

# **CITIZENS ADVISORY COMMITTEE OF THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN MINUTES**

**DATE:** May 3, 2010

**LOCATION:** Casa Helotes Senior Citizens Center  
12070 Leslie Road Helotes, Texas 78023

## **1. Call to Order – Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Kirby Brown (CAC Chairperson) called the meeting to order at 6:07pm.

## **2. Presentation: Edwards Aquifer Recovery Implementation Program – Robert Gulley (EARIP Program Manager)**

Kirby Brown introduced speaker Robert Gulley (Edwards Aquifer Recovery Implementation Program Manager).

Mr. Gulley provided some background on the Edwards Aquifer Recovery Implementation Program (EARIP) project and explained that the project was legislatively mandated to develop a conservation plan for the 7 listed wildlife species at Comal Springs and San Marcos Springs. The EARIP is a consensus based process with approximately 39 stakeholders representing a wide spectrum of aquifer-related interests. Recovery Implementation Programs were developed by the USFWS and used successfully in other parts of the country to address endangered species issues. EARIP is different from other RIP efforts since it lacks a federal agency leading the effort. EARIP effort started in 2006 and must be concluded by September 2012.

Mr. Gulley explained that the focus of the EARIP is contributing to recovery, not just the survival of the species, and the vehicle for the conservation plan will be through the development of a Habitat Conservation Plan with an incidental take permit. The permit will cover incidental take related to the use of the aquifer and the spring systems that harbor endangered species; land development will not be a covered activity in the EARIP Habitat Conservation Plan. The EARIP is evaluating the impacts and conservation benefits of pumping cuts, engineered solutions (such as water storage), a variety of aquifer management strategies, “dry year options” for agriculture, and land stewardship practices as possible conservation alternatives. The EARIP process may also look at a broader set of species, including listed plants and other listed and candidate species, as part of the process for obtaining the incidental take permit.

Mr. Gulley noted that there are a number of species that have been petitioned for federal listing that reside in the aquifer, which may also be worth evaluating in the SEP-HCP.

Mr. Gulley stated that the applicant for the incidental take permit has not been determined, but it was likely to include the Edwards Aquifer Authority and/or the local jurisdictions at the spring outlets. He also stated that it was not likely that the EARIP would address water quality impacts from development on the aquifer outside of the spring localities.

Mr. Gulley described that the EARIP recently completed 7 public scoping meetings, in compliance with the National Environmental Policy Act, to collect comments from the public on the issues that should be

addressed in the Environmental Impact Statement. He referred the CAC to the EARIP website at <http://edwardsrip.org>, and encouraged the CAC to submit comments.

Randy Johnson (CAC member) asked how the EARIP would address possible changes to groundwater capture regulations. Mr. Gulley responded that the EARIP would evaluate any changes to regulations as they occurred, and noted that there is also an ongoing lawsuit over water allocation and the whooping crane that could affect the EARIP process.

Mr. Gulley encouraged coordination between the EARIP and the SEP-HCP, particularly related to aquatic species issues.

### **3. Discussion on alternatives for covered activities – Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Kirby Brown opened the discussion on alternatives for covered activities and walked the CAC through several examples of how other regional habitat conservation plans in Texas addressed covered activities.

Deirdre Hisler (CAC member) requested that the CAC receive materials for meetings further in advance for future meetings. Mr. Brown invited the public to participate in the discussion.

Mr. Brown noted that the draft Comal County plan covered activities related to land development, utility activities, and infrastructure projects. He noted that the draft Comal County plan does not cover ordinary farming and ranching activities, since they are already covered by other programs or are conducted in accordance with guidelines from Texas Parks and Wildlife Department. Michael Moore (CAC member) asked if cutting mature cedars for posts is an activity that causes take. Mr. Brown explained that if the overall canopy cover was not reduced, then it would not be considered take by the USFWS. Charlotte Kucera (USFWS) also noted that timing of the activity, affects on canopy cover, and the overall landscape characteristics were also considerations and recommended that landowners consult with the USFWS.

Mr. Brown described the list of covered activities included in the draft Hays County Regional Habitat Conservation Plan, and noted that this plan lists more specific types of activities but also includes the phrase "...includes, but not limited to...". He noted that the draft Hays County plan addresses incidental take related to preserve management, but does not address ordinary farming and ranching practices.

Mr. Brown described that the approved Williamson County Regional Habitat Conservation Plan covers land development, transportation, utility, and infrastructure projects.

Mr. Brown described the covered activities in the approved Lost Pines Habitat Conservation Plan and noted that this plan had a limited list of covered activities that excluded most types of private land development. Amanda Aurora (Loomis Partners) explained that most of the covered activities in the Lost Pines Habitat Conservation Plan are low impact land management activities.

Mr. Brown described the covered activities of the draft Barton Springs Edwards Aquifer Conservation District, which are limited to pumping activities. He also described that the approved Balcones Canyonlands Conservation Plan broadly covers any type of incidental take of their covered species.

Deirdre Hisler noted that the list of covered activities has been becoming more specific with each successive regional plan and asked for USFWS comments on this trend. Charlotte Kucera responded that the differences in the covered activities reflects the individuality of each plan and that the USFWS would like to see a good analysis of the incidental take from the covered activities.

Bob Liesman (CAC alternate) asked the USFWS if a more specific or limited list makes preparation of the plan simpler, and what might happen if the list does not mention a specific type of activity. Ms. Kucera responded that the description of the covered activities, combined with the detailed analysis of incidental take, will guide the USFWS in determining whether a particular activity is intended to be covered by the plan. Ms. Aurora also noted that the detailed lists of specific activities in these plans are generally provided as examples for clarity, in support of the relatively broad categories of coverage that are analysed. Ms. Aurora also explained that limiting the list of covered activities in a plan could reduce the amount of incidental take that would require mitigation and reduce the costs of the plan. Annalisa Peace

(CAC member) stated that the list of covered activities needs to be broad enough to adequately protect the covered species.

Mr. Brown suggested that the CAC members review the other plans over the next several weeks and Ms. Aurora noted that links to the various plans were posted on the Documents page of the SEP-HCP website. Ms. Hisler commented that the USFWS could suggest appropriate activities for coverage through their participation in the Agency Oversight Group and Mr. Brown indicated that these types of discussions were already happening.

Delmar Cain (CAC member) noted that it is difficult to understand the effect of a broad or narrow list of covered activities without information on what the overall costs might be. Mr. Brown suggested that the list can be refined as needed while the process develops. Frosty Forster (CAC member) suggested that a broad list of activities might better serve the needs of the community and the conservation needs of the species.

Mr. Moore asked about the implementation of the different approaches of the approved Balcones Canyonlands Conservation Plan and Williamson County, and if the USFWS had a preference for one approach over another. Kevin Connally (USFWS) responded that the USFWS does not have a preference for one approach over the other, provided that a balance between impacts and conservation is achieved. He also noted that the broad coverage of the Balcones Canyonlands Conservation Plan allowed Travis County to better control its economic future and may have attracted economic development to the county since endangered species compliance was streamlined.

Mary Bradshaw (CAC member) asked when a decision on covered activities was needed. Mr. Brown suggested that the CAC start with a broad list and refine the list as needed, with a decision to be made by the July meeting. Richard Heilbrun (BAT Chairperson) suggested that some preliminary direction from the CAC would help the BAT and the consultant team provide more detailed information to the CAC in order to refine the list of covered activities.

**BREAK (10 minutes)** – CAC members elected to skip the break.

#### **4. Review and approve minutes, with any appropriate changes, from the April 5, 2010 meeting.**

Kirby Brown asked the CAC for comments on the revised draft minutes. There was no discussion.

MOTION (Michael Moore): Approve the minutes from the April 5, 2010 CAC meeting, as revised.  
SECOND (Delmar Cain). VOTE: Voice vote carried unanimously.

Deirdre Hisler asked for clarification on the process for preparation and revision of the meeting minutes. Mr. Brown responded that the consultant team prepares a draft of the minutes that is reviewed by the Agency Oversight Group prior to distribution to the CAC. He also noted that comments on the minutes can be submitted in advance of or during the meeting. Ms. Hisler stated that the audio recording of the meetings are posted on the consultant's FTP site.

#### **5. Public comments (3 minutes per speaker)**

Kirby Brown invited comments from members of the public. No public comments were received.

#### **6. Report from consultant team – Amanda Aurora (Loomis Partners)**

Kirby Brown asked Amanda Aurora for a report from the consultant team.

Ms. Aurora noted that no public comments were received through the email address ([info@sephcp.com](mailto:info@sephcp.com)) or through the comment blog on the website. She stated that the consultant team was currently working on assembling a set of resource assessments and status reviews for a variety of biological and socioeconomic topics, which should be ready for CAC review in July. Ms. Aurora presented a brief schedule of major discussion topics for CAC meetings through December 2010, with topics introduced one or more meetings before a decision is expected.

Annalisa Peace stated concerns that the BAT had not met recently. Amanda Aurora and Richard Heilbrun responded that the BAT did not have anything to deliberate on until the resource assessments are completed and additional direction is provided from the CAC on aquatic species issues. Mr. Heilbrun stated that the BAT was assembling a sub-committee to take up the issue of aquatic species. Mr. Brown elaborated that the work of this sub-committee would help the CAC understand status of the aquatic species and would also seek additional guidance from USFWS on how these species might best be addressed by the SEP-HCP.

#### **7. Report on independent legal counsel – Andy Winter (Bexar County)**

Andy Winter (Bexar County) stated that the Bexar County District Attorney has made a recommendation for the Commissioners' Court to retain a specific firm for legal counsel, but that the Court had not yet voted on the recommendation. Richard Heilbrun noted that the Court agenda for Tuesday, May 4, 2010 included an agenda item to act on a recommendation to retain Jackson Walker, LLP for legal assistance related to the SEP-HCP.

#### **8. Report on project budget – Andy Winter (Bexar County)**

Andy Winter presented a summary of the budget for the development of the SEP-HCP. The total project budget is approximately \$1.4 million in federal grant funds and \$446,000 in local matching funds from Bexar County and the City of San Antonio. The budget is divided into estimates for each of 5 phases. He explained that the consultant team has invoiced approximately 8.5% of their budget to date, with no costs invoiced to date for independent legal counsel or other expenses. Deirdre Hisler asked for clarification on the legal costs invoiced to date for the work of Braun & Associates. Andy Winter responded that Loomis Partners invoiced those costs under their fixed price contract with the County. He also noted that the allocated budget for the independent legal counsel was \$300,000. Annalisa Peace asked how additional studies might be funded and Amanda Aurora responded that there was a small unallocated portion of the overall budget reserved for contingency purposes.

#### **9. Report on coordination with Comal County - Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Kirby Brown did not have any new information on coordination efforts with Comal County. He also suggested that the CAC Co-chairs meet individually with each of the CAC stakeholder groups to better understand the specific concerns of these groups.

#### **10. Next Meeting and Requested Agenda Items – Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Kirby Brown noted that the next meeting would occur on the first Monday of June and asked for requested agenda items.

Susan Wright requested a presentation from USFWS on the HCP process. Annalisa Peace requested a presentation on the endangered karst species and aquatic species. Annalisa Peace noted that the summary of examples from other regional habitat conservation plans was helpful for the covered activities discussion and requested similar summaries for conservation strategies and programs. Kirby Brown and Andy Winter suggested that CAC members email the consultant team specific suggestions for materials to [info@sephcp.com](mailto:info@sephcp.com).

Randy Johnson asked if the field trip would be rescheduled. Amanda Aurora suggested that it was getting too late in the breeding season for a productive field trip, and recommended rescheduling in 2011.

#### **11. Adjourn - Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Kirby Brown adjourned the meeting at 7:52pm.