

From: Anndietert@aol.com
Sent: Wednesday, April 27, 2011 11:31 AM
To: info@sephcp.com
Subject: Draft Comments

It seems to me that the consultants are trying to steer the plan away from the BAT recommendations, especially regarding the 3:1 mitigation ratio for the GCW. When we voted on 4 plan variations (with dots), there were 11 for the 3:1 plan and 7 for the 2:1. Yet in the draft, the mitigation ratio for GCW is given as 2:1. The mitigation rate for the BCV was also shifted from 2:1 to 1:1. I know a real estate/developer CAC member has repeatedly said that 3:1 won't work, and it may not for all developers. However on 4/9/11 there was a front page article in the San Antonio Express-News, "A Win-Win-Win Land Agreement", describing a land developer who worked out his own mitigation deal in the Dominion/Camp Bullis area of Bexar County resulting, according to Alison Arnold of USFWS, in "a win for the warblers by a ratio of 4-to-1." It would therefore appear the 3:1 is not impossible, and I feel we should strive to meet the BAT recommendations on these ratios.

Another area where the draft appears to deviate from the CAC vote is on the amount of GCW habitat to be preserved in Bexar County or within 5 miles. The CAC voted 13 to 5 for 60% preservation in this area versus 40% in rural areas, also a BAT recommendation. The draft lists a 30,000 acre final preserve for GCW with 5000 in (or within 5 miles of) Bexar County. In my math world, this is not a 60/40 split. I think the CAC deserves some solid explanations for these departures from the levels the committee voted to establish.

Ann Dietert
Kerr County landowner,
CAC member



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
- 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.

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

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.

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

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

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.

* * *

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

From: Bebe Fenstermaker

To: Loomis Partners Inc, Bexar County-Infrastructure Services Dept.

Some comments on the 1st draft version 4-1-11 SEP-HCP (draft plan):

I strongly support inclusion of the BAT March 28, 2011 Executive Summary recommendations in the final SEP-HCP.

The draft plan does not reflect votes taken by the CAC or follow the BAT recommendations.

CAC majority votes accepting BAT recommendations were:

- BAT recommendations for BCV,
- BAT recommendations for Karst,
- CAC majority Dot vote of 3-7-11 for:
 - GCW mitigation ratio of 3:1 in Bexar Co. / 2:1 outside Bexar Co.,
 - BCV mitigation ratio of 2:1,
 - 60% of the mitigation located within Bexar County or a 5-mile buffer around Bexar County; the remaining 40% of the mitigation may occur elsewhere within the Plan Area

Why does the draft plan ignore these votes?

The draft plan does not reflect BAT recommendations of:

- Preserve size – the draft plan proposed size is far too small to aid the covered species.
- No more than 10% of the GCW conservation credits be generated from public lands that were protected as of November 4, 2010.

The following BAT March 28, 2011 Executive Summary information seriously questions the draft plan's proposed use of already protected public land:

"In response to Bexar County's Question 3, the important issue is not whether the currently protected lands represent GCWA habitat, but rather whether those lands are truly perpetually protected:

- Camp Bullis could at any time be declared exempt from ESA laws by the Department of Homeland Security
- The City of San Antonio properties are not bound to manage their lands for warblers, vireos, or endangered karst species. Over time, through neglect, mismanagement, or a lack of funding, these lands could become unsuitable for warblers and the conservation value of those lands would be lost.
- Portions of Government Canyon State Natural Area are not bound by conservation easements. Other portions are bound only by aquifer-related easement language, and these areas may be threatened by several factors, including local efforts to create regional flood control structures. In addition, those parts of GCSNA not bound by legal easements for warblers could be annexed by the General Land Office and sold."

Following BAT recommendations will alleviate the above problems.

In addition:

- Page 89 6.2.2. Uses of Preserve Lands

“However, other uses of preserve lands may be allowed if these uses are: (1) conducted in a manner consistent with the conservation of the GCW and BCV; (2) conducted in accordance with an adaptive management plan that identifies and minimizes potentially related threats to the species; and (3) approved by the Service. By way of example, secondary uses 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.”

Remove: “and utility or infrastructure corridors”.

The CAC did not consider this scenario which is totally unacceptable in conservation of preserve land and endangered species. Past history in Bexar County has clearly demonstrated that this damages conservation/preserve land and results in loss to endangered species.

- Page 91 6.3.3. I do not support the purchase of credits from existing 3rd party conservation banks. If a 3rd party conservation bank fails the SEPHCP should lose the credit.

Clarification needed.

- Page 92 6.3.4. “Finally, conservation credits may be purchased by entities simply seeking to extinguish the credit, without applying it as mitigation for incidental take.”

Why would someone purchase credits "simply seeking to extinguish the credit"? What would be the reasoning?

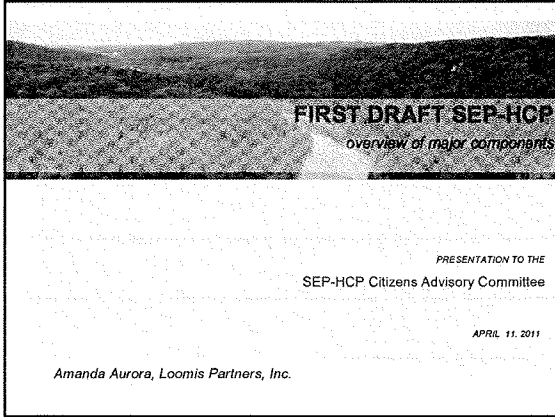
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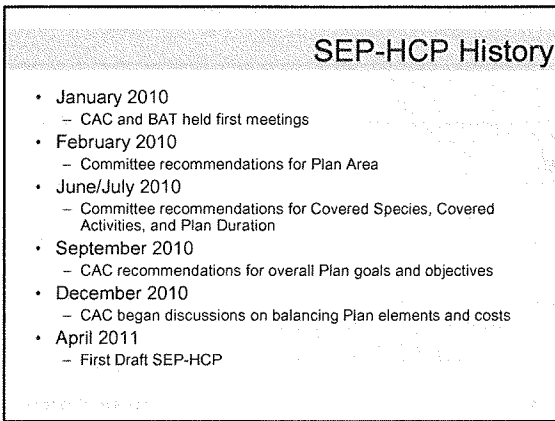
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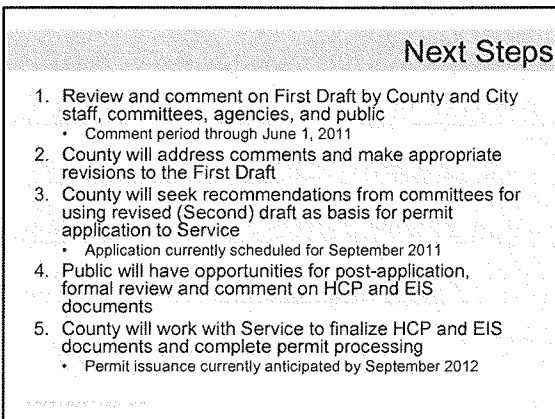
From: Dr. Bob Fitzgerald

& Questions

See comments in the space provided from Dr. Bob Fitzgerald
Madison Co Landowners







Major SEP-HCP Components

1. Plan Administration and Plan Area
2. Covered Species
3. Covered Activities and Participation Process
4. Incidental Take Request and Species Impacts
5. GCW and BCV Conservation Program
6. Karst Conservation Program
7. Adaptive Preserve Management and Monitoring
8. Funding Plan

Plan Administration

- Permit Holder
 - Bexar County only
- Plan Administrator
 - Bexar County will be ultimately responsible for Plan implementation
 - Bexar County may delegate administrative tasks to other entities
- SEP-HCP "Partners"
 - Other jurisdictions may elect to become formal SEP-HCP Partners and share in take authorization and Plan implementation. Would require an individually negotiated interlocal agreement with Bexar County.
 - For example, City of San Antonio is currently a SEP-HCP Partner to help fund Plan development.

Plan Area

- **Plan Area** – the entire operating region of the Plan
 - 7 counties: Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal counties
 - Conservation actions may occur anywhere within the Plan Area
- **Permit Area** – the area where the permit's incidental take authorization may be used
 - 6 counties; excludes Comal County since they are working on their own plan
- **Participation Area** – places administrative limits on where participation will be allowed
 - Initially includes: Bexar County and adjacent "high growth" SEP-HCP sectors outside of Comal County
 - May be amended later to include the jurisdictions of any future voluntary SEP-HCP Partners

under the heading of Participation area
Had to change Plan areas
from the named counties
to individuals in the 6
named COs. where there
is appropriate habitat for
the endangered species

GCW and BCV Mitigation Ratios

- On-site Habitat Impacts
 - Applies to all identified habitat within the Project Area boundary
 - Mitigated at 2:1 for GCW and 1:1 for BCV
- Off-site Habitat Impacts
 - Applies to all identified habitat up to 300 feet outside of a Project Area boundary
 - Mitigated at 0.5 : 1 for both species
- Initial Conservation Credit Fees
 - \$5,000 per credit

For example, each acre of GCW habitat within a Project Area is mitigated by the purchase of 2 GCW conservation credits (\$10,000 per acre of habitat impact) and each acre of GCW habitat adjacent to a Project Area is mitigated by the purchase of 1/2 conservation credit (\$2,500 per acre of habitat impact).

Need to increase mitigation from 2:1 to 3:1 (or no deal) for Bxar Co

GCW and BCV Special Conditions

- Only applies to SEP-HCP participants and enrolled Project Areas
- Seasonal clearing restrictions
 - No clearing GCW or BCV habitat during the species' breeding seasons (generally March 1 through August 31)
- Oak wilt prevention
 - Participants must follow precautions for preventing spread of oak wilt, including painting all cuts or wounds on oak trees

Karst Participation Process

- All participation is voluntary and participants identify the area for which they want coverage ("Project Area")
- Submit application to Administrator for review
 - Applicant and Project Area information
 - Karst Biological Information
 - Mapped Karst Zones 1 through 4
 - Service designated Critical Habitat Units
 - Occupied Cave Zones for any other identified species-occupied caves within or adjacent to a Project Area
 - Occupied Cave Zones extend 345 feet from the footprint of a species-occupied cave

Adaptive Preserve Management and Monitoring

- SEP-HCP Administrator is responsible for managing and monitoring preserves
- Adaptive management process
 - tailors management to the needs of individual preserves over time
- 10-year cyclical process of:
 - **Baseline Assessments** - review site conditions and threats
 - **Preserve Management Planning** - identify management needs and prioritize implementation
 - **Implementing Management Actions** - conduct needed management actions based on priorities and annually review results and progress
 - **System-wide Preserve Monitoring** - specifically assess habitat conditions and species trends

Who is the SEP HCP Administrator

& how is He/She selected?

What punitive measures

does the officer have - e.g.

fines if landowner

doesn't do what he is supposed

to do

General Funding Plan Assumptions

- Full amount of take authorization is used by voluntary Plan participants
- All biological goals and objectives are achieved, particularly with respect to sizing and distribution of preserves
- Preserve management and monitoring costs based on a typical set of activities
- Preserve acquisitions and Plan participation occurs at constant rate over 30 years
- Estimated costs and revenues inflate annually by 3 percent

What does 30 yrs have

to do with the plan?

How the landowner

has to agree to manage

the land in perpetuity

Preserve Acquisition Assumptions

	GCW	BCV	Karst	Total
Preserve Lands (acres)				
Rural Preserves	25,000	5,000	-	30,000
Suburban Preserves	5,000	-	1,200	6,200
Urban Preserves	-	-	1,200	1,200
Total	30,000	5,000	2,400	37,400
Land Prices (per acre)				
	Fee Simple Purchase		Conservation Easement (33% of Fee Simple Price)	
Rural Preserves	\$4,500		\$1,500	
Suburban Preserves	\$25,000		\$8,300	
Urban Preserves	\$45,000		\$14,900	
Distribution of Land vs Easement Purchases				
Rural Preserves	10% Land : 90% Easement			
Suburban Preserves	60% Land : 40% Easement			
Urban Preserves	90% Land : 10% Easement			
Real Estate Trans. Fees	3% of Land Purchase Price (based on fee simple costs)			

I don't understand

this part of the

proposed plan

1.1.1 GEOLOGY AND AQUIFERS

The terrain of the SEP-HCP Plan Area is highly variable as the Gulf Coastal Plains found at the southeast end of the Plan Area transition to the Blackland Prairie and the Edwards Plateau to the west. This transition occurs along the Balcones Escarpment (also called the Balcones Fault Zone), which is a major geologic feature of this region. The regions to the southeast of the Balcones Escarpment are characterized by rolling hills and subtle terrain that are characteristic of the weathering of younger, less-lithified rocks and unconsolidated sediments. Northwest of the Balcones Escarpment, the terrain and soils change dramatically as the topography transitions to the region known as the "Texas Hill Country", part of the Edwards Plateau ecological region. The Hill Country is characterized by high topographic relief associated with incised valleys. Increased erosion associated with **tectonic uplift** has weathered away all but a few cap-rock sections of the younger limestone, leaving only the underlying older carbonate rocks.

I have never heard of "tectonic uplift" in relation to erosional formation of the Tx Hill Country.

1.1.2 EVALUATING APPLICATIONS

1.1.2.1 GCW AND BCV PARTICIPATION

The SEP-HCP Administrator will determine the level of mitigation that a potential participant must provide to obtain incidental take authorization for impacts to the GCW and BCV through the SEP-HCP. The level of mitigation will be based on (1) the amount of potentially suitable habitat for the GCW and BCV that is present within a Project Area and up to 300 feet outside of a Project Area and (2) defined mitigation ratios for on-site and off-site impacts for each species.

Habitat Impact Assessments

To streamline and simplify participation in the SEP-HCP, the SEP-HCP Administrator will typically determine the acres of GCW and BCV habitat that would be affected by a covered activity in the following manner:

1. All acres of suitable GCW and BCV habitat within a Project Area are assumed to be directly impacted by the covered activity ("On-site Habitat Impacts"). Portions of a Project Area within an Occupied Cave Zone or within critical habitat for a listed karst invertebrate will be excluded from the assessment of direct impacts if karst participation for these zones is not obtained.
2. All acres of suitable GCW and BCV habitat within 300 feet outside of a Project Area are assumed to be indirectly impacted by a covered activity ("Off-site Habitat Impacts"). Any area within an Occupied Cave Zone or within critical habitat for a listed karst invertebrate that is excluded from the assessment of direct impacts will be considered indirectly impacted.

The number of habitat acres that are assumed to be directly or indirectly impacted by a covered activity are established by the biological information submitted with the application, but may be refined with additional species survey information.

To potentially reduce the number of habitat acres that are assumed to be affected by a covered activity, a potential participant may optionally submit species survey information collected in accordance with the Service's presence/absence protocols with their application. The SEP-HCP Administrator will exclude patches of GCW and BCV habitat from the habitat impact assessment that are shown by such surveys to not be occupied by the species. For the purpose of the SEP-HCP, individual "patches" of GCW and BCV habitat are discrete areas of suitable habitat separated from other such patches by at least 50 feet. **A single year of surveys conducted no more than three years prior to the date of application will be sufficient to refine the impact assessment for participation in the SEP-HCP.** **Three consecutive years of "no-occupancy" are required to remove GCW or BCV habitat from consideration????**

Karst Conservation Levels

The biological goals and objectives of the karst conservation program are to achieve a level of conservation that is likely to secure the survival and recovery of the listed karst invertebrates by meeting or exceeding the downlisting criteria described in the 2008 Bexar County Karst Invertebrates Draft Recovery Plan ("Draft Karst Recovery Plan;" USFWS 2008) (see [Section 5.2.2](#)). These criteria prescribe a certain number, type, and distribution of cave preserves that should be permanently protected and managed for each of the listed karst species.

The draft downlisting criteria specify that a minimum of six preserves be established across the range of each karst species, and that one high quality preserve **and at least three total high or medium quality preserves** **can this be stated more clearly?**

1.1.3 COMPLETING ENROLLMENT

1.1.3.1 FORMS OF MITIGATION FOR GCW AND BCV

The SEP-HCP Administrator will offer potential participants two ways of providing the necessary mitigation for their project: (1) the purchase of conservation credits from the SEP-HCP conservation bank, if sufficient credits are available, or (2) the provision of suitable preserve land in lieu of credit purchases. A combination of these forms of mitigation may also be acceptable.

Purchase of Conservation Credits

GCW and BCV preserve land that meets the minimum standards described in [Section 6.2.1](#) will generate conservation credits for the SEP-HCP conservation bank. A "conservation credit" is generally equivalent to an acre of GCW or BCV habitat that is permanently protected and managed for the benefit of the respective species. Therefore, credits will be generated in proportion to the number of acres of GCW and BCV habitat and habitat buffers contained within the preserve. The SEP-HCP Administrator will "bank" these conservation credits and offer them to potential participants as mitigation for Covered Activities.

Potential participants wishing to complete the enrollment of a project in the SEP-HCP may purchase the appropriate number of conservation credits from the SEP-HCP Administrator. The

number of conservation credits that must be purchased to complete enrollment are determined by the SEP-HCP Administrator as described in [Section 3.2.3.1 – Mitigation Ratios](#).

The purchase fees for each GCW and BCV conservation credit are set at the discretion of the SEP-HCP Administrator and may change over time. The SEP-HCP Administrator will publically advertize the current fee amounts on a program website, with printed program brochures, or other through similar methods of communication. Initially, the SEP-HCP Administrator will set the per credit fees at the following levels:

- GCW Conservation Credit -- \$5,000 per credit **This is much too low for NW Bexar County. The costs of this program should be born by those benefitting from permitted incidental take. Those entities conducting the take should bear the cost and may consider passing on these costs to other consumers of the permitted project. The general tax base of Bexar County/City of San Antonio should not be unduly burdened for the private gain of future development. \$5,000 per acre is only a fraction of purchase costs for an acre in NW Bexar County and this does not include administrative costs of the RHCP or in-perpetuity management. This fee structure should be based on market costs.**

At these levels, potential participants would be charged \$10,000 per acre of directly taken GCW habitat, \$5,000 per acre of directly taken BCV habitat, and \$2,500 per acre of indirectly taken GCW or BCV habitat.

In-lieu Preserve Lands

In lieu of purchasing conservation credits from the SEP-HCP conservation bank, a potential participant may offer GCW and BCV preserve land as full or partial mitigation for a covered activity. The SEP-HCP Administrator will have the discretion to accept or reject all offers of preserve land in lieu of conservation credit purchases on a case-by-case basis. Any preserve land offered by a potential participant as mitigation for a participating Covered Activity must meet the minimum standards for a SEP-HCP GCW or BCV preserve, as described in [Section 6.2.1](#). By accepting an offer of in-lieu preserve land, the SEP-HCP Administrator commits to protect and manage the offered preserve land in perpetuity, in the same way as other SEP-HCP preserves. The level of mitigation provided by an offer of preserve land will be established in the same manner as for other SEP-HCP preserves and will be expressed in terms of the number conservation credits for each species. **In-Lieu agreements should include fees for administrative costs and in-perpetuity management, or additional habitat equal to such costs.**

If the SEP-HCP Administrator accepts an offer of preserve land from a potential participant and the offered preserve land creates more conservation credits than are needed to offset the impacts of the participant's project, the excess credits may be treated as follows:

- Option 1: The excess credits may be added to a special account of the SEP-HCP conservation bank and reserved for the future use of that participant or its assigns.
- Option 2: The SEP-HCP Administrator may negotiate the purchase of the excess credits from the participant and make the excess credits available for purchase at large by other potential participants.

3.2.4.2 FORMS OF MITIGATION FOR KARST

The SEP-HCP Administrator will also offer potential participants two ways of providing the necessary mitigation for their project: (1) the payment of participation fees, or (2) the provision of suitable preserve land in lieu of mitigation fees. **In-Lieu agreements should include fees for administrative costs and in-perpetuity management, or additional habitat equal to such costs.** A combination of these forms of mitigation may also be acceptable.

KARST PRESERVES IN LIEU OF FEES

In lieu of paying karst participation fees to the SEP-HCP Administrator, a potential participant may offer new karst preserves as mitigation for incidental take. The SEP-HCP Administrator will have the discretion to accept or reject all offers of preserve land in lieu of paying karst participation fees on a case-by-case basis. **In-Lieu agreements should include fees for administrative costs and in-perpetuity management, or additional habitat equal to such costs.**

Special Conditions for GCW and BCV

Seasonal Clearing and Construction Restrictions

Participation Agreements will require SEP-HCP participants to minimize impacts to the GCW and BCV during their respective breeding seasons by imposing seasonal clearing and construction restrictions. These seasonal clearing restrictions will only apply to voluntary SEP-HCP participants on Project Areas enrolled in the SEP-HCP. Bexar County will not impose these restrictions on non-participants or lands not enrolled in the SEP-HCP.

The seasonal clearing and construction restrictions will be in effect between March 1 through July 31 for activities affecting GCW habitat and between March 15 through August 31 for activities affecting BCV habitat.

No clearing or other removal of woody vegetation that would cause the loss or degradation of suitable habitat for the GCW or BCV may occur during these periods. Other construction-related activities that do not involve the removal of vegetation may occur during these periods ~~if (1) the construction activities are part of a continuous set of clearing and/or construction activities that began during the non-breeding season; (2) are performed in a reasonably prompt and expeditious manner; and (3) the disturbance activity is mitigated appropriately for all direct and indirect effects on and off of the project site (i.e., the participant is complying with all of the terms and conditions of the Participation Agreement).~~

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The SEP-HCP Administrator may grant exceptions to these restrictions if a GCW or BCV survey conducted during that species' breeding season indicates that the species ~~is not present within 300 feet of the planned activity.~~ An applicable species survey must be conducted in the same year as the start of the planned clearing or construction activity. The dates for seasonal restrictions are supported by the breeding phenologies presented in Ladd and Gass (1999) and Grzybowski (1995) ([see the GCW and BCV assessments in Appendix C](#)).

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Special Conditions for Karst Invertebrates

Participation Agreements for SEP-HCP participants will contain special conditions relating to the listed karst invertebrates. These special conditions are intended to minimize impacts to the listed karst invertebrates and ensure that participants do not unintentionally jeopardize the survival and recovery of these species.

In general, three of the listed karst invertebrates are less rare: *Rhadine exilis*, currently known from 51 sites across four KFRs; *Rhadine infernalis*, currently known from 40 sites across five KFRs; and *Cicurina madra*, currently known from 20 sites across four KFRs (USFWS 2011). Given the relatively high number of known sites for these species and their distribution across several KFRs, these three "Category 1" species may be less sensitive on a species level to the impacts from the requested incidental take than the other six listed karst invertebrates.

Deleted: relatively common

The other six listed karst species are known from many fewer sites and KFRs, and three of these very rare species (*Texella cokendolpheri*, *Cicurina venii*, and *Cicurina vespera*) are currently only known from a single locality (USFWS 2011). The impacts of authorized incidental take could have a proportionately stronger impact on these six very rare "Category 2" karst invertebrate species than on the more common Category 1 karst species.

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A regional Habitat Conservation Plan, such as the SEP-HCP, would not constitute a new federal program authorizing new activities with potential impacts to the human environment. Rather, it would provide a voluntary, alternative means of compliance with the ESA for non-federal entities. This means that project proponents in the SEP-HCP Permit Area would retain the ability to use their property and remain in compliance with the ESA through means other than the SEP-HCP (i.e., through avoidance, individual HCPs, or ESA Section 7 consultations). Project proponents might also determine that compliance with the ESA is not necessary for their project and develop their property without coordination with the Service (in some cases possibly risking violation of Section 9 of the ESA). Therefore, protected **Projected??** future land development activities are not interrelated or interdependent to the SEP-HCP.

In a "worst case" scenario where all of the requested incidental take for the GCW and BCV were to be used only within Bexar County (excluding Camp Bullis), the requested take would represent approximately 20 percent of the available GCW habitat in Bexar County. In this scenario, the 12,000 acres of authorized GCW take would address a substantial portion of the anticipated habitat loss for Bexar County (estimated at approximately 15,000 acres over 30 years), but would still only represent a minor fraction of the total amount of habitat in Bexar County. For the BCV, the 4,000 acres of requested incidental take would still only represent less than 10 percent of the total amount of estimated habitat in Bexar County.

But with mitigation would result in 20% GCW take and 40% preserved = 60% "utilized". Or 20% for BCV habitat.

Table 14 shows that approximately 52,000 to 101,000 additional acres of GCW habitat could ~~would??~~ need to be protected for the benefit of the GCW in order to achieve the regional recovery standards.

1.1.4 IMPACTS TO INDIVIDUAL KARST SPECIES

Impacts to species-occupied caves would not be expected to affect the individual listed karst species equally, since some of these species are more common and wide-spread than others. In general, three of the listed karst invertebrates are relatively common: *Rhadine exilis*, currently known from 51 sites across four KFRs; *Rhadine infernalis*, currently known from 40 sites across five KFRs; and *Cicurina madla*, currently known from 20 sites across four KFRs. Given the relatively high number of known sites for these species and their distribution across several KFRs, these three "Category 1" species may be less sensitive on a species level to the impacts from the requested incidental take than the other six listed karst species.

The other six listed karst species are known from many fewer sites and KFRs, and three of these rare species (*Texella cokendolpheri*, *Cicurina venii*, and *Cicurina vespera*) are currently only known from a single locality. The impacts of authorized incidental take could have a proportionately stronger impact on these six ~~extremely~~ rare "Category 2" karst invertebrate species than on the ~~less~~ rare Category 1 karst species.

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This analysis suggests that there may be six or seven times more localities for each of the listed karst invertebrates in Bexar County than are currently known. Given current data, the estimated number of species localities that could be impacted by the SEP-HCP's incidental take authorization might be only 6 percent of the predicted total number of such localities. This analysis also suggests the extent to which participating SEP-HCP activities are likely to encounter the ~~less rare~~ rare Category 1 karst species compared to the rarer Category 2 species.

Deleted: relatively common

1.1.5 CUMULATIVE IMPACTS TO LISTED KARST INVERTEBRATES

Summarize prior actions and habitat losses

Summarize present actions and current habitat availability

Identify subset of reasonably certain to occur activities....

Describe whether or not jeopardy likely to occur

1.2 IMPACTS TO OTHER LISTED SPECIES

What goes in these blank areas?

OBJECTIVE 2: Permanently protect and manage approximately 4,000 acres of BCV habitat in the Plan Area.

The SEP-HCP will also contribute to the recovery of the BCV by acquiring and actively managing habitat for the benefit of the BCV. At full implementation, the SEP-HCP could contribute approximately 4,000 acres of actively managed habitat to the current inventory of lands managed for this species.

The SEP-HCP BCV preserves could contribute substantially to the recovery of the species. The 1991 BCV Recovery Plan calls for the protection of 500 to 1,000 breeding pairs in each recovery region. Assuming an overall BCV density of approximately 10 pairs per 100 acres of suitable habitat (which may be a conservative estimate considering that BCV territory size is typically between two and four acres, but one that recognizes that not all suitable habitat may be utilized by the species), the protection and management of 4,000 acres of BCV habitat could support a population of approximately 400 BCV breeding pairs (approximately 40 percent of a viable population for recovery purposes). Therefore, the SEP-HCP could raise the total protected population of BCVs in the Southeast Edwards Plateau BCV Recovery Region to a level that is consistent with the upper end of the range called for in the 1991 BCV Recovery Plan. The SEP-HCP will also seek to increase protections and management actions for the BCV on some existing conservation lands, particularly those with large areas of BCV habitat that is not currently being managed for the benefit of the species, and thereby increasing their relevance to recovery.

1.2.1 LISTED KARST INVERTEBRATE BIOLOGICAL OBJECTIVES

OBJECTIVE 1: Permanently protect and manage double the number of karst preserves needed to downlist each of the listed karst invertebrates, as described in the 2008 Bexar County Karst Invertebrates Draft Recovery Plan.

One of the stated purposes of the SEP-HCP and a principle biological goal is to contribute to the recovery of the Covered Species in a substantial or meaningful way. In the case of the listed karst invertebrates, the SEP-HCP seeks to achieve double the Service's draft downlisting criteria in terms of number and type of preserves in each KFR. The rationale for this objective is based on both the practicality of measuring take and issuing participation permits and also on biological reasons.

Most of the species boundaries given in the draft recovery plan are based on a single paper that was authored decades ago, and these papers may have been based on as few as one specimen. In general there is an extreme lack of verification of this information, partially based on a paucity of

specimens available and a lack of taxonomists qualified to do the work. In some cases there is evidence for potential habitat barriers within the range of a species, and these barriers may in fact turn out to divide populations that are currently considered to be a single species. In these cases, the draft downlisting criteria could increase from three karst preserves per KFR to six preserves per KFR, and the new downlisting criteria would still be attempted to be met by the SEP-HCP.

OBJECTIVE 2: Minimize impacts in close range to occupied caves.

1.2.2 USES OF PRESERVE LANDS

The legal protections for SEP-HCP preserves will establish that the primary purpose of GCW and BCV preserve lands is for the long-term conservation of these species.

8.1.4 MONITORING RESULTS

Three general types of monitoring activities are envisioned under the adaptive preserve management process: (1) monitoring threats to help determine management needs; (2) monitoring the results of specific management practices; and (3) system-wide monitoring of habitat conditions and species' abundance and habitat occupancy patterns.

Monitoring for the existence and/or intensity of potential threats to the Covered Species is necessary to support the evaluation of management needs in the Baseline Preserve Assessments. It is anticipated that this type of monitoring will be implemented to evaluate threats from human land uses and activities, competition or predation by other animals, and other threats to the suitability of protected habitats.

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The Funding Plan demonstrates the availability of reliable and well accepted sources of funding. Bexar County will fund or otherwise provide for the SEP-HCP conservation programs using three types of resources: (1) participation fees charged to SEP-HCP participants; and (2) public tax revenue, mostly likely from tax increment financing collected on properties in Bexar County and the City of San Antonio; and (3) savings gained from the conservation value of existing protected lands and lands acquired with existing open space sales tax revenue. The funding plan assumes that most of the preserve acquisition costs for the GCW and BCV will be supported by GCW and BCV participation fees, while property tax revenue will be used to fund the acquisition of karst preserves. Preserve management and monitoring, as well as program administration, will be supported primarily by public revenue sources since many of these costs will continue in perpetuity. I am concerned about the level of public funding.

and an estimate that approximately 25 percent additional land will be needed to generate the appropriate number of conservation credits for these species. The additional land is needed to provide adequate habitat buffers and to account for some areas of non-habitat that are likely to be present within a preserve parcel. This indicates that, overall, avian preserve/mitigation bank acquisitions contain over 75% BCV or GCW habitat. I doubt this is possible.

Who is financially responsible for management and monitoring of habitat/species conditions on conservation easements? At 33% acquisition cost estimate, I would assume it is the Administrator.

Therefore, the funding plan assumes that 90 percent of rural preserves, 40 percent of suburban preserves, and 10 percent of urban preserves will be acquired as conservation easements. I believe the assumptions for conservation easements in suburban and urban areas are too high.

1 Includes Bexar County and San Antonio tax increment diversion (TID) from new development and land acquisition savings from the use of existing open space sales tax revenue and conservation credits created from existing protected lands. Existing open space sales tax revenue can only be used to protect water quality and quantity entering the Edwards Aquifer, and can not be used to specifically target endangered species habitat acquisition or protection.

9.3.2 PUBLIC REVENUE SOURCES

The funding plan assumes that public revenues will be necessary to balance the SEP-HCP's budget, since participation fees only cover approximately 40 percent of the Plan costs (including funding the management endowment). It is necessary to show that this deficit can be covered by reliable and well accepted funding sources, such as public tax revenue. Other 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. COSA potential existing mitigation values are limited. Almost all USFWS and public acceptable credits have been previously mitigated. No other sales tax preserves are fee simple and available for mitigation at no additional cost.

The Funding Plan also assumes that some lands that will be acquired with the City of San Antonio's recently approved sales tax for open space preservation will also have conservation value for the GCW. Approximately 1,050 acres of GCW conservation credit are assumed to be created by such future acquisitions over the first seven years of the Plan. The value of these GCW conservation credits is assumed to be equivalent. See previous comments re sales tax conservation.

LABOR AND ADMINISTRATIVE COSTS

Staffing

Number of Program Manager/Senior Biologists

Is the Program Manager/Senior Biologist supposed to administer the program? Otherwise I see no administrative personnel. No secretarial. After ten years, with about 12,500 acres, there is a total of four employees indicated. Is this a realistic assumption for total operation of the SEP/RHCP at that point?

From: Jen Nottingham [jennottingham@satx.rr.com]

Sent: Sunday, May 08, 2011 3:31 PM

To: Amanda Aurora; ccr@hctc.net; Kirby Brown

Cc: Clif Ladd; Winter, Andrew; Brach, Robert; jennottingham@satx.rr.com

Subject: Re: SEP-HCP CAC Meeting -- Monday May 9 @ 6pm @ Scenic Loop Playground Club (Grey Forest)

RE: "if you have any specific questions in mind about the First Draft HCP – please let us know so we can be sure to get you the information you need."

I know it is late, but I just finished my homework and I do have questions and concerns:

- 1.. page 24, 2.2.1 Can you give example of "the SEPHCP establishes certain administrative conditions...."?
- 2.. page 25, 2.2.3, first bullet looks like plan includes all of Bexar
- 3.. page 27, 2.4.2 first bullet, why is it light blue?
- 4.. page 31, 3.2.1 third P, last line "such as way", typo?
- 5.. page 32, 1st P, last sentence, "For example...", can they do both?
- 6.. page 32, last bullet, "fee, if required" when will that be decided?
- 7.. page 33, 3.2.2.2, 2nd P, Please give example
- 8.. page 33, 3.2.2.3, 2nd P, end of 1st line... which area areas known, typo?
- 9.. page 39, table 6, when did we decide on 2:1 and 1:1 and what is definition of "off-site"
- 10.. page 40, 1st P did we vote on 345 ft?
- 11.. page 44, bullets, when did we decide?
- 12.. page 49, 2nd to last P 2nd line, "that the species in not present", typo?
- 13.. page 53, OTHER CONDITIONS, 1st P, ...may suspend... What happens when rights are revoked, do participants get money back?
- 14.. page 58, last P, example please?, I do not understand
- 15.. page 71, last P, where did 15% come from?
- 16.. page 79, why is it light blue?
- 17.. page 83, I guess we'll be discussing 3:1 vs 2:1 further
- 18.. page 84, 5.2.2, 2nd P 2nd to last line, The rational? typo?
- 19.. page 95, last bullet, why is it "smaller"?
- 20.. page 107, last P, (2)... when did we discuss property tax? COSA citizens will be hit w/ COSA and Bexar property tax for same item?
- 21.. page 114, 9.3 last P, public tax revenues looks like property tax to me
- 22.. page 116, 9.3.2 have not read most recent COSA prop for land aquisition, does it refer to endangered species ?
- 23.. page 116, 9.3.3, is it legal to divert funds? that's part of why the state has such a budget shortfall
- 24.. page 117, 1st P, how is new tax revenue generated by new development?

Not bad out of 155 pages? Must go now, Mothers' Day and all.

Jen

Texas Wildlife Association

"Working for tomorrow's wildlife ... TODAY!"

2800 NE Loop 410, Suite 105 <> San Antonio, Texas 78218 <> 210/826-2904 <> 800/839-9453 <> FAX 210/826-4933

June 10, 2011

Andrew Winter, Infrastructure Services Department
County of Bexar
233 N. Pecos, Suite 420
San Antonio, TX 78207

Clif Ladd and Amanda Aurora
Loomis Partners, Inc.
3101 Bee Cave Road, Suite 100
Austin, TX 78746

RE: Southern Edwards Plateau Habitat Conservation Plan (SEP HCP) First Draft 4/1/11

The Texas Wildlife Association (TWA) is providing comments to the draft SEP HCP dated 4/1/11. TWA has been participating in the process to further wildlife management and endangered species in Texas while protecting the interests and property rights of its members. TWA believes that any voluntary alternative gives at least a second choice to a landowner or developer, and that is better under the federal Endangered Species Act than the other existing limited options. TWA has a long and respected track record of working on pragmatic solutions to the ESA at the state and national level. Although some positive approaches have been tried and implemented, and good legislative changes have occurred at the state level, additional positive changes have yet to occur to the ESA itself at the national level.

Relatively Simplified Process: TWA supports the concept that the SEP-HCP would allow Bexar County and the city of San Antonio to obtain a permit from the U.S. Fish & Wildlife Service (USFWS) that will establish a locally-controlled, more simplified, and speedy process for landowners and developers complying with the Endangered Species Act (ESA). We believe this is critical since USFWS under the federal ESA laws currently requires extensive surveys and mitigation for any development in habitat. However, the draft plan requirements remain extensive and there is the need to make it as easy as possible for potential landowners and developers to participate. As it is written now, a person wanting to participate is required to have a permitted biologist visit the property and conduct a detailed habitat assessment. If someone is willing to come in and pay for mitigation, all that should be required is a map. This extra time and expense will likely cut down on participation.

Voluntary Participation: Participation in the completed SEP-HCP must be strictly voluntary for landowners or developers, and that is consistent with the draft plan as currently written and must remain that way in subsequent iterations. The voluntary participation in an HCP is obviously most useful for the landowner or developer who wants a better process than the currently existing expensive, 2-3 year long process with USFWS to develop or modify

endangered species habitat. In 3.2.1 second paragraph, we recommend inserting “Bexar County and US Fish and Wildlife Service will not require or otherwise compel any landowner, developer, local government entity, or any other party to participate in the SEP-HCP.”

Plan Area Designation: The Plan Area for the seven counties should be reconfigured and reworded in a way that reflects the desires of adjacent County Commissioner Courts to not participate. The Initial Participation Area and Permit Area should be limited to Bexar County and San Antonio. Wording that reflects the seven county area as the Conservation Area is appropriate, or Conservation/Plan Area. Anything else must reflect that other specific lands/developments within the remaining five county Conservation/Plan Area are not eligible for permitting at this time, and may only request participation from Bexar County to expand the existing permit area with approval of their County Commissioners Court. Activities, areas and costs should be adjusted to reflect reduced participation outside of Bexar County.

Mitigation Ratios: TWA supports GCW mitigation ratios as presented in the draft plan. Every other HCP along the I-35 corridor uses the 2:1 mitigation for Golden-Cheeked Warblers, and we support this consistency in application. We believe that anything else opens the HCP to extensive and costly litigation and lawsuits over consistent application of the act.

Conservation Area Mitigation Agreements: It is clearly stated that they will use fee simple and conservation easements to gain mitigation areas in differing ratios depending on the proximity. The terms of these conservation easements will be agreed upon on a case by case basis. TWA recommends that Bexar County require each landowner to meet with a knowledgeable independent person or group that can assist with a clear understanding of those options and agreements. Workshops and independent experts can enhance landowner participation in conservation.

Agriculture uses are referenced throughout but remains mostly undefined, and should insert in every location it occurs “... such as grazing, farming, etc., and other uses or secondary uses per management practices in TPWD Endangered Species Management Guidelines.

By inserting utility corridors under secondary uses, the draft plan inadvertently creates “preferred utility corridors” right through mitigation areas and habitats. This will reduce landowner participation and should be removed.

Public Access: Public access should be defined only for fee title lands, and planning and access should be coordinated and concurred with by adjacent private landowners. Considerations for public access in the draft plan are largely undefined, and should specifically be coordinated in thorough planning with neighboring private landowners to reduce impact both to species, habitats and neighboring impacts.

TWA looks forward to continuing to work on the SEP-HCP.

Sincerely,

Kirby Brown
Vice President for Public Policy

From: Mary Fenstermaker

Comments

SEP Habitat Conservation Plan

First Draft Version 4/1/11

I support the recommendations found in the BAT Executive Summary, March 28, 2011. I would like these recommendations included in the final SEP-HCP.

The CAC has already voted to accept the BAT recommendations for the **BCV** and for **Karst**.

The CAC took a Dot vote March 7, 2011 supporting the BAT recommendations:

- * **GCW** mitigation ratio of 3:1 within Bexar County plus a 5 mile radius around Bexar and a 2:1 ratio outside Bexar County but within the Plan Area; 60% of the take within Bexar or the 5 mile buffer surrounding Bexar and 40% of the take outside Bexar and the buffer but within the Plan Area,
- ***BCV** mitigation ratio of 2:1

Why are these votes now being ignored?

The preserve size is too small to help the covered species and nowhere near the preserve size recommended by the BAT.

The BAT recommended that no more than 10% of the preserve system be composed of land publicly owned as of November 4, 2010. The BAT answer to Bexar County as to why only 10% needs to be part of the final SEP-HCP:

“Camp Bullis could at any time be declared exempt from ESA laws by the Department of Homeland Security

The City of San Antonio properties are not bound to manage their lands for warblers, vireos, or endangered karst species. Over time, through neglect, mismanagement, or a lack of funding, these lands could become unsuitable for warblers and the conservation value of those lands would be lost

Portions of Government Canyon State Natural Area are not bound by conservation easements. Other portions are bound only by aquifer-related easement language, and these areas may be threatened by several factors, including local efforts to create regional flood control structures. In addition, those parts of GCSNA not bound by legal easements for warblers could be annexed by the General Land Office and sold.”

Why are the publicly owned lands to be counted in the SEP-HCP not subject to a conservation easement that pertains to this HCP?

Page 89 6.2.2 Uses of Preserve Lands

“The primary purpose of GCW and BCV preserve lands is for the long-term conservation of these species.”

Other uses such as public recreational activities, low-density residential development, and construction of utility and infrastructure corridors would not be compatible in a preserve for endangered species.

This topic was not discussed or even presented to the CAC, so why is it in the SEP-HCP Draft?

The above “other uses” for an endangered species preserve should not be part of the final SEP-HCP.

Page 91 6.3.3 Third Party Conservation Banks

I am not in favor of the SEP-HCP purchasing credits from an existing 3rd party conservation bank.

Page 92 6.3.4 Extinguishing the Credit

Would you please explain the purpose of extinguishing the credit without applying it as mitigation for incidental take.

Mary Fenstermaker

CAC Member

Environmental Group

June 10, 2011