

**BIOLOGICAL ADVISORY TEAM**  
OF THE  
SOUTHERN EDWARDS PLATEAU  
HABITAT CONSERVATION PLAN

**MEETING 13 MINUTES**

**DATE:** November 4, 2010  
**LOCATION:** Friederich Wilderness Park Conference Room  
21395 Milsa Road San Antonio, TX 78256

**1. Call to Order – Richard Heilbrun (Texas Parks and Wildlife Department)**

Richard Heilbrun called the meeting to order at 9:09am.

Mr. Heilbrun asked for public comments from the floor. No public comments were given, and Mr. Heilbrun invited members of the public to speak at any time during the meeting (including during subcommittee discussions).

**2. Subcommittee Meetings**

Richard Heilbrun explained that the BAT subcommittees for golden-cheeked warblers (GCW) and karst would meet to finalize language regarding conservation program recommendations for full BAT discussion. He noted that the CAC needs to have recommendations from the BAT on these matters as soon as possible, and that the BAT should take action on recommendations by the end of the meeting. Mr. Heilbrun added that if the BAT decides to take action on subcommittee recommendations, then the consultant team will help compile a report for distribution to the CAC.

The karst subcommittee included the following BAT members: Andy Gluesenkamp and Valerie Collins. Members of the consultant team (Jean Krejca and Rachel Barlow, Zara Environmental; and Clifton Ladd, Loomis Partners) and representatives of the U.S. Fish and Wildlife Service (Allison Arnold and Charlotte Kucera) joined the karst subcommittee discussions.

The GCW subcommittee discussion included a quorum of BAT members, including: Richard Heilbrun, Tom Hayes, Jackie Poole, Justin Dreibelbis, Julie Groce, and Jayne Neal. Bexar County representative Andy Winter, Bexar County independent legal counsel (Jerry Webberman, Jackson Walker LLP), and a representative of the consultant team (Amanda Aurora, Loomis Partners) joined the GCW subcommittee discussions.

As the GCW subcommittee meeting included a quorum of BAT members, minutes from this discussion regarding recommendations for the GCW conservation program follow.

Richard Heilbrun started the GCW subcommittee discussion with reference to a draft set of proposals that had been distributed to BAT members. Subcommittee members discussed whether or not to consider recommending mitigation ratios for the GCW. Richard Heilbrun noted that his preference was to avoid setting ratios as these might be more of a political consideration, in favor of recommending preserve design standards. Jerry Webberman noted there could be different mitigation ratios for different degree or types of harm, which would be a biological consideration. Mr. Heilbrun replied that the plan will need to assume that all habitats are occupied, since if habitat is not occupied (as determined after 3 years of surveys) then there is not need to mitigate or participate in the plan. Tom Hayes noted that the amount of preserve land and the location of preserve land are important considerations for the BAT to address. Mr. Webberman stated that the proposed 85,000-acre preserve size, as discussed in prior meetings, was established with reference to contributions to recovery and not in terms of the amount of

mitigation needed to balance take. Mr. Heilbrun responded that the BAT has not yet made a recommendation for the amount of take to authorize and that the subcommittee is tasked with considering and recommending a preferred approach.

The GCW subcommittee discussed how much preserve credit should be allowed from existing protected lands. Richard Heilbrun noted that the Service has allowed GCW conservation credit from previously protected lands in other situations, when additional conservation protections were added. He also stated that there may already be more than 70,000 acres within the Plan Area that have some degree of protection, and asked the subcommittee to consider how much of that existing protected land should be able to create mitigation credit for the plan. Justin Dreibelbis noted that the Service suggested (in a prior meeting) that they might be comfortable with allowing up to 10% of the mitigation for the plan to come from previously preserved lands. Jayne Neal noted the need for targeted management on some of these protected lands and Mr. Heilbrun added that targeted management may be important for being able to achieve additional species protections on these lands.

Tom Hays suggested that allowing up to 10% of the mitigation for the plan to come from existing protected lands was too high and that new take should always require new mitigation. Justin Dreibelbis stated that allowing up to 10% credit for the plan may be acceptable, if it met the other standards for preserve lands and had additional species protections put in place. Richard Heilbrun noted that most of the existing protected lands in Bexar County are already being considered for additional GCW conservation credit and, therefore, most would be unavailable for additional protections.

The GCW subcommittee suggested recommending an ideal proposal to the CAC whereby none of the plan's mitigation credit would come from additional conservation measures on existing protected lands, but acknowledge an acceptable upper limit of 10% of the total preserve size.

Jerry Webberman suggested that the BAT consider the 85,000-acre preserve size proposal (which was arrived at in terms of achieving a substantial contribution to recovery) as a goal or objective, and not a hard requirement for the plan. He added that this approach would avoid setting up a situation where the plan could fail if it does not achieve acquisition of the full 85,000 acres, even if sufficient mitigation has been provided to compensate for the amount of take authorization actually used by plan participants. Mr. Webberman pointed out that the rationale behind the 85,000-acre preserve size proposal may have been somewhat arbitrary (i.e., protecting 75% of the habitat needed to support 2 viable GCW populations of 3,000 pairs each), and that a smaller target preserve size might also provide a substantial contribution to recovery. Richard Heilbrun disagreed that the 85,000-acre preserve size proposal was arbitrary.

Tom Hayes suggested that the conservation objectives for the Category 2, 3, and 4 species be more detailed and measurable. Richard Heilbrun suggested that Dr. Hayes submit proposals for those species.

Richard Heilbrun stated that the BAT needed to determine what conservation measures would be required and which would be recommended as goals or objectives. Jerry Webberman cautioned that the goals and objectives should be reasonable with respect to what may be actually achievable.

Richard Heilbrun asked for more explanation on the implications of what might happen if the plan fails to acquire the full preserve commitment, even if it does not use all of the take authorization by the end of the permit duration. Jerry Webberman responded that the Balcones Canyonlands Conservation Plan (BCCP) is dealing with this issue right now and the permit is in danger of being suspended. Amanda Aurora suggested that it could affect the ability to get future permit extensions, and Mr. Webberman suggested that the participation certificates issued under the plan could be invalidated. Mr. Webberman added that the plan could be drafted to include all of these biological concepts, without risking potential issues with failure to achieve the commitment.

Mr. Heilbrun asked the subcommittee members to consider the pros and cons of a mitigation ratio approach or an approach using a firm preserve size commitment with phased “stop-gaps”. Amanda Aurora explained that a “pay as you go” conservation banking approach requires a mitigation ratio, but always results in mitigation being provided in advance of the take and avoids potential issues with not meeting a preserve size commitment (particularly if the commitment is more than what is needed to mitigate for the take). She added that even with a phased series of firm preserve commitments, there is a potential that the plan might not acquire the necessary mitigation in advance of the take (which could affect the ability to implement the next “stop-gap” phase) and that the plan might end up committing to acquire more preserve land than is actually needed to balance take from participating projects.

Jayne Neal stated that she was uncomfortable with allowing take of all remaining GCW habitat in Bexar County, since that would create a bad situation for the bird. She added that the mitigation needs to be close to the take and, therefore, the plan should create a disincentive for development in Bexar County so that less habitat is lost and opportunities for mitigation in Bexar County remain available. Jerry Webberman questioned why other counties were included in the plan area, if the BAT feels that all (or most of) the mitigation for take in Bexar County should occur in Bexar County. Ms. Neal responded that the BAT recognizes that some mitigation can occur outside of the county to create a new focal conservation area for the GCW.

Richard Heilbrun suggested that the BAT present the CAC with 3 options for take and mitigation (with Bexar County treated separately from the rest of the plan area), with the idea that the BAT’s preferred scenario would be the middle option. He suggested that one scenario identify the amount of take that could be authorized with a preserve that included 15,000 acres in Bexar County and approximately 85,000 acres total. He also suggested another scenario based on a total preserve size of approximately 50,000 acres (which correlates to the amount of mitigation that might be needed to authorize between 20% and 70% of the anticipated habitat loss, by sector). Amanda Aurora suggested that the amount of take corresponding to the recovery-based preserve size estimates might be more than is needed to satisfy the demand for participation in the plan. She also suggested creating a scenario that covers approximately 10% of the anticipated habitat loss, which is approximately how much participation the BCCP receives.

Richard Heilbrun noted that he has been hearing concerns about the proposed mitigation ratios being too high and that 3:1 mitigation ratios for Bexar County will be too expensive. He suggested that not all of the mitigation needs to occur in Bexar County and that the BAT should identify how much mitigation should be located in Bexar County and allow the rest to occur elsewhere in the plan area. He added that the BAT has already considered proposing that 15,000 to 20,000 acres of the mitigation to occur in Bexar County. Mr. Heilbrun suggested focusing more on the configuration of the preserve system, rather than the mitigation ratios, since costs to participants will vary based on the location of the preserve land and not necessarily on the mitigation ratio.

Tom Hayes stated that he wanted to start with proposing 3:1 mitigation ratios for Bexar County as was comfortable with allowing approximately 7,000 acres of take in Bexar County if 20,000 acres of mitigation was acquired within 10 miles of the Bexar County boundary. Jerry Webberman and Andy Winter asked whether having the mitigation in or near Bexar County was more important biologically that being able to acquire more mitigation farther away. Mr. Winter stated that he wanted the BAT to make recommendations on this matter. Tom Hayes stated that protecting the biological value of existing preserves in Bexar County should be a key objective of the plan. Andy Winter asked for more guidance on what that recommendation might mean. Jerry Webberman suggested that the BAT could identify how much acreage would be needed to protect these existing protected lands and use that number to approximate the amount of mitigation that would be appropriate to locate in Bexar County.

Julie Groce suggested that the BAT should craft recommendations for GCW preserve size that are based on the amount of take to be authorized. Jayne Neal stated that the GCW does not see county boundaries, but that there seems to be a ring of habitat within approximately 5 to 10 miles around Bexar County where most of the habitat is. Ms. Neal suggested that the BAT propose recommendations for a mitigation ratio within that Bexar County zone, so that the actual take and mitigation numbers can remain flexible with respect to revised habitat and development estimates.

Tom Hayes stated that he was concerned about having too much mitigation for take in Bexar County located distant from Bexar County and would rather limit the take authorization in Bexar County to ensure that a greater proportion of the mitigation is acquired in or near Bexar County. Jayne Neal questioned how some of the habitat loss numbers were revised. Amanda Aurora replied that the land development model was revised to increase development densities in some areas (resulting in a reduction in the total developed acres) and updated habitat models show less habitat than the earlier models; therefore, the estimates for the anticipated amount of habitat loss were reduced.

The GCW subcommittee discussed the opportunity for considering on-site mitigation and generally agreed that if the mitigation meets the standards for a GCW preserve, then it should be allowed.

Justin Dreibelbis proposed that the plan assess a mitigation ratio of 3:1 for take in Bexar County, with 50% of that mitigation located within 10 miles of Bexar County. Richard Heilbrun suggested that take outside of Bexar County be assessed a mitigation ratio of 2:1. Amanda Aurora noted that this approach implies that take outside of Bexar County causes less harm to the species than take occurring inside of Bexar County. Mr. Dreibelbis noted that using a mitigation ratio on a transaction-by-transaction basis allows the plan to be flexible with the amount of participation. Amanda Aurora stated that this approach will require two separate credit banks (one with Bexar County credits and one with other credits) and each will need to have available credits before take could be authorized in Bexar County. Jerry Webberman cautioned that requiring a substantial amount of upfront mitigation in Bexar County could cause the plan to stop operating in Bexar County and that it might be helpful to ensure some flexibility in mitigation options. Richard Heilbrun suggested that the percentage of Bexar County mitigation be increased to 60%.

Tom Hayes suggested that the 10 mile buffer around Bexar County be reduced to 5 miles.

Richard Heilbrun noted that the plan won't get any Bexar County mitigation without authorizing take in Bexar County, unless the County steps in and acquires mitigation with other funds. He also suggested that he felt it would be possible to acquire mitigation lands in Bexar County at \$5,000 to \$8,000 per acre, instead of the \$20,000 per acre estimated by the consultant team. The subcommittee discussed possibilities to obtain early credits in Bexar County by getting some credit from existing protected lands or buying mitigation credits from an independent conservation bank.

Jerry Webberman asked the subcommittee to clarify the biological rationale for the 5 and 10 mile buffers around Bexar County. Tom Hayes stated that the idea was that the habitat should be contiguous with Bexar County. Jayne Neal stated that there is little good information on dispersal distances, but it was still important to provide mitigation near to the site of the habitat loss so that the birds do not need to spend so much energy finding a new place to breed. Dr. Hayes stated that data from Fort Hood suggests that 3 km to 11 km (approximately 2 to 7 miles) is the range of normal GCW dispersal distances. Richard Heilbrun noted that the buffer distance could be a bargaining chip with the CAC to help offset concerns that mitigation exclusively within Bexar County would be too expensive or too difficult to obtain.

Richard Heilbrun suggested that the BAT present recommendations based on the mitigation ratios and distances discussed earlier and the CAC can decide how much take they would like to authorize with those ratios.

### **3. Discussion and action: Karst mitigation and preserve standards**

Andy Gluesenkamp presented the subcommittee proposal for the karst conservation program. Dr. Gluesenkamp stated that the subcommittee envisions that the ultimate goal for karst conservation is to protect 6 Karst Faunal Areas (KFAs) per Karst Faunal Region (KFR), but that take in a KFR would be allowed once 3 KFAs were protected for a species in a KFR. The rationale behind this recommendation is to provide additional conservation assurances in the face of uncertainty regarding the taxonomic status and biology of many of these species.

Dr. Gluesenkamp walked the BAT through a draft proposal for assessing karst impacts, but noted that this proposal was not meant to substitute for any other existing regulatory requirements. He noted that some aspects of the proposal needed additional work that should be based on the soon-to-be-released recovery criteria for these species. The process includes steps for identifying surface karst features, determining if karst features could provide habitat for karst invertebrates, and whether any suitable habitat was occupied by the species addressed by the plan.

Dr. Gluesenkamp added that karst feature surveys must follow the Service protocol for karst surveys and that geologists conducting the work should also have experience with karst biology for portions of the process involving determinations of habitat suitability and species presence. He also reported that the subcommittee recommends that a participant begin informal consultations with the Service if faunal surveys identify the presence of listed karst invertebrates on a project site.

Dr. Gluesenkamp stated that the subcommittee discussed general per-acre mitigation fees for the portion of a project area that occurs within a mapped karst zone. These per-acre fees would address potential impacts to occupied karst features lacking surface expression or impacts to occupied features off-site. He added that the subcommittee discussed impact areas around known occupied karst features, with the boundaries of these zones defined as 0 – 50 feet from the cave entrance and 50 – 345 feet from the cave entrance. He noted that 345 feet was consistent with the cave cricket foraging area, which has biological significance for karst ecosystems. Dr. Gluesenkamp also stated that the subcommittee recommended an alternate set of impact area boundaries based on more detailed site information, such as surface and subsurface drainage basins and the cave footprint. He noted that this was a simplified approach, but it likely represented the most important areas affecting the integrity of the cave environment.

Regarding the potential for a participant to set aside karst habitat for mitigation credit, Dr. Gluesenkamp stated that the subcommittee recommended that the credit only cover the species that occurred in the protected cave and that the plan could waive the per-acre mitigation fees for the remainder of the project area.

Dr. Gluesenkamp noted that, unlike the proposals being discussed for the GCW, this approach did not rely on a mitigation ratio strategy. However, the previous karst impacts analysis estimated that approximately 65 caves could be taken over the duration of the plan and that the targeted conservation goal for karst would seek to protect a similar number of caves. Since, the conservation goal for karst was consistent with, if not greater than, the current recovery criteria for the covered karst species, Dr. Gluesenkamp reported that the subcommittee was comfortable with this amount of take and mitigation.

Dr. Gluesenkamp stated that the subcommittee recommended only very limited access to karst preserves, which would include access monitoring and research activities (approximately 5 to 10 visits per year). He added that recreational use of karst preserves was not recommended.



The karst subcommittee discussed how to incorporate low quality karst preserves into the conservation program. Dr. Gluesenkamp stated that the Service would not accept low quality preserves as a contribution to recovery, but that these areas could have some value for other karst species and some areas could improve in quality over time with proper management. He suggested that some number of low quality karst preserves might be able to count towards the equivalent of a moderate quality karst preserve for the purposes of the plan.

Charlotte Kucera noted that the current guidance on acreage for a KFA is found in the draft recovery plan for Bexar County karst invertebrates. It states that a high quality karst preserve should contain at least 90 acres and a moderate quality karst preserve should contain a smaller number of acres, in the neighborhood of 40 to 60 acres.

BAT members discussed their thoughts on how to set the mitigation fees for karst impacts, since the karst subcommittee recommendations only indicated relative fee amounts. BAT members suggested that the highest level impact fees might be in the order of \$100,000's and the lowest level per-acres fees might be set below \$50. However, the BAT generally agreed that setting mitigation fees was more of a consideration for the CAC and not the BAT.

Jerry Webberman asked for the BAT to consider what might happen if Category 2 karst species are found on a project site, since these species are not covered for incidental take. Dr. Gluesenkamp stated that the plan will only provide take coverage for the Category 1 species. Charlotte Kucera stated that a plan participant will need to determine if they are adequately covered for incidental take. BAT members suggested that the plan could help pay for karst faunal surveys in situations where participants have paid the per-acre fees and encounter a subsurface void that was not identified during the surface karst surveys.

Tom Hayes suggested that the impact area be based on a delineation of the surface drainage basin around a cave or the cricket foraging distance (i.e., 345 feet), which ever is greater, instead of a set distance. Dr. Gluesenkamp suggested that the surface drainage basin for a feature could be very large, and that he would have more confidence that measurable biological impacts would occur within the radius of the cricket foraging area than across a very large surface drainage basin. Dr. Gluesenkamp added that a large impact area, which might not have biological relevance, could substantially discourage participation in the plan. He also noted that participants could have the option of basing the impact assessment on more detailed site data.

MOTION (Andy Gluesenkamp): Accept the karst subcommittee conservation program proposal, as amended, except for the Impact Area 2 boundary which will be taken into further consideration using either the a 345ft buffer from the cave entrance or the surface drainage basin. SECOND (Richard Heilbrun). VOTE: Motion carried unanimously by voice vote.

#### **4. Discussion and action: GCW mitigation and preserve standards**

Richard Heilbrun reported that the GCW subcommittee discussed how to incorporate existing protected lands into the preserve system, how to assess take and mitigation inside and outside of Bexar County, establishing a buffer around Bexar County for mitigation, and presenting options to the CAC for adjusting the take and mitigation amounts.

Richard Heilbrun reported that the recommendations was for take in Bexar County be mitigated at a ratio of 3:1, with 60% of the mitigation lands located within 5 miles of Bexar County and the remaining mitigation located anywhere within the plan area. He reported that the subcommittee recommended that take outside of Bexar County be mitigated at a ratio of 2:1, with the mitigation lands occurring anywhere within the plan area. Mr. Heilbrun noted that the subcommittee had previously discussed recommendations for creating focal areas of approximately 5,000 acres in every county, except Blanco. He reported that the subcommittee was comfortable with allowing as much as 10% of the preserve system to be composed of credits from existing publicly preserved lands (as of November 4, 2010), but preferred to have none of the preserve system composed of previously protected lands.

Richard Heilbrun asked the BAT to consider capping the total amount of mitigation that would be required in Bexar County to no more than 15,000 acres (which corresponds to approximately 8,000 acres of take in Bexar County). The Service (represented by Allison Arnold and Charlotte Kucera) stated that the only standard that the Service will evaluate is whether or not the mitigation is commensurate with the impact. The Service noted that Tom Hayes seemed to be uncertain whether the proposal meets that standard, and added that the Service was also uncertain that the standard would be met. The Service questioned what the biological rationale for setting a cap might be. BAT members generally felt that a cap on Bexar County mitigation was not a good idea.

Clifton Ladd suggested that a cap might allow the plan to find better conservation opportunities outside of Bexar County, since at some point the availability of large acreages in and near Bexar County may become rare and surrounded by development. The Service raised concerns about what might be lost in Bexar County if the plan allows a substantial amount of mitigation to occur outside of the County. The Service added that after a certain threshold of habitat loss, the GCW populations within Bexar County would be at risk of extirpation and that the Service would not allow that to happen. Amanda Aurora asked for an estimate of what the loss threshold might be and the Service responded that they were not certain and that this is the question the BAT needed to evaluate and answer .

MOTION (Jayne Neal): Recommend that up 10% of preserve lands may be composed of existing public lands, but that 0% is preferred. Recommend that take in Bexar County be mitigated at a ratio of 3:1, with 60% of the mitigation located within or within 5 miles of Bexar County and 40% located anywhere within the plan area. Recommend that take outside of Bexar County be mitigated at a ratio of 2:1, with the mitigation located anywhere within the plan area. Recommend that the CAC consider authorizing approximately 8,000 acres of take in Bexar County and approximately 7,361 acres of take outside of Bexar County. SECOND (Justin Dreibelbis). VOTE: Motion carries with a vote of 5 – 1 (Tom Hayes voted nay).

##### **5. Future Agenda Items and Next Meeting**








Richard Heilbrun asked the consultant team to clean up the BAT recommendations for review and distribution to the CAC.

Jayne Neal asked that the CAC not be presented recommendations for the black-capped vireo until the BAT has had more time to address this species in detail.

##### **6. Adjourn**

Richard Heilbrun adjourned the meeting shortly after 1:00pm.

# BAT MEMBER SIGN-IN SHEET

BAT MEMBERS	
	SIGNATURE (IF PRESENT)
1	<p>Heilbrun, Richard (CHAIR – Texas Parks &amp; Wildlife Department)</p> 
2	<p>Collins, Valerie (Pape-Dawson Engineers)</p> <p>Present, did not sign in Left at 11:00</p>
3	<p>Dreibelbis, Justin (Texas wildlife Association)</p> 
4	<p>Gluesenkamp, Andy (Texas Parks &amp; Wildlife Department)</p> 
5	<p>Groce, Julie (Texas A &amp; M University)</p> 
6	<p>Hayes, Tom (Greater Edwards Aquifer Alliance)</p> 
7	<p>Neal, Jayne (City of San Antonio)</p> 
8	<p>Poole, Jackie (Texas Parks &amp; Wildlife Department)</p> 



# GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Aurora Aurora	Loomis	aurora@loomis-partners.com	512-672-8977	
Andrew Winter	Bexar County	awinter@Bexar.org	335-6487	
Jerry Werberman	Jackson Walker	jwerberman@jw.com	(512) 236-2270	
Clifton Ladd	Loomis	cladd@loomis-partners.com	512-672-8967	
Robert Moyer	Friends of South Canyon	rmoyer@texas.net	210 688 6254	
Jwait Green	TPWD	on record	210.688.6444	
Mary Fenstermaker	HCPA	" "	830-981-4202	
Rachel Barlow	ZARA	rachel@zaraenvironmental.com	512-277-2050	
Charlotte Kucera	USFWS			
Allison Arnold	USFWS			

# GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Evan Ovaline	AAWW	ovaline@midsping.com		
Annalise Rees	GEAD	annalise@aquiferalliance.org		