

Presentation to the CAC

Allison Elder
February 18, 2010

FIRST IN MAKING YOUR LAND LAST™



**The BAT and the CAC are
components of the HCP and are
governed by Chapter 83 of the Texas
Parks & Wildlife Code**

Chapter 83 requires that the BAT and the CAC comply with the requirements of the Open Meetings Act and with the Open Records Law, Chapter 551 and 552 Texas Government Code

What does this mean?

Open Meetings Act Chapter 551 Government Code

“Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.”

The Act generally applies when a quorum of a governmental body is present and discusses public business.

A quorum – sometimes less than a quorum can still be covered.

Is present – physical presence is not required; written and email interactions are included.

Public business – purely social gatherings where committee business is not discussed.

Open to the public – the public has a right to advance notice of what will be discussed through the agenda and the right to observe all unexcepted deliberations and decisions.

**Except as provided by this chapter –
the law allows for executive session
consultation in certain
circumstances.**

Open Records Law

Chapter 552 Government Code

“It is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees.”

Public information includes any information that is collected, assembled, or maintained by or for a governmental entity.

Chapter 83 provides “all work product of the biological advisory team is subject to the open records law.” And also, “All data, reports, and other information regarding the regional habitat conservation plan....are subject to the open records law.”

Again, there are certain exceptions.

What does this mean for the CAC?

Training regarding the Open Meetings Act and the Open Records Act is required for members of the CAC within 90 days of appointment.

Email can be used for informational purposes only, and not for discussions or deliberations.

Pitfalls of “reply all”

**Procedural guidelines should be
adopted early on.**

**Agendas must be properly posted,
sufficiently detailed, and faithfully
adhered to.**

Proxies are not permitted.

**No committee business or briefings
can be conducted without a
quorum being present.**

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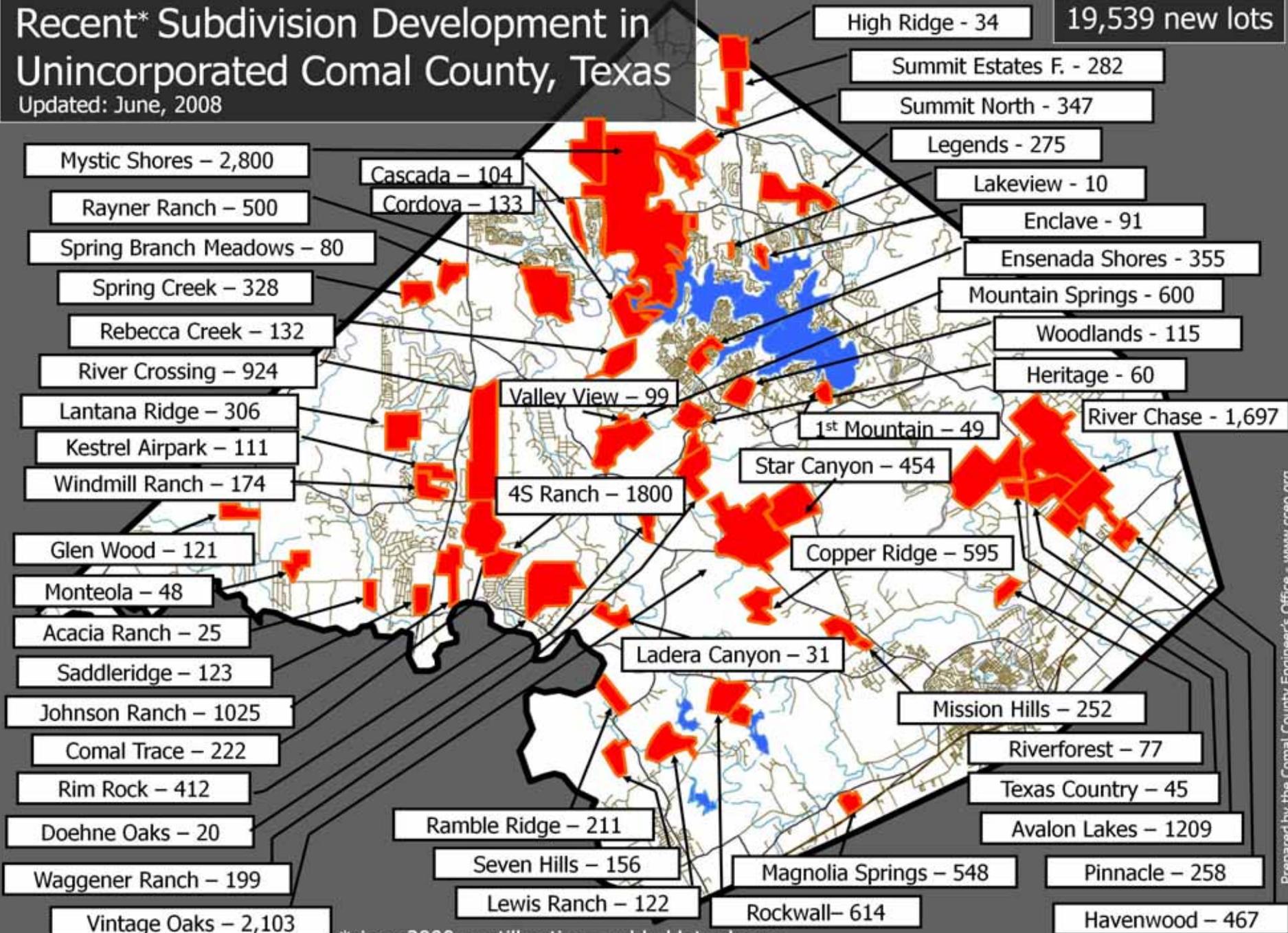
COMAL COUNTY
Regional Habitat Conservation Plan

Tom Hornseth, Comal County Engineer

Recent* Subdivision Development in Unincorporated Comal County, Texas

Updated: June, 2008

19,539 new lots



*since 2000 or still active – added lots shown

Citizen's Advisory Committee

Mr. Travis Wuest - Chair

Mr. Ben A. Appleby

Mr. Curtis W. Bremer

Mrs. Linda Laack

Mr. Carroll B. Lindeman

Mr. Roy Linnartz

Mrs. Jensie S. Madden

Mrs. Judy L. Myers

Mr. Mike Norris Vice Chair

Mr. Jack Ohlrich

Mr. Alan R. Stahlman

Ms. Cathy Crist Talcott

Mr. Terry Turney Texas Parks
and Wildlife Department

Mr. David Welsch Guadalupe-
Blanco River Authority

Biological Advisory Team

Mr. Mike Quinn Texas Parks and Wildlife Department, Chair

Dr. John Baccus Texas State University

Dr. Michael Barrett University of Texas at Austin

Ms. Valerie Collins Texas Department of Transportation

Dr. Clay Green Texas State University

Mr. Hal Herbelin Texas Farm Credit System, (Landowner
Appointee, Citizens Advisory Committee)

Dr. Randy Simpson Texas State University

Dr. Sandra West Texas State University

Comal County Regional Habitat Conservation Plan

Why are we here?

- **Comal County has over 65,000 acres of potential endangered species habitat**
- **Over 10,000 acres of this will likely be developed in the next 30 years**
- **The Federal Endangered Species Act prohibits harming listed species**
- **The ESA provides for “take” permits or habitat conservation plans (HCP), provided:**
 1. **The take is incidental to otherwise lawful actions**
 2. **The HCP demonstrates that impacts are minimized and mitigated to the maximum extent practicable**
 3. **Funding is provided to implement the plan**

Purposes of the RHCP

The Plan is 100% voluntary

- **Preserve the open space heritage of Comal County while conserving endangered species**
- **Help conserve and obtain information on other species to assist the Service in precluding the need to list additional species in the County**
- **Provide the County and affected landowners within the County a more efficient process for complying with the ESA compared to individual permitting through the Service**
- **Allow the County to apply for Federal Habitat Conservation Plan Enhancement funds**

History of the Comal County RHCP

- **In 2006 the County received an ESA section 6 HCP Planning Assistance Grant of \$612,852; a 25% local match was required for this Federal grant**
- **Funds have been used to convene and seek input from a Citizens Advisory Committee and a Biological Advisory Team and to prepare a draft RHCP and EIS**
- **In 2007 the County received a Federal Recovery Land Acquisition Grant of \$652,312 for purchase of the 288-acre Morton tract**
- **A public scoping meeting was held on October 16, 2008, to help identify issues to be addressed in the EIS**
- **Two USFWS workshops with the consulting team were held in 2008 and 2009**

The Covered Species and Covered Actions



golden-cheeked warbler

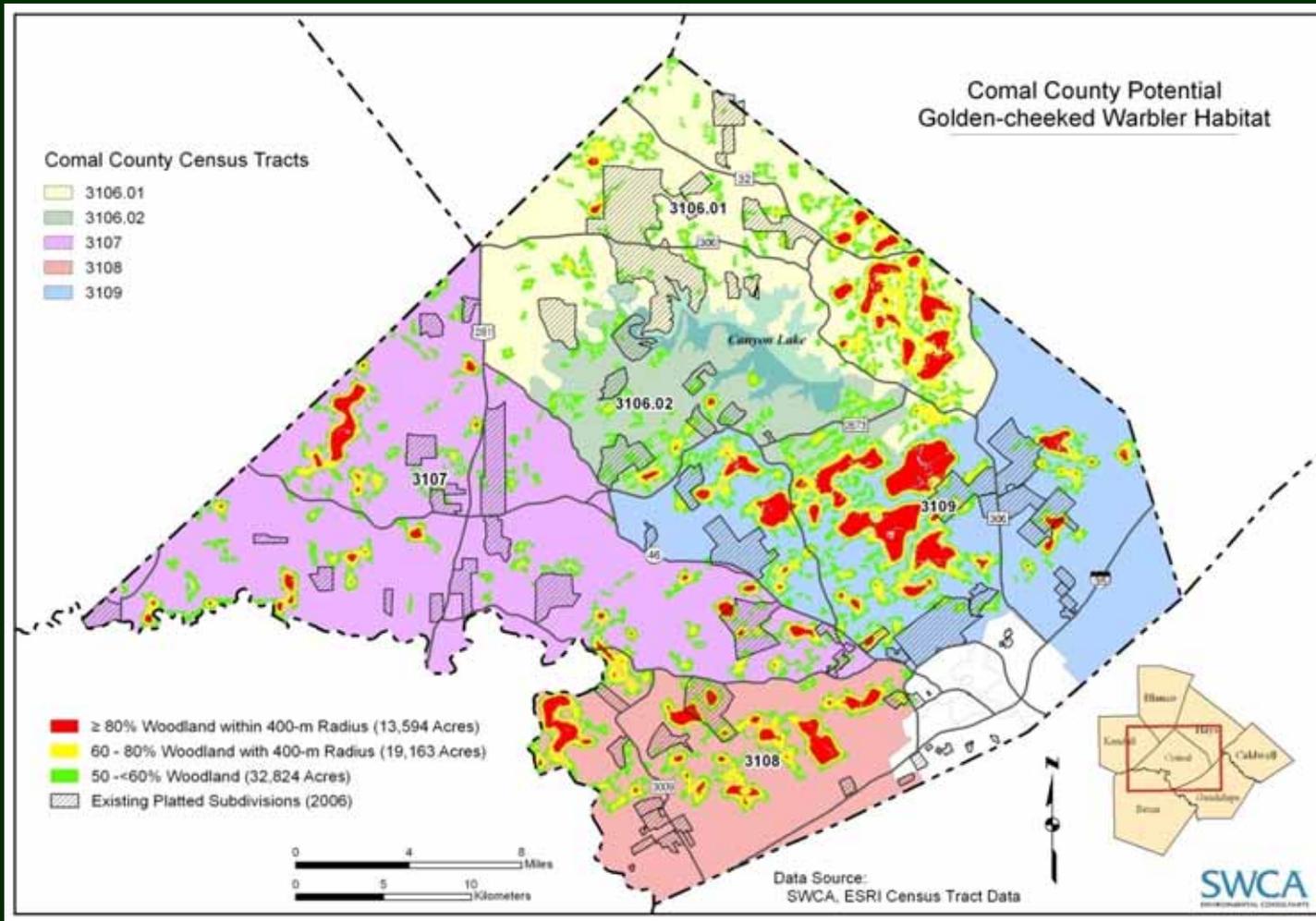


black-capped vireo

- **Evaluation Species** – the Cagle’s map turtle and six species of invertebrates that have been petitioned to be listed by the Forest Guardians
- **The Covered Actions** – public infrastructure, public and private development projects, school development and improvement.

How will Impacts to Listed Species be Mitigated? The Covered Species and Covered Actions

- **For 5,238 acres of impact to the golden-cheeked warbler, 6,548 acres of preserves conserved in perpetuity**
- **For 1,000 acres of impact to the black-capped vireo, 1,000 acres of habitat restored**
- **The County will sponsor a public education program on listed species and support research on Covered and Evaluation Species**
- **In Year 1, participants will pay \$7,500 per acre for each acre of Covered Species habitat impacted**



Distribution of golden-cheeked warbler habitat and existing platted subdivision development by census tract

Approximate RCHP Schedule and Remaining Tasks

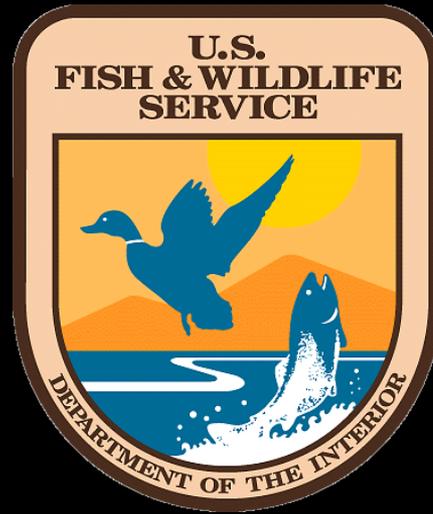
- **Submit Application, Draft RHCP/EIS to Service** **May 1, 2009**
- **Notice of Availability of EIS published** **June 15, 2009**
- **Public comment Period** **June 15, to Sept 15**
- **Public Hearing** **August 15, 2009**
- **Submit Final RHCP/EIS** **October 2009**
- **Permit Issued** **August 2010**

Summary of RHCP cumulative costs and income for each five-year period in the RHCP and the 30-year total

	Years 1–5	Years 6–10	Years 11–15	Years 16–20	Years 21–25	Years 26–30	TOTAL
COSTS							
RHCP Administration ¹	\$331,821	\$384,671	\$445,940	\$516,966	\$599,306	\$694,759	\$2,973,463
Preserve Acquisition	\$7,254,973	\$14,863,706	\$17,231,108	\$19,975,577	\$22,150,336	\$25,607,613	\$107,083,312
Preserve O&M	\$183,016	\$437,650	\$753,515	\$1,158,896	\$1,655,906	\$2,285,869	\$6,474,852
Research	\$30,909	\$58,014	\$67,255	\$77,966	\$90,384	\$104,780	\$429,309
Public Awareness	\$15,455	\$29,007	\$33,627	\$38,983	\$45,192	\$52,390	\$214,655
Endowment Contributions	\$0	\$0	\$0	\$0	\$4,500,000	\$12,000,000	\$16,500,000*
Contingency	\$26,546	\$30,774	\$35,675	\$41,357	\$47,944	\$55,581	\$237,877
TOTAL COSTS	\$7,842,719	\$15,803,822	\$18,567,120	\$21,809,746	\$29,839,068	\$40,800,992	\$133,913,468
INCOME							
Warbler Mitigation Fees	\$3,420,335	\$5,458,092	\$8,709,896	\$13,899,050	\$22,179,782	\$34,563,292	\$88,230,447
County Investment Return	\$0	\$0	\$0	0	\$577,500	\$2,997,500	\$3,575,000
County Contributions	\$5,596,895	\$10,345,731	\$9,857,225	\$7,910,697	\$6,331,786	\$3,240,201	\$43,282,535
TOTAL INCOME	\$9,017,230	\$15,803,823	\$18,567,121	\$21,809,747	\$29,089,068	\$40,800,993	\$135,087,982
BALANCE	\$1,174,511	\$0	\$0	\$0	\$0	\$0	\$1,174,511

* \$16,500,000 for endowment not likely to occur, which increases profit of plan by same amount

Southern Edwards Plateau Regional HCP



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DRAFT SEP RHCP Plan Area

BAT recommendation to the CAC:

Draft Plan Area includes all of:

Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal Counties

BAT may consider the addition of:

Uvalde and Gillespie Counties

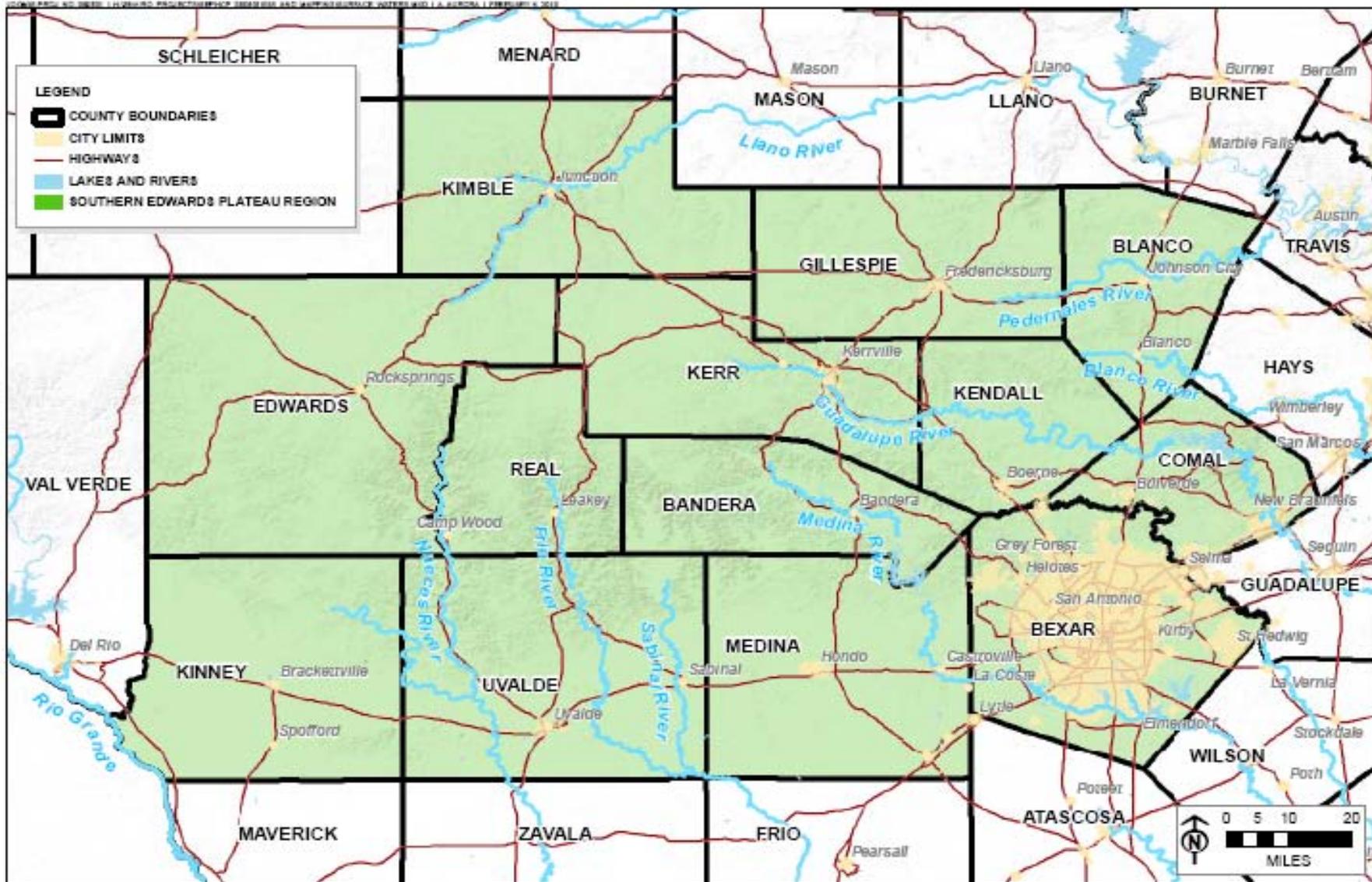
pending consideration of more biological information

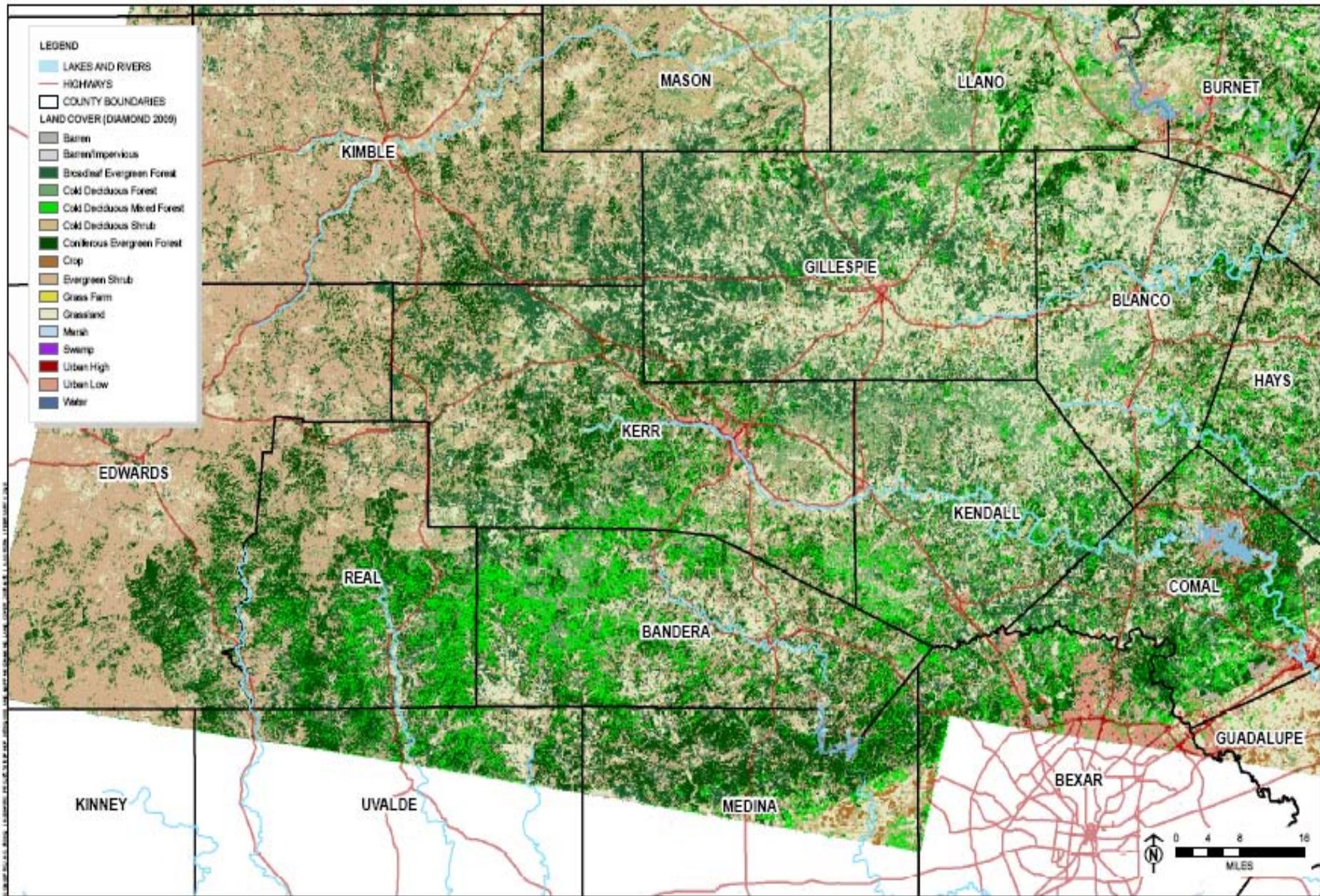


Factors for Consideration

- Distance from the source of take
- Ecological and vegetative similarity
- Similarity of golden-cheeked warbler and black-capped vireo habitat
- Current status of karst features (rarity, impact threat)
- Opportunities for golden-cheeked warbler mitigation
- Aquatic species - TBD



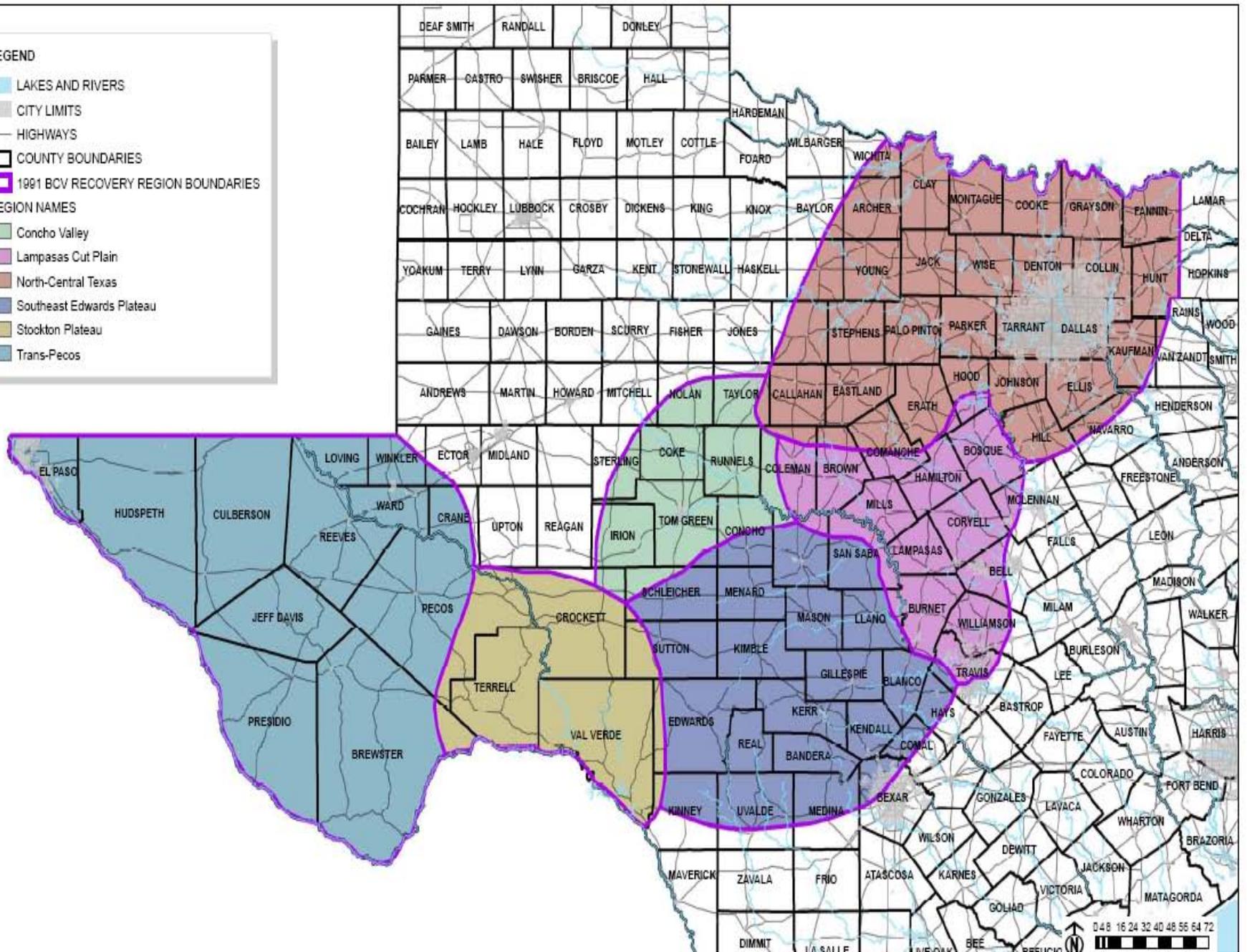


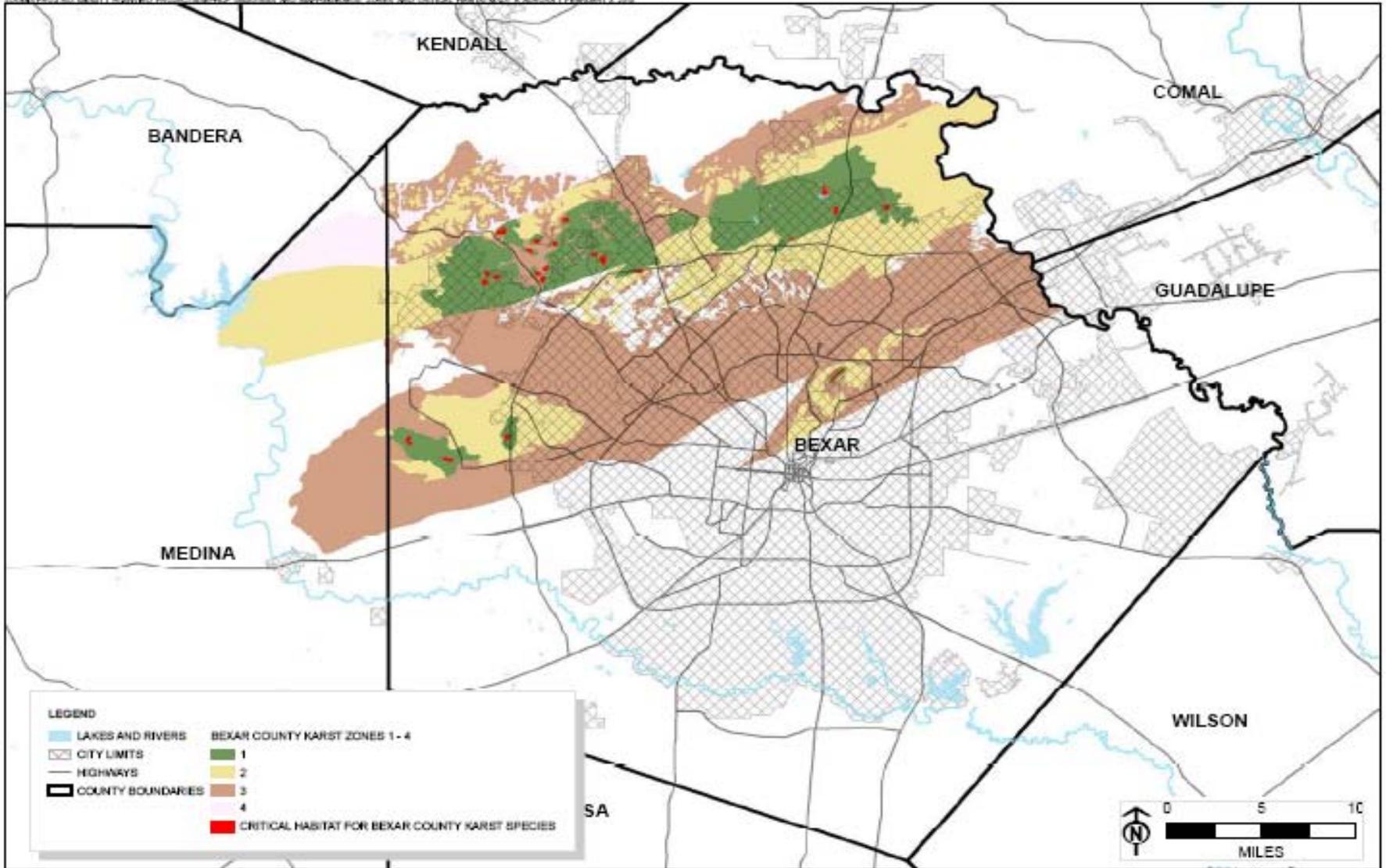


LAND COVER TYPES ACROSS THE SOUTHERN EDWARDS PLATEAU (DIAMOND 2009)

LEGEND

-  LAKES AND RIVERS
 -  CITY LIMITS
 -  HIGHWAYS
 -  COUNTY BOUNDARIES
 -  1991 BCV RECOVERY REGION BOUNDARIES
- REGION NAMES
-  Concho Valley
 -  Lampasas Cut Plain
 -  North-Central Texas
 -  Southeast Edwards Plateau
 -  Stockton Plateau
 -  Trans-Pecos





Specific Issues by County

Whole counties were included – easier to retrieve economic information at the County level

- Bexar, Kendall, Kerr Counties
 - Mitigation opportunity
 - Proximity to where take may occur

- Western SEP – (Edwards, Real, Kinney, Kimble Counties)
 - Excluded due to distance from Bexar and lack of biological and hydro-connectivity



Specific Issues by County

- Medina County – habitat north of Highway 90

- Blanco County
 - 281 Corridor
 - Known T&E habitat
 - Opportunity for conservation of rare salamanders

- Gillespie and Uvalde Counties
 - Currently excluded due to distance from where take may occur
 - BAT will continue to discuss possible inclusion



Comal County

- Good biological and logistical fit
- Currently undergoing development of their own RHCP

Issue: Competing RHCPs – each have mitigation requirements

BAT recommendation to CAC: immediately engage Comal County to incorporate the legal structure to allow each RHCP to work collaboratively to maximize biological benefits

BAT recommends that Comal County be included, but CAC is charged with making that happen politically



Comal County

Service Position:

U.S. Fish and Wildlife Service advised
Comal County to:

- provide a framework within their RHCP to encourage cooperation between the Counties
- provide a mechanism for mitigation for some development projects currently planned for NE Bexar County

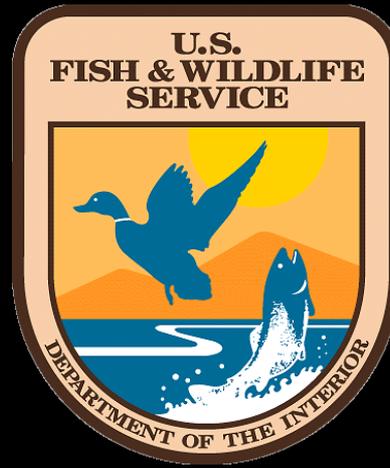
otherwise – major amendment



CAC Considerations

- Biological with the guidance of the BAT
- Other considerations
 - Economics
 - Administration
 - Implementation
 - Mitigation strategy

QUESTIONS



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