

BIOLOGICAL ADVISORY TEAM OF THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN

MINUTES

DATE: February 8, 2010
LOCATION: Texas Wildlife Association HQ
2800 Northeast Loop 410 Suite 105
San Antonio, TX 78218

Meeting #2

1. Call to Order - Richard Heilbrun, Texas Parks and Wildlife Department (TPWD)

Richard Heilbrun called the meeting to order at 9:15am.

After calling for public comments (see Agenda Item #3), Richard Heilbrun noted several anticipated schedule benchmarks for the meeting, with a short break between 10 and 10:15am, discussion of the Plan Area until lunch, and discussion of the Covered Species after lunch.

2. ACTION ITEM – Review and approve minutes, with any appropriate changes, from January 20, 2010 BAT meeting.

Richard Heilbrun opened discussion of the draft minutes from the January 29, 2010 meeting. Tom Hayes noted that he could not find a copy of the draft minutes in the posted materials and Jayne Neal noted that the draft minutes were initially available, then were missing. Richard Heilbrun explained that there were some issues with the draft minutes, and that a new process will be established whereby draft minutes will be distributed to BAT members via email and not through the website. Once minutes are approved, they will be posted on the website.

Richard Heilbrun tabled approval of the draft minutes until the next meeting.

3. Public Comments (3 minutes per speaker)

Richard Heilbrun called for public comments from the floor after calling the meeting to order.

Bob Fitzgerald stated that the meeting location was difficult to get to. Richard Heilbrun responded that he would like to take up meeting location issues. Possible alternate locations offered by various members of the BAT and the public included Boerne, New Braunfels, and 281/Evans Road.

No other public comments were received.

4. ACTION ITEM – Discussion and possible action on adopting a charge for the BAT.

Richard Heilbrun opened discussion of adopting a charge after the BAT concluded discussion on operational rules (see Agenda Item #5). Clifton Ladd (Loomis Partners) read through draft language for a proposed charge that was based on direction from Chapter 83 of the Texas Parks and Wildlife code and Loomis experience with other BATs. Clifton Ladd made edits to the text on screen during discussion.

BAT members discussed latitude within the draft language for providing input on management and monitoring of preserves and whether BAT recommendations are directed to the plan participants (as defined by Chapter 83) and/or to the CAC. Andrew Winter (Bexar County) remarked that the BAT should only be providing input on biological issues, not political issues.

Amended language for BAT charge:

CHARGE TO THE SEP-HCP BAT

The Biological Advisory Team (BAT) for the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) is charged with the following tasks:

- Provide input to the plan participants, including the Citizens' Advisory Committee (CAC), on biological matters in connection with the development of the SEP-HCP, including critical reviews of any aspect of the SEP-HCP directly or indirectly affecting the biological integrity of the plan.
- As required by Chapter 83 of the Texas Parks and Wildlife Code (83.015c), the BAT will also assist in the:
 - calculation of harm to the endangered species, and
 - the sizing and configuring of the habitat preserves.
- Comments and recommendations from the BAT will be based on the best available science.

MOTION (Jayne Neal): Accept amended language as the BAT charge. SECOND (Justin Dreibelbis). VOTE: Voice vote carried unanimously.

Bob Fitzgerald (comment from the floor) asked whether there were any rules for making agendas. Richard Heilbrun responded that this issue was not part of the BAT charge and that the BAT might address this when discussing operational rules.

5. ACTION ITEM – Discussion and possible action on adopting operational procedures for the BAT.

Richard Heilbrun opened discussion of operational procedures after tabling approval of the draft meeting minutes. Clifton Ladd read through draft operational rules that were proposed for discussion, and made edits to the draft language during discussion.

BAT members discussed whether dissenting opinions would be required for every dissenting vote or whether the submittal of such an opinion would be at the discretion of the dissenter. BAT members discussed the procedures for distributing information digitally and whether time frames should be specified. BAT members discussed how to receive public comments that would be fair and open, consistent with the Texas Open Meeting Act, and allow the BAT to conduct business effectively. BAT members discussed how to provide for input from Bexar County, agencies, and consultants during meetings. BAT members discussed the appropriateness of responding to or discussing issues raised during public comment periods and considerations regarding preparation of agendas. BAT members requested that all communications from members be sent through the BAT chair, in addition to the County representative and consultant team.

Allison Elder (Braun and Associates) will research legal issues related to public input and will report back to the BAT.

Richard Heilbrun noted later in the meeting that because the BAT did not adopt Roberts Rules, it is not necessary for formal motions to be made before the BAT can vote on actions.

Richard Heilbrun requested that placards be prepared for all BAT members, County representatives, other agency representatives, and consultants to help identify who is contributing to the discussion.

Richard Heilbrun tabled further discussion and action on adopting operational procedures until the next meeting.

6. Report from U.S. Fish and Wildlife Service (USFWS) and discussion on questions raised at the last meeting – Allison Arnold (USFWS)

Allison Arnold reported on six issues that were identified during the January 29, 2010 meeting. Allison Arnold addressed the issue of Comal County participation in the SEP-HCP and stated that the USFWS wants the two plans to work in unison with official communication and coordination. Allison Arnold addressed the issue of seeking mitigation in counties that may not be formal participants in the SEP-HCP, and stated that this was not a federal issue. She stated that from the USFWS perspective, any non-federal entity can participate in the plan if they are in the Plan Area. Allison Arnold addressed questions regarding listed karst invertebrates in Uvalde County and reported that the USFWS currently has no confirmed information that listed karst species occur in Uvalde County. She also noted that if karst species in Uvalde County are not addressed in the plan and they become listed in the future, a major plan amendment could be needed to cover them under the SEP-HCP. Allison Arnold addressed the completeness and availability of cave location data and noted that the USFWS can only analyze data that they have in their records. She also noted that if other data from permitted biologists exists, it should be provided to the USFWS as a requirement of their permits.

Tom Hayes asked whether the BAT can request more information from the Bexar County Karst Invertebrate Recovery Team. Christina Williams (USFWS) responded that only the USFWS can make requests of recovery teams. Discussion continued regarding new information about *Cicurina madla* and issues pertaining to the definition of a “cave

locality”. USFWS representatives recommended that BAT members become familiar with species recovery plans. Allison Arnold noted that critical habitat for Bexar County karst invertebrates are under review due to a court order and that such designations could change. BAT members also discussed Endangered Species Act provisions for plants.

BREAK: 10:20am – 10:36am

7. ACTION ITEM – Discussion and possible action on recommending a Plan Area for the SEP-HCP.

Richard Heilbrun opened the discussion of the Plan Area and Clifton Ladd walked the BAT through the Plan Area briefing paper. Clifton Ladd noted that the grant application provides some guidance as to the original proposal for the project, that mitigation should be close to the location of impacts, that Plan Area boundaries should be clearly defined, and that the Plan Area should not conflict with other regional plans. Clifton Ladd also noted that the Plan Area should be consistent with the intent of the grant application.

BAT members briefly discussed the history of GCW recovery regions and how recovery regions are generally used in recovery planning. BAT members discussed the use of county boundaries or highways to define the Plan Area. BAT members discussed examples of potential conflicts between the SEP-HCP and Comal County Regional Habitat Conservation Plan (RHCP). USFWS representatives emphasized the importance of official coordination between the SEP-HCP and the Comal County RHCP, particularly by including text in both plans that describes such coordination, to avoid conflicts or potentially costly plan/permit amendments in the future.

Clifton Ladd described several Plan Area alternatives as the starting point for discussion, including a 6-county alternative (Bexar, Medina, Bandera, Kerr, Kendall, and Comal counties), Bexar County/San Antonio alternative, 5-county alternative excluding Comal County, Highway Boundary alternative, and a 13-county alternative (including Bexar, Medina, Bandera, Kerr, Kendall, Comal, Uvalde, Kimble, Real, Edwards, Gillespie, and Blanco counties). Clifton Ladd also presented several resource maps showing species’ ranges and habitats, vegetation, geology, and major river systems.

BAT members discussed considerations for including or excluding certain areas, including habitat or species distributions, vegetation or ecological shifts, and the types of impacts anticipated in different areas. Allison Arnold noted that urban sprawl and quarry operation in Medina County, the development of retirement communities in Bandera and Kerr counties, transmission line installation in Kendall County, and oil and gas development in Uvalde, Real, and Edwards counties were of concern to the USFWS.

Richard Heilbrun lead discussion on the inclusion or exclusion of certain counties. BAT members informally reached consensus that Bexar and Kendall counties should be included in the Plan Area. BAT members discussed whether western parts of the southern Edwards Plateau should be included, particularly with respect to karst and groundwater resources. Christina Williams noted that any karst mitigation would likely need to be addressed on a case-by-case basis. BAT members discussed options for limiting conservation actions to certain parts of the plan area. Christina Williams also

introduced the idea of a phased mitigation option as a way to avoid completely building out one county and having all the mitigation located in counties distant from Bexar. She also noted that with karst invertebrates it is not possible to completely destroy habitat in one area just because it is cheaper to mitigate elsewhere; unfortunately, it is possible to do this with the golden-cheeked warbler and the black-capped vireo. BAT members generally agreed that Uvalde County should be excluded from the Plan Area, but stated the desire to revisit the possible inclusion of this county. BAT members generally agreed that Medina County should be included as a whole, but noted that take and mitigation would likely only be relevant north of Highway 90. BAT members generally agreed that there were biological reasons to include Comal County in the Plan Area and expressed an interest in working with Comal County to formalize cooperation. BAT members generally agreed that including Blanco County was warranted, particularly to help address the conservation of several rare salamanders. BAT members generally agreed to exclude Real County, since activities in Real County did not seem particularly relevant to the San Antonio area and that vegetation was somewhat different from that in Bexar County. BAT members generally agreed to exclude Gillespie County from the Plan Area due to its distance from Bexar County, but stated the desire to revisit the inclusion of Gillespie County in the future. BAT also discussed the importance of being able to explain why any county was/was not included in the recommended plan area.

CONSENSUS ACTION: BAT recommendation for the Draft Plan Area to include Bexar, Medina, Bandera, Kerr, Kendall, Comal, and Blanco counties. The inclusion of Uvalde and Gillespie counties may be reconsidered.

BREAK and LUNCH – 12:05pm – 1:02pm

Richard Heilbrun requested that all BAT members submit a brief biography as background for Bexar County Commissioners' Court official appointment of BAT members.

8. ACTION ITEM – Discussion and possible action on recommending a list of covered species for the SEP-HCP.

Richard Heilbrun opened discussion of the list of Covered Species. Amanda Aurora (Loomis Partners) walked the BAT through the Covered Species briefing paper, including general considerations for what it means to be a "Covered Species", considerations for removing or adding species from the list, and summaries of currently listed or petitioned species in Bexar County and other counties across the southern Edwards Plateau.

BAT members discussed issues with incidental take authorization and possible jeopardy determinations by the USFWS, including options for addressing species in the plan to avoid jeopardy. BAT members discussed issues associated with aquatic resources, including possible indirect impacts on coastal ecosystems and species (including the whooping crane). Amanda Aurora noted that the grant application specifically mentioned coverage for listed terrestrial species in Bexar County. Richard Heilbrun tabled discussions of how to address aquatic species in the plan for future meetings. BAT members discussed possible options for addressing unlisted species in the plan and also agreed that it may be necessary to address how to deal with species that become delisted after the Plan is approved.

Richard Heilbrun led discussion on the establishment of three types of categories for addressing species in the plan, including “Covered Species”, “Included Species”, and “Evaluation Species.” Covered Species would be those for which incidental take authorization would be sought at permit issuance. Included Species would be those species for which a detailed take assessment and conservation planning would be completed in preparation for incidental take authorization upon future listing, would support a non-jeopardy determination, or provide for incidental take authorization if new information caused a reconsideration of the status of a species. Evaluation Species would be those that might incidentally benefit from conservation measures for Covered or Included species, so that such benefits could be cataloged in the plan.

Richard Heilbrun generally led discussion to categorize each of the terrestrial species in the draft Plan Area included on Texas Parks and Wildlife Department county lists of rare species. Jackie Poole led discussion regarding categorization of plants, Andy Gluesenkamp led discussion regarding categorization of reptiles, and Richard Heilbrun led discussion regarding categorization of birds, mammals, and insects. Jayne Neal and Valerie Collins offered to seek additional input on the categories for bird species. Richard Heilbrun offered to seek additional input from an entomologist regarding the categories for insect species and Andy Gluesenkamp offered to seek additional input from a mammalogist regarding the categories for mammal species.

Richard Heilbrun tabled further discussion and action on the Covered Species until the next meeting.

9. Request for Future Agenda Items and Next Meeting - Richard Heilbrun, TPWD

Richard Heilbrun opened discussion of items for the next meeting, and suggested that the BAT seek presentations or reports from Comal County, Robert Gulley (Edwards Aquifer Recovery Implementation Program), and aquatic resource expert (i.e., Randy Gibson). Richard Heilbrun recommended that the BAT meet again in late February or early March to continue discussions on the Included Species. He suggested that another full day meeting may be appropriate. Richard Heilbrun offered to look into options for other meeting places.

10. Adjourn

MOTION (Andy Gluesenkamp): Adjourn meeting. SECOND (Jayne Neal). VOTE: Voice vote carried unanimously.

Backup Materials:

- 1. Agenda**
- 2. Draft minutes**
- 3. Draft charge**
- 4. Draft operational rules**
- 5. Plan Area briefing paper**
- 6. Covered Species briefing paper**
- 7. Exhibits:**

- a. **GCW Habitat and Recovery Regions**
 - b. **BCV Recovery Regions with Vegetation/Ecoregions**
 - c. **Karst Zones with Geology**
 - d. **Ecoregions**
8. **List of Texas species petitioned for listing as threatened or endangered (compiled by Julie Groce)**
9. **List of potential species for SEP-HCP (compiled by Jackie Poole)**
10. **TPWD Rare Species Lists for Bexar, Medina, Bandera, Kerr, Kendall, Comal, Blanco, Gillespie, and Hays counties (compiled by Loomis)**
11. **SEP-HCP Grant Application**
12. **Detailed SEP-HCP Work Plan.**

SEP-HCP BAT Mtg.

2-8-10
9:00

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Jenna V. Terrez	
Bill Ward	
Valerie Collins (late) after lunch	