

Appendix Ը

*Summary of Public Comments*

SEP-HCP Final EIS Appendix D- Responses to Public Comments			
Last Name or Organization	First Name	Comment	Response
Elkins	Richard	The intent has been clear from the beginning that the applicants sought to mitigate the impacts of their activities – the “take” of endangered species – onto the surrounding counties. However, the impact to species referred to in the draft SEP-HCP is occurring in Bexar County where they have failed to adequately reserve appropriate mitigation land to offset those impacts. As a result, they have applied to the Service for an Incidental Take Permit and are preparing a “Regional” habitat conservation plan through which they will control the activities to be approved under the permit, in the seven counties.	San Antonio and Bexar County considered the availability and feasibility of providing all of the mitigation in their jurisdictions. However, most, if not all, of the karst mitigation will occur in Bexar County. The Applicants have a goal of providing 7,500 acres of GCWA and BCVI preserves in Bexar County and within 5 miles of the County.
Elkins	Richard	<p>The applicants are unduly placing the burden of providing habitat for their activities on the neighboring counties, therefore transferring the direct impact onto these landowners and restricting the revenue the five counties depend on to provide county services.</p> <p>Under the pretenses that the SEP-HCP would be a voluntary program, the counties named above have been involuntarily included in the permit area for the ITP. This has been done over the official objections by each of the counties as noticed in specific policy resolutions voted and approved by each County Commissioners Court. (Attachment “A”)</p> <p>Therefore, by way of this letter, the counties of Medina, Bandera, Kerr, Kendall and Blanco (Counties) officially notice the U.S. Fish and Wildlife Service that the application filed by Bexar County Texas and the City of San Antonio is invalid as it includes in their permit area lands which are not within their jurisdiction and are instead under the authority of the above stated counties which have not given their consent to participate in the plan.</p> <p>Additionally, the Counties demand that they be removed from the permit area in the draft and final version of the SEP-HCP, and that the SEP-HCP so note, as required under the National Environmental Policy Act, that the counties refuse to participate in the plan.</p> <p>The Counties also require that the lands within the five jurisdictions be removed from the conservation area for mitigation and that they instead remain available to mitigate potential impacts within each county as necessary, if approved by each County Commissioner’s Court, respectfully. (Attachment “B”)</p>	Please see response 2.
Elkins	Richard	Because of this invalid and unauthorized application, we respectfully request that you deny the issuance of an ITP for the seven-county area as published in the Federal Register, April 27, 2011 (FWS-RS-ES-2010-N282;2014-1112-0000-f2).	Please see responses 2 and 6.
Elkins	Richard	<p>Now that the Service has initiated the development of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) as so noticed in the Federal Register, the agency and applicants must coordinate the study with the five counties in order to comply with federal law.</p> <p>NEPA requires that the environmental study be coordinated with the 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 a part of this duty, the Service is required to assure that consideration is given to local plans, assist in resolving inconsistencies between the Federal and non-Federal plans, provide meaningful involvement, and ensure federal plans are consistent with local plans.</p> <p>Congress recognized that the position of local governments must be considered in the federal planning process, and must be weighed above that of the public. As duly elected officials with the responsibility to protect the health, safety and welfare of the public as charged by the State of Texas, the position of the five counties must be coordinated, must be considered, and the inconsistencies between the five counties’ position and the proposal must be resolved. This duty lies with the Service and any entity so delegated to prepare the EIS or portions of the EIS.</p> <p>NEPA provides specific directions as to how this is to be carried out by the agencies. At 42 USC 4332(E), the Act mandates that the agency shall: “(E) <i>study, develop, and describe appropriate <b>alternatives</b> to recommended courses of action in any proposal which involved <b>unresolved conflicts</b> concerning alternative uses of available resources.</i>” (emphasis added)</p>	<p>Regarding the citation to 43 USC § 1712(c)(9), this is not applicable to NEPA or the development of the SEP-HCP or EIS. This statutory reference refers to the Federal Land Policy and Management Act of 1976. This Act is implemented by the Department of the Interior’s Bureau of Land Management and refers specifically to the management of public lands.</p> <p>Regarding NEPA 42 USC 4332€this language refers to “unresolved conflicts,” which is referring to “concern[s regarding] alternative uses of available resources,” not unresolved conflicts between political bodies.</p> <p>Please also see response 3.</p>
Elkins	Richard	At a minimum, an alternative should be developed and carried forward in the EIS and Draft SEP-HCP, which limits the permit area and mitigation lands to the jurisdiction of the applicants. It should be rigorously studied and include discussion as to the amount of take that can be offset through mitigation of lands within Bexar County as required by 50 CFR 17.22(b)(1)(iii)(B).	The Single-County Alternative analyzed take and mitigation within Bexar County and a 10-mile radius to incorporate the City of San Antonio’s projected future growth outside of Bexar County. Please see Chapters 3 and 4 of the EIS for a description of this alternative, the analysis of effects, and why this alternative was not chosen.
Elkins	Richard	It should also include a detailed analysis of the funding mechanisms to insure that the plan can be supported over its anticipated 30-year duration, as required at 50 CFR 12.22(b)(2)(C).	Please see HCP Table 20 for a compilation of revenue sources and estimates for implementing the SEP-HCP. See also Appendix F of the SEP-HCP for a detailed list of where each revenue source is expected to come from.
Elkins	Richard	Such an alternative would not include any portion of the five counties within the permit area nor consider any portion of the land within the five counties as the conservation area to mitigate permitted activities within the applicant’s jurisdiction. This is the only alternative that would resolve the conflict with the counties. It should be put forward as the <b>preferred alternative</b> by the applicants because it is the only alternative that is valid under the law.	Please see response 1, 2, and 14.
Elkins	Richard	<p>The Council on Environmental Quality (CEQ) regulations provide further direction to the agencies as to how to properly resolve conflicts with local governments positions when preparing and environmental study.</p> <p>First, the agencies are directed to consider the local position early in the process. “Agencies shall integrate the NEPA process with other planning at the earliest possible time… to head off potential conflicts” (40 CFR 1501.2). The applicants have been duly noticed that the surrounding five counties will not be participating in their plan and</p>	The Service received copies of the resolutions passed by the surrounding counties during the public scoping process and, therefore, was aware of the request. Both the draft SEP-HCP (page 1 and Appendix A) and draft EIS (Chapter 2, Appendices C and D) directly referenced

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		further, oppose the implementation of the plan in their jurisdictions. This conflict should have already been discussed in the first version of the draft SEP-HCP released in April of this year, as the Service will ultimately be relying on the final document in determining whether to issue the permit. However, no mention of this opposition can be found anywhere in the draft. Because the applicants have refused to acknowledge that the five counties over which they are seeking to gain ITP permit approval have not consented, the alternatives they have analyzed fail to explain how they can effectively enforce the plan without this consent outside their jurisdiction.	the resolutions of the neighboring counties. Please see also responses 2 and 3.
Elkins	Richard	<p>Further, the purpose of the environmental study is to fully inform decision makers as to the human and environmental impacts of the proposal so that such impacts can be properly considered when determining whether or not to approve the project. Because the applicants neglect to address the conflict in their draft SEP-HCP, they have deprived decision makers, namely the Service, and the public of the opportunity to be fully apprised that the five counties have refused to allow the applicants to extend their authority into the jurisdictions of the five counties.</p> <p>This error must be corrected in the Service’s Environmental Impact Statement and must be addressed in the Draft SEP-HCP.</p> <p>Moreover, the CEQ regulations very specifically require the applicants to analyze the conflict with the five counties when addressing the environmental consequences of their proposal.</p> <p>No mention is made of the five counties’ policies opposing the plan provided to the applicant before publication of its draft document. At the very least, the opposition of the five counties, as well as their plans for implementing the program without utilizing any portion of the five counties, must be discussed and an adequate alternative developed to resolve this conflict. This is necessary at the draft stage so that decision makers and the public have the opportunity to know the five counties’ position and comment on such position. However, the agencies and applicant’s burden goes beyond just discussion of the conflict. The agency and applicant must work to reconcile its position with the five counties.</p>	<p>Regarding NEPA 42 USC 4332€this language refers to “unresolved conflicts,” which is referring to “concern[s regarding] alternative uses of available resources,” not unresolved conflicts between political bodies.</p> <p>Please also see Chapter 2.1.6 of the EIS where this opposition is described.</p>
Elkins	Richard		
Elkins	Richard	“To better integrate environmental impact statements into State or local planning processes, statements shall discuss any <b>inconsistencies</b> of a proposed action with any approved State or <b>local plan</b> and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe to <b>the extent to which the agency would reconcile its proposed action with the plan or law.</b> ” (42 CFR 1506.2) (emphasis added)	<p>As stated in 40 CFR 1506.2(b), the purpose of these requirements is “to the fullest extent possible...reduce duplication between NEPA and State and local requirements.” There is no evidence of duplication of requirements or any other inconsistencies with local plans. Since any actions relevant to lands located in the surrounding counties would only be limited to private lands and private transactions, there is no risk of duplication.</p> <p>Please also see response 3.</p>
Elkins	Richard	Not only should an alternative that limits the permit and conservation area be developed, but an explanation must be included in any alternative that extends the permit or conservation area beyond Bexar County’s jurisdiction. This statement should describe how the applicants will reconcile implementing the permit in counties where they do not have the consent of the counties.	Bexar County and City of San Antonio are not extending their jurisdictional or regulatory authority beyond their respective boundaries. To the extent the Applicants purchase real estate interests in surrounding counties outside of their regulatory authority, they are merely acting as an owner of real property and not exercising any jurisdictional regulatory authority. Please also see responses 1, 2, and 14.
Elkins	Richard	<p>The Endangered Species Act (ESA) requires that an application be made and a conservation plan prepared that fulfills the requirements outlined in the Act before the Secretary can issue an Incidental Take Permit. <i>“No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefore submits to the Secretary a conservation plan that species...” (16 USC 1539 (a)(2)(A))</i> (emphasis added). The application for the ITP in the seven-county area has been made by the County of Bexar and the City of San Antonio, according to the Federal Register notice published April 27, 2011. Application was not made by the six additional counties included in the plan area to be covered by the ITP. Counties in the state of Texas do not have authority to unilaterally act outside their boundaries without constitutional amendment. (See <i>Burke v. Hutcheson</i>, 537 S.W.2d 312, 314; <i>Ellis v. Hanks</i>, 478 S.W.2d 172, 176). In Attorney General Opinion No. JM-541, the AG points out that “Counties hold only those powers granted expressly or by necessary application in the Texas Constitution and statutes.” The office further points out that the State Constitution at Article V, Section 18, “commits county business to each county’s commissioner’s court.” Since the Texas Constitution does not provide for counties to extend their authority into other counties, and the Attorney General’s office has concluded that Texas case law suggests the Legislature cannot grant this authority, then Bexar County does not have the authority to apply for an Incidental Take Permit outside of its constitutionally recognized boundaries without the other counties’ consent. The application is invalid because the applicants have requested the issuance of an incidental take permit that is outside their legal jurisdiction and they have specific notice that the five counties have officially rejected inclusion in the plan. Further, the Service does not have the authority to issue a permit “unless an applicant therefore submits to the Secretary a conservation plan.” The Counties of Medina, Bandera, Kerr, Kendall and Blanco have not made such an application for an ITP nor have they prepared a conservation plan for such a permit. The Service cannot issue a permit which covers their jurisdictions until and unless the counties make such application directly and fulfill requirements as directed by the ESA.</p> <p>The Service also recognized in the Notice of Intent that they cannot issue a permit beyond the authority of the applicant.</p> <p><i>“Thus, the purpose of issuing a programmatic ITP is to allow the applicants, <b>under their respective City or County authority</b>, to authorize development while conserving the covered species and their habitat. “ (Federal Register, Vol 76, No. 81, April 27,</i></p>	<p>Please see response 2.</p> <p>Also, the cited cases, <i>Burke v. Hutcheson</i> and <i>Ellis v. Hanks</i>, are limited in scope. Both cases relate to one county attempting to exert control of a city’s local election, where the city’s borders spanned two counties. Essentially, one county could not exercise power over the part of the city located in an adjoining county. Under the SEP-HCP, Bexar County would not exert regulatory control over any land used for mitigation purposes on private property in a neighboring county. As with any private purchase, the county where the property is located would still be the county of regulatory and police-power controls, to the extent that the County has those authorities. Additionally, the cited Attorney General Opinion No. JM-541 is not applicable because Bexar County in this case is not attempting to exert its Constitutional and Statutorily designated powers or authorities over the neighboring counties.</p>

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		<p>2011, page 23620) (emphasis added)</p> <p>As noted above, Bexar County and the City of San Antonio’s constitutional authority does not extend into the surrounding counties and does not have the other counties’ consent to make such application. Therefore, the Service cannot approve an Incidental Take Permit to the applicants that includes the permit area for the five opposing counties.</p> <p>In their draft SEP-HCP, the applicants state that they will allow local governments, landowners and developers within the permit area to apply to become a plan participant. As the potential ITP holder, if authorized, and the entity that will determine the plan administrator, they will be exhibiting the equivalent of regulatory control over the other five counties. This would be appropriate only if the five counties had given their explicit consent.</p> <p>The Administrator of the plan will oversee enrolling participants, acquiring and managing preserves, and monitoring compliance with the terms and conditions of the permits as well as other administrative duties. Bexar County will determine who will be administrator of the plan.</p>	
Elkins	Richard	As the Incidental Take Permit holder and the entity that selects the plan administrator, Bexar County will be the regulatory body for the conservation plan. They are the responsible entity for ensuring the plan is carried out as required by federal and state law. They are given authority to approve or deny any participant’s application who applies under the plan. This gives them regulatory approval over the seven-county area for which they have no authorized jurisdiction.	Property owners seeking incidental take coverage under the SEP-HCP must be within the jurisdictions of Bexar County or the City of San Antonio, including its ETJ. Therefore, any decisions to approve an applicant for participation in the SEP-HCP will be made by one or both jurisdictions.
Elkins	Richard	<p>More importantly, this gives them authority to deny any or all of the five counties’ participation in the plan. The terms of the permit would give them such authority. So, even though the county’s jurisdiction is included in the plan, the county itself may be denied participation.</p> <p>State law does not allow for such unauthorized extension of power into other counties. In fact, such attempt to gain this regulatory power over the five counties listed within the application has been clearly rejected.</p>	Because several of the surrounding counties requested to be removed from the incidental take permit, they are no longer authorized as part of the SEP-HCP to receive incidental coverage, unless they are within the jurisdiction of the City of San Antonio (see response 2 for more detail). However, these areas may apply for their own incidental take permit. Please see response 5.
Elkins	Richard	<p>The applicants attempt to persuade those who oppose the plan that they will limit the actual implementation of the plan to the “geographic extent of Bexar County.” However, they acknowledge that the granting of this permit will give them the legal right to regulate who may participate in the plan and for what activities within the seven-county area.</p> <p>“While the Permit Area defines where the SEP-HCP’s incidental take authorization may legally be used for the purposes of the Incidental Take Permit, the SEP-HCP establishes additional administrative conditions on where it will use its incidental take authorization. These administrative limits are intended to be responsive to the desires and concerns of other communities within the Plan Area for partnering in Bexar County in this regional plan. These administrative limits initially restrict the use of the SEP-HCP’s incidental take authorization to:</p> <ul style="list-style-type: none"> <li>• The geographic extent of Bexar County;</li> <li>• The geographic extent of SEP-HCP sectors within the Permit Area that are adjacent to Bexar County, and</li> <li>• The geographic extent of individual activities <b>anywhere within the Permit Area</b> that the Bexar County or the City of San Antonio (as a significant SEP-HCP Partner) deem beneficial on a case-by-case basis. (page 25)(emphasis added)</li> </ul> <p>So, the applicant’s self-imposed administrative limits are really not so limiting. They include anywhere in the seven-county area they deem beneficial. Their stated administrative limits do nothing to assure the five opposing counties that they will not use the regulatory authority granted them through the permit in the seven counties.</p>	Please see response 2.
Elkins	Richard	The permit, as currently applied for, must be denied.	Please see response 6.
Elkins	Richard	<p>The stated purpose for the plan is:</p> <p><i>“The SEP-HCP is a Habitat Conservation Plan that will implement conservation actions benefitting endangered species within seven counties in south-central Texas. As shown in Figure 1, the SEP-HCP ‘Plan Area’ includes Bexar, Medina, Bandera, Kerr, Kendall, Blanco and Comal Counties.” (page 1)</i></p> <p>The stated objectives for the plan include as number 1:</p> <p><i>“REGIONAL CONSERVATION: To design and implement a regional conservation program focusing on habitat protection for the covered species and that supports the conservation of other regionally important natural resources.” (page 3)</i></p> <p>However, the applicants admit that a minimum 70% of new development, the primary take for the endangered species covered by the plan, will occur within Bexar County. “It is assumed that approximately 70% of this new development will occur within the jurisdiction of both Bexar County and the City of San Antonio.” (page 117)</p> <p>When viewing the plan from a “regional” perspective, it is easy to lose sight of the magnitude of the take of species being requested by the applicants. To reduce the percentage of their new development impacts down to a still massive 70%, they have had to include <b>six</b> neighboring counties’ activities into their calculations. It is questionable whether Bexar County has enough suitable habitat within its boundaries to offset its anticipated take.</p>	Please see responses 1 and 14.
Elkins	Richard	As a result, the applicants have proposed a “Regional” plan which will allow them to regulate not only the permit area, but the conservation area as well. Applicants have put themselves in the position of determining which projects will be approved, for which areas, and at what price. They will also decide which lands will be considered suitable habitat to be added to the conservation bank, and which development projects will be approved to purchase conservation credits from the conservation bank.	Issuance of the ITP will not allow the applicants to regulate outside of their respective jurisdictions. In accordance with section 10 of the ESA, it is a permit holder’s responsibility to comply with all permit terms and conditions and to implement the associated HCP. To not do so would be a violation of the permit and cause for suspension and possibly permit revocation. There may be instances where the SEP-HCP administrators would have to deny a Participant. For example, if there is an insufficient amount of GCWA preserve



			credits to cover a Participants requested incidental take, or a Participant has designated critical habitat for one of the Covered Karst Invertebrates and is requesting incidental take coverage within this area.
Elkins	Richard	<p>“<i>Conservation measures associated with the SEP-HCP may occur anywhere within the seven-county Plan Area, including Comal County. The SEP-HCP Administrator may engage in conservation activities, including voluntary preserve acquisitions from willing landowners, within the Conservation Area even if the action is located outside the Permit Area or Participation Area. However, all conservation actions for the SEP-HCP will be implemented within the boundaries of the seven-county Plan Area.</i>” (page 25)</p> <p>By extending the conservation area across the seven-county area, they increase the amount of habitat they can use for mitigation to offset direct impact of their take. They receive federal approval to do so, and thereby continue to destroy habitat in their county while locking up lands in other jurisdictions.</p>	Please see responses 2 and 11.
Elkins	Richard	<p>This also gives Bexar County an unfair advantage over other Counties that may wish to apply for an ITP in the future. If Bexar County has acquired the majority of suitable habitat in the other counties, then at such time as the five counties may choose to apply for a permit, they will have a reduced pool of land within their county to consider.</p> <p>It may be that such need for an ITP will not occur in the other counties for many years, if at all, since the neighboring counties are rural in nature and are not experiencing the population growth of Bexar County</p>	Please see response 5.
Elkins	Richard	<p>However, Texas state law requires that the identified habitat preserves necessary for mitigation in a Regional Habitat Conservation Plan be acquired no later than six years after the issuance of the federal permit. This prompts Bexar County to acquire the qualifying habitat early in the process.</p> <p>First, state law requires that landowners, who may be identified as having land within a proposed habitat preserve system for the HCP, be notified in writing within 60 days.</p> <p>The applicants are mandated by Texas law to designate and acquire habitat for the fulfillment of the permit within the four to six year timeframe of the permit issuance, or later at the identification of preserve land. This encourages the permit holders to acquire the necessary habitat in other counties at the beginning of the 30 year anticipated permit duration, rather than at the end. Additionally, since applicants are setting up a “conservation bank” system, whereby conservation lands must be acquired before credits can be sold and projects approved, then the land must be acquired early in the process.</p>	Please see response 4.
Elkins	Richard	When habitat is preserved, it is removed from property tax rolls, and the County no longer receives tax revenue from such properties. The five counties should not have to bear the burden of mitigating Bexar County’s take of species. If there is to be a reduction of taxable land, and restriction on activities, it should apply to the applicants who are causing the impact	Please see response 2.
Elkins	Richard	Bexar County and the City of San Antonio should offset their take with lands within their jurisdiction. The potential habitat that may be used for mitigation purposes in the opposing five counties should be reserved for such activities that may require an Incidental Take Permit within those counties’ jurisdiction. The Conservation area should not extend beyond Bexar County’s borders.	Please see response 1 and 14.
Elkins	Richard	<p>It should be noted that in the authorizing statutes for Habitat Conservation plans in the State of Texas, the Legislature made clear that its intent was to discourage Regional Habitat Conservation Plans and encourage the development of local Habitat Plans, such as for each county.</p> <p>Section 83.012 states: “<i>The Purpose of this subchapter is to: (2) encourage governmental entities to use the authority under this subchapter to develop and implement habitat conservation plans instead of regional habitat conservation plans;</i>”“(5) <i>require plan participants of existing regional habitat conservations plans to comply with the requirements of this subchapter so that existing regional habitat conservation plans become habitat conservation plans as quickly as possible.</i>”</p> <p>The applicants are deliberately ignoring this direction by the state, and instead are creating a “Regional” plan without the consent of the counties involved.</p>	Please see response 4.
O’Connell	Robert and Mina	NO ACTION ALTERNATIVE BACK OFF!	Please see response 6.
Moore	Myfe	USFW has failed to enforce the desecration of our county by developers up and down I-10 N of 1604.	Comment acknowledged.
Moore	Myfe	This tonight is a dog-and-pony show– it ignores the BAT and CAC recommendations presented in 2011. Boo on USFW and Bexar County	Comment acknowledged. Please also see response 7.
Anonymous		Habitat damaged in Bexar County should be replaced with other habitat property also in Bexar Co. not in some other place.	Please see response 1 and 14.
Purdy	David	To whom it may concern: I find it very disturbing that elements of the SA Business Community are trying to force the rural areas of Bexar County, Medina County and Kendall County to give up the rights of property and development because SA is maxed out.	Please see response 8.
Purdy	David	I find it very disturbing that the link to the fed website was disconnected to stop me from stating my say online.	We apologize for any technical difficulties you had with the website.
Purdy	David	I find it very disturbing that the right of the citizens of Boerne, TX to be heard is being abridged by not having a 3 <sup>rd</sup> meeting in Boerne, TX regarding this issue. I do not feel that the time being allotted is sufficient for large numbers of average folk to attend this meeting when they work. Not getting off work between 5-6pm and the meeting ends at 7pm.	Please see response 9 regarding the public meetings. Additionally, there were several options provided during the 90-day comment period for the public to view the documents and provide comment (please see response 3).
Purdy	David	NO ACTION is my response	Please see response 6.
Purdy	David	request for my complaints to be publicly reviewed and a meeting in Boerne, TX to be held.	All comments submitted are provided as part of the public record in Appendix D of the EIS. Please also see response 9.
O’Connell	Sean	No action alternative Ridiculous – we love animals so please stop taking their habitat in Bexar Co	Please see response 6.

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O’Connell	Sean	Don’t fine private property owners..	There is no fines associated with the SEP-HCP. There are fees for participating, but this is a voluntary plan. Please see response 2 for more detail.
Finger	Jack	Problem with the public meeting: 1. Held at a time when people can’t come due to time getting off work (5-7pm) 2. No real advertising of the meeting except the “old” style newspapers 3. No allowance of attendees to use a microphone so that misconceptions can be dispelled. 4. No hard copies of screen presentation so that attendees can follow along, have an instrument to refer to.	Please see response 9 regarding the public meetings. Copies of the presentation were provided at the public meetings. Additionally, there were several options provided during the 90-day comment period for the public to view the documents and provide comment (please see response 3).
Smith	Vikki	It appears that “take” means “kill.” You are proposing to kill the poor endangered species to build houses where they need to live! This is preposterous!	Please see response 10.
Smith	Vikki	Why don’t you go build houses on the south side of San Antonio where the endangered species aren’t located? South side needs economic development. The cost is outrageous! It drives up the price of this endangered species land so only rich people can buy it. This is despicable, more ridiculous suggling(?) to benefit rich people.	Please see response 11.
O.	M.	No! Back off and leave private property owners alone. We work hard for our own land and live in America – “Land of the free – home of the brave.” Buy your own land for enterprise in Bexar County.	Please see response 8.
Luckey	Mike	I respectfully request the U.S. Fish and Wildlife Service to use the “Take No Action” alternative in regards to the draft Southern Edwards Plateau Habitat Conservation Plan (dSEP-HCP) and the Incidental Take Permit for the following reasons.	Please see response 6.
Luckey	Mike	Bexar County failed to coordinate their activities with Bandera, Kendall, Kerr, Blanco (not mentioned in contract) and Medina counties in the formation of the SEP-HCP. In fact: We were not asked to come to the table! The dSEP-HCP should be terminated for “failure to comply with the provisions of applicable state or federal law” as stated within the contract. The National Environmental Policy Act Title 42 USC 4331 requires local governments to coordinate their activities with other local governments when developing Conservation Plans. Bexar County did not coordinate their planning efforts with other affected counties and because of this, Bandera County, Comal County, Kendall County, Kerr County, and Medina County, each passed resolutions requesting removal from the SEP-HCP. Without the participation of these counties, there is no guarantee of a safe habitat preserve for mitigation purposes of endangered species which is a requirement of Habitat Conservation Plans.	Please see responses 2 and 3.
Luckey	Mike	The dSEP-HCP undermines the purpose of the ESA by compromising species and their preservation for economic gain. It states in the plan that is greatly speeds up the process so developers can legally proceed with construction activities. The Development Rules in San Antonio are useless when developers can simply buy their way out of them and continue destroying the environment.	Please see response 11.
Luckey	Mike	The SEP-HCP was voted down by the Citizens Advisory Team (CAC) in 2011.	Please see response 7.
Luckey	Mike	There have been no public notices or meetings in regards to the formation of the proposed dSEP-HCP as required by state and federal statutes.	Please see responses 3 and 9.
Anonymous		All right. This is for our family in Boerne, Texas, Kendall County. We want No Action Alternative	Please see response 6.
Anonymous		Leave property – private property owners alone. Back off. It’s private property we’ve paid for. Buy your own land. I have no intention of paying a fine to use my own land.	Please see response 8.
Anonymous		Get your own land to develop in Bexar County and stop looking around at other counties.	Please see responses 2 and 11.
Anonymous		I feel that mitigation for Bexar County take property with property outside of Bexar County is unacceptable.	Comment acknowledged.
Anonymous		It seems to me that the proposal is unfair in two ways. One, the proportion of take exceeds fairness in that it’s some ratio between 2 and 3 acres per acre of land that’s put under development in Bexar County. Two going outside of the county that’s directly affected by the development, to take land from surrounding counties seems unjust. That’s it	For the SEP-HCP, a higher mitigation ratio is used to compensate for the potentially wide-ranging distribution of preserves across a 7-county Plan Area. Please also see response 8 and 11.
Anonymous		I find it very disturbing that elements of the San Antonio business community are trying to force the rural areas of Bexar County, Medina County and Kendall County to give up their rights of property and development because San Antonio is maxed out.	Please see response 8.
Purdy	David	If find it very disturbing that the link on Texans Against Tollways website link to the federal website is disconnected because I believe to stop me from stating my say online.	We apologize for the inconvenience, but this is not a website maintained by either the Applicants or the Service.
Purdy	David	I find it very disturbing that the rights of the citizens of Boerne, Texas in particular to be heard is being abridged by not having a third meeting in Boerne, Texas regarding this issue. I do not feel that the time being allotted is sufficient for large numbers of average folk to attend this meeting when they work and not getting off work between 5:00 and 6:00 pm and this meeting ends at 7:00 o’clock.	Please see response 9.
Purdy	David	I find also that this action that is being proposed is detrimental to Texas’ growth, and particularly the energy industry’s growth, to folks being able to use the mineral rights on their properties and potentially dangerous to just – I think it borders on being somewhat unconstitutional as far as depriving folks of their rights of their property.	Please see responses 8 and 11.
Purdy	David	But no action is my response and a request	Please see response 6.
Purdy	David	for my complaints to be publicly reviewed and a meeting in Boerne, Texas to be held is definitely what I’m requesting Why are you even holding these public meetings?	All comments submitted are provided as part of the public record in Appendix D of the EIS. Please also see response 9.
Smith	Alan	You ignored your own laws and regulations during the draft preparation stage of the HCP and EIS by not coordinating with the people of the affected counties and their elected representatives.	Please see response 3.
Smith	Alan	The counties of Medina, Bandera, Kerr, Kendall and Blanco did not submit an application for an Incidental Take Permit (ITP) nor did they prepare a conservation plan for such a permit. Therefore, the Service could not issue a permit that covered the five counties’ jurisdictions until and unless they themselves submitted an application directly and fulfilled the requirements as directed by the ESA. The counties did not consent to be included in the SEP-HCP and specifically opted out of the proposed plan.	Please see response 2.

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		<p>The citizens of the counties, through their elected representatives (the county commissioners’ courts of the counties) unanimously passed resolutions to opt out of the SEP-HCP and filed these resolutions with the Citizens Actions Committee in February 2011.</p> <p>The final HEC and final EIS now claim the ITP would be covered under current and future portions of Bexar Co. and the City of San Antonio’s extra-territorial jurisdiction (EJT). Counties in the state of Texas do not have the authority to unilaterally act outside their boundaries without a constitutional amendment.</p> <p>The USFWS, Texas Parks &amp; Wildlife Dept. acting on behalf of the City of San Antonio and Bexar County have no legal authority to force the SEP-HCP or subsequent ITP on the citizens of the above referenced counties. It is time for you to fold up your tents and go home.</p>	
Cook	Kathleen	This is not only a land grab, it is a water grab. San Antonio currently does not have enough water to support its population. To allow the addition of more building is irresponsible. Where are they going to get the water?	Please see response 8
Cook	Kathleen	What guarantees will be put into place that the new “habitat land” does not become “take” land down the road, at a profit for fish and wildlife?	The SEP-HCP is clear, and the Service will require, that all preserve lands will be legally protected in perpetuity. Please see Sections 6 and 7 of the SEP-HCP for preserve requirements.
Johnson	Jonathan	What is the minimum amount of acreage required to participate in this program? How will my acreage be impacted if my neighboring owner participates, but I don’t participate?	<p>There are no minimum acreages for participation; however, there are minimum acreage requirements for preserves (Section 6.2 and 7.2 of the SEP-HCP).</p> <p>Effects from adjacent landowners are described as indirect effects in the SEP-HCP. Sections 3.2.3.1 and 3.2.3.2 contain information on how indirect impacts would be assessed on properties that participated. This assessment, however, would not impact your property.</p>
Marquart	Cleo	I think this is an accurate statement when I say every person in this room likes to share their environment with all living things. Most of us have been fortunate to live in a rural area, where we have the best of all worlds near to where most our needs are met. A way of life that including making a living from the land and sharing that with an abundance of wildlife. We not only love our environment but we are good stewards of it. Do we like growth and change to this rural setting? Not really, but we understand it. With this growth, the infrastructure has to change. Our local government, county and city, with citizen participation, work to meet this challenge. It is done with transparency and within the law.	Comment acknowledged.
Marquart	Cleo	When I refer to your agency, I mean the U.S. Fish and Wildlife Services. Your agency, many environmental groups and other groups that spring up daily with a mission of their own wants full control of everything we hold dear. Your agency works diligently, with the help and funds of many, to disrupt and take away using the Endangered Species Act as your tool.	Please see response 8.
Marquart	Cleo	<p>I recently read that since 2007 in Texas there have been 1,230 petitions filed to have something added to the endangered species list. That is more than the entire previous 30 years. Your agency does not have the capacity in research nor administratively to substantiate these petitions as you did not 20-plus years ago.</p> <p>The yellow-cheeked warbler was put on the endangered species list 20-plus years ago. Following the listing, your agency held public meetings, such as this meeting, informing the public a permit would be required with instructions of how much juniper could be removed, the declared habitat for the bird, and, if violated, the landowner would be subject to a fine or arrest. A public outcry resulted and a public hearing was held at our state capitol.</p> <p>Myself and, I feel, others in this audience attended. Your agency, Sierra Club and others spoke defending the bird and its much-needed habitat. What problem came into play was that none that was speaking could bring forth with documented proof that the bird should be on the endangered list. The question asked was how many birds were there when you determined it was endangered and how many are there now. No one could give the numbers.</p> <p>Following was testimony by individuals with various credentials that disrupted your agency’s claim. Slides were presented showing the warbler nesting in other locations than the juniper. Outer building ledges, woodland trees and bushes. Its nest was made, as other birds, with dried twigs, grasses, string, pieces of paper et cetera. The birds adapted or someone made a mistake that the juniper was the only nesting habitat. The yellow-cheeked warbler after 20-plus years is still on the endangered list.</p> <p>Recently in one of our local newspapers, an article was written on the Ashe Juniper, the type in our area. The title of the article was Ashe Juniper is really More Good than Bad. It listed its many benefits to the ecosystem, a good source and habitat for the yellow-cheeked warbler.</p> <p>It did not mention the most important feature of the juniper, a very bad one: How much water it takes from the soil. The juniper, mesquite tree and cactus are the biggest water takers of all, often referred to as prairie parasites. Each of these spread and take over, eliminating native grasses, growth or stifle growth of woodland trees such as all species of oak, elm, walnut, ash, buckeye, hackberry, cherry. Uncontrolled and overgrowth of these invaders has a detrimental effect on wildlife and bird populations. Grasses and a mixture of woodland trees are primarily responsible for attracting the insect population upon which birds feed and provide shelter.</p> <p>A large juniper can consume 40 gallons of water daily. They have a deep root structure and a dense mat of fibrous roots near the soil surface that allow them to absorb moisture from the driest of soils to the detriment of grasses, creeks and springs. Where the junipers have been removed, native grasses return, woodland trees flourish and in some areas, springs and dry creek beds begin to flow. This is the science of it.</p>	<p>Comment acknowledged.</p> <p>Several GCWA abundance estimates exist. Due to the size and geographic distribution of both breeding and wintering habitat, an actual count of GCWA individuals in any given year is not possible. Additionally, the vast differences in individual estimates attempted to date underscores the need for more status and distribution information for calculating estimates.</p> <p>We are unaware of the slides referenced. Regarding nesting substrate, we have not received information indicating that strips of Ashe juniper bark are not a requirement by GCWAs for their nests. Additionally, we have not received information that they nest anywhere but in trees.</p>
Marquart	Cleo	The Citizen Advisory Committee meetings for the SEP-HCP held a couple of years ago, this meeting and others that you will hold meets a regulator requirement prior to your agency continuing on with your mission, bottom line, to stop all growth of any kind that it takes to provide for this nation of people.	Please see responses 8 and 10.



Johnson	Randy	If the permit is for 30 years what happens after 30 years? Is there a minimum amount of acres that can be put in the easement?	Please see EIS Chapter 3.2.2 and SEP-HCP Sections 6.2.1.1, 7.2.3.1, and 12.3 for details about what happens with the SEP-HCP after 30 years. Please see Sections 6.2 and 7.2 of the SEP-HCP are minimum acreage requirements for preserves.
Foster	Mr. and Mrs. Jim	<p>On February 11, a meeting was held in Kerrville for discussion of the conservation plan that did not include Kerr county. That is illogical.</p> <p>We attended and it was obvious from the start that deception was in order. No microphone was present. Comments were to be made quietly in a corner, but a county judge pointed out that for a public meeting to be legal comments could be made.</p> <p>It is difficult to agree with government employees (whom our taxes support) that we would be willing sellers of our land to developers in San Antonio. Our goal is to continue to develop and produce on the land as our family have before us. Little sense is applied to the intrusive ESA which has a real goal of a real TAKING of personal property by means of a scam. Conservation Easements are definitely allowing the property owner to pay taxes with permission from the government as to how it can be used. Permits and fees only fund abuse from the federal government. Citizens have a clear understanding that "voluntary" is a word that has been misused.</p>	Please see responses 8 and 9.
Foster	Mr. and Mrs. Jim	Several years ago 7 counties expressed that they were not interested in participating in the SEPCHP, yet in Kerrville materials passed out showed they were in the plan.	Please see response 2.
Foster	Mr. and Mrs. Jim	The attendants were not treated with dignity, but with disrespect. We were told comments could be made to a recorder in the corner. A county judge reminded the leader that for the meeting to be a legal public meeting we could speak out and we did.	Please see response 9.
Foster	Mr. and Mrs. Jim	<p>The Service could work with voluntary land owners to have a success protecting endangered species. Instead the federal government has worked against land owners who only want to produce from the land for the benefit of the people and making a decent living.</p> <p>We are against the Plan and believe the enforcement of the plan is unconstitutional. Following the law does not put the enforcer in a right position.</p>	<p>Comment acknowledged.</p> <p>Please also see response 8.</p>
Heinonen	Bob	Do you realize what kind of gibberish this email contains? The first two paragraphs are not decipherable by the ordinary citizen. The use of acronyms and references to regulations are absurd.	Comment acknowledged.
Anonymous		Government is not a pejorative word, but it is one that is often abused. The term “government” is often placed in contexts where people mean to be insinuating “bureaucratic red tape” and the minutia that bogs down the actual functions of government. Many in attendance at last night’s public forum in Kerrville came across as “anti-government” when they are simply against the over burgeoning effects of government growing beyond what the nature of government in this country was intended.	Comment acknowledged.
Anonymous		USFWS, CoSA, Bexar County, Bowen Consulting, Jacobs Engineering, and everyone involved in presenting these meetings came across as having taken pains to be deliberately vague in providing information to the public	Comment acknowledged.
Anonymous		The most obvious example I can think of is in not telling the people in Kerrville exactly HOW, rather than WHY, counties surrounding Bexar County are even mentioned in the “Plan Area.”	Please see response 2.
Anonymous		Treating people with such deliberate disrespect only serves to produce more distrust amongst the people you serve. Being that they also happen to be the ones you are attempting to gain cooperation from, it becomes a double-edged sword once those you have offended actively seek to shut down the process through their elected officials	<p>Comment acknowledged.</p> <p>Please also see response 2.</p>
Anonymous		The presentations provided at the USFWS meetings oversimplified the concept of Habitat Conservation Plans	Comment acknowledged.
Anonymous		This came across as: An effort to utilize Bexar County and CoSA as enforcement arms in a war against large-tract land owners in adjoining counties; b) Growth of Bexar County at the expense of adjoining counties.	Please see response 8 and 11.
Anonymous		As one gentleman put it, the authorization for development in Bexar County to KILL endangered species as long as limitations are placed upon land owners in adjoining counties	Please see response 10.
Anonymous		No clarity was made as to how conservation easements in adjoining counties will become theoretical transactions (i.e. – sales of credits to developers in order to mitigate the destruction of Bexar County habitat).	Preservation Credits are defined and referenced throughout the SEP-HCP as one acre of credit for each acre of GCWA or BCVI habitat on the parcel.
Anonymous		Karst mitigation outside of Bexar and Medina Counties is a ridiculous abuse of the concept of mitigation. As karst habitat capable of supporting the listed Bexar karst invertebrates does not exist beyond those two counties within the plan area, the wording of the proposed plan should specifically state as much. However, USFWS did not hold either of the two public meetings in a location that would allow Medina County residents fair and reasonable access to present their viewpoints publicly.	Comment acknowledged. Please also see response 9.
Anonymous		The format not allowing for public comments openly aired created a note of distrust that could not be overcome. By Technicality, the meetings are not in violation of federal or state laws, as people were informed they could stand in line to leave one-on-one comments with the court reporter, placed on one of the paper sheets and deposited into a comment box, or by going online to the federal website. If nothing duplicitous is going on, why engender so much subterfuge?	Please see response 9.
Anonymous		In many cases, an heir or heirs inheriting land in this country cannot afford to keep the property. This generally leads to the sale of the land, and developers are more often than not the target buyers. Telling the people of counties adjoining Bexar County that the only way they will be able to sell their land is into government conservation banks was the first mistake, and one that was irreversible.	Selling a conservation easement or fee title right to a property to the SEP-HCP is just one way that private landowners have to preserve their lands in perpetuity. There are private lands and conservation organizations that can assist with perpetual protection of property.
Anonymous		To truly conserve habitat, eliminate the inheritance tax! Assuming families who have maintained lands in these counties for generation upon generation are too ignorant to provide steps conserving the natural environmental and habitat is a mistake. How many ships have transported crude oil before or since the Exxon Valdez without incident? Do you see the parallel? While not every Texas may be an outspoken conservationist, the vast majority are not slash-and-burn destructionists! However, that is exactly how the people of the “Plan Area” have been treated. These families live on, manage and care	Comment acknowledged.



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		for the land. Most feel they have far more invested in land their family has been on for a hundred years than any bureaucrat could possibly fathom.	
Schenck	Greg	I want the ‘NO ACTION Alternative’	Please see response 6.
Leifeste	Lloyd	These is disguised as a way to protect endangered species but it actually is a way for developers in Bexar County to legally kill endangered species by buying “credits” from people in these 7 counties which will then not be able to develop their land. How do you think the karst invertebrates will be able to pack up and leave their cave in Bexar County and go to one of the places where the developers from Bexar County have bought their “credits?”	Covered Karst Invertebrate mitigation will require the protection of caves containing Covered Karst Invertebrates. Currently all known Covered Karst Invertebrate caves are located within Bexar County.  Please also see responses 2, 8,and 10.
Leifeste	Lloyd	I recommend this plan be rejected.	Please see response 6.
Price	Tom	Please deny the SEP dHCP and dEIS. Take the NO ACTION plan.	Please see response 6.
Price	Tom	The constitution never intended to allow the government to take private property for the benefit of developers. This proposal is clearly un-Constitutional.	Please see responses 2 and 8.
Moore	Myfe	The PUBLIC MEETING in Helotes, Texas was WORTHLESS. It was a classic dog and pony show, not truly interested in feedback and certainly out of touch with reality: GERMAN TRANSLATORS???? WHO ARE THE LOONATICKS PLANNING THIS EVENT???? Good grief.	Comment acknowledged. Please also see response 9
Moore	Myfe	The SEPHCA plan is extremely environmentally damaging, too far reaching (9 species in 7 counties!!!) , and hopelessly out of touch with the landowners and land stewards	Comment acknowledged.
Moore	Myfe	mitigation too far away from where the damage was done ALL MITIGATION SHOULD HAPPEN IN THE IMMEDIATE AREA OF TAKE	Please see responses 1 and 14.
Moore	Myfe	1. THIS SEPHCA PLAN IGNORES 70 2010-2015 DOCUMENTS AND SCIENTIFIC PAPERS AT UT-AUSTIN. NONE WERE REFERENCED IN YOUR 2015 SEPHCA PLAN. 2. NO EXISTING PARKS AND OPEN SPACES ALREADY PROTECTED SHOULD BE USED FOR THIS 2015 SEPHCA PLAN. 3. MINIMUM DESIGN FOR PRESERVES IS NOT ACCEPTABLE. 4. THE OVERSEER OF THE REFUGES IS NOT MENTIONED. WHO WILL OVERSEE AND ENFORCE? 5. INCLUDE THE 2 SPECIES YOU LEFT OFF THE 2012014 PLANNED SEPHCA. YOU LEFT THEM OFF THIS PLAN.	We were not provided the list of scientific papers presented here, despite a request for them. Therefore, we are unable to respond to this portion of the comment.  We are not clear what two species are being referred to.  Please also see responses 15 and16.
Anonymous		I like it. Please do it.	Comment acknowledged.
Anonymous		I am a Kendall County resident, landowner and voter. I am disgusted that San Antonio and Bexar County have proposed to take away landowner rights in our county. I believe there is a constitution that protects citizens from this heinous behavior by a government. How is this possible? It is NOT possible, under out constitution. So, we have a situation where some environmental “do gooders” want to restrict land in order to protect beetles and spiders. How ridiculous is that? And because Bexar County does not want to restrict its precious land, they try to restrict a neighbor’s land? Again, I believe the constitution protects me from this heinous government action. This proposed regulation should be rejected in its entirety. Keep Bexar County government inside their own borders. And if we have fewer spiders and beetles there, who really cares?	Please see responses 1, 6, 8, and 14.
Dial	Denny	In reference to the SEP dHCP and dEIS: Please do not allow private companies, or any other entity, acquisition of off-site preserve lands. I prefer the “no action alternative.”	Please see responses 1, 6, and 14.
Anonymous		No Action Alternative. San Antonio is already too big. People move to the outlying area’s to get away from the big city, yet we find the fools in city government continue to follow us. We don’t want San Antonio in Bandera or Medina Counties.	Please see responses 2, 6, and 15.
Kloza	James	My comment is in reference to the SEP dHCP and dEIS...Southern Edwards Plateau (SEP), draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS), and an incidental take permit application: I don’t want the government to restrict how I can use and enjoy MY private property! I want the “No Action Alternative”	Please see responses 6 and 8.
Pigg	Joel	Resolution Against Inclusion of Real-Edwards Conservation and Reclamation District in Southern Edwards Plateau Habitat Conservation Plan Whereas, Bexar County and the City of San Antonio, among other, are applicants under the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP), and Whereas, the permit plan area and/or incidental take permit area for the SEP-HCP includes areas which are not within the geographic boundaries of the applicants under the SEP-HCP, and Whereas, individual property rights are among the fundamental rights of United States Citizens and Real-Edwards Conservation and Reclamation District Board of Directors staunchly supports the protection of private property rights, and Whereas, the SEP-HCP may adversely impact landowners, wildlife, endangered or threatened species and habitats in Real County or Edwards County. Now therefore be it resolved, that the Real-Edwards Conservation and reclamation District Board of Directors does not desire, request or intend for Real County or Edwards County to participate in the SEP-HCP, and be it further resolved, that Real-Edwards Conservation and Reclamation District Board of Directors objects to the inclusion of Real County or Edwards County in the SEP-HCP and/or in any permit plan area and/or incidental take permit area for the SEP-HCP. Adopted the 10 <sup>th</sup> day of October 2012.	Real and Edwards counties are outside of the Plan Area and the Enrollment Area of the SEP-HCP (SEP-HCP Section 2.3) and, therefore, would not be able to participate in the SEP-HCP for either mitigation of proposed impacts or conservation of endangered species habitat.
Friedrich	J	I am writing to ask that you take the No action alternative concerning the SEP dHCP and dEIS.	Please see response 6.
Anonymous		San Antonio needs to stay within the confines of Bexar County. Our water supplies and aquifers are stressed enough without having more development that only benefits a few. San Antonio and Bexar County should already be in Stage 3 water restrictions, but it seems like that is not going to receive much publicity. The S.A. City Council and Sculley apparently want to keep that gem of information hidden from the developers for fear of losing “growth,” which, BTW is a 90’s metric. STAY OUT OF KENDALL, BANDERA, and MEDINA COUNTIES! STOP overdeveloping on our recharge zone.	Please see responses 1, 11, 13, and 14.
Gargano	Michael	I am opposed to the Bexar County Incidental Take Permit from USFWS for several reasons. Development of the land set aside for endangered species will damage habitat. Additionally, Kendall County, where I live, will be forced to set aside private land to compensate for the Bexar County Take Permit. Finally and most importantly, Federal Government Agencies should not be intruding into the affairs of Texas or any other	Comment acknowledged. Please also see comment 8.

		state for that matter. Thanks to our elected representatives and our citizens, Kendall County does an excellent job managing its own business, including preserving open space and protecting wildlife. Continued Federal overreach and intrusion into state and local affairs is, and has been in clear violation of the Constitution, since the states maintain all power not specifically delegated to Washington. We certainly do not need or want Federal Government agencies dictating to Texas how we manage our land and water, nor will we allow blatant land grabs by the same.	
Mizell	Les	I want a no-action alternative to this attempt at confiscating land for "so called" endangered animals. We humans are endangered when it comes down to it. Leave landowners alone. Confiscate land in a foreign country and export those animals to that country. That may be the best solution. Better yet, send the politicians with the animals.	Please see responses 6 and 8.
Porter	Richard	I request "No Action Alternative". 30 years to grab land is over the top even for government.	Please see responses 6 and 8.
Anonymous		Being that the City of San Antonio and Bexar County are the parties asking for the Incidental Take Permit, the "Single County Alternative" outlined in the dEIS is the most logical application. Surrounding counties have not asked to be included and have, in fact, issued resolutions stating they will not participate. If this plan, as the dEIS states, will make it more expensive to develop land in Bexar County, doesn't this serve the Service' interest for protecting potential habitat?	Comment acknowledged.  Please also see responses 1 and 14.
Dietert	Ann	The SEPHEP Draft presentation at the Public Meeting in Kerrville, Texas was either a success or a dismal failure, depending in the objectives of the presenters. The USFWS should have understood the sentiments of the other counties in the plan area they don't trust San Antonio/Bexar County. If the objective of the presentation was for the Plan to fail, they certainly got people stirred up against it, again. I was a member of the Citizens Advisory Committee for the SEPHCP. Several times people from the other counties came to speak against the Plan, and they succeeded in getting their counties to opt out of it. After the Public Meeting the local Boerne paper's headline on 2/10/15 was "Feds Aim for Land Grab" -"Bexar County/San Antonio want more growth at Kendall's expense." While I understand the federal government didn't develop the Plan, I have to say I don't trust San Antonio or Bexar County to deal fairly with neighboring counties. I was surprised to learn at that meeting that San Antonio will administer the conservation areas and I find that pretty suspect. I had considered offering land in Kerr County for mitigation but now would not because it would not be under the control of an independent land conservation group. I now feel that all mitigation should take place in the county where it occurs and if that limits development, so be it. San Antonio already has water problems and seeks to take water from other areas, which is one of the reasons the other counties object to San Antonio controlling anything in their areas.	Please also see responses 1, 2, 9, 11, 13, 14, 16 and 17..
Anonymous		I find it amazing that the public has heard very little about this latest boondoggle through the local main stream media. We have to rely on other sources of information, even though it is supposedly "our" government that is shafting us. You can take your eminent domain and shove it where the sun doesn't shine. We don't want San Antonio in Bandera, Kerr, or Medina counties.	Please see responses 2, 8, and 9.
Kroening	Beverly	I request that the citizens of the areas in question be allowed to voice their concerns publicly in relation to the "Southern Edwards Plateau draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS) and an incidental take permit application". I request that all information in relation to this issue be publicly opened, disclosed, and accounted for, and that all citizens be made aware of all contents in relation to this issue. I request the 'No ACTION alternative' to be registered by me, Beverly S. Kroening, citizen of Medina County, Texas on this day 2/1/2015, in relation to the "Southern Edwards Plateau draft Habitat Conservation Plan (dHCP), draft Environmental Impact Statement (dEIS) and an incidental take permit application".	The applicants and the Service have maintained documents on their websites throughout the process. Please also see responses 6 and 9.
Billingsley	Michael	I oppose the US Fish & Wildlife's plan to allow Bexar county to develop on protected lands. There is something to be said for less is more. If you allow this land grab it is putting a band aid on the situation. Leave it like it is. If you allow this to happen, what happens in 20 or 30 years? Do you let Kendall county develop on protected lands at that point? Where does it stop? Don't let this happen!	Comment acknowledged. Please also see responses 8 and 15.
Holt	Brad	No ACTION alternative on this plan!!!! The thought that politicians and developers have hooked up to steal private property in order to build where they want to make money at the coast of private land owners is repulsive and immoral.	Please see responses 6 and 8.
Anonymous		If San Antonio and Bexar Co are having a problem with expansion and habitat erosion, they are the ones that need to fix their problem themselves and not inflict a general solution on surrounding counties which do not have similar problems. When I went to high school in Mason there were 2800+ people in residence in the city. Now there are less than 2200, and there are not population growth, environmental habitat conservation or urbanization problems in Mason County. Spend your Bexar Co tax dollars more wisely (at home). Provide tax incentives for building high-rise apartments, office buildings and other facilities that do not encroach on native habitat within your own county. Provide the proper incentives so the problem will solve itself without subjecting neighboring counties to your bureaucratic nonsense.	Please see responses 1, 11, and 14.
Anonymous		This is CoSA and Bexar County asking Joe the Plumber to pay for their lunch just because he happens to be in line ahead of them. Allowing development of Bexar County on the condition that lands in the surrounding counties are set aside for conservation is ludicrous. It would effectively create a great race to develop as much as possible before this was instituted...followed by basically condemning the remaining tracts of land. Couple that with creating a new, massive, and unelected bureaucracy with the ability to potentially impose taxes and fees is entirely unacceptable!	Please see responses 1, 2, and 14.
Eppinger	G.	Bexar County would like the USFWS to take private property that belongs to citizens in Kendall County and put restrictions on that property. The Endangered Species habitat through the Southern Edwards Plateau Habitat Conservation Plan would take land in Kendall County to be set aside to mitigate Bexar County development. If this happens developers can't build on this land. The Endangered Species habitat has put insects, birds, fish, etc., before human rights. People should be in charge of their own land. If these so called endangered species are so necessary, put them in a zoo or aquarium. Government has already taken so much land and rights away from the citizens. We the people are not in charge anymore. It seems like at some point the government needs to stop this stealing of land and rights of the people.	Please see response 2, 8, and 11.

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		I am against Bexar County trying to force land restrictions on Kendall County residents. Let them take care of their own county NOT ours.	
Honsalek	Claire	<p>My comments regarding the Southern Edwards Plateau Habitat Conservation Plan draft: Section 10 (a)(2)(A) of the Endangered Species Act requires the Habitat Conservation Plans Include a description of the "alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized." One of these actions is the No Action Alternative Whether or not to implement a regional Habitat Conservation Plan at all; (14.0) SEP-HCP. I would like for the No Action Alternative to be implemented.</p> <p>If the No Action Alternative was implemented:</p> <ul style="list-style-type: none"><li>-The enrollment area would NOT INCLUDE Bexar County and the City of San Antonio Jurisdictions.</li><li>-The conservation actions WOULD NOT INCLUDE 7 counties: Bexar, Medina, Bandera, Kerr, Kendall, Blanco and Comal.</li><li>-The Golden-cheeked Warbler, Black-capped Vireo, Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle WOULD STILL BE COVERED by the Endangered Species Act.</li><li>-9,371 acres WOULD NOT NEED an incidental take request habitat within those acres for the Golden-cheeked Warbler.</li><li>-2,640 acres WOULD NOT NEED an incidental take request habitat within those acres for the Black-capped Vireo.</li><li>-10,234 acres, 10,852 acres and 49 occupied features WOULD NOT NEED incidental take request habitat within those acres for the Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle.</li><li>-The mitigation ratio of 2:1 direct impact and .5:1 indirect impact WOULD NOT BE NEEDED for the Golden-cheeked Warbler.</li><li>-23,430 acres of preserve land distributed to be in mostly rural areas (Hill Country Counties) WOULD NOT BE NEEDED for the Golden-cheeked Warbler.</li><li>-The Preservation Credit Fee of \$4,000 per credit \$8,000 per acre of direct loss (funded by developers in Bexar County, the City of San Antonio and Fish and Wildlife Service, Southwest Region) for the Golden-cheeked Warbler WOULD NOT BE NEEDED.</li><li>-The mitigation ratio of 2:1 direct impact and .5:1 indirect impact WOULD NOT BE NEEDED for the black-capped Vireo. 6,600 acres of preserve land distributed in mostly rural areas (Hill Country Counties) WOULD NOT BE NEEDED for the Black-capped Vireo.</li><li>-The Preservation Credit Fee of \$4,000 per credit, \$8,000 per acre of direct loss (funded by developers in Bexar County, the City of San Antonio and the Fish and Wildlife Service, Southwest Region for the Black-capped Vireo WOULD NOT BE NEEDED.</li><li>-1x of preserves required to achieve down listing criteria for the Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle conservation goal WOULD NOT BE NEEDED.</li><li>-1,000 acres of new preserves distributed across Bexar County Karst Zones for the Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle WOULD NOT BE NEEDED.</li><li>-Participation Fees for 345 to 750 ft buffer from a water source of \$40,000 for Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle WOULD NOT BE NEEDED.</li><li>-Participation Fees for 0 to 345 ft buffer from a water source of \$400,000 for Government Canyon Bat Cave Spider, Madia Cave Meshweaver, Braken Cave Meshweaver, Government Canyon Bat Cave Meshweaver, Rhadine Exilis (a beetle), Rhadine infernalis (a beetle), and the Helotes Mold Beetle WOULD NOT BE NEEDED.</li></ul> <p>The Total Estimated Cost of SEPHCP Plan \$299,473,633.00 WOULD NOT BE NEEDED.</p> <p>Revenues:</p> <p>Application Fees \$ 374,964.00</p> <p>Golden-cheeked Warbler Preservation fees \$126,128,059.00</p> <p>Black-capped Vireo Preservation fees \$ 35,532,822.00</p> <p>Spiders/Beetles Preservation fees \$ 6,172,349.00</p> <p>Public Funding Bexar County \$ 39,209,915.00</p> <p>Public Funding City of San Antonio \$ 39,209,915.00</p> <p>GCW Preservation Credit \$ 251,560.00</p> <p>Endowment Fund Investment \$ 52,594,051.00</p> <p>All of these FEES and PUBLIC FUNDING WOULD NOT BE NEEDED! END THE DARK CLOUD OF NEEDLESS BUREAUCRACY LOOMING OVER OUR PRECIOUS PRIVATELY OWNED RESOURCES OF THE HILL COUNTRY.</p>	Please see responses 3 and 6.
Pierce	Jerry	<p><b>No Action Alternative</b>-Last evening I attended a Public Meeting in Kerrville, TX concerning Draft Southern Edwards Plateau Habitat Conversation Plan and Environmental Impact Statement. After being told that no questions could be asked in a public town hall format and after hearing a very brief presentation that raised more questions than it gave answers, I am requesting that no action be taken on moving forward with this project I should point out that the members of the public refused to comply with the intended format The following are my reasons for opposition:</p> <p><b>San Antonio and Bexar County are fronting for their developer friends</b>- The two public entities were using the U.S. Fish and Wildlife Service and the Endangered Species Act to further cronyism with the developers. If the developers want to develop</p>	Please see responses 2, 6, 9, 11, 13, and 14.



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		<p>in north Bexar and the ETG for San Antonio, then let them apply for a permit in the normal way and hold public hearings in Bexar County on a case-by-case basis. If that is too much trouble, maybe the developers should consider building on the South side of San Antonio. This is a perfect example of liberal Democrats wanting to ten others what is good for them and requiring them to submit to Federal regulations, but not wanting the regulations to apply to them and their favorite contributors.</p> <p><b>Stay out of the business of the Hill Country Counties</b>-The Hill Country Counties have been saying <b>no to assisting San Antonio and Bexar County in any way since 2011. What about no do you not understand?</b> We simply want to be left alone and be in charge of our own development and water resources, which is what is really at stake.</p> <p><b>Developers' long-term plan is to get control of the land at Camp Bullis and the surrounding property</b>-The prime area for the Edwards Aquifer Re-charge Zone is Camp Bullis. Also, if they keep on a future BRAC Commission will close the base and Fort Sam Houston with it That is where they are headed. Then they will cry we don't have enough water so we want to get more from the Hill Country.</p>	
Anonymous		<p>This is a terrible infringement of private property rights and needs to stop. It's enough that we work a life time to acquire the property we have, to struggle to pay it off and own it, and then to continue to pay the rest of our lives through all sorts of tax avenues. I know how to manage what land I have and everything on it and do not need any other assistance from any governmental organization. THIS HABITAT CONSERVATION PLAN SHOULD NOT BE IMPLEMENTED!!</p>	Please see responses 6 and 8.
Heitzman	Richard	<p>Stay out of the Hill country. If San Antonio cannot manage its own growth within its own boundaries then it needs to look for ways to grow that do not steal the land from private owners.</p> <p>I want the 'No ACTION alternative" to this plan. This is the most pathetic attempt at land grabbing I have seen in a long time.</p>	Please see responses 1, 6, 8, and 14.
Anonymous		<p>As land owners, we take great pride in keeping informed on issues, be it environmental, habitat, agricultural, water rights and survival. Our jobs are to protect the land, cultivate it, respect it (Ps 8) and manage it. This land is our land. Not the federal government.</p> <p>Water is being taken at a high rate and we are in drought conditions all the time. San Antonio needs to figure out how to provide water for themselves and development without taking it from the Edwards Plateau.</p> <p>Examples are Buchanan Lake NW of Austin, TX. Look at Medina Lake, TX (NW of San Antonio, TX)! Bone Dry....</p> <p>We already have wells going dry around Medina, Bandera, TX.</p> <p>The Federal Government has no business in this issue. They are using the TX. Parks and Wildlife to attempt to coerce landowners into this conservation in the name of what? So San Antonio can bargain their way to develop more, to take more, to justify their growth for immediate gratification. TEXAS IS DRY and everyone is moving here. They need to spend a week in west Texas without any water before making the decision to develop here.</p>	Please see responses 8, 13 and 15.
Nottingham	Jennifer	<p>I was a member of the CAC. We were released in 2011 when we could not come to a consensus. As far as I know, the CAC was never contacted regarding the 2014 version of the SEPHCP. I am writing today to let you know the new mitigation areas are wrong (we should be mitigating in Bexar County) and that the developers should be paying (not the taxpayers). Citizens should also have the comment period be extended and a real public hearing (public hearing means citizens ask questions and get answers). Thank you for your time and for whatever you can do to help resolve these matters.</p>	Please see responses 1, 3, 7, 9, and 14.
Davidson	David and Patricia	<p>I have read the newspaper of the Service’s plans for endangered species habitat “mitigation” in Bexar County, a deeply flawed concept, and if implemented will lead to further destruction of critical habitat in Bexar County. Fish and Wildlife is supposed to use good science and be science driven in regulation, but it seems clear that the proposed regulation is economically driven, probably be developer influence, and not science driven.</p> <p>The critical habitat for karst dwelling species is the caves where they are found, not some place in another area (county). Mitigation for loss of habitat for these species by purchase of property that is not where these species live is not mitigation; it will lead to their destruction. The economic benefit to developers is clear, but where is the science in this idea?</p> <p>Habitat for Golden-cheeked Warblers and Black-capped Vireos is not quite the same, and maybe areas of suitable habitat where these species nest can be found outside of Bexar County.</p> <p>The minimal cost to developers for taking species in Bexar County amounts to a small part of the developers’ budget, although maybe \$400,000 per acre might have some impact. And it is not just protecting karst features occupied by these species that is important, the water supplies for these features must also be protected, both in quality and quantity.</p> <p>We urge Fish and Wildlife to live up to the standards that are expected of the Service and formulate regulations that do not amount to giving Bexar County a license to take endangered species with very little penalty. Developers have raped the habitat on the recharge zone for the Edwards Aquifer over the past 50 years that we have lived here; it has been terribly painful to observe, and now it is (way past) time for that process to be stopped by Fish and Wildlife doing what is best for the endangered species of this area.</p>	<p>The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.</p> <p>Please also see responses 11, 12 and 18.</p>
Hill Country Conservancy		<p>We write this letter in support of the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP). Land development activities that accompany and support the expanding population of the greater San Antonio area have caused the loss and degradation of habitats for federally threatened or endangered species, and are the primary factors threatening the survival and recovery of these species.</p> <p>As we see all too often today throughout the greater San Antonio area and surrounding Hill Country, many projects are proceeding without proper coordination with the U.S. Fish and Wildlife Service (USFWS) and would rather risk enforcement actions that could delay completion and/or result in fines, than seek compliance with the Endangered Species Act (ESA). This is largely due to the fact that the process for ESA compliance by obtaining a permit from the USFWS is lengthy and expensive, thus discourages people from seeking it. What this poor compliance and lack of proper</p>	Comment acknowledged

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		<p>coordination has resulted in is the loss or degradation of endangered species habitats without the benefits of the corresponding conservation measures that would otherwise be implemented as required by the ESA.</p> <p>This overall lack of ESA compliance over the past couple of decades has resulting in few conservation actions being implemented in the greater San Antonio area specifically for the benefit of the region’s threatened or endangered species. Furthermore, it has been estimated that approximately 241,000 acres of available undeveloped land within the SEP-HCP Plan Area will be converted to developed land uses within the next 30 years, at an average pace of approximately 7,800 acres per year. The greater San Antonio area needs a locally implementable solution to curtail the continuing loss of open-space and endangered species habitat within the region.</p> <p>While ongoing conservation initiatives sponsored by the City of San Antonio’s Edwards Aquifer Protection Program have protected tens of thousands of acres in the SEP-HCP Plan Area from future development, most of these actions do not specifically provide for the protection of management of endangered species habitats. Without specific habitat protections and on-going management, the conservation value of these lands may be limited for endangered species. There are only a few relatively small and scattered conservation actions with the region that have specifically targeted the protection and management of endangered species. However, these efforts alone will not likely support the self-sustaining ecosystem processes that naturally maintain endangered species habitats within the next 30 years.</p> <p>Protecting endangered species habitat is important, and much of this habitat occurs over areas within the recharge and contributing zones of the Edwards Aquifer and would contribute to aquifer protection. The SEP-HCP will provide for the coordinated conservation of the area’s important natural resources at scale that helps secure the status of endangered species and contributes significantly to their ultimate recovery. At full implementation, the SEP-HCP preserve system would include a minimum of 23,430 acres of golden-cheeked warbler preserve lands; a minimum of 6,600 acres of black-capped vireo preserve lands; and a minimum of 1,000 acres of preserve lands for the seven listed karst invertebrates covered by the plan. The SEP-HCP also requires that conservation action must be completed before a corresponding amount of participation can be allowed to occur through the Plan.</p> <p>The SEP-HCP would be another tool in the conservation toolbox in which groups could utilize for assistance in regional-scale conservation efforts, not only endangered species protection and recovery, but protection of the Edwards Aquifer and other important natural resources on the Hill Country. SEP-HCP resources in the form of mitigation fees, available grants, and public funds will be used to acquire lands or perpetual conservation easements on properties from voluntary and willing landowners within the 7-county Plan Area that meet conservation and recovery-specific design criteria for these endangered species.</p> <p>Additionally, the SEP-HCP will require two acres of mitigation for each acre of direct impact and one-half acres of mitigation for each acre of indirect impact. All other similar HCPs within the central Texas area only require one acre of mitigation for each acre of direct impact.</p> <p>Any amount of mitigation would be better than the current status quo of no mitigation at all.</p>	
Department of the Army		<p>Thank you for the opportunity to comment on the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP) and draft Environmental Impact Statement (EIS). As a federal agency, we will not be covered by the incidental take of this plan, however, we support the plan because we believe it will provide a streamlined method for management of development around Camp Stanley and Camp Bullis which should improve compliance by nonfederal parties.</p> <p>We are aware of only a handful of site specific habitat conservation plans and Section 7 consultations ever being done in Bexar County. With tens of thousands of acres of development occurring in the county, it is questionable whether many developers complied with performing endangered species mitigation. We believe development is displacing Golden-cheeked Warbler (GCWA) onto our military installations. Having a streamlined means of complying, as has been the case with a regional HCP in Travis County since 1996, should encourage more developers to comply with the Endangered Species Act. We hope that having a regional HCP will stop the net loss of habitat in the overall area and result in more mitigation being done.</p> <p>We are concerned that the Biological Advisory Team’s (BAT’s) recommendation for a specific percentage of GCWA habitat to be obtained within Bexar County is not in the draft plan or EIS. We understand the cost realities over the BAT’s figure of 60% may make the plan too expensive to implement, but believe some minimal percentage (such as 30% within Bexar County and miles surrounding) is needed so that it doesn’t end up that all the mitigation is done outside of Bexar County. Doing so would leave Camp Stanley and Camp Bullis (and Government Canyon State Natural Area, a few city parks and Proposition 1 tracts and a few tracts Camp Bullis help set up as mitigation properties) as the only remaining GCWA habitat in Bexar County.</p>	<p>Comment Acknowledged.</p> <p>Please also see responses 1, 7, and 14.</p>
City of Grey Forest		<p>The City of Grey Forest supported the implementation of the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) by sending a Councilmember to participate as a governmental entity representative on the Citizens Advisory Committee (CAC) which met for approximately 3 years.</p> <p>After the recent public hearing, February 3, 2015, at 5pm at the Casa Helotes in Helotes, TX our Council and Mayor wish to express our disappointment. We understand that this meeting was not a public hearing where citizens has an opportunity to speak, but rather was simply held to complete a process. It was apparent that the primary U.S. Fish &amp; Wildlife Service (USFWS) representative did not seem to know those he was introducing. The current project representative from Bowman Company simply read his notes while citizens viewed them on the screen. Representatives from Loomis, the previous company in charge of the project, although very familiar with the details, were rarely even referenced. This does not provide confidence that the current staff in charge really knows, much less understands, this plan.</p> <p>Many of the SEP-HCP meetings were also attended by representatives from several of Bexar County’s contiguous counties which were involved in the Habitat Plan by geography rather than their desire to participate. It was very apparent at these SEP-HCP meetings that the citizens from Kerr County and their Commissioners Court were</p>	<p>Comments acknowledged.</p> <p>Loomis was acquired by Bowman and those familiar with the project are still involved in the SEP-HCP.</p> <p>Please also see response 2.</p>

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		<p>adamant they did not want to participate in this plan. The current draft Habitat Conservation Plan (dHCP) is in direct conflict with the position taken by Kerr County Commissioners.</p> <p>The City of Grey Forest wishes to convey support for the concerns expressed by Tom Hayes, Environmental Conservation Alliance (ECA), and former member of the Biological Advisory Team (BAT) in his Outline of Necessary Revisions to dHCP/ draft Environmental Impact Survey (dEIS).</p>	
<div>Alamo Group of the Sierra Club</div> <div>City of Grey Forest</div> <div>Fenstermaker</div> <div>Fenstermaker</div> <div>Hayes</div> <div>Moore</div> <div>Scenic Loop – Boerne Stage Alliance</div>	<div>Mary</div> <div>Bebe</div> <div>Tom</div> <div>Myfe</div>	<p>Golden Cheek Warbler (GCW) and Black Capped Vireo (BCV)</p> <ul style="list-style-type: none"> <li>• Increase GCW mitigation ratio to 3:1 for direct take</li> <li>• All take restricted to Bexar County and San Antonio, so resulting mitigation should also be within five miles of Bexar County.</li> <li>• Current USFWS recommendation should remain the basis for determining presence-absence for all covered species.</li> <li>• The SEP-HCP should specify minimum design criteria for GCW and BCV.</li> <li>• A prescriptive management plan for GCW and BCV should be included in the SEP-HCP.</li> <li>• Currently “protected” GCW habitat in the SEP-HCP area that is not permanently protected should not contribute to recovery.</li> <li>• GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre.</li> <li>• An adequate funding model to sustain management should be a guaranteed component of preserve acquisitions</li> </ul> <p>Karst Invertebrates</p> <ul style="list-style-type: none"> <li>• Actual surface and subsurface drainage basins should be carefully estimated for very large karst features, so that the plan-prescribed 750-foot distance for Occupied Cave Zone (OCZ) B is extended as necessary to fully protect the most valuable features.</li> <li>• Prior to all Karst Faunal Regions (KFRs) for a given species being certified as down-listed to assure regional recovery, no covered activities for a given species should be allowed within the OCZ..</li> <li>• Due to the need for more research on the distribution, taxonomy, and status of covered species, the investigation of any accidentally discovered karst features (caves and voids) must continue to be required until all listed species in all KFRs in the SEP-HCP region achieve verified USFWS down-listing.</li> <li>• Karst participation fees should be increased due to the high biological concern and high land values (conservation cost) in Bexar County.</li> <li>• Low-quality preserves must not be accepted in lieu of per acre participation fees, unless such land donations include a guaranteed management endowment</li> </ul> <p>Plan Structure and Administration</p> <ul style="list-style-type: none"> <li>• Surveys, reviews and reports for assessing baseline conditions and for management planning should occur more frequently.</li> <li>• Independent advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee.</li> <li>• SEP-HCP administrator should be an independent non-profit entity, affiliated with but not directly managed by the Permittees.</li> <li>• Program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species should be included in the SEP-HCP</li> <li>• The mitigation process for indirect and offsite impacts must be included in the SEP-HCP</li> </ul>	<p>While the BAT recommended a 3:1 mitigation ratio for GCWA impacts, in June 2011, the CAC had a supermajority vote to recommend a 2:1 mitigation ratio for the GCWA, which was based on other factors, not just biology. The Applicants’ and the Service believe this is an adequate ratio for mitigating for Covered Activities and contributing to recovery. It is expected that the majority of the impacts to GCWAs covered under the SEP-HCP will occur in smaller patches of habitat; however, the mitigation will be in large, contiguous patches that will contribute significantly to the recovery of the GCWA.</p> <p>The Service recommends three years of surveys to prove absence and historically provided concurrence with the findings. Whether someone does zero, one, two, or three years of surveys does not remove the requirement to mitigate under the Act for all incidental take of listed species. The one year survey is merely an addition of information for the Permittees to use in calculating their assessment of the impacts. Additionally, because the one year of surveys will only apply to discreet patches of habitat, the use of this option will likely be very limited (see Section 3.2.3.1).</p> <p>The 1992 GCWA Recovery Plan clearly states that direct acquisition of enough habitat to recover the GCWA is not probable and cannot be viewed, by itself, as a single means to recovery. However, the Service agrees that GCWA habitat near populated areas should be permanently protected for the benefit of the GCWA to count towards recovery because of imminent threats from development. As such, the SEP-HCP requires all preserves to be protected in perpetuity for the benefit of the listed species.</p> <p>If all KFRs had to meet downlisting prior to any karst participation, there would likely be no karst participation because it is likely that several of the species will never be able to meet the minimum number of caves necessary to meet recovery (for example, <i>C. venii</i> and <i>C. vespera</i>). Therefore, the Service would continue to review projects on a case-by-case basis, which would undermine the intent of the SEP-HCP.</p> <p>Accidentally discovered karst features, those with no surface expression, are not expected to be preserved, since they will have been severely damaged once located. Please see Section 3.2.4.3 in the HCP. However, collections in these features can contribute to our overall knowledge of the distribution of the Covered Karst Invertebrates.</p> <p>Formation of advisory committees is not a requirement for meeting issuance criteria. However, the Applicants recognize the need for expert input and expect to convene committees to assist with implementation and adaptive management (Section 2.2 of the SEP-HCP).</p> <p>Indirect impacts are discussed throughout Sections 3 and 4 of the SEP-HCP.</p> <p>Please also see responses 1, 2, 14, 15, 16, 17, and 18.</p>
Fenstermaker	Mary	<p>The Hill County Planning Association (HCPA) is a coalition of organizations, farmers and ranchers, and individuals concerned about destruction of wildlife habitat and loss of endangered species in Bexar County, Texas. A number of our members served as stakeholders on the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP) Citizens Advisory Committee (CAC). HCPA is in favor of a SEPHCP but was shocked by the above draft SEPHCP (dSEPHCP) unveiled recently. It fails to follow the</p>	Please see response 7.



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		recommendations of the Biological Advisory Team (BAT) and majority of the CAC. Obviously, the process was flawed.	
Fenstermaker	Bebe	<p>For three years my sister Mary Fenstermaker and I volunteered our time and efforts to help bring into being the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP). I served on the Citizens Advisory Committee (CAC) as a Bexar County rancher-landowner and Mary served on the CAC representing the Hill Country Planning Association. We attended almost all of the Biological Advisory Team (BAT) meetings in order to understand what the scientists felt were the most critical concerns for the recovery of the included endangered species.</p> <p>This proposed 2014 version of the SEP-HCP (dSEPHCP) has little to do with the recommendations of the CAC and BAT. This version, devised by entities other than the CAC and BAT and including little of our recommendations, is flawed.</p>	Please see responses 7.
Scenic Loop-Boerne Stage Alliance		<p>Several of our Scenic Loop – Boerne Stage Alliance (SL-BSA) members attended the recent Public Hearing 3 Feb 2015 at 5PM at Casa Helotes in Helotes, TX. Most audience participants were quite disappointed that it really was not a public hearing, where citizens had an opportunity to speak, rather than take a form to complete. It was quite apparent the primary U.S. Fish &amp; Wildlife representative didn’t seem to know those he was introducing, and the current project representative from Bowman Company had to read all of his notes, while we viewed them on the screen.</p> <p>Representatives from Loomis, the previous company in charge of the project, were familiar enough with the details that they rarely even referred to the screen. This doesn’t give us much confidence that the current staff in charge really knows and understand this plan.</p> <p>Many of our SL-BSA members were either stakeholders on the Southern Edwards Plateau Habitat Conservation Plan (SEPHCP), alternates or were regular attendees at all meetings. Several of us attended the majority of the Biological Advisory Team (BAT) meetings, thus, knew exactly what their recommendations were to the entire SEPHCP.</p> <p>Many of the SEPHCP meetings were also attended by representatives from several of Bexar County’s contiguous counties involved in the Habitat Plan. It was very apparent at the SEPHCP meetings that the citizens from Kerr County and their Commissioners Court were adamant they did not want to participate in this plan at all. The current Draft Habitat Conservation Plan (dHCP) is in direct conflict with the position taken by Kerr County Commissioners.</p>	Please see responses 1, 2, 7, 9, and 14.
Alamo Group of the Sierra Club		The Alamo Group (San Antonio area) of the Sierra Club submits this letter in strong support of the entire attached critique by the Greater Edwards Aquifer Alliance of the Southern Edwards Plateau Habitat Conservation Plan prepared by Bexar County and the City of San Antonio.	Please see all responses to Mr. Tom Hayes and the Greater Edwards Aquifer Alliance.
Alamo Group of the Sierra Club		<p>The dHCP/dEIS documents ignore key aspects of the Biological Assessment Team’s (BAT) recommendations after the BAT’s almost two years of intensive effort (2010-2011). Some of the most important differences relate to GCW mitigation.</p> <p>All GCW/BCV take is within the jurisdictions of Bexar County and San Antonio. However mitigation is now allowed anywhere within the 7-county Plan Area. This will lead to the continued loss of GCW and BCV habitat in the San Antonio area due to the absence of local mitigation due to the area’s higher land prices and increased development.</p> <p>The 11/17/10 BAT-approved recommendation was that direct GCW take in Bexar County be mitigated at a ratio of 3:1, with not less than 60% of resulting mitigation occurring within Bexar County or five miles of Bexar County. These two key BAT recommendations derive from the high amount of loss in the county that causes a severe threat there relative to the other six rural counties in the Plan Area. Preferential mitigation in Bexar County also protects the mission of Camp Bullis and the other significant conservation reserves in the county, which are important to both the species and the community.</p> <p>The BAT’s 6/9/11 response to the first draft of the SEP-HCP listed 11 top concerns, and singled out the dHCP’s lack of mitigation close as possible to the habitat impact area as a particularly “egregious error.” As further discussed by the USFWS and in the BAT’s 3/21/11 response to the CAC, the lack of GCW/BCV preserve establishment in the impact area is expected to increase both the loss and the isolation of habitat. In this manner, it is distinctly possible that existing protected habitat in Bexar County at Camp Bullis and city reserves will be severely degraded. To counter unexpected habitat destruction due to stochastic events such as fire, a most basic tenet of conservation dictates that habitat within the larger landscape be continuous and adjacent to permitted take.</p> <p>The Increased Mitigation Alternative (p. ES-v, dEIS) follows the above BAT recommendation. However, due to all take now occurring in or immediately adjacent to Bexar County, both GCW and BCV mitigation should be changed to occur only in Bexar County until other counties sign on as true participants (take and mitigation). In this manner, the Single-County Alternative now may be most appropriate, until other counties agree to participate (i.e., mitigate close to take).</p>	Please see Chapter 3.2 of the EIS Alternatives Considered but Rejected from Further Analysis, our Biological Opinion, and also responses 1, 7, and 14.
Moore	Myfe		
Alamo Group of the Sierra Club		<p>No prescriptive management plan for GCW and BCV is included in the dHCP. This should be an essential requirement of the plan.</p> <p>Little if any currently “protected” GCW habitat in the SEP-HCP area is permanently protected and therefore should not contribute to recovery. Furthermore, the BAT (11/17/10) recommends that no more than 10% of the GCW conservation credits be generated from public lands that were protected as of November 4, 2010.</p>	Please see responses 15 and 16.
Moore	Myfe		
Alamo Group of the Sierra Club		<p>The price of GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre, to be more commensurate with land values in and adjacent to Bexar County and thus, allow adequate mitigation and meaningful contribution to recovery in this rapidly developing area.</p> <p>If preserve management funding becomes inadequate, this should be a serious breach of permit conditions. Outreach, education, and research programs should be emphasized as essential to the long-term success of the SEP-HCP, and not jettisoned due to an inadequate funding model.</p>	Please see response 18.
Moore	Myfe		
Pfeil	Girard	<p>Why do I, as person, who has tried to be a good steward of my 500 acres in Kendall County for the past 27 years, need help from government bureaucrats? They know nothing about my land, my grazing programs, all the details, the flora and fauna of my acreage. It appears this is just another government over reach, which violates my</p>	Please see response 8.

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		<p>property rights.</p> <p>Under no circumstances, have I looked to the government for help running the stock on my ranch. On the contrary, the proposed regulations are attempting to solve a problem that doesn’t exist. All it does is attempt to violate the freedom that I, as a citizen of these United States, are guaranteed under the U.S. Constitution.</p>	
Pfeil	Girard	<p>Please record this letter as demanding the “NO ACTION ALTERNATIVE” which is not to implement this regional habitat conservation plan.</p> <p>This proposed action is another example of political land grab that benefits the city of San Antonio at the expense of surrounding counties and citizens.</p>	Please see responses 6 and 8.
Environmental Protection Agency		<p><b><u>Air Quality:</u></b></p> <p><b><u>4.1.1 Issues and Resources Considered but Dismissed from Detailed Analysis (Pae 4-39):</u></b></p> <p>The DEIS correctly states that the San Antonio area is currently in attainment of all National Ambient Air Quality Standards (NAAQS), but is vulnerable to being designated as non-attainment for ozone in the next few years. In addition to the long-range planning initiatives for managing congestion included in the document, the Alamo Area Council of Governments (the San Antonio area Metropolitan Planning Organization) has applied to and been accepted by EPA into the EPA Ozone Advance program. The advance program is a collaborative effort between EPA, states and local governments to enact expeditious emission reductions to help near non-attainment areas remain in attainment of the NAAQS. This further reflects the sensitivity of ozone levels in the area, and the need for federally-funded projects in the San Antonio area to consider emissions which contribute to the formation of ozone.</p> <p><b><i>Recommendation:</i></b></p> <p>Because of the air quality concerns of significant population centers within the DEIS study area, EPA recommends that in order to reduce potential short-term air quality impacts associated with construction activities, the agencies responsible for the project should also include a Construction Emissions Mitigation Plan and adopt this plan in the Record of Decision (ROD). In addition to all applicable local, state, or federal requirements, EPA recommends that the following mitigation measures be included in the Construction Emissions Mitigation Plan (CEMP) in order to reduce impacts associated with emissions of NO<sub>x</sub>, CO, PM, SO<sub>2</sub>, and other pollutants from construction-related activities. These mitigation measures include:</p> <p>Fugitive Dust Source Controls:</p> <ul style="list-style-type: none"> <li>• Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate at active and inactive sites during workdays, weekends, holidays and windy conditions;</li> <li>• Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions; and</li> <li>• Prevent spillage when hauling material and operating non-earthmoving equipment and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.</li> </ul> <p>Mobile and Stationary Source Controls:</p> <ul style="list-style-type: none"> <li>• Plan construction scheduling to minimize vehicle trips;</li> <li>• Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections;</li> <li>• Maintain and tune engines per manufacturer’s specifications to perform at EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed;</li> <li>• If practicable, utilize new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible;</li> <li>• Lacking availability of non-road construction equipment that meets Tier 4 engine standards, the responsible agency should commit to using EPA-verified particulate traps, oxidations catalysts and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site; and</li> <li>• Consider alternative fuels and energy sources such as natural gas and electricity (plug-in or battery).</li> </ul> <p>Administrative Controls:</p> <ul style="list-style-type: none"> <li>• Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking;</li> <li>• Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips; and</li> <li>• Identify sensitive receptors in the project area, such as children, elderly and infirmed, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and</li> </ul>	Comment acknowledged. Chapter 4.1 has been updated to reflect the need for a CEMP.
Environmental Protection Agency		<p><b><u>Environmental Justice:</u></b></p> <p>The project affected area under consideration has a minority population that is almost at 65%, with almost 20% living in poverty. There is potential for EJ related issues.</p> <p><b><i>Recommendations:</i></b></p> <ul style="list-style-type: none"> <li>• Include detailed demographics to understand the surrounding communities and support conclusion made in the DEIS.</li> <li>• Include a full detailed analysis to show specific locations of targeted sites for development, and what type of development is planned.</li> </ul>	The Environmental Justice text in Chapter 4.1.1 of the EIS has been expanded to address impacts to minority and low-income residents.
Environmental Protection Agency		<p><b><u>Tribal Review</u></b></p> <p>The project has the potential to impact several tribes that have historical ties to the proposed project area. These tribes include: the Tonkawa, Comanche, Apache Tribe of Oklahoma, Kiowa, Kickapoo Traditional Tribe of Texas, Wichita and Affiliated, Mescalero Apache. They, and possibly others, should be contacted.</p> <p><b><i>Recommendations:</i></b></p> <ul style="list-style-type: none"> <li>• FWS should contact the Texas Historical Commission for a list of Tribes who have historical ties, and may have cultural sites in the area discussed.</li> <li>• FWS should consult with tribes with historical ties and provide them an</li> </ul>	Tribal Consultation has been added to Chapter 4.1.1 of the EIS.

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		<p>opportunity to review DEIS.</p> <ul style="list-style-type: none"> <li>• The document needs more detail, along with maps, and plans, on what and where “development” may take place.</li> <li>• The FEIS should provide more detailed analyses relating to Environmental Justice and Tribal Issues.</li> </ul> <p>EPA requests that the FWS provide us any future environmental assessments prepared as result of future development for our review and comment.</p>	
Moore	Myfe	Several dozen research papers (2010-2014) were ignored in the current SEPHCP documents. Approximately two dozen of these papers, which are most pertinent to the proposed conservation plans for BCV and GCW, are discussed below.	The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.
Moore	Myfe	<p><b>Effective Population Size</b></p> <p>For both BCV and GCW, recent peer-reviewed research points to a highly significant decrease in the effective population size. This population metric may be defined as the number of breeding individuals that is sufficient to maintain within-species genetic diversity within a population. Effective population size is usually less than the census population size. However, in the case of these two endangered songbirds, the effective population size is unusually small compared to the census population size. Expansive genetic studies are required to accurately measure the effective population size for these species. In any case, population targets for BCV and GWC used in the SEPHCP documents are very likely less than required for long-term sustainability, and should be revised based on additional research.</p> <p>While analyzing current and historical specimens of BCV, Athrey et al. (2012) found current genetic diversity to be significantly lower and more divergent among current populations. They attribute this to habitat fragmentation beginning in the early 1900s, which caused a great reduction in the effective population size.</p> <p>Similar to BCV, Athrey et al. (2011) documented a rapid decrease in genetic diversity and a corresponding increase in genetic divergence among GCW populations over a 100-year period. They conclude that all populations that they studied have low effective sizes. Duarte et al. (2013) also found present-day carrying capacities reduced for GCW, due to fragmentation as total GCW breeding habitat was reduced by 29% between 1999-2011 and 2010-2011.</p> <p><b>Reproductive Habitat Metrics</b></p> <p><u>BCV Reproduction:</u></p> <p>Recent research indicates that the current SEPHCP documents rely too heavily on outdated vegetation metrics, when assessing potential breeding habitat for BCV and GCW. For example, the conventional approach envisioned BCV as dependent on successional shrub vegetation with 30-60% woody cover and high edge density (Bailey and Thompson 2007). BCV nest habitat was considered enhanced with dense deciduous shrub cover below two meters in height (Bailey and Thompson 2007).</p> <p>However, the latest research shows that this focus on vegetation control during BVI management does not augment reproduction in a significant number of areas, unless cowbird trapping is a continuous component of management (Campomizzi et al. 2013). These researchers found that the daily survival rate of BCV nests depended on cowbird trapping, but was unrelated to vegetation parameters. The research results of Wilsey et al. (2013) expand upon the primary importance of an unending program of active management, including after recovery goals are met, with a focus on cowbird trapping, but also including habitat enhancement and artificial recruitment to increase genetic diversity.</p> <p>Other updated research shows that shrubland is not the only significant habitat for successful BCV reproduction. Dittmar et al. (2014) captured dispersing juvenile BCV at equivalent rates in shrubland and riparian forest. In fact, juveniles preferred riparian vegetation over most other habitats, and stayed longer in this type that exhibited increased canopy, denser vegetation, and greater arthropod biomass, relative to other habitats. Juveniles appear to select riparian habitats due to expanded cover and prey resource (Dittmar et al. 2014). These findings are strongly supported by Pope et al. (2013), who measured no statistical difference in BCV nest loss and reproductive success between scrubland and woodland. The parasitism rate, the sole variable to impact nest survival, was twice as large in shrubland compared to woodland (Pope et al. 2013).</p> <p>These new data reveal the need for a fundamental change in the BCV conservation plan promoted by the draft SEPHCP documents. In addition to sustained cowbird trapping, the plan should protect both shrubland and woodland, especially riparian woodland near nest sites. The current SEPHCP places too much emphasis on BCV breeding habitat in shrubland, to the detriment of woodlands equally or even more important to breeding and juvenile BCV.</p> <p><u>GCW Reproduction:</u></p> <p>Unlike BCV that prefers successional habitat with a high amount of edge, GCW is an old-growth obligate species, which requires relatively large patches of mature closed-canopy woodland. The importance of large patches of mature woodland to GCW is indicated by reduced patch occupancy in the northern portion of the GCW breeding range, where large patches are less common (Collier et al. 2012). Butcher et al. (2010) determined the minimum patch size for effective GCW reproduction to be 15.0-20.1 ha. However, this research found GCW to have no patch size requirements for occupancy, male territories, or pair formation. In this manner, SEPHCP conservation activities for GCW that are based on patch-size thresholds for occupancy and territory may not relate to reproductive success.</p> <p>In addition to patch size, GCW breeding habitat differs from that of BCV in that GCW breeding habitat is more adversely impacted by human disturbance. Davis et al. (2010) found male GCW territories to be more than 50 % larger (2.2 ha) in mountain biking areas compared to non-biking areas (1.4 ha). They also measured that nests in non-biking areas had twice the success rate and only one-third the abandonment rate,</p>	<p>Comments acknowledged.</p> <p>The preserve designs are subject to Service approval and follow our recommended guidance for long-term protection and contribution to recovery. As new information becomes available on preserve management and maintenance, the guidance will be updated. These changes are accounted for in the adaptive management program of the SEP-HCP (Section 9).</p>



		<p>compared to biking areas. Physical impacts of biking trails to habitat, including fragmentation, appeared to be the primary stress factor. Therefore, seasonal closure of trails during GCW breeding may not alleviate the chronic degradation of old-growth characteristics important to GCW. In response, preserve management may need to limit biking trails.</p>	
Moore	Myfe	<p>Regional GIS models that predict GCW population densities based vegetation composition and spatial variables increase the efficacy of habitat management and proactive protection at the landscape scale. The type and percent cover of woodland had significant positive effects on GCW density, while the amount of edge was a negative influence (Peak and Thompson 2013).</p> <p>Conservation efforts should target properties dominated by juniper and juniper-oak woodland with low edge density (Peak and Thompson 2014). Marshall et al. (2013) report an abrupt change in GCW foraging from oaks in April to juniper in May, in response to temporal differences in arthropod density on these substrates.</p> <p>In order to enforce take permits and guide mitigation activities, and effectively implement the SEPHCP, proactive habitat mapping is essential for GCW, due to its dependence on large contiguous patches that are increasingly uncommon (Collier et al. 2010). Patch size is an important predictor of occupancy. For example, Collier et al. (2010) determined that all patches greater than 160 ha had a 100% chance of occupation. However, Horne et al. (2011) identified distance from the largest patch as often more critical to the maintenance of a GCW metapopulation. These researchers could not distinguish consistent distance and size parameters, and therefore could not develop general guidelines for determining patch value. Therefore, the delineation of potential high-value mitigation sites must be followed by on-the-ground reconnaissance to accurately assess the value of each patch.</p>	<p>Please see Section 6 of the SEP-HCP where on the ground metrics must be collected prior to a preserve being approved.</p>
Moore	Myfe	<p>The SEPHCP should specify goals and funding for a greatly increased research program to support all covered species. In particular, recent peer-reviewed papers call for issue-oriented research to fill critical information gaps in regard to GCW conservation. Horne et al. (2011) focus on three important research needs: (1) quantifying patch metrics that sustain reproduction, (2) habitat mapping to identify distinct local populations that may help restore genetic diversity, and (3) juvenile dispersal processes. Similarly, Duarte et al. (2013) emphasize the need to quantify dispersal rates and distances, in order to measure and promote genetic exchange among progressively more disconnected fragments of GCW breeding habitat.</p> <p>Another important area of research should be the improvement of monitoring techniques. For example, Collier et al. (2013) document spatial differences in the accuracy of GCW detection, including detection errors related to distance. For both GCW and BCV, they found errors in density measurements, in that areas with increased chance of occupancy have larger density estimates. Warren et al. (2013b) also found the underestimation of GCW density to increase as actual density increased. Related to this detection bias, they found that individual male GCWs accelerated singing as overall abundance increased, so that detections were not independent. Other current researchers, such as Hunt et al. (2012), find that the commonly used point-count measures of density are consistently higher than territory counts determined by standard mapping techniques. In this manner, increased research should be directed toward (1) methods used to measure abundance and (2) the nonrandom spatial bias in detection.</p>	<p>Sections 6, 7, and 8 of the SEP-HCP discuss research and the use of experts to assist in directing that research.</p>
Urban	Charles	<p>I read in a newspaper article that the Project would involve the involuntary taking of our property, and then read in another article that only voluntary sales would be involved. Then, I tried to wade through the hundreds of pages involved, without being able to determine how the Project will or could affect my property located in Kendall County. It would sure be useful if FWS would provide a concise summary of how the Project will or could affect landowners in counties surrounding Bexar County! My property has already been involved in two Eminent Domain situations, and I am beginning to wonder who actually owns the property that I paid for? The requested summary should be posted in the newspapers in the surrounding counties.</p>	<p>The SEP-HCP Executive Summary contains a summary of the SEP-HCP. Economic impacts are discussed in EIS Chapter 4.7 and impacts to the county tax bases are described under “Revenue Analysis” in EIS Chapter 4.7.1. Please also see response 8.</p>
Moore	Myfe	<p>All: We are asking for more public-hearings and an extension of the Comment Period regarding the SEP-HCP 2014 version of the 2009-2011 SEP-HCP.</p> <p>The public hearings did not follow standard process; we were not allowed questions nor comments and most of the "leaders" did not appear to know each other or us. There were only 2 brief, useless public hearings, and 7 counties is an enormous area. Most citizens and government officials in San Antonio and Bexar county were unaware of this 2014 version of the plan, or even that a plan was underway. We even didn’t know about it until late November 2014.</p> <p>The science of the 2014 version is neither current nor complete and thus unavailable to give out to citizens.</p> <p>Very few citizens and only 1 or 2 county/city people are involved in an enormous 7-county area affecting 7 endangered species.</p> <p>Much of the information being given out to us is incorrect and/or misleading: i.e. the so-called "mitigation plans" are misleading ... there’s no mitigating dead birds. They are gone forever. And "mitigating" with cheaper land miles away from the take is not true mitigation. The birds involved in the "take" are dead and their descendants as well.</p> <p>The 2014 HCP does not involve enough cost to the "taker". It is currently estimated to be a 25:75 developer:taxpayer cost ratio, and many of the funds will come from areas far away from Texas.</p> <p>The 2008-2011 SEP-HCP process involved many hours of informed citizen committees and Biological Teams and many other interested citizens hearing what happened at the many meetings.</p> <p>The 2014 SEP-HCP version involves one county man (Andy Winters), one USFW person (Christina Williams), and no one else that we can find is involved in a massive 7-county, 7-endangered species plan.</p> <p>Please see the wildlife studies I had done below on my ranch in the affected area. I have more coming for you.</p> <p><b>PLEASE HOLD MORE HEARINGS AND EXTEND THE COMMENT PERIOD.</b></p>	<p>The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.</p> <p>Because clearing and construction activities must occur when both the GCWA and BCVI are not in Texas, the likelihood of a bird dying as a direct result of Covered Activities is unlikely. However, we do acknowledge that they will have to establish territories in new areas, if their previous territory is no longer in existence.</p> <p>Please also see responses 1, 3, 7, 9, 14, and 18.</p>
Moore	Myfe	<p>See the link below for a current census of birds on our ranch, Rancho Blanco Ranch, 7 miles North of Helotes, TX at 18744 Bandera Road, Helotes Tx 78023.</p> <p>Since there seems to be very little current or scientific data of birds in the area, I</p>	<p>The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In</p>

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		offer these studies and census by our biologist for your perusal. These studies are one of the many reasons the SEP-HCP 2014 needs to be re-worked and improved and DELAYED. Millions of birds, 7 endangered species, and 7 counties are involved in a process that has been flawed and hurried and is unscientific.	instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.
Moore	Myfe	PLEASE CONSIDER RE-PROCESSING THE ENORMOUS 7-COUNIY 7-ENDANGERED SPECIES PLAN RECENTLY PUT OUT BY SAN ANTONIO/BEXAR COUNTY/USF&W. Only a small number of public employees know the details or ramifications of this plan. The 2 small public hearings were poorly planned and late introduced, reached out to only a small number of people, left out the mass of people and landowners affected by the plan, will cost tax-payers a great deal of public money, will only cost the developers a small investment out in far isolated reaches of the plan's area, and needs to be re-done. PLEASE CONSIDER MANY MORE RE-HEARINGS AND AN EXTENDED COMMENT PERIOD. {See attachment)	Please also see responses 3, 7 and 18.
Moore	Myfe	All: This enormous 7-county project was executed poorly, ignored proper science, failed to notify all the parties, and bowed to pressure from developers and other environmentally-destructive for profit forces. The San Antonio & Bexar county area and the 7 counties involved are in extreme need of protection. We need an HC Plan desperately, even this poor one. The local SW Region 2 USF&W has not exercised responsibility to protect our environment here in Central Texas nor enforced the US laws regarding ESA, Clean Water Acts, Clean Air Acts, or other legislations designed to protect the environment. We will be sending data to USF&W to show this. Science was prepared for the 2008-2011 SEPHCP (which failed due to USF&W interference) but that data has not been used for the 2014 version, nor has the data been updated. This poor project on the part of USF&W shames USF&W. Please feel free to call anytime. PLEASE GIVE US A HABITAT CONSERVATION PLAN!!!	The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.  Please also see response 3.
Schroder	Rick	I have attached an excerpt from the HCP. Please advise how this impacts the Miller Tract, if at all. I know you stated that the HCP would not applicable to portions of the Tract that are currently designated Critical Habitat. Please advise. [Highlighted Excerpt from SEP-HCP] <u>Designated Critical Habitat</u> In general, the SEP-HCP requires that Participants avoid conducting activities within areas of designated Critical Habitat. However, Applicants with properties containing designated Critical Habitat may consult with the Service for a determination of whether or not the proposed project would destroy or adversely modify the designated Critical Habitat for the Covered Karst Invertebrates. Determination will be made by the Service on a case-by-case basis and in consideration of the specific site conditions at the time the request is made. If the Service determines that no adverse modification or destruction of that designated Critical Habitat will occur from the proposed project, then the Service may allow that project to participate in the SEP-HCP. Areas of designated Critical Habitat allowed to participate in the SEP-HCP by the Service will be subject to the requirements of the SEP-HCP, but may also be subject to additional terms and conditions as may be required by the Service.	If a property has Service designated critical habitat for a Covered Karst Invertebrate within its boundaries, that portion of the property will not be able to participate in the SEP-HCP. This leaves three options: 1) only enroll the portion of the property that does not have designated critical habitat and agree to not enter into the designated critical habitat, 2) enroll that portion of the property outside of designated critical habitat under the SEP-HCP and consult with the Service under section 7 or 10 of the ESA to determine if any impacts could be authorized within the designated critical habitat, or 3) consult with the Service under section 7 or 10 of the ESA for the entire tract.
Anderson	Alice	As a land owner in Kendall County I would like to request the “No Action Alternative” in regard to this bill. We are good stewards of our land, maintaining areas for habitats for all species who reside on our property. This includes native wildlife as well as cattle. Government does NOT need another control in our lives and as a native Texan it is the foundation of our heritage to be in control of our own property in this wonderful Lone Star State. Please vote NO.	Please see responses 2 and 6.
Thomas	Wayne	This plan is bad for our city and our county. We live in fragile environment. The developers of our city have proven themselves to be irresponsible by concentrating their home building over particularly irreplaceable features of our region. This plan was not publicized to the community stakeholders. Particularly during a critical election campaign period for our municipal government, we cannot allow such a massive change to take place without adequate open discussion among the electorate and candidates for office.	Please see responses 7 and 11.
Lukey	Mike	I herein submit Resolutions from Bandera County, Blanco County, Kendall County, Kerr County, and Medina County from the year 2011 in which all five counties opposed and requested removal from the Southern Edwards Plateau Habitat Conservation Plan. I also herein submit Kendall County Resolution No. 03-09-2015	Please see response 2.
Lukey	Mike	I oppose the Southern Edwards Habitat Conservation Plan (SEP-HCP) and respectfully request denial of the Incidental Take Permit (ITP) for the following reasons. The Applicants failed to fulfill the contract which called for meeting and cooperating with Bandera County, Blanco County, Kendall County, Kerr County, Medina County, and other jurisdictional authorities in the development of the SEP-HCP. No attempts were made by the Applicants to inform or request the participation of these governing authorities. During the 2010 public comment period of the Citizens Advisory Committee (CAC) meetings, two CAC members objected to the deliberate defrauding of the County Commissioner Courts authority that were being left out of the process. The Applicants failure/refusal to coordinate their plans with the affected counties throughout the formation of a regional HCP is in violation of Texas Parks and Wildlife Code Chapter 83 and the National Environmental Policy Act Title 42 USC 4331. Bandera County, Blanco County, Kendall County, Kerr County and Medina County each passed resolutions in 2011 opting out and refusing to participate in the SEP-HCP. Copies of these resolutions are also posted under my name. Kendall County passed another resolution on 3/9/2015 restating their objection to the SEP-HCP. The CAC voted it down in 2011! The Final Draft SEP-HCP was created behind	Please see responses 2, 3, 4, 6, 11, and 12.

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		<p>closed doors without any coordination, public vetting, or an approval process which is in violation of State and Federal statutes regarding regional planning efforts.</p> <p>The Applicants have been very wasteful with taxpayer dollars and disrespectful of our natural resources. Approval of the ITP for the SEP-HCP would guarantee the ongoing destruction of sensitive natural areas that benefit habitat. The SEP-HCP also proposes mitigation of land where the affected endangered species does not even exist, thereby guaranteeing their extinction. I respectfully request that the Applicants Incidental Take Permit be DENIED because of their willful disregard to follow State and Federal statutes along with their willingness to destroy the sensitive natural areas without penalty.</p>	
Smith	Earl	<p>Please accept my recommendation for "NO ACTION" on this revised plan (FWS-R2-ES-2014-0053). Due to inadequate preparation and delivery of presentations of this most recent request for an Incidental Take Permit on behalf of the applicant, (The City of San Antonio, Texas and Bexar County, Texas), this plan requires general denial.</p> <p>The endangered species listed in the plan are not being protected in this case, rather than protect them, the USFWS is being asked to issue permits to applicant (The City of San Antonio, Texas and Bexar County) to KILL these species in order to allow applicant authority to continue development in and over the plan area with very little regard to the wishes of property owners in the affected areas.</p> <p>The documents as presented to the public have changed in substance considerably since the first draft was submitted in 2011 and the drafts presented for review by the December 19, 2014 notice. The Citizens Action Committee (CAC) and U.S. Fish and Wildlife Service (USFWS) insist on including Kendall, Medina, Kerr, Bandera and Blanco counties in the Southern Edwards Plateau-Habitat Conservation Plan (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.</p>	Please see responses 2, 6, 9, and 10.
Smith	Earl	I do not appreciate the use of federal funds through federal agencies to be asked to abuse property owners for the benefit of developers and others who have no intention of protecting the endangered species as listed in the plan. Un-bridled development in the areas North of the city limits of San Antonio, Texas is un-acceptable to those of us who would prefer development be limited to areas currently not in the Map Areas listed in the Plan, (ie. south and east of San Antonio, Texas).	Please see response 11.
Smith	Earl	<p>Please take NO ACTION.</p> <p>Due to inadequate preparation and delivery of presentations of this most recent plan by USFWS, I respectfully request general denial of the application for the Incidental Take Permit.</p>	Please see response 6.
Smith	Earl	The development and preparation of the captioned documents was primarily funded by a grant from USFWS to the City of San Antonio and Bexar County under the premise that permitting would be expedited. The people benefiting from expedited permitting would be developers with projects to expand within the City and County. I take exception to having my tax dollars being used to front the permitting for local developers. The use of public funds for private enterprise is unacceptable.	Comment acknowledged.
Smith	Earl	<p>The National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations have specific actions that must be taken in the development of an Environmental Impact Statement (EIS). It seems these regulations were ignored during the conduct of this project.</p> <ul style="list-style-type: none"> <li>No public scoping meetings were held to obtain comments from the public.</li> <li>The stakeholders of the project failed to coordinate the project with local officials (i.e. county commissioners).</li> <li>The public meetings held to review the 2011 draft did not allow for public discourse in the form of verbal communication. Participants were required to write their questions on paper and a moderator read the questions which were then answered by the project team. Hardly a public meeting.</li> <li>The public meetings for the final draft were even more restrictive although the moderator of the meeting quickly lost control. The concept of a public meeting implies to me there be verbal discourse which the USFWS tried to prevent. The attitude of the USFWS moderator at the Kerrville, TX public meeting on February 4, 2015 was anything but friendly. Federal employees need to be reminded they work for the people.</li> <li>Only two public meetings were held on final draft EIS and HCP. Kendall County which would be impacted greater than any other county was not included for a meeting site.</li> </ul>	Please see responses 3 and 9.
Smith	Earl	<p>Habitat for the golden-cheeked warbler (GCW) and black-capped vireo (BCV) were determined by high altitude satellite photography without the benefit of field truthing.</p> <p>No field surveys have been conducted to determine the presence of either species in Bexar County. Appendix C, dated March 30, 2011, provides a literature review of the target species and it is pointed out little field data are available for the HCP Plan region. Two different ranges of potential habitat for the GCW are given for the HCP area; both over 750K acres compared against a potential of over 4 million acres over the range of the GCW.</p> <p>The recovery plans for both species are over 20 years old. The absence of any recent field data concerning the presence of either species, their density, nesting activities and residency leaves a lot of questions for debate. Of course we have been reassured field data will be collected when the HCP plan is put into place.</p>	<p>Texas is approximately 97 percent privately owned; therefore, access to these lands to conduct bird surveys is limited. However, the GCWA inhabits a very distinct type of nesting habitat that can be narrowed in on using satellite imagery. In this manner we are able to make estimates as to how much habitat across the landscape could be potential GCWA habitat. The Service does have an abundance of GCWA survey data, including in Bexar County, that is then used to truth the models accuracy.</p> <p>We are unable to determine where the 750,000 acre figure is from, so are unable to respond to this portion of the comment.</p>
Smith	Earl	The section on climate change in the dEIS is nothing but political correctness and has no basis in fact. The write up is based on junk science which really sets the tone for the entire dEIS.	Comment acknowledged.
Smith	Earl	The requirement for Conservation Easements to be held in perpetuity was a major issue during the public meetings on the first draft of the HCP. It was deleted from discussion in the final draft. The Incidental Take Permit (ITP) will probably be issued for 30 years. While the property owner has the option of saying yes or no to placing their land in a Conservation Easement the information regarding committing their property in	Section 6.2.1.1 of the SEP-HCP discusses conservation easements and a landowner’s obligation and property needs to be considered for a preserve under the SEP-HCP.
Smith	Alan		



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		perpetuity should be disclosed early on. This have not been a transparent process.	
Smith	Earl	<p>The revised dEIS relies on the Extra Territorial Jurisdiction for the City of San Antonio to expand its uncontrolled growth into surroundings counties. While previous court rulings have found cities cannot conduct their activities outside the county boundaries. However, the City of San Antonio continues to play the “playground bully” by pushing the HCP into surrounding counties. There currently is a lawsuit between Kendall County and the City of San Antonio over this issue.</p> <p>It is my opinion the documents covered by this public notice are totally inadequate for the purpose of issuing an ITP. I herein request ITP application be denied. I further recommend the USFWS review its responsibilities in carrying out the requirements of NEPA during the conduct of future projects of this nature.</p>	Please see response 10 for a discussion of issuance criteria.
Smith	Alan		Please also see responses 2 and 6.
Anderson	John	This proposed regulation is not acceptable to Landowners outside Bexar Co. We are all environmentally friendly. This proposed regulation benefits San Antonio only, to our disadvantage. The current regulations should be left alone. If the regulation proposed were enacted, immediate, well-funded legal opposition will ensue. This will cost Bexar Co. and San Antonio far more in legal expenses and bad P.R.	<p>Comment acknowledged.</p> <p>Please also see responses 1, 6, and 14.</p>
Burgin	Alyssa	Nothing can replace the native flora and fauna of a place like Bexar County – it is part of what makes our city and county unique, and it’s part of the reason Texans make our area the most visited tourism spot in the state. Why on earth would be want to take the change of destroying that delicate balance in nature? Why would we want to change the natural habitat, and take the risk of messing with nature’s plan? Or God’s plan, if you will. We can’t get it back once it’s gone. Please do not approve these ‘swaps’ as outlined in the new plan. Our eco-system, our habitat is irreplaceable, and cannot be ‘mitigated’ by planting something hundreds of miles away, or preserving a wetland in some other region or state. Take care of our own city and our own county, and let the eco-system give back to us as it has all of these centuries. It’s too precious to mess with – don’t mess with Texas, and don’t mess with Bexar County!	<p>Comment acknowledged.</p> <p>Please also see responses 1, 2, 6, and 14.</p>
McLean	Jesse	In an effort to provide greater opportunities for offsets to occur closer to covered impacts, we encourage the Applicant to consider revising the participation fees for the golden-cheeked warbler (GCWA) and black-capped vireo (BCVI) to accurately reflect land values of the current real estate market.	Please see response 18.
McLean	Jesse	We discourage the Applicant from utilizing previously conserved properties under public programs not specific to the target species, but nonetheless beneficial to those species by means of existing covenants, restrictions and incidental conservation of habitats. In theory, those public programs would need to seek authorization from USFWS prior to significantly modifying habitats existing on the properties when accepted into the program. We do encourage thoughtful and strategic expansion of the region’s conservation portfolio by utilizing those properties as anchor points for creating focal areas and corridors.	Please also see response 15
McLean	Jesse	The preferred alternative illustrated within the SEP dHCP stands to vastly improve the ability for land owners, developers, utilities and local/state governmental entities within the Enrollment Area to comply with the Endangered Species Act (ESA). Regional plans such as tine provide avenues to more strategically balance and compensate the cumulative effects of otherwise insignificant individual actions within the broader ecosystem. Given the reality that unauthorized and unmitigated habitat impacts to federally listed species occur on an daily basis in both the Plan Area and the Enrollment Area, perfecting the proposed alternative stands to lose additional time in working to achieve meaningful conservation of the target species.	Comment acknowledged.
Anonymous		Government is increasingly infringing on the property rights of individuals. Currently, governments own/ control over 40% of lands in the United States. Private landownership in Texas is the strongest in the nation. Excuse of protecting endangered species is just a method of wrestling control of Texas property from individuals to the collective. Unless the people of Kendall country vote to enact such a plan, the Fish and Wildlife Service will have no authority over the private lands in the county.	Please see response 8.
Anonymous		This is a terrible plan that does more harm than good. Do not move forward with it.	Please see response 6.
Anonymous		I strongly disagree with the guidelines outlined in this proposed regulation. Why do the supporters of the regulation just spend their time, effort and money on educating the public (especially those in the affected areas) of the benefits of providing protected habitats on their property? As a landowner, I am very sensitive to the need for protecting habitat and I will provide that protection on a voluntary basis. However, one size does not fit all and my preferences should not be imposed on other land owners. To all those in positions of power when voting on this regulation, please leave landowner rights alone. Sugar always draws better than vinegar. Vote against this regulation.	Please see responses 6 and 8.
Kothmann	Billy	Landowners have earned and deserve the right to make decisions on how to take care of their land and manage their use of the land that they love and have invested their life in. NO ALTERNATIVE ACTION!	Please see responses 6 and 8.
Lang	Henry	As cattle ranchers in Kendall County we have been seriously impacted by continuing drought conditions and the increasing tax value of our land due to urban expansion from the San Antonio metropolitan area. To maximize the grazing area on our ranch we are constantly clearing cedar (actually Ashe juniper! which reduces grass availability and absorbs critically needed water resources). For the federal government to dictate to us how we use our land in order to alleviate the impact of urban sprawl on metropolitan green space seems absurd.	Please see response 8.
O’Connell	Robert	<p>Local governments often promote habitat conservation plans as a solution to problems created by federal and state Endangered Species Acts (ESAs). In practice, habitat conservation plans inevitably cause unprecedented and unnecessary harm to farmers, ranchers and landowners that exceed the impacts of existing state and federal law. The amount of land regulated and the total cost of a habitat conservation plan are always underrepresented at the outset. A habitat conservation plan always takes far longer to complete than initially promised, if it can be completed at all. In the interim, landowners suffer increased costs and regulations.</p> <p>I urge that no action be taken to enact this habitat conservation plan, now or in future.</p>	Please see responses 2 and 6.
Bexar Audubon Society		The Bexar Audubon Society, representing approximately 2000 members in Bexar and surrounding counties of the city of San Antonio, strongly urges the USFWS to deny the Incidental Take Permit (ITP, TE-45871B-O). The proposed Habitat Conservation Plan	Please see response 6.

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		proposed by the applicants is seriously flawed procedurally, scientifically, and politically; resulting in irreparable harm to the species and the reputation of the USFWS.	
Bexar Audubon Society		<p>Procedurally, the applicants – the City of San Antonio and Bexar County – have generated a plan behind closed doors and are now seeking to support it with documentation from a very public and scientific planning process that took place from 2008-2011. To pretend that the document they have submitted for your approval is based on that public or scientific input is pure slight of have. The City of San Antonio and Bexar County worked quietly for 3 years (apparently closely with the development industry) and wrote their own Habitat Conservation Plan which they then released during the holidays of late 2014. Bexar Audubon was not contacted during these 3 years of the city and county’s process, nor were any of the scientists, advisory and stakeholder groups who participated in the original planning (this includes the Texas Parks &amp; Wildlife Dept., Greater Edwards Aquifer Alliance, the US Army base at Camp Bullis and private landowners). The lack of transparency and stakeholder input alone should justify the denial of the proposed ITP.</p> <p>Scientifically, the proposed HCP essentially is a roadmap for rapid destruction of any remaining, unprotected golden-cheeked warbler habitat in Bexar County. The proposed mitigation ratios are a fraction of what they should be, and the mitigation is almost all to take place outside of Bexar County, ensuring that the military mission of Camp Bullis will be jeopardized by the influx of displaced birds, and the fragile warbler habitat, much of which sits on the Edwards Aquifer Recharge and Contributing Zones, will be destroyed. In addition, the outlying counties don’t want golden-cheeked warblers so this current proposal just kicks the can down the road by pushing the problem out of San Antonio city limits and into rural areas and Camp Bullis. The original HCP, itself a compromise developed out of the public process in 2011, reflected the public input that the mitigation should occur within the governmental entity that the habitat destruction took place.</p> <p>Politically, the proposed ITP and its HCP represent a long-term policy disaster for the USFWS. It neither protects the wildlife nor the environment. If the Service allows such weak habitat conservation plans for large cities it loses crucial bargaining power to perform its job and set a dangerous precedents. IF USFWS allows a city of county to circumvent good-faith, transparent governance, it encourages more of the same. The long term health of our community, its wildlife, environment, and people deserve better. We, the birding and outdoor community of San Antonio, want to preserve something of our native wilderness for the future. We should protect and mitigate within our own boundaries and not develop at the expense of our neighbors. This ITP and its HCP should be denied.</p>	Please see responses 1, 2, 7, 11, and 14.
Hayes	Tom		
Smith	David	<p><b><u>The SEP dHCP and dEIS arbitrarily fail to acknowledge or analyze that the Proposed Action is inconsistent with current USFWS policy.</u></b></p> <p>On or about July 1, 2013, the USFWS added to its website “Guidelines for the Establishment, Management, and Operations of Golden-cheeked Warbler and Black-capped Vireo Mitigation Lands” (the “New Guidelines” (<a href="http://www.fws.gov/southwest/es/Documents/RSES/Cons_Bank_Mitigation_Guidance_for_GCW_and_BC_V.pdf">http://www.fws.gov/southwest/es/Documents/RSES/Cons_Bank_Mitigation_Guidance_for_GCW_and_BC_V.pdf</a>). The USFWS did not publish any of these documents in the Federal Register; it did not issue a press release; and it did not make any effort to make members of the general public aware of the New Guidelines. In addition, the USFWS did not allow members of the public opportunity to provide comment on the New Guidelines.</p> <p>Austin ES Office staff has verbally informed some members of the public, including our clients, that the New Guidelines were going to be “strictly interpreted” and applied to all “new” GCWA and BCVI conservation lands under consideration. It continues to be our position that the New Guidelines as “strictly enforced” upon private landowners are not valid because they were not adopted pursuant to required notice and comment rulemaking; however, both the dHCP and dEIS are wholly inconsistent with the “New Guidelines.” This is most evident in the designation of the “Plan Area” and the “Enrollment Area” in the dHCP.</p> <p><b><u>The Plan Area in the SEP dHCP should be revised to include Real County, the preferred alternative in the dEIS Plan Area should be amended to include Real County.</u></b></p> <p>Although Real County is in the same GCWA and BCVI Recovery Units as large and significant parts of the Enrollment Area in the SEP dHCP, it was somehow not included in the Plan Area. There is no analysis or sufficient explanation in the dEIS for why Real County is not included in the Plan Area.</p> <p>The National Environmental Policy Act ("NEPA") requires that agencies "[r]igorously explore and objectively evaluate <b>all</b> reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40CFR 1502.14(a). (emphasis added) In spite of this requirement under the NEPA, there is no explanation for why an alternative which includes Real County in the SEP dHCP Plan Area was not developed and fully studied. In order to be legally sufficient under NEPA, an alternative which includes Real County in the SEP dEIS Plan Area should be included as the preferred alternative and should be fully studied.</p>	<p>The purpose of the “New Guidelines” is to provide bankers, and those seeking mitigation, with an understanding of what the Service views as important for the recovery of the GCWA and BCVI and what a mitigation parcel should contain to help contribute to and not hinder or preclude species recovery. This type of guidance is also intended to help ensure consistency in Service reviews and can serve to streamline the approval process for establishing mitigation lands. To date these guidelines have been used to establish high quality mitigation purchases and have been flexible, where appropriate.</p> <p>In accordance with the HCP Handbook HCP boundaries can be drawn to deliberately include or exclude certain areas or activities, depending on the applicant’s objectives. The SEP-HCP is a large-scale HCP that addresses many species and factors, including the Applicant’s desire to have mitigation occur close to the impacts.</p>
Smith	David	<p><b><u>The SEP dHCP is inconsistent with the 1992 GCWA Recovery Plan and USFWS staff’s current application of the New Guidelines.</u></b></p> <p>The Enrollment Area in the dHCP includes areas in Bexar, Medina, and Bandera counties which are part of Recovery Region 8 in the 1992 GCWA Recovery Plan, and areas in Bexar, Medina, Bandera and Kerr counties which are part of Recovery Region 6 in the 1992 GCWA Recovery Plan. In spite of this, while the dHCP Plan Area includes virtually all of GCWA Recovery Region 6, as well as portions of GCWA Recovery Regions 4 and 5, it “orphans” significant portions of GCWA Recovery Region 8, most notable Real County.</p> <p>With this in mind, since the Enrollment Area includes significant areas located in GCWA Recovery Region 8, it is inconsistent with the stated intent of the New Guidelines to exclude Real County or other areas of GCWA Recovery Region 8 from the Plan Area. By failing to include Real County and other areas of Recovery Region 8 in the Plan Area, the dHCP creates an area which is effectively "orphaned" from the rest of GCWA Recovery Region 8. In addition, it will eliminate any incentive for private landowners in Real County and the other "orphaned" areas in Region 8 to work</p>	<p>The BAT began meeting in January 2010, prior to issuance of the New Guidelines or approval of any conservation banks. At the February 8, 2010, meeting, BAT members discussed the Plan Area and, in addition to discussions about other counties, generally agreed to exclude Real County and other western counties, since preserves that far out did not seem particularly relevant to the San Antonio area, vegetation was somewhat different from that in Bexar County, and there was little hydrological connectivity to Bexar County (see minutes from February 8, 2010 BAT meeting and February 18, 2010 CAC meeting).</p>



SEP-HCP Final EIS      Appendix D- Responses to Public Comments		<p>to conserve their land for the benefit of GCWA or other endangered species. This is in direct conflict with the USFWS' legislative mandate to conserve and recover listed endangered species. In spite of this, the USFWS fails to acknowledge or perform any analysis of this inconsistency in the dEIS.</p> <p>USFWS' support of this approach in the dEIS serves to divide GCWA Recovery Region 8 and act as an impediment to achieving the conservation and recovery of the GCWA, counter to the USFWS' legislative charge. While on its face this appears clearly capricious, it is also unfortunately consistent with a pattern of bias by the USFWS in favoring one or two GCWA conservation banks over other conservation lands which seek to aid in the conservation and recovery of the species. The bias shown by the USFWS in favor of the one or two approved banks, which were only fairly recently established, clearly results in direct financial gain for those involved with those banks. In fact, by supporting the elimination of Real County and other areas from the Plan Area in the dEIS, the USFWS is ensuring that there are fewer conservation opportunities for GCWA conservation, but also that there is less competition to the one or two banks for which they have shown favor.</p> <p>The disparate treatment between one or two existing GCWA conservation banks and "new" conservation lands has been most recently evident in the USFWS administration of the conservation banking program and its "application" of the New Guidelines. The Austin ES Office staff's stated rationale is that they desire to now limit the GCWA service areas of new GCWA conservation lands to only the one GCWA Recovery Region in which the new GCWA conservation lands are located in order to somehow ensure that any impacts to GCWA habitat in a particular GCWA Recovery Region is mitigated by the purchase of GCWA mitigation credits from a GCWA conservation bank located within the same GCWA Recovery Region.</p> <p>The USFWS support of the approach in the dHCP goes one step further in the "protection" of one or two approved GCWA conservation banks by effectively eliminating significant portions of GCWA Recovery Region 8 from the future service areas of conservation lands located in Real County or other areas within GCWA Recovery Region 8 which are excluded from the dHCP Plan Area, thus ensuring an enormous economic advantage for the one or two "favored" banks.</p> <p>When combined with the disparate treatment of approved GCWA conservation banks and new GCWA conservation lands, the USFWS' position is indefensible. The Austin ES Office staff's arbitrary limitation of GCWA service areas for new GCWA conservation lands, like its support for the Plan Area in the dHCP, is in fact not based on current scientific data or the biological needs of the species; rather, appears to be based on an expressed desire of the USFWS staff to "protect" existing GCWA conservation banks. This unwarranted "protection" is being accomplished by severely limiting the GCWA service areas of any new GCWA conservation lands so that they will not be able to effectively increase their conservation capacity. This unequal treatment — for the express purpose of favoring one regulated entity over another and not to advance the purposes of the ESA — is arbitrary and capricious (see, e.g., <i>Marshall County Health Care Authrity v. Shalala</i>, 988 F.2d 1221, 1224 (D.C. Cir. 1993) (“Were the Secretary arbitrarily to grant an exception for some hospitals and not for others identically situated, one could expect a successful challenge [ that the exception granted was arbitrary and capricious]”): see generally, <i>Chevron, USA, Inc. v. Natural Resources Defense Council</i>, 467 US 837 (1984) (regulatory agency cannot adopt rules that are “manifestly contrary to the statute”).</p> <p><b><u>The SEP dHCP is inconsistent with the USFWS’ proposed BCI Texas Recovery Units/Service Areas and USFWS staff’s current application of the New Guidelines.</u></b></p> <p>The Enrollment Area in the dHCP includes areas in Bexar, Medina, Bandera, and Kerr counties which are all part of the BCVI South Recovery Unit/Service Area identified the New Guidelines. The dHCP Plan Area includes all of the BCVI South Recovery Unit except for Real and two other counties (Hays County is not included as one of the excluded counties in the BCVI South Recovery Unit due to the fact that it has its own county-wide HCP). Once again, the USFWS appears to be actively supporting an approach which effectively "orphans" Real County and two other counties within the BCVI South Recovery Unit/Service Area.</p> <p>In addition, the dHCP as currently written would result in very significant areas in the BCVI South Recovery Unit being eliminated from the service area for any BCVI mitigation lands to be established in Real County. As a direct result, there will be no incentive for private landowners in Real County or the other "orphaned" counties in the BCVI South Recovery Unit/Service Area to conserve their land for the benefit of BCVI. This approach defies logic and does not reflect sound conservation policy.</p> <p>As it relates to the conservation and recovery of BCVI in the BCVI South Recovery Unit, the dHCP Plan Area and the USFWS' apparent support of the delineation of the plan area is directly inconsistent with the USFWS staff's application of the New Guidelines, as well as the legislative mandate for the USFWS to conserve and recover listed endangered species</p>	<p>At the February 18, 2010, meeting of the CAC, the Service, on behalf of the BAT, presented the BAT’s recommendations for the Plan Area. This presentation included a detailed description of what the Plan Area was based upon, which was primarily the biology of the species, but also considered other factors, such as, the proximity of mitigation to the impacts, ecoregional and vegetation similarities within the proposed Plan Area, habitat similarity for the GCWA and BCVI, the current status of karst features, and opportunities for GCWA and BCVI mitigation. The BAT also decided to use whole counties to define Plan Area boundaries to facilitate plan administration. The CAC discussed the recommendations and approved the BAT’s Plan Area in a unanimous vote.</p> <p>Consistently the Service has recommended, as part of section 7 and 10 consultations, a desire to have mitigation occur as near to the impacts as possible. Additionally, the SEP-HCP addresses many more species than just the GCWA and BCVI. Therefore, the Plan Area should not be expected to explicitly follow one or two species’ recovery plans. There were numerous factors that the BAT considered, with involvement of the Service, when creating the SEP-HCP Plan Area, and the Service believes that it is an adequate Plan Area for covered impacts to all species and related mitigation.</p>
Smith	David	<p><b><u>The inclusion of Real County in the SEP dHCP Plan Area is necessary in order to be consistent with ecosystem-based conservation principles, the recovery plans for the GCWA and BCVI, and the statutory mandates for the USFWS to conserve and recover endangered species.</u></b></p> <p>The USFWS New Guidelines for GCWA and BCVI mitigation lands state that service areas for mitigation lands are to be "based primarily on the conservation needs of the species." These New Guidelines also state that the USFWS has "determined that Service Areas for mitigation lands will be based on the recovery regions identified in the GCWA Recovery Plan and the proposed BCVI Texas Recovery Unit/Service Areas.</p> <p>Adding Real County to the dHCP Plan Area is consistent with the recovery needs of the GCWA, as is expressly provided for in the New Guidelines. In addition, it is also consistent with the USFWS Conservation Banking Guidance issued to the USFWS Regional Directors in 2003, which expressly allows for conservation banks to have service areas which include counties that are located in recovery areas where recovery objectives have largely been met. The inclusion of Real County in the SEP dHCP Plan Area will help achieve the recovery objectives in the GCWA Recovery Region 8 where</p>	<p>Most, if not all, of the incidental take from Covered Activities will occur in Bexar, Kendall, Bandera, and Medina counties. However, the final size and configuration of a HCPs planning area is a judgment call and is often a compromise between the need to be as comprehensive as possible and the inherent risks of an over-extended, protracted HCP effort. Issuance of a section 10 permit must not "appreciably reduce" the likelihood of the survival and recovery of the species in the wild. Note that this does not explicitly require an HCP to recover listed species, or contribute to their recovery objectives outlined in a recovery plan. This reflects the fact that HCPs were designed by</p>



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		<p>Real County is located, without impairing conservation objectives in GCWA Recovery Region 6. In fact, including Real County in the SEP dHCP Plan Area is necessary to help close the large and growing gap between the amount of conservation lands in GCWA Recovery Unit 6 and GCWA Recovery Unit 8.</p> <p>Real County is located in the southern Balcones Canyonlands ecoregion along with Bandera, Bexar, Comal, Kerr, Kendall, and Medina Counties, which are all included in the SEP dHCP Plan Area. As such, applying ecoregion-based conservation and principles to the conservation and recovery efforts for the GCWA and the BCVI would dictate that Real County should be included in the dHCP Plan Area. In fact, the use of an ecoregion-based recovery strategy is specifically lauded in the USFWS' New Guidelines for conservation lands: "The proposed recovery units [BCVI] are evenly distributed across the range and logically delineated based on available habitat and distribution information" (U.S. Fish and Wildlife Service, 2013, p. 23). It logically follows that the use of ecoregions for recovery planning is preferable to more arbitrary delineations, such as those that currently exist in the SEP dHCP.</p> <p>With this in mind, the USFWS should require that Real County be added to the SEP dHCP Plan Area in order to help fulfill its legal duty to conserve and recover the GCWA and BCVI.</p>	<p>Congress to authorize incidental take, not to be mandatory recovery tools. Nevertheless, recovery is an important consideration in any HCP effort. Neither the Act nor its implementing regulations direct the size or configuration of a planning area, only that the HCP is statutorily complete and meets section 10 issuance criteria.</p> <p>The Enrollment Area is only that area under the current and future jurisdictions of the Permittees. Currently that includes Bexar, Bandera, Medina, and Kendall counties. This area excludes Comal County, which is within the jurisdiction of San Antonio, because they have their own ITP.</p>
			Please also see response 3.
O’Connell	M.	No action should be taken to impose upon land owners this SEP HCP for us who live in Kendall Co. We hate it and want Bexar to protect wildlife in their own backyard. Leave us alone, back off, and respect freedom and private property rights. No action! Thank you.	Please see responses 6 and 8.
Vega	Manuel	Living in a community where our watershed is a valuable commodity, it is time to stand up to developers and issue a loud and clear statement that we need to protect our environment. For too long businesses have dictated environmental regulations in this City, County, and State. We. Ow have an opportunity to tell businesses no to destroying our environment. We must protect our communities for future generations. What happens when the Edwards Aquifer can no longer replenish itself? What happens when our City's only water source is polluted beyond repair? What will we tell our children and future generations when the only green space left is in our heavily developed parks and nature preserves? This proposal is a shame on the City of San Antonio. Protect our communities by telling developers, "NO!"	Please see responses 6, 11, and 13.
Baker	Beverly	I believe the land owner knows best how to manage his land and has always been the ultimate conservationist. I want "No Action Alternative” to this Southern Edwards Plateau Environmental Impact Statement and Habitat Conservation Plan. Do not implement this destructive plan!	Please see response 6.
Peace	Analisa	<p>At the outset, we would like to say that we are extremely disappointed that the Draft HCP ignores the recommendations of the Biological Advisory Team and the input of the Citizens Advisory Committee both of which included members representing the Greater Edwards Aquifer Alliance (GEAA).</p> <p>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.</p> <p>Our examination of the Draft SEP HCP and DEIS reflects a complete lack of recognition or any attempt to address the comments sent to Loomis Partners on June 10, 2011. (Attached as Appendix I)</p> <p>We are very concerned that these drafts do not consider the full range of alternatives considered during the stakeholder process. None of the four alternatives presented in the DIES fully reflect the recommendations of the BAT or of the CAC.</p>	Please see responses 2 and 7.
Peace	Analisa	<p>We request additional time, in order to submit more detailed comments on how this DEIS does not adequately address the cumulative impacts of the issuance of a take permit as proposed by the Draft SEP HCP. We do not think that the cumulative effect analysis satisfactorily addressed the concerns of GEAA regarding development of the Edwards Aquifer Recharge and Contributing zones covered by the Draft HCP in Bexar County, because the EIS failed to consider the long term effectiveness and lack of regulations by the Texas Commission for Environmental Quality and the City of San Antonio to protect the Edwards Aquifer.</p> <p>We hope that these points and others will be resolved prior to the issuance of a HCP for the Southern Edwards Plateau region. Given the amount of time and work that has already gone into this HCP, and the schedule proposed for the remainder of the process, it is essential that the recommendations of the citizens and agencies that participated in this process be reflected in the adopted plan.</p>	Please see responses 3, 7, and 13.
Hayes	Tom	Regarding the Mitigation and Preserve Requirements, the SEP HCP should follow the recommendations and requirements endorsed by the BAT and the CAC. The BAT proposed recommendations for the Black Capped Vireo (BCV), Golden-Cheeked Warbler (GCW), and the karst invertebrate species. All of these recommendations received a majority vote of approval from the CAC. These recommendations should only be changed for good cause and where the BAT, or a new Science Advisory Team convened with the approval of all stakeholders, is able to propose alternatives that are biologically acceptable.	Comment acknowledged.
Peace	Analisa	<p>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 US Fish and Wildlife Service (USFWS) and Bexar County in keeping up with these changing conditions.</p>	Please also see response 7.
Hayes	Tom	Many karst invertebrates are difficult to distinguish from other closely related species. This additional layer of uncertainty must be dealt with properly during presence-absence surveys of karst features before development can proceed. No abbreviated 5-day presence-absence surveys of karst invertebrates should be allowed. Instead, the guidelines for surveys set in place by the USFWS should be strictly adhered to; therefore a 15-day survey period is required. Upon the discovery of karst invertebrates during the construction process, no compromises should be made. The	Full karst Service protocol surveys (currently 14 surveys at least 48 hours apart) are required prior to participation in the SEP-HCP of all documented features. The 5-day timeframe is only for accidentally discovered karst features.. These are features with no surface

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		<p>required 15-day survey period is still necessary for adequate assessment of karst invertebrate populations and is especially critical as the specific species present will not have been established yet.</p> <p>Due to the limited literature on taxonomy, distribution, and status of the listed karst species as well as their reclusive nature, little is known about these species. Further research is necessary to determine the species abundance and distribution within these karst systems. Therefore, if species are discovered at sites not previously believed to contain endangered karst invertebrate species or if individuals of an unknown species should be found in a location already known to contain karst invertebrates, said individual should be collected and examined by an individual with valid section 10(a)(1)(A) permit (or Enhancement of Survival permit) from the service or accompanied by someone with such a permit (USFWS 2014). If and as new endangered karst species are discovered, they should be incorporated into the plan. An additional clause stating this in the current document should suffice for this.</p> <p>No specifics are detailed about who should be working with USFWS to accommodate for the rapid changes occurring within the field of karst invertebrate biology. The surveys recommended to determine these changes are abbreviated (7-day surveys), therefore they do not allow accurate data collection and plan implementation. USFWS protocol should be followed concerning proper presence-absence surveys.</p>	<p>expression that are only uncovered during Covered Activities, and are not expected to be preserved nor contribute to recovery, since they will have been severely damaged once located. However, the Service requested collections in these features be made, so that they can contribute to our overall knowledge of the distribution of the Covered Karst Invertebrates. Please see Section 3.2.4.3 in the HCP for more details on the different surveys required.</p> <p>Please see Sections 3.2.2.2 and 3.2.4.3 of the SEP-HCP regarding 10(a)(1)(A) permit requirements for entering features, which includes full protocol surveys.</p>
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	In the Draft SEP HCP, the Occupied Cave Zone (OCZ) A will usually include the area (8.5 acres) within 345 feet of the entrance to a karst feature occupied by one or more Covered Karst Invertebrates. OCZ A encompasses the foraging area of cave crickets, which are keystone species for sustaining most karst ecosystems. Extending 345-750 feet (40 acres) from the karst feature is OCZ B, which is intended to protect the surface and subsurface drainage and other resource areas necessary for the long-term maintenance of the karst feature. For very large and therefore extremely important occupied features, the Draft SEP HCP should be revised so that the actual surface and subsurface drainage basins are carefully estimated and fully protected.	The surface and subsurface drainage basins of features containing the Covered Karst Invertebrates will be required as part of the application process. Participants cannot be required to protect anything off of their property. Because preserves are expected to meet the Service’s guidelines, we expect that KFA quality preserves will contain all of the drainage basins.
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	In the plan region, the Draft SEP HCP focuses the search for new localities of rare karst species within existing conservation (managed) areas. However, as recommended by the BAT (6/9/11), these investigations should require equal priority within urban, suburban, and developing areas, including private lands, in order to determine status and risk factors important to adaptive management and emerging protection needs.	Comment acknowledged.
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div>	<div>Tom</div>	Low-quality preserves should not be accepted in lieu of per acre participation fees, unless such land donations include an endowment guaranteed to cover perpetual management expenses. Such an endowment is necessary to minimize adverse financial impact to the acquisition and stewardship of medium and high quality karst preserves. Even when adequately endowed, low-quality preserves do not have sufficient value and sustainability to be included as a contribution to the current conservation level for a karst species.	Preserve preservation and management are a commitment by the Permittees, including an endowment.
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	<p>Karst participation fees appear too low considering the high biological concern and high land values (conservation cost) in Bexar County. Also, the Draft SEP HCP needs to define what happens when multiple projects impact Zones A and/or B of the same occupied cave. A more appropriate fee structure is:</p> <ul style="list-style-type: none"> <li>• Karst Zone 1 and 2, but outside Occupied Cave Zone and Critical Habitat Unit: \$1000/ac</li> <li>• Occupied Cave Zone B (redefined as above): \$100,000/cave</li> <li>• Occupied Cave Zone A (redefined as above): \$1,000,000/cave</li> </ul>	Please see response 18.
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	All karst applications within Karst Zones 1-4 should require a complete and certified hydrogeological survey.	Comment acknowledged.
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	For participation in the SEPHCP, medium and high quality karst preserves established by non- SEPHCP entities should have permanent protection transferred to the SEPHCP, in order to be counted as contributing to Conservation Levels for a species.	Conservation Baselines are a standard by which the Permittees will assess access for impacts to a cave. If these preserves are established by someone other than the Permittees, they will not count towards their 1,000 acres of karst mitigation commitment.
Hayes	Tom	<p>Acquisition of regional maps of BCV potential habitat is essential to the functioning of the plan. On page 62 of the Draft SEP HCP it is states that regional maps of BCV habitat are not available. Without such information the process of determining where to mitigate will be a lengthy, drawn out process which might deter developers use of the plan in compliance with the ESA. BCVs inhabit shrubs only in early stages of growth. After several years, in the later stages of growth, BCVs will move to other patches of shrubbery. In the event that production of BCV habitat maps is not possible due to quick cycling of habitat, standardized methods will need to be established to determine adequate habitat for mitigation. This requires direct discussion with landowners about the presence of BCVs on their properties. If presence is confirmed by landowners, presence- absence surveys can continue as directed in the management and monitoring section.</p> <p>Recent literature should be consulted regarding which tracts of land would be best to acquire as preserves, and how these preserves should be properly managed. Regional maps of potential BCV habitat need to be acquired, or standardized methods will need to be established to determine adequate habitat for mitigation.</p>	<p>The Service has standard protocol for determining BCVI habitat as part of our 10(a)(1)(A) permits. It will be the Permittees responsibility to confirm presence of BCVIs on preserve lands and maintain that habitat in perpetuity, if they wish offer coverage for BCVIs to Participants.</p> <p>Please see response 4 on designating preserves.</p>
<div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	The Draft SEP HCP/DEIS documents ignore key aspects of the Biological Assessment Team’s (BAT) recommendations after the BAT’s almost two years of intensive effort (2010-2011). Some of the most important differences relate to GCW mitigation. However, mitigation is now generally allowed anywhere within the 7-county Plan Area. This will lead to the continued loss of GCW and BCV habitat in the San Antonio area, due to the absence of local mitigation due to the area’s higher land	While the BAT recommended a 3:1 mitigation ratio for GCWA impacts, in June 2011, the CAC had a supermajority vote to recommend a 2:1 mitigation ratio for the GCWA, which was based on other factors, not just biology. The Applicants’

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		<p>prices and increased development.</p> <p>The 11/17/10 BAT-approved recommendation was that direct GCW take in Bexar Count be mitigated at a ratio of 3:1, with not less than 60% of resulting mitigation occurring within Bexar County or five miles of Bexar County. These two key BAT recommendations derive from the high amount of loss in the county that causes a severe threat there relative to the other six rural Camp Bullis and the other significant conservation reserves in the county, which are important to both the species and the community.</p> <p>The BAT’s 6/9/11 response to the first draft of SEPHCP listed 11 top concerns, and singled out the dHCP’s lack of mitigation close as possible to the habitat impact area as a particularly “egregious error.” As further discussed in the BAT’s 3/21/11 response to the CAC, the lack of GCW/BCV preserve establishment in the impact area is expected to increase both the loss and the isolation of habitat. In this manner, it is distinctly possible that existing protected habitat in Bexar County at Camp Bullis and city reserves will be severely degraded. To counter unexpected habitat destruction due to stochastic events such as fire, one of the most basic tenets of conservation dictates that habitat within the larger landscape be continuous and adjacent to permitted take.</p> <p>From a biological perspective, the 3:1 ratio is ideal and would be very helpful in the recovery of the GCW and BCV in particular. It is disappointing to find that the ratio was changed to 2:1 in the Draft SEP HCP after the Biological Advisory Team (BAT) and Citizens Advisory Committee (CAC) both seemed to agree upon a 3:1 ratio for direct take when they last met in 2010. Given such a radical change in the plan, these committees should have met again at some point during the past five years. Many of the recommendations of the BAT were ignored after the final meeting of the CAC in 2010, and it would have been very helpful if the BAT and CAC had met during the intervening years to discuss these issues further.</p> <p>Ideally, in order to prevent habitat fragmentation, the BAT recommended that no less than 60% of the mitigation occur within Bexar County. We believe that an assigned amount of mitigation (as much as possible according to surveys of land available for mitigation in Bexar County) should be within 5 miles of Bexar County. We recommend at least 30%.</p> <p>Further, the BAT’s recommendations on mitigation ratios were based on the amount of harm to the species (with input from the Fish and Wildlife Services). This is a fairly ambitious mitigation ratio to aim for, as many other HCPs in Texas have employed a 2:1 or 1:1 ratio. Should it be determined by the USFWS that the 3:1 ratio is not economically feasible, a 2:1 ratio might be acceptable as long as a significant proportion of the mitigation (at least 30%) is acquired within 5 miles of Bexar County and no less than 70% of the mitigation costs are borne by the developers benefiting from this take permit.</p>	<p>and the Service believe this is an adequate ratio for mitigating for Covered Activities and contributing to recovery. It is expected that the majority of the impacts to GCWAs covered under the SEP-HCP will occur in smaller patches of habitat; however, the mitigation will be in large, contiguous patches that will contribute significantly to the recovery of the GCWA. Please also see responses 1, 7, and 14.</p>
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	<p>Three of the four alternatives in the DEIS would authorize the incidental taking of 9,371 acres of GCW habitat, 2,640 acres of BCV habitat, and 21,086 acres within of Karst Zones 4. All of this proposed take would take place within five miles of Bexar County, though no mitigation is required in or near Bexar County. As included in the BAT’s 6/9/11 response to the SEPHCP, this scenario results in insignificant or no long-term conservation value of the Draft SEP HCP for the endangered songbirds. Rapid urbanization that is unmitigated in Bexar County will likely prevent regional GCW recovery, possibly resulting in a jeopardy determination and possible federal court injunctions preventing all future construction and development.</p> <p>Due to the relatively small amount and likely disjunct location of the proposed mitigation, the authorized amount of incidental GCW/BCV take should be significantly reduced. GCW take should not exceed 7,500 acres, unless the 6 counties not currently participating come into the plan. The reduction in requested take is necessary because otherwise all the take currently happens in or within five miles of Bexar County.</p>	<p>Please see responses 2 and 14.</p>
<div>Alamo Group of the Sierra Club</div> <div>Hayes</div> <div>Moore</div>	<div>Tom</div> <div>Myfe</div>	<p>The proposal for one year of GCW surveys, to determine presence-absence and therefore mitigation requirements, is significantly less effort than the current USFWS recommendation of three years of surveys. Due to seasonal and annual variations in precipitation, vegetation, and other important habitat variables, the current USFWS recommendation should remain the basis for determining presence-absence.</p> <p>No deviation from the standard USFWS 3-year requirement should be allowed when determining either GCW or BCV absence. In fact, none of the Draft SEP HCP proposals should be allowed, which exclude Project Areas from mitigation based on abbreviated presence-absence surveys for covered species. Such surveys, which if allowed would likely become the common approach, deviate from standard USFWS Protocol, and may jeopardize the repeatability and validity of mitigation determinations. Abbreviated presence-absence surveys for covered species are biologically unacceptable, and current USFWS recommendations should be required in every instance.</p>	<p>The Service recommends three years of surveys to prove absence and historically provided concurrence with the findings. Whether someone does zero, one, two, or three years of surveys does not remove the requirement to mitigate under the Act for all incidental take of listed species. The one year survey is merely an addition of information for the Permittees to use in calculating their assessment of the impacts. Additionally, because the one year of surveys will only apply to discreet patches of habitat, the use of this option will likely be very limited (see Section 3.2.3.1).</p>
<div>Hayes</div>	<div>Tom</div>	<p>The Draft SEP HCP should include minimum preserve design criteria for all covered species. The Balcones Canyonlands Preserve HCP and FEIS (BCP-HCP/FEIS; City of Austin and Travis County, Texas; 1996) provides guidelines, which are applicable to the Draft SEP HCP. Though most directly applicable to preserve design for GCW, these minimum preserve requirements may be scaled down to address similar design criteria for BCV preserves.</p> <p>Standardized and detailed methods for the preserve acquisition, assessment, and management process are necessary to ensure the effectiveness of the plan. The Hays County Regional Habitat Conservation Plan would be an excellent reference for this.</p> <p>A biologist with an USFWS Threatened and Endangered Species permit should prepare the preserve management plan and conduct a review of the plan every 5 years.</p>	<p>A 10(a)(1)(A) permit is not required to write or update a management plan.</p> <p>Please also see response 16.</p>
<div>Hayes</div>	<div>Tom</div>	<p>Territory mapping and occupancy monitoring surveys require consistent methods and reporting of information in order for mitigation to be effective.</p> <p>Post-establishment management specifications to control invasive populations, both flora and fauna, and prevent the spread of diseases which could potentially harm habitat.</p> <p>Habitat must be carefully maintained for BCVs on properties where mitigation takes place.</p> <p>A 5 year habitat management and monitoring plan, like that in the Hays County Plan, should be detailed in the SEPHCP.</p>	<p>Comments acknowledged.</p> <p>The time between updating management plans was based on recommendations from Balcones Canyonlands Preserve staff that collate all of their data every five years.</p>
<div>Hayes</div>	<div>Tom</div>	<p>Currently “protected” GCW habitat in the SEPHCP area that is not permanently</p>	<p>Please see response 15.</p>



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		protected should not contribute to recovery.	
Hayes	Tom	GCW and BCV Preservation Credits should be increased to a minimum of \$10,000/acre. An adequate funding model to sustain management should be a guaranteed component of preserve acquisitions.	The funding plan includes a perpetual endowment for management and monitoring of all preserves. Please also see response 18.
Alamo Group of the Sierra Club		<p>The Draft SEP HCP should specify the administrative framework to receive technical and public input to inform the adaptive management and planning. Due to the significant involvement of affected communities and public funding, independent post-issuance advisory committees with public meetings should be required, including a Science Advisory Committee and a Citizens Advisory Committee. A regular meeting schedule of these scientific and citizen committees should be a required part of the plan. The purpose of these committees should not be expressly prescribed by the Permittees as described in Section 2.2 of the Draft SEP HCP (pp. 21-22), but instead should be left open to the discretion of the committees.</p> <p>Surveys, reviews, and reports for assessing baseline conditions and for management planning should occur more frequently than proposed in Section 9.0 of the Draft SEP HCP (p.112), especially early during plan implementation. Decision making needs to be more informed during the first decade. Instead of waiting ten years to begin, baseline conditions and management plans should be first evaluated at five years and ten years, and then as agreed upon by the USFWS, in order to more efficiently achieve adaptive management goals.</p> <p>A section is needed that provides program descriptions and acceptable guidelines for the voluntary conservation of Category 3 species, including education, monitoring, outreach, and research. Conservation measures for these species should be specified in the Draft SEP HCP.</p>	Comments acknowledged.
Hayes	Tom		
Moore	Myfe		
Alamo Group of the Sierra Club		In the DEIS, the assessment of offsite, indirect, and cumulative impacts is cursory, and should be greatly expanded. The SEPHCP appears to offer coverage for incidental take only to activities inside the enrolled properties. The mitigation process for indirect and offsite impacts needs to be included in the SEPHCP.	Incidental take authorization can only be extended to those portions of a property the Participant has authority over. However, Participants will be assessed for indirect impacts off of their property, if they exist (Section 3.2.3.1 of the SEP-HCP)
Hayes	Tom		
Moore	Myfe		
Hayes	Tom	We would like to have the time to conduct a more thorough examination of the cumulative impacts to the Edwards Aquifer watershed and, therefore, request an extended comment period for this purpose. A cursory examination of the DEIS indicates that the cumulative effect analysis does not adequately assess the effects that development accommodated by the SEP HCP would have on water quality in the long term. Additionally, we believe the cumulative impacts of the long term financial implications of the plan have not been adequately considered in the DEIS.	Please see responses 3 and 13. Note - the cumulative effects of the No-Action alternative are greater on water resources than the impacts of any of the Action Alternatives (EIS Chapter 4.9).
Hayes	Tom	<p>The Baseline Preserve Assessments for each preserve area in the Draft SEP HCP are lacking in details. This is true for the majority of the Adaptive Preserve Management and Monitoring section of the Draft SEP HCP. Although Appendix C, Biology of the Covered Species, details habitat description, habitat availability, and population estimates for the GCWs and BCVs, there are no direct instructions in the Draft SEP HCP incorporating such knowledge into the management and monitoring processes. The Preserve Management and Monitoring Program section of the Hays County Regional Habitat Conservation Plan (HCRHCP) would be an excellent reference for framing any alterations.</p> <p>In order to streamline the process of preserve acquisition, assessment, and management, detailed guidelines should be established for baseline preserve evaluations, land management plans, territory mapping surveys, occupancy monitoring surveys, and monitoring of habitat after establishment. Standardized methods for such processes would establish continuity for administrators, biologists, and landowners alike. It would ensure fairness and integrity throughout the process and enable easier evaluation of the effectiveness of the plan.</p> <p>The initial Baseline Preserve Assessments prepared for GCW and BCV habitats requires a more detailed description of “minimum information” than is currently listed in the Draft SEP HCP. Included with the description and map of suitable habitats should be the actual acreage of potential habitat as well as the location of currently occupied and unoccupied areas. The assessment of relative quality should be standardized across all Baseline Preserve Assessments and include documentation of the habitat characteristics used to justify the quality estimate. In general the Baseline Preserve Assessments are in line with those outlined in the HCRHCP, these adjustments would make for better assessments of GCW and BCV habitat.</p> <p>Standard methods for territory mapping and occupancy monitoring surveys are essential to the accuracy and usability of such surveys. Pages 76-81 of the HCRHCP outline detailed methods for both surveying types. Such specifications for the occupancy monitoring surveys include; season of surveys, timing, length, and number of surveys, the weather during surveyance, and details of what information should be included in the report and how the data reported is analyzed. Similar specifications should be made for territory mapping surveys. The monitoring of habitat following establishment of a preserve requires there be a specified number of plots per acre and be in proportion to the total acreage, an established frequency of visits (preferably 5 years), and standardized methods of monitoring and reporting data.</p> <p>In addition to a specified method of monitoring, post-establishment management specifications are required as well. This includes management and maintenance of adequate habitat conditions for the established species. In general this includes, removal of invasive species, both flora and fauna. Of particular importance to this region, removal and management of the invasive Juniperus Ashei (Cedar), controlling feral hog, white-tailed deer, brown-headed cowbirds, and red imported fire ants populations, and preventing or controlling the spread of oak wilt and other such diseases. Management of BCV habitat requires that shrub growth be controlled by burning, grazing, or removal in order to maintain suitable early growth shrubbery.</p>	Please see response 16.
Hayes	Tom	We suggest a simplified five year schedule for preserve monitoring and management , such as that described on page 83 of the HCRHCP. Tasks would be completed according to the following schedule: Years ending in 0 or 5: Territory Mapping Surveys; Years ending in 1 or 6: Habitat Occupancy Surveys; Years ending in 2 or 7: Habitat Monitoring Surveys; Years ending in 3 or 8: Baseline Preserve Evaluations;	Comment acknowledged.

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		and Years ending in 4 or 9: Land Management Plans.	
Hayes	Tom	It is proposed that the SEPHCP will be administered by the City of San Antonio and Bexar County. We recommend that the SEP HCP would greatly benefit from a third, and potentially fourth party, administrator, such as an independent non-profit or an environmental regulatory agency which is unaffiliated with the City or County for most effective management and administration. We recommend that the SEPHCP administrator should be an independent agency or non-profit entity, affiliated with but not directly managed by the Permittees. Any plans by the Plan Administrator to outsource program management to a nonprofit or other entity should be detailed in the Draft SEP HCP. Given the lack of transparency evident throughout this process, it is asking a lot of the public to accord approval of details as yet unspecified as to the administration of the SEPHCP.	Please see response 17.
Hayes	Tom	Additionally, the City of San Antonio and Bexar County need to be prepared to dedicate sufficient resources to this plan to make sure it is carried out effectively. As land is acquired for mitigation, the City and County will need to hire expert biologists and ensure that adequate research is done in order to determine the best locations for said mitigation.	Comment acknowledged.
Greater Edwards Aquifer Alliance		We are concerned that certain basic elements of the Plan have not been adequately addressed in the Draft SEP HCP or are left up to the future and unilateral discretion of the Permittees. 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, administration of the Plan should include not only the Permittees, but several other partners representing public and non-profit entities that are enlisted in advance.	Advisory committees are not a requirement for ITP issuance. However, Sections 2, 4, 6, 7, and 8 of the SEP-HCP refer to advisory committees and their expected involvement by the Permittees.
Hayes	Tom	<p>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.</p> <p>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 SEP 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. These issues need resolutions and commitments to provide for successful implementation and independent oversight, and to alleviate the financial burden on Bexar County.</p> <p>We strongly recommend a requirement of Scientific and Citizens’ advisory committees to provide ongoing input, oversight, and assistance. We also strongly recommend that one or more independent agency or non-profit entity be given a central role in the administration of the Plan.</p>	<p>Please also see our Record of Decision.</p> <p>Please see Section 2.1 of the SEP-HCP for the expected role of the City of San Antonio.</p>
Hayes	Tom	<p>At least 70% of funding the plan should be contributed by those who will benefit financially from enrollment.</p> <p>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 [Edwards Aquifer Recharge Zone (ERZ), Transition Zone (TZ) and Contributing Zone (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.</p> <p>Development that does not impact the Edwards could be eligible for mitigation through the purchase of less expensive lands outside of Bexar County.</p>	Please see response 18.
Hayes	Tom	<p>GEAA would strongly object to the use of properties previously 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 the City of San Antonio 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.</p> <p>If, however, future properties were identified that were suitable for protection under the City of San Antonio’s Edwards Aquifer Protection Plan and as mitigation land for the SEPHCP, consideration for utilizing both funds for the preservation of such property might make sense. We would hate to see both entities bidding against each other to preserve a similarly suitable property. Given that preservation was consistent with the goals of both initiatives, we would have no objection consideration, on a case by case basis, of the use of complementary funding from both sources for mitigation of land on the ERZ, TZ, and CZ within Bexar County.</p>	Please see response 15.
Hayes	Tom	GEAA had formerly supported the concept of tax increment diversions as a mechanism for funding this program. Given that take is confined to Bexar County in the current Draft SEP HCP, however, we now believe that the loss of increased property taxes, coupled with the increased need for City and County services occasioned by new development, will result in a negative impact to the budgets of both the City and the County. This option, if used, should be used as minimally as is possible to avoid placing an undue burden on tax payers. Funding for implementation and administration of the SEPHCP (70%) should be provided by plan participants, not taxpayers.	Please see Chapter 4.7 of the EIS on impacts to taxes and response 18.
Greater Edwards Aquifer Alliance		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 City of San Antonio and Bexar County through the adoption of adequate regulations on impervious cover to protect water quality within the ERZ and CZ. Other no cost methods of	Comment acknowledged.

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Hayes	Tom	<p>protecting the species indirectly include targeted purchase and management of City of San Antonio 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 City of San Antonio Tree ordinances, and other measures needed to protect water quality and enhance quality of life within these environmentally sensitive areas.</p> <p>Enhanced regulation of the ERZ and CZ by the City of San Antonio 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 SEPHCP that will require significant contributions from City of San Antonio and Bexar County tax payers.</p> <p>Cost savings and program enhancement could also be achieved by delegating duties of administering the SEPHCP to City of San Antonio staff responsible for administering the City of San Antonio Edwards Aquifer Protection Program (EAPP). Likewise, the model devised for the EAPP 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 City of San Antonio well and could be emulated. Another administrative option would be the creation of a non-profit organization devoted to implementing the SEPHCP.</p>	
Hayes	Tom	<p>The No Action Alternative is not an option. Unwarranted take of these endangered species has been occurring in Bexar County for many years, and a HCP should definitely be put in place. Action must be taken to prevent any more unwarranted take of these endangered species.</p> <p>The 10% Participation Alternative does not adequately plan for the amount of development that will likely occur in Bexar County over the next 30 years. A plan needs to be put in place that will provide for sufficient take as well as mitigation of these species.</p> <p>The Single-County Alternative sounds appealing, especially due to the fact that none of the counties aside from Bexar County have agreed to participate in this HCP. However, a regional HCP would be more suitable for this region due to the huge discrepancy in the amount of rural versus developed land in Bexar County in comparison to the other six counties of the region, as well as necessary due to the limited land resources left for mitigation in Bexar County.</p>	Comments acknowledged.
Hayes	Tom	<p>The Increased Mitigation Alternative has some qualities that would be very beneficial to the proposed HCP. From a biological perspective, the 3:1 ratio is ideal and would be very helpful in the recovery of the Golden-cheeked Warbler and Black-capped Vireo in particular. However, this ratio may or may not be economically feasible. Although mitigation agreements would be between the Permittee and individual landowners, counties outside of Bexar County might object to the removal of large amounts of acreage from their property tax rolls, especially as they not receiving any benefits from further development of Bexar County.</p> <p>The other component of this alternative that should be incorporated into the proposed plan is the requirement that at least 60% of the mitigation will occur within 5 miles of Bexar County. A lower percentage may be acceptable, but the HCP needs to have some kind of requirement that a significant proportion of the mitigation will occur in or around Bexar County. Increased habitat fragmentation in this area will very likely lead to a loss in genetic diversity for the remaining Golden-cheeked Warblers and Black-capped Vireos, which could be detrimental to the recovery of the species (Athrey et al. 2012). The harmful effects of habitat fragmentation are common knowledge in the field of biology, and the effects are clearly amplified when a species is already threatened or endangered. It is the purpose of the ESA to eventually help an endangered species recover, not just survive; and this definitely will not happen if their habitat is further fragmented in the areas where it is already limited.</p> <p>At least 30 %, or as much of the mitigation as possible, should be required to be within 5 miles of Bexar County, because this is where essentially all of the take is being permitted. In order to adequately determine how much mitigation can take place within San Antonio, surveys of the quantity and quality of potential habitat should be conducted before deciding to mitigate outside of Bexar County. Ideally, all of the mitigation should be located very close to or within Bexar County, but unfortunately this might be difficult to achieve. Many of the other counties in the Southern Edwards Plateau region have larger tracts of land available for the creation of larger preserves which, if properly managed, could sustain larger populations of the GCW or BCV.</p>	Please see responses 1, 2, 10, and 14.
Hayes	Tom	There are no specifics about protection of the Edwards Aquifer except that, secondary to the preservation of habitat for the listed species, they will try to preserve areas that will also benefit the voluntarily conserved species and the aquifer.	Please see Chapter 4.6.7 of the EIS for a discussion of the Edwards Aquifer aquatic species and also our Biological Opinion for an assessment of affects expected from implementation of the SEP-HCP.
Hayes	Tom	There needs to be a definition of a partial preservation credit so that proper preservation credits can be given for pre-existing conservation areas.	Please see response 15.
Hayes	Tom	In conclusion, we would like to point out that the process for drafting the SEP HCP and DEIS were extremely flawed and could constitute a violation of the National Environmental Protection Act. No attempt was made to respond to the comments that GEAA and others submitted for the 2011 version of the Draft HCP devised by Loomis and Associates. Examples of this failure are abundantly illustrated by our comments of June 10, 2011 submitted as Appendix I.	Please see responses 2 and 7.
Greater Edwards Aquifer Alliance		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 reissued 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	While the BAT recommended a 3:1 mitigation ratio for GCWA impacts, in June 2011, the CAC had a supermajority vote to recommend a 2:1 mitigation ratio for the GCWA, which was based on other factors, not just biology. The Applicants’ and the Service believe this is an adequate ratio for mitigating for Covered Activities and contributing to recovery. It is expected that the majority of the impacts to GCWAs covered under the SEP-HCP will occur in smaller patches of habitat;



		<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>however, the mitigation will be in large, contiguous patches that will contribute significantly to the recovery of the GCWA. Please also see responses 2, 7, 10, and 14.</p>
Greater Edwards Aquifer Alliance		<p>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.</p>	<p>Please see responses 11 and 13.</p>
Greater Edwards Aquifer Alliance		<p>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.</p>	<p>The Service’s guidance on preserve designs for the Covered Species includes size and configuration recommendations.</p>
Greater Edwards Aquifer Alliance		<p>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.</p> <p>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</p>	<p>Please see response 15.</p>

		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.	
Greater Edwards Aquifer Alliance		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.	This language is not in the 2014 draft or the 2015 final SEP-HCP.
Greater Edwards Aquifer Alliance		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.	Please see response 18.
Greater Edwards Aquifer Alliance		<p>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.</p> <p>Developments that do not impact the Edwards could be eligible for mitigation through the purchase of less expensive lands outside of Bexar County.</p>	Comment acknowledged.
Greater Edwards Aquifer Alliance		<p>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.”</p> <p>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.</p>	Please see response 15.
Greater Edwards Aquifer Alliance		GEAA supports the concept of tax increment diversions as a mechanism for funding this program.	Comment acknowledged.
Corson	Wendy	I am a resident of Kendall County. Not being politically motivated on any issue, I would like my voice heard on my total objection to this plan. Like most citizens we vote on our local representatives to protect and to stand up for what we believe as the growth path for our community. I do not live in Bexar County and do not want to be governed by Bexar county. This plan infringes on Kendall county and the five other counties being "used" by Bexar county for only Bexar county's benefit. Our local representatives here in Kendall county have done a wonderful job making sure we have enough green space and habitat protection. Bexar county should not be able to develop all its land to increase their tax base while making their neighbors pay for their profits. I urge you to make Bexar county take care of their own issues and leave the other counties to take care of themselves. Please do not pin neighbor against neighbor.	Please see responses 1 and 8.
Petty	Michele	I live in North Bexar County in the middle of what was once prime endangered species prime habitat and the Edwards Aquifer Recharge Zone. The problem with this proposed incidental take permit is that there is absolutely nothing incidental about this taking. Developers have already decimated most of the endangered species prime habitat in Bexar County. It is GONE. The City and County are now attempting to give their developer buddies a carte blanche to wipe out the last remaining patch of quality endangered species territory in this county. Quite frankly, the parcels where they could buy to "mitigate" don't mitigate either because they are not of comparable quality to actually keep these species ALIVE; and the individual species creatures are not as densely populated there and there is no way to save the ones living where the developers want to develop.	Please see response 10.
Petty	Michele	<p>It is the job of Fish and Wildlife to protect our endangered species, not be foot soldiers for the developers who are destroying these species.</p> <p>This requested permit is unacceptable. The incidental take and mitigate permit as proposed by the City and County is a loophole big enough to drive an aircraft carrier though and effectively renders endangered species protection meaningless because it is just a matter of time before the city expands out to the "mitigated parcels" and wants to destroy that too--then there will be species extinction and Fish and Wildlife will have utterly failed in their job.</p>	Please see responses 10 and 18.
Petty	Michele	I ask that Fish and Wildlife require increased mitigation alternative 4.	Please see response 7.
Petty	Michele	Furthermore, I ask that Fish and Wildlife require that the city and County actually hold real public input hearings rather than the "virtually no notice and no opportunity to ask questions or make comments" SHAM meetings that were held. I ask that Fish and Wildlife extend its period for public commentary on this issue because the City and County have conspired to sneak this one under the radar and have failed to fairly notify the public what is really going on with this requested permit.	Please see responses 2, 3, and 9.
Anonymous		I have NO interest in MORE government regulations. Stay out of state's rights and leave the land of Texas alone.	Comment acknowledged. Please also see responses 6 and 8.
Dockal	Helen	I urge a no action alternative to not have this plan implemented. As a land owner I am alarmed and concerned that the Federal government and Bexar County would try to execute a plan like this to benefit themselves at the cost of other land owners in other counties. Those birds nesting in trees in Bexar County aren't going to realize they need to move their nest to a neighboring county just because the government says so.	Comment acknowledged. Please also see responses 2 and 6.

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Moore	Myfe	<p>I am Myfe Moore, founder of the Helotes Nature Center and San Geronimo Nature Center, a multi-generational ranch and land steward. The 201 SEP-HCP needs to be postponed, more hearings performed, and the comment period extended. I attended the Helotes public hearing and submit my comments here again. I have submitted many emails with attachments of data and scientific details for your study and expect they will be considered.</p> <p>First, I'll say this is a very poor HCPlan, more a developer's best wish, with very little developer (taker) responsibility. Instead the public taxpayer will pay 75% of this plan.</p> <p>The public hearings (there were only 2 in a 7-county affected region) were not notified to the affected people, and the public hearings did not follow standard practice and law of allowing the public to ask questions or make comments.</p> <p>The data compiled in the previous attempt to have an HCP were ignored in this revised plan. The science is incomplete and missing, as is citizen cooperation or hearing. None of our concerns were addressed.</p> <p>Only 2 or 3 public employees are informed about this enormous 7-county, 7 endangered species plan.</p> <p>The mitigation location is too far away from the take, and the cost too cheap for the developer for repairing the damage done.</p> <p>The information given in the 2 hearings was incorrect and misleading. In total, a failed process. This plan needs to be re-submitted to the general affected public and the comment period extended.</p>	<p>The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.</p> <p>Please see responses 1, 2, 3, and 18.</p>
Center for Biological Diversity		<p>The scale of land development to be permitted on the southern Edwards Plateau will have drastic impacts on the two migratory birds and seven troglobitic invertebrates that are listed as 'endangered' and that would be the subject of this Habitat Conservation Plan (HCP), should the U.S. Fish and Wildlife Service approve it. The scale of proposed mitigation is inadequate and its full implementation is uncertain if not downright doubtful. As a result, the recovery and even the survival of these species as well as conservation of their ecosystems would be jeopardized through approval of the draft HCP as written. Moreover, the draft HCP and the draft Environmental Impact Statement (DEIS) fail to adequately disclose and discuss the impacts of implementation. Due to these multiple flaws, we request selection of the No Action Alternative. Should permit applicants wish to proceed, we recommend withdrawal and complete rewriting of the draft HCP to take into account our critiques, below, and to avoid further imperiling the wondrous wildlife of the southern Edwards Plateau including the region's endemic troglobites.</p>	<p>The Service, in its biological opinion, analyzed the impacts of the SEP-HCP and found that it will not jeopardize the continued existence of any of the Covered Species due to avoidance, minimization, and mitigation measures.</p> <p>Please also see responses 6 and 10 and Chapter 4 of the EIS where impacts are analyzed.</p>
Center for Biological Diversity		<p>The draft Southern Edwards Plateau Habitat Conservation Plan (HCP) does not meet necessary standards for depth of discussion of affected endangered species, their environment, and the true scale of effects of implementation. The pre-eminent national scientific review of HCPs found that HCPs—particularly those covering large areas or large amounts of a species' range—should inventory, summarize, and document available data on each species and their distribution, abundance, population trends, ecological requirements, life history, and causes of endangerment. This HCP doesn't do that. The review also found that quantitative estimates of the impacts of "take" on species' viability should be provided, especially for larger or more significant plans; that best and worst-case scenarios should be identified; and that impacts of "take" should also be evaluated, particularly for larger or more significant plans, including by determining whether the habitats being "taken" correspond to population "sources" or "sinks," whether genetically unique sub-populations are being "taken," and whether unique habitat/species combinations are being impacted. This HCP meets none of those standards.</p>	<p>The SEP-HCP is in compliance with our HCP Handbook (1996) and with the statutory requirements of the ESA.</p>
Center for Biological Diversity		<p>The national scientific review also found that the details of HCP mitigation measures must be explicitly described and accompanied by data on their effectiveness, and that the likely success of each measure must be evaluated, as must the overall effectiveness of mitigation measures at minimizing and offsetting "take."</p>	<p>In addition to establishing permanent preserves with documented presence of the Covered Species, the Permittees will monitor and adaptively manage these preserves to ensure their long-term viability (Sections 6, 7, and 9 of the SEP-HCP).</p>
Center for Biological Diversity		<p>The NMFS regulations state that HCPs must describe the proposed activity, including the anticipated dates, duration, and specific locations. The NMFS regulations also state that HCPs must describe the HCP and Take Permit's anticipated impacts, including the amount, extent, and type of "take," as well as the anticipated impact on habitats and the likelihood of habitat restoration. <sup>v</sup> Again, this HCP only addresses some of those issues, cursorily.</p> <p><i>Sierra Club et al v. Bruce Babbitt et al</i> found that HCPs need to determine how many individuals of affected species will be "taken," how many individuals will remain, what the distribution of the species is throughout its remaining habitat, and how this relates to the species' minimum viable population. <sup>vi</sup> Such information is lacking here.</p>	<p>NMFS regulations do not apply to the SEP-HCP.</p>
Center for Biological Diversity		<p>Effects on proposed listed species, federally listed plants, and critical habitat are to be considered during the ESA section 7 consultation processes. The Services' Biological Opinions should address the species' life histories, their habitat and distribution, their population dynamics (including size, variability, and stability), their status (including reasons for listing, range-wide trend, and new threats), other factors necessary to their survival, duration of the impacts, intensity and severity of the impacts, and the importance of the action area to the species. The Services' Biological Opinions must, among other things, "discuss the entire designated critical habitat area in terms of the biological and physical features that are essential to the conservation... of the species," and "characterize the effects of future, non-Federal actions reasonably certain to occur in the action area in terms of how the... habitat qualities essential to the conservation of the species... are likely to be affected..." Although the HCP lists other listed species whose historic and/or current range the project encompasses, it does not meet the criteria described above. Note also that the list erroneously omits the endangered jaguar (<i>Panthera onca</i>) that historically occupied this region of Texas.</p>	<p>Please see the Status of the Species, Environmental Baseline, and Effects of the Action sections in our Biological Opinion.</p> <p>Based on best available information, the jaguar is currently known from or believed to occur in the United States only in Arizona and New Mexico.</p>
Center for Biological Diversity		<p>The HCP, its Biological Opinion, and other analyses need to assess impacts to each covered species relative to baseline scenarios <i>for the proposed action</i> in which "take" is completely avoided and each species is fully protected per ESA sections 9 and 4. However, the HCP does not make such a comparison. Project scenarios in which</p>	<p>Please see our Biological Opinion where all of these issues are addressed throughout the document.</p>



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		<p>“take” is illegally occurring do not necessarily provide a legitimate baseline for comparison. Moreover, the HCP, its Biological Opinion, and other analyses must also examine impacts to each covered species relative to habitat conditions, population levels, and other conditions that are necessary for the full recovery of each of the covered species. Instead, this HCP refers to down-listing criteria for the karst species, and never assesses impacts to full recovery of any species. Instead, the HCP writes, regarding the golden-cheeked warbler:</p> <p>On their own, the SEP-HCP’s GCW preserves could represent approximately one-third of the acreage needed to support one viable GCW population. When combined with the acres of GCW habitat that are already at least partially conserved, the total level of GCW conservation could represent nearly 60 to 100 percent of the acreage thought to be needed for regional recovery.</p> <p>Yet, the HCP also would permit already-preserved lands to be counted toward mitigation herein. Thus, protected lands would represent less than described percentages needed for regional recovery. But regional recovery is never put into a broader recovery framework.</p> <p>Under ESA section 7, the Service must, for each of the covered species, evaluate the cumulative impact of each form of “take” authorized by the Incidental Take Permit, across the plan area, across the larger ecological region, and across each of the species’ ranges. The effects of other “take” authorizations on public and private lands must also be accounted for, as must other “past and present impacts of all Federal, State, or private actions... in the action area,” “the anticipated impacts of all proposed Federal projects in the action area that have already undergone... consultation,” the impact of “contemporaneous” State or private actions, and the effects of “future State or private activities...that are reasonably certain to occur.” The action area should be determined based on all the direct and indirect effects of the proposed action. The cumulative effect of the permitted activities in the plan area and across the species’ ranges must be evaluated relative to conditions associated with each of the species’ recovery, not just their survival. The NMFS regulations for HCPs also require the agency to consider “the potential severity of direct, indirect, and cumulative impacts on the species or stocks and habitat...” The pre-eminent national scientific review of HCPs also found that HCPs should evaluate the cumulative impacts of multiple plans and their interactions, and that the percentage of local and global populations that will be “taken” should be assessed. This HCP does not examine such cumulative effects despite other HCP’s that affect some of the same species in nearby areas.</p>	<p>Issuance of a section 10 permit must not “appreciably reduce” the likelihood of the survival and recovery of a species in the wild. As such, HCPS are not required to recover listed species or contribute to recovery objectives outlined in a recovery plan. HCPs were designed by Congress to authorize incidental take, not to be mandatory recovery tools.</p>
Center for Biological Diversity		<p>The Federal Register notice for the US Fish &amp; Wildlife Service’s original HCP regulations also stated that HCPs and Take Permits should only be used in “limited circumstances.” We question whether this region requires such overarching take authority as would be conveyed by this HCP.</p>	<p>This was the first set of regulations formalized after Congress established the section 10 provision of the ESA. Since that time, there have been several updates to the HCP process, including, but not limited to a HCP Handbook, “No Surprises” policy (63 FR8859), and our 5-point policy (65 FR 35242). All of which outline procedures for meeting issuance criteria.</p>
Center for Biological Diversity		<p>According to the HCP Handbook, the Service may not be able to approve a Take Permit under ESA section 7(a)(2) unless the HCP addresses <i>all listed species</i> in the plan area. This includes federally listed plants, which must be considered during the ESA section 7 consultation process but in this project area may be present but unknown through lack of surveys.</p>	<p>Please see our Biological Opinion and Section 2.5 of the SEP-HCP and Chapter 4.6 of the EIS for a discussion and analysis of all other species in the Plan Area.</p>
Center for Biological Diversity		<p>The Service’s HCP Handbook also acknowledges the importance of surveys, noting that even “low effect” HCPs should be based upon surveys. This is hardly a low effect HCP and therefore should be based on far more field data, particularly for the karst species, than is evidenced.</p>	<p>Texas is approximately 97 percent privately owned; therefore, access to these lands to conduct surveys is limited.</p>
Center for Biological Diversity		<p>The effects of likely future changes in environmental conditions, including those related to climate change must be accounted for. Yet, in this HCP, the “No Surprises” provision guarantees no additional land will be required as mitigation for climate change impacts on the species– which could help doom them to extinction.</p>	<p>Please see Chapter 4.8 of the EIS for a discussion on climate change.</p>
Center for Biological Diversity		<p>ESA section 7(a)(2) and the Act’s administrative rules require agencies to use the best available science. The Services must consider all relevant data, including data expected from ongoing studies; where data gaps exist, the Services should either delay the Biological Opinion or develop the Opinion with the available data, but give “the benefit of the doubt to the species.” That benefit of the doubt has not occurred in this proposed HCP.</p>	<p>Please see our Biological Opinion.</p>
Center for Biological Diversity		<p>The draft HCP contains biological objectives in the form of acreage of habitat to be preserved, but not within the context of broader biological goals, which it does not identify. According to the Service’s HCP Handbook, specific biological goals and objectives must be identified in the HCP for each of the covered species. “In the context of HCP’s, biological goals are the broad, guiding principles for the operating conservation program of the HCP.” “Biological objectives are the different components needed to achieve the biological goal such as preserving sufficient habitat, managing the habitat to meet certain criteria, or ensuring the persistence of a specific minimum number of individuals.”</p> <p>The HCP’s biological goals and objectives must be sufficient to provide for the recovery of each covered species, per ESA section 10. But in this case, achievement of the modest, porous objectives coupled with commensurate loss of habitat may impede recovery and, as noted, are not evaluated in the context of recovery standards.</p> <p>“Among the broad goals generally accepted by conservation biologists, but absent in this HCP, are (1) representing in protected areas all kinds of ecosystems (natural communities) across their natural range of variation; (2) maintaining or restoring viable populations of all native species in natural patterns of distribution and abundance; (3) sustaining ecological and evolutionary processes within a natural (historic) range of variability; and (4) being adaptable and resilient to a changing environment.”</p> <p>According to the Service’s Handbook, “...the Service [must] ensure that the biological goals are consistent with conservation actions needed to adequately minimize and mitigate impacts to the covered species to the maximum extent practicable.”<sup>xxviii</sup> Moreover, “the biological goals and objectives of an HCP are commensurate with the specific impacts and duration of the applicant’s proposed action.”</p>	<p>In accordance with the Service’s five-point policy (65 FR 35242) the biological goals of an individual HCP are not necessarily equivalent to the range-wide recovery goals and conservation strategies for a listed species. However, the biological goals and objectives of a HCP should support the conservation and recovery of listed species. SEP-HCP Section 5.1 lists the broader biological goals, which are to contribute to recovery of the Covered Species, contribute to the conservation of other rare species, and expand the knowledge base for all of the species to further their conservation and management. SEP-HCP Section 5.2 contains the specific, measurable biological objectives that address each of the Covered Species. These objectives are based on the Service’s recommendations for achieving recovery for these species.</p> <p>SEP-HCP Appendix C includes information on habitat quantity, habitat quality, ecological processes, population size, species’ genetic and demographic</p>

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		<p>The biological goals must be measurable and verifiable, and relate to the HCP’s monitoring indicators. <sup>xxx</sup> The pre-eminent scientific review of HCPs also found that HCPs need to quantify the plans’ biological goals. <sup>xxxi</sup> Other prominent authors have called for HCPs “to include specifically stated and measurable indicators of the success or failure of the plan,” including, in the case of long-term permits, “interim milestones.” This HCP does not include such biological goals.</p> <p>“Biological objectives should include the following: species or habitat indicator, location, action, quantity/state, and timeframe needed to meet the objective. They can be described as a condition to be met or as a change to be achieved relative to the existing condition.”</p> <p>“Although the goals and objectives may be stated in habitat terms, each covered species that falls under that goal or objective must be accounted for individually as it relates to that habitat.” The Service’s HCP Handbook also states that: i) “habitat based” HCPs should use indicator species to establish forest management parameters, and ii) all endemic, sensitive, listed, proposed listed, candidate, and species of special concern should be addressed “adequately.”</p> <p>Other factors which must be accounted for include: habitat quantity, habitat quality, ecological processes, population size, species’ genetic and demographic status, and the range of threats affecting the species. This HCP does not discuss these issues.</p> <p>“Both [the Service and the applicants] can use the available literature, State conservation strategies, candidate conservation plans, draft or final recovery plans or outlines, and other sources of relevant scientific and commercial information as guides in setting biological goals and objectives. Both can consult with species experts, State wildlife agencies, recovery teams, and/or scientific advisory committees.”</p> <p><i>Sierra Club et al v. Bruce Babbitt et al</i> found that current data on species’ conditions and recovery needs must be used. Yet the HCP has scant reference to the species’ recovery plans, critical habitat designation for the karst invertebrates, nor to new information in reviews and current research that is expected to inform revisions of the two birds’ recovery plans.</p> <p>According to the Service’s HCP Handbook, “the operating conservation program will include those measurable actions that, when implemented, are anticipated to meet the biological objectives.”</p>	status, and the range of threats affecting each of the Covered Species.
Center for Biological Diversity		<p>The HCP’s mitigation measures must provide each of the covered species with a high probability of recovery of resilient and abundant populations, and with fully functioning habitat conditions needed to support their recovery. ESA section 10 and the Congressional intent for section 10 clearly require that HCPs and Take Permits avoid harming species’ chances of recovery, in addition to their chances of survival; this objective is also supported by language in the Services’ HCP Handbook, as well as various court decisions. As indicated in ESA sections 2(b), 2(c), and 3(3), the ESA’s ultimate goal is, in effect, to recover threatened and endangered species, including to the point where they can be removed from the endangered species list. “By definition, listed species already face serious threats to their continued existence....[thus] one could reasonably interpret an action to jeopardize the continued existence of a listed species if the action precluded or even impaired the species’ chances for eventual recovery.” Furthermore, the Services are obligated under the ESA to not only avoid authorizing, funding, or undertaking any activity likely to jeopardize continued existence of endangered species, but also to take affirmative steps to protect, conserve, and restore endangered species to level that would permit removal from Endangered Species list.</p> <p>The Service’s analyses must consider individual populations of the covered species. The NMFS regulations, for example, state that permits will not be issued if “the authorization requested potentially threatens a fish or wildlife population.”</p>	Please see our Biological Opinion.
Center for Biological Diversity		<p>ESA section 7(a)(2) not only contains “jeopardy” language paralleling that of section 10, but also explicitly prohibits federal agencies from approving actions which would destroy or “adversely modify” species’ critical habitat areas. It is unclear whether this HCP would provide authorization for destruction or adverse modification of critical habitat for the karst invertebrates. This prohibition must be interpreted as precluding “direct or indirect alteration of critical habitat which appreciably diminishes the value of that habitat for either the survival <i>or</i> the recovery of a listed species,” including currently unoccupied habitat areas and other habitats needed for the species’ recovery (emphasis added). “Primary constituent elements” of species’ critical habitats, that must be protected, include “physical or biological features” that are “essential to the conservation of the species” and include space for individual and population growth, nutritional requirements, cover or shelter, sites for breeding and rearing, and habitats protected from disturbance. This HCP fails to ensure that critical habitat will not be harmed.</p>	Please see Section 3.2.3.2 of the SEP-HCP where it discusses avoidance of designated critical habitat unless an individual formal consultation (either ESA section 7 or 10) has been completed.
Center for Biological Diversity		<p>When determining whether the Take Permit and HCP will harm species’ chances of recovery under both sections 10 and 7, the Service should consider species that do not currently exist in the plan area, but that would need to utilize the area at some level to achieve recovery. The Service has not made such an evaluation in this instance.</p>	If the species does not currently exist in the Plan Area, we cannot identify the species or their required habitat, thus we cannot be confident that the impacts are likely to occur. Additionally, to attempt to describe those impacts sufficiently for meaningful analysis would be purely speculative.
Center for Biological Diversity		<p>The legislative record for ESA section 10(a) also indicates that Congress intended for HCPs to <i>enhance</i> species’ chances of survival, which given the net loss of habitat that would result from this HCP, is not accomplished in this instance The HCP Handbook also cites this legislative intent and states that the Services should “encourage” landowners to provide a net benefit to species. The Department of Interior’s testimony in response to the lawsuit against the “No Surprises” rule also recognizes that “[U]nder some circumstances, such as for ‘severely depleted species and species for which the HCP covers all or a significant portion of the range’ of a species,... measures to improve the species habitat may be required by the legislative history of [ESA] section 10.”</p>	Comment acknowledged.
Center for Biological Diversity		<p>ESA section 10(a)(2)(B)(ii) also requires impacts be minimized and mitigated to the “maximum extent practicable.” The Services must analyze and document whether the HCP has indeed minimized and mitigated “take” to the maximum extent practicable. The Services must consider HCP alternatives that would provide higher levels of mitigation than the proposed HCP (“...the most reasonable reading of the statutory</p>	Please see Table 21 in the SEP-HCP for a comparison of different alternatives, our Record of Decision (ROD), and responses 2, 6, and 10.

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		phrase “maximum extent practicable” nonetheless requires the Service to consider an alternative involving greater mitigation.”). In this instance, one alternative does analyze such higher (though still insufficient) mitigation. Moreover, the Services must have some basis for finding that higher levels of mitigation aren’t practicable (“...the record must contain some basis to conclude that the proposed program is the maximum that can be reasonably required....” and “...should provide some basis for concluding, not just that the chosen mitigation fee and land preservation ratio are practicable, but that a higher fee and ratio would be impracticable.”). The Service has not done so in this instance. Relevant data may include economic analyses, mitigation levels used in other HCPs, or evidence from the landowners. The Services’ HCP Handbook also requires the Services to consider the cost of additional mitigation, the benefits of additional mitigation, the amount of mitigation provided by other landowners, and the landowner’s own abilities. This has been addressed in a cursory manner in this instance.	
Center for Biological Diversity		The Service’s HCP Handbook states that if the landowner cites economic considerations as the reason for failing to utilize an alternate land management approach, then the landowner must provide supporting economic information, unless it is proprietary. No such supporting information has been provided in this HCP. The Services should account for the totality of relevant economic factors, including the probability that land owners can deduct the cost of land management restrictions from their federal, state, and/or local taxes.	Section 14 of the SEP-HCP describes in detail why the alternatives that were dismissed were not chosen. Additionally, for the SEP-HCP it is likely that neither the City nor the County will be the actual landowner, since conservation easements are much more practicable.
Center for Biological Diversity		<p>ESA sections 10(a)(2)(A)(iv) and 10(a)(2)(B)(v) also authorize the Services to require mitigation measures <i>beyond</i> those “practicable” mitigation measures required by ESA section 10(a)(2)(B)(ii). The Services’ HCP Handbook also states that all HCPs should address other measures required by the Services.</p> <p>All impacts of all permitted “take” must be mitigated. Notably, in this instance, however, fragmentation of habitat is not directly mitigated even though the karst invertebrates critical habitat rule describes habitat fragmentation as a threat to the species.</p>	<p>Comment acknowledged.</p> <p>The SEP-HCP assumes that all potential habitats on a Participants property are occupied by the respective species and that development activities will result in the complete loss of that habitat. In reality, not all areas of potential habitat will be occupied by the Covered Species and not all projects will result in the complete loss of habitat. Therefore, the actual habitat loss from development activities over 30 years likely represents an overestimate of direct and indirect habitat impacts. This plus the mitigation ratios and minimum preserve standards are expected to offset impacts from habitat fragmentation.</p>
Center for Biological Diversity		<p>The Services’ HCP Handbook states that mitigation should not only be based on sound biological rationale, but also be “commensurate with the impacts.” Such is not the case in this instance.</p> <p><i>Sierra Club et al v. Bruce Babbitt et al</i> held that replacement habitat must be provided for habitat destroyed pursuant to ITPs. In this case, however, replacement habitat added to the system of preserves may consist of habitats already protected for other purposes or under other authorities. Even when unprotected habitat would be protected under this HCP, there would be a net loss of thousands of acres of habitats now available to the various species that would be subject to development.</p>	Please see response 15.
		Listed plants must also be addressed and protected by Take Permits and HCPs under ESA section 7(a)(2). The Services may not approve an action which jeopardizes the survival or recovery of listed plants.	Two plants of concern to the Service are within the Plan Area. One is listed as endangered (tobusch fishhook cactus) and one is a candidate (bracted twistflower). It is expected that the tobusch fishhook cactus will benefit from the SEP-HCP, since it occurs only in areas that will have preserves. While the Service must consider impacts from the SEP-HCP on the listed and proposed species in accordance with section 7(a)(2), there is no requirement to consider the candidate species. Regardless, the Permittees chose to consider both plants as Voluntarily Conserved Species.
Center for Biological Diversity		The HCP’s conservation strategy should use the precautionary approach. “Often, a direct relationship exists between the level of biological uncertainty for a covered species and the degree of risk that an incidental take permit could pose for that species. Therefore, the operating conservation program may need to be relatively cautious initially and adjusted later based on new information, even though a cautious approach may limit the number of alternative strategies that may be tested.” The pre-eminent national scientific review of HCPs found also that: when basic data on species, their conservation needs, resulting levels and impacts of “take,” and other considerations are unavailable, data gaps should be filled <i>prior</i> to developing HCPs; fewer data gaps should be allowed with plans covering larger areas, longer time frames, irreversible impacts, or multiple species; if HCPs proceed in the absence of needed data, then approaches which provide greater levels of certainty for the species should be used; and that managers should adopt risk-averse strategies in the face of uncertainty. In this case, with little known about the distribution, taxonomy and much else about the karst invertebrates, the HCP should await more information.	While the Covered Karst Invertebrates are cryptic in nature, permanent preservation of medium and high quality karst preserves, such as those proposed by the SEP-HCP, for these species is a high priority for the Service.
Center for Biological Diversity		Any unlisted species “covered” by the conservation plans and any regulatory assurances must be addressed and conserved as thoroughly and specifically as if they were listed, as was expected by Congress when ESA section 10 was drafted, and as is required by the “No Surprises” rule. Among other things, this should require that the HCP specifically and individually address each covered species and their unique conservation needs.	Please see Appendix B of the SEP-HCP for a complete discussion of the Covered Species.
Center for Biological Diversity		Take Permits and HCPs may not rely upon speculative sources of mitigation, such as promises of additional funds for habitat acquisition from unnamed sources. Providing funds for research is not sufficient as mitigation. In this instance, the HCP relies on future appropriations which cannot be guaranteed, a fantastical average 7% growth rate of invested funds, and even sale of land donations – which would spur further land	The Permittees will not be able to extend incidental take coverage to Participants if they have not established mitigation for the respective species (i.e., no take will occur unless and until



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		<p>development – to guarantee management and mitigation funds into the future. The mitigation measures (i.e. land sales) should not themselves cause unmitigated “take” of listed species or their habitats. These various artifices and assumptions, for example about future appropriations, are the essence of speculative funds. Independent (and presumably, academic) scientific peer review panels should be consulted during HCP development, particularly for more significant plans. There is no evidence that such consultation occurred in this instance.</p>	<p>mitigation, including an endowment for long-term management and monitoring, is perpetually established). Additionally, the funding plan detailed in Appendix F to the SEP-HCP describes several non-speculative sources, including property tax diversions and participation fees, which would only be forthcoming after preserves are perpetually established.</p> <p>Research is not considered as mitigation, but is an extra benefit the Permittees wish to provide. Please see Appendix A for the participants involved in plan development.</p>
Center for Biological Diversity		<p>According to the Services’ HCP Handbook, “monitoring is a mandatory element of all HCPs.” Monitoring is also required implicitly and explicitly under the ESA and its regulations. The Services’ HCP Handbook states that an HCP’s monitoring provisions should be as specific as possible and be commensurate with the project’s scope and the severity of its effects. The Handbook also states that “the scope of the monitoring program should be commensurate with the scope and duration of the operating conservation program and the project impacts.”</p> <p>According to the Services’ HCP Handbook, “the Services and the applicant must ensure that the monitoring program provides information to: (1) evaluate compliance; (2) determine if biological goals and objectives are being met; and (3) provide feedback information for an adaptive management strategy, if one is used.” Monitoring must also address HCPs’ impacts over time. The Handbook further states that “the monitoring program should reflect the measurable biological goals and objectives. The following components are essential.... (1) Assess the implementation and effectiveness of the HCP terms and conditions....; (2) determine the level of incidental take of the covered species; (3) determine the biological conditions resulting from the operating conservation program....; and (4) provide any information needed to implement an adaptive management strategy, if utilized.”</p> <p>The pre-eminent scientific review of HCPs also found that monitoring provisions should be used to evaluate mitigation measures’ performance over time, and to assess impacts to species, and that monitoring must be designed to facilitate timely improvements to mitigation measures. In addition to implementation and effectiveness monitoring, validation monitoring is also needed to determine if the assumptions and models used in developing the conservation plan are correct.</p> <p>Population levels and specific habitat components for each of the covered species must be monitored on a regular basis. According to the Services’ HCP Handbook, “effects and effectiveness monitoring includes, but is not limited to, the following: 1. Periodic accounting of incidental take that occurred in conjunction with the permitted activity; 2. Surveys to determine species status, appropriately measured for the particular operating conservation program (e.g., presence, density, or reproductive rates); 3. Assessments of habitat condition; 4. Progress reports on fulfillment of the operating conservation program (e.g., habitat acres acquired and/or restored); and 5. Evaluations of the operating conservation program and its progress toward its intended biological goals.” The HCP Handbook also states elsewhere that monitoring must be sufficient to detect trends in species’ populations. Monitoring indicators should be chosen to detect problems before it is too late to solve them.</p> <p>The Services’ HCP Handbook states that monitoring protocol must specify the frequency, timing, and duration of data collection; must specify how the data will be analyzed; and must specify who will do the analysis. The Handbook also states that “the monitoring program will be based on sound science. Standard survey or other previously established monitoring protocols should be used [and] .... [m]onitoring programs should use a multi-species approach when appropriate.”</p> <p>According to the Service’s HCP Handbook, “...the monitoring program should also clearly designate who is responsible for the various aspects of monitoring.” More specifically, “both the Services and the permittee are responsible for monitoring the implementation of the HCP...” and “the Services should verify adherence to the terms and conditions of the incidental take permit, HCP, IA, and any other related agreements....” The Handbook also states that “...it is important for the Services to make field visits to verify the accuracy of monitoring submitted by the permittees .” The USFWS regulations also state that by being granted a Take Permit, the landowner has agreed to grant access to Service staff to property, records, and other areas. Similarly, the NMFS regulations state that permittees shall allow the agency access to their premises at any reasonable hour to conduct inspections. However, this is not reflected in the instant HCP.</p>	<p>Monitoring is an integral part of the management plans that will exist for each preserve. Each of these plans must be approved by the Service and follow preserve design, management, and monitoring recommendations for the specific species (SEP-HCP Section 9).</p> <p>Additionally, a robust annual report must be submitted to the Service to ensure compliance with all permit terms and conditions and the associated HCP (SEP-HCP Section 12).</p> <p>Because the Permittees are extending their incidental take authorization to Participants, it is the Permittees responsibility to ensure Participant compliance, which is specifically described in Sections 3.2.4.3 and 3.2.4.4 of the SEP-HCP. While not explicitly stated in the SEP-HCP, the Service’s compliance authority is a condition of acceptance of a 10(a)(1)(B) incidental take permit.</p>
Center for Biological Diversity		<p>Mechanisms must also be established more generally to ensure the scientific integrity of monitoring results. Monitoring should be conducted by independent persons and institutions that do not have a stake in the results. According to the Services’ HCP Handbook, “for large-scale or regional HCPs, oversight committees, made up of representatives from significantly affected entities (e.g., State Fish and Wildlife agencies), are often used to ensure proper and periodic review of the monitoring program....” According to the Handbook, “...oversight committees should periodically evaluate the permittee's implementation of the HCP, its incidental take permit, and IA and the success of the operating conservation program in reaching its identified biological goals and objectives. Such committees usually include species experts and representatives of the permittee, the Services, and other affected agencies and entities.” Further, “oversight committees should meet at least annually and review implementation of the monitoring program and filing of reports as defined in the HCP, permit, and/or IA, if one is used.”</p> <p>The Services’ Consultation Handbook also calls for monitoring to: “detect adverse effects resulting from a proposed action,” “assess the actual level of incidental take in comparison with the anticipated... level,” “detect when the anticipated level of incidental take is exceeded,” and detect effects “on populations of a listed species, effects on the habitat...of a listed species, or effects on both.” Monitoring results should also be collected and coordinated with monitoring from other permitted</p>	<p>Please see Section 9 of the SEP-HCP for a discussion on monitoring and advisory committees.</p>

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		activities, to track their “collective effects.”	
Center for Biological Diversity		<p>Comprehensive and rigorous adaptive management will be crucial to the success of most HCPs. The pre-eminent national scientific review of HCPs found that: HCPs must be flexible, to allow for timely improvements based on monitoring results; if monitoring is used to help correct for data gaps, then mitigation measures must be adjusted as needed over time; and HCPs should include contingency measures (i.e., adaptive management supported by monitoring) to address potential failures with mitigation measures.</p> <p>HCPs need to include adaptive management programs whose goal is to identify concrete improvements to the HCP’s conservation measures that may be needed to address, among other things, the plan’s potential failure to meet its biological goals, unpredicted impacts on the species resulting from the covered activities, stochastic environmental fluctuations, changes in the permittee’s land management practices and their impacts, and other new information and changing circumstances. The ultimate goal of adaptive management must be to ensure that the plan and covered activities will continue to be consistent with the covered species’ recovery.</p> <p>Adaptive management must necessarily be closely tied to monitoring, especially effectiveness and validation monitoring.</p>	Please see Section 9 of the SEP-HCP for a discussion on adaptive management.
Center for Biological Diversity		In drafting ESA section 10, Congress explicitly recognized that “...circumstances and information may change over time, and that the original plan might need to be revised. To address this situation, the Committee expects that any plan approved for a long-term permit will contain a procedure by which the parties will deal with unforeseen circumstances....” ESA section 10(a)(2)(B) requires HCPs to include assurances the plans will be implemented, continue to minimize and mitigate the impacts of take, and continue to avoid jeopardizing the species’ chances of survival and recovery. ESA section 10(a)(2)(A)(iv) also requires the Services to require other measures as necessary to ensure the plan’s success.	Please see Section 13 of the SEP-HCP for unforeseen circumstances.
Center for Biological Diversity		<p>The Department of Interior has stated, in effect, that large scale HCPs must have extensive, meaningful adaptive management provisions to be lawful. “The Services recognize that HCP permits often must be structured in such a way as to allow for the adaptation and refinement of mitigation measures over time as new scientific information becomes available....” “...the purpose of the No Surprises rule is to force the negotiating parties to clearly define up front a mutually-agreed upon framework for such adaptive management, if necessary due to scientific uncertainty and to establish a division of later responsibilities in the event of highly unlikely unforeseen events.... In the event there are significant gaps in the biological data underlying a particular HCP, those gaps should be addressed through the inclusion of adaptive management provisions.” The HCP Handbook also states that if information on unlisted species’ conservation needs is lacking, then the landowner should either: i) use adaptive management to incorporate new information as it becomes available, ii) conduct additional research on the species’ needs, or iii) agree to reduced “No Surprises” guarantees for those species.</p> <p>According to the Services’ HCP Handbook, adaptive management programs should be established within HCPs to address the following situations, among others. “...an adaptive management strategy is essential for HCP’s that would otherwise pose a significant risk to the species at the time the permit is issued due to significant data or information gaps.” “Possible significant data gaps that could lead to the development of an adaptive management strategy include, but are not limited to, a significant lack of specific information about the ecology of the species or its habitat (e.g., food preferences, relative importance of predators, territory size), uncertainty in the effectiveness of habitat or species management techniques, or lack of knowledge on the degree of potential effects of the activity on the species covered in the incidental take permit.” Adaptive management is also especially important for species whose conservation needs are not yet well known, as is usually the case with unlisted species. Similarly, contingency measures should exist when landowners create/restore habitat as mitigation, in case the new habitat isn’t viable.</p> <p>Scientists indicate that “the success of any adaptive management study depends upon two important contingencies: 1) management actions implemented now must maintain as many future options as possible, and 2) tight linkages and feedbacks must be maintained between scientists and managers....” “Adaptive management requires a more (rather than less) cautious approach to the use of forest resources. <sup>cii</sup> The HCP Handbook also states that “often, a direct relationship exists between the level of biological uncertainty for a covered species and the degree of risk that an incidental take permit could pose for that species. Therefore, the operating conservation program may need to be relatively cautious initially and adjusted later based on new information, even though a cautious approach may limit the number of alternative strategies that may be tested.” Other literature suggests that management policies should accordingly be chosen in light of the assumptions they test, so that the most important uncertainties are tested rigorously and early.”</p> <p>The literature on adaptive management also clearly indicates that few, if any, management policies are without significant uncertainty. “Prediction is never perfect” and “uncertainty is a fundamental fact of environmental life.” Likewise, “complex systems are unpredictable,” sometimes “the magnitude of responses is not in linear proportion to the magnitude of causes,” and an “iterative approach appears to be important to maintaining the productivity of resources.” The literature also describes adaptive management as “a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.” However, adaptive management is not a “trial-and-error approach.” Essential steps in any project developed around adaptive management include: a) compiling all existing data, b) developing project goals, c) developing working hypotheses, d) implementing the prescriptions, e) monitoring results, f) evaluating and testing monitoring data, and g) returning to step (c).</p> <p>The HCP Handbook also states that “an adaptive management strategy should (1) identify the uncertainty and the questions that need to be addressed to resolve the uncertainty; (2) develop alternative strategies and determine which experimental strategies to implement; (3) integrate a monitoring program that is able to detect the necessary information for strategy evaluation; and (4) incorporate feedback loops that</p>	The Service believes the SEP-HCP adequately addresses adaptive management and changed and unforeseen circumstances (Sections 9 and 13).

		<p>link implementation and monitoring to a decision-making process (which may be similar to a dispute-resolution process) that result in appropriate changes in management.”</p> <p>Adaptive management is also “the acquisition of additional knowledge and the utilization of that information in modifying programs and practices so as to better achieve management goals” more generally. In other words, the adaptive management program should also have a process for identifying and utilizing new information from outside sources, in addition to the results of the HCP’s own monitoring program.</p> <p>Adaptive management “triggers” must be identified for each of the covered species. These should correspond to the biological goals for each of the covered species, which, in turn, should include measurable and verifiable objectives for the covered species’ populations and distributions, habitat quantity and quality, and other variables associated with the species’ recovery. In other words, the adaptive management program must key into the plan’s benchmarks for success. The HCP Handbook states that “thresholds” (i.e., triggers) for adaptive management review should be linked to key elements of the HCP and its monitoring protocol. Further, the thresholds must be based on measurable criteria. The triggers should include species’ population levels, specific habitat components, water quality standards, etc., associated with each of the covered species’ survival and recovery. According to the Services’ HCP Handbook, “a practical adaptive management strategy within the operating conservation program of a long-term incidental take permit will [also] include milestones that are reviewed at scheduled intervals during the lifetime of the incidental take permit and permitted action.” However, as noted by the literature on adaptive management, management thresholds and adaptive management triggers should not be defined as biological thresholds that represent risky or irreversible changes in species or ecosystems. Rather, management thresholds and triggers should include a comfortable margin-of-error and “kick in” before unacceptable damage to species’ chances of recovery have occurred.</p> <p>In keeping with these requirements, the HCP and its Implementation Agreement must require that the HCP’s mitigation measures will be corrected, improved, and/or supplemented whenever monitoring or other information indicates that the HCP’s biological goals and objectives are not being achieved (i.e., the adaptive management triggers are “tripped”). In other words, adaptive management programs must specify at the outset how adaptive management results will be used to modify conservation plans. The overriding objective of the HCP’s adaptive management program and its Implementation Agreement must be to ensure that the HCP will continue to protect the covered species and their chances of recovery. There must be clear timelines for adaptive management reviews and decisions. “Adaptive management does not postpone action until "enough" is known but acknowledges that time and resources are too short to defer some action, particularly actions to address urgent problems such as... declines in the abundance of valued biota.</p> <p>The HCP should identify specific additional mitigation measures, or a range of measures, that can be adopted in response to monitoring and adaptive management analyses, and that will not be precluded by “No Surprises” language. If “No Surprises” language is used in the HCP, Take Permit, or Implementation Agreement, all potentially necessary adaptive management changes to the HCP should be identified as “Changing Circumstances.” According to the HCP Handbook, “whenever an adaptive management strategy is used, the approved HCP must outline the agreed upon future changes to the operating conservation program.” “When an HCP, permit, and [implementation agreement] incorporate an adaptive management strategy, it should clearly state the range of possible operating conservation program adjustments due to significant new information, risk, or uncertainty.” However, this HCP’s description of changed circumstances provides no latitude to protecting the species from a wide variety of changes through increasing the size of preserved lands.</p> <p>Adaptive management reviews should be conducted by objective, scientifically-qualified parties that are independent of the permittees. “To be informative and efficient, adaptive management projects must be led by people who know what options for study designs and analyses are available, and the relative strengths and weaknesses of each.” Adaptive management reviews and decisions should be transparent, and provide meaningful opportunities for public input. Adaptive management decisions should be conducted pursuant to explicit and transparent decision-criteria, and not be subject to “veto” by the permittees. In short, adaptive management must be a scientific process, rather than a political free-for-all</p>	
Center for Biological Diversity		<p>The HCP and its Implementation Agreement must be consistent with, and include language maintaining, the provisions of 50 CFR 402.16, which requires the USFWS and NMFS to reinstate formal consultation under ESA section 7 if: the amount or extent of “taking” exceeds that allowed for by the Take Permit, new information shows that listed species or critical habitat will be affected in a manner not previously considered, changes in the permitted activities cause effects not previously considered, or the permitted activity will affect newly listed species or critical habitat. The HCP and its Implementation Agreement must include procedures for the Services to look for, and respond to, such new information. The Biological Opinion should also identify situations that would warrant reinstitution, including studies in progress whose results may warrant reassessment of the Opinion.</p>	<p>Please see the Biological Opinion and Record of Decision regarding reinstitution.</p>
Center for Biological Diversity		<p>Various scientific assessments of HCPs have come to similar conclusions; for example, “if opportunities for modifying and improving plans on the basis of new information are precluded, failures in attaining biological goals are likely.” “Plans must be dynamic and explicitly built on a foundation of adaptability and revision.” Thus landowner assurances should take the form of explicit, up-front agreements about the plan’s biological goals, monitoring, adaptive management, and enforcement, and fair allocation of responsibility between the landowner and public for funding future plan changes.</p> <p>In other words, the plan should provide up-front clarity and assurances about the process that will be used to identify and make improvements to the plan—instead of simply precluding meaningful plan improvements through “No Surprises” assurances, as this HCP does. In drafting ESA section 10, Congress explicitly recognized that “...circumstances and information may change over time, and that the original plan might need to be revised. To address this situation, the Committee expects that any</p>	<p>The Service believes the SEP-HCP adequately addresses adaptive management and changed and unforeseen circumstances (Sections 9 and 13).</p>



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		<p>plan approved for a long-term permit will contain a procedure by which the parties will deal with unforeseen circumstances....” The Department of Interior has also stated that “...the purpose of the No Surprises rule is to force the negotiating parties to clearly define up front a mutually-agreed upon framework for such adaptive management...and to establish a division of later responsibilities in the event of highly unlikely unforeseen events....”</p> <p>Any landowner or regulatory assurances should be proportionate (in terms of breadth, duration, etc.) to the probability that the HCP’s conservation measures will succeed in recovering abundant, resilient, and well-distributed populations and fully functioning habitats of the covered species, including as noted by the Services’ HCP Handbook. A different level or extent of assurances may be suitable for different species, different HCP elements, different locations, etc., given any differences in the quality of the HCP’s conservation measures in relation to different species, different conservation needs, different site conditions, etc.</p> <p>Beyond a short initial “time-out” period, assurances provisions must not preclude the permittees’ responsibility for adopting modified or additional mitigation measures, as may be identified through monitoring, adaptive management, or other processes which are integral to the HCP’s long-term effectiveness and/or ensuring that the Incidental Take Permit and plan will not impact the covered species’ chances of recovery over time. In this instance, however, the No Surprises limitations on addition land to add preserves would render the species unable to adapt to a variety of changed conditions.</p> <p>The duration of assurances should also be limited to time periods during which implementation of the HCP’s conservation measures, monitoring, and adaptive management provisions can be guaranteed. The Services’ HCP Handbook states that “the Services will also consider the extent of information underlying the HCP, the length of time necessary to implement and achieve the benefits of the operating conservation program, and the extent to which the program incorporates adaptive management strategies.” On the latter basis alone, the Service should reject this HCP.</p> <p>The Federal Register notice for the final “No Surprises” Rule states that “...many changes in circumstances during the course of an HCP can reasonably be anticipated and planned for in the conservation plan (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events), and the plans should describe the modifications in the project or activity that will be implemented if these circumstances arise....” The final rule itself then states that “changed circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that can reasonably be anticipated by plan developers and the Service and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events).” Likewise, the HCP Handbook states that “unforeseen circumstances” don’t include changed conditions that could reasonably be anticipated by the landowner or the Services, including the listing of new species or modifications in the landowner’s activities. Under the final “No Surprises” rule, landowners are responsible for providing improved and/or additional mitigation measures needed in response to “changed circumstances,” if the mitigation measures “were provided for” in the HCP.</p>	
Center for Biological Diversity		<p>The pre-eminent national scientific review of HCPs found that “take” permits should not be given to landowners when significant information needed to develop scientifically credible HCPs is lacking. That is certainly the case in this instance regarding the karst invertebrates. The Services’ HCP Handbook also states that “there may be some circumstances with such a high degree of uncertainty and potential significant effects that a species should not receive coverage in an incidental take permit at all until additional research is conducted.” Again, the lack of information on these invertebrates fits that circumstance.</p>	While the Covered Karst Invertebrates are cryptic in nature, permanent preservation of medium and high quality karst preserves, such as those proposed by the SEP-HCP, for these species is a high priority for the Service.
Center for Biological Diversity		<p>The final “No Surprises” rule, the legislative history for ESA section 10(a), and the Services’ HCP Handbook all state that any unlisted species covered in an HCP must be addressed as if it were listed. The “No Surprises” rule states that “<i>adequately covered means... with respect to unlisted species, that a proposed conservation plan has satisfied the permit issuance criteria under section 10(a)(2)(B) of the ESA that would otherwise apply if the unlisted species covered by the plan were actually listed.</i>” Among other things, this should require that the HCP specifically and individually address each covered species and their unique conservation needs (the NMFS regulations state, for example, that for species to be covered, they must be specifically listed on the Take Permit). The draft “No Surprises” rule also stated that unlisted species need to be addressed by removing threats to their survival and recovery, such that the species would not need to be listed if the measures were undertaken across their range.</p> <p>The Services’ HCP Handbook also states that if information on unlisted species’ conservation needs is lacking, then the landowner should either: i) use adaptive management to incorporate new information as it becomes available, ii) conduct additional research on the species’ needs, or iii) agree to reduced “No Surprises” guarantees for those species.</p>	Comment acknowledged. There are no unlisted species receiving “No Surprises” coverage as part of the SEP-HCP.
Center for Biological Diversity		<p>ESA sections 10(a)(2)(A)(ii) and 10(a)(2)(B)(iii) state that the HCPs must specify the funding that will be available to implement the plans’ impact minimization and mitigation measures, and that the Services must find that the applicants will “ensure that adequate funding for the plan will be provided.” In this case, as noted, funding is in part dependent on a speculative 7% annual investment income, sale of lands that themselves might be needed for conservation, and appropriations. None of this is certain income, and much of it is doubtful.</p> <p>ESA sections 10(a)(2)(A)(iv) and 10(a)(2)(B) state that the Services shall require “...other measures... necessary or appropriate for purposes of the plan” and “...other assurances...that the plan will be implemented.” As recognized by the courts, the mere promise of future actions is not sufficient to meet the ESA’s protection standards.</p>	Both Permittees must get approval from their respective governing bodies (City Council and Commissioner’s Court) to accept the permit and commit funding to implement the SEP-HCP. Initial funding to set up the administrative body and purchase preserves must occur prior to any incidental take authorization. These required steps will ensure that the Permittees are committed to implementing the SEP-HCP. Additionally, many of the revenue sources described in Appendix F are dependent on implementation of the SEP-HCP (tax increment financing and participation fees). Therefore, the Service believes the funding commitment, expected revenue sources, and proposed

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			funding plan are adequate (Section 11 and Appendix F of the SEP-HCP).
Center for Biological Diversity		<p>The HCP and Take Permit must be accompanied by a legally sufficient Implementation Agreement, as recognized by the Services’ HCP Handbook. The HCP’s mitigation measures must be enforceable. The Implementation Agreement must also include enforceable remedies and relief provisions, in the event that the HCP’s conservation measures are not implemented, and “take” is thus not properly mitigated, as noted by the Services’ HCP Handbook and its template Agreement. In this instance, if funding falls short for management and monitoring, no such remedies can be counted on. Furthermore, the mechanisms for describing the assumptions on funding, repeatedly referenced as “Appendix F” in the HCP, are not available on the Service’s website, nor did the Service’s Austin, Texas office answer the phone in the days leading up to the March 19, 2015 deadline on comments on the HCP and DEIS; consequently, Appendix F with its critical analysis, is not available and cannot be counted on for assurances in the HCP nor DEIS.</p>	<p>Implementing agreements are not required to accompany a HCP.</p> <p>Mitigation must occur before the take, thus ensuring no unauthorized take will occur.</p> <p>Appendix F was available on the Permittees website and upon request from both the Service and the Permittees.</p>
Center for Biological Diversity		There must be assurances of adequate funding to implement the HCP’s conservation measures, monitoring, and adaptive management provisions over time. That doesn’t exist in this instance. The HCP Handbook states that large scale HCPs may need perpetual funding to cover long term monitoring and mitigation. The Service’s Handbook also states that the landowner should provide up-front legal or financial assurances, such as a letter of credit, if mitigation measures will be implemented after “take” occurs. The courts have also recognized the need to provide assurances of adequate funding.	Because mitigation must occur prior to any incidental take authorization, the Permittees must establish (i.e. fund) the Service approved preserves, which includes a perpetual endowment for management and monitoring. Therefore, this assurance is inherent in the preserve establishment. Please see Appendix F for a description of the endowment funding that will be provided.
Center for Biological Diversity		<p>According to the Services’ HCP Handbook, when determining incidental take permit duration, factors to consider include “duration of the applicant's proposed activities and the expected positive and negative effects on covered species... including the extent to which the operating conservation program will increase the long-term survivability of the listed species and/or enhance its habitat.”</p> <p>The Handbook also states that “the Services will also consider the extent of information underlying the HCP, the length of time necessary to implement and achieve the benefits of the operating conservation program, and the extent to which the program incorporates adaptive management strategies. Significant biological uncertainty may necessitate an adaptive management strategy.” Under these criteria, this HCP should be rejected.</p>	<p>As stated in Chapter 5 of the SEP-HCP, the Permittees have committed to contributing to recovery for the Covered Species.</p> <p>The lack of a specified project, the scale of the mitigation, and the complexity of implementation influenced the permit duration.</p> <p>Adaptive Management is described in detail in Chapter 9 of the SEP-HCP.</p>
Center for Biological Diversity		<p>The DEIS does not meet the standards of NEPA as described below.</p> <p>Consideration of alternatives is the "heart" of an EIS. Under NEPA, an EIS must “rigorously explore and objectively examine all reasonable alternatives.” Likewise, an agency may not “consider only those alternatives with [the same] end result.”</p> <p>An EIS must evaluate a "reasonable range" of alternatives. The range is dictated by "nature and scope of the proposed action," and must be sufficient to permit the agency to make a "reasoned choice." The analysis must include the alternative of no action, as well as alternatives not within the federal lead agency's jurisdiction.</p> <p>The existence of a “viable but unexamined alternative renders an environmental impact statement inadequate.” Likewise, an agency may not “consider only those alternatives with [the same] end result.”</p> <p>All alternatives selected for detailed analysis must avoid or substantially reduce the significant environmental impacts of the proposed project.</p> <p>The EIS must include "reasonable options" for avoiding or mitigating to insignificance any significant cumulative effects identified.</p> <p>The EIS must "devote substantial treatment to each alternative considered in detail so that reviewers may evaluate their comparative merits." It also must explain how each alternative will or will not achieve the policies of NEPA and other relevant environmental laws and policies.</p> <p>The alternatives analysis should not be constrained by what the applicant deems economically "practicable" or "feasible."</p> <p>Under NEPA, where economic preferences are used to select the preferred alternative, the decision must not be based on misleading, biased, or incomplete economic information.</p>	<p>Please see Chapter 3 and 4 of the EIS for a detailed description of each alternative and an analysis of the impacts of each alternative.</p> <p>Please also see response 3.</p>
Center for Biological Diversity		To be credible and accurate, the "no action" alternative must accurately describe baseline conditions and assume full compliance with, and enforcement of, existing federal and state laws. Specifically, the “no action” alternative must assume the State and landowners’ full avoidance of “take” of all covered listed species. A “no action” alternative that assumes minimal or compliance with or enforcement of the ESA, and therefore seriously overestimates the purported benefits of the HCP's mitigation program, is not acceptable.	No action, in this instance, is not no take. The No Action Alternative assumes the Permittees will not receive an ITP and will not implement the SEP-HCP. Therefore, individuals would apply on a case-by-case basis for their own ITP.
Center for Biological Diversity		The no action alternative must also account for the likelihood that unlisted sensitive and imperiled species will be listed in the future and subject to ESA restrictions.	To assume unlisted species will be become listed is predecisional.
Center for Biological Diversity		Environmental Protection Agency (EPA) regulations require an EIS to "provide a full and fair discussion of significant environmental impacts” of the proposed action, as well as each alternative. Environmental impacts, or effects, include ecological, aesthetic, historic, cultural, economic, social, and health effects, whether direct, indirect, or cumulative in nature. Under NEPA, sufficient, accurate, current and up to date data must be used. Accurate projections of affected species’ populations under the Take Permit and HCP must be compared with accurate historical baseline populations, as well as populations that would occur in lieu of the Take Permit and HCP. Population trends should be compared with minimum viable population data to help assess impacts. This level of analysis was not conducted in this DEIS.	SEP-HCP Appendix C includes information on habitat quantity, habitat quality, ecological processes, population size, species’ genetic and demographic status, and the range of threats affecting each of the Covered Species. This information was used in analyzing impacts (Chapter 4 of the EIS).
Center for Biological Diversity		<p>Impacts should be assessed explicitly for each listed and unlisted species covered by the HCP, as should the relationship between the landowner’s forest management practices and each species’ conservation needs, including the species’ recovery needs.</p> <p>The EIS must include a detailed biological analysis of the impacts of development, resource extraction and other activities authorized by the HCP and Take Permit on <i>each</i> wildlife and plant species (whether listed or unlisted) to be "covered by" the HCP and all designated critical habitat areas.</p>	Please see Chapter 4 of the EIS and our Biological Opinion.

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		<p>Impacts to all threatened, endangered, candidate, proposed-listed, sensitive, rare, endemic, or otherwise at-risk or ecologically, socially, or economically important plant and animal species should be assessed, <i>regardless</i> of whether those species are officially “covered” by the HCP.</p> <p>The EIS must analyze the impact of activities on all species "occurring or potentially occurring" on all lands subject to the HCP, regardless of whether they will be "covered" by the HCP. If any wildlife or plant species occurring or potentially occurring on lands subject to the HCP will <i>not</i> be "covered" by the plan, the EIS must analyze the impacts of the HCP on these species, why they are not "covered," and include mitigation measures for any significant impacts identified.</p> <p>The HCP Handbook notes that the Services must consider impacts on Federally-listed plants, during ESA section 7 consultation, regardless of whether those plants are “covered” by the HCP. Plants protected by state laws are among those which must be addressed, pursuant to ESA section 9.</p> <p>For each species, the analysis must: (1) specifically indicate how the HCP and Take Permit will affect species' survival <i>and</i> recovery prospects; (2) describe activities that may result in take of covered species; and (3) <i>quantify</i> the anticipated level of take resulting from all activities authorized under the HCP. The EIS must indicate whether the impacts of the HCP and Take Permit on each of these species will be significant, and if so, include <i>species specific</i> mitigation measures and management actions for each significant impact identified.</p> <p>The EIS likewise must objectively analyze the likely short-term and long-term effectiveness of each of the HCP's proposed measures to minimize and mitigate incidental take of covered species and provide a scientifically justifiable reason why and how these measures will mitigate any significant adverse impacts to species to a level of insignificance.</p>	
Center for Biological Diversity		The EIS must analyze the reasonably foreseeable biological impacts of including a "no surprises" provision in the HCP and implementing agreement. The effects of the "no surprises" policy over both the short and the long term are extremely likely to be significant. Thus, if 1) the HCP fails to achieve its stated goals, 2) the HCP conditions prove inadequate to protect species, 3) new scientific information is discovered which affects the assumptions in or conclusions of the HCP, and/or 4) unanticipated circumstances significantly change the environmental baseline, then federal and state agencies may be restricted in their enforcement and ability to respond in order to conserve the species. This EIS fails to conduct such an analysis.	“No Surprises” assurances apply to ESA section 10(a)(1)(B) and are not a requirement, nor do they require analysis, under NEPA.
Center for Biological Diversity		The EIS must assess impacts to all environmental values in the plan area, including both direct and cumulative effects. These values include, but are not limited to, unlisted, sensitive, rare or endemic, or otherwise at-risk fish, wildlife, and plant species; water quality; water supplies and the timing of flows; air quality; open space; soil productivity; and the sequestration and storage of atmospheric carbon dioxide.	Please see Chapter 4 of the EIS.
Center for Biological Diversity		The alternatives’ impacts on the karst species’ critical habitats must also be carefully examined, since the proposed HCP and Take Permit or other “assurances” may not be legally issued if they adversely modify the species’ critical habitats, as per ESA section 7(a)(2).	If a property has Service designated critical habitat for a Covered Karst Invertebrate within its boundaries, that portion of the property will not be able to participate in the SEP-HCP. This leaves three options: 1) only enroll the portion of the property that does not have designated critical habitat and agree to not enter into the designated critical habitat, 2) enroll that portion of the property outside of designated critical habitat under the SEP-HCP and consult with the Service under section 7 or 10 of the ESA to determine if any impacts could be authorized within the designated critical habitat, or 3) consult with the Service under section 7 or 10 of the ESA for the entire tract.
Center for Biological Diversity		<p>The EIS must provide: 1) detailed, thorough, and quantitative descriptions of the habitat and population conditions that will correspond to each covered species’ recovery, 2) detailed, quantitative habitat and population projections for each species covered by the HCP, for each alternative, and 3) compare the alternatives’ outcomes identified in step (2) with the indicators of recovery identified in step (1). This DEIS doesn’t do that.</p> <p>The analyses for HCPs -- particularly those covering large areas or large amounts of a species’ range -- should inventory, summarize, and document available data on each species and their distribution, abundance, population trends, ecological requirements, life history, and causes of endangerment. Again, this DEIS only addresses these issues in cursory fashion at best.</p> <p>Quantitative estimates of the impacts of “take” on species’ viability should be provided, especially for larger or more significant plans. At a minimum, best and worst-case scenarios should be identified. That did not occur in this DEIS.</p> <p>Impacts of “take” should also be evaluated, particularly for larger or more significant plans, including by determining whether the habitats being “taken” correspond to population “sources” or “sinks,” whether genetically unique subpopulations are being “taken,” and whether unique habitat/species combinations are being impacted. Again, this is absent from this DEIS.</p> <p>The analyses for HCPs must address each of the following: species’ status reviews, analyzing the proposed “take,” assessing the impacts of “take,” planning and assessing mitigation measures, and planning and assessing monitoring provisions. In this case, status reviews were minimally if at all consulted.</p>	<p>The EIS relied on the species biological information presented in Appendix C of the SEP-HCP, which incorporates current and relevant data, including Service approved recovery plans, for each of the Covered Species.</p> <p>The EIS relied on the impacts assessment provided for in the SEP-HCP (Section 4 and Appendix E).</p>
Center for Biological Diversity		<p>The analyses for HCPs should evaluate the cumulative impacts of multiple plans and their interactions. The percentage of local and global populations that will be “taken” should be assessed. Yet, multiple HCP’s address the two birds covered in this plan, yet cumulative impacts are not addressed.</p> <p>A thorough cumulative effects analysis should be conducted to address all Federal and non- Federal actions affecting each species covered by the Take Permit and HCP. The analysis should also address all past, present, and reasonably foreseeable actions</p>	Please see Chapter 4.9 of the EIS and our Biological Opinion.



		<p>across the species’ ranges.</p> <p>An EIS must analyze "cumulative actions, which when viewed together have cumulatively significant impacts." Thus, "[w]here several foreseeable similar projects in a geographical region have a cumulative impact; they should be evaluated in a single EIS." "Cumulative impact" is defined in the NEPA regulations as the impact on the environment that results from "the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions."</p> <p>Cumulative effects analyses are also required as part of the ESA section 7 consultation process for HCPs, as per 50 CFR 402.</p>	
Center for Biological Diversity		<p>In addition to cumulative impacts, this discussion must address the direct and indirect impacts of the project. "Direct effects" are those which are immediately caused by the action; indirect effects are those which will be caused by the action at a later time, but which are nevertheless reasonably foreseeable.</p> <p>NEPA requires a discussion of growth-inducing impacts as part of its analysis of indirect environmental effects of the proposed action. A project may have a growth-inducing impact if it may directly remove an obstacle to growth, or if it may encourage other activities that would significantly affect the environment, individually or cumulatively.</p>	Please see Chapter 4 of the EIS for an analysis of direct and indirect effects and also response 11.
Center for Biological Diversity		<p>The Services must take a “hard look” at the environmental consequences of approving an action, i.e., a Take Permit and HCP.</p> <p>NEPA requires an EIS to include a discussion of significant adverse effects which cannot be avoided if the proposal is implemented.</p> <p>NEPA requires a discussion of any irreversible or irretrievable commitments of resources which would be made if the proposal is implemented.</p>	Please see Chapter 4 of the EIS for effects analysis and a discussion of any irreversible or irretrievable commitments of resources.
Center for Biological Diversity		The EIS must objectively and independently evaluate any assertions by the HCP applicant that certain mitigation measures are "impracticable" or "infeasible." Such assertions must be supported by reliable and specific documentation of impracticability or infeasibility.	No assertions were made with regard to the SEP-HCP.
Center for Biological Diversity		Activities on other lands not subject to the HCP’s Implementation Agreement should be considered as speculative, and not counted as mitigation for “take” authorized by the Take Permit. Yet, in this instance, lands in Comal County may be added in to the preserves as mitigation.	Please see response 2.
Center for Biological Diversity		The EIS must also account for any new information which has come to light during development of the HCP. But this DEIS does not discuss information available in current recovery plan revision processes for the two covered birds.	The SEP-HCP and EIS considered all available relevant data during the development of the draft documents, including documents cited in the 2010 draft of the revised GCWA recovery plan. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.
Center for Biological Diversity		The DEIS should have fully assessed likely costs to the public and future generations of the proposed HCP versus alternatives. Costs may include lost wildlife, lost rare plants and future medicines, regional ecosystem failures, the cost of paying landowners to restore habitat areas, the cost of paying landowners for adaptive management and improvements to their HCPs that have been precluded by “No Surprises” agreements, the cost of increasing protections on Federal lands to compensate for failed HCPs on private lands, etc.	The SEP-HCP conducted this analysis. Please see Appendix F and Table 21 of the SEP-HCP.
Center for Biological Diversity		The EIS must also consider the significant economic benefits that the participating landowners will likely accrue by acquiring a valid Take Permit for various listed and unlisted species. Particularly when coupled with “No Surprises” guarantees, HCPs and Take Permits provides a level of regulatory certainty which is unprecedented in the business world, largely insulates private companies and other parties from any future liability to adopt additional conservation measures to protect and recover listed and unlisted species, and may even increase companies’ land values, assuming that the Take Permit and HCP could be potentially transferred or otherwise adopted by subsequent landowners.	<p>Comment acknowledged.</p> <p>The SEP-HCP would not be issuing individual ITPs to Participants, but would be extending incidental take coverage as part of their permit. Additionally, the ITP could only be transferred to an entity that could reasonably implement the SEP-HCP and ensure compliance with the ITP.</p>
Center for Biological Diversity		The EIS must analyze the adequacy of the commitments for funding the mitigation and monitoring measures in the HCP to support long term species conservation. The analysis must include financial and other data, which accounts for inflation, depreciation of assets, increased real estate values, and other contingencies, to support the conclusions reached. In this case, as noted, Appendix F which supposedly contains this information has not been made available.	The October 28, 2011, version of Appendix F was posted on the SEP-HCP website on December 11, 2011 and remains there today. The revised December 2013, version was posted on December 19, 2014, along with the draft HCP and EIS upon opening of the public comment period and remain there today. Additionally, they have been available upon request from both the Service and the Permittees.
Center for Biological Diversity		The EIS should evaluate the availability of federal and state funds to meet any future mitigation requirements. If the availability of federal and/or state funds is a likely possibility, then the EIS must also analyze the biological effects resulting from the permittee's and/or the government's future unwillingness or inability to provide adequate mitigation or HCP implementation funding on USFWS and NMFS determinations pursuant to ESA section 7.	There are no known federal or state funds that will be used to implement or comply with the SEP-HCP.
Center for Biological Diversity		The EIS should fully analyze the impacts of both foreseeable and unforeseeable changed circumstances on the assumptions, conclusions and mitigation measures contained in the HCP, and how these changed circumstances will affect species survival and recovery, population trends, habitat quality and quantity, water quality, and other environmental factors. Foreseeable circumstances include fire, flood, lightning, disease and other stochastic events. The HCP must contain mitigation measures to address such foreseeable circumstances, and specific, detailed procedures to address any unforeseen circumstances, as required by the ESA and its implementing regulations. These critical provisions cannot simply be passed off as a federal government obligation under the "no surprises" policy.	The SEP-HCP adequately addresses changed and unforeseen circumstances in Section 13.

Center for Biological Diversity		NEPA requires an EIS to include measures to avoid or minimize each significant impact identified, including the impacts of alternatives. The analysis must include appropriate mitigation measures for each alternative analyzed in detail. This discussion must distinguish between measures proposed by the project proponent to be included in the project and others that are not included but could reduce adverse impacts if included as conditions of project approval. If several measures are identified to mitigate an impact, the EIS must discuss the basis for selecting a particular measure, if that is done.	<p>Please see Chapter 4 and Table ES-1 for a description of alternatives, including impacts and mitigation.</p> <p>Please see the Record of Decision for the basis of our decision.</p>
Center for Biological Diversity		NEPA requires all federal agencies to "use all practicable means . . . to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions on the quality of the human environment."	Comment acknowledged.
Center for Biological Diversity		The EIS must include "reasonable options" for avoiding or mitigating to insignificance any significant cumulative effects identified.	No significant cumulative effects are expected as part of the SEP-HCP.
Center for Biological Diversity		The details of the HCP’s mitigation measures must be explicitly described and accompanied by data on their effectiveness. The likely success of each measure must be evaluated, as must the overall effectiveness of mitigation measures at minimizing and offsetting “take	The mitigation measures are based on the Service’s recovery plans and more recent recommendations to ensure the long-term viability of the Covered Species
Himlin	Mary	At public meetings, held locally, by FWS, there was absolutely no period for members of the public to speak. Kendall County was not even a meeting site, though our county will be more impacted, than will be others, by the SEP/HCP.	Please see response 3.
Himlin	Mary	No recent field data exists; recovery plans for both the GCW and the BCV are ancient - 20 years old - and no field studies have been conducted. Yet, critical decisions will be based on this flawed approach.	The SEP-HCP and EIS considered all available relevant data during the development of the draft documents. In instances where new or updated information resulted in a substantive change, the documents were updated. If this new or updated relevant data did not result in any substantive changes to the SEP-HCP or EIS, then it was not added to the documents.
Himlin	Mary	In February 2011, Kendall County, among others, opted out of the SEP/HCP. We are still of the opinion.	Please see response 2.
Himlin	Mary	The ESA negatively impacts property, which decreases in value, which means less monies for local taxing departments. The outcome is obvious: escalating taxes for the citizens. Three short months out of the year will we be able to clean out trees and clear brush - because the GCW has more rights than we. Now, I believe most citizens are reasonable enough that they support conservation and recycling efforts - this SEP/HCP goes way beyond that and into the realm of encroachment with its Agenda 21 scheme.	Please see response 8.
Nottingham	Jennifer	Several of our Scenic Loop - Boerne Stage Alliance (SL-BSA) members attended the recent Public Hearing 3 Feb 20 I 5 at 5PM at Casa Helotes in Helotes, TX. Most audience participants were quite disappointed that it really was not a public hearing, where citizens had an opportunity to speak, rather than take a form to complete. It was quite apparent that the primary U.S. Fish & Wildlife representative didn't seem to know those he was introducing, and the current project representative from Bowman Company had to read all of his notes, while we viewed them on the screen. Representatives from Loomis, the previous company in charge of the project, were familiar enough with the details that they rarely even referred to the screen. This doesn't give us much confidence that the current staff in charge really knows and understand this plan.	Please see response 9.
Nottingham	Jennifer	Many of the SEPHCP meetings were also attended by representatives from several of Bexar County's contiguous counties involved in the Habitat Plan. It was very apparent at these SEPHCP meetings that the citizens from Kerr County and their Commissioners Court were adamant they did not want to participant in this plan at all. The current Draft Habitat Conservation Plan (dHCP) is in direct conflict with the position taken by Kerr County Commissioners.	Please see response 2.
Heiss	Dirk	I am interested in purchasing property in the Bloomfield Hills development, in Bexar County, north west of San Antonio, TX, for residential development. I urge Bexar County to do whatever is necessary to secure the permits with USFWS that are required to allow reasonable housing development in the region.	Comment acknowledged
Jones	Deana	No action alternative, please. It's hardly right to destroy our community and uproot our valuable wildlife just so a few cronies can line their pockets with ill-gotten profits. We need to preserve the natural habitats here, not open up more space for shady contractors to build their shoddy developments. It's not appreciated, either, that people are trying to sneak this by the citizens, and it will be noted as to which pockets are being lined. As a citizen, I'm getting tired of having to put up with crooked politics and backroom deals to my and my neighbors' detriment. We do not pay city and state employees to profit from our backs, and no one in this state is elected or appointed to only serve monied interests. This is our land, our city, our county, our state, and our protected wildlife. Leave it alone or get out. Your services aren't needed.	Please see responses 6 and 11.
Anonymous		I am in favor of this Plan. It addresses the loss of habitat for endangered species. It gives developers a fair mitigation process that has proven results. Conservation Easements have been used since the 1930's.	Comment acknowledged
Haney	Andra	Concerning this, I would strongly request the "No ACTION alternative." Private property must not be infringed upon.	Please see responses 6 and 8.
Montemayor	Alan	<p>The SEP HCP, as written, is unacceptable in that it does not adequately protect endangered species. It is a green light to development of critical habitats in Bexar County and "mitigates" in remote areas. Surrounding counties have not signed on to the HCP. As written, it is a complete abdication of USFWS protections and responsibilities under the ESA. It is a case of allowing the fox to control the henhouse and putting control in the hands of the San Antonio good-old-boy network of developers, realtors, speculators, builders and construction industries. In order of preference I ask that you:</p> <p>1. Deny the SEP HCP and take permit and put more energy into enforcing existing ESA regulations.</p> <p>2. Specify the single county plan. This will protect some local habitats and not decimate local populations as much.</p>	<p>In accordance with section 10 of the ESA, it is a permit holder’s responsibility to comply with all permit terms and conditions and to implement the associated HCP. To not do so would be a violation of the permit and cause for suspension and possibly permit revocation.</p> <p>Please also see responses 1, 6, 10, and 14.</p>
Anonymous		I highly recommend the No Action Alternative for this ITP application. Why does the	Please see responses 1, 6, 11 and 14.

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		"rob Peter to pay Paul" ITP band aid even exist? Mitigation via acquisition of other properties outside of the proposed development is not a plausible solution. Are they going to relocate the endangered species? No. And when developers (and cities and counties) complain about all the environmentalists saving spiders, birds and other critters, do they realize that it's not just about saving these species, it is about the maintenance of an ecological system that needs to exist. When you pave paradise to put up a parking lot, you will reap what you sow. Unfortunately, others have to reap what you sow as well. What ever happened to the infill idea? The urban sprawl is OUT OF CONTROL!	
Colley	Stephen	The SEP dHCP as described in the Notice documentation appears to open hundreds if not thousands of acres to development in the areas of northwest Bexar County, Northern Medina County and Eastern Bandera county. These areas are currently being stressed by the development underway within the existing environmental protections. There are quarry operations in this area that are already damaging habitat and degrading the air quality in the residential areas in and near Helotes. Residents in that area already have very little recourse to fight Martin Marietta and other operations to protect their health and property values. To think that the proposed SEP dHCP is asking for even more latitude for further development over a 30 year period is extremely alarming. Much of the karst areas in this area are in the Edwards Aquifer Recharge Zone or the Contribution Zone. Keeping these regions as natural and as preserved as possible is critical to the quality of the water supply for over a million residents and agricultural operations.	Please see responses 11 and 13.
Colley	Stephen	<p>Mitigation, or the swapping of one "taken" area to be mitigated by another area is going to lead to the destruction of habitat and therefore the loss of population of the animal species listed as the "covered species". Purchasing mitigated land will not result in the relocation of the affected animals in the land where the habitat will be destroyed. The habitat in the mitigated or preserved areas may not be compatible and of course will already be populated with wildlife already settled there.</p> <p>Personally, this proposal looks too much like a blank check for development for the next 30 years with little opportunity for environmental oversight. The middle paragraph of the "Proposed Action" portion of the notice includes the language that the SEP dHCP "...describes the conservation measures the applicants have agreed to undertake to minimize and mitigate for the impacts of the proposed incidental take of the covered species to the maximum extent practicable, and ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild." I'm in my 60's and I've learned to recognize phrases like "to the maximum extent practicable" and "appreciably reduce" as being very indefinable and therefore provide loopholes so wide that you could drive a team of horses through. I'm not convinced that any permitted development will engage in operations that will minimize damage, habitat destruction, and wildlife loss because they can still claim they acted with "practicable" care and that they did not "appreciably" reduce these species in the wild.</p>	<p>Maximum extent practicable and appreciably reduce are phrases in the ESA and refer to standards required to be met before we can issue an ITP.</p> <p>If Participants want receive the benefits of the SEP-HCP, they will need to comply with all conditions of the ITP and SEP-HCP. To not do so could result in revocation of that coverage (Section 3.2.4.4).</p> <p>Please also see response 10.</p>
Colley	Stephen	<p>Finally, the language danced around the likelihood that developers would be depending on a certain percentage of public funding in order to make up for costs related to the purchase of any necessary higher cost or higher percentage of mitigated land to be purchased for preservation. Developers who cannot afford all the necessary costs to engage in the kind of activities involving habitat and wildlife loss (and in some cases loss of air quality and/or groundwater quality/quantity) without depending on the general public to foot the bill should NOT be allowed to proceed with their projects.</p> <p>I hope after considerable review, the Fish and Wildlife Service will NOT issue an ITP for this SEP dHCP request.</p>	Please see responses 6 and 18.
Bedford	Phillip	<p>It is the understanding of this board, through public information provided by the USFWS, that a Biological Advisory Team (BAT) and a Citizens Advisory Committee (CAC) were appointed to help develop the multiple aspects of the SEP-HCP. These two groups represented a wide cross-section of parties of interest from conservation groups to developers. We are concerned that instead of using these cumulative decisions in the primary SEP-HCP, the advice of the BAT and CAC are rather being presented as an alternative. It is very discouraging in the eyes of the public to see over 2 years of work and 2.3 million dollars spent on obtaining expert advice, not being used if the current SEP-HCP is implemented. We believe that the Increased Mitigation Alternative, #4 in the EIS is more appropriate to the survival and development needs of the seven endangered species listed rather than the currently proposed action. However, to strike a better balance between habitat needs and development in the area, we propose the following comment.</p> <p>We base this opinion on our review of Table ES-1: Summary of Environmental Impacts for each Alternative. While the amount of acres for the GCWA, BCVI, and Karst Zones are the same under the proposed SEP-HCP, Single-County, and Increased Mitigation Alternatives, there are considerably more acres reserved for the protection of vegetation, wildlife, Golden cheeked Warbler, Black Capped Vireo, and covered karst invertebrates in Bexar County and immediate surrounding area under Alternative #4. This alternative also results in less adverse impacts on our socio-economic resources and climate change.</p>	Please see response 7.
Bedford	Phillip	The BAT and CAC were in agreement that a portion of the habitat conservation or mitigation should occur inside Bexar County or within five miles of that boundary. The proposed action removes that requirement and allows all preservation to be done in other counties, on land that can be up to approximately 60 miles, as the crow flies, from agreed upon needs. This is an expansion of 500% of the BAT and CAC recommendation. The current recommendation is to use any protected land within the seven counties included in the plan. This is a rather large amount of area, approximately 4,125,000 acres. Bexar County is only about 804,000 acres, accounting for only about 20% of that area. This is an obvious barrier to conservation of endangered species due to their already small regional habitat needs. Instead of helping to conserve these species habitats, the proposed plan will only concentrate their location to the fringes of their natural range. Also, this proposed plan replaces habitat that is under imminent threat of development with habitat that is under no threat of development for the next 30 years, and for a much cheaper price than the land they are taking actually costs. Bexar County has stated that they would like to have some of the mitigation land within or surrounding Bexar County. And, there is suitable	Comments acknowledged. Please also see responses 1, 7, and 14.
Hayes	Tom		



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		<p>undevelopable GCW and BCV habitat within the area. Yet the proposed alternative could result in no lands being mitigated within or surrounding Bexar County.</p> <p>While we appreciate the pressures to develop, we support some ratio of conservation within and surrounding Bexar County. Development can not only be detrimental to the endangered species in question, but it is a barrier to the education of the public and decreases their sense of responsibility for the environment. Instead there will be even more disconnect from inner city populations to those species that need protection from becoming extinct. We hope that the USFWS sees the importance of conserving habitat close the human population concentrations. We also believe many would agree that the success of other county-wide HCPs has much to do with the proximity of the habitat preserves to major population centers. With the loss of this proximity, there is a larger possibility of failure for this HCP.</p> <p>Resilience in the face of Climate Change requires a variety of ecosystems, a mosaic landscape sustaining as much biodiversity and habitat health as possible. Similarly, resilience needs redundant landscapes and ecosystems to provide protecting against ecosystem failure or loss. This plan moves in the opposite direction to what a responsible response to Climate Change necessitates. Not only should we preserve habitat in extended rural areas but we need to preserve as much as we can within Bexar County as well.</p>	
Bedford	Phillip	<p>It is our understanding that when a listed species is found at a site, its habitat is automatically protected. Why then, would we replace habitat potentially containing Karst species with habitat that already contains known occupied karst features? These features are already protected and do not need further protection. It makes much more sense to protect land that is not protected and could potentially be beneficial to those karst species. When wetlands are taken or linear feet of streams are impacted, they are replaced in value due to the beneficial nature of a wetland or stream and its specialized habitat. <u>We cannot replace or rebuild karst features as we can wetlands and streams in mitigation banks. Once destroyed, everything the karst features contain is lost forever, and the intricate nature of the underground connections is disrupted.</u></p> <p>The karst features zones are ranked on a scale from one to five in order of most likely to contain one of the endangered species to least likely to contain the endangered species, with the top three zones requiring a survey by a qualified biologist or geologist to discover karst features. Under the proposed SEP-HCP, once a parcel containing karst features is identified, that acreage is replaced essentially at ratio of 20-1, or for every 20 acres taken of potential habitat, one acre of known occupied karst features will be protected. Not only is this a contradiction in how a ITP usually works, because usually more acreage needs to be replaced than what is being taken, but it also is protecting something that is already protected by federal law. These karst permits are not necessary if we are only protecting what is already protected under the Endangered Species Act, and they should not be used as mitigation. This same plan would never be implemented for the Golden Cheek Warbler, i.e., to take 20 acres of potential habitat and replace with one acre of known habitat. This may be how the system works but what we understood that the habitat ratio had to at the least be 1:1.</p>	<p>If the Conservation Baseline for a species in a feature has not been accomplished, that feature must be avoided until such time as the Conservation Baseline is met. Additionally, because karst invertebrates are cryptic in nature, assessments for impacts are calculated based on impact to a cave rather than an acreage amount. Likewise, for mitigation a cave must be protected that contains that species. To compensate for environmental effects, we have preserve design recommendations that do have minimum acreages. However, acreages of impact cannot be compared or off-set based on acreages of mitigation.</p> <p>The listing of a species under the ESA does afford that species certain protections. However, what that species needs for long-term survival and recovery can go beyond just the species and its physical location. For example, karst invertebrates are located in a cave; however, that cave requires a lot more than just the footprint and surface and subsurface drainage basins to maintain internal temperature and humidity. Therefore, recovery calls for at least 40 acres, preferably 100 acres, for the long-term viability of the feature.</p> <p>Please also see response 15.</p>
Hayes	Tom		
Bedford	Phillip	Currently the USFWS requires a 3-year survey for the song birds in question (GCW and BCV) and a 15 day biological survey for karst species. The plan under comment actually reduces both of these time periods by 66% to 1 year for song birds and 5 days for karst species. This is incredibly unreasonable due to variations in seasons and local weather patterns, which have a great effect on occurrence of said species in biological surveys. If there is to be a reduction in the time requirements for species surveys, then there should be some justification for these reductions. We cannot find any such justification. Reducing the time for these surveys does place those endangered species at risk, and therefore, increases the risk of species take. This is not just our opinion. The recommendation from the BAT or CAC recommended continuing with current methods outlined by USFWS.	<p>Because the one year of surveys will only apply to discreet patches of habitat, the use of this option will likely be very limited (see Section 3.2.3.1).</p> <p>Accidentally discovered karst features, those with no surface expression, are not expected to be preserved, since they will have been severely damaged once located. However, collections in these features can contribute to our overall knowledge of the distribution of the Covered Karst Invertebrates. Please see Section 3.2.4.3 in the HCP.</p>
Bedford	Phillip	This section is included in our comments but details are not included in the SEP-HCP. As a land trust, we understand financial and time resources necessary to ensure proper stewardship of land. A management plan is fundamental to the maintenance of conserved lands, yet this SET-HCP is lacking one. Other HCPs have management plans. We wonder why this HCP has not made an attempt to propose both the administrative and financial steps necessary for perpetual monitoring.	Please see response 16.
Bedford	Phillip	<p>Page iv of the Draft Environmental Impact Statement estimates sources of revenue for the alternatives which we find unrealistic.</p> <ul style="list-style-type: none"> <li>Proposed SEP-HCP Alternative: 74% from participation fees, 26% from public sources</li> <li>10% Participation Alternative: 47% from participation fees, 53% from public sources</li> <li>Single-County Alternative: 46% from participation fees, 54% from public sources</li> <li>Increased Mitigation Alternative: 37% from participation fees, 63% from public sources</li> </ul> <p>While a conservation easement may cost \$4,000/acre in outlying counties, it is likely to cost much more in Bexar County; and the estimate does not include the due diligence costs associated with appraisals, biological surveys, maintenance and monitoring in perpetuity, and staff and other costs. In addition, there seems to be no allowance for the cost of fee simple purchase. Under all alternatives, the landowner participation fee cost per acre is too low.</p> <p>Further, we assume that increasing the costs of participation by the private landowners who will be benefitting from this process will reduce the amount given by public sources. One of the things we have not found in our review is a commitment for</p>	Both Permittees must get approval from their respective governing bodies (City Council and Commissioner’s Court) to accept the permit and commit funding to implement the SEP-HCP. Initial funding to set up the administrative body and purchase preserves must occur prior to any incidental take authorization. These required steps will ensure that the Permittees are committed to implementing the SEP-HCP. Additionally, many of the revenue sources described in Appendix F are dependent on implementation of the SEP-HCP (tax increment financing and participation fees). Therefore, the Service believes the funding commitment, expected revenue sources, and proposed funding plan are adequate (please see
Hayes	Tom		

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		<p>the public funding. Are we to assume there is a commitment? If so, what is the fundraising plan by Bexar County, as the entity that has signed the Federal Fish and Wildlife Permit Application Form?</p> <p>We also noted that none of the alternatives consider future increases in land values. Any serious recommendation for the next 30 years would take that into account. We are asking that an adequate model for future funding and monitoring be brought forward for approval along with the SEP-HCP.</p>	Section 11.2, Table 21, and Appendix F of the SEP-HCP where funding is described, including a 3% annual rate of inflation). Please also see response 18.
Bedford	Phillip	There are still many logistical questions about how this HCP will be implemented such as property appraisals for mitigation, specific funding sources for property acquisition and plan implementation, and the specific roles of the city and county. We should also consider what the process might be when dealing with unforeseen circumstances. This leads to the question of what roles the city and county will play in reporting to USFWS as well as monitoring future mitigation sites.	In accordance with section 10 of the ESA, it is a permit holder’s responsibility to comply with all permit terms and conditions and to implement the associated HCP. To not do so would be a violation of the permit and cause for suspension and possibly permit revocation. Included in the ITP and SEP-HCP is the commitment to report on all aspects of the HCP, including if any unforeseen or changed circumstances occur.
Bedford	Phillip	<p>The county and city have already paid for two different committees dedicated to the construction of this SEP-HCP, and it is the opinion of our Board of Directors that their recommendations should be the heart of the SEP-HCP. If there is cause for diverting from their advice than let the justification become public. There is no expectation for the SEP-HCP to be a cheap remedy for urban sprawl. Instead the SEP-HCP should be a measure of the impact development is having on the environment around San Antonio. That measure is expensive, so let us allocate its costs appropriately and develop a suitable program of habitat conservation. The HCP will be in place for at least 30 years, with its effects having the potential to change the landscape of South Texas for centuries to come. We agree with the large team of experts, citizens, and the development community in the form of the BAT and CAC, which are much more closely related to the Increased Mitigation Alternative #4 than the current proposal, so it is the Increased Mitigation Alternative #4 that we at GSA also recommend. We believe that the Increased Mitigation Alternative, #4 in the EIS is more appropriate to the survival of the seven endangered species listed rather than the currently proposed action. However, to strike a better balance between habitat needs and development in the area, we propose those changes listed throughout this comment.</p> <p>It is understood that development will continue, and a plan that helps conserve or replace vulnerable habitats is needed. It is our role as citizens of this city, county, and country to ensure the responsible development of that plan.</p>	Please also see responses 7, 11, and 14.
Bedford	Phillip	<b>Subject</b>	<b>Proposed</b>
		GCW Mitigation Ratio	2:1
		GCW Mitigation Location	Anywhere in the 7 counties
		Determining Presence/Absence	1/3 USFWS Standards
		Cost per Credit for GCW/BCV	\$4,000
		Model for public cost funding	Future tax on new development
		Funds to begin the program	Not stated
Schneider	Karen	I am opposed to the implantation of the SEP-HCP in the county in which I reside, Kendall County. I feel that the plan is unnecessary to the citizens of this county, and there are other options available to landowners if they wish to set aside property for habitat. Bexar County should not be able to impose any regulations on other counties even if their jurisdiction overlaps county lines, in this matter. Landowners are the best people to make decisions for their private property and that is a right of all citizens of the state and country. Please take NO ACTION on the SEP-HCP.	Please see responses 1 and Appendix F for costs, that begin in Year 1.
Chittenden	Thomas	I urge that the no Alternative option be used. Animals do not understand that they have to "move" because someone wants to build a neighborhood. There are so many areas on the border of San Antonio and in the Bexar county area to develop that there is no reason to take land that is used to protect endangered species.	50% mandatory in Bexar County
Smith	Alan	The documents as presented to the public have changed in substance considerably since the first draft was submitted in 2011 and the drafts presented for review by the December 19, 2014 notice. The Citizens Action Committee (CAC) and U.S. Fish and Wildlife Service (USFWS) insist on including Kendall, Medina, Kerr, Bandera, and Blanco counties in the Southern Edwards Plateau-Habitat Conservation Plan (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.	Keep USFWS Standards
Smith	Alan	The development and preparation of the captioned documents was primarily funded by a grant from USFWS to the City of San Antonio and Bexar County under the premise that permitting would be expedited. The people benefiting from expedited permitting would be developers with projects to expand within the City and County. I take exception to having my tax dollars being used to front the permitting for local developers. The use of public funds for private enterprise is unacceptable.	\$10,000
Smith	Alan	The National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations have specific actions that much be taken in the development of an Environmental Impact Statement (EIS). It seems these regulations were ignored during the conduct of this project.	Or 70% by developer /30% by the public
		* No public scoping meetings were held to obtain comments from the public.	Agree
		* The stakeholders of the project failed to coordinate the project with local officials (i.e. county commissioners).	
		* The public meetings held to review the 2011 draft did not allow for public discourse in the form of verbal communication. Participants were required to write their questions on paper and a moderator read the questions which were then answered by the project team. Hardly a public meeting.	
		* The public meetings for the final draft were even more restrictive although the moderator of the meeting quickly lost control. The concept of a public meeting implies to me there be verbal discourse which the USFWS tried to prevent. The attitude of the USFWS moderator at the Kerrville, TX public meeting on February 4, 2015 was anything but friendly. Federal employees need to be reminded they work for the	\$10,000,000 by the County

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		people. * Only two public meetings were held on final draft EIS and HCP. Kendall County which would be impacted greater than any other county was not included for a meeting site.	
Smith	Alan	<p>Section 5.1 of Appendix C notes reliable estimates of valuable habitat for the BCV are generally unavailable; particularly at large scales. Habitat is hard to identify and delineate from aerial imagery. Like the GCW no critical habitat has been designated for the BCV.</p> <p>While the ESA requires monitoring of a species before inclusion on the endangered list there are few studies reported for the plan area. Appendix C provides estimates on GCW densities in the area. Some field data for breeding pairs of the BCV are available from 2006.</p> <p>The section on climate change in the dEIS is nothing but political correctness and has no basis in fact. The write up is based on junk science which really sets the tone for the entire dEIS.</p>	Comments acknowledged.
Carlson	Mr. and Mrs. R.H.	Dear Guardians of the Environment, We ask for renewed public hearings and an extension of time for comments on the Southern Edwards Plateau Habitat Conservation Plan that Bexar County and San Antonio, on behalf of developers is requesting a permit for. This 7-counties, 7-endangerd species plan needs to be brought before the public before more of our environment is being destroyed.	Please see response 9.



# **Consolidated Responses to the Southern Edwards Plateau Habitat Conservation Plan and Associated Environmental Impact Statement**

## **Acronyms:**

BAT – Biological Advisory Team  
BCVI – Black-capped Vireo  
CAC – Citizens Advisory Committee  
EIS – Environmental Impact Statement  
ESA – Endangered Species Act  
GCWA – Golden-cheeked Warbler  
ITP – Incidental take permit  
NEPA – National Environmental Policy Act  
Permittees – Bexar County, Texas and San Antonio, Texas  
SEP-HCP – Southern Edwards Plateau Habitat Conservation Plan  
Service – U.S. Fish and Wildlife Service

## **Response 1: Concerns that mitigation will not be near impacts (in or near to Bexar County), but instead can be within a 7-county area.**

Both the SEP-HCP and the EIS analyzed a Single-County Alternative, which proposes a preserve system located within Bexar County and within 10 miles of the county border. The incidental take request for the Single-County Alternative would be the same as the Proposed SEP-HCP; however, it proposes less mitigation to offset the loss of habitat for GCWA and BCVI because land values in suburban areas are higher than in rural areas. Additionally, a largely suburban preserve system will require more intensive management to address threats from adjacent land uses than a rural preserve system. In order to account for the higher costs associated with preserve acquisition and management, the Single-County Alternative will require higher fees and will require three times the amount of public funding when compared to the Proposed SEP-HCP Alternative. So, despite achieving only one-half of the conservation of the Proposed SEP-HCP, the Single-County Alternative would likely cost nearly twice as much overall to implement. The Permittees determined that the lower conservation benefits of this alternative do not justify the substantially higher costs; therefore, they chose not to pursue this option. The environmental consequences of the Single-County Alternative are considered in Chapter 4 of the EIS and Section 14 of the SEP-HCP.

## **Response 2: Concerns that the SEP-HCP is an extension of San Antonio's and Bexar County's regulatory authority, includes counties that asked not to be included in the Plan Area, and will reduce revenues for the rural counties.**

### Extension of regulatory authority and inclusion of other counties:

Five of the Plan Area's County Commissioners' Courts (Bandera, Blanco, Medina, Kendall, and Kerr counties) passed resolutions during the EIS scoping period for the SEP-HCP. In their resolutions the Commissioners' Courts raised concerns that the SEP-HCP is an illegal extension of the Permittees regulatory authorities over land development into other counties. As a result of this concern, they each requested to be removed from the Plan Area and from possible future inclusion in the SEP-HCP as permittees. The Service and Permittees considered the request and the concerns and modified the plan to remove the option for these counties to become co-permittees at any time in the future. Therefore, these counties will not have to do anything to comply with this permit, nor will they receive authority to extend incidental take authorization for non-federal activities in their jurisdictions under the SEP HCP. The SEP-HCP, when used by landowners as a method to comply with the ESA, is limited to the jurisdictions of San Antonio and Bexar County (see SEP-HCP Sections 1.5.3 and 3.1). Upon permit issuance, Bexar County and San Antonio will each have the authority to extend their incidental take authorization to lands within their jurisdiction. The commitment by the Permittees to preserve habitat for the Covered Species, however, may occur within the 7-county Plan Area where suitable

habitat occurs and is available to be purchased.

As a Home Rule city under State law, San Antonio has the authority to enter into private land transactions with willing landowners. As stated in the City's charter at Article I, Section 3: the City may for corporate purposes acquire property through "purchase, condemnation, or other means within or without the city limits." In the same manner as the City's Edwards Aquifer Protection proposition bonds, which have purchased easements and lands in multiple surrounding counties, the acquisition of preserve land under the SEP-HCP would only occur through private land transactions with willing landowners, providing them with financial benefits for maintaining habitat for listed species on their private lands. As such, these private real estate transactions will not infringe on the authority of the counties in which they occur, nor do they extend any type of governmental authority of Bexar County or the City of San Antonio onto these properties. While the Service has expressed to the Permittees that we prefer that mitigation lands occur as close to the impacts as possible, we are not opposed to the legal real estate transactions the Permittees propose for the conservation of endangered species covered by their plan, which will protect habitat for the endangered GCWA and BCVI in the southeastern portion of their breeding ranges.

Lost future property tax revenue:

Some comments indicated also that the neighboring counties are negatively impacted by the SEP-HCP because of the potential future loss of property tax revenues from properties that might otherwise have increased in taxable value as a result of future development improvements. These commenters raised the issue that counties may be losing the opportunity to benefit from assessing higher property taxes on the mitigation preserves in the future because conservation easements restrict development, thus resulting in a lower tax valuation.

San Antonio and Bexar County anticipate that habitat preserves for the SEP-HCP will be primarily obtained pursuant to conservation easement agreements entered into with private landowners or the acquisition of credits from Service-approved habitat conservation banks. The acquisition of the conservation easements and conservation credits will not remove that land from the tax rolls and the landowners will continue to be obligated to pay taxes associated with those parcels. In the rare event that a fee interest in preserve land is acquired by another governmental entity (such as the City of San Antonio), the land acquired will likely already be subject to an open space or "ag" valuation, thus the tax exemption extended to government entities would cause minimal impact on county revenue. Inclusion of all seven counties in the Plan Area does not compel use of the SEP-HCP and merely allows for a sufficient number of regionally significant and practicable conservation opportunities to be available to implement the Plan. The Permittees are committed to respecting the property rights of every landowner and seek to create positive partnerships to achieve the goals and objectives of the SEP-HCP. Projected impacts to local taxes is described in the EIS Chapter 4.7.2.

**Response 3: Concerns regarding a lack of compliance with NEPA: there was no or little coordination with rural counties, there was insufficient public notification or involvement, there is a need for additional public meetings and an extended comment period, and there were insufficient alternatives.**  
Coordination with rural counties, insufficient public notification, and request for more meetings and extended public comment period:

Section 42 USC § 4331 of NEPA includes a broad policy goal that local governments and the federal government work together. This goal was achieved by the SEP-HCP and in the EIS process. Bexar County and the City of San Antonio are the "local governments" referenced in NEPA, and the SEP-HCP is designed to "create and maintain conditions under which man and nature can exist in productive harmony..." The Service made diligent efforts to coordinate and discuss the proposed SEP-HCP with all of the counties in the Plan Area over the six years since the Permittees first began work on their HCP. Additionally, the Permittees began discussing their plans with the surrounding counties early in the process, and appointed members of the CAC from five of the seven Plan Area counties. The CAC started meeting in January of 2010 and publically noticed all meetings, as required by the Texas Open Meetings Act, which invites members of the public to attend. The

Permittees created a website (www.sephcp.com), which is a repository of all information concerning the development and activities involved in the SEP-HCP project and the NEPA process, including announcements of meetings, posted agendas, and supporting documents. Through the website anyone interested in the process could sign up to receive electronic mail updates. Currently there are approximately 450 people on the list.

In 2011, the Service conducted a 90-day scoping comment period in which we accepted comments on the potential for a HCP covering all seven counties. The comment period and the public scoping meetings were publicized through newspaper advertisements in eight local newspapers throughout the plan area, sent to the SEP-HCP email list, and posted on several websites. During the scoping period, we held five meetings throughout the Plan Area. Numerous media outlets covered the scoping meetings and several articles were published in local newspapers. Based on public involvement and outreach, feedback from the public, and comments from BAT and CAC members, the Permittees significantly revised the draft HCP (see also response 2 on the surrounding counties requesting to be removed from the HCP).

In December 2014, the Service opened a 90-day public comment period on the draft EIS and draft SEP-HCP. The Service and the Permittees together developed a communication plan that included outreach to local and nationally elected legislators, federal and state agencies, and non-governmental organizations. Bexar County Judge Wolff sent a personal letter to each of the judges in the Plan Area counties notifying them of the availability of the plan. Additionally, both the Service's Austin Office and SEP-HCP websites posted the draft documents and other materials. Copies of the drafts were also delivered to public libraries throughout the plan area. Public meetings were held in Kerrville and Helotes, Texas. Public meetings were noticed in the San Antonio Express News and Kerrville Daily Times at least 14 days prior to the meetings. Notifications were also sent out through the SEP-HCP website to over 450 interested parties. As noted, there has been extensive outreach and public involvement during this multi-year process. Sufficient notification was given regarding the dates, locations, and timing of both the commenting periods and public meetings, and there was no substantial information provided that warranted additional time for comments or gathering of information. Therefore, the Service did not feel it was necessary to either hold additional public meetings or extend the public comment period. Please see Chapter 2 of the EIS for public involvement and SEP-HCP Appendix A for a list of participants in the planning process for the HCP.

#### Insufficient alternatives under NEPA:

It is impossible for Permittees and the Service to consider every possible alternative in their alternative analysis. Section 42 USC 4332(2)(E) requires the federal government to "study, develop, and describe appropriate alternatives to recommended courses of action." The EIS includes all appropriate alternatives to make a full determination regarding the actions that should be taken. The Service analyzed four alternatives to the proposed SEP-HCP in the EIS, and as such, has met the requirements found at 42 USC 4332(2)(E). These alternatives included a 10% Participation Alternative, a Single County Alternative, an Increased Mitigation Alternative, and the No Action Alternative (see response 1 and Chapter 3 of the EIS). We evaluated the effects of each of these alternatives and the proposed SEP-HCP on the human environment (please see Chapter 4 of the EIS for details on this analysis).

#### **Response 4: Concerns regarding non-compliance with two Texas state laws.**

##### Texas Parks & Wildlife Code Chapter 83

The Texas state law promulgated in Texas Parks & Wildlife Code Chapter 83 establishes requirements related to the development of HCPs and regional HCPs by Texas governmental entities, including counties and municipalities. Commenters stated that the SEP-HCP was not in compliance with this law because identified habitat preserves must be purchased within six years of permit issuance and landowners within these identified preserves must be notified, neither of which the SEP-HCP committed to. While this law does state that under Section 83.018 (c), this statement is subject to the provisions in section (d), which includes:

"If plan participants have not designated a landowner's land as proposed habitat preserve in a regional habitat conservation plan before the date on which the federal permit is issued but designate the land as



proposed habitat preserve in a regional habitat conservation plan on or after that date, plan participants shall make an offer to the landowner based on fair market value for the acquisition of fee simple or other interest in the land not later than the fourth anniversary of the date on which the land is identified or designated as proposed habitat preserve.”

Because the SEP-HCP has not designated preserve lands to be purchased, there is no requirement to acquire land within six years after permit issuance. Further, if there was a limitation or prompt to acquire property quickly, it does not impede the implementation of the SEP-HCP.

Another commenter stated that this law discourages regional HCPs and encourages local HCPs. While Section 83.012 subsections (2) and (5) of the Texas Parks & Wildlife Code make this statement, this subsection also states the “purpose of this subchapter is to establish the requirements for and authority of a governmental entity to regulate wildlife through the development, financing, and implementation of a regional habitat conservation plan or a habitat conservation plan.” Specific regional habitat conservation plan criteria are outlined in Section 83.017 and throughout the Texas Parks & Wildlife Code. Therefore, regional habitat conservation plans are still fully approvable plans under the Texas Parks & Wildlife Code, and while the state may have a preference for a type of plan, regional habitat conservation plans are still fully permissible.

#### Texas Open Meetings Act

Also, as part of Chapter 83, the law requires that the governmental entity or entities participating in the development of a regional HCP must appoint a CAC and a BAT and comply with open records and open meetings laws and public hearing requirements. As described in SEP-HCP Section 1.5.3, state law imposes a requirement that before adopting a regional HCP, plan amendment, ordinance, budget, fee schedule, rule, regulation, or order with respect to a regional HCP, the participating governmental entities must hold a public hearing and publish notice of such hearing in the newspaper of largest general circulation in the county in which the participant proposes the action. Such notice must include a brief description of the proposed action and the time and place of a public hearing on the proposed action. The governmental entities must publish notice in accordance with the foregoing requirements, and must do so not later than the 30th day prior to the public hearing (Texas Parks and Wildlife Code § 83.019).

Each of the SEP-HCP public involvement actions met or exceeded federal and state public involvement requirements (40 CFR 1506.6, Chapter 83 Parks and Wildlife Code, and Texas Open Meetings Act requirements). The public involvement process is described in Chapter 2 of the EIS and SEP-HCP Sections 1.5 and 11.3. Additional information is included in SEP-HCP Appendix A, which summarizes and discusses each of the public involvement actions associated with development of the SEP-HCP. Meeting advertisements and notifications are described in EIS Chapter 2, and copies of such are presented in Appendix C of the EIS.

#### **Response 5: Concerns regarding an inability of rural counties’ to create their own HCP in the future and have sufficient mitigation if the SEP-HCP is implemented.**

The proposed issuance of this ITP and the approval of the SEP-HCP would not preclude the development of future HCP’s. Providing that the taking is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity,” section 10(a)(1)(B) of the ESA authorizes the Service to issue a permit allowing take of listed species. Any non-federal entity or individuals may obtain such authorization from the Service by applying for an ITP and implementing a HCP pursuant to section 10(a)(1)(B) of the ESA.

With regard to concerns that the SEP-HCP’s mitigation in rural counties would not be leave enough land remaining for these counties to mitigate, we offer the following summary and analysis. According to analysis done for the SEP-HCP, there are a total of approximately 483,844 acres of potential GCWA habitat and 130,185 acres of potential BCVI habitat in Bandera, Blanco, Kendall, Kerr, and Medina counties. If all of the preserves of the SEP-HCP were established within only these five counties, they would account for 4.8 percent of the available GCWA habitat and 5 percent of the total BCVI habitat, leaving a substantial amount of habitat remaining. Details on the analysis of potential habitat within the Plan Area is described in Appendix E to the SEP-HCP.

**Response 6: Requests to choose the No Action Alternative or deny the plan in its entirety.**

Many commenters expressed their preference for the No Action Alternative, which they seemed to perceive meant no ESA restrictions would apply in the Plan Area, no incidental take permits would be issued, or no government involvement whatsoever. According to NEPA, an EIS must include an alternative of no action, which is defined as the conditions that can be expected if the federal agency does not take any action, such as if the Service does not issue an ITP. A No Action Alternative analysis serves as a benchmark that enables decision makers to assess the magnitude of the environmental impacts of the Action Alternatives (40 CFR 1502.14). Under the No Action Alternative, the current trends projected for human population BAT and associated land development in Bexar County and the City of San Antonio, Texas, will continue and impacts to listed species may be authorized through project-specific consultation with the Service. Local governments, business entities, private landowners, and others will independently determine whether or not incidental take permitting is necessary for a project and, if needed, will work with the Service to obtain authorization for incidental take. Individual permitting actions will occur at the level and scope of an individual project. Mitigation requirements will be individually negotiated with the Service based on the level of impact to listed species and the maximum practicable mitigation options available to each individual applicant. The No Action Alternative is described in EIS Chapter 3 and the environmental consequences to each resource for each of the Action Alternatives are compared to the No Action Alternative in the EIS in Chapter 4.

Other reasons commenters gave for preferring the No Action Alternative included: 1) the SEP-HCP is a government over-reach (please see response 8); 2) the decision-making process did not involve enough stakeholders (please see response 3); 3) the public involvement process was inadequate (please see response 3); 4) the SEP-HCP was designed to benefit developers in Bexar County/San Antonio but would not benefit the rural counties in the Plan Area; 5) the SEP-HCP would unduly restrict landowner's rights (please see response 2); 6) Bexar County/San Antonio should mitigate for impacts to endangered species within their own jurisdictions and stay out of the hill country (please see response 1); and 7) the SEP-HCP is a license to kill endangered species (please see response 10).

As the lead federal agency, the Service is responsible for identifying a range of reasonable alternatives to evaluate. The Service may select an action alternative or the No Action Alternative as the Preferred Alternative. However, if the ITP application meets issuance criteria, the Service must approve the application and issue the requested permit. The decision will be documented in the Record of Decision (ROD).

**Response 7: Requests for implementing the BAT and CAC recommendations.**

Bexar County and the City of San Antonio convened the CAC and the BAT (in accordance with Chapter 83 of the Texas Parks & Wildlife Code; described in more detail in response 4) during the development of the draft SEP-HCP to provide guidance to the Permittees on the range of potential alternatives that should be evaluated and compared in the EIS. All meetings of these committees were subject to the Texas Open Meetings Act and agendas, materials, and minutes were posted on the SEP-HCP website. The BAT was charged with: 1) advising the Applicant on technical matters relating to the biology and conservation of the species and habitats addressed in the SEP-HCP, 2) recommending the form and level of mitigation and methods for determining mitigation needs, and 3) recommending a plan for consideration by Bexar County and the City of San Antonio prior to its submittal to the Service as the basis for a permit application. Likewise, the CAC was charged with overall goals and objectives for the plan and alternatives for each of five framing issues: 1) plan boundaries, 2) species to be included, 3) activities covered by the ITP, 4) conservation strategies, and 5) funding strategies.

While the BAT submitted their final recommendations to the CAC, the CAC could not reach consensus on a single set of recommendations, and as such, the Permittees chose to take all of the ideas of the CAC and BAT into consideration when drafting alternatives to consider. Many commenters feel the Increased Mitigation Alternative most closely represents the biological recommendations from the BAT. However, no single Action Alternative represents all of the BAT recommendations, and their recommendations are captured, in some form, in each of the Action Alternatives analyzed. Moreover, the BAT recommendations and CAC deliberations were

used by the Permittees to construct the Proposed SEP-HCP Alternative as a compromise among various interests. Therefore, BAT recommendations and CAC deliberations were integral to the development of the Proposed SEP-HCP Alternative. For example, the Plan Area, BCVI mitigation ratios, Covered Species, Covered Activities, preserve management and monitoring, and permit duration all follow the recommendations by the BAT and CAC. Additionally, the GCWA mitigation ratio reflects the supermajority vote by the CAC and a June 2011, workshop (see Appendix A of the SEP HCP for a detailed list of BAT and CAC discussions and recommendations). An important component of reviewing alternatives was calculating the costs of implementing each of the alternatives, since ensuring funding is an ITP issuance criteria (as set forth in 16 U.S.C. §1539(a)(2)(A) and (B)).

Finally, several members of the BAT and CAC commented that the committees were not reconvened to review, comment, and approve the HCP. However, there is no requirement to reconvene the committees or get their approval for the plan. The BAT and CAC process are described in EIS Chapter 3 and SEP-HCP Sections 1 and 14 and the BAT recommendations are included in SEP-HCP Appendix A.

**Response 8: Concerns regarding the violation of property rights and government “taking” of land.**

Some commenters expressed to us that the SEP-HCP and corresponding proposed ITP is an inappropriate intrusion on property owner rights. Participation in the SEP-HCP is strictly voluntary. Landowners in the Plan Area with endangered species habitat on their property may elect to sell or donate land or conservation easements to the SEP-HCP as preserve. The Permittees will only enter into a negotiation to buy land or an easement from property owners in the Plan Area that have voluntarily requested participation. Likewise, participation by developers seeking to utilize the SEP-HCP to comply with the ESA will be entirely voluntary. In no case will anyone be required to use the SEP-HCP.

Additionally, the SEP-HCP and the ITP cannot be used to take private property. While the Permittees do have eminent domain authority within their jurisdiction, as authorized by the 5th Amendment, they do not have the authority to use eminent domain authority outside of their jurisdiction. Section 9 of the ESA prohibits “take” of any fish or wildlife species listed under the ESA as endangered or threatened. As defined by the ESA, “take” means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 USC § 1532(19)). “Harm” is further defined as significant habitat modification that actually kills or injures a listed species through impairing essential behavior such as breeding, feeding, or sheltering.” (16 USC § 1532(19)). In 1982 Congress established a provision in section 10 of the ESA to allow the Service to issue permits for “incidental take” of listed species. Incidental take is defined as take that is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.” Therefore, “take” in this context is specific to the request for an ITP by the Permittees to perform otherwise lawful activities that may result in the taking of endangered species. Further detail on the regulatory framework and the federal and state provisions governing the development and implementation of HCPs are given in EIS Chapter 1 and SEP-HCP Section 1.5.

**Response 9: Concerns the public meetings were not in compliance with Texas law and the public was not allowed to be voice their concerns.**

NEPA’s implementing regulations specify that environmental information is available to public officials and citizens before decisions are made and before actions are taken (40 CFR1500.1 (b)). Moreover, agencies are required to “(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures. (b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected” (40 CFR §1506.6). The regulations do not provide specific guidance on meeting format; however, in the case of an action with effects primarily of local concern, notices may be provided through publication in local newspapers and other local media and public hearings or public meetings should be held whenever there is substantial environmental controversy concerning a proposal. Because there was controversy during the public scoping process, the Service chose to have two more public meetings on the draft HCP and EIS. The number of



meetings was reduced from the previous five during scoping to two based on several factors including: 1) the distribution of the number of attendees at the scoping meetings, and 2) the need to have a meeting within the plan area where “take” would be authorized. The format for these was meant to give participants the time to talk with representatives from the Service and the Permittees, provide a brief presentation, and display a number of exhibits about the EIS and proposed alternative.

Several attendees and multiple comments submitted stated these meetings did not comply with the Texas Open Meetings Act. This law applies to “governmental bodies” identified in section 551.003(3) of the Texas Open Meetings Act, which does not include federal agencies. Additionally, commenters voiced concern that there was no microphone for them to use to verbally express their comments, people could not speak in an open forum, and people could only give comments to a court reporter. The Service wanted to ensure that all comments submitted were captured in the record, which is why recorded or written comments are preferred. Therefore, we encouraged individuals at the meetings to write down their comments on comment cards provided, give their statement to a court reporter, or submit their comments electronically.

Each of the SEP-HCP EIS public involvement actions met or exceeded federal requirements (40 CFR 1506.6, see also response 2). The public involvement process and meeting advertisements and notifications are described in EIS Chapter 2, and copies are presented in Appendix C of the EIS (Public Meeting Materials).

**Response 10: A discussion of ESA issuance criteria, and addressing concerns regarding take means to kill endangered species.**

Several commenters were concerned that issuance of the proposed permit would authorize the killing of endangered species. Section 9 of the ESA prohibits “take” of any fish or wildlife species listed under the ESA as endangered or threatened. As defined by the ESA, “take” means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 USC § 1532(19)). “Harm” is further defined as significant habitat modification that actually kills or injures a listed species through impairing essential behavior such as breeding, feeding, or sheltering.” (16 USC § 1532(19)). In 1982 Congress established a provision in section 10 of the ESA allowing “incidental take.” Incidental take is defined as take that is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.” To lawfully conduct these activities private, non-federal entities can apply for an incidental take permit under section 10(a)(1)(B) of the ESA. In accordance with this section the following issuance criteria must be met: 1) the taking will be incidental; 2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; 3) the applicant will ensure that adequate funding for the plan will be provided; 4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and 5) any other measures the Secretary of the Interior may require as being necessary or appropriate. If these issuance criteria are met, the Service must issue the permit.

With regard to directly killing endangered species, it can be authorized through section 10; however, minimization and mitigation measures must be part of the plan to avoid or reduce the impacts. The Permittees have committed to implement a wide variety of conservation measures intended to minimize and mitigate the impacts of incidental taking that may result from the Covered Activities. These measures include: establishing a preserve system of up to 23,430 acres of GCWA habitat, up to 6,600 acres of BCVI habitat, and 1,000 acres of new karst preserves over the life of the ITP; requiring Participants to abide by seasonal clearing restrictions to avoid direct impacts to GCWAs and BCVIs during their breeding season; and prohibiting Participants from conducting activities close to known species localities until the conservation baseline for the number and type of karst preserves in a Karst Fauna Region is achieved. See Sections 6 and 7 of the SEP-HCP for all of the conservation measures to be implemented.

**Response 11: Concerns regarding uncontrolled growth by Bexar County and the City of San Antonio.**

Several commenters voiced concerns about the continued growth within the greater San Antonio region and that San Antonio and Bexar County have done little to curb that growth, particularly to the north where the endangered species habitat exists. Additionally, several commenters wanted to know why San Antonio has not

directed growth to the south side of the city where there are no endangered species. While the location, magnitude, and nature of specific activities associated with future commercial, residential, and other types of development cannot be predicted, growth can be expected to continue in the same areas as they are today. For example, southern Bexar County is more rural while northern Bexar County is more urban. This can be attributed to the many job centers (including USAA, Camp Bullis, and Fort Sam Houston), entertainment (Fiesta Texas and Sea World), and academic facilities (UTSA) that are also on the north side of the county. Additionally, the landscape (rolling, wooded hills) on the north side is likely more desirable than the flatter more agriculturally centered landscape on the south side. However, many new facilities have located in southern Bexar County, which have resulted in a significant increase in residential building, including the multi-functional Verano in City South, which has a new Texas A&M University Campus as part of its master plan. At full build-out, Verano projects to support 30,000 people, 30,000 students, and 30,000 jobs.

With regard to curbing or directing growth, counties in Texas have limited authority to control growth, particularly where endangered species are concerned. State law prohibits counties from denying or withholding development approvals or permits with respect to issues with endangered species compliance. Incorporated areas, like the City of San Antonio, do have limited zoning and land use authority when compared to an unincorporated area. However, development in the unincorporated areas of the counties are under the authority of other regulations (TCEQ, Edwards Aquifer Rules, FEMA, etc.), which do not necessarily control the intensity or location of development.

For the City of San Antonio and Bexar County they are not likely to be able to choose whether new development is located to the north or south of the city or the county. All of the San Antonio metropolitan area is experiencing development pressures. Some areas are likely to grow more than others (based on a variety of conditions, such as, available land, costs, where there is a demand or vacancy in the market, consumer absorption, and compatibility with economic development strategies). The SEP-HCP is one way to support the City's and County's efforts at balancing conservation and environmental stewardship with economic growth.

#### **Response 12: Concerns regarding karst mitigation and location of preserves.**

Several commenters expressed concern that mitigation of Covered Karst Invertebrates is proposed to occur outside of where Covered Karst Invertebrates exist. Mitigation for the endangered karst species can only occur where the species are known to occur, must meet the Service's requirements for establishment of karst preserves, and must be approved by the Service. Further, the SEP-HCP may provide incidental take authorization for Covered Activities conducted within an Occupied Cave Zone only after certain baseline levels of conservation have been achieved for the Covered Karst Invertebrates that occur in the associated karst feature. The Conservation Baselines are based on the downlisting criteria described in the Bexar County Karst Invertebrates Recovery Plan. SEP-HCP Section 3.2.3.2 addresses the requirements for up-front mitigation for each of the Covered Karst Species that must be met before any incidental take authorization for Covered Activities can be offered on an Enrolled Property. SEP-HCP Section 7.0 discusses the karst conservation program in detail, including minimum requirements for preserve establishment and management and monitoring.

#### **Response 13: Concerns that the Edwards Aquifer cannot support more people and the Permittees want to take water from rural areas.**

Several commenters expressed concern that the SEP-HCP was an attempt by the City of San Antonio to secure rural portions of the Edwards Aquifer Recharge Zone for San Antonio's future water supply. Additionally, commenters were concerned that with the continued growth over the aquifer there would not be enough water for everyone over the life of the permit. Water in San Antonio and the surrounding counties is regulated by two main entities: the Edwards Aquifer Authority (EAA) and the San Antonio Water System (SAWS). The EAA was established in 1993 to manage, conserve, preserve, and protect the Edwards Aquifer (Aquifer) and to increase the recharge of, and prevent the waste or pollution of water in, the Aquifer. The following are among the major functions of the EAA: manage and control withdrawals of water from the

Aquifer through the issuance of permits and the registration of wells, protect the water quality of the Aquifer, protect the water quality of the surface streams to which the Aquifer provides springflow, achieve water conservation, maximize the beneficial use of water available for withdrawal from the Aquifer, protect aquatic and wildlife habitat, protect water supplies, prevent the waste or pollution of water in the Aquifer, and increase recharge of water to the Aquifer. In 2007, the Texas Legislature amended the EAA Act to limit the amount of permitted withdrawals from the aquifer to not more than 572,000 acre-feet of water per calendar year subject to water levels of monitored wells. SAWS is the water purveyor to residences, businesses, and other end users in San Antonio and parts of Bexar and surrounding counties. In addition to getting water from the Aquifer, SAWS also has several non-Aquifer water sources. The responsibility of these two agencies includes ensuring continued water availability and supply into the future.

It is important to note that the growth of San Antonio is expected to occur regardless of implementation of the SEP-HCP (see response 11). Additionally, the SEP-HCP is for compliance with the ESA, and is not for addressing future water usage or supply. However, because the Edwards Aquifer does support several federally listed aquatic species, the Service did analyze the impacts of implementation of the SEP-HCP on those listed species. Given the total number of acres covered under the SEP-HCP incidental take permit (33,097 acres), we estimated the number of people that will use the SEP-HCP to be 127,093. This number of people represents: 1) full implementation of the SEP-HCP, which will not happen for a number of years; 2) a density of 3.84 persons per acre; and 3) an assumption that all water is coming from the Edwards Aquifer, which will likely not be the case. With an estimated water consumption rate of 132 gallons per day per person, total water demand would be 16,776,207 gallons per day (or 18,797.5 acre-feet per year). Comparing the annual rate of water demand attributable to the SEP-HCP and the total permitted annual withdrawals by EAA (572,000 acre-feet per year), the water demand strictly attributable to development that occurs with participation in the SEP-HCP at full implementation would be about 3.3 percent of total permitted Edwards withdrawals. Because of the conservative assumptions listed above, the expectation is that this percentage will be much less.

#### **Response 14: Concerns regarding the reduced viability of GCWA habitat already preserved in Bexar County and on Camp Bullis.**

Several commenters expressed concerns for the long-term viability of GCWA preserve lands already established in Bexar County, including those on Camp Bullis. If these existing lands are not buffered or expanded, commenters were concerned they could become sinks, patches of habitat unable to support a population, thereby rendering all GCWA habitat in Bexar County non-viable. SEP-HCP Section 4.4.3 discusses the amount of potential GCWA habitat within Bexar County and the City of San Antonio's current and projected future ETJ (113,288 acres). The amount of requested GCWA incidental take (9,371 acres) represents less than 9 percent of the available GCWA habitat within the entire Enrollment Area over the life of the permit. To address the feasibility of mitigating within the Enrollment Area, the Permittees reviewed 2015 appraisal district data. The first analysis identified parcels within Bexar County that could independently meet the minimum preserve size (500 acres) for a potential GCWA preserve. This analysis did not evaluate if the total acres of potential GCWA habitat on each parcel met the minimum acreage requirements for a preserve, but instead only that potential GCWA habitat was present on the parcel and the parcel was at least 500 acres in size. Including existing conservation lands, there are currently only 24 parcels within the Enrollment Area in which the acreage of the parcel is equal to or greater than 500 acres. It is unlikely that all 24 parcels support at least 500 acres of GCWA; therefore, the number of parcels is likely less. Given this limited amount of potential parcels, the Permittees had two primary concerns regarding identification of a specific percentage of mitigation to occur within Bexar County:

1. Because the SEP-HCP is completely voluntarily, there may not be enough willing sellers within these 24 parcels to meet a minimum percentage goal. If the Permittees could not meet a stated goal in their HCP and associated ITP, they would be in violation of their permit.
2. According to Texas state law, governmental entities participating in a regional HCP must make offers to acquire any land designated in the plan as a proposed habitat preserve no later than four



years after the issuance of the federal permit or six years after the initial application for the permit, whichever is later (Texas Parks and Wildlife Code § 83.018(c)). Because of the limited number of parcels, it would be easy for someone to run the same analysis and determine which parcels were being targeted.

A second analysis identified parcels greater than 100 acres. As with the initial analysis, there was no evaluation of the total acres of potential GCWA habitat on each parcel, but instead only that potential GCWA habitat was present and the parcel was at least 100 acres in size. Including existing conservation lands, there are currently 208 parcels within Bexar County in which the acreage of the parcel is greater than or equal to 100 acres with some amount of potential GCWA habitat present. Even with the broader classification parameters, the overall explicitly small proportion of parcels 100 acres or greater still do not represent a large enough percentage of the constituency in which the above concerns were alleviated. Therefore, the SEP-HCP took into consideration the BAT's recommendations for mitigation measures and proximity and developed the biological goals and objectives (SEP-HCP Section 5.0).

It is important to note that within Bexar County there is approximately 16,000 acres of potential GCWA habitat occurring within existing conservation lands, including Government Canyon State Natural Area, parks and natural areas owned by the City of San Antonio, and several privately owned conservation tracts. Of this 16,000, 6,400 acres of this GCWA habitat occurs within properties that are explicitly protected and managed for the benefit of the species. The Service has expressed their preference that the SEP-HCP contributes to some level of land permanently protected and managed for the GCWA within Bexar County. Because of this preference, but in light of the concerns listed above, the SEP-HCP created a biological objective of achieving a baseline level of 7,500 acres of habitat permanently protected and managed for the benefit of the GCWA in or within five miles of Bexar County. This equates to an additional 1,100 acres (7,500 minus 6,400) of permanently protected GCWA preserves as part of the SEP HCP.

#### **Response 15: Concerns regarding the use of existing parks or open space as preserves.**

The SEP-HCP Existing Conservation Lands assessment in Appendix B identified more than 128,000 acres are under some degree of conservation in the Plan Area. These lands represent a variety of public and private open space properties, including parks, natural areas, wildlife management areas, and other types of large-acreage, mostly undeveloped properties. The SEP-HCP determined these existing conservation lands include approximately 50,000 to 60,000 acres of relatively high quality GCWA habitat. While these lands are protected to some degree in perpetuity from future land development, other land uses that could degrade the GCWA habitat are allowed. Because some of these tracts are part of a large patch of contiguous GCWA habitat, the BAT recommended and the CAC approved the use of these lands for a small portion of preserve contributing to the SEP HCP preserve system (see Appendix A of the SEP HCP). Additionally, the Service believes these could contribute significantly to GCWA recovery. Therefore, a partial credit (for example 0.5:1, that is half an acre of credit for each acre of GCWA habitat) for perpetual protection of the habitat for the benefit of the GCWA could be acceptable. The extent of BCVI habitat is unknown, since maps or models of such habitat currently do not exist. All preserves must be approved by the Service and, as such, will meet the Service's guidance for mitigation for GCWAs and BCVIs (see Section 7.2.2 of the SEP HCP for a discussion of this partial credit).

Likewise, when the SEP-HCP achieves additional Service-approved protections in perpetuity for one or more of the Covered Karst Invertebrates on existing conservation lands such actions will contribute "partial credit" towards the SEP-HCP's karst preserve system. Properties, such as State Natural Areas or city nature preserves that contain caves with listed karst invertebrates, could meet recovery objectives if a conservation easement was placed around caves without existing permanent protections.

It is important to note that within Bexar County there is approximately 16,000 acres of potential GCWA habitat occurring within existing conservation lands, including Government Canyon State Natural Area, parks and natural areas owned by the City of San Antonio, and several privately owned conservation tracts. Of this 16,000, 6,400 acres of this GCWA habitat occurs within properties that are explicitly protected and managed for

the benefit of the species, and are therefore considered contributing to recovery. These 6,400 acres would not be eligible for partial credit. However, the Service has expressed our preference that the SEP-HCP contributes to some level of land permanently protected and managed for the GCWA within Bexar County. Because of this preference, the SEP-HCP created a biological objective of achieving a baseline level of 7,500 acres of habitat permanently protected and managed for the benefit of the GCWA in or within five miles of Bexar County. To meet this objective and comply with the Service's preserve design guidance, it is likely that these existing conservation lands that are without GCWA protections will be necessary to achieve the goal. See also Response 14 for a discussion of the restrictions around preserving habitat in Bexar County.

**Response 16: Concerns and questions regarding preserves.**

Several commenters were concerned that the design for preserves was inadequate, a specific management plan was not included in the SEP-HCP, that preserves were not perpetual, and that baseline surveys should be more specifically outlined. The preserve designs and management plans are subject to Service approval; will follow our recommended guidance for the subject species, including what baseline data is required to receive Preservation Credits; and will include perpetual protection, monitoring, and management to ensure long-term viability of the species and their habitat. The SEP-HCP outlines the general requirements for management plans and baseline assessment. However, it is expected that each preserve will have its own unique requirements based on existing conditions and uses. Therefore, neither a specific management plan nor a baseline assessment is included in the SEP-HCP.

Several commenters either did not understand who would oversee the administration of the preserves or did not want the Permittees to be the preserve administrators or owners. All fee simple lands and conservation easements contributing to the SEP-HCP preserve system must be held by a responsible party approved by the Service prior to generating Preservation Credits. Responsible parties may include Bexar County, the City of San Antonio, other governmental entities, established land trusts, or other entities as approved by the Service (Section 6.2.1.1 of the SEP-HCP). As the permit holders, the Permittees have a responsibility to ensure implementation of the SEP-HCP and compliance with the ITP. As such, the Service believes they will adequately manage all of the preserves that are part of the SEP-HCP, similar to the Balcones Canyonlands Preserves jointly managed by the City of Austin and Travis County. Additionally, as part of annual reporting, the Service will be able to assess the adequacy of all management and monitoring of the preserves and will make recommendations, if necessary.

**Response 17: Concerns that San Antonio and Bexar County will be the administrators of the SEP-HCP.**

Several commenters wanted an independent non-profit or environmental regulatory agency that is unaffiliated with the City or County to administer implementation of the SEP-HCP. In accordance with section 10 of the ESA, it is a permit holder's responsibility to comply with all permit terms and conditions and to implement the associated HCP. To not do so would be a violation of the permit and cause for suspension and possibly permit revocation. For this reason it is the responsibility of the City and County to oversee the administration and guarantee compliance with the ITP. As detailed in Section 11 of the SEP-HCP, the Permittees have outlined their commitments for implementation and the Service believes they are appropriate and adequate.

**Response 18: Concerns that the fees for Participants (developers) were too low and, as such, placed the burden too heavily on public funding.**

What fees are charged as part of participation in the SEP-HCP and where the funding comes from is at the Permittees sole discretion. However, to meet issuance criteria (detailed in response 10) applicants must show how they plan to fund their HCP and show a commitment to that funding. In addition to the details in Section 11 of the SEP-HCP that the Permittees have committed to, there is also a funding plan scenario detailed in Appendix F of the SEP-HCP that provides the basis for establishing the practicable limits of funding for

implementation of the Plan. The Service finds this commitment and funding scenario to be adequate for implementation of the SEP-HCP.