: The cost of the
10 30-year plan would be approximately \$299.5 million, of
11 which 57% would be used for preserve acquisition, 25%
12 would be put toward contingency and an endowment fund,
13 13% would be used for preserve management and
14 monitoring, and 4% would be used for plan
15 administration, the final 1% would be for other
16 conservation measures.

17 The plan would be paid for through a
18 combination of participation fees, public funding and
19 investments. Plan participants would contribute 56%,
20 public funding would contribute 26% and returns on
21 investments would account for the remaining 18%.
22 Public funding sources include impact fees, grants,
23 sales tax revenue, tax increment finance revenue and
24 other real estate taxes.

25 Roles and responsibilities: The U.S. Fish

1 and Wildlife Service is the lead agency in the National
2 Environmental Policy Act process and will issue a
3 permit and oversee its compliance, including monitoring
4 and mitigation.

5 Bexar County and the City of San Antonio
6 are the applicants. They will administer and maintain
7 the plan and manage and monitor the preserves, secure
8 funding and provide annual reports to the Fish and
9 Wildlife Service.

10 Finally, plan participants are those that
11 select to enroll in the SEP-HCP for the purpose of
12 obtaining Endangered Species Act compliance. By
13 enrolling in the SEP-HCP, participants are responsible
14 for paying the participation fee and complying with the
15 conditions of the permit.

16 Your comments are important to the
17 decision-making process.

18 (Laughter from the audience)

19 MR. VOELLINGER: Please provide comments.
20 We would appreciate it. Your comments must be received
21 by March 19th, 2015 to become part of the official
22 record. Documents are available on the table over here
23 and in the libraries listed or they can be downloaded
24 from the websites, and there are several ways to make a
25 comment. At tonight's meeting you can either fill out

1 a comment card and drop it in the comment box on the
2 table or provide a verbal comment to the court
3 reporter.

4 As a reminder, we have the translators
5 here for English and German if you need to make a
6 comment. After the meeting you may mail your comments
7 to the U.S. Fish and Wildlife Service, and these
8 instructions are all found on the back of the comment
9 cards and at the website.

10 So what is next? The next step in the
11 process is to receive public input from the draft EIS
12 and SEP-HCP. After the comment period closes, all
13 comments will be considered and responses will be
14 prepared. Comments and responses will be included in
15 the final Environmental Impact Statement and the final
16 SEP-HCP. The U.S. Fish and Wildlife Service will issue
17 a Record of Decision, which will document their
18 decision to either issue a permit or not issue a
19 permit. So the Record of Decision is anticipated in
20 the spring of 2015.

21 And, Adam, do you want to say a few words
22 in closing here? Thank you.

23 MR. ZERRENNER: So at this time if y'all
24 would give us a few minutes. We've got hotel staff.
25 They're going to help us move some chairs so that we'll

1 have the opportunity for Q and A. Additionally, there
2 will be the hour period where we've got Stephanie in
3 the back as a court reporter where you can provide
4 comments officially on the record or in the comment
5 box, and again, till March 19, either through letter or
6 online.

7 (Off the record while audience addresses
8 public meeting presenters)

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STATE OF TEXAS
COUNTY OF BEXAR

COURT REPORTER'S CERTIFICATE

I, STEPHANIE GARRETT, the undersigned Certified Shorthand Reporter in and for the State of Texas, certify that the foregoing is a true and correct transcription, to the best of my ability, of the proceedings in the above-entitled matter.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the _____ day of _____, 2015.

STEPHANIE GARRETT, CSR
Expires: 12/31/15

KOOLE COURT REPORTERS OF TEXAS
Firm Registration No. 413
8000 IH-10 West, Suite 600
San Antonio, Texas 78230
(210) 558-9484/FAX 558-3129



RICHARD ELKINS
Kendall County Commissioner
Precinct 2



211 E. San Antonio Ave., Ste. 311 (830) 249-9343, Ext. 315
Boerne, Texas 78006 E-mail: richard.elkins@co.kendall.tx.us

**Draft Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement - Public Meetings
February 3 and 4, 2015**

Comment Card

Your comments are very important to the decision-making process. Please let us know your thoughts, concerns, and suggestions about issues that should be considered in the final Environmental Impact Statement. Specific comments may be related to covered species, covered activities, the plan area, the enrollment area, mitigation measures, funding, etc. Please place this card in the *Comment Box*.

See Attached 15 pages for official Comments

Name: RICHARD ELKINS Kendall County Commissioner
Address: 211 E. SAN ANTONIO AVE City, State Zip: Boerne TX 78006
Email: RICHARD.ELKINS@CO.KENDALL, TX, U.S.

All comments submitted at tonight's meeting will become part of the public record and considered in the final Environmental Impact Statement. See the back side of this comment card for instructions on submitting comments after this meeting.



COUNTY OF KENDALL

GAYLAN L. SCHROEDER

County Judge

kcjudge@co.kendall.tx.us

Ann E. Reissig
Commissioner, Precinct 1

Gene Miertschin
Commissioner, Precinct 2

Darrel L. Lux
Commissioner, Precinct 3

Kenneth M. Rusch
Commissioner, Precinct 4

July 25, 2011

Dr. Benjamin Tuggle
Southwest Regional Director
US Fish and Wildlife Service
P.O. Box 1306
Albuquerque, NM 87103-1306

and

Nelson W. Wolff
Bexar County Judge
Paul Elizondo Tower
101 W Nueva, 10th Floor
San Antonio, Texas 78204

**RE: NOTICE OF INVALID APPLICATION
FOR INCIDENTAL TAKE PERMIT COVERING
THE SOUTHERN EDWARDS PLATEAU
HABITAT CONSERVATION PLAN**

Background:

The County of Bexar, Texas and the City of San Antonio (applicants), which resides in Bexar County, have made an application to the U.S. Fish and Wildlife Service (Service) for an Incidental Take Permit (ITP) covering activities associated with the proposed Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP). The proposal was formally initiated upon the approval of an Interlocal Cooperation Contract between Bexar County and Texas Parks and Wildlife Department on December 14, 2009, when the County and City were granted federal funds to prepare the SEP-HCP.

In this grant application, the proponents stated that the proposed permit areas would be "Bexar County, including the City of San Antonio." They informed the Service, however, that "it is our

intent to expand the HCP development and 'take' permit to include all of the currently-approved GCW Recovery Unit 6 (proposed unit 5). Therefore the location should eventually include the adjacent counties of Medina, Bandera, Kerr, Kendall, Blanco and perhaps Comal." (Project Statement, page 7)

The intent has been clear from the beginning that the applicants sought to mitigate the impact of their activities – the "take" of endangered species – onto the surrounding counties. The activities within the counties of Medina, Bandera, Kerr, Kendall and Blanco do not rise to the level taking endangered species necessitating an application for an ITP directly. However, the impact to species referred to in the draft SEP-HCP is occurring in Bexar County where they have failed to adequately reserve appropriate mitigation land to offset those impacts. As a result, they have applied to the Service for an Incidental Take Permit and are preparing a "Regional" habitat conservation plan through which they will control the activities to be approved under the permit, in the seven counties.

The applicants are unduly placing the burden of providing habitat for their activities onto the neighboring counties, therefore transferring the direct impact onto these landowners and restricting the revenue the five counties depend on to provide county services.

Under the pretenses that the SEP-HCP would be a voluntary program, the counties named above have been involuntarily included in the permit area for the ITP. This has been done over the official objections by each of the counties as noticed in specific policy resolutions voted and approved by each County Commissions Court. (**Attachment "A"**)

Therefore, by way of this letter, the counties of Medina, Bandera, Kerr, Kendall and Blanco (Counties) officially notice the U.S. Fish and Wildlife Service that the application filed by Bexar County Texas and the City of San Antonio is invalid as it includes in their permit area lands which are not within their jurisdiction and are instead under the authority of the above stated counties which have not given their consent to participate in the plan. Because of this invalid and unauthorized application, we respectfully request that you deny the issuance of an ITP for the seven-county area as published in the Federal Register, April 27, 2011 (FWS-RS-ES-2010-N282;20124-1112-0000-f2).

Additionally, the Counties demand that they be removed from the permit area in the draft and final version of the SEP-HCP, and that the SEP-HCP so note, as required under the National Environmental Policy Act, that the counties refuse to participate in the plan.

The Counties also require that the lands within the five jurisdictions be removed from the conservation area for mitigation and that they instead remain available to mitigate potential impacts within each county as necessary, if approved by each County Commissioner's Court, respectfully. (**Attachment "B"**)

1. Five Counties' Position Must be Coordinated

Now that the Service has initiated the development of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) as so noticed in the Federal Register, the

agency and applicants must coordinate the study with the five counties in order to comply with federal law.

NEPA requires that the environmental study be coordinated with local governments in order to carry out the policy set forth by the Act (42 USC 4331). Congress defined what it meant by coordination at 43 USC 1712 (c)(9) and the courts have affirmed this duty. As a part of this duty, the Service is required to assure that consideration is given to local plans, assist in resolving inconsistencies between Federal and non-Federal plans, provide meaningful involvement, and ensure federal plans are consistent with local plans.

Congress recognized that the position of local governments must be considered in the federal planning process, and must be weighed above that of the public. As duly elected officials with the responsibility to protect the health, safety and welfare of the public as charged by the State of Texas, the position of the five counties must be coordinated, must be considered, and the inconsistencies between the five counties' position and the proposal must be resolved. This duty lies with the Service and any entity so delegated to prepare the EIS or portions of the EIS.

NEPA provides specific direction as to how this is to be carried out by the agencies. At 42 USC 4332(E), the Act mandates that the agency shall:

*“(E) study, develop, and describe appropriate **alternatives** to recommended courses of action in any proposal which involves **unresolved conflicts** concerning alternative uses of available resources.”*(emphasis added)

At a minimum, an alternative should be developed and carried forward in the EIS and Draft SEP-HCP, which limits the permit area and mitigation lands to the jurisdiction of the applicants. It should be rigorously studied and include discussion as to the amount of take that can be offset through mitigation of lands within Bexar County as required by 50 CFR 17.22(b)(1)(iii)(B). It should also include a detailed analysis of the funding mechanisms to insure that the plan can be supported over its anticipated 30-year duration, as required at 50 CFR 17.22(b)(2)(C). Such an alternative would not include any portion of the five counties within the permit area nor consider any portion of the land within the five counties as the conservation area to mitigate permitted activities within the applicant's jurisdiction.

This is the only alternative that would resolve the conflict with the counties. It should be put forward as the **preferred alternative** by the applicants because it is the only alternative that is valid under the law.

The Council on Environmental Quality (CEQ) regulations provide further direction to the agencies as to how to properly resolve conflicts with local governments positions when preparing an environmental study.

First, the agencies are directed to consider the local position early in the process. “Agencies shall integrate the NEPA process with other planning at the earliest possible time ... to head off potential conflicts” (40 CFR 1501.2). The applicants have been duly noticed that the surrounding five counties will not be participating in their plan and further, oppose the

implementation of the plan in their jurisdictions. This conflict should have already been discussed in the first version of the draft SEP-HCP released in April of this year, as the Service will ultimately be relying on the final document in determining whether to issue the permit.

However, no mention of this opposition can be found anywhere in the draft. Because the applicants have refused to acknowledge that the five counties over which they are seeking to gain ITP permit approval have not consented, the alternatives they have analyzed fail to explain how they can effectively enforce the plan without this consent outside their jurisdiction.

Further, the purpose of the environmental study is to fully inform decisions makers as to the human and environmental impacts of the proposal so that such impacts can be properly considered when determining whether or not to approve the project.

"It shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." (42 CFR 1502.1)

"The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made." (42 CFR 1502.5)

"This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment and the Environmental Consequences, it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public." (42 CFR 1502.14)

Because the applicants neglect to address the conflict in their draft SEP-HCP, they have deprived decision makers, namely the Service, and the public of the opportunity to be fully apprised that the five counties have refused to allow the applicants to extend their authority into the jurisdictions of the five counties.

This error must be corrected in the Service's Environmental Impact Statement and must be addressed in the Draft SEP-HCP.

Moreover, the CEQ regulations very specifically require the applicants to analyze the conflict with the five counties when addressing the environmental consequences of their proposal.

"It shall include discussions of: (c) Possible conflicts between the proposed action and the objectives of Federal, regional, State and local land use plans, policies and controls for the area concerned." (42 CFR 1502.16)

No mention is made of the five counties' policies opposing the plan provided to the applicant before publication of its draft document. At the very least, the opposition of the five counties, as

well as their plans for implementing the program without utilizing any portion of the five counties, must be discussed and an adequate alternative developed to resolve this conflict. This is necessary at the draft stage so that decision makers and the public have the opportunity to know the five counties' position and comment on such position.

However, the agencies and applicant's burden goes beyond just discussion of the conflict. The agency and applicant must work to reconcile its position with the five counties.

"To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistencies of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe to the extent to which the agency would reconcile its proposed action with the plan or law." (42 CFR 1506.2)(emphasis added)

Not only should an alternative that limits the permit and conservation area be developed, but an explanation must be included in any alternative that extends the permit or conservation area beyond Bexar County's jurisdiction. This statement should describe how the applicants will reconcile implementing the permit in counties where they do not have the consent of the counties.

2. Application for ITP is Invalid

The Endangered Species Act (ESA) requires that an application be made and a conservation plan prepared that fulfills the requirements outlined in the Act before the Secretary can issue an Incidental Take Permit.

"No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefore submits to the Secretary a conservation plan that specifies ..." (16 USC 1539(a)(2)(A)) (emphasis added)

The application for the ITP in the seven-county area has been made by the County of Bexar and the City of San Antonio, according to the Federal Register notice published April 27, 2011. Application was not made by the six additional counties included in the plan area to be covered by the ITP.

Counties in the state of Texas do not have the authority to unilaterally act outside their boundaries without constitutional amendment. (See *Burke v. Hutcheson*, 537 S.W.2d 312, 314; *Ellis v. Hanks*, 478 S.W.2d 172, 176). In Attorney General Opinion No. JM-541, the AG points out that "Counties hold only those powers granted expressly or by necessary implication in the Texas Constitution and statutes." The office further points out that the State Constitution at Article V, Section 18, "commits county business to each county's commissioner's court."

Since the Texas Constitution does not provide for counties to extend their authority into other counties, and the Attorney General's office has concluded that Texas case law suggests the Legislature cannot grant this authority, then Bexar County does not have the authority to apply

for an Incidental Take Permit outside of its constitutionally recognized boundaries without the other counties' consent.

The application is invalid because the applicants have requested the issuance of an incidental take permit that is outside their legal jurisdiction and they have specific notice that the five counties have officially rejected inclusion in the plan.

Further, the Service does not have the authority to issue a permit "unless an applicant therefore submits to the Secretary a conservation plan." The Counties of Medina, Bandera, Kerr, Kendall and Blanco have not made such application for an ITP nor have they prepared a conservation plan for such a permit. The Service cannot issue a permit which covers their jurisdictions until and unless the counties make such application directly and fulfill the requirements as directed by the ESA.

The Service also recognized in the Notice of Intent that they cannot issue a permit beyond the authority of the applicant.

"Thus, the purpose of issuing a programmatic ITP is to allow the applicants, under their respective City or County authority, to authorize development while conserving the covered species and their habitats." (Federal Register, Vol 76, No. 81, April 27, 2011, page 23620) (emphasis added)

As noted above, Bexar County and the City of San Antonio's constitutional authority does not extend into the surrounding counties and does not have the other counties' consent to make such application. Therefore, the Service cannot approve an Incidental Take Permit to the applicants that includes the permit area for the five opposing counties.

3. The Applicants Seek Regulatory Control over the Five Opposing Counties

In their draft SEP-HCP, the applicants state that they will allow local governments, landowners and developers within the permit area to apply to become a plan participant. As the potential ITP holder, if authorized, and the entity that will determine the plan administrator, they will be exhibiting the equivalent of regulatory control over the other five counties. This would be appropriate only if the five counties had given their explicit consent.

"The County of Bexar, Texas is the entity applying to the Service for an Incidental Take Permit under Section 10(a)(1)(B) of the ESA. As the permittee of the Incidental Take Permit, Bexar County will be responsible to the Service for complying with the terms and conditions of the Incidental Take Permit. Bexar County will also be responsible for overseeing the implementation of the SEP-HCP." (First Draft Version SEP-HCP, page 23)

The Administrator of the plan will oversee enrolling participants, acquiring and managing preserves, and monitoring compliance with the terms and conditions of the permits as well as other administrative duties. Bexar County will determine who will be the administrator of the plan.

"Bexar County may, at the County's discretion, act as the administrative entity that implements the SEP-HCP or Bexar County may delegate aspects of the SEP-HCP implementation to other entities. For example, Bexar County may share such duties with other SEP-HCP Partners, such as the City of San Antonio, or an independent entity, such as a non-profit organization or foundation." (page 23)

The five counties included in the permit area could participate as an SEP-HCP Partner. However, plan participation is not automatic. There is a rigid application process that all potential partners must go through, including providing a biological assessment of the proposed project. This is to ensure that all the terms and conditions of the permit held by Bexar County will be complied with as required by federal law. Any participant application can be rejected if it does not meet the terms set by Bexar County.

"The creation of any such formal partnerships will be at the discretion of Bexar County and the potential partner." (page 23)

"Potential SEP-HCP participants begin the enrollment process by voluntarily submitting an application to the SEP-HCP Administrator. These applications will include project information and site specific biological information for the Covered Species. The SEP-HCP Administrator will review this information, confirm whether or not the activity is eligible to participate in the Plan, and determine the level of mitigation that is needed to offset impacts to the Covered Species." (page 31)

"The SEP-HCP Administrator may also, at its discretion on a case-by-case basis, elect to otherwise suspend an invitation to participate in the SEP-HCP or fully reject an application for participation." (page 48).

As the Incidental Take Permit holder and the entity that selects the plan administrator, Bexar County will be the regulatory body for the conservation plan. They are the responsible entity for ensuring the plan is carried out as required by federal and state law. They are given authority to approve or deny any participant's application who applies under the plan. This gives them regulatory approval over the seven-county area for which they have no authorized jurisdiction.

More importantly, this gives them the authority to deny any or all of the five counties' participation in the plan. The terms of the permit would give them such authority. So, even though the county's jurisdiction is included in the plan, the county itself may be denied participation.

State law does not allow for such unauthorized extension of power into other counties. In fact, such attempt to gain this regulatory power over the five counties listed within the application has been clearly rejected.

The applicants attempt to persuade those who oppose the plan that they will limit the actual implementation of the plan to the "geographic extent of Bexar County." However, they

acknowledge that the granting of this permit will give them the legal right to regulate who may participate in the plan and for what activities within the seven-county area.

“While the Permit Area defines where the SEP-HCP’s incidental take authorization may legally be used for the purposes of the Incidental Take Permit, the SEP-HCP establishes additional administrative conditions on where it will use its incidental take authorization. These administrative limits are intended to be responsive to the desires and concerns of other communities within the Plan Area for partnering in Bexar County in this regional plan. These administrative limits initially restrict the use of the SEP-HCP’s incidental take authorization to:

- *The geographic extent of Bexar County;*
- *The geographic extent of SEP-HCP sectors within the Permit Area that are adjacent to Bexar County, and*
- *The geographic extent of individual activities anywhere within the Permit Area that the Bexar County or the City of San Antonio (as a significant SEP-HCP Partner) deem beneficial on a case-by-case basis. (page 25)(emphasis added)*

So, the applicant’s self-imposed administrative limits are really not so limiting. They include anywhere in the seven-county area they deem beneficial. Their stated administrative limits do nothing to assure the five opposing counties that they will not use the regulatory authority granted them through the permit in the seven counties.

The permit, as currently applied for, must be denied.

4. Conservation Area Should Be Limited to the Jurisdiction of Bexar County

The stated purpose for the plan is:

“The SEP-HCP is a Habitat Conservation Plan that will implement conservation actions benefiting endangered species within seven counties in south-central Texas. As shown in Figure 1, the SEP-HCP ‘Plan Area’ includes Bexar, Medina, Bandera, Kerr, Kendall, Blanco and Comal counties.” (page 1)

The stated objectives for the plan include as number 1:

“REGIONAL CONSERVATION: To design and implement a regional conservation program focusing on habitat protection for the covered species and that supports the conservation of other regionally important natural resources.” (page 3)

However, the applicants admit that at a minimum 70% of new development, the primary take for the endangered species covered by the plan, will occur within Bexar County. “It is assumed that approximately 70% of this new development will occur within the jurisdiction of both Bexar County and the City of San Antonio.” (page 117)

When viewing the plan from a “regional” perspective, it is easy to lose sight of the magnitude of the take of species being requested by the applicants. To reduce the percentage of their new development impact down to a still massive 70%, they have had to include *six* neighboring counties’ activities into their calculations. It is questionable whether Bexar County has enough suitable habitat within its boundaries to offset its anticipated take.

As a result, the applicants have proposed a “Regional” plan which will allow them to regulate not only the permit area, but the conservation area as well. Applicants have put themselves in the position of determining which projects will be approved, for which areas, and at what price. They will also decide which lands will be considered suitable habitat to be added to the conservation bank, and which development projects will be approved to purchase conservation credits from the conservation bank.

The Conservation Area includes the seven-county area, not just Bexar County.

“Conservation measures associated with the SEP-HCP may occur anywhere within the seven county Plan Area, including Comal County. The SEP-HCP Administrator may engage in conservation activities, including voluntary preserve acquisition from willing landowners, within the Conservation Area even if the action is located outside the Permit Area or Participation Area. However, all conservation actions for the SEP-HCP will be implemented within the boundaries of the seven-county Plan Area.” (page 25)

By extending the conservation area across the seven-county area, they increase the amount of habitat they can use for mitigation to offset the direct impact of their take. They receive federal approval to do so, and thereby continue to destroy habitat in their county while locking up lands in other jurisdictions.

This also gives Bexar County an unfair advantage over other Counties that may wish to apply for an ITP in the future. If Bexar County has acquired the majority of suitable habitat in the other counties, then at such time as the five counties may choose to apply for a permit, they will have a reduced pool of land within their county to consider.

It may be that such need for an ITP will not occur in the other counties for many years, if at all, since the neighboring counties are rural in nature and are not experiencing the population growth of Bexar County. However, Texas State law requires that the identified habitat preserves necessary for mitigation in a Regional Habitat Conservation Plan be acquired no later than six years after the issuance of the federal permit. This prompts Bexar County to acquire the qualifying habitat early in the process.

First, state law requires that landowners, who may be identified as having land within a proposed habitat preserve system for the HCP, be notified in writing within 60 days.

“Not later than the 60th day after the plan participants’ initial identification of the proposed habitat preserve system for the federal permit, the plan participants shall notify in writing each owner of land identified by the plan participants as habitat preserve or potential habitat preserve.” (Title 5, Texas Parks and Wildlife Code, Section 83.017(c))

Habitat preserve is defined in the Texas Code as “land set aside or managed for the protection of endangered species under a federal permit.” (Sec. 83.011(7))

“Except as provided by Subsection (d), the plan participants shall make offers based on fair market value to the landowners for the acquisition of fee simple or other interest in land designated in the regional habitat conservation plan as proposed habitat preserve not later than four years after the issuance of the federal permit or six years after the initial application for the federal permit, whichever is later. Except as provided by Subsection (e), acquisition of all habitat preserves designated as proposed habitat preserves in the regional habitat conservation plan must be completed not later than the sixth anniversary of the date on which the federal permit was issued.” (Sec. 83.018(c))

Subsection (d) cited above reads:

“If plan participants have not designated a landowner’s land as proposed habitat preserve in a regional habitat conservation plan before the date on which the federal permit is issued but designate the land or proposed habitat preserve in a regional habitat conservation plan on or after that date, plan participants shall make an offer to the landowner based on fair market value for the acquisition of fee simple or other interest in the land not later than the fourth anniversary of the date on which the land is identified or designated as proposed habitat preserve.”

The applicants are mandated by Texas law to designate and acquire habitat for the fulfillment of the permit within the four to six year timeframe of the permit issuance, or later at the identification of preserve land. This encourages the permit holders to acquire the necessary habitat in other counties at the beginning of the 30 year anticipated permit duration, rather than at the end. Additionally, since applicants are setting up a “conservation bank” system, whereby conservation lands must be acquired before credits can be sold and projects approved, then the land must be acquired early in the process.

When habitat is preserved, it is removed from property tax rolls, and the County no longer receives tax revenue from such properties. The five counties should not have to bear the burden of mitigating Bexar County’s take of species. If there is to be a reduction of taxable land, and restriction on activities, it should apply to the applicants who are causing the impact. Bexar County and the City of San Antonio should offset their take with lands within their jurisdiction.

The potential habitat that may be used for mitigation purposes in the opposing five counties should be reserved for such activities that may require an Incidental Take Permit within those counties’ jurisdiction. The Conservation area should not extend beyond Bexar County’s borders.

5. State of Texas Prefers Local Habitat Conservation Plans

It should be noted that in the authorizing statues for Habitat Conservation plans in the State of Texas, the Legislature made clear that its intent was to discourage Regional Habitat Conservation Plans and encourage the development of local Habitat Plans, such as for each county.

Section 83.012 states:

"The Purpose of this subchapter is to: (2) encourage governmental entities to use the authority under this subchapter to develop and implement habitat conservation plans instead of regional habitat conservation plans;"

"(5) require plan participants of existing regional habitat conservation plans to comply with the requirements of this subchapter so that existing regional habitat conservation plans become habitat conservation plans as quickly as possible."

The applicants are deliberately ignoring this direction by the state, and instead are creating a "Regional" plan without the consent of the counties involved.

Conclusion:

The application for an Incidental Take Permit covering the activities associated with the SEP-HCP should be denied by the U.S. Fish and Wildlife Service because:

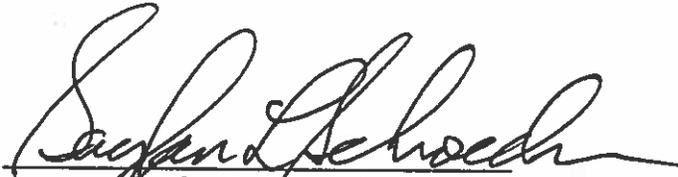
- (1) the applicants do not have legal jurisdiction over the seven-county area for which the permit covers,
- (2) the five counties of Medina, Bandera, Kerr, Kendall and Blanco have not given their consent to participate in the plan,
- (3) the five counties have not made an application to the Service for an ITP, and
- (4) the five counties have given legal notice of their objection to and inclusion in the Permit application, permit area and conservation plan.

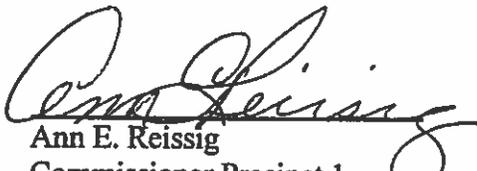
The National Environmental Policy Act requires that the Environmental Impact Statement and any other study to be used in part with the EIS, which includes the SEP-HCP, be coordinated with the five counties. The position of the opposing counties must be clearly stated in the document and an alternative developed that resolves this conflict be rigorously analyzed and carried forward in the draft EIS and draft SEP-HCP. This alternative would limit the permit area and conservation area to the boundaries of Bexar County.

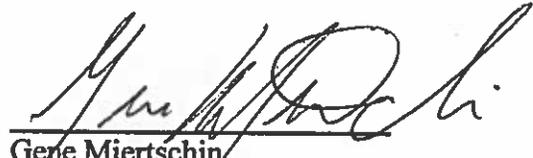
The contents of this Notice, the attached resolutions, and any other document or discussion carried forward in this process by the five counties are to be considered the plans and policies of the counties. These do not make up all of the plans and policies to be considered, but are the key policies that must be taken into account. These should be viewed by the Service and applicants as the basis for our position which must be considered, discussed, coordinated and resolved prior to project approval.

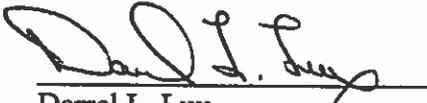
As the governing bodies of the five counties charged with protecting the public, it is important to note that this notice is not a "public comment." It is our position which must be coordinated and resolved in the development of the EIS and the SEP-HCP and permit approval process.

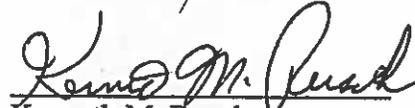
ADOPTED AND APPROVED by the Kendall County Commissioners Court on this the 25th day of July, 2011.


Gaylan L. Schroeder
County Judge


Ann E. Reissig
Commissioner Precinct 1


Gene Miertschin
Commissioner Precinct 2


Darrel L. Lux
Commissioner Precinct 3


Kenneth M. Rusch
Commissioner Precinct 4

Attest:


Darlene Herrin
County Clerk

STATE OF TEXAS
KENDALL COUNTY

KENDALL COUNTY RESOLUTION NO. 02-28-2011A

RESOLUTION CONCERNING THE PROPOSED
SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN

WHEREAS, THE KENDALL COUNTY COMMISSIONERS COURT IS COMMITTED TO PROTECTING PRIVATE PROPERTY RIGHTS AND THE ABILITY OF INDIVIDUAL LANDOWNERS TO USE THEIR PROPERTY, AND

WHEREAS, IT IS THE RESPONSIBILITY OF THE KENDALL COUNTY COMMISSIONERS COURT TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF ITS RESIDENTS, AND

WHEREAS, THE CITY OF SAN ANTONIO AND BEXAR COUNTY TOGETHER WITH OTHER ENTITIES, ARE INVOLVED IN PREPARING A HABITAT CONSERVATION PLAN IDENTIFIED AS THE SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN (SEP-HCP) TO SUBMIT TO USF&WS; AND

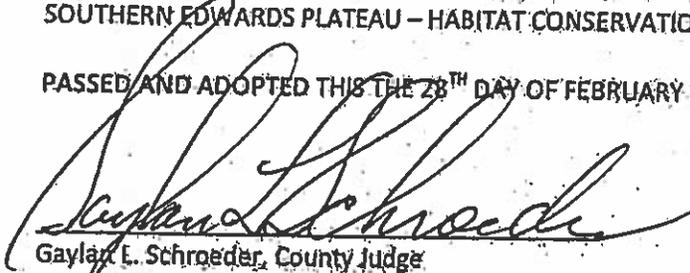
WHEREAS, KENDALL COUNTY HAS NOT OFFICIALLY AGREED TO NOR HAS IT PARTICIPATED IN THE DEVELOPMENT OF THE SEP-HCP, AND

WHEREAS, IF IMPLEMENTED, THE SEP-HCP MAY HAVE AN ADVERSE IMPACT ON KENDALL COUNTY AND ITS LANDOWNERS, AND

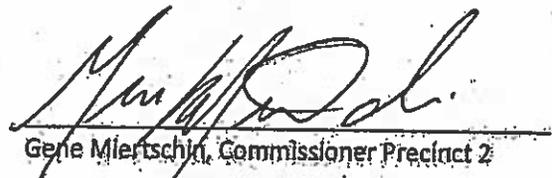
WHEREAS, THE KENDALL COUNTY COMMISSIONERS COURT DOES NOT SEE THE NEED FOR A HABITAT CONSERVATION PLAN COVERING KENDALL COUNTY AND WILL NOT APPLY FOR SUCH A PLAN OR JOIN IN THE APPLICATION FOR SUCH A PLAN;

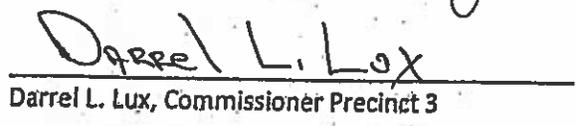
NOW THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF KENDALL COUNTY TEXAS, THAT THE COMMISSIONERS COURT WILL NOT SUPPORT NOR PARTICIPATE IN THE CREATION OF THE SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN.

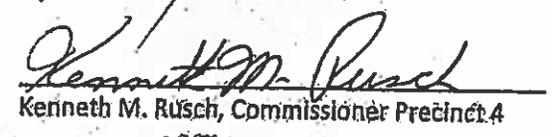
PASSED AND ADOPTED THIS THE 28TH DAY OF FEBRUARY 2011.

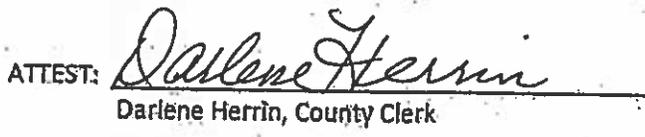

Gaylan E. Schroeder, County Judge


Ann E. Reissig, Commissioner Precinct 1


Gene Miertschin, Commissioner Precinct 2


Darrel L. Lux, Commissioner Precinct 3


Kenneth M. Rusch, Commissioner Precinct 4

ATTEST: 
Darlene Herrin, County Clerk



Attachment A

THE STATE OF TEXAS
THE COUNTY OF KENDALL

RESOLUTION 07-25-2011C

RESOLUTION OF KENDALL COUNTY COMMISSIONERS COURT TO BE REMOVED FROM THE PERMIT PLAN AREA FOR THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN

WHEREAS, Kendall County executed Resolution # 02-28-2011A on February 28, 2011 opposing the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP); and

WHEREAS, Bexar County and the City of San Antonio as the applicants of the SEP-HCP were officially noticed that Kendall County would not be a Participant in said plan; and

WHEREAS, the applicants First Draft HCP issued April 1, 2011 neglects to fully inform the public, the U.S. Fish and Wildlife Service (Service), and decision makers of the County's refusal to participate in the plan, therefore misleading the public, agencies and decision makers; and

WHEREAS, despite said notice to the applicants, the draft plan extends the Incidental Permit Area into the jurisdiction of Kendall County; and

WHEREAS, the applicants have officially applied to the United States Fish and Wildlife Service for an Incidental Take Permit (ITP) covering Kendall County without authorization or consent; and

WHEREAS, Kendall County has made no application to the Service for an Incidental Take Permit; and

WHEREAS, the Service has stated in their Notice of Intent to prepare an Environmental Impact Statement for the issuance of said permit that "the purpose of issuing a programmatic ITP is to allow the applicants, under their respective City or County authority, to authorize development while conserving the covered species and their habitats."; and

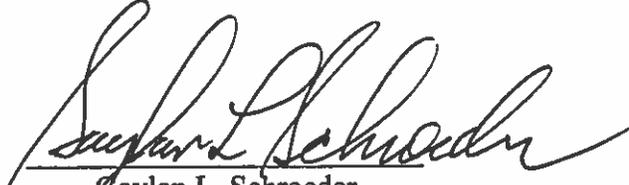
WHEREAS, the applicant's authority is limited to that within its own boundaries as so delegated by the Constitution of the State of Texas and cannot extend beyond such boundaries for any purpose without explicit permission from affected counties;

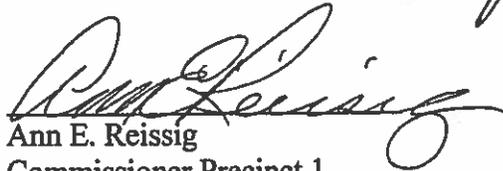
NOW, THEREFORE, BE IT RESOLVED, that on this 25th day of July, 2011, Kendall County Commissioners Court shall insist that the Service deny the SEP-HCP application for an Incidental Take Permit as published in the Federal Register, April 27, 2011 (FWS-RS-ES-2010-N282;20124-1112-0000-f2).

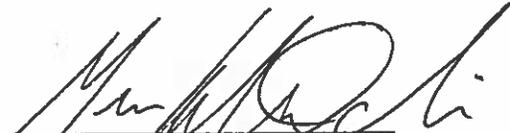
BE IT FURTHER RESOLVED, that Kendall County be removed from the permit area in the draft and final version of the SEP-HCP, and that the SEP-HCP so note that Kendall County will not be included in the permit area or conservation area, as a participant or in any other capacity, and

BE IT FURTHER RESOLVED, that the lands within Kendall County cannot be used to mitigate the species impacts of the applicants or any other entity outside our jurisdiction, but shall remain available to mitigate potential impacts within our jurisdiction, if necessary.

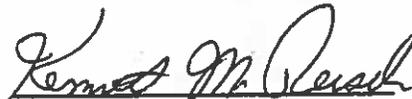
PASSED AND APPROVED this the 25th day of July, 2011.


Gaylan L. Schroeder
County Judge


Ann E. Reissig
Commissioner Precinct 1


Gene Miertschin
Commissioner Precinct 2


Darrel L. Lux
Commissioner Precinct 3


Kenneth M. Rusch
Commissioner Precinct 4

Attest:


Darlene Herrin
County Clerk



**Draft Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement - Public Meetings
February 3 and 4, 2015**

Comment Card

Your comments are very important to the decision-making process. Please let us know your thoughts, concerns, and suggestions about issues that should be considered in the final Environmental Impact Statement. Specific comments may be related to covered species, covered activities, the plan area, the enrollment area, mitigation measures, funding, etc. Please place this card in the *Comment Box*.

NO ACTION ALTERNATIVE

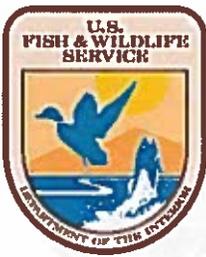
BACK OFF!

Name: Robert O'Connell / Mina O'Connell

Address: _____ City, State Zip: Boeing, WA 98006

Email: _____

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USF&W has failed to enforce the
desecration of our country by
developers up + down F-10 N. of 1604.

This tonight is a dog-and-pony-show - It ignores the BAT & CAC
recommendations presented in 2014 -



Wife Moore
603 River Rd
SATX 78212

Name: _____
Address: Box on USFW + Bexar County.

City, State Zip: _____

Email: _____

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Habitat damaged within Baylor Co
should be replaced with other
habit property also in Baylor Co
not in some other place

Name: _____

Address: _____ City, State Zip: _____

Email: _____

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To Whom it MAY CONCERN:

I find it very disturbing that elements of The SA Business Community are trying to force the rural areas of Bexar County, Medina County & Kendall County to give up their rights of property and development because SA is made out. I find it very disturbing that the link on TEXANS AGAINST TOLLWAYS website link to the fees website was disconnected to stop me from stating my say online. I find it very disturbing that the right of the citizens of Boerne, TX to be heard is being abridged by not having a 3rd meeting in Boerne, TX regarding this issue. I do not feel that the time being allotted

Name: DAVID J. PURDY

Address: 8181 FEEZEL Rd #10297 City, State Zip: SA, TX 78250

Email: _____

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is sufficient for large numbers of average folk to attend this meeting when they work not getting off work between 5-6 PM and the meeting ends @ 7 PM.

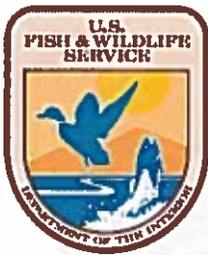
NO ACTION IS MY RESPONSE & A REQUEST FOR MY COMPLAINTS TO BE PUBLICLY REVIEWED AND A MEETING IN BOERNE, TX TO BE HELD

Name: David J. Purdy

Address: 8181 Teel Rd #10297 City, State Zip: SA TX 78250

Email: _____

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NO action alternative.
Don't fine private property owners.
Ridiculous - we love animals so
please stop taking their habitat
in Bexar Co.

Name:

Sean O'Connell

Address:

City, State Zip:

Boerne, TX 78006

Email:

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PROBLEMS WITH THE PUBLIC MEETING :

1.) HELD AT A TIME WHEN PEOPLE CAN'T
COME DUE TO THEIR GETTING OFF OF WORK (5-7 PM.)

2.) NO REAL ADVERTISING OF THE MEETING EXCEPT
THE "OLD" STYLE NEWSPAPERS

3.) NO ALLOWANCE OF ATTENDERS TO USE ~~THEIR~~ A MICRO-
PHONE SO THAT MISCONCEPTIONS CAN BE DISPELLED

4.) NO HARD COPIES OF THE SCREEN PRESENTATION
SO THAT ATTENDERS CAN FOLLOW ALONG, HAVE
AN INSTRUMENT TO REFER TO

Name: JACK M. KINGER

Address: P.O. Box 12048 City, State Zip: San Antonio, TEXAS 78212

Email: WATCHMAN ON THE WALL SA @ G MAIL . COM

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IT APPEARS THAT "TAKE" MEANS "KILL"
YOU ARE PROPOSING TO KILL THE POOR
ENDANGERED SPECIES TO BUILD HOUSES
WHERE THEY NEED TO LIVE! THIS
IS PREPOSTEROUS! WHY DONT YOU
GO BUILD HOUSES ON THE SOUTH SIDE
OF SAN ANTONIO WHERE THE
ENDANGERED SPECIES AREN'T LOCATED?
SOUTH SIDE NEEDS ECONOMIC DEVELOP-
MENT.

THE COST IS OUTRAGEOUS! IT DRIVES
UP THE PRICE OF THIS ENDANGERED
SPECIES LAND SO ONLY RICH PEOPLE
CAN BUY IT. THIS IS DESPICABLE, MORE
RIDICULOUS SUGGESTING TO BENEFIT RICH
PEOPLE

Name: VIKki SMITH

Address: _____

City, State Zip: _____

Email: _____

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Handwritten comment on lined paper: "No! Back off and leave private property owners alone. We work hard for our own land and live in America - 'Land of the free - home of the brave.' Buy your own land for enterprise in Bexar Co."

Name: M. D.

Address: _____ City, State Zip: Boerne, TX 78006

Email: _____

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Public Comments from:

Mike Luckey

110 Walters Rd.

Boerne, TX 78006

02/03/2015

I respectfully request the U.S. Fish and Wildlife Service to use the "Take No Action alternative" in regards to the draft Southern Edwards Plateau Habitat Conservation Plan (dSEP-HCP) and the Incidental Take Permit for the following reasons.

In Dec. 2009 Bexar County and the Texas Parks & Wildlife Department entered into a contract no. 213490 to develop the SEP-HCP.

The Objective stated within the contract:

To bring all stakeholders (San Antonio, Helotes, Gray Forest, Fair Oaks, Bexar County, Bandera County, Comal County, Kendall County, Kerr County, Medina County, and Camp Bullis) to the table and develop a comprehensive HCP and associated NEPA documentation over the next three years (2009-2011) for effective conservation of covered terrestrial species in Bexar County and Golden Cheek Warbler Recovery Unit 6

Bexar County failed to coordinate their activities with Bandera, Kendall, Kerr, Blanco (not mentioned in contract) and Medina counties in the formation of the SEP-HCP. In fact: We were not asked to come to the table! The dSEP-HCP should be terminated for "failure to comply with the provisions of applicable state or federal law" as stated within the contract.

The National Environmental Policy Act Title 42 U.S.C. 4331 requires local governments to coordinate their activities with other local governments when developing Conservation Plans.

Bexar County did not coordinate their planning efforts with other affected counties and because of this, Bandera County, Comal County, Kendall County, Kerr County, and Medina County, each passed resolutions

requesting removal from the SEP-HCP.

Without the participation of these counties, there is no guarantee of a safe habitat preserve for mitigation purposes of endangered species which is a requirement of Habitat Conservation Plans.

The dSEP-HCP undermines the purpose of the ESA by compromising species and their preservation for economic gain. It states in the plan that it greatly speeds up the process so developers can legally proceed with construction activities. The Development Rules in San Antonio are useless when developers can simply buy their way out of them and continue destroying the environment.

The SEP-HCP was voted down by the Citizens Advisory Team (CAC) in 2011.

There have been no public notices or meetings in regards to the formation of the proposed dSEP-HCP as required by state and federal statutes.

Thank You,
Mike Luckey

email: *stillwatersfarms@gmail.com*

USFWS sponsors of the South Edwards Plateau Habitat Conservation Plan

Why are you even holding these public meetings? You ignored your own laws and regulations during the draft preparation stage of the HCP and EIS by not coordinating with the people of the affected counties and their elected representatives. The counties of Median, Bandera, Kerr, Kendall and Blanco did not submit an application for an Incidental Take Permit (ITP) nor did they prepare a conservation plan for such a permit. Therefore, the Service could not issue a permit that covered the five counties' jurisdictions until and unless they themselves submitted an application directly and fulfilled the requirements as directed by the ESA. The counties did not consent to be included in the SEP-HCP and specifically opted out of the proposed plan. The citizens of the counties, through their elected representatives (the county commissioners courts of the counties) unanimously passed resolutions to opt out of the SEC-HCP and filed these resolutions with the Citizens Action Committee in February, 2011.

The final HEC and final EIS now claim the ITP would be covered under current and future portions of Bexar Co. and the City of San Antonio's extra-territorial jurisdiction (EJT). Counties in the state of Texas do not have the authority to unilaterally act outside their boundaries without a constitutional amendment.

The USFWS, Texas Parks & Wildlife Dept. acting on behalf of the City of San Antonio and Bexar county have no legal authority to force the SEC-HCP or subsequent ITP on the citizens of the above referenced counties. It is time for you to fold up your tents and go home.

Alan Smith
PO Box 1000
Comfort, TX 78013

830-995-5500



**Draft Southern Edwards Plateau Habitat Conservation Plan
Environmental Impact Statement - Public Meetings**

February 3 and 4, 2015

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1.) This is not only a land grab, it is a water grab. San Antonio currently does not have enough water to support its population. To allow the addition of more building is irresponsible. Where are they going to get the water?

2.) What guarantees will be put into place that the new "habitat land" does not become "take" land down the road, at a profit for fish and wild life?

Name: Kathleen Cook

Address: PO Box 693

City, State Zip: Hurst TX 78024

Email: kpgcook@gmail.com

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**Draft Southern Edwards Plateau Habitat Conservation Plan
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WHAT is the minimum amount of ACRAGE Required to participate in this program?

How will my ACRAGE be impacted if my neighboring property owner participate, BUT I don't participate?

Name: Jonathan Johnson

Address: PO Box 290283

City, State Zip: KERRVILLE, TX, 78029

Email: _____

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Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0079

Tracking Number: 1jz-8ht3-ukqn

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Beverly Baker

City:

Fredonia

Country:

United States

State or Province:

TX

ZIP/Postal Code:

76842

Comment

I believe the land owner knows best how to manage his land and has always been the ultimate conservationist. I want "No Action Alternative " to this Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan. Do not implement this destructive plan!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0041

Tracking Number: 1jz-8h78-jufc

Document Information

Date Posted:

Feb 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

J friedrich

Comment

I am writing to ask that you take the No action alternative concerning SEP dHCP and dEIS.

Thank you,
J Friedrich

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0080

Tracking Number: 1jz-8ht4-s5d1

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Dockal Helen

City:

Mason

Country:

United States

State or Province:

TX

ZIP/Postal Code:

76856

Comment

I urge a no action alternative to not have this plan implemented. As a land owner I am alarmed and concerned that the Federal government and Bexar County would try to execute a plan like this to benefit themselves at the cost of other land owners in other counties. Those birds nesting in trees in Bexar County aren't going to realize they need to move their nest to a neighboring county just because the government says so.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0072

Tracking Number: 1jz-8hss-v03a

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Mike Luckey

City:

Boerne

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78006

Comment

My name is Mike Luckey and I oppose the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) and respectfully request denial of the Incidental Take Permit (ITP) for the following reasons.

Bexar County and the City of San Antonio, TX (The Applicants) for the ITP entered into a contract (no. 213490) with the Texas Parks and Wildlife to develop a Regional Habitat Conservation Plan.

The Applicants failed to fulfill the contract which called for meeting and cooperating with Bandera County, Blanco County, Kendall County, Kerr County, Medina County, and other jurisdictional authorities in the development of the SEP-HCP. No attempts were made by the Applicants to inform or request the participation of these governing authorities.

During the 2010 public comments period of the Citizens Advisory Committee (CAC) meetings, two CAC members objected to the deliberate defrauding of the County Commissioner Courts authority that were being left out of the process. The Applicants failure/refusal to coordinate their plans with the affected counties throughout the formation of a regional HCP is in violation of Texas Parks and Wildlife Code Chapter 83 and the National Environmental Policy Act Title 42 U.S.C. 4331.

Bandera County, Blanco County, Kendall County, Kerr County, and Medina County each passed Resolutions in 2011 opting out and refusing to participate in the SEP-HCP. Copies of these resolutions are also posted under my name.

Kendall County passed another Resolution on 3/09/2015 restating their objections to the SEP-HCP.

The CAC voted down the dSEP-HCP in 2011 and has not held a public meeting since that time. Neither the CAC nor any other persons or entity has been allowed to attend a public meeting to discuss the proposed changes to the final SEP-HCP draft. By public admission, the Applicants for the permit have not held any public meetings regarding the final draft of the SEP-HCP since the CAC voted it down in 2011! The Final Draft of the SEP-HCP was created behind closed doors without any coordination, public

vetting, or an approval process which is in violation of State and Federal Statutes regarding Regional Planning efforts.

The Applicants have been very wasteful with taxpayer dollars and disrespectful of our natural resources. Approval of the ITP for the SEP-HCP would guarantee the ongoing destruction of sensitive natural areas that benefit habitat. The SEP-HCP also proposes mitigation of land where the affected endangered species does not even exist, thereby guaranteeing their extinction.

I respectfully request that the Applicants Incidental Take Permit be DENIED because of their willful disregard to follow State and Federal Statutes along with their willingness to destroy the sensitive natural areas without penalty.

Respectfully yours,
Mike Luckey

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0081

Tracking Number: 1jz-8ht7-p2u3

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Michele Petty

Comment

I live in North Bexar County in the middle of what was once prime endangered species prime habitat and the Edwards Aquifer Recharge Zone. The problem with this proposed incidental take permit is that there is absolutely nothing incidental about this taking. Developers have already decimated most of the endangered species prime habitat in Bexar County. It is GONE. The City and County are now attempting to give their developer buddies a carte blanche to wipe out the last remaining patch of quality endangered species territory in this county. Quite frankly, the parcels where they could buy to "mitigate" don't mitigate either because they are not of comparable quality to actually keep these species ALIVE; and the individual species creatures are not as densely populated there and there is no way to save the ones living where the developers want to develop.

It is the job of Fish and Wildlife to protect our endangered species, not be footsoldiers for the developers who are destroying these species.

This requested permit is unacceptable. The incidental take and mitigate permit as proposed by the City and County is a loophole big enough to drive an aircraft carrier through and effectively renders endangered species protection meaningless because it is just a matter of time before the city expands out to the "mitigated parcels" and wants to destroy that too--then there will be species extinction and Fish and Wildlife will have utterly failed in their job.

I ask that Fish and Wildlife require increased mitigation alternative 4.

Furthermore, I ask that Fish and Wildlife require that the city and County actually hold real public input hearings rather than the "virtually no notice and no opportunity to ask questions or make comments" SHAM meetings that were held. I ask that Fish and Wildlife extend its period for public commentary on this issue

because the City and County have conspired to sneak this one under the radar and have failed to fairly notify the public what is really going on with this requested permit.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0076

Tracking Number: 1jz-8ht2-qmh8

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

ALICE ANDERSON

City:

BOERNE

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78006

Comment

As a land owner in Kendall County I would like to request the "No Action Alternative" in regard to this bill.

We are good stewards of our land, maintaining areas for habitats for all species who reside on our property.

This includes native wildlife as well as cattle. Government does NOT need another control in our lives and as a native Texan it is the foundation of our heritage to be in control of our own property in this wonderful Lone Star State.

Please vote NO.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0055

Tracking Number: 1jz-8hqo-epj7

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

I am in favor of this Plan.
It addresses the loss of habitat for endangered species.
It gives developers a fair mitigation process that has proven
results.
Conservation Easements have been used since the 1930's.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0075

Tracking Number: 1jz-8ht1-4mkx

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

I strongly disagree with the guidelines outlined in this proposed regulation. Why do the supporters of the regulation just spend their time, effort and money on educating the public (especially those in the affected areas) of the benefits of providing protected habitats on their property? As a landowner, I am very sensitive to the need for protecting habitat and I will provide that protection on a voluntary basis. However, one size does not fit all and my preferences should not be imposed on other land owners. To all those in positions of power when voting on this regulation, please leave landowner rights alone. Sugar always draws better than vinegar. Vote against this regulation.



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

For related information, [Open Docket Folder](#)

ID: FWS-R2-ES-2014-0053-0094
Tracking Number: 1jz-8htf-ekrg

Comment

Document Information

Landowners have earned and deserve the right to make decisions on how to take care of their land and manage their use of the land that they love and have invested their life in. NO ALTERNATIVE ACTION!

Date Posted:
Mar 20, 2015

[Show More Details](#)

Submitter Information

Submitter Name:
Mr & Mrs Billy Kothmann
City:
Mason
Country:
United States
State or Province:
TX
ZIP/Postal Code:
76856

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0071

Tracking Number: 1jz-8hso-7ltf

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

myfe moore

City:

san antonio

Country:

United States

ZIP/Postal Code:

78212

Comment

I am Myfe Moore, founder of the Helotes Creek Nature Center and the San Geronimo Nature Center, a multi-generational ranch and land steward.

The 2014 SEP-HCP needs to be postponed, more hearings performed, and the comment period extended.

I attended the Helotes public hearing and submit my comments here again. I have submitted many emails with attachments of data and scientific details for your study and expect they will be considered.

First, I'll say this is a very poor HCPlan, more a developers best wis, with very little developer (taker) responsibility. Instead the public taxpayer will pay for 75% of this plan.

The public hearings (there were only 2 in a 7-county affected region) were not notified to the affected people, and the public hearings did not follow standard practice and law of allowing the public to ask questions or make comments.

The data compiled in the previous attempt to have an HCP were ignored in this revised plan.

The science is incomplete and missing, as is citizen cooperation or hearing. None of our concerns were addressed.

Only 2 or 3 public employees are informed about this enormous 7-county, 7 endangered species plan.

The mitigation location is too far away from the take, and the cost too cheap for the developer for repairing the damage done.

The information given in the 2 hearings was incorrect and misleading.

In total, a failed process.

THIS PLAN NEEDS TO BE RE-SUBMITTED TO THE
GENERAL AFFECTED PUBLIC AND THE COMMENT
PERIOD EXTENDED.

Myfe Moore
603 River Road
San Antonio, Tx 78212

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0057

Tracking Number: 1jz-8hqq-jqld

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Robert O'Connell

Comment

Local governments often promote habitat conservation plans as a solution to problems created by federal and state Endangered Species Acts (ESAs). In practice, habitat conservation plans inevitably cause unprecedented and unnecessary harm to farmers, ranchers and landowners that exceeds the impacts of existing state and federal law. The amount of land regulated and the total cost of a habitat conservation plan are always underrepresented at the outset. A habitat conservation plan always takes far longer to complete than initially promised, if it can be completed at all. In the interim, landowners suffer increased costs and regulations.

I urge that no action be taken to enact this habitat conservation plan, now or in future.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0033
Tracking Number: 1jz-8h0n-3u4u

Document Information

Date Posted:
Feb 5, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:
Richard Porter

City:
kerrville

Country:
United States

State or Province:
TX

ZIP/Postal Code:
78028

Comment

I request "No Action Alternative". 30 years to grab land is over the top even for government.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0047

Tracking Number: 1jz-8he6-degj

Document Information

Date Posted:

Feb 26, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Claire Honsalek

Comment

My comments regarding the Southern Edwards Plateau Habitat Conservation Plan draft: Section 10 (a)(2)(A) of the Endangered Species Act requires the Habitat Conservation Plans Include a description of the "alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized." One of these actions is the No Action Alternative - Whether or not to implement a regional Habitat Conservation Plan at all; (14.0) SEP-dHCP

I would like for the No Action Alternative to be implemented.

If the No Action Alternative was implemented:

- The enrollment area would NOT INCLUDE Bexar County and the City of San Antonio Jurisdictions.
- The conservation actions WOULD NOT INCLUDE 7 counties: Bexar, Medina, Bandera, Kerr, Kendall, Blanco and Comal.
- The Golden-cheeked Warbler, Black-capped Vireo, Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle WOULD STILL BE COVERED by the Endangered Species Act.
- 9,371 acres WOULD NOT NEED a incidental take request habitat within those acres for the Golden-cheeked Warbler.
- 2,640 acres WOULD NOT NEED a incidental take request habitat within those acres for the Black-capped Vireo.
- 10,234 acres, 10,852 acres and 49 occupied features WOULD NOT NEED incidental take request habitat within those acres for the Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle.
- The mitigation ratio of 2:1 direct impact and .5:1 indirect impact WOULD NOT BE NEEDED for the Golden-cheeked Warbler.
- 23,430 acres of preserve land distributed to be in mostly rural areas (Hill Country Counties) WOULD NOT BE NEEDED for

the Golden-cheeked Warbler.

- The Preservation Credit Fee of \$4,000 per credit \$8,000 per acre of direct loss (funded by developers in Bexar County, the City of San Antonio and Fish and Wildlife Service, Southwest Region) for the Golden-cheeked Warbler **WOULD NOT BE NEEDED.**

- The mitigation ratio of 2:1 direct impact and .5:1 indirect impact **WOULD NOT BE NEEDED** for the Black-capped Vireo.

6,600 acres of preserve land distributed in mostly rural areas (Hill Country Counties) **WOULD NOT BE NEEDED** for the Black-capped Vireo.

- The Preservation Credit Fee of \$4,000 per credit, \$8,000 per acre of direct loss (funded by developers in Bexar County, the City of San Antonio and the Fish and Wildlife Service, Southwest Region for the Black-capped Vireo **WOULD NOT BE NEEDED.**

- 1x of preserves required to achieve down listing criteria for the Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle conservation goal **WOULD NOT BE NEEDED.**

- 1,000 acres of new preserves distributed across Bexar County Karst Zones for the Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle **WOULD NOT BE NEEDED.**

- Participation Fees for 345 to 750 ft buffer from a water source of \$40,000 for Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle **WOULD NOT BE NEEDED.**

- Participation Fees for 0 to 345 ft buffer from a water source of \$400,000 for Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle **WOULD NOT BE NEEDED.**

The Total Estimated Cost of SEP-HCP Plan \$299,473,633.00 **WOULD NOT BE NEEDED.**

Revenues:

| | | |
|--|----|------------------|
| Application Fees | \$ | 374,964.00 |
| Golden-cheeked Warbler Preservation fees | | \$126,128,059.00 |
| Black-capped Vireo Preservation fees | \$ | 35,532,822.00 |
| Spiders/Beetles Preservation fees | \$ | 6,172,349.00 |
| Public Funding Bexar County | \$ | 39,209,915.00 |
| Public Funding City of San Antonio | \$ | 39,209,915.00 |
| GCW Preservation Credit | \$ | 251,560.00 |
| Endowment Fund Investment | \$ | 52,594,051.00 |

All of these FEES and PUBLIC FUNDING **WOULD NOT BE NEEDED!**

END THE DARK CLOUD OF NEEDLESS BUREAUCRACY
LOOMING OVER OUR PRECIOUS PRIVATELY OWNED
RESOURCES OF THE HILL COUNTRY.

Resident of Kendall County, Texas

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0086

Tracking Number: 1jz-8ht8-2rq4

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Stephen Colley

Comment

The SEP dHCP as described in the Notice documentation appears to open hundreds if not thousands of acres to development in the areas of northwest Bexar County, Northern Medina County and Eastern Banderita county. These areas are currently being stressed by the development underway within the existing environmental protections. There are quarry operations in this area that are already damaging habitat and degrading the air quality in the residential areas in and near Helotes. Residents in that area already have very little recourse to fight Martin Marietta and other operations to protect their health and property values. To think that the proposed SEP dHCP is asking for even more latitude for further development over a 30 year period is extremely alarming. Much of the karst areas in this area are in the Edwards Aquifer Recharge Zone or the Contribution Zone. Keeping these regions as natural and as preserved as possible is critical to the quality of the water supply for over a million residents and agricultural operations.

Mitigation, or the swapping of one "taken" area to be mitigated by another area is going to lead to the destruction of habitat and therefore the loss of population of the animal species listed as the "covered species". Purchasing mitigated land will not result in the relocation of the affected animals in the land where the habitat will be destroyed. The habitat in the mitigated or preserved areas may not be compatible and of course will already be populated with wildlife already settled there.

Personally, this proposal looks too much like a blank check for development for the next 30 years with little opportunity for environmental oversight. The middle paragraph of the "Proposed Action" portion of the notice includes the language that the SEP dHCP "...describes the conservation measures the applicants have agreed to undertake to minimize and mitigate for the impacts of the proposed incidental take of the covered species to the maximum extent practicable, and ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild." I'm in my 60's and I've learned to recognize phrases like "to the maximum extent

practicable" and "appreciably reduce" as being very indefinable and therefore provide loopholes so wide that you could drive a team of horses through. I'm not convinced that any permitted development will engage in operations that will minimize damage, habitat destruction, and wildlife loss because they can still claim they acted with "practicable" care and that they did not "appreciably" reduce these species in the wild.

Finally, the language danced around the likelihood that developers would be depending on a certain percentage of public funding in order to make up for costs related to the purchase of any necessary higher cost or higher percentage of mitigated land to be purchased for preservation. Developers who cannot afford all the necessary costs to engage in the kind of activities involving habitat and wildlife loss (and in some cases loss of air quality and/or groundwater quality/quantity) without depending on the general public to foot the bill should NOT be allowed to proceed with their projects.

I hope after considerable review, the Fish and Wildlife Service will NOT issue an ITP for this SEP dHCP request.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0088

Tracking Number: 1jz-8hta-cfs9

Document Information

Date Posted:

Mar 20, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Wayne Thomas

City:

San Antonio

Country:

United States

State or Province:

TN

ZIP/Postal Code:

78201

Comment

This plan is bad for our city and our county. We live in fragile environment. The developers of our city have proven themselves to be irresponsible by concentrating their home building over particularly irreplaceable features of our region. This plan was not publicized to the community stakeholders. Particularly during a critical election campaign period for our municipal government, we cannot allow such a massive change to take place without adequate open discussion among the electorate and candidates for office.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0093

Tracking Number: 1jz-8hte-908b

Document Information

Date Posted:

Mar 20, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Deana Jones

Comment

No action alternative, please. It's hardly right to destroy our community and uproot our valuable wildlife just so a few cronies can line their pockets with ill-gotten profits. We need to preserve the natural habitats here, not open up more space for shady contractors to build their shoddy developments. It's not appreciated, either, that people are trying to sneak this by the citizens, and it will be noted as to which pockets are being lined. As a citizen, I'm getting tired of having to put up with crooked politics and backroom deals to my, and my neighbors', detriment. We do not pay city and state employees to profit from our backs, and no one in this state is elected or appointed to only serve monied interests. This is our land, our city, our county, our state, and our protected wildlife. Leave it alone or get out. Your services aren't needed.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0038

Tracking Number: 1jz-8h4o-a3yt

Document Information

Date Posted:

Feb 11, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

michael billingsley

Comment

I appose the US Fish & Wildlife's plan to allow Bexar county to develop on protected lands. There is something to be said for less is more. If you allow this land grab it is putting a bandaid on the situation. Leave it like it is. If you allow this to happen, what happens in 20 or 30 years? Do you let Kendall county develop on protected lands at that point? Where does it stop? Don't let this happen!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0024

Tracking Number: 1jz-8gyj-i3w3

Document Information

Date Posted:

Feb 3, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Beverly Kroening

Comment

I request that the citizens of the areas in question be allowed to voice their concerns publicly in relation to the "Southern Edwards Plateau draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS) and an incidental take permit application". I request that all information in relation to this issue be publicly opened, disclosed, and accounted for, and that all citizens be made aware of all contents in relation to this issue. I request the 'No ACTION alternative' to be registered by me, Beverly S. Kroening, citizen of Medina County, Texas on this day 2/1/2015, in relation to the "Southern Edwards Plateau draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS) and an incidental take permit application".

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0021
Tracking Number: 1jz-8gyd-b2m1

Document Information

Date Posted:
Feb 3, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:
Brad Holt

City:
spring branch

Country:
United States

State or Province:
TX

ZIP/Postal Code:
78070

Comment

No ACTION alternative on this plan !!!! The thought that politicians and developers have hooked up to steal private property in order to build where they want to make money at the coast of private land owners is repulsive and immoral.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0073

Tracking Number: 1jz-8ht1-ew5z

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Wendy Corson

City:

Boerne

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78006

Comment

I am a resident of Kendall County. Not being politically motivated on any issue, I would like my voice heard on my total objection to this plan. Like most citizens we vote on our local representatives to protect and to stand up for what we believe as the growth path for our community. I do not live in Bexar County and do not want to be governed by Bexar county. This plan infringes on Kendall county and the five other counties being "used" by Bexar county for only Bexar county's benefit. Our local representatives here in Kendall county have done a wonderful job making sure we have enough green space and habitat protection. Bexar county should not be able to develop all it's land to increase their tax base while making their neighbors pay for their profits. I urge you to make Bexar county take care of their own issues and leave the other counties to take care of themselves. Please do not pin neighbor against neighbor.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0074

Tracking Number: 1jz-8ht1-fnvg

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Alan Montemayor

City:

San Antonio

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78213

Comment

The SEP HCP, as written, is unacceptable in that it does not adequately protect endangered species. It is a green light to development of critical habitats in Bexar County and "mitigates" in remote areas. Surrounding counties have not signed on to the HCP. As written, it is a complete abdication of USFWS protections and responsibilities under the ESA. It is a case of allowing the fox to control the henhouse and putting control in the hands of the San Antonio good-old-boy network of developers, realtors, speculators, builders and construction industries.

In order of preference I ask that you:

1. Deny the SEP HCP and take permit and put more energy into enforcing existing ESA regulations.
2. Specify the single county plan. This will protect some local habitats and not decimate local populations as much.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0042

Tracking Number: 1jz-8h7t-ori9

Document Information

Date Posted:

Feb 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Ann Dietert

City:

Boerne

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78006

Comment

The SEP-HEP Draft presentation at the Public Meeting in Kerrville, Texas was either a success or a dismal failure, depending in the objectives of the presenters. The USFWS should have understood the sentiments of the other counties in the plan area -- they don't trust San Antonio/Bexar County. If the objective of the presentation was for the Plan to fail, they certainly got people stirred up against it, again. I was a member of the Citizens Advisory Committee for the SEP-HCP. Several times people from the other counties came to speak against the Plan, and they succeeded in getting their counties to opt out of the it. After the Public Meeting the local Boerne paper's headline on 2/10/15 was "Feds Aim for Land Grab" -- "Bexar County/San Antonio want more growth at Kendall's expense." While I understand the federal government didn't develop the Plan, I have to say I don't trust San Antonio or Bexar County to deal fairly with neighboring counties. I was surprised to learn at that meeting that San Antonio will administer the conservation areas and I find that pretty suspect. I had considered offering land in Kerr County for mitigation but now would not because it would not be under the control of an independent land conservation group. I now feel that all mitigation should take place in the county where it occurs and if that limits development, so be it. San Antonio already has water problems and seeks to take water from other areas, which is one of the reasons the other counties object to San Antonio controlling anything in their areas.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0056
Tracking Number: 1jz-8hqq-k4qp

Document Information

Date Posted:
Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:
M. O'Connell

Comment

No action should be taken to impose upon land owners this SEP HCP for us who live in Kendall Co. We hate it and want Bexar to protect wildlife in their own backyard. Leave us alone, back off, and respect freedom and private property rights. No action! Thank you.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0031

Tracking Number: 1jz-8h0j-4nja

Document Information

Date Posted:

Feb 4, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

Being that the City of San Antonio and Bexar County are the parties asking for the Incidental Take Permit, the "Single-County Alternative" outlined in the dEIS is the most logical application. Surrounding counties have not asked to be included and have, in fact, issued resolutions stating they will not participate. If this plan, as the dEIS states, will make it more expensive to develop land in Bexar County, doesn't this serve the Service' interest for protecting potential habitat?

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0050

Tracking Number: 1jz-8hf7-x7v8

Document Information

Date Posted:

Feb 26, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

This is a terrible infringement of private property rights and needs to stop. It's enough that we work a life time to acquire the property we have, to struggle to pay it off and own it, and then to continue to pay the rest of our lives through all sorts of tax avenues. I know how to manage what land I have and everything on it and do not need any other assistance from any governmental organization. THIS HABITAT CONSERVATION PLAN SHOULD NOT BE IMPLEMENTED!!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0029

Tracking Number: 1jz-8h0e-hkcu

Document Information

Date Posted:

Feb 4, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Richard Heitzman

Comment

Stay out of the Hill country. If San Antonio cannot manage it's own growth within it's own boundaries then it needs to look for ways to grow that do not steal the land from private owners.

I want the 'No ACTION alternative" to this plan. This is the most pathetic attempt at land grabbing I have seen in a long time.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0060

Tracking Number: 1jz-8hrd-4d1d

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Mary Himlin

Comment

At public meetings, held locally, by FWS, there was absolutely no period for members of the public to speak. Kendall County was not even a meeting site, though our county will be more impacted, than will be others, by the SEP/HCP.

No recent field data exists; recovery plans for both the GCW and the BCV are ancient - 20 years old - and no field studies have been conducted. Yet, critical decisions will be based on this flawed approach.

In February 2011, Kendall County, among others, opted out of the SEP/HCP. We are still of the opinion.

The ESA negatively impacts property, which decreases in value, which means less monies for local taxing departments. The outcome is obvious: escalating taxes for the citizens. Three short months out of the year will we be able to clean out trees and clear brush - because the GCW has more rights than we. Now, I believe most citizens are reasonable enough that they support conservation and recycling efforts - this SEP/HCP goes way beyond that and into the realm of encroachment with its Agenda 21 scheme.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0044

Tracking Number: 1jz-8h99-tycc

Document Information

Date Posted:

Feb 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

I am a Kendall County resident, landowner, and voter. I am disgusted that San Antonio and Bexar County have proposed to take away landowner rights in our county. I believe there is a constitution that protects citizens from this heinous behavior by a government. How is this possible? It is NOT possible, under our constitution.

So, we have a situation where some environmental "do gooders" want to restrict land in order to protect beetles and spiders. How ridiculous is that? And because Bexar County does not want to restrict its precious land, they try to restrict a neighbor's land? Again, I believe the constitution protects me from this heinous government action.

This proposed regulation should be rejected in its entirety. Keep Bexar County government inside their own borders. And if we have fewer spiders and beetles there, who really cares?

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0026

Tracking Number: 1jz-8gz9-sp4q

Document Information

Date Posted:

Feb 3, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Denny Dial

City:

Houston

Country:

United States

State or Province:

TX

ZIP/Postal Code:

77080

Comment

in reference to the SEP dHCP and dEIS:

Please do not allow private companies, or any other entity, acquisition of off-site preserve lands. I prefer the "no action alternative."

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0091

Tracking Number: 1jz-8htc-w22t

Document Information

Date Posted:

Mar 20, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Manuel Vega

City:

San Antonio

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78210

Comment

Living in a community where our watershed is a valuable commodity, it is time to stand up to developers and issue a loud and clear statement that we need to protect our environment. For too long businesses have dictated environmental regulations in this City, County, and State. We. Ow have an opportunity to tell businesses no to destroying our environment. We must protect our communities for future generations. What happens when the Edwards Aquifer can no longer replenish itself? What happens when our City's only water source is polluted beyond repair? What will we tell our children and future generations when the only green space left is in our heavily developed parks and nature preserves? This proposal is a shame on the City of San Antonio. Protect our communities by telling developers, "NO!"

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0048

Tracking Number: 1jz-8hf5-z00e

Document Information

Date Posted:

Feb 26, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Lloyd Leifeste

City:

Kerrville

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78028

Comment

These is disguised as a way to protect endangered species but it actually is a way for developers in Bexar County to legally kill endangered species by buying "credits" from people in these 7 counties which will then not be able to develop their land. How do you think the Karst invertebrates will be able to pack up and leave their cave in Bexar county and go to one of the places where the developers from Bexas county have bought their "credits". I recommend this plan be rejected.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0078

Tracking Number: 1jz-8ht3-ap5b

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Henry Lang

City:

Boerne

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78006

Comment

As cattle ranchers in Kendall County we have been seriously impacted by continuing drought conditions and the increasing tax value of our land due to urban expansion from the San Antonio metropolitan area. To maximize the grazing area on our ranch we are constantly clearing cedar (actually Ashe juniper! which reduces grass availability and absorbs critically needed water resources).

For the federal government to dictate to us how we use our land in order to alleviate the impact of urban sprawl on metropolitan green space seems absurd

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0077

Tracking Number: 1jz-8ht2-ly7c

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

John Anderson MD

City:

Boerne

Country:

United States

ZIP/Postal Code:

78006

Comment

This proposed regulation is not acceptable to Landowners outside Bexar Co. We are all environmentally friendly. This proposed regulation benefits San Antonio only, to our disadvantage . The current regulations should be left alone. If the regulation proposed were enacted, immediate, well funded legal opposition will ensue. This will cost Bexar Co. and San Antonio far more in Legal expenses and bad P.R.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0087

Tracking Number: 1jz-8ht9-19yi

Document Information

Date Posted:

Mar 19, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Alyssa Burgin

City:

San Antonio

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78232

Comment

Nothing can replace the native flora and fauna of a place like Bexar County—it is part of what makes our city and our county unique, and it's part of the reason Texans make our area the most-visited tourism spot in the state. Why on earth would we want to take the chance of destroying that delicate balance in nature? Why would we want to change the natural habitat, and take the risk of messing with nature's plan? Or God's plan, if you will. We can't get it back once it's gone. Please do not approve these 'swaps' as outlined in the new plan. Our eco-system, our habitat is irreplaceable, and cannot be "mitigated" by planting something hundreds of miles away, or preserving a wetland in some other region or state. Take care of our own city and our own county, and let the eco-system give back to us as it has all of these centuries. It's too precious to mess with—don't mess with Texas, and don't mess with Bexar County!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0065

Tracking Number: 1jz-8hri-8gvz

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Earl Smith

City:

Bergheim

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78004

Comment

Please accept my recommendation for "NO ACTION" on this revised plan (FWS-R2-ES-2014-0053). Due to inadequate preparation and delivery of presentations of this most recent request for an Incidental Take Permit on behalf of the applicant, (The City of San Antonio, Texas and Bexar County, Texas), this plan requires general denial.

The endangered species listed in the plan are not being protected in this case, rather than protect them, the USFWS is being asked to issue permits to applicant (The City of San Antonio, Texas and Bexar County) to KILL these species in order to allow applicant authority to continue development in and over the plan area with very little regard to the wishes of property owners in the affected areas.

I do not appreciate the use of federal funds through federal agencies to be asked to abuse property owners for the benefit of developers and others who have no intention of protecting the endangered species as listed in the plan. Unbridled development in the areas North of the city limits of San Antonio, Texas is unacceptable to those of us who would prefer development be limited to areas currently not in the Map Areas listed in the Plan, (ie. south and east of San Antonio, Texas).

Please take NO ACTION.

Thank you,

Earl Smith
Kendall County, Texas

Attachments (1)

March 15, 2015

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Gentlemen:

SOUTHERN EDWARDS PLATEAU
ENVIRONMENTAL IMPACT STATEMENT AND
HABITAT CONSERVATION PLAN
CITY OF SAN ANTONIO AND BEXAR COUNTY
REGIONAL HABITAT CONSERVATION PLAN

I herein submit comments related to the captioned documents as set forth in the Federal Register announcement dated December 19, 2014.

Due to inadequate preparation and delivery of presentations of this most recent plan by USFWS, I respectfully request general denial of the application for the Incidental Take Permit.

The documents as presented to the public have changed in substance considerably since the first draft was submitted in 2011 and the drafts presented for review by the December 19, 2014 notice. The Citizens Action Committee (CAC) and U.S. Fish and Wildlife Service (USFWS) insist on including Kendall, Medina, Kerr, Bandera, and Blanco counties in the Southern Edwards Plateau-Habitat Conservation Plan (SEPHCP) even though citizens of the counties, through their elected representatives (i.e. county commissioners) unanimously passed resolutions to opt out of the habitat conservation plan, and filed these resolutions with the CAC in February 2011.

The development and preparation of the captioned documents was primarily funded by a grant from USFWS to the City of San Antonio and Bexar County under the premise that permitting would be expedited. The people benefiting from expedited permitting would be developers with projects to expand within the City and County. I take exception to having my tax dollars being used to front the permitting for local developers. The use of public funds for private enterprise is unacceptable.

The National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations have specific actions that must be taken in the development of an Environmental Impact Statement (EIS). It seems these regulations were ignored during the conduct of this project.

- * No public scoping meetings were held to obtain comments from the public.
- * The stakeholders of the project failed to coordinate the project with local officials (i.e. county commissioners).

* The public meetings held to review the 2011 draft did not allow for public discourse in the form of verbal communication. Participants were required to write their questions on paper and a moderator read the questions which were then answered by the project team. Hardly a public meeting.

* The public meetings for the final draft were even more restrictive although the moderator of the meeting quickly lost control. The concept of a public meeting implies to me there be verbal discourse which the USFWS tried to prevent. The attitude of the USFWS moderator at the Kerrville, TX public meeting on February 4, 2015 was anything but friendly. Federal employees need to be reminded they work for the people.

* Only two public meetings were held on final draft EIS and HCP. Kendall County which would be impacted greater than any other county was not included for a meeting site.

Habitats for the Golden-Cheeked Warbler (GCW) and Black Capped Vireo (BCV) were determined by high altitude satellite photography without benefit of field truthing.

No field surveys have been conducted to determine the presence of either species in Bexar County. Appendix C, dated March 30, 2011, provides a literature review of the target species and it is pointed out little field data are available for the HCP Plan region. Two different ranges of potential habitat for the GCW are given for the HCP area; both over 750K acres compared against a potential of over 4 million acres over the range of the GCW.

Section 5.1 of Appendix C notes reliable estimates of valuable habitat for the BCV are generally unavailable; particularly at large scales. Habitat is hard to identify and delineate from aerial imagery. Like the GCW no critical habitat has been designated for the BCV.

While the ESA requires monitoring of a species before inclusion on the endangered list there are few studies reported for the plan area. Appendix C provides estimates on GCW densities in the area. Some field data for breeding pairs of the BCV are available from 2006. The lack of pre listing monitoring data suggests the listing of the species might have been premature. Only seven months elapsed between the emergency listing to final rule for the GCW in 1990. Texas listed the bird as endangered in February 1991. The initial listing of the BCV was December 12, 1986 with the final rule effective November 5, 1987. It was listed by the state of Texas December 28, 1987. The 5-year review summary and evaluation by USFWS recommended the BCV be down listed to (threatened) in 2007. No action was taken on the recommendation.

The recovery plans for both species are over 20 years old. The absence of any recent field data concerning the presence of either species, their density, nesting activities and residency leaves a lot of questions for debate. Of course we have been reassured field data will be collected when the HCP plan is put into place.

The section on climate change in the dEIS is nothing but political correctness and has no basis in fact. The write up is based on junk science which really sets the tone for the entire dEIS.

The requirement for Conservation Easements to be held in perpetuity was a major issue during the public meetings on the first draft of the HCP. It was deleted from discussion in the final draft. The Incidental Take Permit (ITP) will probably be issued for 30 years. While the property

owner has the option of saying yes or no to placing their land in a Conservation Easement the information regarding committing their property in perpetuity should be disclosed early on. This has not been a transparent process.

The revised dEIS relies on the Extra Territorial Jurisdiction for the City of San Antonio to expand its uncontrolled growth into surrounding counties. While previous court rulings have found cities cannot conduct their activities outside the county boundaries. However, the City of San Antonio continues to play the “playground bully” by pushing the HCP into surrounding counties. There currently is a lawsuit between Kendall County and the City of San Antonio over this issue.

It is my opinion the documents covered by this public notice are totally inadequate for the purpose of issuing an ITP. I herein request ITP application be denied. I further recommend the USFWS review its responsibilities in carrying out the requirements of NEPA during the conduct of future projects of this nature.

Please reply.

Yours truly,

Earl Smith
P.O. Box 4216
Bergheim, Texas 78004
210-392-5537

cc:

Representative Lamar Smith
Senator John Cornyn
Senator Ted Cruz
Mrs. Donna Campbell, Texas State Senate
Mr. Doug Miller, Texas House of Representatives
Mr. Tommy Pfeiffer, Kendall County Commissioner, Precinct 3

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0061

Tracking Number: 1jz-8hrx-6l8x

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Karen Schneider

Comment

I am opposed to the implantation of the SEP-HCP in the county in which I reside, Kendall County. I feel that the plan is unnecessary to the citizens of this county, and there are other options available to landowners if they wish to set aside property for habitat. Bexar County should not be able to impose any regulations on other counties even if their jurisdiction overlaps county lines, in this matter. Landowners are the best people to make decisions for their private property and that is a right of all citizens of the state and country. Please take NO ACTION on the SEP-HCP.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0025

Tracking Number: 1jz-8gz3-ed7y

Document Information

Date Posted:

Feb 3, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

James Kloza

Comment

My comment is in reference to the SEP dHCP and dEIS...Southern Edwards Plateau (SEP), draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS), and an incidental take permit application:

I don't want the government to restrict how I can use and enjoy MY private property!

I want the "No Action Alternative"!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0045

Tracking Number: 1jz-8hbv-chpl

Document Information

Date Posted:

Feb 23, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

G. Eppinger

Comment

Bexar County would like the USFWS to take private property that belongs to citizens in Kendall County and put restrictions on that property. The Endangered Species habitat through the Southern Edwards Plateau Habitat Conservation Plan would take land in Kendall County to be set aside to mitigate Bexar County development. If this happens developers can't build on this land. The Endangered Species habitat has put insects, birds, fish, etc., before human rights. People should be in charge of their own land. If these so called endangered species are so necessary, put them in a zoo or aquarium. Government has already taken so much land and rights away from the citizens. We the people are not in charge anymore. It seems like at some point the government needs to stop this stealing of land and rights of the people.

I am against Bexar County trying to force land restrictions on Kendall County residents. Let them take care of their own county NOT ours.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0051

Tracking Number: 1jz-8hfb-zs9q

Document Information

Date Posted:

Feb 27, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Country:

United States

Comment

If San Antonio and Bexar Co are having a problem with expansion and habitat erosion, they are the ones that need to fix their problem themselves and not inflict a general solution on surrounding counties which do not have similar problems.

When I went to high school in Mason there were 2800+ people in residence in the city. Now there are less than 2200, and there are not population growth, environmental habitat conservation or urbanization problems in Mason County.

Spend your Bexar Co tax dollars more wisely (at home). Provide tax incentives for building highrise apartments, office buildings and other facilities that do not encroach on native habitat within your own county. Provide the proper incentives so the problem will solve itself without subjecting neighboring counties to your bureaucratic nonsense.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0046

Tracking Number: 1jz-8heo-7ukb

Document Information

Date Posted:

Feb 26, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

Double AA Ranch, Edwards Co. Texas

As land owners, we take great pride in keeping informed on issues, be it environmental, habitat, agricultural, water rights and survival. Our jobs are to protect the land, cultivate it, respect it (Ps 8) and manage it. This land is our land. Not the federal government.

Water is being taken at a high rate and we are in drought conditions all the time. San Antonio needs to figure out how to provide water for themselves and development without taking it from the Edwards Plateau.

Examples are Buchanan Lake NW of Austin, TX. Look at Medina Lake, TX (NW of San Antonio, TX)! Bone Dry....

We already have wells going dry around Medina, Bandera, TX.

The Federal Government has no business in this issue. They are using the Tx. Parks and Wildlife to attempt to coerce landowners into this conservation in the name of what? So San Antonio can bargain their way to develop more, to take more, to justify their growth for immediate gratification. TEXAS IS DRY and everyone is moving here. They need to spend a week in west Texas without any water before making the decision to develop here.

Signed,
Lucy



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0023

Tracking Number: 1jz-8gyi-srp3

Document Information

Date Posted:

Feb 3, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

No Action Alternative.

San Antonio is already too big. People move to the outlying area's to get away form the big city, yet we find the fools in city government continue to follow us. We don't want San Antonio in Bandera or Medina Counties!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0032

Tracking Number: 1jz-8h0j-2yzj

Document Information

Date Posted:

Feb 4, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Kendall County Resident

Comment

This is CoSA and Bexar County asking Joe the Plumber to pay for their lunch just because he happens to be in line ahead of them. Allowing development of Bexar County on the condition that lands in the surrounding counties are set aside for conservation is ludicrous. It would effectively create a great race to develop as much as possible before this was instituted...followed by basically condemning the remaining tracts of land. Couple that with creating a new, massive, and unelected bureaucracy with the ability to potentially impose taxes and fees is entirely unacceptable!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0037
Tracking Number: 1jz-8h3u-hw3g

Document Information

Date Posted:
Feb 9, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:
Anonymous Anonymous

Comment

I find it amazing that the public has heard very little about this latest boondoggle through the local main stream media. We have to rely on other sources of information, even though it is supposedly "our" government that is shafting us.

You can take your eminent domain and shove it where the sun doesn't shine. We don't want San Antonio in Banderita, Kerr, or Medina counties.



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0036
Tracking Number: 1jz-8h3q-mrap

Document Information

Date Posted:
Feb 9, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:
Anonymous Anonymous

Comment

I like it
Please do it



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
 Notice: **Southern Edwards Plateau Environmental Impact
 Statement and Habitat Conservation Plan; City of San Antonio
 and Bexar County; Regional Habitat Conservation Plan**

Comment Period Closed
 Mar 19 2015, at 11:59 PM ET

For related information, [Open Docket Folder](#) 

ID: FWS-R2-ES-2014-0053-0022
Tracking Number: 1jz-8gye-wnia

Comment

Document Information

Please deny the SEP dHCP and dEIS. The Constitution never intended to allow the government to take private property for the benefit of developers. This proposal is clearly un-Constitutional. Take the NO ACTION plan.

Date Posted:
 Feb 3, 2015

[Show More Details](#) 

Sincerely,
 Thomas G. Price
 tprice2@austin.rr.com

Submitter Information

Submitter Name:
 Tom Price



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0059

Tracking Number: 1jz-8hqy-8vqg

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

I have NO interest in MORE government regulations. Stay out of state's rights and leave the land of Texas alone.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0062

Tracking Number: 1jz-8hsk-ug37

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Dirk Heiss

Comment

I am interested in purchasing property in the Bloomfield Hills development, in Bexar County, north west of San Antonio, TX, for residential development. I urge Bexar County to do what ever is necessary to secure the permits with USFWS that are required to allow reasonable housing development in the region.



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
 Notice: **Southern Edwards Plateau Environmental Impact
 Statement and Habitat Conservation Plan; City of San Antonio
 and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#)

Comment Period Closed
 Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0090
Tracking Number: 1jz-8htc-nozy

Document Information

Date Posted:
 Mar 20, 2015

[Show More Details](#)

Submitter Information

Submitter Name:
 Thomas Chittenden

Comment

I urge that the no Alternative option be used. Animals do not understand that they have to "move" because someone wants to build a neighborhood. There are so many areas on the border of San Antonio and in the Bexar county area to develop that there is no reason to take land that is used to protect endangered species.



Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#)

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0027
Tracking Number: 1jz-8gzp-2jyy

Document Information

Date Posted:
Feb 3, 2015

[Show More Details](#)

Submitter Information

Submitter Name:
les mizell

Comment

I want a no-action alternative to this attempt at confiscating land for "so called" endangered animals. We humans are endangered when it comes down to it. Leave landowners alone. Confiscate land in a foreign country and export thos animals to that country. That may be the best solution. Better yet, send the politicians with the animals.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0054

Tracking Number: 1jz-8hoh-328y

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Andra Haney

Comment

Concerning this, I would strongly request the "No ACTION alternative." Private property must not be infringed upon.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

For related information, [Open Docket Folder](#) 

ID: FWS-R2-ES-2014-0053-0040

Tracking Number: 1jz-8h6k-vacq

Document Information

Date Posted:

Feb 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

City:

San Antonio

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78212

Comment

The PUBLIC MEETING in Helotes, Texas was WORTHLESS. It was a classic dog and pony show, not truly interested in feedback and certainly out of touch with reality: GERMAN TRANSLATORS?????? WHO ARE THE LOONATICKS PLANNING THIS EVENT?????? Good grief.

The SEPHCA plan is extremely environmentally damaging, too far reaching (9 species in 7 counties!!!!), mitigation too far away from where the damage was done, and hopelessly out of touch with the landowners and land stewards (German translators???)

1. ALL MITIGATION SHOULD HAPPEN IN THE IMMEDIATE AREA OF DAMAGE & TAKE.
2. THIS SEPHCA PLAN IGNORES 70 2010-2015 DOCUMENTS AND SCIENTIFIC PAPERS AT UT-AUSTIN. NONE WERE REFERENCED IN YOUR 2015 SEPHCA PLAN.
3. NO EXISTING PARKS AND OPEN SPACES ALREADY PROTECTED SHOULD BE USED FOR THIS 2015 SEPHCA PLAN.
4. MINIMUM DESIGN FOR PRESERVES IS NOT ACCEPTABLE.
5. THE OVERSEER OF THE REFUGES IS NOT MENTIONED. WHO WILL OVERSEE AND ENFORCE?
6. INCLUDE THE 2 SPECIES YOU LEFT OFF THE 2011-2014 PLANNED SEPHCA. YOU LEFT THEM OFF THIS PLAN.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0092

Tracking Number: 1jz-8htd-m6pc

Document Information

Date Posted:

Mar 20, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

I highly recommend the No Action Alternative for this ITP application. Why does the "rob Peter to pay Paul" ITP bandaid even exist? Mitigation via acquisition of other properties outside of the proposed development is not a plausible solution. Are they going to relocate the endangered species? No. And when developers (and cities and counties) complain about all the environmentalists saving spiders, birds and other critters, do they realize that it's not just about saving these species, it is about the maintenance of an ecological system that needs to exist. When you pave paradise to put up a parking lot, you will reap what you sow. Unfortunately, others have to reap what you sow as well. What ever happened to the infill idea? The urban sprawl is OUT OF CONTROL!

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0030

Tracking Number: 1jz-8h0l-3576

Document Information

Date Posted:

Feb 4, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

San Antonio needs to stay within the confines of Bexar County. Our water supplies and aquifers are stressed enough without having more development that only benefits a few. San Antonio and Bexar County should already be in Stage 3 water restrictions, but it seems like that is not going to receive much publicity. The S.A. City Council and Sculley apparently want to keep that gem if information hidden from developers for fear of losing "growth", which, BTW is a 90's metric.

STAY OUT OF KENDALL, BANDERA, and MEDINA COUNTIES! STOP overdeveloping on our recharge zone.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0028

Tracking Number: 1jz-8h00-hspt

Document Information

Date Posted:

Feb 4, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Greg Schenck

City:

Houston

Country:

United States

State or Province:

TX

ZIP/Postal Code:

77270

Comment

I want the 'No ACTION alternative.'

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0043

Tracking Number: 1jz-8h93-r6e0

Document Information

Date Posted:

Feb 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Michael Gargano

City:

Boerne

Country:

United States

State or Province:

TX

ZIP/Postal Code:

78006

Comment

To Whom it May Concern,
I am opposed to the Bexar County Incidental Take Permit from USFWS for several reasons. Development of the land set aside for endangered species will damage habitat. Additionally, Kendall County, where I live, will be forced to set aside private land to compensate for the Bexar County Take Permit. Finally and most importantly, Federal Government Agencies should not be intruding into the affairs of Texas or any other state for that matter.

Thanks to our elected representatives and our citizens, Kendall County does an excellent job managing it's own business, including preserving open space and protecting wildlife.

Continued Federal overreach and intrusion into state and local affairs is, and has been in clear violation of the Constitution, since the states maintain all power not specifically delegated to Washington. We certainly do not need or want Federal Government agencies dictating to Texas how we manage our land and water, nor will we allow blatant land grabs by the same.

Regards,

Michael A. Gargano

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0089

Tracking Number: 1jz-8htb-3xql

Document Information

Date Posted:

Mar 20, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

This is a terrible plan that does more harm than good. Do not move forward with it.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)**
Notice: **Southern Edwards Plateau Environmental Impact
Statement and Habitat Conservation Plan; City of San Antonio
and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0058

Tracking Number: 1jz-8hqy-hhsg

Document Information

Date Posted:

Mar 18, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

Government is increasingly infringing on the property rights of individuals. Currently, governments own/ control over 40% of lands in the Untied States. Private landownership in Texas is the strongest in the nation. Excuse of protecting endangered species is just a method of wresting control of Texas property from individuals to the collective. Unless the people of Kendall country vote to enact such a plan, the Fish and Wildlife Service will have no authority over the private lands in the county.

Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Notice: **Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan**

For related information, [Open Docket Folder](#) 

Comment Period Closed

Mar 19 2015, at 11:59 PM ET

ID: FWS-R2-ES-2014-0053-0035

Tracking Number: 1jz-8h1b-e7qr

Document Information

Date Posted:

Feb 6, 2015

[Show More Details](#) 

Submitter Information

Submitter Name:

Anonymous Anonymous

Comment

1. Government is not a pejorative word, but it is one that is often abused. The term "government" is often placed in contexts where people mean to be insinuating "bureaucratic red tape" and the minutia that bogs down the actual functioning of government. Many in attendance at last night's public forum in Kerrville came across as "anti-government" when they are simply against the over-burgeoning effects of government growing beyond what the nature of government in this country was intended.

2. USFWS, CoSA, Bexar County, Bowen Consulting, Jacobs Engineering, and everyone involved in presenting these meetings came across as having taken pains to be deliberately vague in providing information to the public. The most obvious example I can think of is in not telling the people in Kerrville exactly HOW, rather than WHY, counties surrounding Bexar County are even mentioned in the "Plan Area".

3. Treating people with such deliberate disrespect only serves to produce more distrust amongst the people you serve. Being that they also happen to be the ones you are attempting to gain cooperation from, it becomes a double-edged sword once those you have offended actively seek to shut down the process through their elected officials.

4. The presentations provided at the USFWS meetings oversimplified the concept of Habitat Conservation Plans. This came across as:

a) an effort to utilize Bexar County and CoSA as enforcement arms in a war against large-tract land owners in adjoining counties;

b) growth of Bexar County at the expense of adjoining counties; and

c) as one gentleman put it, the authorization for development in Bexar County to KILL endangered species as long as limitations are placed upon land owners in adjoining counties.

No clarity was made as to how conservation easements in adjoining counties will become theoretical transactions (i.e. - sales of credits to developers in order to mitigate the destruction

of Bexar County habitat).

5. Karst mitigation outside of Bexar and Medina counties is a ridiculous abuse of the concept of mitigation. As karst habitat capable of supporting the listed Bexar karst invertebrates does not exist beyond those 2 counties within the plan area, the wording of the proposed plan should specifically state as much. However, USFWS did not hold either of the two public meetings in a location that would allow Medina County residents fair and reasonable access to present their viewpoints publicly.

6. On that note, the format not allowing for public comments openly aired created a note of distrust that could not be overcome. By technicality, the meetings are not in violation of federal or state laws, as people were informed they could stand in line to leave one-on-one comments with the court reporter, placed on one of the paper sheets and deposited into a comment box, or by going online to the federal website. If nothing duplicitous is going on, why engender so much subterfuge?

7. In many cases, an heir or heirs inheriting land in this country cannot afford to keep the property. This generally leads to the sell of the land, and developers are more often than not the target buyers. Telling the people of counties adjoining Bexar County that the only way they will be able to sell their land is into government conservation banks was the first mistake, and one that was irreversible. To truly conserve habitat, eliminate the inheritance tax!

8. Assuming families who have maintained lands in these counties for generation upon generation are too ignorant to provide steps conserving the natural environmental and habitat is a mistake. How many ships have transported crude oil before or since the Exxon Valdez without incident? Do you see the parallel? While not every Texas may be an outspoken conservationist, the vast majority are not slash-and-burn destructionists! However, that is exactly how the people of the Plan Area have been treated. These families live on, manage, and care for the land. Most feel they have far more invested in land their family has been on for a hundred years than any bureaucrat could possibly fathom.

USFWS sponsors of the South Edwards Plateau Habitat Conservation Plan

Why are you even holding these public meetings? You ignored your own laws and regulations during the draft preparation stage of the HCP and EIS by not coordinating with the people of the affected counties and their elected representatives. The counties of Median, Bandera, Kerr, Kendall and Blanco did not submit an application for an Incidental Take Permit (ITP) nor did they prepare a conservation plan for such a permit. Therefore, the Service could not issue a permit that covered the five counties' jurisdictions until and unless they themselves submitted an application directly and fulfilled the requirements as directed by the ESA. The counties did not consent to be included in the SEP-HCP and specifically opted out of the proposed plan. The citizens of the counties, through their elected representatives (the county commissioners courts of the counties) unanimously passed resolutions to opt out of the SEC-HCP and filed these resolutions with the Citizens Action Committee in February, 2011.

The final HEC and final EIS now claim the ITP would be covered under current and future portions of Bexar Co. and the City of San Antonio's extra-territorial jurisdiction (EJT). Counties in the state of Texas do not have the authority to unilaterally act outside their boundaries without a constitutional amendment.

The USFWS, Texas Parks & Wildlife Dept. acting on behalf of the City of San Antonio and Bexar county have no legal authority to force the SEC-HCP or subsequent ITP on the citizens of the above referenced counties. It is time for you to fold up your tents and go home.

Alan Smith
PO Box 1000
Comfort, TX 78013

830-995-5500

April 3, 2015

Dear Guardians of the Environment:

We ask for renewed public hearings and
an extension of time for comments on
the

Southern Edward Plateau Habitat Conservation Plan
(SEP-HCP)

that Bexar County and San Antonio, on behalf
of developers is requesting a permit for.

This 7-counties, 7-endangered species plan
needs to be brought before the public before
more of our environment is being destroyed.

Please, help!

RECEIVED

APR 14 2015

Div. of Policy & Dir. Mgt.

Thank you,

Mr. and Mrs. R.H. Carlson
335 Eastley Dr
San Antonio, TX 78217



WWW.HILLCOUNTRYCONSERVANCY.ORG

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MAR 23 2015
Div. of Policy & Dir. Mgt.

March 16, 2015

U.S. Fish and Wildlife Service
Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service; MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Mr. Adam Zerreneer
Field Supervisor
U.S. Fish and Wildlife Service
10711 Burnet Road, Suite 100
Austin, TX 78758

RE: FWS-R2-ES-2014-0053-0049: Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan; City of San Antonio and Bexar County; Regional Habitat Conservation Plan

Dear Adam:

We write this letter in support of the Southern Edwards Plateau Habitat Conservation (SEP-HCP). Land development activities that accompany and support the expanding population of the greater San Antonio area have caused the loss and degradation of habitats for federally threatened or endangered species, and are the primary factors threatening the survival and recovery of these species.

As we see all too often today throughout the greater San Antonio area and surrounding Hill County, many projects are proceeding without proper coordination with the U.S. Fish and Wildlife Service (USFWS) and would rather risk enforcement actions that could delay completion and/or result in fines, than seek compliance with the Endangered Species Act (ESA). This is largely due to the fact that the process for ESA compliance by obtaining a permit from the USFWS is lengthy and expensive, thus discourages people from seeking it. What this poor compliance and lack of proper coordination has resulted in is the loss or degradation of endangered species habitats without the benefits of the corresponding conservation measures that would otherwise be implemented as required by the ESA.

This overall lack of ESA compliance over the past couple of decades has resulted in few conservation actions being implemented in the greater San Antonio area specifically for the benefit of the region's

threatened or endangered species. Furthermore, it has been estimated that approximately 241,000 acres of available undeveloped land within the SEP-HCP Plan Area will be converted to developed land uses within the next 30 years, at an average pace of approximately 7,800 acres per year. The greater San Antonio area needs a locally implementable solution to curtail the continuing loss of open-space and endangered species habitat within the region.

While ongoing conservation initiatives sponsored by the City of San Antonio's Edwards Aquifer Protection Program have protected tens of thousands of acres in the SEP-HCP Plan Area from future development, most of these actions do not specifically provide for the protection or management of endangered species habitats. Without specific habitat protections and on-going management, the conservation value of these lands may be limited for endangered species. There are only a few relatively small and scattered conservation actions within the region that have specifically targeted the protection and management of endangered species. However, these efforts alone will not likely support the self-sustaining ecosystem processes that naturally maintain endangered species habitats within the next 30 years.

Protecting endangered species habitat is important, and much of this habitat occurs over areas within the recharge and contributing zones of the Edwards Aquifer and would contribute to aquifer protection. The SEP-HCP will provide for the coordinated conservation of the area's important natural resources at a scale that helps secure the status of endangered species and contributes significantly to their ultimate recovery. At full implementation, the SEP-HCP preserve system would include a minimum of 23,430 acres of golden-cheeked warbler preserve lands; a minimum of 6,600 acres of black-capped vireo preserve lands; and a minimum of 1,000 acres of preserve lands for the seven listed karst invertebrates covered by the plan. The SEP-HCP also requires that conservation actions must be completed before a corresponding amount of participation can be allowed to occur through the Plan.

The SEP-HCP would be another tool in the conservation toolbox in which groups could utilize for assistance in regional-scale conservation efforts, not only endangered species protection and recovery, but protection of the Edwards Aquifer and other important natural resources of the Hill Country. SEP-HCP resources in the form of mitigation fees, available grants, and public funds will be used to acquire lands or perpetual conservation easements on properties from voluntary and willing landowners within the 7-county Plan Area that meet conservation and recovery-specific design criteria for these endangered species.

Additionally, the SEP-HCP will require two acres of mitigation for each acre of direct impact and one-half acre of mitigation for each acre of indirect impact. All other similar HCPs within the central Texas area only require a one acre of mitigation for each acre of direct impact.

Any amount of mitigation would be better than the current status quo of no mitigation at all.

Respectfully Submitted,



George Cofer
Executive Director



GRAVES DOUGHERTY HEARON & MOODY

A PROFESSIONAL CORPORATION

David P. Smith
512.480.5790
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dsmith@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767-9998

March 16, 2015

Mr. Dan Ashe
Director
United States Fish and Wildlife Service
1849 C Street NW, Room 3331
Washington, DC 20240-0001

Dr. Benjamin Tuggle
Regional Director
United States Fish and Wildlife Service
500 Gold Ave SW
Albuquerque, NM 87102

Mr. Adam Zerrenner
Field Supervisor
U.S. Fish and Wildlife Service
10711 Burnet Road, Suite 200
Austin, TX 78758

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

**Re: *Comments on the Draft Southern Edwards Plateau
Habitat Conservation Plan and Draft Environmental
Impact Statement***

Dear Mr. Ashe, Dr. Tuggle and Mr. Zerrenner:

This firm represents the Ayres Family and the Shield Ranch Camp Wood which is located in Real County, Texas (the "Ranch"). We write to provide comments on the above-referenced draft Habitat Conservation Plan, referred to as the Southern Edwards Plateau draft Habitat Conservation Plan ("SEP dHCP") and the draft Environmental Impact Statement ("dEIS"), which was prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act ("NEPA"). Unless otherwise specifically indicated, these comments address the entire permit application package, which includes both the SEP dHCP and dEIS.

We also take this opportunity to once again express our serious and growing concern about the administration of the GCWA and BCVI conservation banking program by staff in the United States Fish and Wildlife Service (the "USFWS") Region 2 Southwest Regional Office in Albuquerque, New Mexico (the "Regional Office") and the USFWS Austin, Texas Ecological Services Field Office (the "Austin ES Office"). USFWS staff continues to act arbitrarily and capriciously in the administration of the GCWA and BCVI conservation banking program in Texas.

This letter urges a careful examination of the counties included and not included in the SEP dHCP "Plan Area", as well as issues of inconsistency with the USFWS' stated policy position with respect to conservation lands for the conservation and recovery of the golden-cheeked warbler ("GCWA") and the black-capped vireo ("BCVI").

I. The SEP dHCP and the dEIS arbitrarily fail to acknowledge or analyze that the Proposed Action is inconsistent with current USFWS policy.

On or about July 1, 2013, the USFWS added to its website the "Guidelines for the Establishment, Management, and Operations of Golden-cheeked Warbler and Black-capped Vireo Mitigation Lands" (the "New Guidelines").¹ The USFWS did not publish any of these documents in the Federal Register; it did not issue a press release; and it did not make any effort to make members of the general public aware of the New Guidelines. In addition, the USFWS did not allow members of the public the opportunity to provide comment on the New Guidelines.

Austin ES Office staff has verbally informed some members of the public, including our clients, that the New Guidelines were going to be "strictly interpreted" and applied to all "new" GCWA and BCVI conservation lands under consideration. It continues to be our position that the New Guidelines as "strictly enforced" upon private landowners are not valid because they were not adopted pursuant to required notice and comment rulemaking; however, both the dHCP and the dEIS are wholly inconsistent with the "New Guidelines." This is most evident in the designation of the "Plan Area" and the "Enrollment Area" in the dHCP.

A. The SEP dHCP is inconsistent with the 1992 GCWA Recovery Plan and USFWS staff's current application of the New Guidelines.

The SEP dHCP "Plan Area" includes Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal Counties. The SEP dHCP "Enrollment Area" is defined as the jurisdictions of Bexar County and the City of San Antonio, including the current and future ETJ of the City of San Antonio, but excluding any portion of Comal County, which has previously developed its own county-wide HCP. Projects located within the Enrollment Area will be eligible to utilize the SEP HCP for ESA compliance for incidental take. Under the dHCP, conservation actions may occur throughout all seven counties of the Plan Area.

¹http://www.fws.gov/southwest/es/Documents/R2ES/Cons_Bank_Mitigation_Guidance_for_GCW_and_BCV.pdf

The Enrollment Area in the dHCP includes areas in Bexar, Medina, and Bandera Counties which are part of Recovery Region 8 in the 1992 GCWA Recovery Plan, and areas in Bexar, Medina, Bandera, and Kerr Counties which are part of Recovery Region 6 in the 1992 GCWA Recovery Plan. In spite of this, while the dHCP Plan Area includes virtually all of GCWA Recovery Region 6, as well as portions of GCWA Recovery Regions 4 and 5, it “orphans” significant portions of GCWA Recovery Region 8, most notably Real County.

The USFWS New Guidelines explains the USFWS rationale for basing GCWA mitigation on 1992 GCWA Recovery Regions as follows:

We have determined that Service Areas for GCWA mitigation lands will be based on the recovery regions identified in the GCWA Recovery Plan (USFWS 1992) in existence at the time a proposal is submitted to the Service by a proponent. The GCWA Recovery Plan may be updated periodically, and changes to the recovery regions are possible. The conservation banking program for this species will support the recovery criterion of permanently protecting sufficient breeding habitat to ensure the continued existence of at least one viable, self-sustaining population in each recovery region. In order to best accomplish this objective, **it is imperative that the loss of GCWA habitat in a particular recovery region is mitigated by the purchase of credits (habitat protection) within the same recovery region until the recovery goal of habitat protection has been achieved in that region.** This will assist the Service in ensuring that no particular recovery region loses more GCWA habitat than is protected through the conservation banking program. (emphasis added)

With this in mind, since the Enrollment Area includes significant areas located in GCWA Recovery Region 8, it is inconsistent with the stated intent of the New Guidelines to exclude Real County or other areas of GCWA Recovery Region 8 from the Plan Area. By failing to include Real County and other areas of Recovery Region 8 in the Plan Area, the dHCP creates an area which is effectively “orphaned” from the rest of GCWA Recovery Region 8. In addition, it will eliminate any incentive for private landowners in Real County and the other “orphaned” areas in Region 8 to work to conserve their land for the benefit of GCWA or other endangered species. This is in direct conflict with the USFWS’ legislative mandate to conserve and **recover** listed endangered species. In spite of this, the USFWS fails to acknowledge or perform any analysis of this inconsistency in the dEIS.

USFWS’ support of this approach in the dEIS serves to divide GCWA Recovery Region 8 and act as an impediment to achieving the conservation and recovery of the GCWA, counter to the USFWS’ legislative charge. While on its face this appears clearly capricious, it is also unfortunately consistent with a pattern of bias by the USFWS in favoring one or two GCWA conservation banks over other conservation lands which seek to aid in the conservation and recovery of the species. The bias shown by the USFWS in favor of the one or two approved banks, which were only fairly recently established, clearly results in direct financial gain for

those involved with those banks. In fact, by supporting the elimination of Real County and other areas from the Plan Area in the dEIS, the USFWS is ensuring that there are fewer conservation opportunities for GCWA conservation, but also that there is less competition to the one or two banks for which they have shown favor.

The disparate treatment between one or two existing GCWA conservation banks and “new” conservation lands has been most recently evident in the USFWS administration of the conservation banking program and its “application” of the New Guidelines. The Austin ES Office staff’s stated rationale is that they desire to now limit the GCWA service areas of new GCWA conservation lands to only the one GCWA Recovery Region in which the new GCWA conservation lands are located in order to somehow ensure that any impacts to GCWA habitat in a particular GCWA Recovery Region is mitigated by the purchase of GCWA mitigation credits from a GCWA conservation bank located within the same GCWA Recovery Region.

The USFWS support of the approach in the dHCP goes one step further in the “protection” of one or two approved GCWA conservation banks by effectively eliminating significant portions of GCWA Recovery Region 8 from the future service areas of conservation lands located in Real County or other areas within GCWA Recovery Region 8 which are excluded from the dHCP Plan Area, thus ensuring an enormous economic advantage for the one or two “favored” banks.

When combined with the disparate treatment of approved GCWA conservation banks and new GCWA conservation lands, the USFWS’ position is indefensible. The Austin ES Office staff’s arbitrary limitation of GCWA service areas for new GCWA conservation lands, like its support for the Plan Area in the dHCP, is in fact *not based on current scientific data or the biological needs of the species*; rather, appears to be based on an expressed desire of the USFWS staff to “protect” existing GCWA conservation banks. This unwarranted “protection” is being accomplished by severely limiting the GCWA service areas of any new GCWA conservation lands so that they will not be able to effectively increase their conservation capacity. This unequal treatment — for the express purpose of favoring one regulated entity over another and not to advance the purposes of the ESA — is arbitrary and capricious.²

B. The SEP dHCP is inconsistent with the USFWS’ proposed BCVI Texas Recovery Units/Service Areas and USFWS staff’s current application of the New Guidelines.

As noted above, the SEP dHCP “Plan Area” includes Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal Counties. The SEP dHCP “Enrollment Area” is defined as the

² See, e.g., *Marshall Cnty. Health Care Auth. v. Shalala*, 988 F.2d 1221, 1224 (D.C. Cir. 1993) (“Were the Secretary arbitrarily to grant an exception for some hospitals and not for others identically situated, one could expect a successful challenge [that the exception granted was arbitrary and capricious]”); see generally, *Chevron, U.S.A., Inc. v. Nat. Resources Defense Council*, 467 U.S. 837 (1984) (regulatory agency cannot adopt rules that are “manifestly contrary to the statute”).

jurisdictions of Bexar County and the City of San Antonio, including the current and future ETJ of the City of San Antonio, but excluding any portion of Comal County, which has previously developed its own county-wide HCP. Projects located within the Enrollment Area will be eligible to utilize the SEP HCP for ESA compliance for incidental take. Under the dHCP, conservation actions may occur throughout all seven counties of the Plan Area.

The Enrollment Area in the dHCP includes areas in Bexar, Medina, Bandera, and Kerr Counties which are all part of the BCVI South Recovery Unit/Service Area identified in the New Guidelines. The dHCP Plan Area includes all of the BCVI South Recovery Unit except for Real and two other counties.³ Once again, the USFWS appears to be actively supporting an approach which effectively “orphans” Real County and two other counties within the BCVI South Recovery Unit/Service Area.

In addition, the dHCP as currently written would result in very significant areas in the BCVI South Recovery Unit being eliminated from the service area for any BCVI mitigation lands to be established in Real County. As a direct result, there will be no incentive for private landowners in Real County or the other “orphaned” counties in the BCVI South Recovery Unit/Service Area to conserve their land for the benefit of BCVI. This approach defies logic and does not reflect sound conservation policy.

As it relates to the conservation and recovery of BCVI in the BCVI South Recovery Unit, the dHCP Plan Area and the USFWS’ apparent support of the delineation of the plan area is directly inconsistent with the USFWS staff’s application of the New Guidelines, as well as the legislative mandate for the USFWS to conserve and recover listed endangered species.

II. The inclusion of Real County in the SEP dHCP Plan Area is necessary in order to be consistent with ecosystem-based conservation principles, the recovery plans for the GCWA and BCVI, and the statutory mandate for the USFWS to conserve and recover endangered species.

The USFWS New Guidelines for GCWA and BCVI mitigation lands state that service areas for mitigation lands are to be “based primarily on the conservation needs of the species.” These New Guidelines also state that the USFWS has “determined that Service Areas for mitigation lands will be based on the recovery regions identified in the GCWA Recovery Plan and the proposed BCVI Texas Recovery Unit/Service Areas.

Adding Real County to the dHCP Plan Area is consistent with the recovery needs of the GCWA, as is expressly provided for in the New Guidelines. In addition, it is also consistent with the USFWS Conservation Banking Guidance issued to the USFWS Regional Directors in 2003, which expressly allows for conservation banks to have service areas which include counties that are located in recovery areas where recovery objectives have largely been met. The inclusion of

³ Hays County is not included as one of the excluded counties in the BCVI South Recovery Unit due to the fact that it has its own county-wide HCP.

Real County in the SEP dHCP Plan Area will help achieve the recovery objectives in the GCWA Recovery Region 8 where Real County is located, without impairing conservation objectives in GCWA Recovery Region 6. In fact, including Real County in the SEP dHCP Plan Area is necessary to help close the large and growing gap between the amount of conservation lands in GCWA Recovery Unit 6 and GCWA Recovery Unit 8.

Real County is located in the southern Balcones Canyonlands ecoregion along with Bandera, Bexar, Comal, Kerr, Kendall, and Medina Counties, which are all included in the SEP dHCP Plan Area. As such, applying ecoregion-based conservation and principles to the conservation and recovery efforts for the GCWA and the BCVI would dictate that Real County should be included in the dHCP Plan Area. In fact, the use of an ecoregion-based recovery strategy is specifically lauded in the USFWS' New Guidelines for conservation lands: "The proposed recovery units [BCVI] are evenly distributed across the range and logically delineated based on available habitat and distribution information" (U.S. Fish and Wildlife Service, 2013, p. 23). It logically follows that the use of ecoregions for recovery planning is preferable to more arbitrary delineations, such as those that currently exist in the SEP dHCP.

With this in mind, the USFWS should require that Real County be added to the SEP dHCP Plan Area in order to help fulfill its legal duty to conserve and recover the GCWA and BCVI.

III. The Plan Area in the SEP dHCP should be revised to include Real County, and the preferred alternative in the dEIS Plan Area should be amended to include Real County.

Although Real County is in the same GCWA and BCVI Recovery Units as large and significant parts of the Enrollment Area in the SEP dHCP, it was somehow not included in the Plan Area. There is no analysis or sufficient explanation in the dEIS for why Real County is not included in the Plan Area.

The National Environmental Policy Act ("NEPA") requires that agencies "[r]igorously explore and objectively evaluate **all** reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40 CFR 1502.14(a). (emphasis added) In spite of this requirement under the NEPA, there is no explanation for why an alternative which includes Real County in the SEP dHCP Plan Area was not developed and fully studied. In order to be legally sufficient under NEPA, an alternative which includes Real County in the SEP dEIS Plan Area should be included as the preferred alternative and should be fully studied.

March 16, 2015

Page 7

IV. Conclusion.

For the foregoing reasons, the Ayres Family respectfully asks that:

(1) Real County be included in the Plan Area for the SEP dHCP; and

(2) the USFWS amend or change the preferred alternative in the dEIS to include Real County in the SEP dHCP Plan Area, and to fully study that alternative constituent with the requirements of NEPA.

These requests are both logical and consistent with the USFWS' legislative responsibility to ensure the conservation and recovery of the GCWA and BCVI.

Thank you for the opportunity to provide comments on the SEP dHCP and dEIS. On behalf of the Ayres Family, we look forward to hearing from you soon regarding a positive resolution of this matter.

Sincerely,

/s/ David P. Smith

David P. Smith

DPS/cfc

cc. Mr. Justin S. Tade, Esq.
Attorney-Adviser
U.S. Department of the Interior
Southwest Regional Solicitor's Office
Santa Fe Field Office
1100 Old Santa Fe Trail
Santa Fe, New Mexico 87505



Public Comment of USFWS Draft SEP-HCP and Environmental Impact Statement

From: Board of Directors Bexar Land Trust, dba Green Spaces Alliance of South Texas

To be received no later than:
March 19, 2015

Dear Sir or Ma'am,

The Board of Directors of Green Spaces Alliance of South Texas has these comments to offer regarding the United States Fish and Wildlife Services' (USFWS) Draft Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) and Environmental Impact Statement (EIS). Our mission is to sustain the natural environment and enhance urban spaces through land conservation, community engagement, and education. We are headquartered in Bexar County, and our service area is the river basins of the San Antonio and Nueces Rivers.

It is the understanding of this board, through public information provided by the USFWS, that a Biological Advisory Team (BAT) and a Citizens Advisory Committee (CAC) were appointed to help develop the multiple aspects of the SEP-HCP. These two groups represented a wide cross-section of parties of interest from conservation groups to developers. We are concerned that instead of using these cumulative decisions in the primary SEP-HCP, the advice of the BAT and CAC are rather being presented as an alternative. It is very discouraging in the eyes of the public to see over 2 years of work and 2.3 million dollars spent on obtaining expert advice, not being used if the current SEP-HCP is implemented. We believe that the *Increased Mitigation Alternative, #4* in the EIS is more appropriate to the survival and development needs of the seven endangered species listed rather than the currently proposed action. However, to strike a better balance between habitat needs and development in the area, we propose the following comment.

We base this opinion on our review of Table ES-1: Summary of Environmental Impacts for each Alternative. While the amount of acres for the GCWA, BCVI, and Karst Zones are the same under the proposed SET-HCP, Single-County, and Increased Mitigation Alternatives, there are considerably more acres reserved for the protection of vegetation, wildlife, Golden cheeeked Warbler, Black Capped Vireo, and covered karst invertebrates in Bexar County and immediate surrounding area under Alternative #4. This alternative also results in less adverse impacts on our socio-economic resources and climate change. The following portion of comment will be broken into sections for better focus on particular issues:

Habitat Locations

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The BAT and CAC were in agreement that a portion of the habitat conservation or mitigation should occur inside Bexar County or within five miles of that boundary. The proposed action removes that requirement and allows all preservation to be done in other counties, on land that can be up to approximately 60 miles, as the crow flies, from agreed upon needs. This is an expansion of 500% of the BAT and CAC recommendation. The current recommendation is to use any protected land within the seven counties included in the plan. This is a rather large amount of area, approximately 4,125,000 acres. Bexar County is only about 804,000 acres, accounting for only about 20% of that area. This is an obvious barrier to conservation of endangered species due to their already small regional habitat needs. Instead of helping to conserve these species habitats, the proposed plan will only concentrate their location to the fringes of their natural range. Also, this proposed plan replaces habitat that is under imminent threat of development with habitat that is under no threat of development for the next 30 years, and for a much cheaper price than the land they are taking actually costs. Bexar County has stated that they would like to have some of the mitigation land within or surrounding Bexar County. And, there is suitable undevelopable GCW and BCV habitat within the area. Yet the proposed alternative could result in no lands being mitigated within or surrounding Bexar County.

While we appreciate the pressures to develop, we support some ratio of conservation within and surrounding Bexar County. Development can not only be detrimental to the endangered species in question, but it is a barrier to the education of the public and decreases their sense of responsibility for the environment. Instead there will be even more disconnect from inner city populations to those species that need protection from becoming extinct. We hope that the USFWS sees the importance of conserving habitat close the human population concentrations. We also believe many would agree that the success of other county-wide HCPs has much to do with the proximity of the habitat preserves to major population centres. With the loss of this proximity, there is a larger possibility of failure for this HCP.

Resilience in the face of Climate Change requires a variety of ecosystems, a mosaic landscape sustaining as much biodiversity and habitat health as possible. Similarly, resilience needs redundant landscapes and ecosystems to provide protecting against ecosystem failure or loss. This plan moves in the opposite direction to what a responsible response to Climate Change necessitates. Not only should we preserve habitat in extended rural areas but we need to preserve as much as we can within Bexar County as well.

Karsts Species

It is our understanding that when a listed species is found at a site, its habitat is automatically protected. Why then, would we replace habitat potentially containing Karst species with habitat that already contains known occupied karst features? These features are already protected and do not need further protection. It makes much more sense to protect land that is not protected and could potentially be beneficial to those karst species. When wetlands are taken or linear feet of streams are impacted, they are replaced in

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value due to the beneficial nature of a wetland or stream and its specialized habitat. We cannot replace or rebuild karst features as we can wetlands and streams in mitigation banks. Once destroyed, everything the karst features contain is lost forever, and the intricate nature of the underground connections is disrupted.

The karst features zones are ranked on a scale from one to five in order of most likely to contain one of the endangered species to least likely to contain the endangered species, with the top three zones requiring a survey by a qualified biologist or geologist to discover karst features. Under the proposed SEP-HCP, once a parcel containing karst features is identified, that acreage is replaced essentially at ratio of 20-1, or for every 20 acres taken of potential habitat, one acre of known occupied karst features will be protected. Not only is this a contradiction in how a ITP usually works, because usually more acreage needs to be replaced than what is being taken, but it also is protecting something that is already protected by federal law. These karst permits are not necessary if we are only protecting what is already protected under the Endangered Species Act, and they should not be used as mitigation. This same plan would never be implemented for the Golden Cheek Warbler, i.e., to take 20 acres of potential habitat and replace with one acre of known habitat. This may be how the system works but what we understood that the habitat ratio had to at the least be 1:1.

Biological Surveys

Currently the USFWS requires a 3-year survey for the song birds in question (GCW and BCV) and a 15 day biological survey for karst species. The plan under comment actually reduces both of these time periods by 66% to 1 year for song birds and 5 days for karst species. This is incredibly unreasonable due to variations in seasons and local weather patterns, which have a great effect on occurrence of said species in biological surveys. If there is to be a reduction in the time requirements for species surveys, then there should be some justification for these reductions. We cannot find any such justification. Reducing the time for these surveys does place those endangered species at risk, and therefore, increases the risk of species take. This is not just our opinion. The recommendation from the BAT or CAC recommended continuing with current methods outlined by USFWS.

Monitoring

This section is included in our comments but details are not included in the SEP-HCP. As a land trust, we understand financial and time resources necessary to ensure proper stewardship of land. A management plan is fundamental to the maintenance of conserved lands, yet this SET-HCP is lacking one. Other HCPs have management plans. We wonder why this HCP has not made an attempt to propose both the administrative and financial steps necessary for perpetual monitoring.

Costs and Funding

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Page iv of the Draft Environmental Impact Statement estimates sources of revenue for the alternatives which we find unrealistic.

- Proposed SEP-HCP Alternative: 74% from participation fees, 26% from public sources
- 10% Participation Alternative: 47% from participation fees, 53% from public sources
- Single-County Alternative: 46% from participation fees, 54% from public sources
- Increased Mitigation Alternative: 37% from participation fees, 63% from public sources

While a conservation easement may cost \$4,000/acre in outlying counties, it is likely to cost much more in Bexar County; and the estimate does not include the due diligence costs associated with appraisals, biological surveys, maintenance and monitoring in perpetuity, and staff and other costs. In addition, there seems to be no allowance for the cost of fee simple purchase. Under all alternatives, the landowner participation fee cost per acre is too low.

Further, we assume that increasing the costs of participation by the private landowners who will be benefitting from this process will reduce the amount given by public sources. One of the things we have not found in our review is a commitment for the public funding. Are we to assume there is a commitment? If so, what is the fundraising plan by Bexar County, as the entity that has signed the Federal Fish and Wildlife Permit Application Form?

We also noted that none of the alternatives consider future increases in land values. Any serious recommendation for the next 30 years would take that into account. We are asking that an adequate model for future funding and monitoring be brought forward for approval along with the SEP-HCP.

Conclusion

There are still many logistical questions about how this HCP will be implemented such as property appraisals for mitigation, specific funding sources for property acquisition and plan implementation, and the specific roles of the city and county. We should also consider what the process might be when dealing with unforeseen circumstances. This leads to the question of what roles the city and county will play in reporting to USFWS as well as monitoring future mitigation sites.

The county and city have already paid for two different committees dedicated to the construction of this SEP-HCP, and it is the opinion of our Board of Directors that their recommendations should be the heart of the SEP-HCP. If there is cause for diverting from their advice than let the justification become public. There is no expectation for the SEP-HCP to be a cheap remedy for urban sprawl. Instead the SEP-HCP should be a measure of the impact development is having on the environment around San Antonio. That measure is expensive, so let us allocate its costs appropriately and develop a suitable program of habitat conservation. The HCP will be in place for at least 30 years, with its effects having the potential to change the landscape of South Texas for centuries to come. We agree with the large team of experts, citizens, and the

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development community in the form of the BAT and CAC, which are much more closely related to the Increased Mitigation Alternative #4 than the current proposal, so it is the Increased Mitigation Alternative #4 that we at GSA also recommend. We believe that the *Increased Mitigation Alternative, #4* in the EIS is more appropriate to the survival of the seven endangered species listed rather than the currently proposed action. However, to strike a better balance between habitat needs and development in the area, we propose those changes listed throughout this comment.

It is understood that development will continue, and a plan that helps conserve or replace vulnerable habitats is needed. It is our role as citizens of this city, county, and country to ensure the responsible development of that plan.

Graph Summary of what we think should change from the proposed action:

| <u>Subject</u> | <u>Proposed</u> | <u>Our Comment</u> |
|-------------------------------|-------------------------------|---|
| GCW Mitigation Ratio | 2:1 | Agree, 2:1 |
| GCW Mitigation Location | Anywhere in the 7 counties | 50% mandatory in Bexar County |
| Determining Presence/absence | 1/3 USFWS Standards | Keep USFWS Standards |
| Cost Per Credit GCW/BCV | \$4,000 | \$10,000 Or 70% by developer/30% by the public |
| Model for public cost funding | Future tax on new development | Agree |
| Funds to begin the program | Not stated | \$10,000,000 – by the County |

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A PROFESSIONAL CORPORATION

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MAR 20 2015

Div. of Policy & Dir. Mgt.

Postmarked: 3-16-15

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March 16, 2015

Mr. Dan Ashe
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Public Comments Processing
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**Re: *Comments on the Draft Southern Edwards Plateau
Habitat Conservation Plan and Draft Environmental
Impact Statement***

Dear Mr. Ashe, Dr. Tuggle and Mr. Zerrenner:

This firm represents the Ayres Family and the Shield Ranch Camp Wood which is located in Real County, Texas (the "Ranch"). We write to provide comments on the above-referenced draft Habitat Conservation Plan, referred to as the Southern Edwards Plateau draft Habitat Conservation Plan ("SEP dHCP") and the draft Environmental Impact Statement ("dEIS"), which was prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act ("NEPA"). Unless otherwise specifically indicated, these comments address the entire permit application package, which includes both the SEP dHCP and dEIS.

We also take this opportunity to once again express our serious and growing concern about the administration of the GCWA and BCVI conservation banking program by staff in the United States Fish and Wildlife Service (the "USFWS") Region 2 Southwest Regional Office in Albuquerque, New Mexico (the "Regional Office") and the USFWS Austin, Texas Ecological Services Field Office (the "Austin ES Office"). USFWS staff continues to act arbitrarily and capriciously in the administration of the GCWA and BCVI conservation banking program in Texas.

This letter urges a careful examination of the counties included and not included in the SEP dHCP "Plan Area", as well as issues of inconsistency with the USFWS' stated policy position with respect to conservation lands for the conservation and recovery of the golden-cheeked warbler ("GCWA") and the black-capped vireo ("BCVI").

I. The SEP dHCP and the dEIS arbitrarily fail to acknowledge or analyze that the Proposed Action is inconsistent with current USFWS policy.

On or about July 1, 2013, the USFWS added to its website the "Guidelines for the Establishment, Management, and Operations of Golden-cheeked Warbler and Black-capped Vireo Mitigation Lands" (the "New Guidelines").¹ The USFWS did not publish any of these documents in the Federal Register; it did not issue a press release; and it did not make any effort to make members of the general public aware of the New Guidelines. In addition, the USFWS did not allow members of the public the opportunity to provide comment on the New Guidelines.

Austin ES Office staff has verbally informed some members of the public, including our clients, that the New Guidelines were going to be "strictly interpreted" and applied to all "new" GCWA and BCVI conservation lands under consideration. It continues to be our position that the New Guidelines as "strictly enforced" upon private landowners are not valid because they were not adopted pursuant to required notice and comment rulemaking; however, both the dHCP and the dEIS are wholly inconsistent with the "New Guidelines." This is most evident in the designation of the "Plan Area" and the "Enrollment Area" in the dHCP.

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The USFWS New Guidelines explains the USFWS rationale for basing GCWA mitigation on 1992 GCWA Recovery Regions as follows:

We have determined that Service Areas for GCWA mitigation lands will be based on the recovery regions identified in the GCWA Recovery Plan (USFWS 1992) in existence at the time a proposal is submitted to the Service by a proponent. The GCWA Recovery Plan may be updated periodically, and changes to the recovery regions are possible. The conservation banking program for this species will support the recovery criterion of permanently protecting sufficient breeding habitat to ensure the continued existence of at least one viable, self-sustaining population in each recovery region. In order to best accomplish this objective, **it is imperative that the loss of GCWA habitat in a particular recovery region is mitigated by the purchase of credits (habitat protection) within the same recovery region until the recovery goal of habitat protection has been achieved in that region.** This will assist the Service in ensuring that no particular recovery region loses more GCWA habitat than is protected through the conservation banking program. (emphasis added)

With this in mind, since the Enrollment Area includes significant areas located in GCWA Recovery Region 8, it is inconsistent with the stated intent of the New Guidelines to exclude Real County or other areas of GCWA Recovery Region 8 from the Plan Area. By failing to include Real County and other areas of Recovery Region 8 in the Plan Area, the dHCP creates an area which is effectively “orphaned” from the rest of GCWA Recovery Region 8. In addition, it will eliminate any incentive for private landowners in Real County and the other “orphaned” areas in Region 8 to work to conserve their land for the benefit of GCWA or other endangered species. This is in direct conflict with the USFWS’ legislative mandate to conserve and **recover** listed endangered species. In spite of this, the USFWS fails to acknowledge or perform any analysis of this inconsistency in the dEIS.

USFWS’ support of this approach in the dEIS serves to divide GCWA Recovery Region 8 and act as an impediment to achieving the conservation and recovery of the GCWA, counter to the USFWS’ legislative charge. While on its face this appears clearly capricious, it is also unfortunately consistent with a pattern of bias by the USFWS in favoring one or two GCWA conservation banks over other conservation lands which seek to aid in the conservation and recovery of the species. The bias shown by the USFWS in favor of the one or two approved banks, which were only fairly recently established, clearly results in direct financial gain for

those involved with those banks. In fact, by supporting the elimination of Real County and other areas from the Plan Area in the dEIS, the USFWS is ensuring that there are fewer conservation opportunities for GCWA conservation, but also that there is less competition to the one or two banks for which they have shown favor.

The disparate treatment between one or two existing GCWA conservation banks and “new” conservation lands has been most recently evident in the USFWS administration of the conservation banking program and its “application” of the New Guidelines. The Austin ES Office staff’s stated rationale is that they desire to now limit the GCWA service areas of new GCWA conservation lands to only the one GCWA Recovery Region in which the new GCWA conservation lands are located in order to somehow ensure that any impacts to GCWA habitat in a particular GCWA Recovery Region is mitigated by the purchase of GCWA mitigation credits from a GCWA conservation bank located within the same GCWA Recovery Region.

The USFWS support of the approach in the dHCP goes one step further in the “protection” of one or two approved GCWA conservation banks by effectively eliminating significant portions of GCWA Recovery Region 8 from the future service areas of conservation lands located in Real County or other areas within GCWA Recovery Region 8 which are excluded from the dHCP Plan Area, thus ensuring an enormous economic advantage for the one or two “favored” banks.

When combined with the disparate treatment of approved GCWA conservation banks and new GCWA conservation lands, the USFWS’ position is indefensible. The Austin ES Office staff’s arbitrary limitation of GCWA service areas for new GCWA conservation lands, like its support for the Plan Area in the dHCP, is in fact *not based on current scientific data or the biological needs of the species*; rather, appears to be based on an expressed desire of the USFWS staff to “protect” existing GCWA conservation banks. This unwarranted “protection” is being accomplished by severely limiting the GCWA service areas of any new GCWA conservation lands so that they will not be able to effectively increase their conservation capacity. This unequal treatment — for the express purpose of favoring one regulated entity over another and not to advance the purposes of the ESA — is arbitrary and capricious.²

B. The SEP dHCP is inconsistent with the USFWS’ proposed BCVI Texas Recovery Units/Service Areas and USFWS staff’s current application of the New Guidelines.

As noted above, the SEP dHCP “Plan Area” includes Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal Counties. The SEP dHCP “Enrollment Area” is defined as the

² See, e.g., *Marshall Cnty. Health Care Auth. v. Shalala*, 988 F.2d 1221, 1224 (D.C. Cir. 1993) (“Were the Secretary arbitrarily to grant an exception for some hospitals and not for others identically situated, one could expect a successful challenge [that the exception granted was arbitrary and capricious]”: see generally, *Chevron, U.S.A., Inc. v. Nat. Resources Defense Council*, 467 U.S. 837 (1984) (regulatory agency cannot adopt rules that are “manifestly contrary to the statute”).

jurisdictions of Bexar County and the City of San Antonio, including the current and future ETJ of the City of San Antonio, but excluding any portion of Comal County, which has previously developed its own county-wide HCP. Projects located within the Enrollment Area will be eligible to utilize the SEP HCP for ESA compliance for incidental take. Under the dHCP, conservation actions may occur throughout all seven counties of the Plan Area.

The Enrollment Area in the dHCP includes areas in Bexar, Medina, Bandera, and Kerr Counties which are all part of the BCVI South Recovery Unit/Service Area identified in the New Guidelines. The dHCP Plan Area includes all of the BCVI South Recovery Unit except for Real and two other counties.³ Once again, the USFWS appears to be actively supporting an approach which effectively “orphans” Real County and two other counties within the BCVI South Recovery Unit/Service Area.

In addition, the dHCP as currently written would result in very significant areas in the BCVI South Recovery Unit being eliminated from the service area for any BCVI mitigation lands to be established in Real County. As a direct result, there will be no incentive for private landowners in Real County or the other “orphaned” counties in the BCVI South Recovery Unit/Service Area to conserve their land for the benefit of BCVI. This approach defies logic and does not reflect sound conservation policy.

As it relates to the conservation and recovery of BCVI in the BCVI South Recovery Unit, the dHCP Plan Area and the USFWS’ apparent support of the delineation of the plan area is directly inconsistent with the USFWS staff’s application of the New Guidelines, as well as the legislative mandate for the USFWS to conserve and recover listed endangered species.

II. The inclusion of Real County in the SEP dHCP Plan Area is necessary in order to be consistent with ecosystem-based conservation principles, the recovery plans for the GCWA and BCVI, and the statutory mandate for the USFWS to conserve and recover endangered species.

The USFWS New Guidelines for GCWA and BCVI mitigation lands state that service areas for mitigation lands are to be “based primarily on the conservation needs of the species.” These New Guidelines also state that the USFWS has “determined that Service Areas for mitigation lands will be based on the recovery regions identified in the GCWA Recovery Plan and the proposed BCVI Texas Recovery Unit/Service Areas.

Adding Real County to the dHCP Plan Area is consistent with the recovery needs of the GCWA, as is expressly provided for in the New Guidelines. In addition, it is also consistent with the USFWS Conservation Banking Guidance issued to the USFWS Regional Directors in 2003, which expressly allows for conservation banks to have service areas which include counties that are located in recovery areas where recovery objectives have largely been met. The inclusion of

³ Hays County is not included as one of the excluded counties in the BCVI South Recovery Unit due to the fact that it has its own county-wide HCP.

Real County in the SEP dHCP Plan Area will help achieve the recovery objectives in the GCWA Recovery Region 8 where Real County is located, without impairing conservation objectives in GCWA Recovery Region 6. In fact, including Real County in the SEP dHCP Plan Area is necessary to help close the large and growing gap between the amount of conservation lands in GCWA Recovery Unit 6 and GCWA Recovery Unit 8.

Real County is located in the southern Balcones Canyonlands ecoregion along with Bandera, Bexar, Comal, Kerr, Kendall, and Medina Counties, which are all included in the SEP dHCP Plan Area. As such, applying ecoregion-based conservation and principles to the conservation and recovery efforts for the GCWA and the BCVI would dictate that Real County should be included in the dHCP Plan Area. In fact, the use of an ecoregion-based recovery strategy is specifically lauded in the USFWS' New Guidelines for conservation lands: "The proposed recovery units [BCVI] are evenly distributed across the range and logically delineated based on available habitat and distribution information" (U.S. Fish and Wildlife Service, 2013, p. 23). It logically follows that the use of ecoregions for recovery planning is preferable to more arbitrary delineations, such as those that currently exist in the SEP dHCP.

With this in mind, the USFWS should require that Real County be added to the SEP dHCP Plan Area in order to help fulfill its legal duty to conserve and recover the GCWA and BCVI.

III. The Plan Area in the SEP dHCP should be revised to include Real County, and the preferred alternative in the dEIS Plan Area should be amended to include Real County.

Although Real County is in the same GCWA and BCVI Recovery Units as large and significant parts of the Enrollment Area in the SEP dHCP, it was somehow not included in the Plan Area. There is no analysis or sufficient explanation in the dEIS for why Real County is not included in the Plan Area.

The National Environmental Policy Act ("NEPA") requires that agencies "[r]igorously explore and objectively evaluate **all** reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40 CFR 1502.14(a). (emphasis added) In spite of this requirement under the NEPA, there is no explanation for why an alternative which includes Real County in the SEP dHCP Plan Area was not developed and fully studied. In order to be legally sufficient under NEPA, an alternative which includes Real County in the SEP dEIS Plan Area should be included as the preferred alternative and should be fully studied.

March 16, 2015

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IV. Conclusion.

For the foregoing reasons, the Ayres Family respectfully asks that:

(1) Real County be included in the Plan Area for the SEP dHCP; and

(2) the USFWS amend or change the preferred alternative in the dEIS to include Real County in the SEP dHCP Plan Area, and to fully study that alternative constituent with the requirements of NEPA.

These requests are both logical and consistent with the USFWS' legislative responsibility to ensure the conservation and recovery of the GCWA and BCVI.

Thank you for the opportunity to provide comments on the SEP dHCP and dEIS. On behalf of the Ayres Family, we look forward to hearing from you soon regarding a positive resolution of this matter.

Sincerely,

/s/ David P. Smith

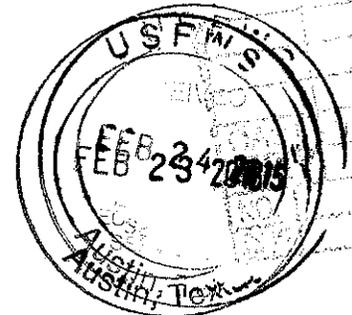
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February 15, 2015

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Ref. Habitat preservation for endangered species in Bexar County

Dear Sir:

I have read in the newspaper of the Service's plans for endangered species habitat "mitigation" in Bexar County, a deeply flawed concept, and if implemented will lead to further destruction of critical habitat in Bexar County. Fish and Wildlife is supposed to use good science and be science driven in regulation, but it seems clear that the proposed regulation is economically driven, probably by developer influence, and not science driven.

The critical habitat for karst dwelling species is the caves where they are found, not some place in another area (county). Mitigation for loss of habitat for these species by purchase of property that is not where these species live is not mitigation, it will lead to their destruction. The economic benefit to developers is clear, but where is the science in this idea?

Habitat for Golden-cheeked Warblers and Black-capped Verios is not quite the same, and maybe areas of suitable habitat where these species nest can be found outside of Bexar County.

The minimal cost to developers for taking species in Bexar County amounts to a small part of the developers budget, although maybe \$400,000 per acre might have some impact. And it is not just protecting karst features occupied by these species that is important, the water supplies for these features must also be protected, both in quality and quantity.

We urge Fish and Wildlife to live up to the standards that are expected of the Service and formulate regulations that do not amount to giving Bexar County a license to take endangered species with very little penalty. Developers have raped the habitat on the recharge zone for the Edwards Aquifer over the past 50 years that we have lived here; it has been terribly painful to observe, and now it is (way past) time for that process to be stopped by Fish and Wildlife doing what is best for the endangered species of this area.

Sincerely yours,



March 19, 2015

RE: Docket No. FWS–R2–ES–2014–0053, draft EIS for the southern Edwards Plateau Habitat Conservation Plan.

I. Introduction

The scale of land development to be permitted on the southern Edwards Plateau will have drastic impacts on the two migratory birds and seven troglobitic invertebrates that are listed as ‘endangered’ and that would be the subject of this Habitat Conservation Plan (HCP), should the U.S. Fish and Wildlife Service approve it. The scale of proposed mitigation is inadequate and its full implementation is uncertain if not downright doubtful. As a result, the recovery and even the survival of these species as well as conservation of their ecosystems would be jeopardized through approval of the draft HCP as written. Moreover, the draft HCP and the draft Environmental Impact Statement (DEIS) fail to adequately disclose and discuss the impacts of implementation. Due to these multiple flaws, we request selection of the No Action Alternative. Should permit applicants wish to proceed, we recommend withdrawal and complete rewriting of the draft HCP to take into account our critiques, below, and to avoid further imperiling the wondrous wildlife of the southern Edwards Plateau including the region’s endemic troglobites.

II. Comments on the Draft Habitat Conservation Plan

A. Adequacy of Conservation Planning and Impact Assessment— Impact Assessment

The draft Southern Edwards Plateau Habitat Conservation Plan (HCP) does not meet necessary standards for depth of discussion of affected endangered species, their environment, and the true scale of effects of implementation. The pre-eminent national scientific review of HCPs found that HCPs—particularly those covering large areas or large amounts of a species’ range—should inventory, summarize, and document available data on each species and their distribution, abundance, population trends, ecological requirements, life history, and causes of endangerment.ⁱ This HCP doesn’t do that. The review also found that quantitative estimates of the impacts of “take” on species’ viability should be provided, especially for larger or more significant plans; that best and worst-case scenarios should be identified; and that impacts of “take” should also be evaluated, particularly for larger or more significant plans, including by determining whether the habitats being “taken” correspond to population “sources” or “sinks,” whether genetically unique subpopulations are being “taken,” and whether unique habitat/species combinations are being impacted.ⁱⁱ This HCP meets none of those standards.

The national scientific review also found that the details of HCP mitigation measures must be explicitly described and accompanied by data on their effectiveness, and that the likely success of each measure must be evaluated, as must the overall effectiveness of mitigation measures at minimizing and offsetting “take.”ⁱⁱⁱ

The NMFS regulations state that HCPs must describe the proposed activity, including the anticipated dates, duration, and specific locations.^{iv} The NMFS regulations also state that HCPs must describe the HCP and Take Permit’s anticipated impacts, including the amount, extent, and type of “take,” as well as the anticipated impact on habitats and the likelihood of habitat restoration.^v Again, this HCP only addresses some of those issues, cursorily.

Sierra Club et al v. Bruce Babbitt et al found that HCPs need to determine how many individuals of affected species will be “taken,” how many individuals will remain, what the distribution of the species is throughout its remaining habitat, and how this relates to the species’ minimum viable population.^{vi} Such information is lacking here.

Effects on proposed listed species, federally listed plants, and critical habitat are to be considered during the ESA section 7 consultation process.^{vii} The Services’ Biological Opinions should address the species’ life histories, their habitat and distribution, their population dynamics (including size, variability, and stability), their status (including reasons for listing, rangewide trend, and new threats), other factors necessary to their survival, duration of the impacts, intensity and severity of the impacts, and the importance of the action area to the species.^{viii} The Services’ Biological Opinions must, among other things, “discuss the entire designated critical habitat area in terms of the biological and physical features that are essential to the conservation... of the species,” and “characterize the effects of future, non-Federal actions reasonably certain to occur in the action area in terms of how the... habitat qualities essential to the conservation of the species... are likely to be affected....”^{ix} Although the HCP lists other listed species whose historic and/or current range the project encompasses,^x it does not meet the criteria described above. Note also that the list erroneously omits the endangered jaguar (*Panthera onca*) that historically occupied this region of Texas.

The HCP, its Biological Opinion, and other analyses need to assess impacts to each covered species relative to baseline scenarios *for the proposed action* in which “take” is completely avoided and each species is fully protected per ESA sections 9 and 4.^{xi} However, the HCP does not make such a comparison. Project scenarios in which “take” is illegally occurring do not necessarily provide a legitimate baseline for comparison. Moreover, the HCP, its Biological Opinion, and other analyses must also examine impacts to each covered species relative to habitat conditions, population levels, and other conditions that are necessary for the full recovery of each of the covered species. Instead, this HCP refers to downlisting criteria for the karst species,^{xii} and never assesses impacts to full recovery of any species. Instead, the HCP writes, regarding the golden-cheeked warbler:

On their own, the SEP-HCP’s GCW preserves could represent approximately one-third of the acreage needed to support one viable GCW population. When combined with the acres of GCW habitat that are already at least partially conserved, the total level of GCW

conservation could represent nearly 60 to 100 percent of the acreage thought to be needed for regional recovery.^{xiii}

Yet, the HCP also would permit already-preserved lands to be counted toward mitigation herein.^{xiv} Thus, protected lands would represent less than described percentages needed for regional recovery. But regional recovery is never put into a broader recovery framework.

Under ESA section 7, the Service must, for each of the covered species, evaluate the cumulative impact of each form of “take” authorized by the Incidental Take Permit, across the plan area, across the larger ecological region, and across each of the species’ ranges. The effects of other “take” authorizations on public and private lands must also be accounted for, as must other “past and present impacts of all Federal, State, or private actions... in the action area,” “the anticipated impacts of all proposed Federal projects in the action area that have already undergone... consultation,” the impact of “contemporaneous” State or private actions, and the effects of “future State or private activities...that are reasonably certain to occur.”^{xv} The action area should be determined based on all the direct and indirect effects of the proposed action.^{xvi} The cumulative effect of the permitted activities in the plan area and across the species’ ranges must be evaluated relative to conditions associated with each of the species’ recovery, not just their survival. The NMFS regulations for HCPs also require the agency to consider “the potential severity of direct, indirect, and cumulative impacts on the species or stocks and habitat...”^{xvii} The pre-eminent national scientific review of HCPs also found that HCPs should evaluate the cumulative impacts of multiple plans and their interactions, and that the percentage of local *and* global populations that will be “taken” should be assessed.^{xviii} This HCP not examine such cumulative effects despite other HCP’s that affect some of the same species in nearby areas.

The Federal Register notice for the US Fish & Wildlife Service’s original HCP regulations also stated that HCPs and Take Permits should only be used in “limited circumstances.”^{xix} We question whether this region requires such overarching take authority as would be conveyed by this HCP.

According to the HCP Handbook, the Services may not be able to approve a Take Permit under ESA section 7(a)(2) unless the HCP addresses *all listed species* in the plan area.^{xx} This includes federally listed plants, which must be considered during the ESA section 7 consultation process but in this project area may be present but unknown through lack of surveys.

The Services’ HCP Handbook also acknowledges the importance of surveys, noting that even “low effect” HCPs should be based upon surveys.^{xxi} This is hardly a low effect HCP and therefore should be based on far more field data, particularly for the karst species, than is evidenced.

The effects of likely future changes in environmental conditions, including those related to climate change, must be accounted for. Yet, in this HCP, the “No Surprises” provision guarantees no additional land will be required as mitigation for climate change impacts on the species^{xxii} – which could help doom them to extinction.

ESA section 7(a)(2) and the Act's administrative rules require agencies to use the best available science.^{xxiii} The Services must consider all relevant data, including data expected from ongoing studies; where data gaps exist, the Services should either delay the Biological Opinion or develop the Opinion with the available data, but give "the benefit of the doubt to the species."^{xxiv} That benefit of the doubt has not occurred in this proposed HCP.

B. Inadequate Conservation Planning and Impact Mitigation— Biological Goals

The draft HCP contains biological objectives in the form of acreage of habitat to be preserved, but not within the context of broader biological goals, which it does not identify. According to the Services' HCP Handbook, specific biological goals and objectives must be identified in the HCP for each of the covered species.^{xxv} "In the context of HCP's, biological goals are the broad, guiding principles for the operating conservation program of the HCP." "Biological objectives are the different components needed to achieve the biological goal such as preserving sufficient habitat, managing the habitat to meet certain criteria, or ensuring the persistence of a specific minimum number of individuals."^{xxvi}

The HCP's biological goals and objectives must be sufficient to provide for the recovery of each covered species, per ESA section 10. But in this case, achievement of the modest, porous objectives coupled with commensurate loss of habitat may impede recovery and, as noted, are not evaluated in the context of recovery standards.

"Among the broad goals generally accepted by conservation biologists, but absent in this HCP, are (1) representing in protected areas all kinds of ecosystems (natural communities) across their natural range of variation; (2) maintaining or restoring viable populations of all native species in natural patterns of distribution and abundance; (3) sustaining ecological and evolutionary processes within a natural (historic) range of variability; and (4) being adaptable and resilient to a changing environment."^{xxvii}

According to the Services' Handbook, "...the Services [must] ensure that the biological goals are consistent with conservation actions needed to adequately minimize and mitigate impacts to the covered species to the maximum extent practicable."^{xxviii} Moreover, "the biological goals and objectives of an HCP are commensurate with the specific impacts and duration of the applicant's proposed action."^{xxix}

The biological goals must be measurable and verifiable, and relate to the HCP's monitoring indicators.^{xxx} The pre-eminent scientific review of HCPs also found that HCPs need to quantify the plans' biological goals.^{xxxi} Other prominent authors have called for HCPs "to include specifically stated and measurable indicators of the success or failure of the plan," including, in the case of long-term permits, "interim milestones."^{xxxii} This HCP does not include such biological goals.

"Biological objectives should include the following: species or habitat indicator, location, action, quantity/state, and timeframe needed to meet the objective. They can be described as a condition to be met or as a change to be achieved relative to the existing condition."^{xxxiii}

“Although the goals and objectives may be stated in habitat terms, each covered species that falls under that goal or objective must be accounted for individually as it relates to that habitat.”^{xxxiv} The Services’ HCP Handbook also states that: i) “habitat based” HCPs should use indicator species to establish forest management parameters, and ii) all endemic, sensitive, listed, proposed listed, candidate, and species of special concern should be addressed “adequately.”^{xxxv}

Other factors which must be accounted for include: habitat quantity, habitat quality, ecological processes, population size, species’ genetic and demographic status, and the range of threats affecting the species.^{xxxvi} This HCP does not discuss these issues.

“Both [the Services and the applicants] can use the available literature, State conservation strategies, candidate conservation plans, draft or final recovery plans or outlines, and other sources of relevant scientific and commercial information as guides in setting biological goals and objectives. Both can consult with species experts, State wildlife agencies, recovery teams, and/or scientific advisory committees.”^{xxxvii}

Sierra Club et al v. Bruce Babbitt et al found that current data on species’ conditions and recovery needs must be used.^{xxxviii} Yet the HCP has scant reference to the species’ recovery plans, critical habitat designation for the karst invertebrates,^{xxxix} nor to new information in reviews and current research that is expected to inform revisions of the two birds’ recovery plans.

C. Adequacy of Conservation Planning and Impact Mitigation—Extent and Quality of Mitigation

According to the Services’ HCP Handbook, “the operating conservation program will include those measurable actions that, when implemented, are anticipated to meet the biological objectives.”^{xl}

The HCP’s mitigation measures must provide each of the covered species with a high probability of *recovery* of resilient and abundant populations, and with fully functioning habitat conditions needed to support their recovery. ESA section 10 and the Congressional intent for section 10 clearly require that HCPs and Take Permits avoid harming species’ chances of recovery, in addition to their chances of survival; this objective is also supported by language in the Services’ HCP Handbook, as well as various court decisions.^{xli} As indicated in ESA sections 2(b), 2(c), and 3(3), the ESA’s ultimate goal is, in effect, to

recover threatened and endangered species, including to the point where they can be removed from the endangered species list.^{xliii} “By definition, listed species *already* face serious threats to their continued existence....[thus] one could reasonably interpret an action to jeopardize the continued existence of a listed species if the action precluded or even impaired the species’ chances for eventual recovery.”^{xliiii} Furthermore, the Services are obligated under the ESA to not only avoid authorizing, funding, or undertaking any activity likely to jeopardize continued existence of endangered species, but also to take *affirmative* steps to protect, conserve, and restore endangered species to level that would permit removal from Endangered Species list.^{xliv}

The Services’ analyses must consider individual populations of the covered species. The NMFS regulations, for example, state that permits will not be issued if “the authorization requested potentially threatens a fish or wildlife population.”^{xlv}

ESA section 7(a)(2) not only contains “jeopardy” language paralleling that of section 10, but also explicitly prohibits federal agencies from approving actions which would destroy or “adversely modify” species’ critical habitat areas. It is unclear whether this HCP would provide authorization for destruction or adverse modification of critical habitat for the karst invertebrates. This prohibition must be interpreted as precluding “direct or indirect alteration of critical habitat which appreciably diminishes the value of that habitat for either the survival *or* the recovery of a listed species,” including currently unoccupied habitat areas and other habitats needed for the species’ recovery (emphasis added).^{xlvi} “Primary constituent elements” of species’ critical habitats, that must be protected, include “physical or biological features” that are “essential to the conservation of the species” and include space for individual and population growth, nutritional requirements, cover or shelter, sites for breeding and rearing, and habitats protected from disturbance.^{xlvii} This HCP fails to ensure that critical habitat will not be harmed.

When determining whether the Take Permit and HCP will harm species’ chances of recovery under both sections 10 and 7, the Service should consider species that do not currently exist in the plan area, but that would need to utilize the area at some level to achieve recovery. The Service has not made such an evaluation in this instance.

The legislative record for ESA section 10(a) also indicates that Congress intended for HCPs to *enhance* species’ chances of survival,^{xlviii} which given the net loss of habitat that would result from this HCP, is not accomplished in this instance. The HCP Handbook also cites this legislative intent and states that the Services should “encourage” landowners to provide a net benefit to species.^{xlix} The Department of Interior’s testimony in response to the lawsuit against

the “No Surprises” rule also recognizes that “[U]nder some circumstances, such as for ‘severely depleted species and species for which the HCP covers all or a significant portion of the range’ of a species,... measures to improve the species habitat may be required by the legislative history of [ESA] section 10.”^l

ESA section 10(a)(2)(B)(ii) also requires impacts be minimized and mitigated to the “maximum extent practicable.” The Services must analyze and document whether the HCP has indeed minimized and mitigated “take” to the maximum extent practicable.^{li} The Services must consider HCP alternatives that would provide higher levels of mitigation than the proposed HCP (“...the most reasonable reading of the statutory phrase “maximum extent practicable” nonetheless requires the Service to consider an alternative involving greater mitigation.”).^{lii} In this instance, one alternative does analyze such higher (though still insufficient) mitigation. Moreover, the Services must have some basis for finding that higher levels of mitigation aren’t practicable (“...the record must contain some basis to conclude that the proposed program is the maximum that can be reasonably required...” and “...should provide some basis for concluding, not just that the chosen mitigation fee and land preservation ratio are practicable, but that a higher fee and ratio would be impracticable.”).^{liii} The Service has not done so in this instance. Relevant data may include economic analyses, mitigation levels used in other HCPs, or evidence from the landowners.^{liv} The Services’ HCP Handbook also requires the Services to consider the cost of additional mitigation, the benefits of additional mitigation, the amount of mitigation provided by other landowners, and the landowner’s own abilities.^{lv} This has been addressed in a cursory manner in this instance.

The Services’ HCP Handbook states that if the landowner cites economic considerations as the reason for failing to utilize an alternate land management approach, then the landowner must provide supporting economic information, unless it is proprietary.^{lvi} No such supporting information has been provided in this HCP.

The Services should account for the totality of relevant economic factors, including the probability that land owners can deduct the cost of land management restrictions from their federal, state, and/or local taxes.

ESA sections 10(a)(2)(A)(iv) and 10(a)(2)(B)(v) also authorize the Services to require mitigation measures *beyond* those “practicable” mitigation measures required by ESA section 10(a)(2)(B)(ii). The Services’ HCP Handbook also states that all HCPs should address other measures required by the Services.^{lvii}

All impacts of all permitted “take” must be mitigated.^{lviii} Notably, in this instance, however, fragmentation of habitat is not directly mitigated even though the karst invertebrates critical habitat rule describes habitat fragmentation as a threat to the species.^{lix}

The Services’ HCP Handbook states that mitigation should not only be based on sound biological rationale, but also be “commensurate with the impacts.”^{lix} Such is not the case in this instance.

Sierra Club et al v. Bruce Babbitt et al held that replacement habitat must be provided for habitat destroyed pursuant to ITPs.^{lxi} In this case, however, replacement habitat added to the system of preserves may consist of habitats already protected for other purposes or under other authorities. Even when unprotected habitat would be protected under this HCP, there would be a net loss of thousands of acres of habitats now available to the various species, that would be subject to development.

Listed plants must also be addressed and protected by Take Permits and HCPs under ESA section 7(a)(2). The Services may not approve an action which jeopardizes the survival or recovery of listed plants.

The HCP's conservation strategy should use the precautionary approach. "Often, a direct relationship exists between the level of biological uncertainty for a covered species and the degree of risk that an incidental take permit could pose for that species. Therefore, the operating conservation program may need to be relatively cautious initially and adjusted later based on new information, even though a cautious approach may limit the number of alternative strategies that may be tested."^{lxii} The pre-eminent national scientific review of HCPs found also that: when basic data on species, their conservation needs, resulting levels and impacts of "take," and other considerations are unavailable, data gaps should be filled *prior* to developing HCPs; fewer data gaps should be allowed with plans covering larger areas, longer time frames, irreversible impacts, or multiple species; if HCPs proceed in the absence of needed data, then approaches which provide greater levels of certainty for the species should be used; and that managers should adopt risk-averse strategies in the face of uncertainty.^{lxiii} In this case, with little known about the distribution, taxonomy and much else about the karst invertebrates, the HCP should await more information.

Any unlisted species "covered" by the conservation plans and any regulatory assurances must be addressed and conserved as thoroughly and specifically as if they were listed, as was expected by Congress when ESA section 10 was drafted, and as is required by the "No Surprises" rule. Among other things, this should require that the HCP specifically and individually address each covered species and their unique conservation needs.

Take Permits and HCPs may not rely upon speculative sources of mitigation, such as promises of additional funds for habitat acquisition from unnamed sources.^{lxiv} Providing funds for research is not sufficient as mitigation.^{lxv} In this instance, the HCP relies on future appropriations which cannot be guaranteed,^{lxvi} a fantastical average 7% growth rate of invested funds, and even sale of land donations – which would spur further land development – to guarantee management and mitigation funds into the future. The mitigation measures (i.e. land sales) should not themselves cause unmitigated "take" of listed species or their habitats.^{lxvii} These various artifices and assumptions, for example about future appropriations, are the essence of speculative funds.

Independent (and presumably, academic) scientific peer review panels should be consulted during HCP development, particularly for more significant plans.^{lxviii} There is no evidence that such consultation occurred in this instance.

D. Adequacy of Implementation Measures—Monitoring

According to the Services' HCP Handbook, "monitoring is a mandatory element of all HCPs."^{lxix} Monitoring is also required implicitly and explicitly under the ESA and its regulations.^{lxx} The Services' HCP Handbook states that an HCP's monitoring provisions should be as specific as possible and be commensurate with the project's scope and the severity of its effects.^{lxxi} The Handbook also states that "the scope of the monitoring program should be commensurate with the scope and duration of the operating conservation program and the project impacts."^{lxxii}

According to the Services' HCP Handbook, "the Services and the applicant must ensure that the monitoring program provides information to: (1) evaluate compliance; (2) determine if biological goals and objectives are being met; and (3) provide feedback information for an adaptive management strategy, if one is used."^{lxxiii} Monitoring must also address HCPs' impacts over time.^{lxxiv} The Handbook further states that "the monitoring program should reflect the measurable biological goals and objectives. The following components are essential.... (1) Assess the implementation and effectiveness of the HCP terms and conditions....; (2) determine the level of incidental take of the covered species; (3) determine the biological conditions resulting from the operating conservation program....; and (4) provide any information needed to implement an adaptive management strategy, if utilized."^{lxxv}

The pre-eminent scientific review of HCPs also found that monitoring provisions should be used to evaluate mitigation measures' performance over time, and to assess impacts to species, and that monitoring must be designed to facilitate timely improvements to mitigation measures.^{lxxvi} In addition to implementation and effectiveness monitoring, validation monitoring is also needed to determine if the assumptions and models used in developing the conservation plan are correct.^{lxxvii}

Population levels and specific habitat components for each of the covered species must be monitored on a regular basis. According to the Services' HCP Handbook, "effects and effectiveness monitoring includes, but is not limited to, the following: 1. Periodic accounting of incidental take that occurred in conjunction with the permitted activity; 2. Surveys to determine species status, appropriately measured for the particular operating conservation program (e.g.,

presence, density, or reproductive rates); 3. Assessments of habitat condition; 4. Progress reports on fulfillment of the operating conservation program (e.g., habitat acres acquired and/or restored); and 5. Evaluations of the operating conservation program and its progress toward its intended biological goals.^{lxxxviii} The HCP Handbook also states elsewhere that monitoring must be sufficient to detect trends in species' populations.^{lxxxix} Monitoring indicators should be chosen to detect problems before it is too late to solve them.^{lxxx}

The Services' HCP Handbook states that monitoring protocol must specify the frequency, timing, and duration of data collection; must specify how the data will be analyzed; and must specify who will do the analysis.^{lxxx} The Handbook also states that "the monitoring program will be based on sound science. Standard survey or other previously established monitoring protocols should be used [and] [m]onitoring programs should use a multi-species approach when appropriate."^{lxxxii}

According to the Services' HCP Handbook, "...the monitoring program should also clearly designate who is responsible for the various aspects of monitoring."^{lxxxiii} More specifically, "both the Services and the permittee are responsible for monitoring the implementation of the HCP..." and "the Services should verify adherence to the terms and conditions of the incidental take permit, HCP, IA, and any other related agreements...."^{lxxxiv} The Handbook also states that "...it is important for the Services to make field visits to verify the accuracy of monitoring submitted by the permittees."^{lxxxv} The USFWS regulations also state that by being granted a Take Permit, the landowner has agreed to grant access to Service staff to property, records, and other areas.^{lxxxvi} Similarly, the NMFS regulations state that permittees shall allow the agency access to their premises at any reasonable hour to conduct inspections.^{lxxxvii} However, this is not reflected in the instant HCP.

Mechanisms must also be established more generally to ensure the scientific integrity of monitoring results. Monitoring should be conducted by independent persons and institutions that do not have a stake in the results.^{lxxxviii} According to the Services' HCP Handbook, "for large-scale or regional HCPs, oversight committees, made up of representatives from significantly affected entities (e.g., State Fish and Wildlife agencies), are often used to ensure proper and periodic review of the monitoring program...."^{lxxxix} According to the Handbook, "...oversight committees should periodically evaluate the permittee's implementation of the HCP, its incidental take permit, and IA and the success of the operating conservation program in reaching its identified biological goals and objectives. Such committees usually include species experts and representatives of the permittee, the Services, and other affected agencies and entities."^{xc} Further, "oversight committees should meet at least annually and review implementation of the monitoring program and filing of reports as defined in the HCP, permit, and/or IA, if one is used."^{xc}

The Services' Consultation Handbook also calls for monitoring to: "detect adverse effects resulting from a proposed action," "assess the actual level of incidental take in comparison with the anticipated... level," "detect when the anticipated level of incidental take is exceeded," and detect effects "on populations of a listed species, effects on the habitat... of a listed species, or effects on both." Monitoring results should also be collected and coordinated with monitoring from other permitted activities, to track their "collective effects."^{xcii}

E. Adequacy of Implementation Measures—Adaptive Management

Comprehensive and rigorous adaptive management will be crucial to the success of most HCPs. The pre-eminent national scientific review of HCPs found that: HCPs must be flexible, to allow for timely improvements based on monitoring results; if monitoring is used to help correct for data gaps, then mitigation measures must be adjusted as needed over time; and HCPs should include contingency measures (i.e., adaptive management supported by monitoring) to address potential failures with mitigation measures.^{xciii}

HCPs need to include adaptive management programs whose goal is to identify concrete improvements to the HCP's conservation measures that may be needed to address, among other things, the plan's potential failure to meet its biological goals, unpredicted impacts on the species resulting from the covered activities, stochastic environmental fluctuations, changes in the permittee's land management practices and their impacts, and other new information and changing circumstances. The ultimate goal of adaptive management must be to ensure that the plan and covered activities will continue to be consistent with the covered species' recovery. Adaptive management must necessarily be closely tied to monitoring, especially effectiveness and validation monitoring.

In drafting ESA section 10, Congress explicitly recognized that "...circumstances and information may change over time, and that the original plan might need to be revised. To address this situation, the Committee expects that any plan approved for a long-term permit will contain a procedure by which the parties will deal with unforeseen circumstances...."^{xciv} ESA section 10(a)(2)(B) requires HCPs to include assurances the plans will be implemented, continue to minimize and mitigate the impacts of take, and continue to avoid jeopardizing the species' chances of survival and recovery. ESA section 10(a)(2)(A)(iv) also requires the Services to require other measures as necessary to ensure the plan's success.

The Department of Interior has stated, in effect, that large scale HCPs must have extensive, meaningful adaptive management provisions to be lawful. "The Services recognize that HCP permits often must be structured in such a way as to allow for the adaptation and refinement of mitigation measures over time as new scientific information becomes available..." "...the purpose of the No Surprises rule is to force the negotiating parties to clearly define up front a mutually-agreed upon framework for such adaptive management, if necessary due to scientific uncertainty, and to establish a division of later responsibilities

in the event of highly unlikely unforeseen events.... In the event there are significant gaps in the biological data underlying a particular HCP, those gaps should be addressed through the inclusion of adaptive management provisions.”^{xcv} The HCP Handbook also states that if information on unlisted species’ conservation needs is lacking, then the landowner should either: i) use adaptive management to incorporate new information as it becomes available, ii) conduct additional research on the species’ needs, or iii) agree to reduced “No Surprises” guarantees for those species.^{xcvi}

According to the Services’ HCP Handbook, adaptive management programs should be established within HCPs to address the following situations, among others. “...an adaptive management strategy is essential for HCP’s that would otherwise pose a significant risk to the species at the time the permit is issued due to significant data or information gaps.”^{xcvii} “Possible significant data gaps that could lead to the development of an adaptive management strategy include, but are not limited to, a significant lack of specific information about the ecology of the species or its habitat (e.g., food preferences, relative importance of predators, territory size), uncertainty in the effectiveness of habitat or species management techniques, or lack of knowledge on the degree of potential effects of the activity on the species covered in the incidental take permit.”^{xcviii} Adaptive management is also especially important for species whose conservation needs are not yet well known, as is usually the case with unlisted species.^{xcix} Similarly, contingency measures should exist when landowners create/restore habitat as mitigation, in case the new habitat isn’t viable.^c

Scientists indicate that “the success of any adaptive management study depends upon two important contingencies: 1) management actions implemented now must maintain as many future options as possible, and 2) tight linkages and feedbacks must be maintained between scientists and managers....”^{ci} “Adaptive management requires a more (rather than less) cautious approach to the use of forest resources.”^{cii} The HCP Handbook also states that “often, a direct relationship exists between the level of biological uncertainty for a covered species and the degree of risk that an incidental take permit could pose for that species. Therefore, the operating conservation program may need to be relatively cautious initially and adjusted later based on new information, even though a cautious approach may limit the number of alternative strategies that may be tested.”^{ciii} Other literature suggests that management policies should accordingly be chosen in light of the assumptions they test, so that the most important uncertainties are tested rigorously and early.”^{civ}

The literature on adaptive management also clearly indicates that few, if any, management policies are without significant uncertainty. “Prediction is never perfect” and “uncertainty is a fundamental fact of environmental life.”^{cv} Likewise, “complex systems are unpredictable,” sometimes “the magnitude of responses is not in linear proportion to the magnitude of causes,” and an “iterative approach appears to be important to maintaining the productivity of resources.”^{cvi}

The literature also describes adaptive management as “a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.” However, adaptive management is not a “trial-and-error approach.”^{cvi} Essential steps in any project developed around adaptive management include: a) compiling all existing data, b) developing project goals, c) developing working hypotheses, d) implementing the prescriptions, e) monitoring results, f) evaluating and testing monitoring data, and g) returning to step (c).^{cvi}

The HCP Handbook also states that “an adaptive management strategy should (1) identify the uncertainty and the questions that need to be addressed to resolve the uncertainty; (2) develop alternative strategies and determine which experimental strategies to implement; (3) integrate a monitoring program that is able to detect the necessary information for strategy evaluation; and (4) incorporate feedback loops that link implementation and monitoring to a decision-making process (which may be similar to a dispute-resolution process) that result in appropriate changes in management.”^{cix}

Adaptive management is also “the acquisition of additional knowledge and the utilization of that information in modifying programs and practices so as to better achieve management goals” more generally.^{cx} In other words, the adaptive management program should also have a process for identifying and utilizing new information from outside sources, in addition to the results of the HCP’s own monitoring program.

Adaptive management “triggers” must be identified for each of the covered species. These should correspond to the biological goals for each of the covered species, which, in turn, should include measurable and verifiable objectives for the covered species’ populations and distributions, habitat quantity and quality, and other variables associated with the species’ recovery. In other words, the adaptive management program must key into the plan’s benchmark’s for success.^{cx} The HCP Handbook states that “thresholds” (i.e., triggers) for adaptive management review should be linked to key elements of the HCP and its monitoring protocol. Further, the thresholds must be based on measurable criteria.^{cxii} The triggers should include species’ population levels, specific habitat components, water quality standards, etc., associated with each of the covered species’ survival and recovery. According to the Services’ HCP Handbook, “a practical adaptive management strategy within the operating conservation program of a long-term incidental take permit will [also] include milestones that are reviewed at scheduled intervals during the lifetime of the incidental take permit and permitted action.”^{cxiii} However, as noted by the literature on adaptive management, management thresholds and

adaptive management triggers should not be defined as biological thresholds that represent risky or irreversible changes in species or ecosystems. Rather, management thresholds and triggers should include a comfortable margin-of-error and “kick in” before unacceptable damage to species’ chances of recovery have occurred.^{cxiv}

In keeping with these requirements, the HCP and its Implementation Agreement must require that the HCP’s mitigation measures will be corrected, improved, and/or supplemented whenever monitoring or other information indicates that the HCP’s biological goals and objectives are not being achieved (i.e., the adaptive management triggers are “tripped”). In other words, adaptive management programs must specify at the outset how adaptive management results will be used to modify conservation plans.^{cxv} The overriding objective of the HCP’s adaptive management program and its Implementation Agreement must be to ensure that the HCP will continue to protect the covered species and their chances of recovery. There must be clear timelines for adaptive management reviews and decisions. “Adaptive management does not postpone action until “enough” is known but acknowledges that time and resources are too short to defer *some* action, particularly actions to address urgent problems such as... declines in the abundance of valued biota.^{cxvi}

The HCP should identify specific additional mitigation measures, or a range of measures, that can be adopted in response to monitoring and adaptive management analyses, and that will *not* be precluded by “No Surprises” language. If “No Surprises” language is used in the HCP, Take Permit, or Implementation Agreement, all potentially necessary adaptive management changes to the HCP should be identified as “Changing Circumstances.” According to the HCP Handbook, “whenever an adaptive management strategy is used, the approved HCP must outline the agreed-upon future changes to the operating conservation program.”^{cxvii} “When an HCP, permit, and [implementation agreement] incorporate an adaptive management strategy, it should clearly state the range of possible operating conservation program adjustments due to significant new information, risk, or uncertainty.”^{cxviii} However, this HCP’s description of changed circumstances provides no latitude to protecting the species from a wide variety of changes through increasing the size of preserved lands.^{cxix}

Adaptive management reviews should be conducted by objective, scientifically-qualified parties that are independent of the permittees. “To be informative and efficient, adaptive management projects must be led by people who know what options for study designs and analyses are available, and the relative strengths and weaknesses of each.”^{cxx} Adaptive management reviews and decisions should be transparent, and provide meaningful opportunities for public input. Adaptive management decisions should be conducted pursuant to explicit and transparent decision-criteria, and not be subject to “veto” by the permittees. In short, adaptive management must be a scientific process, rather than a political free-for-all.

F. Adequacy of Implementation Measures—Assurances and “No Surprises” Guarantees

Relevant Standards:

The HCP and its Implementation Agreement must be consistent with, and include language maintaining, the provisions of 50 CFR 402.16, which requires the USFWS and NMFS to reinitiate formal consultation under ESA section 7 if: the amount or extent of “taking” exceeds that allowed for by the Take Permit, new information shows that listed species or critical habitat will be affected in a manner not previously considered, changes in the permitted activities cause effects not previously considered, or the permitted activity will affect newly listed species or critical habitat.^{cxxi} The HCP and its Implementation Agreement must include procedures for the Services to look for, and respond to, such new information. The Biological Opinion should also identify situations that would warrant reinitiation, including studies in progress whose results may warrant reassessment of the Opinion.^{cxxii}

Various scientific assessments of HCPs have come to similar conclusions; for example, “if opportunities for modifying and improving plans on the basis of new information are precluded, failures in attaining biological goals are likely.”^{cxxiii} “Plans must be dynamic and explicitly built on a foundation of adaptability and revision.”^{cxxiv} Thus landowner assurances should take the form of explicit, up-front agreements about the plan’s biological goals, monitoring, adaptive management, and enforcement, and fair allocation of responsibility between the landowner and public for funding future plan changes.

In other words, the plan should provide up-front clarity and assurances about the process that will be used to identify and make improvements to the plan—instead of simply precluding meaningful plan improvements through “No Surprises” assurances, as this HCP does.^{cxxv} In drafting ESA section 10, Congress explicitly recognized that “...circumstances and information may change over time, and that the original plan might need to be revised. To address this situation, the Committee expects that any plan approved for a long-term permit will contain a procedure by which the parties will deal with unforeseen circumstances....”^{cxxvi} The Department of Interior has also stated that “...the purpose of the No Surprises rule is to force the negotiating parties to clearly define up front a mutually-agreed upon framework for such adaptive management...and to establish a division of later responsibilities in the event of highly unlikely unforeseen events....”^{cxxvii}

Any landowner or regulatory assurances should be proportionate (in terms of breadth, duration, etc.) to the probability that the HCP’s conservation measures will succeed in recovering abundant, resilient, and well-distributed populations and fully functioning habitats of the covered species, including as noted by the Services’ HCP Handbook.^{cxxviii} A different level or extent of assurances may be suitable for different species, different HCP elements, different locations, etc., given any differences in the quality of the HCP’s conservation measures in relation to different species, different conservation needs, different site conditions, etc.

Beyond a short initial “time-out” period, assurances provisions must not preclude the permittees’ responsibility for adopting modified or additional mitigation measures, as may be identified through monitoring, adaptive management, or other processes which are integral to the HCP’s long-term effectiveness and/or ensuring that the Incidental Take Permit and plan will not impact

the covered species' chances of recovery over time. In this instance, however, the No Surprises limitations on additional land to add preserves would render the species unable to adapt to a variety of changed conditions.

The duration of assurances should also be limited to time periods during which implementation of the HCP's conservation measures, monitoring, and adaptive management provisions can be guaranteed. The Services' HCP Handbook states that "the Services will also consider the extent of information underlying the HCP, the length of time necessary to implement and achieve the benefits of the operating conservation program, and the extent to which the program incorporates adaptive management strategies."^{cxxxix} On the latter basis alone, the Service should reject this HCP.

The Federal Register notice for the final "No Surprises" Rule states that "...many changes in circumstances during the course of an HCP can reasonably be anticipated and planned for in the conservation plan (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events), and the plans should describe the modifications in the project or activity that will be implemented if these circumstances arise...."^{cxxx} The final rule itself then states that "changed circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that can reasonably be anticipated by plan developers and the Service and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events)."^{cxxx1} Likewise, the HCP Handbook states that "unforeseen circumstances" *don't* include changed conditions that could reasonably be anticipated by the landowner or the Services, including the listing of new species or modifications in the landowner's activities.^{cxxxii} Under the final "No Surprises" rule, landowners are responsible for providing improved and/or additional mitigation measures needed in response to "changed circumstances," if the mitigation measures "were provided for" in the HCP.^{cxxxiii}

The pre-eminent national scientific review of HCPs found that "take" permits should not be given to landowners when significant information needed to develop scientifically credible HCPs is lacking.^{cxxxiv} That is certainly the case in this instance regarding the karst invertebrates. The Services' HCP Handbook also states that "there may be some circumstances with such a high degree of uncertainty and potential significant effects that a species should not receive coverage in an incidental take permit at all until additional research is conducted."^{cxxxv} Again, the lack of information on these invertebrates fits that circumstance.

The final “No Surprises” rule, the legislative history for ESA section 10(a), and the Services’ HCP Handbook all state that any unlisted species covered in an HCP must be addressed as if it were listed.^{cxxxvi} The “No Surprises” rule states that “*adequately covered means... with respect to unlisted species, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the ESA that would otherwise apply if the unlisted species covered by the plan were actually listed.*”^{cxxxvii} Among other things, this should require that the HCP specifically and individually address each covered species and their unique conservation needs (the NMFS regulations state, for example, that for species to be covered, they must be specifically listed on the Take Permit).^{cxxxviii} The draft “No Surprises” rule also stated that unlisted species need to be addressed by removing threats to their survival and recovery, such that the species would not need to be listed if the measures were undertaken across their range.

The Services’ HCP Handbook also states that if information on unlisted species’ conservation needs is lacking, then the landowner should either: i) use adaptive management to incorporate new information as it becomes available, ii) conduct additional research on the species’ needs, or iii) agree to reduced “No Surprises” guarantees for those species.^{cxxxix}

G. Adequacy of Implementation Measures—Funding, Enforcement, and Implementation Assurances

Relevant Standards:

ESA sections 10(a)(2)(A)(ii) and 10(a)(2)(B)(iii) state that the HCPs must specify the funding that will be available to implement the plans’ impact minimization and mitigation measures, and that the Services must find that the applicants will “ensure that adequate funding for the plan will be provided.”^{cxli} In this case, as noted, funding is in part dependent on a speculative 7% annual investment income, sale of lands that themselves might be needed for conservation, and appropriations. None of this is certain income, and much of it is doubtful.

ESA sections 10(a)(2)(A)(iv) and 10(a)(2)(B) state that the Services shall require “...other measures... necessary or appropriate for purposes of the plan” and “...other assurances...that the plan will be implemented.” As recognized by the courts, the mere promise of future actions is not sufficient to meet the ESA’s protection standards.^{cxlii}

The HCP and Take Permit must be accompanied by a legally sufficient Implementation Agreement, as recognized by the Services’ HCP Handbook.^{cxliii} The HCP’s mitigation measures must be enforceable.^{cxliii} The Implementation Agreement must also include enforceable remedies and relief provisions, in the event that the HCP’s conservation measures are not implemented, and “take” is thus not properly mitigated, as noted by the Services’ HCP Handbook and its template Agreement.^{cxliiv} In this instance, if funding falls short for management and monitoring, no such remedies can be counted on. Furthermore, the mechanisms for describing the assumptions on funding, repeatedly referenced as “Appendix F” in the HCP, are not available on the Service’s website, nor did the Service’s Austin, Texas office answer the phone in the days leading up to the March 19, 2015 deadline on comments on the

HCP and DEIS; consequently, Appendix F with its critical analysis, is not available and cannot be counted on for assurances in the HCP nor DEIS.

There must be assurances of adequate funding to implement the HCP's conservation measures, monitoring, and adaptive management provisions over time. That doesn't exist in this instance. The HCP Handbook states that large scale HCPs may need perpetual funding to cover long term monitoring and mitigation.^{cxlv} The Service's Handbook also states that the landowner should provide up-front legal or financial assurances, such as a letter of credit, if mitigation measures will be implemented after "take" occurs.^{cxlvi} The courts have also recognized the need to provide assurances of adequate funding.^{cxlvii}

H. Duration of the Take Permit and HCP

According to the Services' HCP Handbook, when determining incidental take permit duration, factors to consider include "duration of the applicant's proposed activities and the expected positive and negative effects on covered species... including the extent to which the operating conservation program will increase the long-term survivability of the listed species and/or enhance its habitat."^{cxlviii}

The Handbook also states that "the Services will also consider the extent of information underlying the HCP, the length of time necessary to implement and achieve the benefits of the operating conservation program, and the extent to which the program incorporates adaptive management strategies. Significant biological uncertainty may necessitate an adaptive management strategy."^{cxlix} Under these criteria, this HCP should be rejected.

III. Comments on the Draft Environmental Impact Statement

The DEIS does not meet the standards of NEPA as described below.

A. Alternatives to be Considered in the EIS—Generally

Consideration of alternatives is the "heart" of an EIS.^{cl} Under NEPA, an EIS must "rigorously explore and objectively examine all reasonable alternatives."^{cli} Likewise, an agency may not "consider only those alternatives with [the same] end result."^{clii}

An EIS must evaluate a "reasonable range" of alternatives. The range is dictated by "nature and scope of the proposed action," and must be sufficient to permit the agency to make a "reasoned choice."^{cliii} The analysis must include the alternative of no action, as well as alternatives not within the federal lead agency's jurisdiction.^{cliv}

The existence of a “viable but unexamined alternative renders an environmental impact statement inadequate.”^{clv} Likewise, an agency may not “consider only those alternatives with [the same] end result.”^{clvi}

All alternatives selected for detailed analysis must *avoid or substantially reduce* the significant environmental impacts of the proposed project.^{clvii}

The EIS must include "reasonable options" for avoiding or mitigating to insignificance any significant cumulative effects identified.^{clviii}

The EIS must "devote substantial treatment to each alternative considered in detail so that reviewers may evaluate their comparative merits."^{clix} It also must explain how each alternative will or will not achieve the policies of NEPA and other relevant environmental laws and policies.^{clx}

The alternatives analysis should not be constrained by what the applicant deems economically "practicable" or "feasible."^{clxi}

Under NEPA, where economic preferences are used to select the preferred alternative, the decision must not be based on misleading, biased, or incomplete economic information.^{clxii}

B. Alternatives to be Considered in the EIS—No Action Alternative

To be credible and accurate, the "no action" alternative must accurately describe baseline conditions and assume full compliance with, and enforcement of, existing federal and state laws. Specifically, the “no action” alternative must assume the State and landowners’ full avoidance of “take” of all covered listed species. A “no action” alternative that assumes minimal or compliance with or enforcement of the ESA, and therefore seriously overestimates the purported benefits of the HCP’s mitigation program, is not acceptable.

The no action alternative must also account for the likelihood that unlisted sensitive and imperiled species will be listed in the future and subject to ESA restrictions.

C. Impacts Analysis—Generally

Environmental Protection Agency (EPA) regulations require an EIS to "provide a full and fair discussion of significant environmental impacts” of the proposed action, as well as each alternative.^{clxiii} Environmental impacts, or effects, include ecological, aesthetic, historic, cultural, economic, social, and health effects, whether direct, indirect, or cumulative in nature.^{clxiv}

Under NEPA, sufficient, accurate, current and up to date data must be used. Accurate projections of affected species' populations under the Take Permit and HCP must be compared with accurate historical baseline populations, as well as populations that would occur *in lieu* of the Take Permit and HCP. Population trends should be compared with minimum viable population data to help assess impacts.^{clxv} This level of analysis was not conducted in this DEIS.

D. Impacts Analysis—Species Impacts Analysis

Impacts should be assessed explicitly for each listed and unlisted species covered by the HCP, as should the relationship between the landowner's forest management practices and each species' conservation needs, including the species' recovery needs.

The EIS must include a detailed biological analysis of the impacts of development, resource extraction and other activities authorized by the HCP and Take Permit on *each* wildlife and plant species (whether listed or unlisted) to be "covered by" the HCP and all designated critical habitat areas.^{clxvi}

Impacts to all threatened, endangered, candidate, proposed-listed, sensitive, rare, endemic, or otherwise at-risk or ecologically, socially, or economically important plant and animal species should be assessed, *regardless* of whether those species are officially "covered" by the HCP.

The EIS must analyze the impact of activities on all species "occurring or potentially occurring" on all lands subject to the HCP, regardless of whether they will be "covered" by the HCP. If any wildlife or plant species occurring or potentially occurring on lands subject to the HCP will *not* be "covered" by the plan, the EIS must analyze the impacts of the HCP on these species, why they are not "covered," and include mitigation measures for any significant impacts identified.

The HCP Handbook notes that the Services must consider impacts on Federally-listed plants, during ESA section 7 consultation, regardless of whether those plants are "covered" by the HCP. Plants protected by state laws are among those which must be addressed, pursuant to ESA section 9.^{clxvii}

For each species, the analysis must: (1) specifically indicate how the HCP and Take Permit will affect species' survival *and* recovery prospects; (2) describe activities that may result in take of covered species; and (3) *quantify* the anticipated level of take resulting from all activities authorized under the HCP.^{clxviii} The EIS must indicate whether the impacts of the HCP and Take Permit on each of these species will be significant, and if so, include *species specific* mitigation measures and management actions for *each* significant impact identified.^{clxix}

The EIS likewise must objectively analyze the likely short-term *and* long-term effectiveness of each of the HCP's proposed measures to minimize and mitigate incidental take of covered species and provide a scientifically justifiable reason why and how these measures will mitigate any significant adverse impacts to species to a level of insignificance.^{clxx}

The EIS must analyze the reasonably foreseeable biological impacts of including a "no surprises" provision in the HCP and implementing agreement. The effects of the "no surprises" policy over

both the short and the long term are extremely likely to be significant. Thus, if 1) the HCP fails to achieve its stated goals, 2) the HCP conditions prove inadequate to protect species, 3) new scientific information is discovered which affects the assumptions in or conclusions of the HCP, and/or 4) unanticipated circumstances significantly change the environmental baseline, then federal and state agencies may be restricted in their enforcement and ability to respond in order to conserve the species. This EIS fails to conduct such an analysis.

The EIS must assess impacts to all environmental values in the plan area, including both direct and cumulative effects. These values include, but are not limited to, unlisted, sensitive, rare or endemic, or otherwise at-risk fish, wildlife, and plant species; water quality; water supplies and the timing of flows; air quality; open space; soil productivity; and the sequestration and storage of atmospheric carbon dioxide.

The alternatives' impacts on the karst species' critical habitats must also be carefully examined, since the proposed HCP and Take Permit or other "assurances" may not be legally issued if they adversely modify the species' critical habitats, as per ESA section 7(a)(2).

The EIS must provide: 1) detailed, thorough, and quantitative descriptions of the habitat and population conditions that will correspond to each covered species' recovery, 2) detailed, quantitative habitat and population projections for each species covered by the HCP, for each alternative, and 3) compare the alternatives' outcomes identified in step (2) with the indicators of recovery identified in step (1). This DEIS doesn't do that.

The analyses for HCPs -- particularly those covering large areas or large amounts of a species' range -- should inventory, summarize, and document available data on each species and their distribution, abundance, population trends, ecological requirements, life history, and causes of endangerment.^{clxxi} Again, this DEIS only addresses these issues in cursory fashion at best.

Quantitative estimates of the impacts of "take" on species' viability should be provided, especially for larger or more significant plans. At a minimum, best and worst-case scenarios should be identified.^{clxxii} That did not occur in this DEIS.

Impacts of "take" should also be evaluated, particularly for larger or more significant plans, including by determining whether the habitats being "taken" correspond to population "sources" or "sinks," whether genetically unique subpopulations are being "taken," and whether unique habitat/species combinations are being impacted.^{clxxiii} Again, this is absent from this DEIS.

The analyses for HCPs must address each of the following: species' status reviews, analyzing the proposed "take," assessing the impacts of "take," planning and assessing mitigation measures, and planning and assessing monitoring provisions.^{clxxiv} In this case, status reviews were minimally if at all consulted.

G. Impacts Analysis—Cumulative Impacts

Relevant Standards:

The analyses for HCPs should evaluate the cumulative impacts of multiple plans and their interactions. The percentage of local *and* global populations that will be “taken” should be assessed.^{clxxxv} Yet, multiple HCP’s address the two birds covered in this plan, yet cumulative impacts are not addressed.

A thorough cumulative effects analysis should be conducted to address all Federal and non-Federal actions affecting each species covered by the Take Permit and HCP. The analysis should also address all past, present, and reasonably foreseeable actions across the species’ ranges.

An EIS must analyze "cumulative actions, which when viewed together have cumulatively significant impacts."^{clxxxvi} Thus, "[w]here several foreseeable similar projects in a geographical region have a cumulative impact, they should be evaluated in a single EIS."^{clxxxvii} "Cumulative impact" is defined in the NEPA regulations as the impact on the environment that results from "the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions."^{clxxxviii}

Cumulative effects analyses are also required as part of the ESA section 7 consultation process for HCPs, as per 50 CFR 402.

In addition to cumulative impacts, this discussion must address the direct and indirect impacts of the project.^{clxxxix} "Direct effects" are those which are immediately caused by the action; indirect effects are those which will be caused by the action at a later time, but which are nevertheless reasonably foreseeable.^{clxxx}

NEPA requires a discussion of growth-inducing impacts as part of its analysis of indirect environmental effects of the proposed action.^{clxxxxi} A project may have a growth-inducing impact if it may directly remove an obstacle to growth, or if it may encourage other activities that would significantly affect the environment, individually or cumulatively.

H. Impacts Analysis—Other

Relevant Standards:

The Services must take a “hard look” at the environmental consequences of approving an action, i.e., a Take Permit and HCP.^{clxxxii}

NEPA requires an EIS to include a discussion of significant adverse effects which cannot be avoided if the proposal is implemented.^{clxxxiii}

NEPA requires a discussion of any irreversible or irretrievable commitments of resources which would be made if the proposal is implemented.^{clxxxiv}

The EIS must objectively and independently evaluate any assertions by the HCP applicant that certain mitigation measures are "impracticable" or "infeasible." Such assertions must be supported by reliable and specific documentation of impracticability or infeasibility.^{clxxxv}

Activities on other lands not subject to the HCP's Implementation Agreement should be considered as speculative, and not counted as mitigation for "take" authorized by the Take Permit. Yet, in this instance, lands in Comal County may be added in to the preserves as mitigation.

The EIS must also account for any new information which has come to light during development of the HCP. But this DEIS does not discuss information available in current recovery plan revision processes for the two covered birds.

I. Economic Analyses

The DEIS should have fully assessed likely costs to the public and future generations of the proposed HCP versus alternatives. Costs may include lost wildlife, lost rare plants and future medicines, regional ecosystem failures, the cost of paying landowners to restore habitat areas, the cost of paying landowners for adaptive management and improvements to their HCPs that have been precluded by "No Surprises" agreements, the cost of increasing protections on Federal lands to compensate for failed HCPs on private lands, etc.

The EIS must also consider the significant economic benefits that the participating landowners will likely accrue by acquiring a valid Take Permit for various listed and unlisted species. Particularly when coupled with "No Surprises" guarantees, HCPs and Take Permits provides a level of regulatory certainty which is unprecedented in the business world, largely insulates private companies and other parties from any future liability to adopt additional conservation measures to protect and recover listed and unlisted species, and may even increase companies' land values, assuming that the Take Permit and HCP could be potentially transferred or otherwise adopted by subsequent landowners.

J. Impacts Analysis—Plan Implementation Issues

The EIS must analyze the adequacy of the commitments for funding the mitigation and monitoring measures in the HCP to support long term species conservation. The analysis must include financial and other data, which accounts for inflation, depreciation of assets, increased real estate values, and other contingencies, to support the conclusions reached. In this case, as noted, Appendix F which supposedly contains this information, has not been made available.

The EIS should evaluate the availability of federal and state funds to meet any future mitigation requirements. If the availability of federal and/or state funds is a likely possibility, then the EIS must also analyze the biological effects resulting from the permittee's and/or the government's future unwillingness or inability to provide adequate mitigation or HCP implementation funding on USFWS and NMFS determinations pursuant to ESA section 7.

The EIS should fully analyze the impacts of both foreseeable and unforeseeable changed circumstances on the assumptions, conclusions and mitigation measures contained in the HCP, and how these changed circumstances will affect species survival and recovery, population trends, habitat quality and quantity, water quality, and other environmental factors. Foreseeable circumstances include fire, flood, lightning, disease and other stochastic events. The HCP must contain mitigation measures to address such foreseeable circumstances, and specific, detailed procedures to address any unforeseen circumstances, as required by the ESA and its implementing regulations. These critical provisions cannot simply be passed off as a federal government obligation under the "no surprises" policy.

K. Mitigation Measures

NEPA requires an EIS to include measures to avoid or minimize *each* significant impact identified, including the impacts of alternatives.^{clxxxvi} The analysis must include appropriate mitigation measures for each alternative analyzed in detail.^{clxxxvii} This discussion must distinguish between measures proposed by the project proponent to be included in the project and others that are not included but could reduce adverse impacts if included as conditions of project approval. If several measures are identified to mitigate an impact, the EIS must discuss the basis for selecting a particular measure, if that is done.

NEPA requires all federal agencies to "use all practicable means . . . to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions on the quality of the human environment."^{clxxxviii}

The EIS must include "reasonable options" for avoiding or mitigating to insignificance any significant cumulative effects identified.^{clxxxix}

The details of the HCP's mitigation measures must be explicitly described and accompanied by data on their effectiveness. The likely success of each measure must be evaluated, as must the overall effectiveness of mitigation measures at minimizing and offsetting "take."^{cx} In this case, however, habitat fragmentation is not mitigated, but supposedly would be covered by other mitigation,^{cxci} and effectiveness has no reference to recovery/delisting standards or up-to-date science on the birds.

Sincerely,

Michael J. Robinson
Center for Biological Diversity

IV. Endnotes

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- ⁱ Kareiva, Peter, et al. 1999. Using Science in Habitat Conservation Plans. National Center for Ecological Analysis & Synthesis, Santa Barbara, CA, and the American Institute of Biological Sciences, Washington, DC.
- ⁱⁱ Kareiva et al (1999).
- ⁱⁱⁱ Kareiva et al (1999).
- ^{iv} 50 CFR 222.307(b)(4).
- ^v 50 CFR 222.307(b)(5)(i) & (ii).
- ^{vi} Civil Action No. 97-0691-CB-C, Order August 4, 1998, S. Dist., AL, S. Div.
- ^{vii} USFWS et al. 1996. Endangered Species Habitat Conservation Planning Handbook. US Fish & Wildlife Service and the National Marine Fisheries Service. Washington, DC. p. 6-15. See also 16 USC 1536(a)(2).
- ^{viii} USFWS et al. (1998).
- ^{ix} USFWS. 2004. "Application of the 'Destruction or Adverse Modification' Standard Under Section 7(a)(2) of the Endangered Species Act"--Memorandum to Regional Directors. December 9, 2004. Fish & Wildlife Service, US Department of Interior, Washington, DC.
- ^x HCP, pp. 11, 26.
- ^{xi} Under ESA section 7, the baseline scenario includes "take" and other past and present impacts; however, these are the impacts of projects other than the proposed activity.
- ^{xii} HCP, p. 42.
- ^{xiii} HCP, p. 86.
- ^{xiv} HCP, pp. 96, 103.
- ^{xv} 50 CFR 402.02. See the definitions of "cumulative effects" and "effects of the action." Technically, under ESA section 7, the impacts of other past and present impacts are part of the "baseline," while the impacts of the proposed action and other actions likely to occur are part of the "cumulative" impacts. However, on a practical level, cumulative impacts must ultimately be understood to include both the baseline and official "cumulative" impacts.
- ^{xvi} USFWS et al (1998) and 50 CFR 402.02.
- ^{xvii} 50 CFR 222.307(c)(1)(ii).
- ^{xviii} Kareiva et al (1999).
- ^{xix} Federal Register 50;189, September 9, 1985.
- ^{xx} USFWS et al (1996), p. 3-7
- ^{xxi} USFWS et al (1996), p. 3-12.
- ^{xxii} HCP, pp. 144-145.
- ^{xxiii} 16 USC 1536(a)(2).
- ^{xxiv} USFWS et al. 1998. Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act. March, 1998. US Fish & Wildlife Service and National Marine Fisheries Service, Washington, DC.
- ^{xxv} "In the future, the Services and HCP applicants will clearly and consistently define the expected outcome, i.e., biological goals." (DOI. 2000. Final Addendum to the Handbook for Habitat Conservation Planning and Incidental Take Permitting Process. Federal Register, 65;106, June 1, 2000. U.S. Department of Interior, Washington, D.C.)
- ^{xxvi} DOI (2000).
- ^{xxvii} Noss, R., M. O'Connell, & D. Murphy. 1997. The Science of Conservation Planning: Habitat Conservation Under the Endangered Species Act. Island Press, Washington, D.C.
- ^{xxviii} DOI (2000).
- ^{xxix} DOI (2000).
- ^{xxx} "The biological outcome of the operating conservation program for the covered species is the best measure of the success of an HCP." (DOI. 1999. Draft Addendum to the Handbook for Habitat Conservation Planning and Incidental Take Permitting Process. Federal Register, 64; 45, March 9, 1999. U.S. Department of Interior, Washington, D.C.)
- ^{xxxi} Kareiva et al (1999).
- ^{xxxii} Bean, M., S. Fitzgerald, & M. O'Connell. 1991. Reconciling Conflicts Under the Endangered Species Act: The Habitat Conservation Planning Experience. World Wildlife Fund, Washington, D.C.
- ^{xxxiii} DOI (2000).
- ^{xxxiv} DOI (2000).
- ^{xxxv} USFWS et al (1996), pp. 3-12, -37.
- ^{xxxvi} Noss et al (1997).

xxxvii DOI (2000).

xxxviii *Sierra Club et al v. Bruce Babbitt et al*, Civil Action No. 97-0691-CB-C, Order August 4, 1998, S. Dist., AL, S. Div.

xxxix 68 Fed. Reg. 17156 (April 8, 2003).

xi DOI (2000).

xii ESA s. 10(a)(2)(B)(iv) explicitly and clearly precludes the Services from approving an HCP which will "appreciably reduce the likelihood of the survival and recovery of the species in the wild." The Services have been correct in noting in different fora that Congress intended that ESA section 10's requirements to be interpreted similarly to ESA section 7's "jeopardy" analysis. However, the Services have been incorrect in claiming that this jeopardy analysis was intended to be reduced to consideration only of whether a "take" permit will impact a covered species' chances of survival. At the time Congress established section 10, the section 7 jeopardy standard was clearly understood as also requiring an analysis of whether an action would harm a species' chance of recovery *per se*. (Rohlf, D. 2001. "Jeopardy Under the Endangered Species Act: Playing A Game Protected Species Can't Win," *Washburn Law Journal*. 41:1.) Several district courts have found that recovery must be assessed above and beyond mere survival. (See *House v. USFS* and *Idaho DFG v. NMFS*.) District and appeals courts are also finding that the parallel "jeopardy" language in ESA s. 7 must be interpreted as specifically protecting species' chances of recovery, not just their chances of survival. (See, for example, *Center for Biological Diversity et al v. BLM et al*, Order Re. Cross-Motions for Summary Judgement, No. 03-2509-SI, District Ct., N. Dist. California.) The HCP Handbook also states that the Services should "discourage" HCPs that preclude recovery options or which are inconsistent with recovery plans. Consistency with recovery plans is also included in the Handbook as a "helpful hint." (USFWS et al (1996), p. 3-20 and 1-15.)

xiii This has been affirmed by the US Supreme Court in *TVA v. Hill* and *Babbitt v. Sweet Home Chapter of Communities*. (See Gaffney, B., et al. 1997. Letter to Bruce Babbitt, et. al., Regarding Agency Discretion in Processing Pacific Lumber Company's Habitat Conservation Plan. Law Office of Brian Gaffney, Oakland, CA.)

xiiii Rohlf (2001). NMFS has also stated that "impeding a species' progress towards recovery exposes it to additional risk, and so reduces its likelihood of survival. Therefore, for an action to not "appreciably reduce" the likelihood of survival, it must not prevent *or appreciably delay* recovery...." (NMFS. 1999. "The Habitat Approach: Implementation of Section 7 of the Endangered Species Act for Actions Affecting the Habitat of Pacific Anadromous Salmonids." August 26, 1999. Habitat Conservation & Protected Resources Division, Northwest Region, National Marine Fisheries Service.)

xlv *Cabinet Mountains Wilderness v Peterson* (1981, DC Dist Col) 510 F Supp 1186, 15 Env't Rep Cas 2081, 11 ELR 20812, aff'd (1982, App DC) 222 US App DC 228, 685 F2d 678, 17 Env't Rep Cas 1844, 12 ELR 21058.

xlv 50 CFR 222.303(e)(1)(iv).

xlvi *Center for Biological Diversity et al v. BLM et al*, Order Re. Cross-Motions for Summary Judgement, No. 03-2509-SI, District Ct., N. Dist. California. See also *Sierra Club v. USFWS*, 245 F.3d 434 (5th Cir. 2001) and *Gifford Pinchot Task Force v. USFWS*, 378 F.3d 1059 (9th Cir. 2004).

xlvii USFWS et al. (1998).

xlviii For example, the Congressional Conference Committee Report directed the Services to "consider the extent to which the conservation plan is likely to enhance the habitat of the listed species or increase the long-term survivability of the species or its ecosystem. (HR Conference Report 97-835, 97th Congress, 2d Sess. 1982.) Bean et al (1991) also note that the structure of ESA section 10 suggests that Congress wished not only minimize the impacts of take, but to *also* mitigate the remaining impacts, including through the use of conservation plans (HCPs) for which adequate funding would be required.

xlix USFWS et al (1996), pp . 7-2 to 7-5 and 3-20.

¹ Federal Defendants' Combined Memorandum in Support of Cross-Motion For Summary Judgment and In Opposition to Plaintiffs' Motion for Summary Judgment, at 35 (D.D.C. Filed April 23, 1999), *Spirit of the Sage Council et al v. Babbitt*, No. 1:98CV1873 (EGS).

ⁱⁱ *Sierra Club et al v. Bruce Babbitt et al*.

ⁱⁱⁱ *National Wildlife Federation et al v. Bruce Babbitt et al.*, 128 F. Supp. 2d 1274 (E.D. Cal. 2000). The only time courts have found that the Services need not assess whether additional mitigation is financially possible is when the proposed mitigation clearly already more than fully compensates for the impacts of the authorized "take." (*NWF v. Norton*, 306 F. Supp. 2d.)

ⁱⁱⁱⁱ *National Wildlife Federation et al v. Bruce Babbitt et al*. The decision in *Gerber v. Norton* also appears to indicate that the Services must independently determine that alternatives providing greater impact minimization and mitigation would, in

fact, be impracticable. (*Gerber v. Norton*, 2002, App DC, 294 F3d 173, 54 Env't Rep Cas 1737.) The only time courts have found that the Services need not assess whether additional mitigation is financially possible is when the proposed mitigation clearly already more than fully compensates for the impacts of the authorized "take." (*NWF v. Norton*, 306 F. Supp. 2d.)

liv *National Wildlife Federation et al v. Bruce Babbitt et al.*

lv USFWS et al (1996), pp. 3-36 and 7-3.

lvi USFWS et al (1996), p. 3 - 36.

lvii USFWS et al (1996), pp. 1-7 & 3-10.

lviii *National Wildlife Federation et al v. Bruce Babbitt et al* also found that the Services had failed to mitigate some types of "take" permitted by an HCP.

lix 68 Fed. Reg. 17162 (April 8, 2003).

lx USFWS et al (1996), p. 3-19.

lxi *Sierra Club et al v. Bruce Babbitt et al.*

lxii DOI (2000).

lxiii *Kareiva et al (1999).*

lxiv *Sierra Club et al v. Bruce Babbitt et al.*

lxv USFWS et al (1996), p. 3-23.

lxvi HCP, p. 90.

lxvii See, for example, *Loggerhead Turtle v. County Council of Volusia*, 148 F.3d 1231.

lxviii *Kareiva et al (1999).*

lxix DOI (2000).

lxx ESA s.10(a)(2)(B) states that the terms and conditions necessary to assure the plan will be implemented include reporting requirements. Reporting cannot occur without monitoring. Monitoring is also required under the Service's regulations at 50 CFR 17.22(b)(1)(iii)(B) and 50 CFR 222.307(b)(5)(iii).

lxxi USFWS et al (1996), p. 3-26

lxxii DOI (2000).

lxxiii DOI (2000).

lxxiv USFWS et al (1996), pp. 1-7 & 3-10.

lxxv DOI (2000).

lxxvi *Kareiva et al (1999).*

lxxvii Noss, R. & A. Cooperrider. 1994. *Saving Nature's Legacy: Protecting and Restoring Biodiversity*. Island Press, Washington, D.C.

lxxviii DOI (2000). The content of monitoring reports is also specified: "The following represents the information generally needed in a monitoring report: 1. Biological goals and objectives of the HCP (which may need to be reported only once); 2. Objectives for the monitoring program (which may need to be reported only once); 3. Effects on the covered species or habitat; 4. Location of sampling sites; 5. Methods for data collection and variables measured; 6. Frequency, timing, and duration of sampling for the variables; 7. Description of the data analysis and who conducted the analyses; and 8. Evaluation of progress toward achieving measurable biological goals and objectives and other terms and conditions as required by the incidental take permit or IA."

lxxix USFWS et al. (1996), p. 3-27.

lxxx Noss et al. (1994).

lxxxi USFWS et al (1996), p. 3-27.

lxxxii DOI (2000).

lxxxiii DOI (2000).

lxxxiv DOI (2000).

lxxxv DOI (2000).

lxxxvi 50 CFR 13.21(e)(2) and 13.47.

lxxxvii 50 CFR 222.301(j).

lxxxviii Noss et al (1994)

lxxxix DOI (2000).

xc DOI (2000).

xcii DOI (2000).

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- xcii USFWS et al. (1998).
- xciii Kareiva et al (1999). See also NHL. 1998. A Summary of Key Findings and Recommendations of the Participants of the Workshop: Optimizing Habitat Conservation Planning for Non-Federal Lands and Waters: Harvesting Performance Reviews to Chart a Course for Improvement. June 26-27, 1998. Natural Heritage Institute, Berkeley, CA.
- xciv Conf Rept at 30 and 50 FR 39681-39691, Sept. 30, 1985.
- xcv Federal Defendants' Combined Memorandum in Support of Cross-Motion For Summary Judgment and In Opposition to Plaintiffs' Motion for Summary Judgment, at 2 (D.D.C. Filed April 23, 1999), *Spirit of the Sage Council et al v. Babbitt*, No. 1:98CV1873 (EGS).
- xcvi USFWS, et al (1996), p. 3-30.
- xcvii DOI (2000).
- xcviii DOI (2000).
- xcix USFWS et al (1996) and USFWS et al. 1994. Preliminary Draft Handbook for Habitat Conservation Planning and Incidental Take Permit Processing. US Fish & Wildlife Service and National Marine Fisheries Service. Washington, DC.
- c USFWS et al (1996), p. 3-22.
- ci Lindenmayer et al (2002).
- cii Lindenmayer et al (2002).
- ciii DOI (2000). See also Noss et al (1997).
- civ Lee, K. N. 1999. Appraising adaptive management. *Conservation Ecology* 3(2): 3. [online] URL: <http://www.consecol.org/vol3/iss2/art3/>
- cv Holling, C.S. 1978. Adaptive Environmental Assessment and Management. United Nations Environment Program. Wiley & Sons.
- cvi Smith, G. 1997. "Making Decisions in a Complex and Dynamic World," in Kohm, K. 1997. A Forestry for the 21st Century: The Science of Ecosystem Management. K. Kohm & J. Franklin, eds. Island Press, Washington, D.C.
- cvii Nyberg, J. 1998. "Statistics and the Practice of Adaptive Management" in Sit, V., et al. 1998. *Statistical Methods for Adaptive Management Studies*. Land Management Handbook 42. Vera Sit & Brenda Taylor, eds. Ministry of Forestry Research Program, Victoria, B.C.
- cviii Haney, A. & R. Power. 1996. "Adaptive Management for Sound Ecosystem Management." *Environmental Management*. 20:879-886.
- cix DOI (2000).
- cx Lindenmayer, D. & J. Franklin. 2002. *Conserving Forest Biodiversity: A Comprehensive Multiscaled Approach*. Island Press, Washington, D.C.
- cxii Salafsky, N., R. Margolius, & K. Redford. 2001. "Adaptive Management: A Tool for Conservation Practitioners." Biodiversity Support Program, Washington, D.C.
- cxiii USFWS et al. (1996). p. 3-25.
- cxiiii DOI (2000).
- cxv Noss et al (1994).
- cxvi Salafsky et al (2001).
- cxvii Lee, K. N. 1999. Appraising adaptive management. *Conservation Ecology* 3(2): 3. [online] URL: <http://www.consecol.org/vol3/iss2/art3/>
- cxviii DOI (2000).
- cxix DOI (2000).
- cxix HCP, pp. 142-148.
- cxix Nyberg, J. 1998. "Statistics and the Practice of Adaptive Management" in Sit, V., et al. 1998. *Statistical Methods for Adaptive Management Studies*. Land Management Handbook 42. Vera Sit & Brenda Taylor, eds. Ministry of Forestry Research Program, Victoria, B.C.
- cxxi See also *San Bruno Mountain Watch v. USFWS*, (N.D. Cal.), with regard to the requirement to reinstate consultation for newly listed species, and for species for whom new information is available.
- cxvii USFWS et al. (1998).
- cxviii Barrows (1996) in Noss et al (1997).
- cxvix Noss et al (1997).

cxxv HCP, pp. 142-148.

cxxvi Conf Rept at 30 and 50 FR 39681-39691, Sept. 30, 1985.

cxxvii Federal Defendants' Combined Memorandum in Support of Cross-Motion For Summary Judgment and In Opposition to Plaintiffs' Motion for Summary Judgment, at 2 (D.D.C. Filed April 23, 1999), *Spirit of the Sage Council et al v. Babbitt*, No. 1:98CV1873 (EGS).

cxxviii See also NHI (1998).

cxxix DOI (2000).

cxix Federal Register, 63:35, February 23, 1998.

cxix Federal Register, 63:35, February 23, 1998.

cxixii USFWS et al (1996), p. 3-28.

cxixiii Federal Register, February 23, 1998, 63:8859.

cxixxiv **Kareiva et al (1999).**

cxixv DOI (2000).

cxixvi Congress stated that "the Committee intends that... In the event that an *unlisted species* addressed in the approved conservation plan is subsequently listed ... no further mitigation requirements should be imposed *if the conservation plan addressed the conservation of the species and its habitat as if the species were listed* pursuant to the Act." Conf. Report at 30 and 50 FR 39681-39691, Sept. 30, 1985. (emphasis added.)

cxixvii Federal Register, 63:35, February 23, 1998. (emphasis added). The HCP Handbook also states that, in order to "adequately cover" an unlisted species, HCPs must satisfy the ESA s. 10(a)(2)(B) HCP issuance criteria for those species, as if the species had been listed. (USFWS et al (1996), pp. 3-30, 4-1.)

cxixviii 50 CFR 222.102, definition of "adequately covered."

cxixix USFWS, et al (1996), p. 3-30.

cxli See also 50 CFR 222.307(b)(5)(iii).

cxlii See *Sierra Club et al v. Bruce Babbitt et al.* See also *LaFlamme v. FERC* (852 F.2d 389, 400 (9th Cir 1988)), and *ONRC v. Daley* (1998 WL 296838) (D.Or 1998), as cited in Arum, J. (1998).

cxliii USFWS et al (1996), Appendix 4, pp. 3 & 6.

cxliiii USFWS et al (1996), p. 1-16.

cxliiv USFWS et al (1996), Appendix 4, pp. 3 & 6.

cxliv USFWS et al (1996), p. 3-24.

cxlvi USFWS et al (1996), p. 3-22.

cxlvii See *Sierra Club v. Babbitt*, 15 F.Supp.2d 1274 (S.D. Ala 1998) and *National Wildlife Federation v. Babbitt*, 128 F.Supp.2d 1274 (E.D. Cal. 2000).

cxlviii DOI (2000).

cxlix DOI (2000).

cl 40 CFR s. 1502.14.

cli 40 CFR 1502.14(a).

clii *Resources Ltd. v. Robertson* (35 F.3d 1300, 1307 (9th Cir. 1994), as cited in Arum (1998).

cliii *Alaska Wilderness Recreation and Tourism v. Morrison*, 67 F.3d 723, 729 (9th Cir. 1995).

cliv 40 CFR s. 1502.14(c), (d).

clv *Alaska Wilderness Recreation & Tourism v. Morrison* (67 F.3d 723, 729 (9th Cir. 1995), as cited in Arum (1998).

clvi *Resources Ltd. v. Robertson* (35 F.3d 1300, 1307 (9th Cir. 1994), as cited in Arum (1998).

clvii 40 CFR s. 1502.14.

clviii 40 CFR s. 1508.25.

clix 40 CFR s. 1502.14(b).

clx 40 CFR s. 1502.2(d).

clxi USFWS et al (1996), p. 3-35.

clxii *Seattle Audubon v. Lyons* (871 F. Supp. 1291, 1324 (W.D. Wash. 1994), aff'd 80 F.3d 1401 (9th Cir. 1996), as cited in Arum (1998).

clxiii 40 CFR ss. 1502.1, 1502.14, 1502.16(d).

clxiv 40 CFR. s. 1508.8. NEPA requirements for evaluating the significance of environmental effects are found at 40 CFR s. 1508.27.

clxv *Sierra Club et al v. Bruce Babbitt et al.*

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- clxvi USFWS et al (1996), pp. 3-12, 3-38, 4-4.
clxvii USFWS et al (1996), pp. 1-6, 3-8, & 3-17.
clxviii USFWS et al (1996), pp. 3-12 - 3-14, 3-20.
clxix 40 CFR s. 1502.16(h).
clxx USFWS et al (1996), p. 3-19.
clxxi Kareiva et al (1999).
clxxii Kareiva et al (1999).
clxxiii Kareiva et al (1999).
clxxiv Kareiva et al (1999).
clxxv Kareiva et al (1999).
clxxvi 40 CFR s. 1508.25(a)(2).
clxxvii *Resources Ltd. v. Robertson*. See also 40 C.F.R. s. 1508.25(a)(3).
clxxviii 40 CFR s. 1508.7.
clxxix 40 CFR s. 1502.16(a), (b).
clxxx 40 CFR s. 1508.8.
clxxxi 40 CFR s. 1508.8(b).
clxxxii *Kleppe v. Sierra*, 427 U.S. 390, 410 n.21 (1976).
clxxxiii 40 CFR s. 1502.16
clxxxiv 40 CFR s. 1502.16
clxxxv USFWS et al (1996) p. 7-3.
clxxxvi 40 CFR s. 1502.16(h), 1502.14(f).
clxxxvii 40 CFR s. 1502.14(e), (f).
clxxxviii 40 CFR s. 1500.2(f).
clxxxix 40 CFR s. 1508.25.
cxc Kareiva et al (1999).

cxci HCP, p. 62.

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National Register of Historic Places District
Native & Endangered Species Wildlife Preserve
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TPWD Heart of Texas Wildlife Trail East ★ Great Western Cattle Trail Site
Texas Longhorn Cattle ★ Historic Yates & WR lines

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Dr. Benjamin Tuggle, SW Regional Director
U.S. Fish & Wildlife Service
P.O. Box 1306
Albuquerque, NM 87103-1306

Re: Public Comments Processing
Attn: FWS-R2-ES_2014-0053
Division of Policy Directives Mgr.

Dear Sirs:

For three years my sister Mary Fenstermaker and I volunteered our time and efforts to help bring into being the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP). I served on the Citizens Advisory Committee (CAC) as a Bexar County rancher-landowner and Mary served on the CAC representing the Hill Country Planning Association. We attended almost all of the Biological Advisory Team (BAT) meetings in order to understand what the scientists felt were the most critical concerns for the recovery of the included endangered species.

This proposed 2014 version of the SEP-HCP (dSEPHCP) has little to do with the recommendations of the CAC and BAT. This version, devised by entities other than the CAC or BAT and including little of our recommendations, is flawed. But Bexar County is in such dire straits regarding preservation of its endangered birds and cave invertebrates that I must ask you to pass this HCP version with the following revisions:

Golden-cheeked Warbler (GCW) and Black-capped Vireo (BCV):

- Increase GCW mitigation ration to 3:1 for direct take.
- Require all mitigation to occur in Bexar County for take in Bexar County. There is adequate mitigation land available in Bexar County.
- The SEP-HCP must specify minimum design criteria for GCW and BCV.
- GCW and BCV preservation credits be increased to a minimum of \$10,000/acre.
- A prescriptive management plan for GCW and BCV must be included in this SEP-HCP.
- Current USFWS recommendations should remain the basis for determining presence-absence for all covered species.
- All mitigation property must be bought. No currently government-owned GCW-BCV habitat or lands under conservation easements are to contribute to recovery.

- An adequate funding model to sustain management must be a guaranteed component of preserve acquisitions.

Karst Invertebrates:

- Karst participation fees must be increased due to the high biological concerns and high land values in Bexar County.
- The actual surface and subsurface drain age basins must be carefully estimated for large karst features so that the plan-prescribed 750 foot distance for Occupied Cave Zone (OCZ) B is extended as necessary to completely protect the most valuable features.
- Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species must be allowed within the OCZ.
- Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) must continue to be required until all listed species in all KFRs in the SEP-HCP region achieve verified USFWS down-listing.
- Low-quality preserves must not be accepted in lieu of per acre participation fees, unless such land donations include a guaranteed management endowment.

Plan Structure and Administration:

- Surveys, reviews, and reports for assessing baseline conditions and for management planning must occur more frequently.
- Independent advisory committees with public meetings must be required, including a Science Advisory Committee and a Citizens Advisory Committee.
- SEP-HCP administrator must be an independent non-profit entity, affiliated with but not directly managed by the Permittees.
- Program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species must be included in the SEP-HCP.
- The mitigation process for indirect and offsite impacts must be included in the SEP-HCP.

I will appreciate your inclusion of the above in the final document of the SEP-HCP.

Sincerely,



Bebe Fenstermaker

HCPA

Hill Country Planning Association

PO Box 470
Helotes, Texas 78023

RECEIVED

MAR 27 2015

Div. of Policy & Dir. Mgt.

.....
"We have not inherited the earth from our fathers, we are borrowing it from our children"

March 11, 2015

U.S. Fish & Wildlife Service ✓
4401 N. Fairfax Drive,
Arlington, VA 22203

Dr. Benjamin Tuggle, SW Regional Director
U.S. Fish & Wildlife Service
P.O. Box 1306
Albuquerque, NM 87103-1306

Re: Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy Directives Mgt.

To Whom It May Concern:

The Hill Country Planning Association (HCPA) is a coalition of organizations, farmers and ranchers and individuals concerned about destruction of wildlife habitat and loss of endangered species in Bexar County, Texas.

A number of our members served as stakeholders on the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP) Citizens Advisory Committee (CAC). HCPA is in favor of a SEPHCP but was shocked by the above draft SEPHCP (dSEPHCP) unveiled recently. It fails to follow the recommendations of the Biological Advisory Team (BAT) and majority of the CAC. Obviously the process was flawed.

A SEPHCP is now critical for Bexar County's endangered species therefore HCPA requests the following revisions to the dSEPHCP:

GCW and BCV

- Increase GCW mitigation ratio to 3:1 for direct take
- All take in Bexar County must result in mitigation within Bexar County – there is sufficient suitable habitat land available for this in Bexar County.
- Current USFWS recommendation must remain the basis for determining presence-absence for all covered species.
- The SEP-HCP must specify minimum design criteria for GCW and BCV.
- A prescriptive management plan for GCW and BCV must be included in the SEP-HCP.
- No currently government-owned land or land under conservation easement at the start of the SEPHCP can contribute toward mitigation for SEPHCP.
- GCW and BCV Preservation Credits must be increased to a minimum of \$10,000/acre.
- An adequate funding model to sustain management must be a guaranteed component of preserve acquisitions.

Karst Invertebrates

- Actual surface and subsurface drainage basins should be carefully estimated for very large karst features, so that the plan-prescribed 750-foot distance for OCZ B is extended as necessary to fully protect the most valuable features.
- Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given

Member Organizations

Friends of Historic Boerne Stage Road

Greater Edwards Aquifer Alliance
(GEAA)

Grey Forest Historical Society

Helotes Heritage Association

Medina County Environmental
Action Association

Old Spanish Trail - 100

San Geronimo Valley Alliance

Scenic Loop-Boerne Stage Alliance

The City of Grey Forest

Valentine Ranch

HCPA Board

Mary Fenstermaker, Chairman
Jennifer Nottingham, Past Chairman
Bebe Fenstermaker, Vice-chairman
Jerry Day, Vice-Chairman
George Muires, Treasurer
Betty Muires, Co-Treasurer
Susan Beavin, Recording Secretary

HCPA

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"We have not inherited the earth from our fathers, we are borrowing it from our children"

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species should be allowed within the OCZ.

- Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) such land donations include a guaranteed management endowment
- Karst participation fees should be increased due to the high biological concern and high land values (conservation cost) in Bexar County
- Low-quality preserves must not be accepted in lieu of per acre participation fees, unless such land donations include a guaranteed management endowment

Plan Structure and Administration

- Surveys, reviews, and reports for assessing baseline conditions and for management planning must occur more frequently
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- Program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species must be included in the SEP-HCP
- The mitigation process for indirect and offsite impacts must be included in the SEP-HCP

Thank you for your attention to this urgent matter.



Mary Fenstermaker
HCPA Chairman

HCPA Board

Mary Fenstermaker, Chairman
Jennifer Nottingham, Past Chairman
Bebe Fenstermaker, Vice-chairman
Jerry Day, Vice-Chairman
George Muires, Treasurer
Betty Muires, Co-Treasurer
Susan Beavin, Recording Secretary

February 19, 2015

Mr. and Mrs Jim Foster
114 CR 116
Llano TX 78643

Mrs. Jennifer Blair
Senior Biologist
3101 Bee Cave Road, Suite 100
Austin, TX 78746

Dear Mrs. Blair,

On February 4, 2015, a meeting was held in Kerrville for presentation of the Southern Edwards Plateau Conservation Habitat Plan that did not include Kerr County. That is illogical.

We attended and it was obvious from the start that deception was in order. No microphone was present. Comments were to be made quietly in a corner, but a county judge pointed out that for a public meeting to be legal comments could be made.

It is difficult to agree with government employees (whom our taxes support) that we would be willing sellers of our land to developers in San Antonio. Our goal is to continue to develop and produce on the land as our family has before us. Little sense is applied to the intrusive ESA which has a real goal of a real TAKING of personal property by means of a scam. Conservation Easements are definitely allowing the property owner to pay taxes with permission from the government as to how it can be used. Permits and fees only fund abuse from the federal government.

Several years ago 7 counties expressed that they were not interested in participating in the SEPCHP, yet in Kerrville materials passed out showed they were in the plan. Citizens have a clear understanding that "voluntary" is a word that has been misused.

The Service could work with voluntary land owners to have success protecting endangered species. Instead the federal government has worked against land owners who only want to produce from the land for the benefit of the people and making a decent living.

We are against the Plan and believe the enforcement of the plane is unconstitutional. Following the law does not put the enforcer in a right position.

Sincerely,

Mr. & Mrs Jim Foster

Mr. and Mrs. Jim Foster



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RECEIVED

MAR 23 2015

Div. of Policy & Dir. Mgt.

Alamo Group of the Lone Star Chapter

March 17, 2015

Public Comments Processing, Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service; MS: BPHC
5275 Leesburg Pike; Falls Church, VA 22041-3803.

Dear Reviewers:

The Alamo Group (San Antonio area) of the Sierra Club submits this letter in strong support of the entire attached critique by the Greater Edwards Aquifer Alliance of the Southern Edwards Plateau Habitat Conservation Plan prepared by Bexar County and the City of San Antonio.

To encapsulate our support, we highlight the following positions submitted by GEAA:

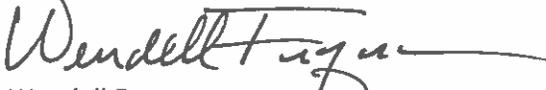
- The SEP-HCP ignored vital aspects of the Biological Assessment Team's recommendations.
- All take for the golden cheeked warbler and the black-capped vireo is within the jurisdictions of Bexar County and San Antonio. However, the SEP-HCP allows mitigation anywhere within the 7-county Plan area. This will lead to continued loss of habitat in the San Antonio area due to the city's higher land prices and increased development.
- The SEP-HCP should include, for covered species, minimum preserve design criteria, a prescriptive management plan, and a means to insure funding for preserve management.
- For very large and important karst features, the SEP-HCP should be revised so that actual surface and subsurface drainage basins are carefully estimated and fully protected.
- Investigation of any accidentally discovered karst features should continue to be required until all listed species achieve verified USFWS down-listing.
- Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include an endowment guaranteed to cover perpetual management expenses.
- Karst participation fees appear too low considering the high biological concern and high land values in Bexar County.
- All karst applications within Karst Zones 1-4 should require a complete and certified hydrogeological survey.
- The SEP-HCP should establish the structure to receive technical and public input to inform the adaptive management and planning.
- Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently than the SEP-HCP proposes, especially early, during plan implementation.

- The SEP-HCP administrator should be an independent non-profit entity, affiliated with, but not directly managed by, either Bexar County or the City of San Antonio.

Unaltered, the SEP-HCP would lead to the continued loss in the San Antonio area of habitat for the golden-cheeked warbler and the black-capped vireo. This trend would, in consequence, severely degrade habitat in Bexar County at Camp Bullis and city reserves. Continuing rapid urbanization, if unmitigated in Bexar County, will likely prevent recovery of these species, as well as of the seven other federally endangered species in need of SEP-HCP protection.

The Alamo Group of the Sierra Club respectfully urges the incorporation of GEAA's recommendations into the final SEP-HCP.

Sincerely,



Wendell Fuqua

Conservation Committee With Approval of the Executive Committee
Alamo Group of the Sierra Club

(HCP) **SUMMARY COMMENTS:**
Southern Edwards Plateau
Draft Habitat Conservation Plan and Draft Environmental Impact Statement (EIS)
Tom Hayes, ECA, Working Draft, 2/2/15

USFWS approval of the proposed SEP-HCP would result in a 30-year Incidental Take Permit (ITP) authorized by the Endangered Species Act ("ESA"), under section 10(a)(1)(B). The ITP would authorize a specified amount "incidental take" of nine federally listed endangered species (the "Covered Species") within Bexar County, the City of San Antonio, and San Antonio's Extraterritorial Jurisdiction (ETJ). In return, the SEP-HCP would require mitigation within the 7-county Plan Area.

Golden-Cheeked Warbler (GCW) and Black-Capped Vireo (BCV)

Mitigation Ratio and Proximity:

The dHCP/dEIS documents ignore key aspects of the Biological Assessment Team's (BAT) recommendations after the BAT's almost two years of intensive effort (2010-2011). Some of the most important differences relate to GCW mitigation.

The dHCP defines GCW/BCV take as either direct or indirect (p. 39, dHCP). Direct take consists of the impacted acreage of suitable GCW/BCV habitat within the boundaries of a plan-enrolled property, as long as this habitat is not within a plan-protected karst area: Occupied Cave Zone (OCZ) or Critical Habitat (CH). Impact to suitable GCW/BCV habitat within an OCZ and a CH is defined as indirect, since avoidance of the related karst feature is already required. Impact to suitable GCW/BCV habitat outside but within 300 feet the enrolled property boundary is also defined as indirect.

GCW/BCV mitigation ratios in the dHCP are 2:1 and 0.5:1 (acres of protected habitat for each acre of habitat impacted) for direct and indirect impacts, respectively (p. 40, dHCP). All GCW/BCV take is within the jurisdictions of Bexar County and San Antonio. However, mitigation is now allowed anywhere within the 7-county Plan Area. This will lead to the * continued loss of GCW and BCV habitat in the San Antonio area, due to the absence of local mitigation due to the area's higher land prices and increased development.

The 11/17/10 BAT-approved recommendation was that direct GCW take in Bexar County be mitigated at a ratio of 3:1, with not less than 60% of resulting mitigation occurring within Bexar County or five miles of Bexar County. These two key BAT recommendations derive from the high amount of loss in the county that causes a severe threat there relative to the other six rural counties in the Plan Area. Preferential mitigation in Bexar County also protects the mission of Camp Bullis and the other significant conservation reserves in the county, which are important to both the species and the community.

The BAT's 6/9/11 response to the first draft of SEP-HCP listed 11 top concerns, and singled out the dHCP's lack of mitigation close as possible to the habitat impact area as a particularly "egregious error." As further discussed by the USFWS and in the BAT's 3/21/11 response to the

CAC, the lack of GCW/BCV preserve establishment in the impact area is expected to increase both the loss and the isolation of habitat. In this manner, it is distinctly possible that existing protected habitat in Bexar County at Camp Bullis and city reserves will be severely degraded. To counter unexpected habitat destruction due to stochastic events such as fire, a most basic tenet of conservation dictates that habitat within the larger landscape be continuous and adjacent to permitted take. *

The Increased Mitigation Alternative (p. ES-v, dEIS) follows the above BAT recommendation. However, due to all take now occurring in or immediately adjacent to Bexar County, both GCW and BVI mitigation should be changed to occur only in Bexar County until other counties sign on as true participants (take and mitigation). In this manner, the Single-County Alternative now may be most appropriate, until other counties agree to participate (i.e., mitigate close to take). *

Incidental Take:

Three of the four alternatives in the dEIS would authorize the incidental taking of 9,371 acres of GCW habitat, 2,640 acres of BCV habitat, and 21,086 acres within of Karst Zones 1-4. All of this proposed take would take place within five miles of Bexar County, though no mitigation is required in or near Bexar County. As included in the BAT's 6/9/11 response to the SEP-HCP, this scenario results in insignificant or no long-term conservation value of the dHCP for the endangered songbirds. Rapid urbanization that is unmitigated in Bexar County will likely prevent regional GCW recovery, possibly resulting in a jeopardy determination and possible federal court injunctions preventing all future construction and development. *

Due to the relatively small amount and disjunct location of the proposed mitigation, the authorized amount of incidental GCW/BCV take should be significantly reduced. GCW take should not exceed 7,500 acres, unless the 6 counties not currently participating come into the plan. The reduction in requested take is necessary because otherwise all the take currently happens in or within five miles of Bexar County.

Abbreviated Presence-Absence Surveys

The proposal for one year of GCW surveys, to determine presence-absence and therefore mitigation requirements, is significantly less effort than the current USFWS recommendation of three years of surveys. Due to seasonal and annual variations in precipitation, vegetation, and other important habitat variables, the current USFWS recommendation should remain the basis for determining presence-absence. *

No deviation from the standard USFWS 3-year requirement should be allowed when determining either GCW or BCV absence. In fact, none of the dHCP proposals should be allowed, which exclude Project Areas from mitigation based on abbreviated presence-absence surveys for covered species. Such surveys, which if allowed would likely become the common approach, deviate from standard USFWS Protocol, and may jeopardize the repeatability and validity of mitigation determinations. Abbreviated presence-absence surveys for covered species are biologically unacceptable, and current USFWS recommendations should be required in every instance. *

GCW/BCV Preserve Design Criteria

The dHCP should include minimum preserve design criteria for all covered species. The *
Balcones Canyonlands Preserve HCP and FEIS (BCP-HCP/FEIS; City of Austin and Travis
County, Texas; 1996) provides guidelines, which are applicable to the dHCP. Though most
directly applicable to preserve design for GCW, these minimum preserve requirements may be
scaled down to address similar design criteria for BCV preserves.

The BCP-HCP includes preserve clusters arranged as ten macrosites, with macrosites varying
widely in size up to 103,500 acres. Minimum preserve requirements vary from macrosite to
macrosite, and for each preserve within a given macrosite. However, these requirements are
generally consistent and may be summarized as follows:

Preserve Size: The minimum number of contiguous acres per preserve unit ranges from 3,000 to
7,700 acres.

Edge to Area Ratio: The edge to area ratio is the most consistent requirement of the BCP-
HCP/FEIS, and for most macrosites (Bull Creek, Cypress Creek, North Lake Austin, South Lake
Austin, and Barton Creek) no more than 20% of the minimum preserve area can be within 300
feet of the preserve perimeter.

Preserve Connectivity: The maximum distance between preserve units within a macrosite is
typically 0.50-0.75 miles, though in special circumstances this may extend to 3.5 miles.

Preserve Width: The minimum width of individual preserve units is about one mile (3,000 to
8,000 feet).

The dHCP should specify minimum design criteria for each of the above four metrics.

Other GCW/BCV Issues:

No prescriptive management plan for GCW and BCV is included in the dHCP. This should be an *
essential requirement of the plan.

Little if any currently "protected" GCW habitat in the SEP-HCP area is permanently protected, *
and therefore should not contribute to recovery. Furthermore, the BAT (11/17/10) recommends
that no more than 10% of the GCW conservation credits be generated from public lands that
were protected as of November 4, 2010.

The price of GCW and BCV Preservation Credits should be increased to a minimum of *
\$10,000/acre, to be more commensurate with land values in and adjacent to Bexar County and,
thus, allow adequate mitigation and meaningful contribution to recovery in this rapidly
developing area.

If preserve management funding becomes inadequate, this should be a serious breach of permit conditions. Outreach, education, and research programs should be emphasized as essential to the long-term success of the SEP-HCP, and not jettisoned due to an inadequate funding model. *

Karst Invertebrates

Occupied Cave Zones

In the dHCP, the Occupied Cave Zone (OCZ) A will usually include the area (8.5 acres) within 345 feet of the entrance to a karst feature occupied by one or more Covered Karst Invertebrates. OCZ A encompasses the foraging area of cave crickets, which are keystone species for sustaining most karst ecosystems. Extending 345-750 feet (40 acres) from the karst feature is OCZ B, which is intended to protect the surface and subsurface drainage and other resource areas necessary for the long-term maintenance of the karst feature. For very large and therefore extremely important occupied features, the dHCP should be revised so that the actual surface and subsurface drainage basins are carefully estimated and fully protected. *

Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species should be allowed within the OCZ. Similarly, due to the lack of adequate data regarding species distributions, genetics, and status, participation limits in the karst program should continue until regional down-listing criteria are met for all covered karst invertebrates. *

Newly Discovered Karst Features

Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) should continue to be required until all listed species in all KFRs in the SEP-HCP region achieve verified USFWS down-listing. *

No abbreviated 5-day surveys for karst invertebrate should be allowed in lieu of the USFWS-approved 15-day survey period. The proposed shortcut karst-invertebrate surveys of voids discovered during construction are unlikely to accurately assess presence-absence of covered species and may well cause harm to the species due to habitat disturbance. *

In the plan region, the dHCP focuses the search for new localities of rare karst species within existing conservation (managed) areas. However, as recommended by the BAT (6/9/11), these investigations should require equal priority within urban, suburban, and developing areas, including private lands, in order to determine status and risk factors important to adaptive management and emerging protection needs. *

Low-Quality Preserves

Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include an endowment guaranteed to cover perpetual management expenses. Such an endowment is necessary to minimize adverse financial impact to the acquisition and *

stewardship of medium and high quality karst preserves. Even when adequately endowed, low-quality preserves do not have sufficient value and sustainability to be included as a contribution to the current conservation level for a karst species.

Karst Participation Fees

Karst participation fees appear too low considering the high biological concern and high land values (conservation cost) in Bexar County. Also, the dHCP needs to define what happens when multiple projects impact Zones A and/or B of the same occupied cave. A more appropriate fee structure is: *

- Karst Zone 1 and 2, but outside Occupied Cave Zone and Critical Habitat Unit: \$1000/ac
- Occupied Cave Zone B (redefined as above): \$100,000/cave
- Occupied Cave Zone A (redefined as above): \$1,000,000/cave

Other Karst Issues

All karst applications within Karst Zones 1-4 should require a complete and certified hydrogeological survey.

For participation in the SEPHCP, medium and high quality karst preserves established by non-SEP-HCP entities should have permanent protection transferred to the SEP-HCP, in order to be counted as contributing to Conservation Levels for a species. *

Plan Structure and Administration

Advisory Committees

The dHCP should establish the structure to receive technical and public input to inform the adaptive management and planning. Due to the significant involvement of affected communities and public funding, post-issuance advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee. A regular meeting schedule of these scientific and citizen committees should be a required part of the plan. The purpose of these committees should not be expressly prescribed by the Permittees as described in Section 2.2 of the dHCP (pp. 21-22), but instead should be left open to the discretion of the committees. ✕

Report Frequency for Baseline Conditions and Management Planning

Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently than proposed in Section 9.0 of the dHCP (p.112), especially early during plan implementation. Decision making needs to be more informed during the first decade. Instead of waiting ten years to begin, baseline conditions and management plans should be first evaluated at five years and ten years, and then as agreed upon by the USFWS, in order to more efficiently achieve adaptive management goals. * ✕

Plan Administrator

should continue to be required until all listed species in all KFRs in the SEP-HCP region achieve verified USFWS down-listing.

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**SIERRA
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MAR 23 2015

Div. of Policy & Dir. Mgt.

Alamo Group of the Lone Star Chapter

March 17, 2015

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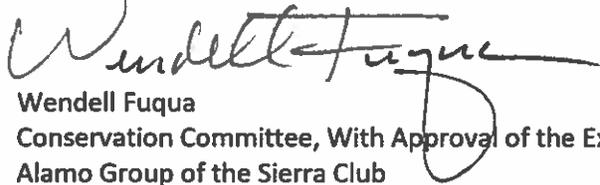
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The Alamo Group of the Sierra Club respectfully urges the incorporation of GEAA's recommendations into the final SEP-HCP.

Sincerely,

A handwritten signature in black ink that reads "Wendell Fuqua". The signature is fluid and cursive, with a long horizontal stroke at the end.

Wendell Fuqua
Conservation Committee, With Approval of the Executive Committee
Alamo Group of the Sierra Club

**SUMMARY COMMENTS:
Southern Edwards Plateau
Draft Habitat Conservation Plan and Draft Environmental Impact Statement
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The dHCP/dEIS documents ignore key aspects of the Biological Assessment Team's (BAT) recommendations after the BAT’s almost two years of intensive effort (2010-2011). Some of the most important differences relate to GCW mitigation.

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GCW/BCV mitigation ratios in the dHCP are 2:1 and 0.5:1 (acres of protected habitat for each acre of habitat impacted) for direct and indirect impacts, respectively (p. 40, dHCP). All GCW/BCV take is within the jurisdictions of Bexar County and San Antonio. However, mitigation is now allowed anywhere within the 7-county Plan Area. This will lead to the continued loss of GCW and BCV habitat in the San Antonio area, due to the absence of local mitigation due to the area’s higher land prices and increased development.

The 11/17/10 BAT-approved recommendation was that direct GCW take in Bexar County be mitigated at a ratio of 3:1, with not less than 60% of resulting mitigation occurring within Bexar County or five miles of Bexar County. These two key BAT recommendations derive from the high amount of loss in the county that causes a severe threat there relative to the other six rural counties in the Plan Area. Preferential mitigation in Bexar County also protects the mission of Camp Bullis and the other significant conservation reserves in the county, which are important to both the species and the community.

The BAT’s 6/9/11 response to the first draft of SEP-HCP listed 11 top concerns, and singled out the dHCP’s lack of mitigation close as possible to the habitat impact area as a particularly “egregious error.” As further discussed by the USFWS and in the BAT’s 3/21/11 response to the

CAC, the lack of GCW/BCV preserve establishment in the impact area is expected to increase both the loss and the isolation of habitat. In this manner, it is distinctly possible that existing protected habitat in Bexar County at Camp Bullis and city reserves will be severely degraded. To counter unexpected habitat destruction due to stochastic events such as fire, a most basic tenet of conservation dictates that habitat within the larger landscape be continuous and adjacent to permitted take.

The Increased Mitigation Alternative (p. ES-v, dEIS) follows the above BAT recommendation. However, due to all take now occurring in or immediately adjacent to Bexar County, both GCW and BVI mitigation should be changed to occur only in Bexar County until other counties sign on as true participants (take and mitigation). In this manner, the Single-County Alternative now may be most appropriate, until other counties agree to participate (i.e., mitigate close to take).

Incidental Take:

Three of the four alternatives in the dEIS would authorize the incidental taking of 9,371 acres of GCW habitat, 2,640 acres of BCV habitat, and 21,086 acres within of Karst Zones 1-4. All of this proposed take would take place within five miles of Bexar County, though no mitigation is required in or near Bexar County. As included in the BAT's 6/9/11 response to the SEP-HCP, this scenario results in insignificant or no long-term conservation value of the dHCP for the endangered songbirds. Rapid urbanization that is unmitigated in Bexar County will likely prevent regional GCW recovery, possibly resulting in a jeopardy determination and possible federal court injunctions preventing all future construction and development.

Due to the relatively small amount and disjunct location of the proposed mitigation, the authorized amount of incidental GCW/BCV take should be significantly reduced. GCW take should not exceed 7,500 acres, unless the 6 counties not currently participating come into the plan. The reduction in requested take is necessary because otherwise all the take currently happens in or within five miles of Bexar County.

Abbreviated Presence-Absence Surveys

The proposal for one year of GCW surveys, to determine presence-absence and therefore mitigation requirements, is significantly less effort than the current USFWS recommendation of three years of surveys. Due to seasonal and annual variations in precipitation, vegetation, and other important habitat variables, the current USFWS recommendation should remain the basis for determining presence-absence.

No deviation from the standard USFWS 3-year requirement should be allowed when determining either GCW or BCV absence. In fact, none of the dHCP proposals should be allowed, which exclude Project Areas from mitigation based on abbreviated presence-absence surveys for covered species. Such surveys, which if allowed would likely become the common approach, deviate from standard USFWS Protocol, and may jeopardize the repeatability and validity of mitigation determinations. Abbreviated presence-absence surveys for covered species are biologically unacceptable, and current USFWS recommendations should be required in every instance.

GCW/BCV Preserve Design Criteria

The dHCP should include minimum preserve design criteria for all covered species. The Balcones Canyonlands Preserve HCP and FEIS (BCP-HCP/FEIS; City of Austin and Travis County, Texas; 1996) provides guidelines, which are applicable to the dHCP. Though most directly applicable to preserve design for GCW, these minimum preserve requirements may be scaled down to address similar design criteria for BCV preserves.

The BCP-HCP includes preserve clusters arranged as ten macrosites, with macrosites varying widely in size up to 103,500 acres. Minimum preserve requirements vary from macrosite to macrosite, and for each preserve within a given macrosite. However, these requirements are generally consistent and may be summarized as follows:

Preserve Size: The minimum number of contiguous acres per preserve unit ranges from 3,000 to 7,700 acres.

Edge to Area Ratio: The edge to area ratio is the most consistent requirement of the BCP-HCP/FEIS, and for most macrosites (Bull Creek, Cypress Creek, North Lake Austin, South Lake Austin, and Barton Creek) no more than 20% of the minimum preserve area can be within 300 feet of the preserve perimeter.

Preserve Connectivity: The maximum distance between preserve units within a macrosite is typically 0.50-0.75 miles, though in special circumstances this may extend to 3.5 miles.

Preserve Width: The minimum width of individual preserve units is about one mile (3,000 to 8,000 feet).

The dHCP should specify minimum design criteria for each of the above four metrics.

Other GCW/BCV Issues:

No prescriptive management plan for GCW and BCV is included in the dHCP. This should be an essential requirement of the plan.

Little if any currently "protected" GCW habitat in the SEP-HCP area is permanently protected, and therefore should not contribute to recovery. Furthermore, the BAT (11/17/10) recommends that no more than 10% of the GCW conservation credits be generated from public lands that were protected as of November 4, 2010.

The price of GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre, to be more commensurate with land values in and adjacent to Bexar County and, thus, allow adequate mitigation and meaningful contribution to recovery in this rapidly developing area.

If preserve management funding becomes inadequate, this should be a serious breach of permit conditions. Outreach, education, and research programs should be emphasized as essential to the long-term success of the SEP-HCP, and not jettisoned due to an inadequate funding model.

Karst Invertebrates

Occupied Cave Zones

In the dHCP, the Occupied Cave Zone (OCZ) A will usually include the area (8.5 acres) within 345 feet of the entrance to a karst feature occupied by one or more Covered Karst Invertebrates. OCZ A encompasses the foraging area of cave crickets, which are keystone species for sustaining most karst ecosystems. Extending 345-750 feet (40 acres) from the karst feature is OCZ B, which is intended to protect the surface and subsurface drainage and other resource areas necessary for the long-term maintenance of the karst feature. For very large and therefore extremely important occupied features, the dHCP should be revised so that the actual surface and subsurface drainage basins are carefully estimated and fully protected.

Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species should be allowed within the OCZ. Similarly, due to the lack of adequate data regarding species distributions, genetics, and status, participation limits in the karst program should continue until regional down-listing criteria are met for all covered karst invertebrates.

Newly Discovered Karst Features

Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) should continue to be required until all listed species in all KFRs in the SEP-HCP region achieve verified USFWS down-listing.

No abbreviated 5-day surveys for karst invertebrate should be allowed in lieu of the USFWS-approved 15-day survey period. The proposed shortcut karst-invertebrate surveys of voids discovered during construction are unlikely to accurately assess presence-absence of covered species and may well cause harm to the species due to habitat disturbance.

In the plan region, the dHCP focuses the search for new localities of rare karst species within existing conservation (managed) areas. However, as recommended by the BAT (6/9/11), these investigations should require equal priority within urban, suburban, and developing areas, including private lands, in order to determine status and risk factors important to adaptive management and emerging protection needs.

Low-Quality Preserves

Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include an endowment guaranteed to cover perpetual management expenses. Such an endowment is necessary to minimize adverse financial impact to the acquisition and

stewardship of medium and high quality karst preserves. Even when adequately endowed, low-quality preserves do not have sufficient value and sustainability to be included as a contribution to the current conservation level for a karst species.

Karst Participation Fees

Karst participation fees appear too low considering the high biological concern and high land values (conservation cost) in Bexar County. Also, the dHCP needs to define what happens when multiple projects impact Zones A and/or B of the same occupied cave. A more appropriate fee structure is:

- Karst Zone 1 and 2, but outside Occupied Cave Zone and Critical Habitat Unit: \$1000/ac
- Occupied Cave Zone B (redefined as above): \$100,000/cave
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Other Karst Issues

All karst applications within Karst Zones 1-4 should require a complete and certified hydrogeological survey.

For participation in the SEPHCP, medium and high quality karst preserves established by non-SEP-HCP entities should have permanent protection transferred to the SEP-HCP, in order to be counted as contributing to Conservation Levels for a species.

Plan Structure and Administration

Advisory Committees

The dHCP should establish the structure to receive technical and public input to inform the adaptive management and planning. Due to the significant involvement of affected communities and public funding, post-issuance advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee. A regular meeting schedule of these scientific and citizen committees should be a required part of the plan. The purpose of these committees should not be expressly prescribed by the Permittees as described in Section 2.2 of the dHCP (pp. 21-22), but instead should be left open to the discretion of the committees.

Report Frequency for Baseline Conditions and Management Planning

Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently than proposed in Section 9.0 of the dHCP (p. 112), especially early during plan implementation. Decision making needs to be more informed during the first decade. Instead of waiting ten years to begin, baseline conditions and management plans should be first evaluated at five years and ten years, and then as agreed upon by the USFWS, in order to more efficiently achieve adaptive management goals.

Plan Administrator

should continue to be required until all listed species in all KFRs in the SEP-HCP region achieve verified USFWS down-listing.

- Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include a guaranteed management endowment
- Karst participation fees should be increased due to the high biological concern and high land values (conservation cost) in Bexar County.

Plan Structure and Administration

- Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently.
- Independent advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee.
- SEP-HCP administrator should be an independent non-profit entity, affiliated with but not directly managed by the Permittees.
- Program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species should be included in the SEP-HCP.
- The mitigation process for indirect and offsite impacts needs to be included in the SEP-HCP.



Member Organizations

Alamo Group of the Sierra Club
Aquifer Guardians in Urban Areas
Austin Regional Sierra Club
Bexar Audubon Society
Bexar Green Party
Boerne Together
Cibolo Nature Center
Citizens Allied for Smart Expansion
Citizens for the Protection of Cibolo Creek
Environment Texas
First Universalist Unitarian Church of San Antonio
Friends of Canyon Lake
Friends of Government Canyon
Fuerza Unida
Green Party of Austin
Headwaters at Incarnate Word
Hays Community Action Network
Helotes Heritage Association
Helotes Nature Center
Hill Country Planning Association
Guadalupe River Road Alliance
Guardians of Lick Creek
Kendall County Well Owners Association
Kinney County Ground Zero
Leon Springs Business Association
Lone Star Chapter of Sierra Club
Medina County Environmental Action Association
Native Plant Society of Texas – SA
Northwest Interstate Coalition of Neighborhoods
Preserve Castroville
Preserve Lake Dunlop Association
San Antonio Audubon Society
San Antonio Conservation Society
San Geronimo Nature Center
San Geronimo Valley Alliance
San Marcos Greenbelt Alliance
San Marcos River Foundation
Save Barton Creek Association
Save Our Springs Alliance
Scenic Loop/Boerne Stage Alliance
Securing a Future Environment
SEED Coalition
Solar San Antonio
Sisters of the Divine Providence
Texas Water Alliance
Travis County Green Party
West Texas Springs Alliance
Water Aid – Texas State University
Wildlife Rescue & Rehabilitation
Wimberley Valley Watershed Association

PO Box 15618
San Antonio, Texas 78212

March 19, 2015

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service, MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Regarding: Southern Edwards Plateau Draft Habitat Conservation Plan and Draft Environmental Impact Study

Please accept the attached comments on the DRAFT Southern Edwards Plateau Habitat Conservation Plan (Draft SEP HCP) and the Draft Environmental Impact Study (DIES) as reflecting the shared agenda of the fifty-one member organizations of the Greater Edwards Aquifer Alliance. Of our member groups, approximately sixty-five percent have a presence within the area covered by the Draft Southern Edwards Plateau Habitat Conservation Plan.

At the outset, we would like to say that we are extremely disappointed that the Draft HCP ignores the recommendations of the Biological Advisory Team and the input of the Citizens Advisory Committee both of which included members representing the Greater Edwards Aquifer Alliance (GEAA).

Any successful HCP must be built on a solid foundation of sound science and public participation. Without these key elements, an HCP will not meet the requirements of the Endangered Species Act and will not be successfully implemented.

Our examination of the Draft SEP HCP and DEIS reflects a complete lack of recognition or any attempt to address the comments sent to Loomis Partners on June 10, 2011. (Attached as Appendix I)

We are very concerned that these drafts do not consider the full range of alternatives considered during the stakeholder process. None of the four alternatives presented in the DIES fully reflect the recommendations of the BAT nor of the CAC.

We request additional time, in order to submit more detailed comments on how this DEIS does not adequately address the cumulative impacts of the issuance of a take permit as proposed by the Draft SEP HCP. We do not think that the cumulative effect analysis satisfactorily addressed the concerns of GEAA regarding development of the Edwards Aquifer Recharge and Contributing zones covered by the Draft HCP in Bexar County, because the EIS failed to consider the long term effectiveness and lack of regulations by the Texas Commission for Environmental Quality and the City of San Antonio to protect the Edwards Aquifer.

To follow are some of our major concerns with the Draft SEP HCP and DEIS. We hope that these points and others will be resolved prior to the issuance of a HCP for the Southern Edwards Plateau region. Given the amount of time and work that has already gone into this HCP, and the schedule proposed for the remainder of the process, it is essential that the recommendations of the citizens and agencies that participated in this process be reflected in the adopted plan.

Thank you for the opportunity to submit these comments.

Annalisa Peace
Executive Director

The Greater Edwards Aquifer Alliance (GEAA) shares many of the concerns authored by Dr. Tom Hayes and submitted by the Helotes Nature Center. Dr. Hayes, served as a member of the SEPHCP Biological Assessment Team (BAT) representing GEAA, and had an active role in helping to research and write the BAT recommendations. Additional recommendations included in this report are the result of study by Elizabeth Van Horn and Hannah Kuhl.

The BAT's charge was to provide input on all biological matters, calculate the harm to the covered species, and propose the size and configuration of the preserves. The BAT has admirably fulfilled its duties throughout this process, formulating recommendations based on the best scientific data and literature on the biological needs of the covered species and the harm to the species.

Regarding the Mitigation and Preserve Requirements, the SEP HCP should follow the recommendations and requirements endorsed by the BAT and the CAC. The BAT proposed recommendations for the Black Capped Vireo (BCV), Golden-Cheeked Warbler (GCW), and the karst invertebrate species. All of these recommendations received a majority vote of approval from the CAC. These recommendations should only be changed for good cause and where the BAT, or a new Science Advisory Team convened with the approval of all stakeholders, is able to propose alternatives that are biologically acceptable.

Karst Invertebrates

We wholeheartedly support the BAT's approach to karst conservation, with any refinements and additional conditions as proposed by the BAT. We would only note that this approach requires robust oversight and responsiveness to changing conditions on the ground and in the scientific literature. Each year, we are learning more about these species, their habitat, and their distribution. For the karst program especially, independent scientists, non-profit groups with karst expertise, or other appropriate individuals or entities, should be enlisted as partners to alleviate the burden on the US Fish and Wildlife Service (USFWS) and Bexar County in keeping up with these changing conditions.

Many karst invertebrates are difficult to distinguish from other closely related species. This additional layer of uncertainty must be dealt with properly during presence-absence surveys of karst features before development can proceed. No abbreviated 5-day presence-absence surveys of karst invertebrates should be allowed. Instead, the guidelines for surveys set in place by the USFWS should be strictly adhered to; therefore a 15-day survey period is required. Upon the discovery of karst invertebrates during the construction process, no compromises should be made. The required 15-day survey period is still necessary for adequate assessment of karst invertebrate populations and is especially critical as the specific species present will not have been established yet.

Due to the limited literature on taxonomy, distribution, and status of the listed karst species as well as their reclusive nature, little is known about these species. Further research is necessary to determine the species abundance and distribution within these karst systems. Therefore, if species are discovered at sites not previously believed to contain endangered karst invertebrate species or if individuals of an unknown species should be found in a location already known to contain karst invertebrates, said individual should be collected and examined by an individual with valid section 10(a)(1)(A) permit (or Enhancement of Survival permit) from the service or accompanied by someone with such a permit (USFWS 2014). If and as new endangered karst

species are discovered, they should be incorporated into the plan. An additional clause stating this in the current document should suffice for this.

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In the Draft SEP HCP, the Occupied Cave Zone (OCZ) A will usually include the area (8.5 acres) within 345 feet of the entrance to a karst feature occupied by one or more Covered Karst Invertebrates. OCZ A encompasses the foraging area of cave crickets, which are keystone species for sustaining most karst ecosystems. Extending 345-750 feet (40 acres) from the karst feature is OCZ B, which is intended to protect the surface and subsurface drainage and other resource areas necessary for the long-term maintenance of the karst feature. For very large and therefore extremely important occupied features, the Draft SEP HCP should be revised so that the actual surface and subsurface drainage basins are carefully estimated and fully protected.

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All karst applications within Karst Zones 1-4 should require a complete and certified hydrogeological survey.

For participation in the SEPHCP, medium and high quality karst preserves established by non-SEPHCP entities should have permanent protection transferred to the SEPHCP, in order to be counted as contributing to Conservation Levels for a species.

No specifics are detailed about who should be working with USFWS to accommodate for the rapid changes occurring within the field of karst invertebrate biology. The surveys recommended to determine these changes are abbreviated (7-day surveys), therefore they do not allow accurate data collection and plan implementation. USFWS protocol should be followed concerning proper presence-absence surveys.

It is our understanding that when a listed species is found at a site, its habitat is automatically protected. Why then, would we replace habitat potentially containing karst species with habitat that already contains known occupied karst features? These features are already protected and do not need further protection. It makes much more sense to protect land that is not protected and could potentially be beneficial to those karst species. When wetlands are taken or linear feet of streams are impacted, they are replaced in value due to the beneficial nature of a wetland or stream and its specialized habitat. We cannot replace or rebuild karst features as we can wetlands and streams in mitigation banks. Once destroyed, everything the karst features contain is lost forever, and the intricate nature of the underground connections is disrupted.

The karst features zones are ranked on a scale from one to five in order of most likely to contain one of the endangered species to least likely to contain the endangered species, with the top three zones requiring a survey by a qualified biologist or geologist to discover karst features. Under the Draft SEP HCP, once a parcel containing karst features is identified, that acreage is replaced essentially at ratio of 20-1, or for every 20 acres taken of potential habitat, one acre of known occupied karst features will be protected. Not only is this a contradiction in how a ITP usually works, because usually more acreage needs to be replaced than what is being taken, but it also is protecting something that is already protected by federal law. These karst permits are not necessary if we are only protecting what is already protected under the Endangered Species Act, and they should not be used as mitigation. This same plan would never be implemented for the Golden Cheek Warbler, i.e., to take 20 acres of potential habitat and replace with one acre of known habitat. This may be how the system works but what we understood that the habitat ratio had to at the least be 1:1.

Golden-Cheeked Warbler (GCW) and Black-Capped Vireo (BCV)

Regional Maps

Acquisition of regional maps of BCV potential habitat is essential to the functioning of the plan. On page 62 of the Draft SEP HCP it is stated that regional maps of BCV habitat are not available. Without such information the process of determining where to mitigate will be a lengthy, drawn out process which might deter developers use of the plan in compliance with the ESA. BCVs inhabit shrubs only in early stages of growth. After several years, in the later stages of growth, BCVs will move to other patches of shrubbery. In the event that production of BCV habitat maps is not possible due to quick cycling of habitat, standardized methods will need to be established to determine adequate habitat for mitigation. This requires direct discussion with landowners about the presence of BCVs on their properties. If presence is confirmed by landowners, presence-absence surveys can continue as directed in the management and monitoring section. Additional requirements for management of BCV habitat are listed in the Management and Monitoring section.

Recent literature should be consulted regarding which tracts of land would be best to acquire as preserves, and how these preserves should be properly managed. Regional maps of potential BCV habitat need to be acquired, or standardized methods will need to be established to determine adequate habitat for mitigation.

Increased Mitigation

The Draft SEP HCP/DEIS documents ignore key aspects of the Biological Assessment Team's (BAT) recommendations after the BAT's almost two years of intensive effort (2010-2011). Some of the most important differences relate to GCW mitigation.

The Draft SEP HCP defines GCW/BCV take as either direct or indirect (p. 39, Draft SEP HCP). Direct take consists of the impacted acreage of suitable GCW/BCV habitat within the boundaries of a plan-enrolled property, as long as this habitat is not within a plan-protected karst area: Occupied Cave Zone (OCZ) or Critical Habitat (CH). Impact to suitable GCW/BCV habitat within an OCZ and a CH is defined as indirect, since avoidance of the related karst feature is already required. Impact to suitable GCW/BCV habitat outside but within 300 feet the enrolled property boundary is also defined as indirect.

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counties in the Plan Area. Preferential mitigation in Bexar County also protects the mission of Camp Bullis and the other significant conservation reserves in the county, which are important to both the species and the community.

The BAT's 6/9/11 response to the first draft of SEPHCP listed 11 top concerns, and singled out the dHCP's lack of mitigation close as possible to the habitat impact area as a particularly "egregious error." As further discussed in the BAT's 3/21/11 response to the CAC, the lack of GCW/BCV preserve establishment in the impact area is expected to increase both the loss and the isolation of habitat. In this manner, it is distinctly possible that existing protected habitat in Bexar County at Camp Bullis and city reserves will be severely degraded. To counter unexpected habitat destruction due to stochastic events such as fire, one of the most basic tenets of conservation dictates that habitat within the larger landscape be continuous and adjacent to permitted take.

From a biological perspective, the 3:1 ratio is ideal and would be very helpful in the recovery of the GCW and BCV in particular. It is disappointing to find that the ratio was changed to 2:1 in the Draft SEP HCP after the Biological Advisory Team (BAT) and Citizens Advisory Committee (CAC) both seemed to agree upon a 3:1 ratio for direct take when they last met in 2010. Given such a radical change in the plan, these committees should have met again at some point during the past five years. Many of the recommendations of the BAT were ignored after the final meeting of the CAC in 2010, and it would have been very helpful if the BAT and CAC had met during the intervening years to discuss these issues further.

Ideally, in order to prevent habitat fragmentation, the BAT recommended that no less than 60% of the mitigation occur within Bexar County. We believe that an assigned amount of mitigation (as much as possible according to surveys of land available for mitigation in Bexar County) should be within 5 miles of Bexar County. We recommend at least 30%.

Further, the BAT's recommendations on mitigation ratios were based on the amount of harm to the species (with input from the Fish and Wildlife Services). This is a fairly ambitious mitigation ratio to aim for, as many other HCPs in Texas have employed a 2:1 or 1:1 ratio. Should it be determined by the USFWS that the 3:1 ratio is not economically feasible, a 2:1 ratio might be acceptable as long as a significant proportion of the mitigation (at least 30%) is acquired within 5 miles of Bexar County and no less than 70% of the mitigation costs are borne by the developers benefiting from this take permit.

Habitat Locations

The BAT and CAC were in agreement that a portion of the habitat conservation or mitigation should occur inside Bexar County or within five miles of that boundary. The proposed action removes that requirement and allows all preservation to be done in other counties, on land that can be up to approximately 60 miles, as the crow flies, from agreed upon needs. This is an expansion of 500% of the BAT and CAC recommendation. The current recommendation is to use any protected land within the seven counties included in the plan. This is a rather large amount of area, approximately 4,125,000 acres. Bexar County is only about 804,000 acres, accounting for only about 20% of that area. This is an obvious barrier to conservation of endangered species due to their already small regional habitat needs. Instead of helping to conserve these species habitats, the proposed plan will only concentrate their location to the fringes of their natural range. Also, this proposed plan replaces habitat that is under imminent threat of development

with habitat that is under no threat of development for the next 30 years, and for a much cheaper price than the land they are taking actually costs. Bexar County has stated that they would like to have some of the mitigation land within or surrounding Bexar County. And, there is suitable undevelopable GCW and BCV habitat within the area. Yet the proposed alternative could result in no lands being mitigated within or surrounding Bexar County.

While we recognize the pressures to develop, we support some ratio of conservation within and surrounding Bexar County. Development can not only be detrimental to the endangered species in question, but it is a barrier to the education of the public and decreases their sense of responsibility for the environment. Instead there will be even more disconnect from inner city populations to those species that need protection from becoming extinct. We hope that the USFWS sees the importance of conserving habitat close the human population concentrations. We also believe many would agree that the success of other county-wide HCPs has much to do with the proximity of the habitat preserves to major population centers. With the loss of this proximity, there is a larger possibility of failure for this HCP.

Resilience in the face of Climate Change requires a variety of ecosystems, a mosaic landscape sustaining as much biodiversity and habitat health as possible. Similarly, resilience needs redundant landscapes and ecosystems to provide protecting against ecosystem failure or loss. This plan moves in the opposite direction to what a responsible response to Climate Change necessitates. Not only should we preserve habitat in extended rural areas but we need to preserve as much as we can within Bexar County as well.

Incidental Take

Three of the four alternatives in the DEIS would authorize the incidental taking of 9,371 acres of GCW habitat, 2,640 acres of BCV habitat, and 21,086 acres within of Karst Zones 1-4. All of this proposed take would take place within five miles of Bexar County, though no mitigation is required in or near Bexar County. As included in the BAT's 6/9/11 response to the SEPHCP, this scenario results in insignificant or no long-term conservation value of the Draft SEP HCP for the endangered songbirds. Rapid urbanization that is unmitigated in Bexar County will likely prevent regional GCW recovery, possibly resulting in a jeopardy determination and possible federal court injunctions preventing all future construction and development.

Due to the relatively small amount and likely disjunct location of the proposed mitigation, the authorized amount of incidental GCW/BCV take should be significantly reduced. GCW take should not exceed 7,500 acres, unless the 6 counties not currently participating come into the plan. The reduction in requested take is necessary because otherwise all the take currently happens in or within five miles of Bexar County.

Abbreviated Presence-Absence Surveys

The proposal for one year of GCW surveys, to determine presence-absence and therefore mitigation requirements, is significantly less effort than the current USFWS recommendation of three years of surveys. Due to seasonal and annual variations in precipitation, vegetation, and other important habitat variables, the current USFWS recommendation should remain the basis for determining presence-absence.

No deviation from the standard USFWS 3-year requirement should be allowed when determining either GCW or BCV absence. In fact, none of the Draft SEP HCP proposals should be allowed, which exclude Project Areas from mitigation based on abbreviated presence-absence surveys for covered species. Such surveys, which if allowed would likely become the common approach, deviate from standard USFWS Protocol, and may jeopardize the repeatability and validity of mitigation determinations. Abbreviated presence-absence surveys for covered species are biologically unacceptable, and current USFWS recommendations should be required in every instance.

GCW/BCV Preserve Design Criteria

The Draft SEP HCP should include minimum preserve design criteria for all covered species. The Balcones Canyonlands Preserve HCP and FEIS (BCP-HCP/FEIS; City of Austin and Travis County, Texas; 1996) provides guidelines, which are applicable to the Draft SEP HCP. Though most directly applicable to preserve design for GCW, these minimum preserve requirements may be scaled down to address similar design criteria for BCV preserves.

The BCP-HCP includes preserve clusters arranged as ten macrosites, with macrosites varying widely in size up to 103,500 acres. Minimum preserve requirements vary from macrosite to macrosite, and for each preserve within a given macrosite. However, these requirements are generally consistent and may be summarized as follows:

Preserve Size: The minimum number of contiguous acres per preserve unit ranges from 3,000 to 7,700 acres.

Edge to Area Ratio: The edge to area ratio is the most consistent requirement of the BCP-HCP/FEIS, and for most macrosites (Bull Creek, Cypress Creek, North Lake Austin, South Lake Austin, and Barton Creek) no more than 20% of the minimum preserve area can be within 300 feet of the preserve perimeter.

Preserve Connectivity: The maximum distance between BCP preserve units within a macrosite is typically 0.50-0.75 miles, though in special circumstances this may extend to 3.5 miles.

Preserve Width: The minimum width of individual preserve units is about one mile (3,000 to 8,000 feet).

The Draft SEP HCP should specify minimum design criteria for each of the above four metrics.

Plan Structure and Administration Management and Monitoring

Standardized and detailed methods for the preserve acquisition, assessment, and management process are necessary to ensure the effectiveness of the plan. The Hays County Regional Habitat Conservation Plan would be an excellent reference for this.

A biologist with an USFWS Threatened and Endangered Species permit should prepare the preserve management plan and conduct a review of the plan every 5 years.

Territory mapping and occupancy monitoring surveys require consistent methods and reporting of information in order for mitigation to be effective.

Post-establishment management specifications to control invasive populations, both flora and fauna, and prevent the spread of diseases which could potentially harm habitat.

Habitat must be carefully maintained for BCVs on properties where mitigation takes place. A 5 year habitat management and monitoring plan, like that in the Hays County Plan, should be detailed in the SEPHCP.

Other Concerns - GWC and BCV

- Current USFWS recommendation should remain the basis for determining presence-absence for all covered species.
- The SEPHCP should specify minimum design criteria for GCW and the BCV
- A prescriptive management plan for GCW and BCV should be included in the SEPHCP.
- Currently "protected" GCW habitat in the SEPHCP area that is not permanently protected should not contribute to recovery.
- GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre.
- An adequate funding model to sustain management should be a guaranteed component of preserve acquisitions.

Plan Structure and Administration

Advisory Committees

The Draft SEP HCP should specify the administrative framework to receive technical and public input to inform the adaptive management and planning. Due to the significant involvement of affected communities and public funding, independent post-issuance advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee. A regular meeting schedule of these scientific and citizen committees should be a required part of the plan. The purpose of these committees should not be expressly prescribed by the Permittees as described in Section 2.2 of the Draft SEP HCP (pp. 21-22), but instead should be left open to the discretion of the committees.

Report Frequency for Baseline Conditions and Management Planning

Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently than proposed in Section 9.0 of the Draft SEP HCP (p.112), especially early during plan implementation. Decision making needs to be more informed during the first decade. Instead of waiting ten years to begin, baseline conditions and management plans should be first evaluated at five years and ten years, and then as agreed upon by the USFWS, in order to more efficiently achieve adaptive management goals.

Category 3 Species

A section is needed that provides program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species, including education, monitoring, outreach, and research. Conservation measures for these species should be specified in the Draft SEP HCP.

Indirect and Cumulative Impacts

In the DEIS, the assessment of offsite, indirect, and cumulative impacts is cursory, and should be greatly expanded. The SEPHCP appears to offer coverage for incidental take only to activities inside the enrolled properties. The mitigation process for indirect and offsite impacts needs to be included in the SEPHCP.

We would like to have the time to conduct a more thorough examination of the cumulative impacts to the Edwards Aquifer watershed and, therefore, request an extended comment period for this purpose. A cursory examination of the DEIS indicates that the cumulative effect analysis does not adequately assess the effects that development accommodated by the SEP HCP would have on water quality in the long term. Additionally, we believe the cumulative impacts of the long term financial implications of the plan have not been adequately considered in the DEIS.

Management and Monitoring

The Baseline Preserve Assessments for each preserve area in the Draft SEP HCP are lacking in details. This is true for the majority of the Adaptive Preserve Management and Monitoring section of the Draft SEP HCP. Although Appendix C, Biology of the Covered Species, details habitat description, habitat availability, and population estimates for the GCWs and BCVs, there are no direct instructions in the Draft SEP HCP incorporating such knowledge into the management and monitoring processes. The Preserve Management and Monitoring Program section of the Hays County Regional Habitat Conservation Plan (HCRHCP) would be an excellent reference for framing any alterations.

In order to streamline the process of preserve acquisition, assessment, and management, detailed guidelines should be established for baseline preserve evaluations, land management plans, territory mapping surveys, occupancy monitoring surveys, and monitoring of habitat after establishment. Standardized methods for such processes would establish continuity for administrators, biologists, and landowners alike. It would ensure fairness and integrity throughout the process and enable easier evaluation of the effectiveness of the plan.

The initial Baseline Preserve Assessments prepared for GCW and BCV habitats requires a more detailed description of "minimum information" than is currently listed in the Draft SEP HCP. Included with the description and map of suitable habitats should be the actual acreage of potential habitat as well as the location of currently occupied and unoccupied areas. The assessment of relative quality should be standardized across all Baseline Preserve Assessments and include documentation of the habitat characteristics used to justify the quality estimate. In general the Baseline Preserve Assessments are in line with those outlined in the HCRHCP, these adjustments would make for better assessments of GCW and BCV habitat.

It should be explicitly stated that a biologist with an USFWS Threatened and Endangered Species permit must prepare the land management plans. The Permittees are responsible for appointing the preserve manager who will select qualified biologists to prepare the document. The preserve manager should conduct a comprehensive review of the Preserve Management Plan every 5 years, unless otherwise advised by the biological team.

Standard methods for territory mapping and occupancy monitoring surveys are essential to the accuracy and usability of such surveys. Pages 76-81 of the HCRHCP outline detailed methods for both surveying types. Such specifications for the occupancy monitoring surveys include; season of surveys, timing, length, and number of surveys, the weather during surveyance, and details of what information should be included in the report and how the data reported is analyzed. Similar specifications should be made for territory mapping surveys. The monitoring of habitat following establishment of a preserve requires there be a specified number of plots per acre and be in proportion to the total acreage, an established frequency of visits (preferably 5 years), and standardized methods of monitoring and reporting data.

In addition to a specified method of monitoring, post-establishment management specifications are required as well. This includes management and maintenance of adequate habitat conditions for the established species. In general this includes, removal of invasive species, both flora and fauna. Of particular importance to this region, removal and management of the invasive *Juniperus Ashei* (Cedar), controlling feral hog, white-tailed deer, brown-headed cowbirds, and red imported fire ants populations, and preventing or controlling the spread of oak wilt and other such diseases. Management of BCV habitat requires that shrub growth be controlled by burning, grazing, or removal in order to maintain suitable early growth shrubbery.

We suggest a simplified five year schedule for preserve monitoring and management , such as that described on page 83 of the HCRHCP. Tasks would be completed according to the following schedule:

Years ending in 0 or 5: Territory Mapping Surveys; Years ending in 1 or 6: Habitat Occupancy Surveys; Years ending in 2 or 7: Habitat Monitoring Surveys;
Years ending in 3 or 8: Baseline Preserve Evaluations; and Years ending in 4 or 9: Land Management Plans.

Plan Administrator(s)

It is proposed that the SEPHCP will be administered by the City of San Antonio and Bexar County. We recommend that the SEP HCP would greatly benefit from a third, and potentially fourth party, administrator, such as an independent non-profit or an environmental regulatory agency which is unaffiliated with the City or County for most effective management and administration. We recommend that the SEPHCP administrator should be an independent agency or non-profit entity, affiliated with but not directly managed by the Permittees. Any plans by the Plan Administrator to outsource program management to a nonprofit or other entity should be detailed in the Draft SEP HCP. Given the lack of transparency evident throughout this process, it is asking a lot of the public to accord approval of details as yet unspecified as to the administration of the SEPHCP.

Plan Administration and Basic Plan Components

Independent advisory committees with regularly scheduled public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee.

Additionally, the City of San Antonio and Bexar County need to be prepared to dedicate sufficient resources to this plan to make sure it is carried out effectively. As land is acquired for mitigation, the City and County will need to hire expert biologists and ensure that adequate research is done in order to determine the best locations for said mitigation.

We are concerned that certain basic elements of the Plan have not been adequately addressed in the Draft SEP HCP or are left up to the future and unilateral discretion of the Permittees. The ESA requires the applicant to show that the HCP can be successfully implemented. And the spirit of an HCP is to create a collaborative partnership. In this case, administration of the Plan should include not only the Permittees, but several other partners representing public and non-profit entities that are enlisted in advance.

While the Balcones Canyon Conservation Plan (BCCP) has some major substantive flaws that we will not discuss here, the BCCP has a relatively successful formula for Plan administration and implementation. This formula relies on sharing duties among Travis County and the City of Austin, as well as relying on a Scientific Advisory Committee and Citizens Advisory Committee. These committees are vital to helping the permit holders with their administration and oversight of the BCCP, and they are vital for ensuring that the community has continued input into the plan as conditions change.

The Draft SEP HCP, on the other hand, seems to leave most of these critical elements up in the air with Bexar County as the only entity making decisions and providing input. For example, the Draft SEP HCP does not require any advisory committees, does not flesh out what role the City of San Antonio will play in the administration of the Plan, and leaves key elements such as fee-setting up to Bexar County without adequate input from others. It is not even clear who the SEP-HCP administrator is. We don't think that this fill in the blank approach to basic plan components is acceptable. These issues need resolutions and commitments to provide for successful implementation and independent oversight, and to alleviate the financial burden on Bexar County.

We strongly recommend a requirement of Scientific and Citizens' advisory committees to provide ongoing input, oversight, and assistance. We also strongly recommend that one or more independent agency or non-profit entity be given a central role in the administration of the Plan.

Funding Issues and Recommendations

Revenue Sources and Estimates

Page iv of the DEIS estimates sources of revenue for the alternatives which we find unrealistic.

- Proposed SEP-HCP Alternative: 74% from participation fees, 26% from public sources
- 10% Participation Alternative: 47% from participation fees, 53% from public sources
- Single-County Alternative: 46% from participation fees, 54% from public sources
- Increased Mitigation Alternative: 37% from participation fees, 63% from public sources

While a conservation easement may cost \$4,000/acre in outlying counties, it is likely to cost much more in Bexar County; and the estimate does not include the due diligence costs associated with appraisals, biological surveys, maintenance and monitoring in perpetuity, and staff and other costs. In addition, there seems to be no allowance for the cost of fee simple purchase. Under all alternatives, the landowner participation fee cost per acre is too low.

Further, we assume that increasing the costs of participation by the private landowners who will be benefitting from this process will reduce the amount given by public sources. One of the things we have not found in our review is a commitment for the public funding. Are we to assume there is a commitment? If so, what is the fundraising plan by Bexar County, as the entity that has signed the USFWS Permit Application Form?

We also noted that none of the alternatives consider future increases in land values. Any serious recommendation for the next 30 years would take that into account. We are asking that an adequate model for future funding and monitoring be brought forward for approval along with the SEPHCP.

At least 70% of funding the plan should be contributed by those who will benefit financially from enrollment.

Given that much of the land within Bexar County proposed for coverage by the take permit lies within the environmentally sensitive zones of the Edwards Aquifer [Edwards Aquifer Recharge Zone (ERZ), Transition Zone (TZ) and Contributing Zone (CZ)], public investment in promoting development of this area does not make sense. Participation fees for development within these Edwards Aquifer zones should be structured to reflect a significantly higher percentage of Participation Fees vs public contributions. Justification for any public contribution toward developments within the sensitive Edwards Aquifer zones requires that land purchased for mitigation be located within the same zones at the ratio prescribed by the BAT.

Development that does not impact the Edwards could be eligible for mitigation through the purchase of less expensive lands outside of Bexar County.

Public Revenue Sources

GEAA would strongly object to the use of properties previously secured through purchase with Proposition 3 and Proposition 1 funds to mitigate take for the warbler, BCV, and karst species; the CAC clearly provided direction that this alternative was not acceptable. The prospect of using land secured through sales taxes collected from the citizens of the City of San Antonio for the explicit purpose of protecting the Edwards Aquifer to mitigate additional high density development within the sensitive zones of the Edwards Aquifer is a betrayal of the public trust and an abuse of the intent of Propositions 3 and 1.

If, however, future properties were identified that were suitable for protection under the City of San Antonio's Edwards Aquifer Protection Plan *and* as mitigation land for the SEPHCP, consideration for utilizing both funds for the preservation of such property might make sense. We would hate to see both entities bidding against each other to preserve a similarly suitable property. Given that preservation was consistent with the goals of both initiatives, we would have

no objection consideration, on a case by case basis, of the use of complementary funding from both sources for mitigation of land on the ERZ, TZ, and CZ within Bexar County.

Tax Increment Diversions

GEAA had formerly supported the concept of tax increment diversions as a mechanism for funding this program. Given that take is confined to Bexar County in the current Draft SEP HCP, however, we now believe that the loss of increased property taxes, coupled with the increased need for City and County services occasioned by new development, will result in a negative impact to the budgets of both the City and the County. This option, if used, should be used as minimally as is possible to avoid placing an undue burden on tax payers. Funding for implementation and administration of the SEPHCP (70%) should be provided by plan participants, not taxpayers.

Recommendations for Additional Cost-Savings

Please note, as regards to the cost of enrolling in the HCP for protection of habitat in Bexar County, the City of San Antonio could have achieved significantly greater preservation of habitat for the karst species at no cost to the taxpayers of City of San Antonio and Bexar County through the adoption of adequate regulations on impervious cover to protect water quality within the ERZ and CZ. Other no cost methods of protecting the species indirectly include targeted purchase and management of City of San Antonio required park set -asides, prohibitions from building on slopes greater than 10%, observing buffers required to preserve watersheds and significant recharge features, strict enforcement of City of San Antonio Tree ordinances, and other measures needed to protect water quality and enhance quality of life within these environmentally sensitive areas.

Enhanced regulation of the ERZ and CZ by the City of San Antonio could still be enacted in order to protect karst habitat at no cost to citizens. The City and Bexar County should study all methods available to achieve enhanced protection of habitat by enforcement and adoption of regulations and policy in tandem with proposals for funding mechanisms for the SEPHCP that will require significant contributions from City of San Antonio and Bexar County tax payers.

Cost savings and program enhancement could also be achieved by delegating duties of administering the SEPHCP to City of San Antonio staff responsible for administering the City of San Antonio Edwards Aquifer Protection Program (EAPP). Likewise, the model devised for the EAPP of working with designated Land Trusts to identify and plan for the acquisition of appropriate properties, submitted for approval to a Committee comprised of agency and citizen representatives, has served the City of San Antonio well and could be emulated. Another administrative option would be the creation of a non-profit organization devoted to implementing the SEPHCP.

Alternatives

No Action

The No Action Alternative is not an option. Unwarranted take of these endangered species has been occurring in Bexar County for many years, and a HCP should definitely be put in place. Action must be taken to prevent any more unwarranted take of these endangered species.

10% Participation

The 10% Participation Alternative does not adequately plan for the amount of development that will likely occur in Bexar County over the next 30 years. A plan needs to be put in place that will provide for sufficient take as well as mitigation of these species.

Single-County

The Single-County Alternative sounds appealing, especially due to the fact that none of the counties aside from Bexar County have agreed to participate in this HCP. However, a regional HCP would be more suitable for this region due to the huge discrepancy in the amount of rural versus developed land in Bexar County in comparison to the other six counties of the region, as well as necessary due to the limited land resources left for mitigation in Bexar County.

Increased Mitigation

The Increased Mitigation Alternative has some qualities that would be very beneficial to the proposed HCP. From a biological perspective, the 3:1 ratio is ideal and would be very helpful in the recovery of the Golden-cheeked Warbler and Black-capped Vireo in particular. However, this ratio may or may not be economically feasible. Although mitigation agreements would be between the Permittee and individual landowners, counties outside of Bexar County might object to the removal of large amounts of acreage from their property tax rolls, especially as they not receiving any benefits from further development of Bexar County.

The other component of this alternative that should be incorporated into the proposed plan is the requirement that at least 60% of the mitigation will occur within 5 miles of Bexar County. A lower percentage may be acceptable, but the HCP needs to have some kind of requirement that a significant proportion of the mitigation will occur in or around Bexar County. Increased habitat fragmentation in this area will very likely lead to a loss in genetic diversity for the remaining Golden-cheeked Warblers and Black-capped Vireos, which could be detrimental to the recovery of the species (Athrey et al. 2012). The harmful effects of habitat fragmentation are common knowledge in the field of biology, and the effects are clearly amplified when a species is already threatened or endangered. It is the purpose of the ESA to eventually help an endangered species recover, not just survive; and this definitely will not happen if their habitat is further fragmented in the areas where it is already limited.

At least 30 %, or as much of the mitigation as possible, should be required to be within 5 miles of Bexar County, because this is where essentially all of the take is being permitted. In order to adequately determine how much mitigation can take place within San Antonio, surveys of the quantity and quality of potential habitat should be conducted before deciding to mitigate outside of Bexar County. Ideally, all of the mitigation should be located very close to or within Bexar County, but unfortunately this might be difficult to achieve. Many of the other counties in the Southern Edwards Plateau region have larger tracts of land available for the creation of larger preserves which, if properly managed, could sustain larger populations of the GCW or BCV.

Other Concerns

There are no specifics about protection of the Edwards Aquifer except that, secondary to the preservation of habitat for the listed species, they will try to preserve areas that will also benefit the voluntarily conserved species and the aquifer.

There needs to be a definition of a partial preservation credit so that proper preservation credits can be given for pre-existing conservation areas.

In conclusion, we would like to point out that the process for drafting the SEP HCP and DEIS were extremely flawed and could constitute a violation of the National Environmental Protection Act. No attempt was made to respond to the comments that GEAA and others submitted for the 2011 version of the Draft HCP devised by Loomis and Associates. Examples of this failure are abundantly illustrated by our comments of June 10, 2011 submitted as Appendix I.

The BAT and CAC were disbanded in 2010. Subsequently, we received notice of a new and very different Draft SEP HCP in December of 2014 that had substantial changes from the 2011 Draft, and did little to incorporate the recommendations of the BAT and CAC.

We concur with the comments filed by GEAA member group, Bexar Audubon Society, regarding the flawed process that took place in drafting the current version of the Draft SEP HCP:

" The proposed Habitat Conservation Plan proposed by the applicants is seriously flawed procedurally, scientifically, and politically; resulting in irreparable harm to the species and the reputation of the USFWS.

Procedurally, the applicants—the City of San Antonio and Bexar County—have generated a plan behind closed doors and are now seeking to support it with documentation from a very public and scientific planning process that took place from 2008- 2011. To pretend that the document they have submitted for your approval is based on that public or scientific input is pure sleight of hand. The City of San Antonio and Bexar County worked quietly for 3 years (apparently closely with the development industry) and wrote their own Habitat Conservation Plan which they then released during the holidays of late 2014. Bexar Audubon was not contacted during these 3 years of the city and county's process, nor were any of the scientists, advisory and stakeholder groups who participated in the original planning (this includes the Texas Parks & Wildlife Dept., Greater Edwards Aquifer Alliance, the US Army base at Camp Bullis and private landowners). The lack of transparency and stakeholder input alone should justify the denial of the proposed ITP.

Scientifically, the proposed HCP essentially is a roadmap for rapid destruction of any remaining, unprotected Golden-cheeked Warbler habitat in Bexar County. The proposed mitigation ratios are a fraction of what they should be, and the mitigation is almost all to take place outside of Bexar County, ensuring that the military mission of Camp Bullis will be jeopardized by the influx of displaced birds, and the fragile warbler habitat, much of which sits on the Edwards Aquifer Recharge and Contributing Zones, will be destroyed. In addition, the outlying counties don't want our Golden-cheeked Warblers so this current proposal just kicks the can down the road by pushing the problem out of San Antonio City Limits and into rural areas and Camp Bullis. The original HCP, itself a compromise developed out of the public process in 2011, reflected the public

input that the mitigation should occur within the governmental entity that the habitat destruction took place.

Politically, the proposed ITP and its HCP represent a long-term policy disaster for the USFWS. It neither protects the wildlife nor the environment. If the Service allows such weak Habitat Conservation Plans for large cities it loses crucial bargaining power to perform its job and sets a dangerous precedent. If USFWS allows a City and County to circumvent good-faith, transparent governance, it encourages more of the same."

Given that Bexar County received a \$2.3 million USFWS Section 6 grant for the purpose of administering the creation of an HCP that should comply with NEPA requirements and the Endangered Species Act, we believe that the stakeholders who participated in this process, the citizens of San Antonio and Bexar County, and the endangered species covered by this Plan, deserved better.

Alamo Group of the Sierra Club
Aquifer Guardians in Urban Areas
Austin Regional Sierra Club
Bexar Audubon Society
Bexar Green Party
Boerne Together
Castroville Smart Growth
Cibolo Nature Center
Citizens Allied for Smart Expansion
Citizens for Protection of Cibolo Creek
Environment Texas
First Universalist Unitarian Church of
San Antonio
Friends of Canyon Lake
Friends of Government Canyon
Fuerza Unida
Guardians of Lick Creek
Hays Community Action Network
Helotes Heritage Association
Helotes Nature Center
Hill Country Planning Association
Kendall County Well Owners Association
Kinney County Ground Zero
Lone Star Chapter of Sierra Club
Medina County Environmental Action
Association
Northwest Interstate Coalition of
Neighborhoods
Preserve Lake Dunlop Association
Preserve Our Water-Blanco County
San Antonio Audubon Society
San Antonio Conservation Society
San Geronimo Nature Center
San Geronimo Valley Alliance
San Marcos Greenbelt Alliance
San Marcos River Foundation
Santuario Sisterfarm
Save Barton Creek Association
Save Our Springs Alliance
Scenic Loop/Boerne Stage Alliance
Securing a Future Environment -Comal
SEED Coalition
Sisters of the Divine Providence
Smart Growth San Antonio
Solar San Antonio
Texas Water Alliance
Travis County Green Party
Water Aid- Texas State University
West Texas Springs Alliance
Wildlife Rescue & Rehabilitation
Wimberley Valley Watershed Association

June 10, 2011

Ms. Amanda Aurora
Loomis Partners
3101 Bee Cave Road, Suite 100
Austin, Texas 78746

Comments on the First Draft of the Southern Edwards Plateau HCP

Dear Ms. Aurora,

Please accept the attached comments on the DRAFT Southern Edwards Plateau Habitat Conservation Plan (SEP HCP) as reflecting the shared agenda of the forty-eight member organizations of the Greater Edwards Aquifer Alliance. Of our member groups, approximately sixty-five percent have a presence within the area covered by the DRAFT SEP HCP.

At the outset, we would like to say that we are extremely disappointed that the draft HCP has ignored the recommendations of the Biological Advisory Team and the input of the Citizens Advisory Committee.

Any successful HCP must be built on a solid foundation of sound science and public participation. Without these key elements, an HCP will not meet the requirements of the Endangered Species Act and will not be successfully implemented. We urge Bexar County to accurately reflect the BAT and CAC's recommendations and input in the draft HCP, and then move forward with a BAT-based draft and a robust public process centered on the CAC with review by the BAT as needed. If the draft HCP is not revised and re-issued accordingly, we have no confidence in the ability of Bexar County to create a plan will satisfy the Endangered Species Act's requirements, meet the needs of the covered species, and work for the community.

Below is a list of some our major concerns with the current draft. We hope that these points and others will be resolved promptly in the process of creating the next draft and meeting with the CAC next week. Given the amount of time and work that has already gone into this HCP, and the swift schedule proposed for the remainder of the process, it is essential that the CAC be given straight-forward answers and solutions to our concerns.

The April draft has vastly complicated (and lengthened) the HCP process by ignoring key recommendations of the BAT and CAC. This was unexpected and is unacceptable. The CAC should be meeting next week to discuss and build on a BAT-based draft HCP, not some other draft HCP that was developed behind closed doors without the inclusion of key BAT recommendations and requirements. Please do not waste our time and energies focusing on issues that have already been decided by the BAT and CAC.

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Mitigation and Preserve Requirements: The HCP Must Follow the Recommendations and Requirements Endorsed by the BAT and the CAC

The BAT's charge is to provide input on all biological matters, calculate the harm to the covered species, and propose the size and configuration of the preserves. The BAT has admirably fulfilled its duties throughout this process, formulating recommendations based on the best scientific data and literature on the biological needs of the covered species and the harm to the species. There is no defensible reason to depart from the BAT's recommendations.

The BAT has proposed recommendations for the BCV, GCW, and the karst invertebrate species. All of these recommendations received a majority vote from the CAC. These recommendations should only be changed for good cause and where the BAT is able to propose alternatives that are biologically acceptable.

For the GCW, it is critical that the HCP incorporate the BAT-recommended 3:1 ratio in Bexar County and 2:1 outside of Bexar County, with the additional requirement that 60 percent of mitigation lands be located in Bexar County or within 5 miles of Bexar County. The BAT's GCW recommendations were reached after thorough consideration and analysis of preserve size and configuration, the level of habitat fragmentation around protected areas; the potential for disease transmission and, predation, and oak will to present management challenges; and the range of the GCW.

Further, the BAT's recommendations on mitigation ratios are based on the amount of harm to the species (with input from the Fish and Wildlife Services) and the BAT has made clear that the recommendations are as flexible as the BAT can be. We do not see how there is any room for disagreement with the BAT's recommendations on mitigation for the GCW and BCV. Deviating from the recommendations underestimates the harm to the species and would ultimately jeopardize the species.

60 Percent Mitigation in Bexar County (or within 5 miles of Bexar County) Must Be a Requirement of the HCP. Species such as the GCW are faced with uniquely high development pressures and habitat loss in Bexar County. As recognized by the BAT, the higher degree of threat to the species in Bexar County warrants a higher mitigation ratio for take. In addition, the ESA requires that mitigation be located close as possible to the site of the impact. It is not an acceptable approach for the draft HCP to allow for mitigation of take in Bexar County in areas that might be many miles away from the lost habitat.

The requirement that 60 percent of mitigation for Bexar County take be located in Bexar County (or within 5 miles of Bexar County) must be a part of the HCP. We do not recommend alternatives at this point given that the BAT has already provided a clear solution and that time is running out. However, any alternative recommendation must provide an equivalent safeguard or structure that places mitigation land close to habitat lost from Bexar County as required by the ESA, and ensures viable populations and contiguous preserve land for the GCW in Bexar County.

It should be noted that the BAT's proposed requirement does not preclude acquiring larger habitat preserves outside of Bexar County; 40% of the mitigation may occur outside Bexar County or the 5 mile area. The real question is why the draft HCP should allow for all mitigation for take

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in Bexar County to be located anywhere in the large Plan area. There is no supportable scientific basis for this approach.

We note that the draft HCP does incorporate a goal of acquiring 5,000 acres for GCW in Bexar County or within 5 miles of Bexar County. However, this goal is not a binding and it is not a substitute for the specific *requirement* proposed by the BAT.

Mitigation for Karst Invertebrate Species. GEAA and the CAC support the BAT's recommendation for the karst invertebrate species covered under the HCP. The BAT has proposed a tiered approach based on the location of activities in specific karst zones and habitat, and on the level of conservation that has been achieved for a species in a given karst faunal region. As proposed by the BAT, this framework takes into account the near-jeopardy status of these highly vulnerable species, as well as the uncertainties surrounding the biology and status of the species.

We wholeheartedly support the BAT's approach to karst conservation, with any refinements and additional conditions as proposed by the BAT. We would only note that this approach requires robust oversight and responsiveness to changing conditions on the ground and in the scientific literature. Each year, we are learning more about these species, their habitat, and their distribution. For the karst program especially, independent scientists, non-profit groups with karst expertise, or other appropriate individuals or entities, should be enlisted as partners to alleviate the burden on the Fish and Wildlife Service and Bexar County in keeping up with these changing conditions.

The Mitigation Framework Should Recognize the Importance of Preserving Land in the Edwards Aquifer Recharge, Transition, and Contributing Zones. GEAA also strongly recommends—based on policy adopted by all forty-eight GEAA member groups—that the HCP should not allow for increased urban densities on the Edwards Aquifer Recharge Zone, the Transition Zone, and contiguous five miles of Contributing Zone within Bexar County through publicly funded purchase of mitigation land not located in the above mentioned Edwards Zones in Bexar or other counties. In addition to the policy of GEAA and its member groups, San Antonio voters have consistently voted in favor of sales taxes to protect the Edwards Aquifer. We could not support an HCP that allows for development on the Aquifer in exchange for lands that may be suitable for terrestrial species but that amount to a net loss for the Aquifer. This policy conflict, misuse of public funds, and potential to cause negative impacts to water supplies and listed aquatic species must be avoided.

There Needs to Be Additional Requirement and Detail Concerning the Size and Configuration of Preserves. In addition to ignoring the BAT's recommendations and requirements, we are concerned about the inadequate detail and somewhat amorphous standards for the preserves. For example, we would like to know more about the focal areas for preserve acquisition and how the Plan will ensure adequate connectivity and contiguity. We believe that the Balcones Canyonlands Conservation Plan may offer some guidance in this area. Importantly, the BCCP incorporates an *edge-to-area ratio for GCW habitat*. Standards like this need to be incorporated into this HCP to ensure high-quality preserves that meet the biological needs of the species.

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Problems with the HCP's Treatment of Pre-Existing Lands and Future Uses Allowed on HCP Preserves

Pre-Existing Lands. GEAA is very concerned about how pre-existing conservation lands are used, especially given that many of these lands are not under permanent protection. As pointed out by the BAT, lands that include Camp Bullis, City of San Antonio properties, and pieces of the Government Canyon State Natural Area are either not permanently protected or are not managed for the covered species. Even if such lands were permanently protected, we have concerns about double-counting lands that were acquired under other conservation efforts and with other public funds.

We think it would be good to firm up the protections on pre-existing lands (where possible) as an auxiliary purpose of the HCP. It will also be important to locate new preserves in a way that builds on previous conservation efforts and focal areas. But incorporating acreage from pre-existing conservation lands should not be used as a short-cut to achieving the goals of the HCP and ESA compliance. As with other issues, the BAT formulated a specific *requirement* on this issue that appears to have been disregarded. The BAT proposed that (1) no more than 10% of the preserve system should consist of land publicly owned as of November 4, 2010, and (2) To qualify as a preserve component, a new conservation easement must be developed for GCW conservation and management. We believe the additional conservation easements proposed by the BAT are required by the ESA if any pre-existing lands are to be counted under the HCP. But again, the focus of the HCP should be on acquiring new conservation lands with permanent protection, rather than trying to use pre-existing lands.

Use of Future Preserves. We are extremely troubled by the draft HCP's open-ended provision allowing for "secondary uses" of HCP preserves that "may include, but are not limited to, public or private recreational activities, agricultural activities, low-density residential activities, hunting activities, and utility or infrastructure corridors." This sort of vagueness ("but are not limited to") and these sorts of uses are not appropriate for the HCP—especially allowing for "utility and infrastructure corridors" that would destroy and degrade the conservation value of HCP preserves. This provision is unacceptable, has not been discussed at the CAC, and must be deleted.

Plan Administration and Basic Plan Components

We are concerned that certain basic elements of the Plan have not been adequately addressed in the draft HCP or are left up to the future and unilateral discretion of Bexar County. The ESA requires the applicant to show that the HCP can be successfully implemented. And the spirit of an HCP is to create a collaborative partnership. In this case, that should include not just Bexar County and private participants, but hopefully several other partners that are public and non-profit entities that are enlisted in advance.

While the Balcones Canyon Conservation Plan (BCCP) has some major substantive flaws that we will not discuss here, the BCCP has a relatively successful formula for Plan administration and implementation. This formula relies on sharing duties among Travis County and the City of Austin, as well as relying on a Scientific Advisory Committee and Citizens Advisory Committee. These committees are vital to helping the permit holders with their administration and oversight of

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the BCCP, and they are vital for ensuring that the community has continued input into the plan as conditions change.

The draft SEP-HCP, on the other hand, seems to leave most of these critical elements up in the air with Bexar County as the only entity making decisions and providing input. For example, the draft HCP does not require any advisory committees, does not flesh out what role the City of San Antonio will play in the administration of the Plan, and leaves key elements such as fee-setting up to Bexar County without adequate input from others. It is not even clear who the SEP-HCP administrator is. We don't think that this fill in the blank approach to basic plan components is acceptable at this stage. These issues need resolutions and commitments to provide for successful implementation and independent oversight, and to alleviate the financial burden on Bexar County.

We strongly recommend a requirement of Scientific and Citizens' advisory committees to provide ongoing input, oversight, and assistance. We also strongly recommend that an independent non-profit entity be given a central role in the administration of the Plan.

Funding Issues and Recommendations

Revenue Sources and Estimates. The draft plan proposal for deriving 40% of the plan through participation fees vs 60% from public funding needs to be reversed. At least 60% of funding the plan should be bourn by those who will benefit financially from enrollment.

Given that much of the land within Bexar County proposed for coverage by the take permit lies within the environmentally sensitive zones of the Edwards Aquifer (ERZ, TZ and CZ), public investment in promoting development of this area does not make sense. Participation fees for development within these Edwards Aquifer zones should be structured to reflect a significantly higher percentage of Participation Fees vs public contributions. Justification for any public contribution toward developments within the sensitive Edwards Aquifer zones requires that land purchased for mitigation be located within the same zones at the ratio prescribed by the BAT.

Developments that do not impact the Edwards could be eligible for mitigation through the purchase of less expensive lands outside of Bexar County.

Public Revenue Sources. The draft HCP states that "[o]ther types of public revenue considered in the Funding Plan come from savings obtained by getting some conservation credit from existing protected lands and from endangered species conservation value on lands purchased with existing voter-approved open space sales tax revenue."

As to the use of properties secured through purchase with Proposition 3 and Proposition 1 funds to mitigate take for the warbler, BCV, and karst species, the CAC clearly provided direction that this alternative was not acceptable. The prospect of using land secured through sales taxes collected from the citizens of CoSA for the explicit purpose of protecting the Edwards Aquifer to mitigate additional high density development within the sensitive zones of the Edwards Aquifer is a betrayal of the public trust and an abuse of the intent of Propositions 3 and 1. This option should be removed from the draft plan.

Our Recommendations for Additional Cost-Savings. Please note, as regards to the cost of enrolling in the HCP for protection of habitat in Bexar County, the City of San Antonio could have achieved

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significantly greater preservation of habitat for the karst species at no cost to the taxpayers of CoSA and Bexar County through the adoption of adequate regulations on impervious cover to protect water quality within the Edwards Aquifer Recharge and Contributing zones. Other no cost methods of protecting the species indirectly include targeted purchase and management of CoSA required park set -asides, prohibitions from building on slopes greater than 10%, observing buffers required to preserve watersheds and significant recharge features, strict enforcement of CoSA Tree ordinances, and other measures needed to protect water quality and enhance quality of life within these environmentally sensitive areas.

Enhanced regulation of the Recharge and Contributing zones by the CoSA could still be enacted in order to protect karst habitat at no cost to citizens. The City and Bexar County should study all methods available to achieve enhanced protection of habitat by enforcement and adoption of regulations and policy in tandem with proposals for funding mechanisms for the SEP HCP that will require significant contributions from CoSA and Bexar County tax payers.

Cost savings and program enhancement could also be achieved by delegating duties of administering the SEP HCP to CoSA staff responsible for administering the CoSA Proposition 1 program. Likewise, the model devised for the Proposition 1 program of working with designated Land Trusts to identify and plan for the acquisition of appropriate properties, submitted for approval to a Committee comprised of agency and citizen representatives, has served the CoSA well and could be emulated. Another administrative option would be the creation of a non-profit organization devoted to implementing the SEP HCP.

Tax Increment Diversions. GEAA supports the concept of tax increment diversions as a mechanism for funding this program.

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Thank you for the opportunity to present these comments. We will have additional comments at the upcoming CAC meetings and look forward to working with you to create a better HCP.

Sincerely,



Annalisa Peace
Executive Director

Andrew Hawkins
Attorney

Appendix II

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Williams, Christina <christina_williams@fws.gov>

FW: Draft SEP-HCP and Draft Environmental Impact Statement Notice of Availability

1 message

Jennifer Blair <jenniferblair@bowmanconsulting.com>

Mon, Jan 5, 2015 at 11:54 AM

To: "Voellinger, Leonard (leonard.voellinger@jacobs.com)" <leonard.voellinger@jacobs.com>, "Andy Winter (awinter@bexar.org)" <awinter@bexar.org>, "christina_williams@fws.gov" <christina_williams@fws.gov>
Cc: "Webberman, Jerry" <jwebberman@jw.com>

Email 1 of 2 or 3? that I have received regarding SEP thus far. I will forward on the rest as I assume that they will need to be considered as comments. Thanks!

Jenny Blair, C.W.B. | Bowman Consulting
main: 512.327.1180 | cell: 512.415.9772
TBPE FIRM NO. F-14309 | TBPLS FIRM NO. 101206-00

-----Original Message-----

From: Bob Heinonen [mailto:bob.heinonen@hotmail.com]
Sent: Friday, December 19, 2014 7:23 PM
To: 'Southern Edwards Plateau Habitat Conservation Plan'
Subject: RE: Draft SEP-HCP and Draft Environmental Impact Statement Notice of Availability

Do you realize what kind of gibberish this e-mail contains? The first two paragraphs are not decipherable by the ordinary citizen. The use of acronyms and references to regulations are absurd.

Bob Heinonen
(830)833-0809

-----Original Message-----

From: Southern Edwards Plateau Habitat Conservation Plan [mailto:info@sephcp.com]
Sent: Friday, December 19, 2014 2:05 PM
To: bob.heinonen@hotmail.com
Subject: Draft SEP-HCP and Draft Environmental Impact Statement Notice of Availability

We want to thank you for your interest in the planning and development of the SEP-HCP. We are excited to announce that the USFWS has published the Notice of Availability of the draft Environmental Impact Statement which has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.; NEPA).

The USFWS had made the permit application package, including the dHCP and dEIS, available for public review and comment. The Draft SEP-HCP, Draft Environmental Impact Statement, Federal Register Notice of Availability, and other documents are posted on <http://sephcp.com/documents.html>. Copies of the Federal Register Notice, USFWS News Release, and FAQ are attached.

The Service encourages the public to review and provide comments on the documents during the 90-day public comment period. Written comments must be received by March 19, 2015. Information on how to submit comments is included in the attached Federal Register Notice.

Public meetings will be held during the comment period. The exact locations and times for the meeting will be noticed in local newspapers, on the USFWS Austin Ecological Services Office website and on the SEP-HCP website at least two weeks prior to each event. For further information on how to obtain or review copies of these

1/5/2015

DEPARTMENT OF THE INTERIOR Mail - FW: Draft SEP-HCP and Draft Environmental Impact Statement Notice of Availability

documents, or how to provide comments, see the Federal Register notice .

We greatly appreciate everyone's continued support of this project!

Thank you,

The SEP-HCP Project Team

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COMMENTS:
Southern Edwards Plateau
Draft Habitat Conservation Plan (dHCP) and
Draft Environmental Impact Statement (dEIS)
March 17, 2015

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The author of this report, Dr. Hayes, served as a member of the SEPHCP Biological Assessment Team (BAT), and had an active role in helping to research and write the BAT recommendations.

USFWS approval of the proposed SEPHCP would result in a 30-year Incidental Take Permit (ITP) authorized by the Endangered Species Act (“ESA”), under section 10(a)(1)(B). The ITP would authorize a specified amount “incidental take” of federally listed endangered species (the “Covered Species”) within Bexar County, the City of San Antonio, and San Antonio’s Extraterritorial Jurisdiction (ETJ). In return, the Preferred Alternative currently included in the draft SEPHCP would require mitigation within the seven-county Plan Area.

Five Most Important Revisions to the dHCP/dEIS

- Increase golden-cheeked warbler (GCW) mitigation ratio to 3:1 for direct take.
- If take is restricted to Bexar County, San Antonio, and the San Antonio Extraterritorial Jurisdiction (ETJ), then resulting mitigation should be restricted to the area of take.
- Funding for implementation and administration of the SEPHCP should be provided by plan participants, not taxpayers.
- Independent advisory committees with annual public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee.
- SEPHCP administrator should be an independent non-profit entity, affiliated with but not directly managed by the Permittees.

Outline of Other Necessary Revisions to dHCP/dEIS

GWC and BCV

- Current USFWS recommendation should remain the basis for determining presence-absence for all covered species.
- The SEPHCP should specify minimum design criteria for GCW and the black-capped vireo (BCV).
- A prescriptive management plan for GCW and BCV should be included in the SEPHCP.

- Currently “protected” GCW habitat in the SEPHCP area that is not permanently protected should not contribute to recovery.
- GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre.
- An adequate funding model to sustain management should be a guaranteed component of preserve acquisitions.

Karst Invertebrates

- Actual surface and subsurface drainage basins should be carefully estimated for very large karst features, so that the plan-prescribed 750-foot distance for OCZ B is extended as necessary to fully protect the most valuable features.
- Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species should be allowed within the OCZ.
- Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) should continue to be required until all listed species in all KFRs in the SEPHCP region achieve verified USFWS down-listing.
- Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include a guaranteed management endowment
- Karst participation fees should be increased due to the high biological concern and high land values (conservation cost) in Bexar County.

Plan Structure and Administration

- Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently.
- Program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species should be included in the SEPHCP.
- The mitigation process for indirect and offsite impacts needs to be included in the SEPHCP.

Review of Recent (2010-2014) Research

Several dozen research papers (2010-2014) were ignored in the current SEPHCP documents. Approximately two dozen of these papers, which are most pertinent to the proposed conservation plans for BCV and GCW, are discussed below.

Effective Population Size

For both BCV and GCW, recent peer-reviewed research points to a highly significant decrease in the effective population size. This population metric may be defined as the number of breeding individuals that is sufficient to maintain within-species genetic diversity within a population. Effective population size is usually less than the census population size. However, in the case of these two endangered songbirds, the effective population size is unusually small compared to the census population size. Expansive genetic studies are required to accurately measure the effective population size for these species. In any case, population targets for BCV and GWC used in the SEPHCP documents are very likely less than required for long-term sustainability, and should be revised based on additional research.

While analyzing current and historical specimens of BCV, Athrey et al. (2012) found current genetic diversity to be significantly lower and more divergent among current populations. They attribute this to habitat fragmentation beginning in the early 1900s, which caused a great reduction in the effective population size.

Similar to BCV, Athrey et al. (2011) documented a rapid decrease in genetic diversity and a corresponding increase in genetic divergence among GCW populations over a 100-year period. They conclude that all populations that they studied have low effective sizes. Duarte et al. (2013) also found present-day carrying capacities reduced for GCW, due to fragmentation as total GCW breeding habitat was reduced by 29% between 1999-2011 and 2010-2011.

Reproductive Habitat Metrics

BCV Reproduction:

Recent research indicates that the current SEPHCP documents rely too heavily on outdated vegetation metrics, when assessing potential breeding habitat for BCV and GCW. For example, the conventional approach envisioned BCV as dependent on successional shrub vegetation with 30-60% woody cover and high edge density (Bailey and Thompson 2007). BCV nest habitat was considered enhanced with dense deciduous shrub cover below two meters in height (Bailey and Thompson 2007).

However, the latest research shows that this focus on vegetation control during BVI management does not augment reproduction in a significant number of areas, unless cowbird trapping is a continuous component of management (Campomizzi et al. 2013). These researchers found that the daily survival rate of BCV nests depended on cowbird trapping, but was unrelated to vegetation parameters. The research results of Wilsey et al. (2013) expand upon the primary importance of an unending program of active management, including after recovery goals are met, with a focus on cowbird trapping, but also including habitat enhancement and artificial recruitment to increase genetic diversity.

Other updated research shows that shrubland is not the only significant habitat for successful BCV reproduction. Dittmar et al. (2014) captured dispersing juvenile BCV at equivalent rates in shrubland and riparian forest. In fact, juveniles preferred riparian vegetation over most other habitats, and stayed longer in this type that exhibited increased canopy, denser vegetation, and greater arthropod biomass, relative to other habitats. Juveniles appear to select riparian habitats due to expanded cover and prey resource (Dittmar et al. 2014). These findings are strongly supported by Pope et al. (2013), who measured no statistical difference in BCV nest loss and reproductive success between scrubland and woodland. The parasitism rate, the sole variable to impact nest survival, was twice as large in shrubland compared to woodland (Pope et al. 2013).

These new data reveal the need for a fundamental change in the BCV conservation plan promoted by the draft SEPHCP documents. In addition to sustained cowbird trapping, the plan

should protect both shrubland and woodland, especially riparian woodland near nest sites. The current SEPHCP places too much emphasis on BCV breeding habitat in shrubland, to the detriment of woodlands equally or even more important to breeding and juvenile BCV.

GCW Reproduction:

Unlike BCV that prefers successional habitat with a high amount of edge, GCW is an old-growth obligate species, which requires relatively large patches of mature closed-canopy woodland. The importance of large patches of mature woodland to GCW is indicated by reduced patch occupancy in the northern portion of the GCW breeding range, where large patches are less common (Collier et al. 2012). Butcher et al. (2010) determined the minimum patch size for effective GCW reproduction to be 15.0-20.1 ha. However, this research found GCW to have no patch size requirements for occupancy, male territories, or pair formation. In this manner, SEPHCP conservation activities for GCW that are based on patch-size thresholds for occupancy and territory may not relate to reproductive success.

In addition to patch size, GCW breeding habitat differs from that of BCV in that GCW breeding habitat is more adversely impacted by human disturbance. Davis et al. (2010) found male GCW territories to be more than 50 % larger (2.2 ha) in mountain biking areas compared to non-biking areas (1.4 ha). They also measured that nests in non-biking areas had twice the success rate and only one-third the abandonment rate, compared to biking areas. Physical impacts of biking trails to habitat, including fragmentation, appeared to be the primary stress factor. Therefore, seasonal closure of trails during GCW breeding may not alleviate the chronic degradation of old-growth characteristics important to GCW. In response, preserve management may need to limit biking trails.

Proactive Habitat Delineation

Regional GIS models that predict GCW population densities based vegetation composition and spatial variables increase the efficacy of habitat management and proactive protection at the

landscape scale. The type and percent cover of woodland had significant positive effects on GCW density, while the amount of edge was a negative influence (Peak and Thompson 2013). Conservation efforts should target properties dominated by juniper and juniper-oak woodland with low edge density (Peak and Thompson 2014). Marshall et al. (2013) report an abrupt change in GCW foraging from oaks in April to juniper in May, in response to temporal differences in arthropod density on these substrates.

In order to enforce take permits and guide mitigation activities, and effectively implement the SEPHCP, proactive habitat mapping is essential for GCW, due to its dependence on large contiguous patches that are increasingly uncommon (Collier et al. 2010). Patch size is an important predictor of occupancy. For example, Collier et al. (2010) determined that all patches greater than 160 ha had a 100% chance of occupation. However, Horne et al. (2011) identified distance from the largest patch as often more critical to the maintenance of a GCW metapopulation. These researchers could not distinguish consistent distance and size parameters, and therefore could not develop general guidelines for determining patch value. Therefore, the delineation of potential high-value mitigation sites must be followed by on-the-ground reconnaissance to accurately assess the value of each patch.

Research Needs

The SEPHCP should specify goals and funding for a greatly increased research program to support all covered species. In particular, recent peer-reviewed papers call for issue-oriented research to fill critical information gaps in regard to GCW conservation. Horne et al. (2011) focus on three important research needs: (1) quantifying patch metrics that sustain reproduction, (2) habitat mapping to identify distinct local populations that may help restore genetic diversity, and (3) juvenile dispersal processes. Similarly, Duarte et al. (2013) emphasize the need to quantify dispersal rates and distances, in order to measure and promote genetic exchange among progressively more disconnected fragments of GCW breeding habitat.

Another important area of research should be the improvement of monitoring techniques. For example, Collier et al. (2013) document spatial differences in the accuracy of GCW detection,

including detection errors related to distance. For both GCW and BCV, they found errors in density measurements, in that areas with increased chance of occupancy have larger density estimates. Warren et al. (2013b) also found the underestimation of GCW density to increase as actual density increased. Related to this detection bias, they found that individual male GCWs accelerated singing as overall abundance increased, so that detections were not independent. Other current researchers, such as Hunt et al. (2012), find that the commonly used point-count measures of density are consistently higher than territory counts determined by standard mapping techniques. In this manner, increased research should be directed toward (1) methods used to measure abundance and (2) the nonrandom spatial bias in detection.

Golden-Cheeked Warbler (GCW) and Black-Capped Vireo (BCV)

Mitigation Ratio and Proximity:

The dHCP/dEIS documents ignore key aspects of the Biological Assessment Team's (BAT) recommendations after the BAT's almost two years of intensive effort (2010-2011). Some of the most important differences relate to GCW mitigation.

The dHCP defines GCW/BCV take as either direct or indirect (p. 39, dHCP). Direct take consists of the impacted acreage of suitable GCW/BCV habitat within the boundaries of a plan-enrolled property, as long as this habitat is not within a plan-protected karst area: Occupied Cave Zone (OCZ) or Critical Habitat (CH). Impact to suitable GCW/BCV habitat within an OCZ and a CH is defined as indirect, since avoidance of the related karst feature is already required. Impact to suitable GCW/BCV habitat outside but within 300 feet the enrolled property boundary is also defined as indirect.

Proposed GCW/BCV mitigation ratios in the dHCP are 2:1 and 0.5:1 (acres of protected habitat for each acre of habitat impacted) for direct and indirect impacts, respectively (p. 40, dHCP). All GCW/BCV take is within the jurisdictions of Bexar County and San Antonio. However, mitigation is now generally allowed anywhere within the 7-county Plan Area. This will lead to

the continued loss of GCW and BCV habitat in the San Antonio area, due to the absence of local mitigation due to the area's higher land prices and increased development.

The 11/17/10 BAT-approved recommendation was that direct GCW take in Bexar County be mitigated at a ratio of 3:1, with not less than 60% of resulting mitigation occurring within Bexar County or five miles of Bexar County. These two key BAT recommendations derive from the high amount of loss in the county that causes a severe threat there relative to the other six rural counties in the Plan Area. Preferential mitigation in Bexar County also protects the mission of Camp Bullis and the other significant conservation reserves in the county, which are important to both the species and the community.

The BAT's 6/9/11 response to the first draft of SEPHCP listed 11 top concerns, and singled out the dHCP's lack of mitigation close as possible to the habitat impact area as a particularly "egregious error." As further discussed in the BAT's 3/21/11 response to the CAC, the lack of GCW/BCV preserve establishment in the impact area is expected to increase both the loss and the isolation of habitat. In this manner, it is distinctly possible that existing protected habitat in Bexar County at Camp Bullis and city reserves will be severely degraded. To counter unexpected habitat destruction due to stochastic events such as fire, one of the most basic tenets of conservation dictates that habitat within the larger landscape be continuous and adjacent to permitted take.

The Increased Mitigation Alternative (p. ES-v, dEIS) follows the above BAT recommendation. However, due to all take now occurring in or immediately adjacent to Bexar County, both GCW and BVI mitigation should be changed to occur only in Bexar County until other counties sign on as true participants (take and mitigation). In this manner, the Single-County Alternative now may be most appropriate, until other counties agree to participate (i.e., mitigate close to take).

Incidental Take:

Three of the four alternatives in the dEIS would authorize the incidental taking of 9,371 acres of GCW habitat, 2,640 acres of BCV habitat, and 21,086 acres within of Karst Zones 1-4. All of

this proposed take would take place within five miles of Bexar County, though no mitigation is required in or near Bexar County. As included in the BAT's 6/9/11 response to the SEPHCP, this scenario results in insignificant or no long-term conservation value of the dHCP for the endangered songbirds. Rapid urbanization that is unmitigated in Bexar County will likely prevent regional GCW recovery, possibly resulting in a jeopardy determination and possible federal court injunctions preventing all future construction and development.

Due to the relatively small amount and likely disjunct location of the proposed mitigation, the authorized amount of incidental GCW/BCV take should be significantly reduced. GCW take should not exceed 7,500 acres, unless the 6 counties not currently participating come into the plan. The reduction in requested take is necessary because otherwise all the take currently happens in or within five miles of Bexar County.

Abbreviated Presence-Absence Surveys

The proposal for one year of GCW surveys, to determine presence-absence and therefore mitigation requirements, is significantly less effort than the current USFWS recommendation of three years of surveys. Due to seasonal and annual variations in precipitation, vegetation, and other important habitat variables, the current USFWS recommendation should remain the basis for determining presence-absence.

No deviation from the standard USFWS 3-year requirement should be allowed when determining either GCW or BCV absence. In fact, none of the dHCP proposals should be allowed, which exclude Project Areas from mitigation based on abbreviated presence-absence surveys for covered species. Such surveys, which if allowed would likely become the common approach, deviate from standard USFWS Protocol, and may jeopardize the repeatability and validity of mitigation determinations. Abbreviated presence-absence surveys for covered species are biologically unacceptable, and current USFWS recommendations should be required in every instance.

GCW/BCV Preserve Design Criteria

The dHCP should include minimum preserve design criteria for all covered species. The Balcones Canyonlands Preserve HCP and FEIS (BCP-HCP/FEIS; City of Austin and Travis County, Texas; 1996) provides guidelines, which are applicable to the dHCP. Though most directly applicable to preserve design for GCW, these minimum preserve requirements may be scaled down to address similar design criteria for BCV preserves.

The BCP-HCP includes preserve clusters arranged as ten macrosites, with macrosites varying widely in size up to 103,500 acres. Minimum preserve requirements vary from macrosite to macrosite, and for each preserve within a given macrosite. However, these requirements are generally consistent and may be summarized as follows:

Preserve Size: The minimum number of contiguous acres per preserve unit ranges from 3,000 to 7,700 acres.

Edge to Area Ratio: The edge to area ratio is the most consistent requirement of the BCP-HCP/FEIS, and for most macrosites (Bull Creek, Cypress Creek, North Lake Austin, South Lake Austin, and Barton Creek) no more than 20% of the minimum preserve area can be within 300 feet of the preserve perimeter.

Preserve Connectivity: The maximum distance between BCP preserve units within a macrosite is typically 0.50-0.75 miles, though in special circumstances this may extend to 3.5 miles.

Preserve Width: The minimum width of individual preserve units is about one mile (3,000 to 8,000 feet).

The SEP dHCP should specify minimum design criteria for each of the above four metrics.

Other GCW/BCV Issues:

No prescriptive management plan for GCW and BCV is included in the SEP dHCP. This should be an essential requirement of the plan.

Little if any currently “protected” GCW habitat in the SEPHCP area is permanently protected, and therefore should not contribute to recovery. Furthermore, the BAT (11/17/10) recommends that no more than 10% of the GCW conservation credits be generated from public lands that were protected as of November 4, 2010.

The price of GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre, to be more commensurate with land values in and adjacent to Bexar County and, thus, allow adequate mitigation and meaningful contribution to recovery in this rapidly developing area.

If preserve management funding becomes inadequate, this should be considered a serious breach of permit conditions. Furthermore, outreach, education, and research programs should be emphasized as essential to the long-term success of the SEPHCP, and not jettisoned due to an inadequate funding model.

Karst Invertebrates

Occupied Cave Zones

In the dHCP, the Occupied Cave Zone (OCZ) A will usually include the area (8.5 acres) within 345 feet of the entrance to a karst feature occupied by one or more Covered Karst Invertebrates. OCZ A encompasses the foraging area of cave crickets, which are keystone species for sustaining most karst ecosystems. Extending 345-750 feet (40 acres) from the karst feature is OCZ B, which is intended to protect the surface and subsurface drainage and other resource areas necessary for the long-term maintenance of the karst feature. For very large and therefore extremely important occupied features, the dHCP should be revised so that the actual surface and subsurface drainage basins are carefully estimated and fully protected.

Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species should be allowed within the OCZ. Similarly, due to the lack of adequate data regarding species distributions, genetics, and status, participation limits in the karst program should continue until regional down-listing criteria are met for all covered karst invertebrates.

Newly Discovered Karst Features

Due to the need for more research on the distribution, taxonomy, and status of covered karst invertebrate species, the investigation of any accidentally discovered karst features (caves and voids) should continue to be required until all listed species in all KFRs in the SEPHCP region achieve verified USFWS down-listing.

No abbreviated five-day surveys for karst invertebrate should be allowed in lieu of the USFWS-approved 15-day survey period. The proposed shortcut karst-invertebrate surveys of voids discovered during construction are unlikely to accurately assess presence-absence of covered species and may cause harm to the species due to habitat disturbance.

In the plan region, the dHCP focuses the search for new localities of rare karst species within existing conservation (managed) areas. However, as recommended by the BAT (6/9/11), these investigations should require equal priority within urban, suburban, and developing areas, including private lands, in order to determine status and risk factors important to adaptive management and emerging protection needs.

Low-Quality Preserves

Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include an endowment guaranteed to cover perpetual management expenses. Such an endowment is necessary to minimize adverse financial impact to the acquisition and stewardship of medium and high quality karst preserves. Even when adequately endowed, low-

quality preserves do not have sufficient value and sustainability to be included as a contribution to the current conservation level for a karst species.

Karst Participation Fees

Karst participation fees appear too low considering the high biological concern and high land values (conservation cost) in Bexar County. Also, the dHCP needs to define what happens when multiple projects impact Zones A and/or B of the same occupied cave. A more appropriate fee structure is:

- Karst Zone 1 and 2, but outside Occupied Cave Zone and Critical Habitat Unit: \$1000/ac
- Occupied Cave Zone B (redefined as above): \$100,000/cave
- Occupied Cave Zone A (redefined as above): \$1,000,000/cave

Other Karst Issues

All karst applications within Karst Zones 1-4 should require a complete and certified hydrogeological survey.

For participation in the SEPHCP, medium and high quality karst preserves established by non-SEPHCP entities should have permanent protection transferred to the SEPHCP, in order to be counted as contributing to Conservation Levels for a species.

Plan Structure and Administration

Advisory Committees

The dHCP should specify the administrative framework to receive technical and public input to inform the adaptive management and planning. Due to the significant involvement of affected communities and public funding, independent post-issuance advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee. A regular meeting schedule of these scientific and citizen committees should be a

required part of the plan. The purpose of these committees should not be expressly prescribed by the Permittees as described in Section 2.2 of the dHCP (pp. 21-22), but instead should be left open to the discretion of the committees.

Report Frequency for Baseline Conditions and Management Planning

Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently than proposed in Section 9.0 of the dHCP (p.112), especially early during plan implementation. Decision making needs to be more informed during the first decade. Instead of waiting ten years to begin, baseline conditions and management plans should be first evaluated at five years and ten years, and then as agreed upon by the USFWS, in order to more efficiently achieve adaptive management goals.

Plan Administrator

The SEPHCP administrator should be an independent non-profit entity, affiliated with but not directly managed by either Bexar County or the City of San Antonio. Any plans by the Plan Administrator to outsource program management to a nonprofit or other entity should be detailed in the dHCP.

Category 3 Species

A section is needed that provides program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species, including education, monitoring, outreach, and research. Conservation measures for these species should be specified in the dHCP.

Indirect and Cumulative Impacts

In the dEIS, the assessment of offsite, indirect, and cumulative impacts is cursory, and should be greatly expanded. The SEPHCP appears to offer coverage for incidental take only to activities

inside the enrolled properties. The mitigation process for indirect and offsite impacts needs to be included in the SEPHCP.

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Hunt, J.W., F.W. Weckerly, and J.R. Ott. 2012. Reliability of occupancy and binomial mixture models for estimating abundance of golden-cheeked warblers (*Setophaga chrysoparia*). The Auk 129(1):105-114.

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Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

March 16, 2015



RECEIVED

MAR 18 2015

Div. of Policy & Dir. Mgt.

Gentlemen:

SOUTHERN EDWARDS PLATEAU
HABITAT CONSERVATION PLAN
CITY OF SAN ANTONIO AND BEXAR COUNTY
REGIONAL HABITAT CONSERVATION PLAN

I herein submit Resolutions from Bandera County, Blanco County, Kendall County, Kerr County, and Medina County from the year 2011 in which all five counties opposed and requested removal from the Southern Edwards Plateau Habitat Conservation Plan.

I also herein submit Kendall County Resolution No. 03-09-2015

Thank You,
Mike Luckey
110 Walters Rd.
Boerne, TX
78006

ITEM # 4
SPECIAL COMM. COURT MTG.
DATE 12-29-10

000621

RESOLUTION NO. 10-12-28-04

**RESOLUTION OF BANDERA COUNTY COMMISSIONER'S COURT OPPOSING
THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN**

WHEREAS, Bandera County Commissioner's Court supports private property rights and the ability of individual landowners to use their property, and

WHEREAS, Bexar County and the City of San Antonio are developing an application to submit to the U.S. Fish and Wildlife Service to establish a regional habitat conservation plan known as the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) that includes multiple counties, including Bandera County, and

WHEREAS, Bandera County has not officially agreed to nor has it participated in the development of the SEP-HCP, and

WHEREAS, if implemented, the SEP-HCP could directly affect and impact Bandera County and Bandera County landowners, and

WHEREAS, such impact may have severe or negative economic consequences to Bandera County and its landowners, and

WHEREAS, it is the responsibility of the County Commissioner's Court to protect the health, safety, and welfare of its residents, including Bandera landowners, and

WHEREAS, Bandera County does not intend to participate in nor apply for the SEP-HCP or any other habitat conservation plan in the future and will continuously monitor and oversee any effort on the part of U.S. Fish and Wildlife Service or any other entity attempting to implement this or any similar plan in Bandera County; now

NOW THEREFORE, BE IT RESOLVED, that on this 28th day of December, 2010, Bandera County Commissioner's Court will not support nor participate in the creation of the SEP-HCP and demands that Bandera County be removed from any habitat conservation plan permit application and planning committee and as of this date be removed from any plans that may include the county or any landowners within Bandera County, and

BE IT FURTHER RESOLVED, that any reference to Bandera County participating in the creation of the SEP-HCP shall be removed from in any and all documents, permit applications, and records that may commit Bandera County to this process and that this resolution shall be mailed to all participants of and applicants to the SEP-HCP.

Approved this 28th day of December, 2010.

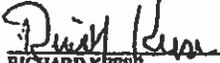
000621

000622

BANDERA COUNTY COMMISSIONERS COURT


H. BRUCE BLAKER
COMMISSIONER PCT. #1


ROBERT A. HARRIS
COMMISSIONER PCT. #2


RICHARD KEESE
COMMISSIONER PCT. #3


DOUG KING
COMMISSIONER PCT. #4


RICHARD A. EVANS
COUNTY JUDGE

ATTEST:


CANDY WHEELER
COUNTY CLERK

000622

RESOLUTION

WHEREAS, the Blanco County Commissioners Court supports private property rights and the ability of individual landowners to use their property, and

WHEREAS, Bexar County and the City of San Antonio are developing an application to submit to the U.S. Fish and Wildlife Service to establish a regional habitat conservation plan known as the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) that includes multiple counties, including Blanco County, and

WHEREAS, Blanco County has not officially agreed to nor has it participated in the development of the SEP-HCP, and

WHEREAS, if implemented, the SEP-HCP could directly affect and impact Blanco County and Blanco County landowners, and

WHEREAS, such impact may have severe or negative economic consequences to Blanco County and its landowners, and

WHEREAS, it is the responsibility of the County Commissioners Court to protect the health, safety, and welfare of its residents, including Blanco County landowners. and

WHEREAS, Blanco County does not intend to participate in nor apply for the SEP-HCP or any other habitat conservation plan in the future and will continuously monitor and oversee any effort on the part of the U.S. Fish and Wildlife Service or any other entity attempting to implement this or any similar plan in Blanco County.

NOW THEREFORE BE IT RESOLVED that the Blanco County Commissioners Court will not support nor participate in the creation of the SEP-HCP and demands that Blanco County be removed from any habitat conservation plan permit application and planning committee and as of this date be removed from any plans that may include the County of any landowners within Blanco County, and

BE IT FURTHER RESOLVED, that any reference to Blanco County participating in the creation of the SEP-HCP shall be removed from any and all documents, permit applications, and records that may commit Blanco County to this process.

PASSED, SIGNED AND APPROVED THIS 23rd day of February,
2011.

Bill Guthrie
BILL GUTHRIE, COUNTY JUDGE

John Wood
John Wood
Commissioner, Precinct 1

Chris Liesmann
Chris Liesmann
Commissioner, Precinct 3

James Sultemeier
James Sultemeier
Commissioner, Precinct 2

Paul Granberg
Paul Granberg
Commissioner, Precinct 4

ATTEST:

Karen Newman
Karen Newman, County Clerk

STATE OF TEXAS
KENDALL COUNTY

KENDALL COUNTY RESOLUTION NO. 02-28-2011A

RESOLUTION CONCERNING THE PROPOSED
SOUTHERN EDWARDS PLATEAU – HABITAT CONSERVATION PLAN

WHEREAS, THE KENDALL COUNTY COMMISSIONERS COURT IS COMMITTED TO PROTECTING PRIVATE PROPERTY RIGHTS AND THE ABILITY OF INDIVIDUAL LANDOWNERS TO USE THEIR PROPERTY, AND

WHEREAS, IT IS THE RESPONSIBILITY OF THE KENDALL COUNTY COMMISSIONERS COURT TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF ITS RESIDENTS, AND

WHEREAS, THE CITY OF SAN ANTONIO AND BEXAR COUNTY TOGETHER WITH OTHER ENTITIES, ARE INVOLVED IN PREPARING A HABITAT CONSERVATION PLAN IDENTIFIED AS THE SOUTHERN EDWARDS PLATEAU – HABITAT CONSERVATION PLAN (SEP-HCP) TO SUBMIT TO USF&WS; AND

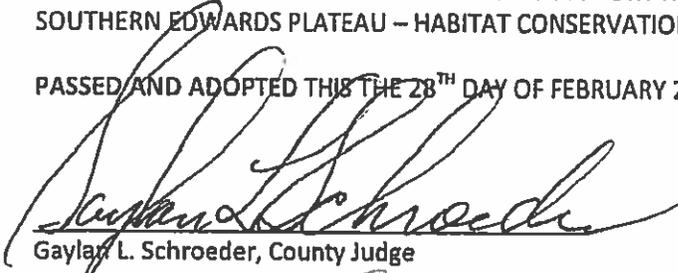
WHEREAS, KENDALL COUNTY HAS NOT OFFICIALLY AGREED TO NOR HAS IT PARTICIPATED IN THE DEVELOPMENT OF THE SEP-HCP, AND

WHEREAS, IF IMPLEMENTED, THE SEP-HCP MAY HAVE AN ADVERSE IMPACT ON KENDALL COUNTY AND ITS LANDOWNERS, AND

WHEREAS, THE KENDALL COUNTY COMMISSIONERS COURT DOES NOT SEE THE NEED FOR A HABITAT CONSERVATION PLAN COVERING KENDALL COUNTY AND WILL NOT APPLY FOR SUCH A PLAN OR JOIN IN THE APPLICATION FOR SUCH A PLAN:

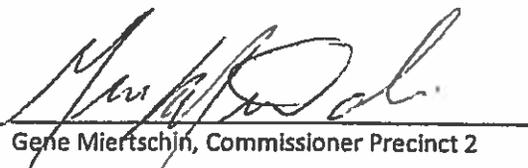
NOW THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF KENDALL COUNTY TEXAS, THAT THE COMMISSIONERS COURT WILL NOT SUPPORT NOR PARTICIPATE IN THE CREATION OF THE SOUTHERN EDWARDS PLATEAU – HABITAT CONSERVATION PLAN.

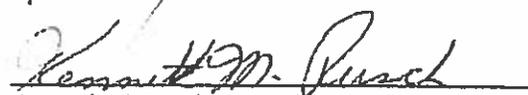
PASSED AND ADOPTED THIS THE 28TH DAY OF FEBRUARY 2011.


Gaylan L. Schroeder, County Judge


Ann E. Reissig, Commissioner Precinct 1


Darrel L. Lux, Commissioner Precinct 3


Gene Miertschin, Commissioner Precinct 2


Kenneth M. Rusch, Commissioner Precinct 4

ATTEST: 
Darlene Herrin, County Clerk

#31945

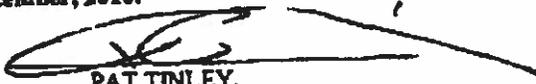
RESOLUTION

RESOLUTION OF KERR COUNTY COMMISSIONERS' COURT SETTING FORTH ITS CONCERNS AND POSITION ON THE PROPOSED SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN (SEP-HCP)

- WHEREAS,** Individual private property rights are one of the fundamental rights set forth in the Constitution of the United States of America and Kerr County Commissioners' Court has a history of standing up for protecting these property rights and enabling individuals the right to use their property, and
- WHEREAS,** Bexar County is developing an application to submit to the U. S. Fish and Wildlife Service to establish a regional habitat conservation plan that may include Kerr County, and
- WHEREAS,** Kerr County Commissioners' Court acknowledges Bexar County may have the need for such a plan and appreciates Bexar County soliciting input from residents of Kerr County.
- WHEREAS,** The Federal Endangered Species Act and applicable State laws concerning listed and/or threatened species currently exist and apply to property, wildlife and habitat in Kerr County, and
- WHEREAS,** The SEP-HCP may impact landowners, wildlife, endangered species and habitats in Kerr County, and
- WHEREAS,** Kerr County Commissioners' Court does not intend to apply for a habitat conservation plan covering Kerr County and does not believe there is a need for such a plan at this time, and
- WHEREAS,** Kerr County Commissioners' Court understands that the SEP-HCP has not yet been written and therefore the specifics of the plan are unknown, and
- WHEREAS,** Kerr County Commissioners Court is the local governmental entity that represents the residents of Kerr County and is submitting this resolution to provide input to Bexar County to help guide this decision; now

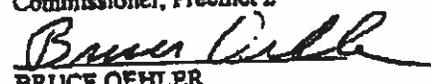
THEREFORE, BE IT RESOLVED, that on this day, the 13th of December 2010, Kerr County Commissioners' Court does not want to participate in this plan and requests that Kerr County not be included in the SEP-HCP. Should Kerr County, its residents or other entities in Kerr County want to participate in the SEP-HCP such request by Kerr County, its residents, or other entities should be made by resolution or letter to Bexar County.

Approved this 13th day of December, 2010.


 PAT TINLEY,
 Kerr County Judge


 H.A. "BUSTER" BALDWIN,
 Commissioner, Precinct 1


 JONATHAN LETZ
 Commissioner, Precinct 3

Commissioner, Precinct 2

 BRUCE OEHLER,
 Commissioner, Precinct 4

James E. Barden
County Judge

Richard Saathoff
Commissioner Precinct No. 1

Larry Sittre
Commissioner Precinct No. 2

David Lynch
Commissioner Precinct No. 3

Jerry Beck
Commissioner Precinct No. 4

Medina County Commissioners Court

1100 16TH Street
Room 101
Hondo, Texas 78861
(830) 741-6020
(830) 741-6025 Fax



RESOLUTION OPPOSING THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN

WHEREAS, Medina County Commissioners Court supports private property rights and ability of individual landowners to use their property, and

WHEREAS, Bexar County and the City of San Antonio apparently are developing an application to submit to the U.S. Fish and Wildlife Service to establish a regional habitat conservation Plan (SEP-HCP) that includes multiple counties, including Medina County, and

WHEREAS, Medina County has not agreed to, nor has it been afforded an opportunity, to participate in the development of the SEP-HCP, and

WHEREAS, if implemented, the SEP-HCP could directly affect and impact Medina County and Medina County citizens, and

WHEREAS, such impact may have severe or negative economic consequences to Medina County and its citizens, and

WHEREAS, it is the responsibility of the County Commissioners Court to protect the health, safety and welfare of its residents, including Medina County landowners, and

WHEREAS, this resolution of Medina County Commissioners Court shall not be construed in any way to infringe on the individual property owners' right to use, sell, lease or otherwise manage their land or enter into any contract agreed to by the landowner, and

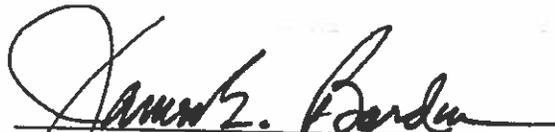
WHEREAS, Medina County has not been invited to participate in, nor does it intend to apply for the SEP-HCP or any other habitat conservation plan in the future, and will oppose any effort on the part of U.S. Fish and Wildlife Service or any other entity attempting to implement this or any similar plan in Medina County in which it has not participated in developing;

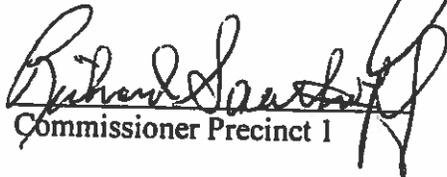
NOW THEREFORE BE IT RESOLVED, that on this 25th day of April, 2011 Medina County Commissioners' Court will not support the creation of the SEP-HCP and demands that Medina County be removed from any habitat conservation plan permit

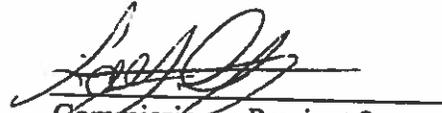
application and as of this date be removed from any plans that may include the county or any landowners within Medina County, and

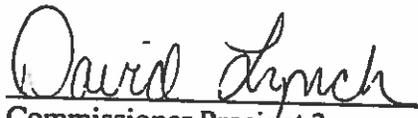
BE IT FURTHER RESOLVED, that any reference to Medina County participating in the creation of the SEP-HCP shall be removed from any and all documents, permit applications, and records that may represent Medina County as participating in or endorsing this process and that this resolution shall be mailed to all known participants in and applicants to the SEP-HCP.

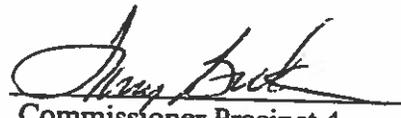
Adopted in open general session this 25th day of April, 2011.


County Judge

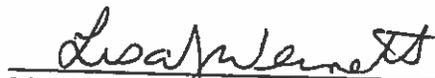

Commissioner Precinct 1


Commissioner Precinct 2


Commissioner Precinct 3


Commissioner Precinct 4

ATTEST:


Lisa Wernet, County Clerk

**STATE OF TEXAS
KENDALL COUNTY**

KENDALL COUNTY RESOLUTION NO. 03-09-2015

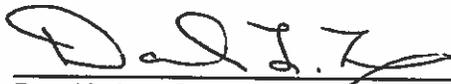
**RESOLUTION OPPOSING PROVISIONS IN THE
SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN
THAT WOULD AFFECT PRIVATE PROPERTY RIGHTS IN KENDALL COUNTY**

- WHEREAS,** INDIVIDUAL PROPERTY RIGHTS, THE RIGHT OF LAND OWNERS TO USE THEIR PROPERTY IN THE MANNER THAT THE OWNERS DETERMINE IS IN THE BEST INTERESTS OF THE OWNERS, THEIR FAMILY MEMBERS AND HEIRS, IS ONE OF THE FUNDAMENTAL PRINCIPLES UPON WHICH THIS NATION AND STATE ARE FOUNDED; AND
- WHEREAS,** THE KENDALL COUNTY COMMISSIONERS COURT IS COMMITTED TO PROTECTING PRIVATE PROPERTY RIGHTS; AND
- WHEREAS,** THE ENDANGERED SPECIES ACT (ESA), ADOPTED BY THE U. S. CONGRESS AND SIGNED INTO LAW IN 1973 IS DIRECTED AT PROTECTING PLANTS AND ANIMALS IDENTIFIED AS BEING "ENDANGERED" OR "THREATENED"; AND
- WHEREAS,** THE U.S. FISH AND WILDLIFE SERVICE (USF&WS) IS THE FEDERAL AGENCY RESPONSIBLE FOR ADMINISTERING AND ENFORCING THE ESA; AND
- WHEREAS,** AS AMENDED IN 1982, THE ESA PROVIDES FOR HABITAT CONSERVATION PLANS TO BE SUBMITTED TO USF&WS TO ALLOW FOR DEVELOPMENT OF PROPERTY IN ONE AREA BY REQUIRING THE SET ASIDE OF PROPERTY IN ANOTHER AREA; AND
- WHEREAS,** BECAUSE THE ESA PREVENTS DEVELOPERS FROM DEVELOPING SOME PROPERTY LOCATED IN BEXAR COUNTY, THE CITY OF SAN ANTONIO AND BEXAR COUNTY (APPLICANTS) TOGETHER WITH OTHER ENTITIES, HAVE SUBMITTED A HABITAT CONSERVATION PLAN IDENTIFIED AS THE SOUTHERN EDWARDS PLATEAU-HABITAT CONSERVATION PLAN (SEP-HCP) TO USF&WS PROPOSING THAT REAL PROPERTY BE SET ASIDE IN COUNTIES ADJACENT TO BEXAR COUNTY OUTSIDE THEIR JURISDICTION, INCLUDING KENDALL COUNTY, IN ORDER TO ALLOW DEVELOPMENT IN BEXAR COUNTY; AND
- WHEREAS,** THE APPLICANTS' AUTHORITY CONCERNING A HABITAT CONSERVATION PLAN IS LIMITED TO THAT AREA WITHIN ITS OWN BOUNDARIES AND CANNOT EXTEND ITS AUTHORITY BEYOND SUCH BOUNDARIES WITHOUT EXPLICIT PERMISSION FROM ANY AFFECTED COUNTIES; AND
- WHEREAS,** IN 2011, THE COMMISSIONERS COURT OF KENDALL COUNTY ADOPTED A RESOLUTION BY UNANIMOUS VOTE OPTING OUT OF THE SEP-HCP, THEREBY DENYING PERMISSION TO BE INCLUDED IN THE AREA AFFECTED BY THE SEP-HCP; AND
- WHEREAS,** THE COMMISSIONERS COURT OF KENDALL COUNTY IS NOT OPPOSED TO A LAND OWNER VOLUNTARILY DESIGNATING THEIR LAND AS A CONSERVATION AREA OR HABITAT PROTECTION AREA, BUT THE COURT IS STRONGLY OPPOSED TO ANY PROVISIONS IN THE SEP-HCP THAT WOULD REQUIRE A LAND OWNER TO SET ASIDE PROPERTY AS A HABITAT PROTECTION AREA OR CONSERVATION AREA, OR THAT WOULD AFFECT THE PROPERTY ADJACENT TO AN AREA SET ASIDE AS A HABITAT PROTECTION AREA OR CONSERVATION AREA WITHOUT THAT PROPERTY OWNER'S CONSENT; AND

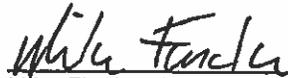
WHEREAS, AS THE REPRESENTATIVE OF ALL OF THE CITIZENS OWNING PROPERTY IN ALL THE UNINCORPORATED AREAS OF KENDALL COUNTY, THE COMMISSIONERS COURT FINDS AND DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CITIZENS OF THE COUNTY THAT THOSE ENTITIES INVOLVED IN THE CONSIDERATION OF THE SEP-HCP BE ADVISED OF THE CONCERNS THAT THE CITIZENS AND THE COMMISSIONERS COURT HAVE ABOUT THE SEP-HCP AND ANY IMPACT IT MAY HAVE ON THE PRIVATE PROPERTY RIGHTS OF THE PEOPLE OF KENDALL COUNTY:

NOW THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF KENDALL COUNTY, TEXAS, THAT THE COMMISSIONERS COURT OPPOSES, AND WILL NOT SUPPORT, ANY PROVISIONS IN THE SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN THAT WOULD ADVERSELY AFFECT THE PRIVATE PROPERTY RIGHTS OF LAND OWNERS IN KENDALL COUNTY, TEXAS, ESPECIALLY THOSE AREAS IN KENDALL COUNTY WITHIN APPLICANTS' CLAIM OF EXTENDED BOUNDARIES UNDER EXTRA TERRITORIAL JURISDICTION; DEMANDS THAT USF&WS GIVE NO CONSIDERATION TO SUCH PROVISIONS; AND FURTHER REQUESTS THAT USF&WS DENY THE SEP - HCP APPLICATION FOR AN INCIDENTAL TAKE PERMIT ID: FWS-R2-ES-2014-0053 AS PUBLISHED IN THE FEDERAL REGISTER ON DECEMBER 19, 2014.

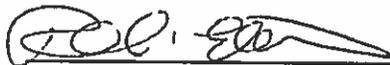
PASSED AND ADOPTED THIS 9TH DAY OF MARCH 2015.



Darrel L. Lux, County Judge



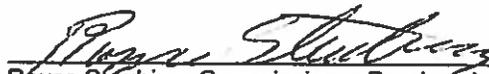
Mike Fincke, Commissioner Precinct 1



Richard W. Elkins, Commissioner Precinct 2



Tommy Pfeiffer, Commissioner Precinct 3



Royce Steubing, Commissioner Precinct 4

ATTEST: 

Darlene Herrin, County Clerk

SINCE IVE HAD NO CONFIRMATION YOU
GOT MY EMAIL COMMENTS, I THOUGHT
I BETTER MAKE THEM, TOO :

Myfe White Moore-Rancho Blanco

RECEIVED

FEB 25 2015

Div. of Policy & Dir. Mgt.

To: USFW

Re: FWS-R2-ES-2014-0053

February 3, 2015

My comments to the FWS/ public
meeting:

The PUBLIC MEETING in Helotes, Texas
was WORTHLESS. It was a classic dog and
pony show, not truly interested in
feedback and certainly out of touch
with reality: GERMAN TRANSLATORS??????
WHO ARE THE LOONATICKS PLANNING THIS
EVENT?????? Good grief.

The SEPHCA plan is extremely
environmentally damaging, too far
reaching (9 species in 7 counties!!!!),
mitigation too far away from where the
damage was done, and hopelessly out of
touch with the landowners and land
stewards (German translators???)

1. ALL MITIGATION SHOULD HAPPEN IN THE IMMEDIATE AREA OF TAKE.

2. THIS SEPHCA PLAN IGNORES 70 2010-2015 DOCUMENTS AND SCIENTIFIC PAPERS AT UT-AUSTIN. NONE WERE REFERENCED IN YOUR 2015 SEPHCA PLAN.

3. NO EXISITNG PARKS AND OPEN SPACES ALREADY PROTECTED SHOULD BE USED FOR THIS 2015 SEPHCA PLAN.

4. MINIMUM DESIGN FOR PRESERVES IS NOT ACCEPTABLE.

5. THE OVERSEER OF THE REFUGES IS NOT MENTIONED. WHO WILL OVERSEE AND ENFORCE?

6. INCLUDE THE 2 SPECIES YOU LEFT OFF THE 2011-2014 PLANNED SEPHCA. YOU LEFT THEM OFF THIS PLAN.

RECEIVED

MAR 27 2015

Div. of Policy & Dir. Mgt.

SCENIC LOOP – BOERNE STAGE ALLIANCE

Protecting and Preserving Our Heritage

Member Organizations

Friends of Historic Boerne Stage Road
Greater Edwards Aquifer Alliance
(GEAA)
Helotes Heritage Association
Hill Country Planning Association
Old Spanish Trail - 100
The City of Grey Forest

16 March 2015

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy Directives Mgt.
U.S. Fish & Wildlife Service
4401 N. Fairfax Drive
Arlington, VA 22203

To Whom It May Concern:

Several of our Scenic Loop – Boerne Stage Alliance (SL-BSA) members attended the recent Public Hearing 3 Feb 2015 at 5PM at Casa Helotes in Helotes, TX. Most audience participants were quite disappointed that it really was not a public hearing, where citizens had an opportunity to speak, rather than take a form to complete. It was quite apparent that the primary U.S. Fish & Wildlife representative didn't seem to know those he was introducing, and the current project representative from Bowman Company had to read all of his notes, while we viewed them on the screen. Representatives from Loomis, the previous company in charge of the project, were familiar enough with the details that they rarely even referred to the screen. This doesn't give us much confidence that the current staff in charge really knows and understand this plan.

Many of our SL-BSA members were either stakeholders on the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP), alternates or were regular attendees at all meetings. Several of us attended the majority of the Biological Advisory Team (BAT) meetings, thus knew exactly what their recommendations were to the entire SEPHCP.

Many of the SEPHCP meetings were also attended by representatives from several of Bexar County's contiguous counties involved in the Habitat Plan. It was very apparent at these SEPHCP meetings that the citizens from Kerr County and their Commissioners Court were adamant they did not want to participate in this plan at all. The current Draft Habitat Conservation Plan (dHCP) is in direct conflict with the position taken by Kerr County Commissioners.

The concerns of the Scenic Loop – Boerne Stage Alliance are the same as those of Tom Hayes, ECA and former member of the BAT. They are as follows:

Outline of Necessary Revisions to dHCP/dEIS

Golden Cheek Warbler (GCW) and Black-capped Vireo (BCV)

- Increase GCW mitigation ratio to 3:1 for direct take.
- All take restricted to Bexar County and San Antonio, so resulting mitigation should also be within five miles of Bexar County.
- Current USFWS recommendation should remain the basis for determining presence-absence for all covered species.
- The SEP-HCP should specify minimum design criteria for GCW and BCV.
- A prescriptive management plan for GCW and BCV should be included in the SEP-HCP.
- GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre.

SL-BSA Board

Kennifer Nottingham – President, Treasurer
Lebe Fenstermaker – Vice Pres
Susan Beavin, -Secretary

Advisory Board

Arlene Richardson
Aary Fenstermaker
Blaine Daniel

PO Box 470
Helotes, Texas 78023

SCENIC LOOP – BOERNE STAGE ALLIANCE

Protecting and Preserving Our Heritage

Pg 2

Member Organizations

Friends of Historic Boerne Stage Road

Greater Edwards Aquifer Alliance (GEAA)

Helotes Heritage Association

Hill Country Planning Association

Old Spanish Trail - 100

The City of Grey Forest

- Currently “protected” GCW habitat in the SEP-HCP area that is not permanently protected should not contribute to recovery.
- An adequate funding model to sustain management should be a guaranteed component of preserve acquisitions.

Karst Invertebrates

- Actual surface and subsurface drainage basins should be carefully estimated for very large karst features, so that the plan-prescribed 750-foot distance for Occupied Cave Zone (OCZ) B is extended as necessary to fully protect the most valuable features.
- Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species should be allowed within the OCZ.
- Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) such land donations include a guaranteed management endowment
- Karst participation fees should be increased due to the high biological concern and high land values (conservation cost) in Bexar County.

Plan Structure and Administration

- Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently.
- Independent advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee.
- SEP-HCP administrator should be an independent non-profit entity, affiliated with but not directly managed by the Permittees.
- Program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species should be included in the SEP-HCP.
- The mitigation process for indirect and offsite impacts needs to be included in the SEP-HCP.

IL-BSA Board

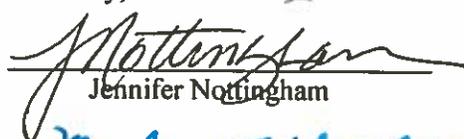
Jennifer Nottingham – President, Treas
Bebe Fenstermaker – Vice Pres
Susan Beavin, -Secretary

Advisory Board

Marlene Richardson
Mary Fenstermaker
Blaine Daniel

Members of the Scenic Loop – Boerne Stage Alliance would appreciate your consideration of these comments and their inclusion in your final document of the SEPHCP.

Sincerely,


Jennifer Nottingham


Bebe Fenstermaker


Marlene Richardson


Susan Beavin


Mary Fenstermaker

Cc:Dr. Benjamin Tuggle

From: Jennifer Nottingham Date: Wed, Mar 18, 2015 at 8:56 AM Subject: SEP_HCP To: Jennifer Nottingham I was a member of the CAC. We were released in 2011 when we could not come to a consensus. As far as I know, the CAC was never contacted regarding the 2014 version of the SEPHCP. I am writing today to let you know the new mitigation areas are wrong (we should be mitigating in Bexar County) and that the developers should be paying (not the taxpayers). Citizens should also have the comment period be extended and a real public hearing (public hearing means citizens ask questions and get answers). Thank you for your time and for whatever you can do to help resolve these matters, Jennifer (Jen) Nottingham Citizen 2106951554 #2 jennottingham@satx.rr.com

ATTN:FWS - R2 - ES - 2014 - 0053
Division of Policy and Directives Management
U. S. Fish and Wildlife Service
4401 N. Fairfax Drive
MS 2042 - PDM; Arlington, Virginia

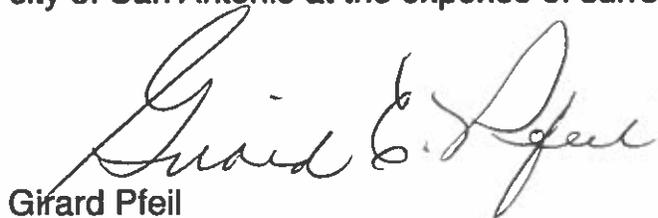
RECEIVED
MAR 18 2015
Div. of Policy & Dir. Mgt.

Why do I, as person, who has tried to be a good steward of my 500 acres in Kendall County for the past 27 years, need help from government bureaucrats? They know nothing about my land, my grazing programs, all the details, the flora and fauna of my acreage. It appears this is just another government over reach, which violates my property rights.

Under no circumstances, have I looked to the government for help running the stock on my ranch. On the contrary, the proposed regulations are attempting to solve a problem that doesn't exist. All it does is attempt to violate the freedom that I, as a citizen of these United States, are guaranteed under the U. S. Constitution.

Please record this letter as demanding the "NO ACTION ALTERNATIVE" which is not to implement this regional habitat conservation plan.

This proposed action is another example of political land grab that benefits the city of San Antonio at the expense of surrounding counties and citizens.



Girard Pfeil
P.O. Box 459
Kendalia, Texas 78027

March 2, 2015

RECEIVED

FEB 11 2015

Public Comments Processing Div. of Policy & Dir. Mgt.
Attn: FWS-R2-ES-2014-0053
Division of Policy Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive
MS 2042-PDM
Arlington, VA 22203

No Action Alternative-Last evening I attended a Public Meeting in Kerrville, TX concerning Draft Southern Edwards Plateau Habitat Conversation Plan Environmental Impact Statement. After being told that no questions could be asked in a public town hall format and after hearing a very brief presentation that raised more questions than it gave answers, I am requesting that no action be taken on moving forward with this project. I should point out that the members of the public refused to comply with the intended format. The following are my reasons for opposition:

San Antonio and Bexar County are fronting for their developer friends- The two public entities were using the U.S. Fish and Wildlife Service and the Endangered Species Act to further cronyism with the developers. If the developers want to develop in north Bexar and the ETG for San Antonio, then let them apply for a permit in the normal way and hold public hearings in Bexar County on a case-by-case basis. If that is too much trouble, maybe the developers should consider building on the South side of San Antonio. This is a perfect example of liberal Democrats wanting to tell others what is good for them and requiring them to submit to Federal regulations, but not wanting the regulations to apply to them and their favorite contributors.

Stay out of the business of the Hill Country Counties-The Hill Country Counties have been saying **no to assisting San Antonio and Bexar County in any way since 2011. What about no do you not understand?** We simply want to be left alone and be in charge of our own development and water resources, which is what is really at stake.

Developers' long-term plan is to get control of the land at Camp Bullis and the surrounding property-The prime area for the Edwards Aquifer Re-charge Zone is Camp Bullis. Also, if they keep on a future BRAC Commission will close the base and Fort Sam Houston with it. That is where they are headed. Then they will cry we don't have enough water so we want to get more from the Hill Country.

Jerry Pierce 
3190 Mickle Creek Road
Medina, Texas 78055
jpierce@hctc.net

SOUTHERN EDWARDS PLATEAU

HABITAT CONSERVATION PLAN

[home page](#)
[news & events](#)
[committees](#)
[documents](#)
[contact us](#)

comments & questions

Let us know what you think!

We are developing the SEP-HCP for the benefit of the regional south central Texas community, and your input helps let us understand the issues that are important to you. All written comments, suggestions, or questions about the SEP-HCP or the planning process are welcome.

Please send your thoughts via email, fax, or U.S. mail to an address on the left.

You may also post a public comment in the box below. *Posted comments may be moderated for inappropriate content.*

Thank You!

sep-hcp consultant team

Bowman
CONSULTING

BOWMAN CONSULTING GROUP, LTD.

Mrs. Jennifer Blair
Senior Biologist
3101 Bee Cave Road, Suite 100
Austin, TX 78746
E-mail: info@sephcp.com
FAX: 512-327-4062

sep-hcp primary partners

BEXAR COUNTY INFRASTRUCTURE SERVICES DEPARTMENT

Mr. Andrew Winter
Environmental Engineer, Project Manager
233 N. Pecos, Suite 420
San Antonio, TX 78207
E-mail: awinter@bexar.org
FAX: 210-335-6713

Comments

Enter your comment here

Comment by [HTML Comment Box](#)

(2 days ago) **Anonymous** said:

obatparuparubasah.utamakansihat.com/obat-kista-rahim
obatkatarak.utamakansihat.com/obat-herbal-infeksi-mata
obatkelenjargetahbening.utamakansihat.com/obat-paru-paru-kotor
obatflekpaparupu.utamakansihat.com/penyebab-dan-gejala-flek-paru-paru
obatflekpaparupu.utamakansihat.com/ciri-ciri-penyakit-flek-paru-paru
obatamandel.utamakansihat.com/pengobatan-amandel-tanpa-operasi
obatamandel.utamakansihat.com/obat-demam-kelenjar
obatkolesterol.utamakansihat.com/obat-flu-tulang
obatbatuginjal.utamakansihat.com
obatgagalqinjal.utamakansihat.com
obatherpes.utamakansihat.com
obattumor.utamakansihat.com

(Feb 18, 2015) **Mr and Mrs Jim Foster** said:

On February 11, a meeting was held in Kerrville for discussion of the conservation plan that did not include Kerr county. That is illogical. We attended and it was obvious from the start that deception was in order. No microphone was present. Comments were to be made quietly in a corner, but a county judge pointed out that for a public meeting to be legal comments could be made.

It is difficult to agree with government employees (whom our taxes support) that we would be willing sellers of our land to developers in San Antonio. Our goal is to continue to develop and produce on the land as our family have before us. Little sense is applied to the intrusive ESA which has a real goal of a real TAKING of personal property by means of a scam. Conservation Easements are definitely allowing the property owner to pay taxes with permission from the government as to how it can be used. Permits and fees only fund abuse from the federal government.

Several years ago 7 counties expressed that they were not interested in participating in the SEPCHP, yet in Kerrville materials passed out showed they were in the plan. Citizens have a clear understanding that "voluntary" is a word that has been misused.

The attendants were not treated with dignity, but with disrespect. We were told comments could be made to a recorder in the corner. A county judge reminded the leader that for the meeting to be a legal public meeting we could speak out and we did.

The Service could work with voluntary land owners to have a success protecting endangered species. Instead the federal government has worked against land owners who only want to produce from the land for the benefit of the people and making a decent living.

(Feb 18, 2015) **Anonymous** said:

test

(Feb 10, 2015) **Anonymous** said:

obatkolesterol.utamakansehat.com
obatgondok.utamakansehat.com
obatmandel.utamakansehat.com
obatpenyakitosteoporosis.utamakansehat.com
caramengobatimiom.utamakansehat.com
obatherbalmandel.utamakansehat.com
obatherbalwasir.utamakansehat.com

(Feb 10, 2015) **Anonymous** said:

obatkelenjargetahbening.utamakansehat.com
obatinsomnia.utamakansehat.com
obatglaukoma.utamakansehat.com
obatpenyakitgula.utamakansehat.com
obatdiabetesbasah.utamakansehat.com
obatkeningmaniskering.utamakansehat.com
obatnyerisendi.utamakansehat.com
obatkeningmanis.utamakansehat.com
obathipertiroid.utamakansehat.com
obastroke.utamakansehat.com
obattbckelenjar.utamakansehat.com
obatinfeksipayudara.blogspot.com/2015/01/obat-bronchitis.html
obatradangjantung.blogspot.com/2015/02/obat-asma.html
jualobatdiabetes-acemaxs.blogspot.com/2015/02/obat-demam-berdarah.html
obatinfeksipayudara.blogspot.com/2015/02/obat-gula-basah.html
acemaxs-obatt.blogspot.com/2015/02/obat-jantung-bengkak.html
obathipertiroid.utamakansehat.com/obat-penyakit-angin-duduk
obastroke.utamakansehat.com/obat-penyakit-gondongan
obattbckelenjar.utamakansehat.com/obat-penyakit-kencing-manis

(Feb 9, 2015) **Anonymous** said:

obatpenyakitjantungkoroner.utamakansehat.com
obatpenyakitwasir.utamakansehat.com
obatpenyakitbronchitis.utamakansehat.com
obatpenyakitthermia.utamakansehat.com
obatpenyakitflekiparuparu.utamakansehat.com
obatpenyakitususbuntu.utamakansehat.com
obatpenyakitipertiroid.utamakansehat.com
obatpenyakitgagalginjal.utamakansehat.com
obatparuparubasah.utamakansehat.com
obatkatarak.utamakansehat.com
obatkatarak.utamakansehat.com/obat-herbal-infeksi-mata
obattbckelenjar.utamakansehat.com
obatgulubasah.utamakansehat.com
obatdiabeteskering.utamakansehat.com
obatkeningmanisbasah.utamakansehat.com
obatinfeksitelinga.utamakansehat.com
obatflekiparuparu.utamakansehat.com/

(Feb 8, 2015) **Anonymous** said:

pengobatanbatuginjal.utamakansehat.com
pengobatanwasir.utamakansehat.com
obatkolesteroltinggi.utamakansehat.com
obatradangsendi.utamakansehat.com
obatbeniolandipayudara.utamakansehat.com

(Feb 3, 2015) **Randy Johnson** said:

Andy, If the permit is for 30 years what happens after 30 years? Is there a minimum amount of acres that can be put in the easement?
Thanks,
Randy Johnson

(Jan 29, 2015) **Anonymous** said:

[qoo.gl/4V6m3E](#)
[qoo.gl/9ScIzL](#)
[qoo.gl/a3p6Rl](#)
[qoo.gl/JKV6oq](#)
[qoo.gl/qm1Wcd](#)
[qoo.gl/CP2kL3](#)
[qoo.gl/pEmRkj](#)
[qoo.gl/FB5bD4](#)
[qoo.gl/GtyIol](#)
[qoo.gl/0KqIv7](#)
[qoo.gl/58fek2](#)
[qoo.gl/S8kfq9](#)
[qoo.gl/oozxr9](#)
[qoo.gl/IVpwXp](#)
[qoo.gl/6GCcTI](#)
[qoo.gl/3L1CZ3](#)
[qoo.gl/Jp2ilH](#)
[qoo.gl/OekaNH](#)
[qoo.gl/va2aKx](#)
[qoo.gl/J8OrGK](#)

(Jan 28, 2015) **Anonymous** said:

[qoo.gl/5mbkoO](#)
[qoo.gl/YZ3xSj](#)
[qoo.gl/oLv4T](#)
[qoo.gl/1V4fxa](#)
[qoo.gl/P6yq8H](#)
[qoo.gl/oVP078](#)
[qoo.gl/cCzOup](#)
[qoo.gl/qPBDnu](#)
[qoo.gl/zqIGes](#)
[qoo.gl/CctKCv](#)
[qoo.gl/IA4RBY](#)
[qoo.gl/on1ONH](#)
[qoo.gl/9uOUB6](#)
[qoo.gl/flrNaz](#)
[qoo.gl/oQVVEK](#)
[qoo.gl/qGMvfH](#)
[qoo.gl/bm1deV](#)
[qoo.gl/XV5ntP](#)
[qoo.gl/nqZMKP](#)
[qoo.gl/LxEMss](#)
[qoo.gl/Xu1iCL](#)
[qoo.gl/ZotZzo](#)
[qoo.gl/qFhSmY](#)
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STATE OF TEXAS
KENDALL COUNTY

KENDALL COUNTY RESOLUTION NO. 03-09-2015

RESOLUTION OPPOSING PROVISIONS IN THE
SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN
THAT WOULD AFFECT PRIVATE PROPERTY RIGHTS IN KENDALL COUNTY

- WHEREAS,** INDIVIDUAL PROPERTY RIGHTS, THE RIGHT OF LAND OWNERS TO USE THEIR PROPERTY IN THE MANNER THAT THE OWNERS DETERMINE IS IN THE BEST INTERESTS OF THE OWNERS, THEIR FAMILY MEMBERS AND HEIRS, IS ONE OF THE FUNDAMENTAL PRINCIPLES UPON WHICH THIS NATION AND STATE ARE FOUNDED; AND
- WHEREAS,** THE KENDALL COUNTY COMMISSIONERS COURT IS COMMITTED TO PROTECTING PRIVATE PROPERTY RIGHTS; AND
- WHEREAS,** THE ENDANGERED SPECIES ACT (ESA), ADOPTED BY THE U. S. CONGRESS AND SIGNED INTO LAW IN 1973 IS DIRECTED AT PROTECTING PLANTS AND ANIMALS IDENTIFIED AS BEING "ENDANGERED" OR "THREATENED"; AND
- WHEREAS,** THE U.S. FISH AND WILDLIFE SERVICE (USF&WS) IS THE FEDERAL AGENCY RESPONSIBLE FOR ADMINISTERING AND ENFORCING THE ESA; AND
- WHEREAS,** AS AMENDED IN 1982, THE ESA PROVIDES FOR HABITAT CONSERVATION PLANS TO BE SUBMITTED TO USF&WS TO ALLOW FOR DEVELOPMENT OF PROPERTY IN ONE AREA BY REQUIRING THE SET ASIDE OF PROPERTY IN ANOTHER AREA; AND
- WHEREAS,** BECAUSE THE ESA PREVENTS DEVELOPERS FROM DEVELOPING SOME PROPERTY LOCATED IN BEXAR COUNTY, THE CITY OF SAN ANTONIO AND BEXAR COUNTY (APPLICANTS) TOGETHER WITH OTHER ENTITIES, HAVE SUBMITTED A HABITAT CONSERVATION PLAN IDENTIFIED AS THE SOUTHERN EDWARDS PLATEAU-HABITAT CONSERVATION PLAN (SEP-HCP) TO USF&WS PROPOSING THAT REAL PROPERTY BE SET ASIDE IN COUNTIES ADJACENT TO BEXAR COUNTY OUTSIDE THEIR JURISDICTION, INCLUDING KENDALL COUNTY, IN ORDER TO ALLOW DEVELOPMENT IN BEXAR COUNTY; AND
- WHEREAS,** THE APPLICANTS' AUTHORITY CONCERNING A HABITAT CONSERVATION PLAN IS LIMITED TO THAT AREA WITHIN ITS OWN BOUNDARIES AND CANNOT EXTEND ITS AUTHORITY BEYOND SUCH BOUNDARIES WITHOUT EXPLICIT PERMISSION FROM ANY AFFECTED COUNTIES; AND
- WHEREAS,** IN 2011, THE COMMISSIONERS COURT OF KENDALL COUNTY ADOPTED A RESOLUTION BY UNANIMOUS VOTE OPTING OUT OF THE SEP-HCP, THEREBY DENYING PERMISSION TO BE INCLUDED IN THE AREA AFFECTED BY THE SEP-HCP; AND
- WHEREAS,** THE COMMISSIONERS COURT OF KENDALL COUNTY IS NOT OPPOSED TO A LAND OWNER VOLUNTARILY DESIGNATING THEIR LAND AS A CONSERVATION AREA OR HABITAT PROTECTION AREA, BUT THE COURT IS STRONGLY OPPOSED TO ANY PROVISIONS IN THE SEP-HCP THAT WOULD REQUIRE A LAND OWNER TO SET ASIDE PROPERTY AS A HABITAT PROTECTION AREA OR CONSERVATION AREA, OR THAT WOULD AFFECT THE PROPERTY ADJACENT TO AN AREA SET ASIDE AS A HABITAT PROTECTION AREA OR CONSERVATION AREA WITHOUT THAT PROPERTY OWNER'S CONSENT; AND

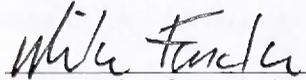
WHEREAS, AS THE REPRESENTATIVE OF ALL OF THE CITIZENS OWNING PROPERTY IN ALL THE UNINCORPORATED AREAS OF KENDALL COUNTY, THE COMMISSIONERS COURT FINDS AND DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CITIZENS OF THE COUNTY THAT THOSE ENTITIES INVOLVED IN THE CONSIDERATION OF THE SEP-HCP BE ADVISED OF THE CONCERNS THAT THE CITIZENS AND THE COMMISSIONERS COURT HAVE ABOUT THE SEP-HCP AND ANY IMPACT IT MAY HAVE ON THE PRIVATE PROPERTY RIGHTS OF THE PEOPLE OF KENDALL COUNTY:

NOW THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF KENDALL COUNTY, TEXAS, THAT THE COMMISSIONERS COURT OPPOSES, AND WILL NOT SUPPORT, ANY PROVISIONS IN THE SOUTHERN EDWARDS PLATEAU - HABITAT CONSERVATION PLAN THAT WOULD ADVERSELY AFFECT THE PRIVATE PROPERTY RIGHTS OF LAND OWNERS IN KENDALL COUNTY, TEXAS, ESPECIALLY THOSE AREAS IN KENDALL COUNTY WITHIN APPLICANTS' CLAIM OF EXTENDED BOUNDARIES UNDER EXTRA TERRITORIAL JURISDICTION; DEMANDS THAT USF&WS GIVE NO CONSIDERATION TO SUCH PROVISIONS; AND FURTHER REQUESTS THAT USF&WS DENY THE SEP - HCP APPLICATION FOR AN INCIDENTAL TAKE PERMIT ID: FWS-R2-ES-2014-0053 AS PUBLISHED IN THE FEDERAL REGISTER ON DECEMBER 19, 2014.

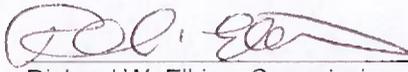
PASSED AND ADOPTED THIS 9TH DAY OF MARCH 2015.



Darrel L. Lux, County Judge



Mike Fincke, Commissioner Precinct 1



Richard W. Elkins, Commissioner Precinct 2



Tommy Pfeiffer, Commissioner Precinct 3



Royce Steubing, Commissioner Precinct 4

ATTEST: 

Darlene Herrin, County Clerk

Real Edwards Conservation and Reclamation District

P.O. Box 807 • 106 East 4th Street
Camp Wood, TX 78833 • www.recrd.org • info@recrd.org
Phone (830) 597-3322 • Fax (830) 597-3320

Joel Pigg
General Manager

Resolution Against Inclusion Of Real-Edwards

Conservation and Reclamation District In

Southern Edwards Plateau Habitat Conservation Plan

- WHEREAS,** Bexar County and the City of San Antonio, among other, are applicants under the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP), and
- WHEREAS,** the permit plan area and/or incidental take permit area for the SEP-HCP includes areas which are not within the geographic boundaries of the applicants under the SEP-HCP, and
- WHEREAS,** individual property rights are among the fundamental rights of United States Citizens and Real-Edwards Conservation and Reclamation District Board of Directors staunchly supports the protection of private property rights, and
- WHEREAS,** the SEP-HCP may adversely impact landowners, wildlife, endangered or threatened species and habitats in Real County or Edwards County.

NOW THEREFORE BE IT RESOLVED, that the Real-Edwards Conservation and Reclamation District Board of Directors does not desire, request or intend for Real County or Edwards County to participate in the SEP-HCP, and

BE IT FURTHER RESOLVED, that Real-Edwards Conservation and Reclamation District Board of Directors objects to the inclusion of Real County or Edwards County in the SEP-HCP and/or in any permit plan area and/or incidental take permit area for the SEP-HCP.

ADOPTED THE 10th DAY OF OCTOBER 2012.

Board of Directors

Roland "Tooter" Trees, President
Carl Hyde, Vice President
Richard Sprouse, Secretary/Treasurer

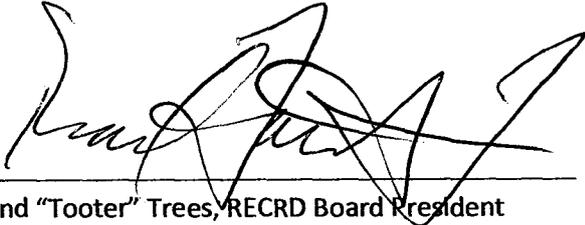
William R. (Bob) Burditt, Director
Stan Cottle, Director
Glen Ivey, Director

Charles Carson, III, Director
Sam A. Epperson, Director
Dub Suttle, Director

Real Edwards Conservation and Reclamation District

P.O. Box 807 • 106 East 4th Street
Camp Wood, TX 78833 • www.recrd.org • info@recrd.org
Phone (830) 597-3322 • Fax (830) 597-3320

Joel Pigg
General Manager



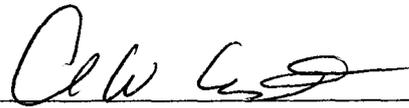
Roland "Tooter" Trees, RECRD Board President



Carl Hyde, RECRD Board Vice President

Absent

Richard Sprouse, RECRD Board Secretary



Charles W. Carson III, RECRD Board Member



Stan Cottle, RECRD Board Member



Sam Epperson, RECRD Board Member



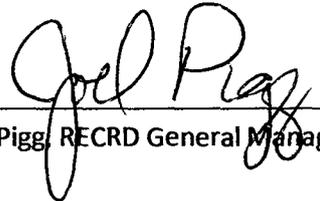
Dub Suttle, RECRD Board Member



William "Bob" Burditt, RECRD Board Member

Absent

Glen Ivey, RECRD Board Member



Joel Pigg, RECRD General Manager

Board of Directors

Roland "Tooter" Trees, President
Carl Hyde, Vice President
Richard Sprouse, Secretary/Treasurer

William R. (Bob) Burditt, Director
Stan Cottle, Director
Glen Ivey, Director

Charles Carson, III, Director
Sam A. Epperson, Director
Dub Suttle, Director



DEPARTMENT OF THE ARMY
CAMP STANLEY STORAGE ACTIVITY, MCAAP
25800 RALPH FAIR ROAD, BOERNE, TX 78015-4800

March 17, 2015

Office of the Staff Judge Advocate

Public Comments Processing, Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service; MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

To whom it may concern,

Thank you for the opportunity to comment on the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP) and draft Environmental Impact Statement (EIS). As a federal agency, we will not be covered by the incidental take of this plan, however, we support the plan because we believe it will provide a streamlined method for management of development around Camp Stanley and Camp Bullis which should improve compliance by nonfederal parties.

We are aware of only a handful of site specific habitat conservation plans and Section 7 consultations ever being done in Bexar County. With tens of thousands of acres of development occurring in the county, it is questionable whether many developers complied with performing endangered species mitigation. We believe development is displacing Golden-cheeked Warbler (GCWA) onto our military installations. Having a streamlined means of complying, as has been the case with a regional HCP in Travis County since 1996, should encourage more developers to comply with the Endangered Species Act. We hope that having a regional HCP will stop the net loss of habitat in the overall area and result in more mitigation being done.

We are concerned that the Biological Advisor Team's (BAT's) recommendation for a specific percentage of GCWA habitat to be obtained within Bexar County is not in the draft plan or EIS. We understand the cost realities over the BAT's figure of 60% may make the plan too expensive to implement, but believe some minimal percentage (such as 30% within Bexar County and 5 miles surrounding) is needed so that it doesn't end up that all the mitigation is done outside of Bexar County. Doing so would leave Camp Stanley and Camp Bullis (and Government Canyon State Natural Area, a few city owned parks and Proposition 1 tracts and a few tracts Camp Bullis helped set up as mitigation properties) as the only remaining GCWA habitat in Bexar County.

Sincerely,

A handwritten signature in black ink that reads "James V. Cannizzo".

James V. Cannizzo
Attorney Advisor, Camp Stanley (Army Material
Command, AMC) and Retained Army Functions at
Fort Sam Houston and Camp Bullis



DEPARTMENT OF THE ARMY
CAMP STANLEY STORAGE ACTIVITY, MCAAP
25800 RALPH FAIR ROAD, BOERNE, TX 78015-4800

March 17, 2015

Office of the Staff Judge Advocate

Public Comments Processing, Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service; MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

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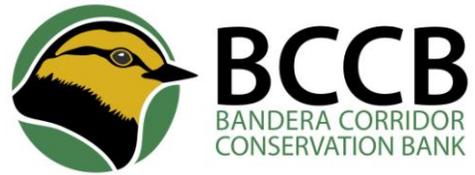
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Sincerely,

A handwritten signature in black ink that reads "James V. Cannizzo". The signature is written in a cursive style.

James V. Cannizzo
Attorney Advisor, Camp Stanley (Army Material
Command, AMC) and Retained Army Functions at
Fort Sam Houston and Camp Bullis



March 19, 2015

Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: Comments on the Draft Southern Edwards Plateau Habitat Conservation Plan and Draft Environmental Impact Statement

To whom it may concern,

Thank you for the opportunity to comment on the draft Southern Edwards Plateau Habitat Conservation Plan (SEP dHCP) and the associated draft Environmental Impact Statement (dEIS). On behalf of the Bandera Corridor Conservation Bank, Bandera Conservation Corridor LLC stands in support of U.S. Fish and Wildlife's (USFWS) approval and authorization of the proposed permit application.

- In effort to provide greater opportunities for offsets to occur closer to covered impacts, we encourage the Applicant to consider revising the participation fees for the Golden-cheeked Warbler (GCWA) and Black-capped Vireo (BCVI) to more accurately reflect land values of the current real estate market.
- We discourage the Applicant from utilizing previously conserved properties under public programs not specific to the target species, but nonetheless beneficial to those species by means of existing covenants, restrictions, and incidental conservation of habitats. In theory, those public programs would need to seek authorization from USFWS prior to significantly modifying habitats existing on the properties when accepted into the program. We do encourage thoughtful and strategic expansion of the region's conservation portfolio by utilizing those properties as anchor points for creating focal areas and corridors.

The preferred alternative illustrated within the SEP dHCP stands to vastly improve the ability for land owners, developers, utilities, and local/state governmental entities within the Enrollment Area to comply with the Endangered Species Act (ESA). Regional plans such as this one provide avenues to more strategically balance and compensate the cumulative effects of otherwise insignificant individual actions within the broader ecosystem. Given the reality that unauthorized and unmitigated habitat impacts to federally listed species occur on a daily basis in both the Plan Area and the Enrollment Area, perfecting the proposed alternative stands to lose additional time in working to achieve meaningful conservation of the target species.

Sincerely,

Jesse McLean
General Manager



March 18, 2015

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Ladies & Gentlemen,

The Bexar Audubon Society, representing approximately 2000 members in Bexar and surrounding counties of the city of San Antonio, strongly urges the USFWS to deny the Incidental Take Permit (ITP, TE-45871B-O). The proposed Habitat Conservation Plan proposed by the applicants is seriously flawed procedurally, scientifically, and politically; resulting in irreparable harm to the species and the reputation of the USFWS.

Procedurally, the applicants—the City of San Antonio and Bexar County—have generated a plan behind closed doors and are now seeking to support it with documentation from a very public and scientific planning process that took place from 2008- 2011. To pretend that the document they have submitted for your approval is based on that public or scientific input is pure sleight of hand. The City of San Antonio and Bexar County worked quietly for 3 years (apparently closely with the development industry) and wrote their own Habitat Conservation Plan which they then released during the holidays of late 2014. Bexar Audubon was not contacted during these 3 years of the city and county's process, nor were any of the scientists, advisory and stakeholder groups who participated in the original planning (this includes the Texas Parks & Wildlife Dept., Greater Edwards Aquifer Alliance, the US Army base at Camp Bullis and private landowners). The lack of transparency and stakeholder input alone should justify the denial of the proposed ITP.

Scientifically, the proposed HCP essentially is a roadmap for rapid destruction of any remaining, unprotected Golden-cheeked Warbler habitat in Bexar County. The proposed mitigation ratios are a fraction of what they should be, and the mitigation is almost all to take place outside of Bexar County, ensuring that the military mission of Camp Bullis will be jeopardized by the influx of displaced birds, and the fragile warbler habitat, much of which sits on the Edwards Aquifer Recharge and Contributing Zones, will be destroyed. In addition, the outlying counties don't want our Golden-cheeked Warblers so this current proposal just kicks the can down the road by pushing the problem out of San Antonio City Limits and into rural areas and Camp Bullis. The original HCP, itself a compromise developed out of the public process in 2011, reflected the public input that the mitigation should occur within the governmental entity that the habitat destruction took place.

Bexar Audubon Society P.O. Box 6084 San Antonio, Texas 78209-6084

Politically, the proposed ITP and its HCP represent a long-term policy disaster for the USFWS. It neither protects the wildlife nor the environment. If the Service allows such weak Habitat Conservation Plans for large cities it loses crucial bargaining power to perform its job and sets a dangerous precedent. If USFWS allows a City and County to circumvent good-faith, transparent governance, it encourages more of the same.

The long term health of our community, its wildlife, environment, and people deserve better. We, the birding and outdoor community of San Antonio, want to preserve something of our native wilderness for the future. We should protect and mitigate within our own boundaries and not develop at the expense of our neighbors. This ITP and its HCP should be denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory Pasztor', written in a cursive style.

Gregory Pasztor, President
Board of Directors, Bexar Audubon Society

March 13, 2015

Public Comments Processing
Attn: FWS-R2-ES-2014-0053
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Gentlemen:

SOUTHERN EDWARDS PLATEAU
ENVIRONMENTAL IMPACT STATEMENT AND
HABITAT CONSERVATION PLAN
CITY OF SAN ANTONIO AND BEXAR COUNTY
REGIONAL HABITAT CONSERVATION PLAN

I herein submit comments related to the captioned documents as set forth in the Federal Register announcement dated December 19, 2014.

The documents as presented to the public have changed in substance considerably since the first draft was submitted in 2011 and the drafts presented for review by the December 19, 2014 notice. The Citizens Action Committee (CAC) and U.S. Fish and Wildlife Service (USFWS) insist on including Kendall, Medina, Kerr, Bandera, and Blanco counties in the Southern Edwards Plateau-Habitat Conservation Plan (SEPHCP) even though citizens of the counties, through their elected representatives (i.e. county commissioners) unanimously passed resolutions to opt out of the habitat conservation plan, and filed these resolutions with the CAC in February 2011.

The development and preparation of the captioned documents was primarily funded by a grant from USFWS to the City of San Antonio and Bexar County under the premise that permitting would be expedited. The people benefiting from expedited permitting would be developers with projects to expand within the City and County. I take exception to having my tax dollars being used to front the permitting for local developers. The use of public funds for private enterprise is unacceptable.

The National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations have specific actions that must be taken in the development of an Environmental Impact Statement (EIS). It seems these regulations were ignored during the conduct of this project.

* No public scoping meetings were held to obtain comments from the public.

- * The stakeholders of the project failed to coordinate the project with local officials (i.e. county commissioners).
- * The public meetings held to review the 2011 draft did not allow for public discourse in the form of verbal communication. Participants were required to write their questions on paper and a moderator read the questions which were then answered by the project team. Hardly a public meeting.
- * The public meetings for the final draft were even more restrictive although the moderator of the meeting quickly lost control. The concept of a public meeting implies to me there be verbal discourse which the USFWS tried to prevent. The attitude of the USFWS moderator at the Kerrville, TX public meeting on February 4, 2015 was anything but friendly. Federal employees need to be reminded they work for the people.
- * Only two public meetings were held on final draft EIS and HCP. Kendall County which would be impacted greater than any other county was not included for a meeting site.

Habitats for the Golden-Cheeked Warbler (GCW) and Black Capped Vireo (BCV) were determined by high altitude satellite photography without benefit of field truthing.

No field surveys have been conducted to determine the presence of either species in Bexar County. Appendix C, dated March 30, 2011, provides a literature review of the target species and it is pointed out little field data are available for the HCP Plan region. Two different ranges of potential habitat for the GCW are given for the HCP area; both over 750K acres compared against a potential of over 4 million acres over the range of the GCW.

Section 5.1 of Appendix C notes reliable estimates of valuable habitat for the BCV are generally unavailable; particularly at large scales. Habitat is hard to identify and delineate from aerial imagery. Like the GCW no critical habitat has been designated for the BCV.

While the ESA requires monitoring of a species before inclusion on the endangered list there are few studies reported for the plan area. Appendix C provides estimates on GCW densities in the area. Some field data for breeding pairs of the BCV are available from 2006. The lack of pre listing monitoring data suggests the listing of the species might have been premature. Only seven months elapsed between the emergency listing to final rule for the GCW in 1990. Texas listed the bird as endangered in February 1991. The initial listing of the BCV was December 12, 1986 with the final rule effective November 5, 1987. It was listed by the state of Texas December 28, 1987. The 5-year review summary and evaluation by USFWS recommended the BCV be down listed to threatened in 2007. No action was taken on the recommendation.

The recovery plans for both species are over 20 years old. The absence of any recent field data concerning the presence of either species, their density, nesting activities and residency leaves a lot of questions for debate. Of course we have been reassured field data will be collected when the HCP plan is put into place.

The section on climate change in the dEIS is nothing but political correctness and has no basis in fact. The write up is based on junk science which really sets the tone for the entire dEIS.

The requirement for Conservation Easements to be held in perpetuity was a major issue during the public meetings on the first draft of the HCP. It was deleted from discussion in the final draft. The Incidental Take Permit (ITP) will probably be issued for 30 years. While the property owner has the option of saying yes or no to placing their land in a Conservation Easement the information regarding committing their property in perpetuity should be disclosed early on. This has not been a transparent process.

The revised dEIS relies on the Extra Territorial Jurisdiction for the City of San Antonio to expand its uncontrolled growth into surrounding counties. While previous court rulings have found cities can not conduct their activities outside the county boundaries. However, the City of San Antonio continues to play the “playground bully” by pushing the HCP into surrounding counties. There currently is a lawsuit between Kendall County and the City of San Antonio over this issue.

It is my opinion the documents covered by this public notice are totally inadequate for the purpose of issuing an ITP. I herein request ITP application be denied. I further recommend the USFWS review its responsibilities in carrying out the requirements of NEPA during the conduct of future projects of this nature.

Yours truly,

Alan L. Smith, PhD
PO Box 1000
Comfort, TX 78013
830-995-5500

cc:

Representative Lamar Smith
Senator John Cornyn
Senator Ted Cruz
Mrs. Donna Campbell, Texas State Senate
Mr. Doug Miller, Texas House of Representatives.