

Appendix D

Summary of Public Comments

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PUBLIC COMMENTS AND RESPONSES

COMMENTS RECEIVED AT PUBLIC SCOPING MEETINGS

The tables below include a record of each comment received during the public comment period from April 27, 2011 to July 26, 2011 broken down by the meeting which they were submitted. The first column "Reference #" is a way to link the scanned image of the comment to this table found in **Appendix F**. The last column labeled "Response" indicates where to find the response to each comment. The list of responses is included below these tables.

Comments Received at Bandera, TX Meeting

Reference #	Name	Comment	Response
1	Mike Patterson Comment Card	None Provided	Not applicable
2	Claude Haby Comment Card	In <i>Hooven & Allison Co. V Evatt</i> the US Supreme Court ruled that there are three United States 1. Corporate US plus territories 2. Nation among other nations of the world 3. The 50 states united under the constitution. Which United States do you represent? Where do you get your authority?	12

Comments Received at Boerne, TX Meeting

Reference #	Name	Comments	Response
3	Anonymous Comment Card	If San Antonio and Bexar County were not attempting to "short-cut" the current existing time-consuming process of complying with environmental rules and regulations for the purpose of development of San Antonio and Bexar County, would we be here holding these meetings?	3
4	Alan Smith Comment Card	This EIS process is flawed in that it doesn't require any field surveys of the impacted area. Therefore, there is no baseline data on which to assess impact.	Comment Noted

Reference #	Name	Comments	Response
		While concentrating on endangered species (which are not all identified) is commendable but it does not address the impacts to other resources such as cultural, agricultural, water quality and quantity, socio-economics, etc. Without scientific baseline data any impact assessment would be purely conjecture and without merit. This was not in the interest of NEPA.	
5	Brenda Seidensticker Comment Card	HCP saves time and money for Bexar County not us! "us" is landowners, farmers and ranchers. Why wasn't Gillespie County involved in this process? It has more acres in Golden Cheeked Warbler Recovery than Bandera or Blanco?	2, 3
6	Anonymous Comment Card	Create a non-profit to administer the plan – do everything possible to keep politics out. It is essential to preserve as much endangered species habitat as possible. Sprawl has proceeded too far and for too long without regard for impact on our natural heritage. If the ESA was enforced, I wonder if we would be in the position we are in. Increase ESA enforcement.	Comment Noted
7	Bob Reinartz Comment Card	The problem is created by Bexar County developers to make a profit and Bexar County will benefit by an increased tax base. Unfortunately, the development will impact endangered species habitat. It is a Bexar County problem created by and for Bexar County alone. Kendall County does not benefit. Therefore why should landowners in Kendall Co. be adversely affected for a pre-meditated action of Bexar County developers?	3
8	Anonymous Comment Card	I am pleased that this plan is being written. I think this process will help solve many problems in the Hill Country. I hope that you address the beautiful songbirds losing their habitat. I also hope that you save as much land as possible. I would like you to save twice as much land as you allow to be removed.	Comment Noted

Reference #	Name	Comments	Response
35	Mr. Reinarz Verbal Comment	I am a resident of Kendall County. I'm a landowner up in Sisterdale. Our family has been there since 1847. My perspective on that this is a Bexar County problem. It's Bexar County and the developers in Bexar County that want to develop land that, unfortunately, impacts the endangered species for profit. The developers will get a profit, Bexar County will increase its tax base and, therefore, get greater taxes. Kendall county and the citizens of Kendall county, landowners, do not benefit at all from this. If – if Bexar County wants to do this, that's fine. They should find a solution which causes them to bear the adverse impacts of their actions, not ours. That's someone else. I mean, that's – that is, you know, the American way, isn't it? That we stand to benefit, adversely or positively, from our own actions and we should be held responsible for them.	Comment Noted

Comments Received at Blanco, TX Meeting

Reference #	Name	Comments	Response
9	Ken Welch Comment Card	Please send me a hard copy of the SEP-HCP document (150 pages??). I do not have access to a reasonable internet/printing process.	The DEIS and SEP-HCP will be available at local libraries once the Service has approved them for public review.
10	Ann Hall Comment Card	Suggesting to “go to the website” is not helping your cause – most ranches in the country only get dial up service or poor satellite. You should establish a “text only” web plan	Comment Noted

Reference #	Name	Comments	Response
11	Wayne Wicker Comment Card	With the State of Texas and the United States of America so far in debt, why are we spending our tax dollars and manpower on this?	4
12	Debbie Hameier Comment Card	How does a realtor/buyer know if a property has a permit on it? (If the owner does not reveal this)	13
13	David Hall Comment Card	Oak wilt and several drought years have killed hundreds, maybe thousands of our trees in Blanco County. Are dead oaks considered endangered species habitat? Is a 10-A permit required to clear stands of dead oaks? If so, what is the penalty for clearing without a permit?	12
14	Ann Hall Comment Card	The Commissioners Court in Blanco County has passed a resolution to “opt out” of the plan. Could Blanco County develop their own plan and what is the result of “opting out”? If the plan is approved, what happens to Blanco County if the county has opted out? What % representation will be on the governing commission for each county? Based on population? How will the governing commission be chosen?	1, 6
15	Cymbre Wicker Comment Card	If the listed endangered species are not a significant food source or source of income generation for humans and the State of Texas, why is this an issue? What happened to “survival of the fittest”?	14
16	Wilson Blackburn Comment Card	I believe that if you own land and pay taxes on it you should be the one who decides what to do there. I am against any government entity that tries to push (infringe) their way across others. I believe in liberty and freedom and would rather limit government to protecting that than to protect a species that doesn't really matter anyway.	12

Comments Received at Kerrville, TX Meeting

Reference #	Name	Comments	Response
17	Anonymous Comment Card	We are vehemently opposed to the SEP-HCP being inflicted upon Kerr County and Texas!!!	Comment Noted
18	Anonymous Comment	Our “input for the plan” is that it is unconstitutional! “The plan” is another attempt for evading “due	Comment Noted

Reference #	Name	Comments	Response
	Card	process of law"! Why is this meeting infiltrated and monitored by "state police" or "state law enforcement officers," especially considering the "First Amendment," right to assembly, Article VI of the constitution for the United States of America!! The Bexar County attorney and district attorney do not have authority to enforce federal law because federal law does not apply within the boundaries of the several states: see NY v. US; Mack v. US; Prinz v. US. I like the format.	
19	Anonymous Comment Card	We are vehemently opposed to the SEP-HCP being inflicted upon Kerr County and Texas.	Comment Noted
20	Bernard F. Syfan Comment Card	I believe that we need protection from the NEPA. You are cowards – you are afraid to hear open comments here face to face. Adopt this No Action Alternative. You tried the "take" on us with the cedar trees 20 years ago. The ranchers took up trapping the Brown Headed Cow Bird – it was and is a successful program. The EPA is being used as a tool to stop the world by "environmental" scientists – we do not trust you.	10, 12, 15
36	Bernard Syfan Verbal Comment	I'm going to make it short. I want this in the record. I believe that we need protection under NEPA. Two, you're cowards. You're afraid to hear open comments from here – here face-to-face. Please adopt the no-action alternative. You tried the take on us with the cedar trees about 20 years ago. The ranchers took up the trapping of the brown-headed cow bird. It was and is a successful program. The EPA is being used as a tool to, quote, "stop the world," by environmental socialists. We do not trust you.	Comment Noted
21	Marion Worthington Comment Card	I feel it may be very important to promote a "both and" rather than an "either or" stance when addressing environmental concerns. Government programs are increasingly viewed as deletions, even when the intention may be beneficial.	Comment Noted
22	Kellie Syfan Comment Card	I think I understand that this is a plan to make it easier to comply with the endangered species act by creating a local device that can give out incidental take permits. What is this about a preserve? It was barely mentioned and never explained. What is the	1

Reference #	Name	Comments	Response
		true purpose of this? I support protecting species by working with landowners, not asking them to pay a tax or risk mitigation. Trying to control them will never work, taking land from them will be catastrophic – incentives, education and research is your best bet in this climate. Protect those who follow the laws, teach how to work with the environment and do some research on your demographics before you begin such a vague and ambiguous as well as controversial presentation. I believe the USFWS and the county can work together but this is not the solution.	
23	Leslie H. Hearron Comment Card	This is more take over by the Federal government. Just like the EPA is taking over. The US Fish and Wildlife is taking over. We the people will have to pay for the federal government taking away our right of land ownership. I live in Real County. What if someone finds a horned toad in Real County? The control of private land will be expanded. The US is broke. Quit spending our money on frivolous projects.	Comment Noted
24	Shirley M. Rackley Comment Card	Opposed to sustainable development. Opposed to the new world order. Opposed to agenda 21.	Comment Noted
37	Shirley Rackley Verbal Comment	I live in Upper Turtle Creek, and I am opposed to any of this. This is akin to 21. I do not like it, sustainable development. What you really intend to do, and you're giving us a lot of crap, you want to take 10,000 acres of each seven central counties, a minimum of 70,000 acres. I'm opposed to it. You also want to call it mitigation when any other word it would be called extortion. You want us to pay fees for all of this and you want property tax -- sales tax on homes and all this. I'm opposed to it. I'm opposed to having my private property targeted and so forth and I will spread it all over the counties. I will get out and fight. I will fight this since you won't let us speak openly. You have met somebody that is really knowledgeable on these facts. Very knowledgeable about what you're trying to do. You're sugarcoating it all over. It's not voluntary. You have all kinds of	Comment Noted

Reference #	Name	Comments	Response
		fees. You know, you're just going to create poverty instead of helping poverty.	
25	Anonymous Comment Card	Sounds to me like some San Antonio developers have decided that Kerr County should be condemned as Golden Cheek Warbler habitat so that they (developers) can benefit. Politics – crooked politics.	Comment Noted
26	Anonymous Comment Card	Federal authority imposing on states' rights just like the healthcare bill not coming under health and welfare but Commerce Department of the Federal government continues to encroach on state's rights and citizen's rights.	Comment Noted
27	Anonymous Comment Card	Under the environmental species Act has made the United States into an indenture servitude to foreign governments – thus threatening national security.	Comment Noted
28	Anonymous Comment Card	The only thing that really cares about the birds and the bugs is my dog! Ruff-ruff!	Comment Noted
29	Anonymous Comment Card	We want to see NO public funding. Please understand – people are out of work; inflation, rising taxes hurt ALL of us; we do not need another way to spend and dilute our taxes. The money comes from us, in taxes, licenses, fees, etc. Do not spend more of our money! We need to prioritize. People are the priority.	Comment Noted
30	Harley D. Belew Comment Card	The presentation was given as if it is a foregone conclusion that Bexar County is going to control the land in surrounding counties. What gives Bexar County government the authority to control Kerr or any other county name a law or legal precedent please. Since when does county government enforce federal law?	3, 12
31	Teresa DuBose Comment Card	The USFWS's own definition of "take", clearly describes the federal government's assault on Texas: "harass, harm, pursue, hunt." What part of the US Constitution authorizes the federal government's abuse and disregard for the 10 th amendment? Texas has a proven track record of environmental excellence and the feds need to be listening to Texas – not the other way around. This is just another method of attacking Texas success by the bureaucratic elitist. Hands off Texas!!!	Comment Noted

Reference #	Name	Comments	Response
32	Alan Smith Comment Card	<p>The US Fish & Wildlife Service is making a mockery of the National Environmental Policy Act and the Endangered Species act with the Southern Edwards Plateau Regional Habitat Conservation Plan. USFWS has not and apparently does not intend to do any field investigations of the area covered by the SEP HCP to establish any baseline data of the region let alone ascertain the existence of Golden Cheeked Warbler and the Black Capped Vireo. They have thrown in three additional unknown species for good measure. To say the USFWS has any scientific credibility is laughable. I find it amazing the project people from USFWS are so adept at identifying critical habitat just by viewing a few aerial photographs and not have to perform any ground truthing. The EIS will totally ignore other elements of the environment such as; soils, surface and ground water resources, cultural resources, land use, and socioeconomic conditions. There no attempt being made to add to the existing knowledge of the region but impacts will be assessed without benefit of any existing baseline data. Mitigation will be assessed on the same empty database.</p> <p>Preparing an EIS is an exercise in futility since the Record of Decision could be written on the basis of what is currently known. USFWS should either conduct proper baseline studies consisting of one year of biological field data or shut down the project and quit wasting taxpayer dollars.</p>	Comment Noted
33	Anonymous Comment Card	None Provided	Not applicable

Reference #	Name	Comments	Response
38	Frederica Foster Verbal Comment	My comment is that I believe it is an unfair platform that we're using to hear from the people. We're not allowed to comment and I think that's an unfair advantage for the others not to hear what we have to say. The other thing is I don't know why people of other counties should help Bexar County. If they've decided to go in with this plan, then it should be their responsibility as to how they initiate it. By coming into another county and asking them to give up their property, it only benefits Bexar County and it makes me wonder, what is Bexar County doing for the landowner if they use that property. The other thing is I think this ESA, Endangered Species Act is unfair, unjust, unconstitutional act.	6
39	"Buster" Baldwin Verbal Comment	I'm going to go through it real fast. I'm not going to do all the whereases. I'm just going to kind of blow through it. You'll – you'll – you'll catch it. It's a resolution to these folks and it starts with "Whereas, individual property rights are one of the fundamental rights set forth in the constitution of the United States of America and Kerr County Commissioners' Court has a history of standing up for protecting these property rights and enabling individuals the right to use their property and Bexar County is developing an application to submit to the U.S. Fish and Wildlife Service to establish a reasonable habitat conservation plan that may include Kerr County. Any Kerr County Commissioners' Court acknowledges Bexar County may have the need for such a plan and appreciates Bexar County soliciting input from residents of Kerr County. The federal Endangered Species Act and applicable state laws concerning listed and threatened species currently existing and apply to property wildlife habitat in Kerr County and the SEP-HCP may impact landowners, wildlife, endangered species and habitats in Kerr County. Kerr County Commissioners' Court does not intend to apply for a habitat conservation plan covering Kerr County and does not believe there is a need for such a plan at this time. Kerr County Commissioners' Court understands that the SEP-HCP has not yet been written and, therefore, the specifics of the plan are	6

Reference #	Name	Comments	Response
		unknown. Kerr County commissioners' court is the local government that represents the residents of Kerr County and is submitting this resolution to provide input to Bexar County to help guide this decision. Now, therefore, be it resolved on the day 13 th of December 2010, Kerr County Commissioners' Court does not want to participate in this plan and residents that Kerr County not be included in the SEP-HCP. Should Kerr County, its residents or other entities in Kerr County want to participate in this program, such request by Kerr County, its residents or other entities should be made by resolution or letter to Bexar County." And it's signed by each individual on the court. So I appreciate you for letting me come do this. These folks had not heard that before and I don't know that you had, but it's pretty clear. I see Commissioner Oehler sitting here and I saw the County Judge here earlier and you can get with Commissioner Oehler if you have any further questions.	
65	Anonymous Comment Card	So instead of losing your land in 2 years (the slower process) you can lose it in just one month – what a deal!	Comment Noted

Comments Received at Helotes, TX Meeting

Reference #	Name	Comments	Response
34	Anonymous Comment Card	The draft plan does not include the recommendations of the SEP-HCP Biological Team or the votes of the Citizens Advisory Committee. Who is actually writing this plan and who is this plan actually written for?	3

COMMENTS AFTER PUBLIC SCOPING MEETINGS

Reference #	Name	Comments	Response
40	Alan Smith Email	<p>The US Fish & Wildlife Service (FWS) has completed a round of public scoping meetings related to implementation of the South Edwards Plateau Habitat Conservation Plan (SEP-HCP). These scoping meetings were held in partnership with developers, the City of San Antonio and Bexar County. At the two meetings I attended, there were no developers who personally attended, so none of the private-interest parties were actually on hand for local area landowners to meet or ask questions of about the project. Landowners and interested members of the public took time from business and personal concerns to attend the meetings were told by the Bexar County representative about this government-private party collaboration, but he neither named nor identified any of the developers with whom they are cooperating on this venture. The public scoping meetings were funded under a grant from FWS and the other stakeholders. No indication was made about the percentage contributed by each stakeholder. The purpose of the SEP-HCP is to set aside habitat for the golden cheeked warbler, the black-eyed vireo and three cave species to be named later. The idea of calling these meetings ‘scoping meetings’ is confusing when it seems the objective already seems set in stone, i.e. THERE WILL be set-asides established for certain species without any scientific study being done to establish the actual presence of these species or critical habitat exists for these species. The bottom line is these set-asides and protecting habitats give the government control over these lands in perpetuity which means a loss of property rights. The stakeholders will depend on the landowners who want to be part of the HCP to hire consultants to perform said surveys. The power of government is poised to shift the cost of establishing the presence or absence of these species to private landowners in clear contravention of private property rights. If the government wants to take away people’s land or limit their right to use their own</p>	4, 10

Reference #	Name	Comments	Response
		<p>land, which they pay taxes on, then it is incumbent on the government to prove the target species exist, live and are endangered in the areas they propose to take and that taking the property or limiting its use is the least restrictive means to do so, NOT to cast the expense and the burden of proof on private land owners. My career, as a professional environmental ecologist, spanned more than 30 years and I never once participated in an Environmental Impact Statement process as ill conceived and unprofessionally executed as the SEP-HCP. FWS and commenting agencies will be making decisions on aspects of the environment for which they have no baseline data. Yet they intend to assess impacts on habitat and species for which they have no idea if they exist in the project area. Project sponsors of which I was connected bore the cost of the permit process, not the taxpayer. The use of taxpayer dollars and government power to obtain 'set-asides' AND conduct the environmental impact procedure at taxpayer expense when partnership with unknown and unidentifiable private business interests seems to indicate that benefits will flow to those private parties at taxpayer expense in general and certain landowner's expense and loss of property rights in particular. The theme of the Public Scoping Meetings was that individual land owners do not have to participate; it is strictly a voluntary basis. It appears FWS has already assumed critical habitat control of the lands within the HCP area since it will be incumbent on any county that wants to build roads, etc. within the HCP area will have to join the HCP. This implies a taking of the land for which there has been no designation of this taking in the Federal Register and no opportunity for the public to comment. This HCP and permit activity needs to be shut down until FWS has done the proper field investigations and impact analysis.</p>	

Reference #	Name	Comments	Response
41	Carol Akers Letter	I am a landowner in Kendall County, Texas. I am outraged at the attempt of Bexar County, San Antonio, and the U.S. Fish and Wildlife Service to implement the Southern Edwards Plateau Habitat Conservation Plan with Kendall County as a participant even though the Kendall County Commissioners Court unanimously approved and filed a resolution to “opt out” of the plan in February, 2011. The citizens of Kendall County, through the County Commissioners, implicitly expressed their desire not to participate in the plan which would negatively impact land values and take away individual landowner’s rights to manage their property without outside interference. Please exclude Kendall County, Texas, from participation in the Southern Edwards Plateau Habitat Conservation Plan.	Comment Noted
42	Mary and Charles Graves Letter	Dear Public Servants: I am concerned that the Southern Edwards Plateau Habitat Conservation plan will adversely affect my small acreage and the use thereof in Kendall County. When our county commissioners voted 100% to not include us in the SEP-HCP last February, we thought that was it – period. Who continues to push this on us? We are opposed to being included!	Comment Noted
43	Caroline Barnette Letter	In February, 2011, the Kendall County Commissioners Court, Kendall County, Texas, at the urging of concerned landowners, passed by unanimous vote, a resolution to “opt out” of the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP). Please, therefore, remove all mention of Kendall County’s participation from the final draft of this plan as it is against Federal Statutes for such a plan to be implemented without local government co-ordination. (Citizens affected must have a voice in any actions that will impact them.) If landowners wish to join a conservancy voluntarily, they are free to do so without being mentioned in this particular plan. Although it has been stated that SEPHCP is voluntary, this status can easily be changed to mandatory in the future; hence, the reason for removing all mention of Kendall County, Texas from	Comment Noted

Reference #	Name	Comments	Response
		this plan. SEPHCP will have a significant financial impact on Kendall County as it is estimated to have an adverse affect on land values. Also, this plan will be too costly for Kendall County as it is my understanding that the landowners are to fund the program and the landowners are already burdened enough financially. Again, please remove all mention of Kendall County, Texas, from the SEPHCP in compliance with the resolution passed by our Commissioners Court.	
44	Richard A. Guthrie Email	The People of Kerr County are diametrically opposed to the Land Grab proposed by Bexar County! Please do everything in your power to squash this monstrosity! Habitat Conservation Plan For Endangered Species Targets Seven Counties! The Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) is in the final stages of drafting a plan to protect endangered species in Kendall, Kerr, Bandera, Blanco, Medina, Bexar, and Comal Counties. Bexar County is the driving force behind this plan that is touted as being voluntary but, landowners all over the US have learned that Habitat Conservation Plans (HCP's) continue to change once they are approved, and compliance is NOT voluntary.	Comment Noted
45	Robert and Mina O'Connell Email	It has come to our attention that freedom may be at risk for the citizens of Kendall County in Texas. We own property and live in this area and also love the wildlife. However, your detailed plans to control our property are unacceptable for the following reasons: 1. The government is to serve the people of America in the fifty states, and ensure the welfare of its citizens. Animals are to be respected and cared for in all that we do. In keeping with these American values, the Citizens Action Committee and the U.S. Fish and Wildlife Service must have a high regard for working cooperatively with the people, as we come up with plans to protect our animals. However, the SEP-HCP has unilaterally written up plans, without representation from the counties of Kendall, Medina, Kerr, Bandera, and Blanco. Our elected County Commissioners unanimously passed resolutions to opt out of the habitat conservation plan, and filed	1, 4, 10

Reference #	Name	Comments	Response
		<p>these resolutions with the CAC in February of 2011. 2. Public Scoping Meetings disregarded open discussion and oral comments from the local citizen landowners. This is unacceptable. These must be given proper weight. 3. Controlling our land through a "non-profit" organized by the federal government, into perpetuity, is ridiculous. This is regardless of whether the animals "protected" still migrate there or not - "forever"! 4. Developers get a streamlined procedure to allow them to develop and benefit from this project. How is this related to animal "protection"? The City of SA and Bexar County should not spend taxpayer money on private interest projects. 5. Additional species may be added at any time to enhance the government control of these lands "forever"! The plan can change at any time, without regard to the citizens, including fines, fees, encroachments, restrictions, in "perpetuity". 6. No ground "truthing" is planned to accompany aerial photos, which may not have even been taken. No baseline studies have been recorded to assess impact or calculate mitigation. 7. There is no compensation to landowners for devalued property costs due to restricting government control, nor open cooperative communication, nor respect for the fact that we have Opted Out! Forced implementation is the mode of operation? Public service is to ensure citizens' rights – not impose totalitarian control over Americans. 8. Taxes will be imposed on the citizens of the counties affected to fund your government operation, without constitutional authority to tax by unelected officials. These are land use fees, application fees, abatement fees, hidden taxes which may be added by you at any time "Forever". Who would want their property values to drop, the government to control their privately owned land, and all without due respect for our wishes? Stop. We have opted out.</p>	
46	George A. Phair Comment Card	As a land owner in Kendall County, Texas, I am writing to object in the strongest terms possible to your proposed approval of the Plan referred to above that would effectively control development determinations in Kendall, Medina, Bandera, Kerr,	5, 6

Reference #	Name	Comments	Response
		<p>Blanco, and Comal Counties. As you know, and perhaps would like to ignore, the Commissioners Court of these Counties have passed resolutions on behalf of their respective constituencies opposing this Plan. I am opposed to this bureaucratic maneuver to co-opt land management from landowners and County government to a body of unelected officials in these counties. There are unresolved conflicts with affected citizens that render your Plan an illegitimate exercise of federal authority in private property rights and local county government. I dare say that the Service cannot even legally approve this Plan until these conflicts are addressed and resolved, if that is even possible. I recognize that this Plan is being foisted on the six surrounding counties because of the Endangered Species Act and its chilling effect on Bexar County development. However, this Plan is so arrogant and heavy-handed that it speaks more to the flaws in the ESA rather than to a reasonable bureaucratic solution. If the ESA requires developers in Bexar County to trespass on the rights of landowners in neighboring counties in order to protect their financial interests, then perhaps the ESA needs to be revisited by Congress. Moreover, I have yet to see any definitive evidence from the USFW that the golden-cheeked warbler or the black-eyed vireo even exist in the counties surrounding Bexar County. Where are your field surveys? The regulations under which you operate require that Plans such as this one go out for public comment for a reason. The required public comment period is not a meaningless administrative step. You are not legally free to hold public meetings, receive public comments and then ignore them or give them no deliberative attention. My public comment raises the issue of whether the Service is complying with the law and its own regulations. If you fail to obey your own rules and regulations, do the proper research and coordination, and resolve the obvious conflicts with the public in these surrounding counties, I'm afraid you will approve this Plan at your peril and in the end, no one's interest will be properly served.</p>	

Reference #	Name	Comments	Response
47	Smiley Petition	CITIZENS AGAINST FEDERAL CONTROL OF OUR PRIVATE PROPERTY PETITION TO U.S. WILDLIFE SERVICE AND THE DEVELOPERS OF THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN	6
54	Mike Luckey 564 petitioners representing Bexar County, Comal County, Blanco County, Kerr County, Kendall County, Bandera County and Medina County	<p>These petitions represent the position of landowners within the seven counties of the proposed Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP). These petitions also represent the unified position of the landowners in Bandera, Blanco, Kendall, Kerr, and Medina Counties supporting our County Commissioners actions opposing the SEP-HCP through resolutions. The landowners also support the Notice of Invalid Application that our County Commissioner Courts have filed with the USFWS. I, the undersigned Citizen of the great State of Texas declare my support for private property and my opposition to any federal intrusion in our Counties being proposed by the US Fish and Wildlife Service, the City of San Antonio, and Bexar County and demand that these Petitions be filed as Comments under the Notice filed in the Federal Register to prepare the draft Environmental Impact Statement for Development in Bexar County and the City of San Antonio, TX known as the Southern Edwards Plateau Habitat Conservation Plan.</p> <p>-----</p> <p>CITIZENS AGAINST FEDERAL CONTROL OF OUR PRIVATE PROPERTY PETITION TO US FISH AND WILDLIFE SERVICE AND THE DEVELOPERS OF THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN</p> <p>The US Fish and Wildlife Service, along with Bexar County and the City of San Antonio are devising a plan known as the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) that includes the counties of Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal. We, the citizens of Bandera, Blanco, Kendall, Kerr, and Medina Counties, oppose the federal government's attempt to control private property in our counties and in our state of Texas. We support our local County Commissioner's Courts that</p>	6

Reference #	Name	Comments	Response
		<p>have adopted resolutions opposing the SEP-HCP. We support their demand that our counties be removed from any habitat conservation plan permit application and/or habitat conservation plan being created for our counties by the federal government or any other group, including the Citizen's Advisory Committee. We believe the entire SEP-HCP, including the Application for an Incidental Take Permit by the two applicants – City of San Antonio and Bexar County – is invalid for the reasons that the governing boards of our counties never agreed to participate in the Plan, have adopted resolutions opposing the Plan in their respective counties, and have demanded to be removed from any and all documents, permit applications, and records that commit our Counties to the SEP-HCP process. For these reasons, the Citizens of the Counties listed below demand that US Fish and Wildlife create an Alternative to the Plan to be included in the Environmental Impact Statement that does not include the Counties that have adopted resolutions opting out of the Plan. The National Environmental Policy Act requires that the Service consider all reasonable alternatives, and since the five counties have refused to participate in the conservation plan under consideration, such an alternative is not only reasonable, but necessary. We, the undersigned Citizens of the great State of Texas declare our support for private property and our opposition to any federal intrusion in our Counties being proposed by the US Fish and Wildlife Service, the City of San Antonio, and Bexar County and demand that this Petition be filed as Comments under the Notice filed in the Federal Register to prepare the Draft Environmental Impact Statement for Development in Bexar County and the City of San Antonio, TX, known as the Southern Edwards Plateau Habitat Conservation Plan.</p>	
49	Bandera County Commissioners Court	Resolution of Bandera County Commissioner's Court Opposing the SEP-HCP (Approved December 28, 2010)	6

Reference #	Name	Comments	Response
50	Blanco County Commissioners Court	Resolution of Blanco County Commissioner's Court Opposing the SEP-HCP (Approved February 22, 2011)	6
51	Kerr County Commissioners Court	Resolution of Kerr County Commissioner's Court Opposing the SEP-HCP (Approved December 13, 2010)	6
52	Kendall County Commissioners Court	Resolution of Kendall County Commissioner's Court Opposing the SEP-HCP (Approved February 28, 2011)	
53	Medina County Commissioners Court	Resolution of Medina County Commissioner's Court Opposing the SEP-HCP (Approved April 25, 2011)	6
48	Mike Luckey Letter	My name is Mike Luckey and I strongly oppose the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) and request a denial of the Incidental Take Permit (ITP) applied for by Bexar County for the following reasons. 1. Referencing the Interlocal Cooperation Contract between Texas Parks and Wildlife and Bexar County, contract no. 213490 and Attachment A which is the Southern Edwards Plateau Habitat Conservation Plan Project Statement. Bexar County has failed to meet the requirement of the contract and violated applicable laws in creating the SEP-HCP. Referencing the Project Statement, page 3, Objective: "To bring all stakeholders (San Antonio, Helotes, Gray Forest, Fair Oaks, Bexar County, Bandera County, Comal County, Kendall County, Kerr County, Medina County, and Camp Bullis) to the table and develop a comprehensive HCP and associated NEPA documentation over the next three years (2009-2011) for effective conservation of covered terrestrial species in Bexar County and Golden cheeked Warbler Recovery Unit 6 (proposed unit 5)." Bexar County has failed to cooperate with the counties of Kendall, Kerr, Bandera, Blanco, and Medina. No attempts were made to inform or request the participation of these counties. Public comments in the Citizens Advisory Committee (CAC) meeting also reflect the objections on this matter and one CAC member (Annalisa Peace) remarked that the county commissioner courts should have been included but were left out of the process by Bexar County. The	6

Reference #	Name	Comments	Response
		<p>counties listed on page 3 of the Project Statement were NOT brought to the table to develop a plan. This is in direct conflict with the Interlocal Cooperation Contract and also in violation of federal statues requiring cooperation with local governments.</p> <p>2. NEPA requires that the environmental study be coordinated with local governments in order to carry out the policy set forth by the ACT (42 USC 4331). Congress defined what it meant by coordination at 43 USC 1712 (c)(9) and the courts have affirmed this duty. As part of this duty, the Service is required to assure that consideration is given to local plans, assist in resolving inconsistencies between Federal and non-Federal plans; provide meaningful involvement, and ensure federal plans are consistent with local plans.</p> <p>3. Bexar County has filed for the Incidental Take Permit (ITP) and has ignored five county resolutions stating their objections to the plan with requests to be taken out of the SEP-HCP. All five of the resolutions were passed before the application for the ITP was filed.</p> <p>4. The Resolutions from Kendall, Kerr, Bandera, Blanco, and Medina Counties are attached. (See Appendix G)</p> <p>5. No public notice of any kind was given to the public or local county officials in Kendall, Kerr, Bandera, Blanco, and Medina Counties of the creation of the Southern Edwards Plateau Habitat Conservation Plan. There were no notices or announcements published in any local newspaper or commissioners court of the intentions of developing the SEP-HCP. The Congressional Mandate 43 USC 1712 orders that the Bureau of Land Management coordinate its "land use inventory, planning and management action with any local governments." Congress directs the agency implementing this requirement by doing the following:</p> <p>Keep apprised of State, local and tribal use plans;</p> <ul style="list-style-type: none"> • Assure that coordination is given to local plans when developing a federal plan, policy or management action; • Provide early notification (prior to public notice) to local government into development of the plan, policy, or action; and 	

Reference #	Name	Comments	Response
		<ul style="list-style-type: none"> • Provide opportunity for meaningful input by local government into development of the plan, policy or action; and • Make all practical effort to resolve conflicts between federal and local policy, and reach consistency. <p>Bexar County, as "Applicant" for the ITP has failed on all five of the requirements set forth above. Therefore; the issuance of an ITP must be denied based on failure to follow applicable law. I, the undersigned Citizen of the great State of Texas declare my support for private property and my opposition to any federal intrusion in our Counties being proposed by the US Fish and Wildlife Service, the City of San Antonio, and Bexar County and demand that this Petition be filed as Comments under the Notice filed in the Federal Register to prepare the draft Environmental Impact Statement for Development in Bexar County and the City of San Antonio, TX known as the Southern Edwards Plateau Habitat Conservation Plan.</p>	
55	Gary Swearingen Email	<p>1. The Citizens Action Committee (CAC) of the Southern Edwards Plateau - Habitat Conservation Plan (SEP-HCP) and the U.S. Fish and Wildlife Service (USFWS) are insisting on including Kendall, Medina, Kerr, Bandera, and Blanco counties in the SEPHCP even though citizens of the counties through their elected representatives (i.e. county commissioners) unanimously passed resolutions to opt out of the habitat conservation plan, and filed these resolutions with the CAC in February, 2011. 2. The planning committee has just completed "Public Scoping Meetings" in the various counties for the supposed purpose of getting public comments. At the meeting no member of the public was allowed to make oral comments directly to the committee representatives present. Rather, the comments had to be presented in writing and/or privately given to the court reporter. None of these comments were read out loud to the committee members. Obviously, the Committee was not interested in hearing the comments and the emotion behind them. As a result,</p>	3, 4, 5, 6

Reference #	Name	Comments	Response
		<p>the public is being left to rely upon the highly unlikely event of the good will and due diligence of the committee members and others to read the comments and to give them proper weight. 3. Under this plan, the non-elected bureaucrats appointed to administer the HCP will have access to covered property whenever and as long as they want, and the landowner can do nothing about it. 4. The City of San Antonio and Bexar County should not be spending taxpayer money on projects that benefit private enterprise (developers). 5. The original proposal was to cover habitat for two endangered species, but now they have mentioned their intent to include three additional species (to be named later) in the plan. Where does this stop? Apparently there no limit to the number of additional species, whether officially declared "endangered" or not, that they can arbitrarily include in the Plan once the Plan is approved. 6. USFWS is using aerial photographs to designate critical habitat without benefit of ground "truthing". There have been no field surveys to establish baseline data to assess impact or calculate mitigation. 7. The government through this plan puts restrictions on land use of private property without due process nor compensation to the landowner for its loss in value as a consequence of the forced implementation of these restrictions. 8. The citizens of the counties affected and who were not consulted nor allowed to vote upon the acceptability of the Plan will have to pay taxes (land use fees, application fees, abatement fees, and other hidden fees and taxes unknown at this time) as established by unelected individuals who do not have the constitutional authority to tax the citizens without their specific consent. Please take the necessary actions to COMPLETELY remove Kendall County from the SEP-HCP plan immediately.</p> <p>Respectfully, Gary Swearingen, Kendall County Resident and concerned citizen/taxpayer</p>	

Reference #	Name	Comments	Response
56	Diann Eiseloh	CITIZENS AGAINST FEDERAL CONTROL OF OUR PRIVATE PROPERTY PETITION TO U.S. WILDLIFE SERVICE AND THE DEVELOPERS OF THE SOUTHERN EDWARDS PLATEAU HABITAT CONSERVATION PLAN	6
57	Patricia Crisman Email	I attended the NEPA presentation in Kerrville on June 13th. I offer for your consideration a modification to the approach, i.e., more carrot and less stick. The tax rolls should identify the significant landowners. Offer them information, tours and workshops on land and habitat improvement methods. Information and workshops are available at the Bamberger Ranch (BambergerRanch.ORG). One workshop in particular provides information on habitat and land improvement by Cedar management, grasses, water, and trees. Yes, I know this is not what the Bexar County developers have in mind, but it would provide cover for the pretense.	Comment Noted
58	Medina County Commissioners Court Letter	Notice of Invalid Application for Incidental Take Permit Covering the SEP-HCP (Approved July 25, 2011), Resolution of Medina County Commissioner's Court Opposing the SEP-HCP (Approved April 25, 2011) and Resolution of Medina County Commissioner's Court to be Removed from the Permit Plan Area for the SEP-HCP (Approved July 25, 2011)	6
59	Kendall County Commissioners Court Letter	Notice of Invalid Application for Incidental Take Permit Covering the SEP-HCP (Approved July 25, 2011), Resolution of Kendall County Commissioner's Court Opposing the SEP-HCP (Approved February 28, 2011) and Resolution of Kendall County Commissioner's Court to be Removed from the Permit Plan Area for the SEP-HCP (Approved July 25, 2011)	6
60	Blanco County Commissioners Court Letter	Notice of Invalid Application for Incidental Take Permit Covering the SEP-HCP (Approved July 26, 2011), Resolution of Blanco County Commissioner's Court Opposing the SEP-HCP (Approved February 22, 2011) and Resolution of Kendall County Commissioner's Court to be Removed from the Permit Plan Area for the SEP-HCP (Approved July 26, 2011)	6

Reference #	Name	Comments	Response
61	Bandera County Commissioners Court Letter	Notice of Invalid Application for Incidental Take Permit Covering the SEP-HCP (Approved July 28, 2011), Resolution of Bandera County Commissioner's Court Opposing the SEP-HCP (Approved December 28, 2010) and Resolution of Kendall County Commissioner's Court to be Removed from the Permit Plan Area for the SEP-HCP (Approved July 28, 2011)	6
62	Delbert Oehler Letter	Whether you believe SEP-HCP's intentions are honorable or not probably depend on if you live in Bexar County, but there is no doubt that the public scoping meeting in Kerrville June 13, 2011, was a farce. The meeting design was an insult to our open and democratic process of government that we enjoy in this state and country. The objective of open public meetings should be to encourage citizen questions and comments and not to write down a response and put it in a box, so that some organization can say it has jumped through the second of six hoops. I am a rancher and as a steward of the land I feed and care for hundreds of large game animals, thousands of birds and furry critters and millions other things with and without legs. I feel betrayed by US Fish and Wildlife Service's increasing attention to less and less (endangered species), until finally they will be devoting all their resources to nothing. Doesn't USFWS realize that they are being manipulated into the "taking" of rural lands for the benefit of large metropolitan areas? The proposed conservation plan lacks sufficient data to be implemented. There is insufficient historic data on populations of the species in the application, little or no information on historic habitat. Obviously little exploration of underground caverns, almost every well in the Edwards Plateau passes through a cavern. Only a fraction of one percent have been explored. Why are San Antonio and Bexar County suddenly interested in wildlife and protecting endangered species? Money.	5, 6, 9, 12

Reference #	Name	Comments	Response
63	John Knight Letter	<p>On Tuesday, June 7, 2011 a public scoping meeting was held at the Boerne, Texas Convention Center concerning the EIS for the SEP-HCP. During the question and answer session of the meeting a questions was asked concerning who would administer and manage the SEP-HCP plan. A representative of Bexar County, Mr. Andrew Winter, stated repeatedly that Bexar County would not be the SEP-HCP administrator. This appears to be conflict with the draft document which in Section 2.0 Basic Plan Components states "As the permittee of the Incidental Take Permit, Bexar County will be responsible for overseeing the implementation of the SEP-HCP." It goes on to say that Bexar County may share implementation duties with other SEP-HCP partners, but "Bexar County will remain responsible for overseeing the implementation of all aspects of the SEP-HCP". It seems clear from the above that Bexar County would be the primary administrative manager of the SEP-HCP if it comes to fruition. It is obvious that San Antonio and Bexar County desire to continue to develop to the fullest extent and either can't or are unwilling to set aside habitat preservation lands within Bexar County to meet the requirements of the endangered species act. As holder of the Incidental Take Permit Bexar County would like to entice the adjacent rural counties to become a part of the SEP-HCP plan to enable Bexar County to meet their mitigation responsibilities with habitat preserve land outside Bexar County. The end result of this proposed effort would be that Bexar County, or some non-profit organization, probably an environmental group, would administrator the management of the SEP-HCP in the adjacent rural counties. This unelected management group would have no accountability to the rural counties or input from the local private property owners in the rural counties.</p>	1

Reference #	Name	Comments	Response
64	Marie Seibert Letter	As a resident, taxpayer and mother. I want to remind you that Kendall County is at the present time, in severe drought since September 2010. The thought that Bexar County and developers are demanding we be included in the SEP-HCP plan is outrageous! I am on my own well system located in the Lower Carr Creek Formation – the last source of water for Kendall County. How can Bexar County and you all think we can survive if they know little about the water resources of the area. We're been here 24 years and are mindful about the conservation of our water and natural resources. The fact that the residents thought that our elected officials voted against being included in this plan, the idea was null-and-void period! I have no exemption on my property (3.33 acres) except for Homestead and over 65. In this drought, I am co-existing, feeding the deer, birds (all kinds), rabbits, road-runners, etc. There is nothing for them to eat!	Comment Noted
66	Lee Malone Comment Card	How about San Antonio and Bexar County, their realty and builders worry about their business and stay the heck out of ours.	Comment Noted

RESPONSES TO PUBLIC COMMENTS

The following are brief responses to general questions that arose frequently during the public scoping meetings. More information can be found in the Draft SEP-HCP and this DEIS.

GENERAL RESPONSE 1

What is a habitat conservation plan (HCP)? How will it work? Discuss the administration, enforcement, and effects of a HCP on property owners, non-applicant counties, and developers.

HCPs must accompany an incidental take permit application and are developed and administered by the applicants for ESA incidental take permits. HCPs ensure that the effects of authorized take are adequately minimized and mitigated. HCPs must include: (1) an assessment of the impact that will likely result from the taking; (2) measures the applicant will take to minimize and mitigate the impacts and the funding available to implement those measures; (3) alternative actions to the taking that were considered and the reasons the alternatives were not chosen; and (4) other measures that the Service may require as necessary or appropriate for purposes of the conservation plan.

The mitigation measures included in a HCP reduce or address the potential adverse effects of a proposed activity on a species covered by the HCP. Mitigation measures may include (but are not limited to) preservation of habitat, creation of new habitat, establishing buffers around existing habitat, modification of land use practices or project design, and restrictions on access to habitat areas.

There is no “enforcement” of an HCP. The ESA is enforced by the Service. The HCP sets the terms and conditions, as described above, for species conservation under the Section 10a permit.

The effects of the SEP-HCP on property owners who would like to sell easements or outright sell land to the SEP-HCP would be that they would receive money, according to the terms of the real estate deal they make with the SEP-HCP administrator. Adjacent land owners would only be affected by the fact that the land under the SEP-HCP administration would not be developed.

GENERAL RESPONSE 2

What are the benefits of having a HCP for Bexar County, non-applicant counties, developers, and property owners?

Conflicts between endangered species issues and land development in the San Antonio area have intensified, even threatening the future of Camp Bullis in northern Bexar County. Compliance with the

Endangered Species Act ("ESA") requires authorization from the Service to "take" a listed species, and also requires appropriate mitigation (such as protecting nearby habitat) to offset any adverse impacts to the species. However, the typical process for complying with the ESA can take years and be very costly. Until recently, ESA compliance by the private land development community has been fairly low, with little enforcement of the ESA by the Service. Due to this low rate of ESA compliance, Camp Bullis believes that GCW are being displaced onto their military installations (Cannizzo 2011). With the threat of losing Camp Bullis, endangered species conservation in south central Texas has become a priority and has spurred Bexar County and the City of San Antonio to seek ways of encourage ESA compliance and protecting the area's endangered species. Having a streamlined means of complying with ESA, as has been the case in Travis County (Balcones Canyonlands Conservation Plan) since 1996, would encourage more developers to comply with ESA.

The SEP-HCP would result in a cost effective means by which to ensure economic growth and development unhindered by the presence of species listed under ESA.

The SEP-HCP would promote the recovery of the area's endangered and threatened species by creating a regional preserve system for the GCW, BCV, and karst invertebrates and providing for the perpetual management and monitoring of these preserve lands for the benefit of the species.

The SEP-HCP would result in a locally created solution to endangered species issues that incorporates stakeholder concerns and gives long-term ESA permitting assurances to the public and private-sector participants. The SEP-HCP will create a new, voluntary, streamlined process for ESA compliance that may be used for a variety of non-federal projects. This new compliance option would reduce the time associated with obtaining incidental take authorization under the ESA, particularly with respect to developing individual HCPs, waiting for applications to be processed by the Service, and obtaining appropriate mitigation for project impacts.

The SEP-HCP's long-term focus over a regional scale would take better advantage of conservation opportunities in a rapidly changing landscape than smaller, individual conservation efforts. The effort's long-term protection and management of natural resources across multiple counties will also contribute to the general health of the region's Hill Country ecosystems, including wildlife, woodlands, and water.

More information can be found in **Chapter 1 – Introduction, Need and Purpose**.

GENERAL RESPONSE 3

Who is asking for the HCP, why do they want it, and how was the Plan Area defined? Include a discussion on the species that will be covered in the plan and why. Is the Texas General Land Office involved?

Bexar County and the City of San Antonio have begun a regional planning effort to balance the conservation needs with the demand for economic growth and development. The SEP-HCP would allow the County and City to obtain a permit from the Service that would establish a locally controlled, simplified process for complying with the ESA. The SEP-HCP would also create a coordinated regional conservation program to protect endangered species habitat in south central Texas, including Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal counties.

South central Texas is rich with a wide variety of natural resources that help define the region's unique character, such as dramatic vistas, endemic wildlife, deep caves, productive aquifers, and flowing waters. Some of these resources are also locally, regionally, or globally rare and sensitive to the effects of human activities. Endangered or threatened wildlife are often particularly sensitive to our use of the landscape. The SEP-HCP would authorize the incidental take in Bexar County and the City of San Antonio (current and future ETJ) of the following endangered species:

- **Golden-cheeked Warbler (*Dendroica chrysoparia*, the "GCW")** - An endangered migratory songbird that nests in mature, dense juniper-oak woodland. This bird is primarily threatened with the loss or degradation of its habitat by a variety of land development activities. Read more by the Texas Parks & Wildlife Department ("TPWD") about the biology, life history, habitats, and threats to the GCW.
- **Black-capped Vireo (*Vireo atricapillus*, the "BCV")** - A threatened migratory songbird that nests in open oak shrublands. This species is threatened by several factors including habitat conversion, overgrazing, and brood parasitism. Read more by the TPWD about the biology, life history, habitats, and threats to the BCV.
- ***Rhadine exilis*** - An unnamed karst-dwelling beetle that is currently known from 45 to 50 caves in Bexar County.
- ***Rhadine infernalis*** - An unnamed karst-dwelling beetle that is currently known from 36 to 39 caves in Bexar County.
- **Helotes Mold Beetle (*Batrissodes venyivi*)** - A karst-dwelling beetle that is currently known from known from eight caves in Bexar County.

- **Government Canyon Bat Cave Spider (*Neoleptoneta microps*)** - A karst-dwelling spider that is currently known from only two caves in Government Canyon State Natural Area.
- **Madla Cave Meshweaver (*Cicurina madla*)** - A karst-dwelling spider that is currently known from several locations in Bexar County.
- **Bracken Cave Meshweaver (*Cicurina venii*)** - A karst-dwelling spider that is currently known only by a single specimen from one locality in Bexar County.
- **Government Canyon Bat Cave Meshweaver (*Cicurina vespera*)** - A karst-dwelling spider that is currently known only from one cave in Bexar County.

The karst invertebrates listed above each live entirely underground in the limestone caves and passages of the karst geologic formations that underlie much of south central Texas. These species are threatened by habitat loss associated with filling or collapsing of caves, alternation of natural drainage patterns and surface plant and animal communities, contamination of groundwater, and quarry or mining operations.

In June 2011, letters were sent to federal, state (including the General Land Office) and local agencies with the NOI attached requesting comment on the potential resources that could be affected or issues that could arise by the issuance of an incidental take permit under ESA. More information can be found in **Chapter 2 – Scoping and Public Participation**.

GENERAL RESPONSE 4

How will the program be funded?

The ESA requires that a HCP identify and assure the funding that will be available to properly implement the conservation program. As the SEP-HCP develops, the primary partners will review and assess a number of options for funding the SEP-HCP, including participation or mitigation fees from voluntary SEP-HCP participants and public funding sources. The SEP-HCP consultant team includes a financial advisor to assist the primary partners with this important task and the financial impacts of any funding SEP-HCP will be explored in the SEP-HCP and the EIS.

More information can be found in **Chapter 3 – Alternatives**.

GENERAL RESPONSE 5

As a property owner participating in the program, what restrictions would be placed on my property and water rights?

The exact nature of the conservation easement will be negotiated on a case-by-case basis. Conservation easements are negotiated real estate contracts. They may include seasonal clearing and construction restrictions to minimize impacts to the GCW and the BCV breeding seasons (between March 1 through July 31 for GCW and, between March 15 and August 31 for BCV).

Property owners that choose to participate in the SEP-HCP would also be required to follow the Texas Forest Service or professional arborist's guidelines for the prevention of oak wilt when clearing or trimming trees.

With regards to the protection of karst species, property owners may be asked to adhere to special conditions which could include measures requiring the investigation of accidentally discovered voids for the presence of listed species, additional consultation with the Service if the very rare Category 2 karst species are encountered, and implementation of best practices to minimize impacts to species-occupied caves.

After selling a conservation easement, the land owner retains all other rights of ownership, including water rights, using the land for agriculture, preventing trespass or selling or transferring the land to others.

GENERAL RESPONSE 6

How will public comments be incorporated and addressed by the process? How will comments from the county governments choosing to opt out be handled? How were the BAT and CAC selected?

All public comments received during the comment period defined in the NOI (April 27, 2011 through July 26, 2011) were considered during the preparation of the DEIS.

The Service mailed formal responses to Bandera County, Blanco County, Medina County, Kendall County, and Kerr County on November 1, 2011. These letters are included in this Appendix. Here is a summary from these letters:

As of November 1, 2011, Bexar County has not applied to the Service for an incidental take permit for the proposed SEP-HCP. However, we have been working closely with Bexar County to ensure that the development of any draft HCP will meet the Service's issuance criteria for an incidental take permit.

The purpose of including the surrounding counties in the proposed HCP, was two-fold: First, it was to provide for increased mitigation flexibility for Bexar County and any incorporated municipalities covered by the SEP-HCP and associated incidental take permit, if issued. This would be based upon private land transactions for conservation easements, conservation banks, and possibly fee title real estate transactions with willing landowners. This could provide willing landowners with financial benefits for maintaining habitat for listed species on their private lands. Second, if a county chose to participate in the HCP, a means would be provided by which any endangered species liability the county may have could be addressed more economically than through a separate planning effort. This was proposed as a voluntary option for each surrounding county to implement the conditions of the SEP-HCP. This would result in a cost effective means by which to ensure economic growth and development unhindered by the presence of species listed under ESA.

The Service understands that Bandera County, Blanco County, Medina County, Kendall County, and Kerr County do not wish to be included in the planning process for the SEP-HCP. Based on this desire the SEP-HCP will cover incidental take of endangered species in Bexar County and the City of San Antonio (current and future ETJ), although conservation activities could occur in Bandera, Blanco, Medina, Kendall, Comal, Kerr and Bexar counties.

The Community Advisory Committee (CAC) was appointed to assist with development of the SEP-HCP, including reviewing the work of the Biological Advisory Team (BAT) and the form and level of mitigation proposed in the SEP-HCP, identifying appropriate funding mechanisms to implement the SEP-HCP, and determining the method of participation in the SEP-HCP. The CAC has adopted a charge and a set of operational rules to guide their actions.

The CAC was assembled with recommendations by stakeholders groups, Bexar County, the City of San Antonio, the Service, and Texas Parks & Wildlife Department (TPWD). It includes 21 members representing a variety of interests.

To ensure that the process is consistent with Chapter 83 of the Texas Parks & Wildlife Code, which regulates the development of regional HCPs by local governments, at least 4 individuals or 33 percent of the CAC members (whichever is greater) own undeveloped or agricultural land in the Plan Area. TPWD also appointed one member of the CAC.

The BAT advises the CAC on scientific matters relating to the biology, conservation, and habitats of the species addressed in the SEP-HCP. The BAT will assist with calculating the degree of harm to the species covered by the SEP-HCP and calculating the size and configuration of the needed habitat preserves. Members of the BAT were appointed by the Bexar County, City of San Antonio, the Service, TPWD, and the landowner members of the CAC.

Bexar County will not require or otherwise compel any landowner, developer, local government entity, or any other party to participate in the SEP-HCP. Participation is strictly voluntary.

More information can be found in **Chapter 2 – Scoping and Public Participation**.

GENERAL RESPONSE 7

Is this plan to benefit Camp Bullis and if so, why not mitigate around the base?

The US Army/Camp Bullis are not the permit applicants – the permit applicant, Bexar County, was part of a cooperative effort to produce the *Camp Bullis Joint Land Use Study* which revealed the need to address the conflicts that exist between the mission of Camp Bullis and development activities occurring around the base, and the needs of endangered species. One of the goals proposed in the SEP-HCP is to help address these conflicts. Implementation of the SEP-HCP could benefit Camp Bullis however it is not the primary purpose of the permit request. If land around Camp Bullis provides habitat for the Covered Species and if the land owners voluntarily wish to sell their land and/or an easement on their land for conservation purposes, then land around Camp Bullis may serve as mitigation/conservation land. The SEP-HCP must be economically viable to be successful; a balance must be created between.

More information can be found in **Chapter 1 – Introduction, Purpose and Need**.

GENERAL RESPONSE 8

Why not just shorten the permitting process?

An incidental take permit is required per Section 10 of the ESA when non-Federal activities will result in harm to, or take of threatened or endangered species that is incidental to, and not the purpose of, the proposed activities. The permit serves as a tool to balance the protection needs of Federally-listed threatened and endangered species, and the desire of non-Federal entities to develop and/or change the landscape. The steps involved in the permitting process are required to ensure that the effects of the authorized incidental take are adequately minimized and mitigated. Much of the permitting process is upfront, with the applicant. The 18 months to 2 years includes pre-application information gathering, conducting surveys, and putting together the appropriate documentation required for an application, such as the development of a HCP and the NEPA process. Once the proper documentation is prepared for review and the applicant and Service have agreed upon the best mitigation option, it is incumbent upon the applicant to find property or a mitigation bank that will fulfill the mitigation requirements.

While several of these steps have set time requirements, it is largely up to the applicant to manage the schedule of the permitting process.

GENERAL RESPONSE 9

What steps have been completed? Has a section 7 consultation been done? Has a field survey been done to delineate habitat?

Assessments of the human and environmental resources in the Plan Area, including the proposed Covered Species, have been conducted by professionals in the fields of wildlife biology, karst biology, hydrogeology, and socioeconomics. The resource assessments are based upon professional knowledge and supported by the review of academic literature. In addition to the resource assessments, the Biological Advisory Team (BAT) and Citizens Advisory Committee (CAC) have been meeting regularly since January 2010. The BAT is responsible for advising Bexar County, the project applicant, on technical matters relating to the biology and conservation of the species and habitats addressed in the SEP-HCP. The BAT assists with calculating the degree of harm to the Covered Species associated with each alternative and the size and configuration of the conservation preserves. The CAC was appointed to assist with the development of the SEP-HCP which includes reviewing the analysis conducted by the BAT and providing feedback on the form and level of mitigation for the SEP-HCP and the methods of participation in the SEP-HCP. The contributions of the BAT and CAC and the analysis provided in the resource assessments have helped inform the development of the draft SEP-HCP. In April 2011, the Service published a NOI to prepare an EIS for the proposed SEP-HCP in accordance with NEPA. This scoping meeting is part of the initial steps in the NEPA process.

Section 7 of the ESA requires all federal agencies to consult with the Service (or the National Marine Fisheries Service for affect to marine species) if they are proposing an action that may affect Federally-listed threatened or endangered species. In the case of the SEP-HCP, the federal action proposed by the Service is the issuance of an incidental take permit. The action that would result in harm or take of listed species would be conducted by participants in the SEP-HCP; non-Federal entities. As such, Section 7 consultation does not apply.

GENERAL RESPONSE 10

Can this be considered a “land grab” or a “take”?

If an incidental take permit is authorized by the Service, it would authorize the “take” of the endangered species covered in the SEP-HCP. Bexar County, the permit applicant, does not have the authority to take land or use eminent domain authority outside of its jurisdiction. The SEP-HCP is

voluntary; Bexar County will not solicit property owners to sell their land and will only enter into a negotiation to buy an easement or buy land from property owners in the Plan Area that have voluntarily requested participation.

GENERAL RESPONSE 11

What happens to the plan if you do not get enough voluntary participants?

The SEP-HCP was designed to be flexible and responsive to the level of voluntary participation. While the incidental take permit would authorize a maximum level of take, applicants will only be able to use the SEP-HCP provided that a sufficient amount preserve land, based on the mitigation measures established in the SEP-HCP, is enrolled in the SEP-HCP.

GENERAL RESPONSE 12

How does the Endangered Species Act work and how does it currently apply to property owners?

Anyone whose otherwise-lawful activities will result in the “incidental take” of a listed wildlife species needs a permit. The Service can help determine whether a proposed project or action is likely to result in “take” and whether a HCP is recommended. Service staff can also provide technical assistance to help design a project to avoid take. For example, the project could be designed with seasonal restrictions on construction to minimize disturbance during nesting.

The Endangered Species Act defines “take” as “. . . to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” “Harm” includes significant habitat modification that actually kills or injures a listed species through impairing essential behavior such as breeding, feeding, or sheltering. Section 9 of the Act prohibits the take of endangered and threatened species. The purpose of the incidental take permit is to exempt non-Federal permit-holders—such as States and private landowners— from the prohibitions of section 9, not to authorize the activities that result in take.

More information can be found in **Chapter 1 – Introduction, Purpose and Need**.

GENERAL RESPONSE 13

What is a conservation easement? Are conservation easements permanent? What happens if the species becomes extinct or is no longer endangered? Will I be released from the easement restrictions then? Will potential buyers be notified of the easement? Why not just buy the land outright?

A conservation easement is a voluntary legal agreement that limits the type or amount of development on private property while retaining the private ownership of the land. Easements have been used in Texas to protect natural, productive and cultural features. As part of the agreement the landowner generally agrees to grant the holder of the easement to periodically assess the condition of the property to ensure that it is maintained according to the terms of the legal agreement. The landowner may continue the current use of the property provided that the resources the conservation easement is intended to protect are sustained. Because an easement restricts the type and amount of development on the land, its value is reduced overall and can reduce estate taxes. Conservation easements may also be donated which may qualify the land owner for federal tax deductions as specified in Internal Revenue Code, Section 170(h).

As contemplated in the SEP-HCP, the terms of the conservation easement are negotiable and would be based on case-by-case evaluation of the property (the unique qualities of the land) and the needs of the land owner. By selling an easement the land owner agrees to its terms and understands that the terms must be enforced in perpetuity. After an easement is signed, it is recorded with the County Register of Deeds and applies to all future owners of the land. The landowner retains full rights to control and manage their property within the limits of the easement. The landowner continues to bear all costs and liabilities related to ownership and maintenance of the property. The SEP-HCP Administrator monitors the property to ensure compliance with the easement's terms, but it has no other management responsibilities and exercises no direct control over other activities on the land.

GENERAL RESPONSE 14

What is the significance of the species included in the SEP-HCP? How many exist and what are their optimum numbers? Will this plan increase those numbers? Is there a current problem that negatively impacts these endangered species?

The SEP-HCP would authorize incidental take of the Golden-cheeked Warbler (*Dendroica chrysoparia*), Black-capped Vireo (*Vireo atricapillus*), *Rhadine exilis*, *Rhadine infernalis*, Helotes Mold Beetle (*Batrisodes ventyivi*), Government Canyon Bat Cave Spider (*Neoleptoneta microps*), Madla Cave Meshweaver (*Cicurina madla*), Bracken Cave Meshweaver (*Cicurina venii*), and Government Canyon Bat Cave Meshweaver (*Cicurina vespera*). Detailed information about each of the species is available on the Service website <http://www.fws.gov/endangered/index.html> and the TPWD website <http://www.tpwd.state.tx.us/huntwild/wild/species/endang/>.

One of the purposes of the SEP-HCP is to encourage compliance with ESA.

The introduction to the Endangered Species Act of 1973 (Act), recognizes that endangered and threatened species of wildlife and plants "are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people."

Congress determined the purpose of the Act is "...to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved [and] to provide a program for the conservation of such ... species..." HCPs under section 10(a)(1)(B) of the Act provide for partnerships with non-Federal parties to conserve the ecosystems upon which listed species depend, ultimately contributing to their recovery.

More information can be found in **Chapter 1 – Introduction, Purpose and Need**.