

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

**DATE:** November 15, 2010  
**LOCATION:** Casa Helotes Senior Citizens Center  
12070 Leslie Road Helotes, Texas 78023

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

Kirby Brown called the meeting to order at 6:03pm.

## **2. Consider Biological Advisory Team recommendations for golden-cheeked warbler and karst conservation program (TBD)**

Richard Heilbrun (TPWD, BAT chairperson) reported that the BAT approved recommendations for golden-cheeked warbler (GCW) conservation measures. He noted that several proposed GCW conservation measures had not been approved and remained in draft form; although, he expected the BAT to ratify these draft proposals at the next BAT meeting.

Richard Heilbrun explained the role of the BAT in the SEP-HCP process as providing input on biological matters, the calculation of harm to the covered species, and the size and configuration of the preserves. He reviewed that the GCW is threatened by habitat loss and degradation, and noted that the cost of conserving the species now outweighs the cost of doing nothing. He added that endangered species conservation is important to the community, and while the plan is not responsible for recovering the species, the more the community does now, the sooner the species may be delisted. Mr. Heilbrun cautioned that if the plan puts too much emphasis on economic considerations, the community may risk wasting important momentum and public funds on a plan that only helps a few participants.

Richard Heilbrun explained that in arriving at its recommendations for the GCW, the BAT considered issues such as preserve size and configuration; the level of habitat fragmentation around protected areas the potential for disease transmission, predation, and oak wilt to present management challenges; and the range of the GCW. He described some of the pros and cons of big preserves vs. a distributed system of smaller preserves. Mr. Heilbrun stated that the BAT recommended the protection of large conservation areas for the GCW in each plan area county, except for Blanco County, that would include 5,000 to 10,000 acres and build upon existing protected lands, but that this should be a guiding principle and not a requirement. He stated that the BAT recommended that the required minimum for a GCW preserve include at least 500 acres of habitat. He stated that smaller properties could be included in the preserve system but would not generate conservation credit for the plan until this minimum acreage requirement was met. Gary Schott (CAC member) asked if adjacent parcels could be separated by a highway and still meet this requirement.

Richard Heilbrun stated that the BAT wanted to ensure that the mitigation for the GCW be as close to the take as possible and reported that the BAT recommended that a portion of the mitigation for take in Bexar County be located in or near Bexar County. He reported the BAT recommendations for GCW mitigation ratios for take within Bexar County (3:1 ratio of mitigation to take) and in other plan area counties (2:1 ratio), including the recommendation that at least 60% of the mitigation for Bexar County take be located within or within 5 miles of Bexar County. He stated that this was as flexible as the BAT could be on these recommendations. Jonathan Letz asked why a 1:1 mitigation ratio would not be appropriate for take that

occurred outside of Bexar County. Mr. Heilbrun responded that the amount of harm to the status of the species would be too great if 50% of the habitat was lost.

Richard Heilbrun explained that the CAC could use this formula for take and mitigation to adjust the scale of the plan. He stated that the BAT would accept up to 28,000 acres of GCW take through this plan, without additional consideration. He also added that it was important for the CAC to make sure that the plan authorizes enough take to justify the efforts to create the plan.

Kirby Brown asked the CAC to consider what amount of take authorization would be reasonable for the plan. Michael Moore (CAC member) raised concerns about the land development projections that formed the basis for the habitat loss estimates. Mr. Moore stated that the estimated levels of habitat loss in Bexar County were not supported by the economics of buying land in Bexar County, and added that he was not comfortable with the projected population growth for northwestern Bexar County. Mr. Moore suggested that the cost of mitigation under the BAT recommendations would cause housing prices to rise in northwest Bexar County and subsequently limit growth in this area. He asked that the consultant team review the assumptions used in the land development projections. Delmar Cain (CAC member) suggested that the plan should cover a relatively larger amount of take. He explained that if the authorization is too low, then the plan might not be able to cover the need.

Jennifer Nottingham (CAC member) asked if a 2:1 GCW mitigation ratio across the entire plan area would be biologically acceptable. Bob Liesman (CAC alternate) asked how take in Bexar County was different than take in other counties, particularly if the amount of take is limited to a similar extent. Richard Heilbrun responded that this would represent a loss of 31% of the habitat, which might not address the threats to the species. Mr. Heilbrun added that the GCW was listed as endangered primarily because of the threat of habitat loss and if the plan can help alleviate that threat, then it contributes to alleviating that listing consideration. Mr. Heilbrun also stated that the BAT's recommended mitigation ratios were based on the amount of harm to the species. He added that the recommendation was developed with input from the Service and that he was confident that the Service would be comfortable with the outcome of the formula within a wide range of inputs. Mr. Heilbrun stated that if the CAC changed the mitigation formula, then the BAT would need to review the change to determine if it is biologically acceptable.

Richard Heilbrun stated that the BAT recommended that the plan use existing protected areas as building blocks for future preserves, but that new take warrants new mitigation. Therefore, the BAT recommended that only up to 10% of the mitigation for the plan should be derived from additional protections on currently protected public properties.

Eric Lautzenhiser (CAC alternate) stated that the CAC should consider the BAT recommendation as the best biological opinion, and that it is the CAC's charge to find a way to combine this biological recommendation with economic realities and then negotiate with the Service to reach a compromise. He added that there is much more work to be done on estimating the costs of this plan. Richard Heilbrun stated that developers may not bear the total costs of purchasing the mitigation for the plan, if some public dollars can be used. Clifton Ladd (Loomis Partners) added that the consultant team has been looking at ways to use other funding sources for the plan and anticipates that the full cost of the mitigation will not be paid by the participants. Eric Lautzenhiser added that the recently passed San Antonio bond proposition may be able to help protect habitat for endangered species.

Annalisa Peace (CAC member) suggested that complying with the Endangered Species Act should already be factored into the development equation, since this is a law already on the books. Michael Moore noted that to develop in more rural areas, the developer community is being asked to pay more to install infrastructure, and that that this plan will exacerbate this problem by promoting sprawl.

A member of the public asked how counties could opt in or opt out of the plan, particularly with respect to Uvalde County being added to the plan area. Richard Heilbrun explained that counties do not need to opt in or out of the plan; instead this plan is an agreement between the applicant and the Service. Mr. Heilbrun added that any willing participant in the plan area can use the plan without the specific approval of the county. Mr. Heilbrun stated that Uvalde County was not included in the plan area since habitat in that county is different than the habitat in Bexar County. Jonathan Letz added that voluntary participation

by landowners has nothing to do with county approvals, but that the plan could be written to include a mechanism whereby a county can either be a formal partner in the plan or formally opt out of the plan (whereby the plan would not cover take in that county).

At the request of the BAT, consultant team member Jean Krejca (Zara Environmental) presented the BAT's recommendations for the karst conservation measures. Dr. Krejca stated that there are 9 listed karst invertebrates in Bexar County and many are only known from 1 or 2 caves in the world. She stated that the plan would cover take for only 3 of these species (1 spider and 2 beetles) that are relatively more common. Dr. Krejca explained that karst species are known to occur in with relatively high probability in Karst Zones 1 and 2 (which are based on geology), and with less probability in Karst Zones 3 and 4. She added that karst geology is known to occur in other plan area counties, but species in this habitat are not currently listed as threatened or endangered.

Jean Krejca explained the BAT's recommended approach to karst conservation, whereby the plan could authorize take of a species in a Karst Faunal Region (there are 6 regions in Bexar County) only after at least 3 Karst Faunal Areas (i.e., "cave preserves") were established for that species in that region. Dr. Krejca explained that this recommendation was consistent with the current draft recovery guidelines for Bexar County karst invertebrates, but that achieving a recovery standard for these species was appropriate since the species are close to jeopardy. She added that the BAT recommended that the plan seek to protect 6 cave preserves in each region to address uncertainties about the biology and status of these species. Dr. Krejca explained that the mitigation for karst was not based on a mitigation ratio approach, rather the recommended approach would seek to first achieve recovery then be able to cover take of all the remaining habitat.

Jean Krejca described the standards for creation of a Karst Faunal Area, and noted that the criteria were taken from the guidance in the draft recovery plan. Dr. Krejca explained the BAT's recommended steps for karst participation and noted that there may be few options to deviate from this process. She explained that the participation process included three steps: 1) conduct a surface survey for karst features; 2) if features are present, then determine if the features represent suitable habitat for karst invertebrates; 3) if suitable habitat is present, then determine if the habitat is occupied by listed karst species. Dr. Krejca explained that the BAT recommended a very low, per acre mitigation fee for projects located in Karst Zones where no karst features or suitable habitat was detected. The per acre mitigation fee would cover take of any features without surface expression that might be discovered during construction activities. She explained that for projects with occupied caves, participants could avoid take of the cave, protect the cave as mitigation (and use the credit for their activities or to sell to the plan), or pay mitigation fees to take the cave based on impact zones around the feature. She stated that the BAT recommended that the impact zones (with very high mitigation fees) be based on either a set distance from the cave entrance or based on characteristics of the feature (such as cave foot print or drainage areas).

Bob Liesman asked if this approach would result in a "taking" of property, since if the drainage basin of a cave were to cover a large portion of a property, then the landowner might not be able to do anything with the property. Dr. Krejca responded that this is already the case under current law, and the plan would not change that; rather, the plan would provide value to the property if it were used as mitigation.

Michael Moore stated that the karst preserves at La Cantera were approximately 10 acres, which is smaller than what the BAT and the Service are currently recommending. Dr. Krejca responded that La Cantera also protected several other caves off-site.

Kirby Brown urged the CAC to study these recommendations and think about how to incorporate the biological recommendations into the plan. He suggested that CAC members submit any questions they have to Andy Winter (Bexar County).

### **3. Report and discuss the Kerr County Commissioners Court presentation – Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Jonathan Letz stated that the Kerr County Commissioners Court discussed the plan in early November, in response to questions and concerns from rural landowners in that area. He noted that approximately 100 people were present at the Commissioners Court meeting to hear the discussion. Commissioner Letz stated that some of his comments reported in the media were taken out of context. He clarified that while he may not like the provisions of the Endangered Species Act from a property rights perspective, this was the law and that the plan will give new flexibility and options for compliance with this law. Commissioner Letz reported that many concerns from the rural community centered on the possibility for the plan to focus attention on endangered species in rural areas, and that the community wants to avoid having additional scrutiny that might endanger their property rights.

Kirby Brown stated that the CAC will be making recommendations for this plan and that the applicant will ultimately determine how to proceed. He emphasized that agricultural landowners have other tools at their disposal to avoid impacts to endangered species (such as following the recommendations of the Natural Resource Conservation Service). Mr. Brown clarified his opinion that since these tools are available, he believes that agricultural landowners are not likely to become participants in the plan. He also added that the plan could have a way for counties to formally opt in or out of the plan, but that Bexar County may still look to acquire mitigation lands from willing sellers in any of the plan area counties without the involvement of that county.

Jonathan Letz stated that until there is a complete written draft of the plan, there is no real way for a county government to know what to vote for or against. He suggested that that formal discussions with other counties should occur once a draft of the plan is available for review.

CAC members suggested that the AOG respond to the recent media reports. Jonathan Letz stated that the AOG has been discussing the recent media reports about the plan, but that the AOG is really just an administrative group and it would not be appropriate for the AOG to advocate to other groups. Commissioner Letz suggested that the applicant should be the entity to respond. Ann Dietert stated that she would like to see a rebuttal of the statements from the exotic game organization, and Commissioner Letz stated that he has met with a representative from this group but cautioned that a direct response is not likely to be productive. Commissioner Letz added that Bexar County has done a lot of work to reach out to other communities during this process.

Andy Winter reported that Bexar County is concerned about the recent media reports and that the County is preparing a fact sheet and press release with information about the plan. Mr. Winter added that he routinely invites other stakeholders to come to meetings and join the process. Delmar Cain stated that there are a lot of political issues and emotions surrounding private property rights, but that some may not have all the facts about the limitations that may already be in place. Mr. Cain suggested that the County simply lay out the facts of the plan and the process.

### **4. Next meeting, future meeting schedule and requested agenda items – Kirby Brown or Jonathan Letz (CAC Co-chairs)**

Kirby Brown stated that the next CAC meeting would be held on December 6, and the CAC agreed to meet on January 10. Mr. Brown suggested that these meetings be held from 6-8:30pm.

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

Kirby Brown called for public comments. None were received.

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

The meeting was adjourned at 8:07pm.

#### **Attachments:**

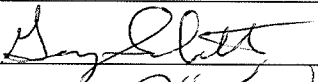
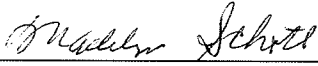
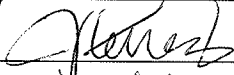
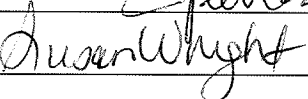

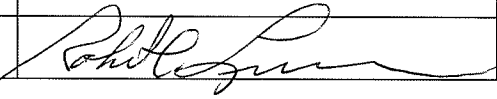
- BAT recommendations for GCW and karst conservation measures

- Presentation slides from Richard Heilbrun on GCW conservation measures
- Presentation slides from Jean Krejca on karst conservation measures

Attachments posted in links to Meeting Materials for the Nov 15 CAC meeting on [www.sephcp.com/committees](http://www.sephcp.com/committees)

# CAC MEMBER SIGN-IN SHEET

CAC MEMBERS			CAC ALTERNATE (FOR VOTING PURPOSES)	
	NAME	SIGNATURE (IF PRESENT)	ALTERNATE NAME (PRINTED)	ALTERNATE SIGNATURE
1	Bradshaw, Mary (Bexar County landowner)	<i>M. Bradshaw</i>	Lottie F. Millsaps	<i>Lottie F. Millsaps</i>
2	Brown, Kirby (Texas Wildlife Association)	<i>Kirby Brown</i>		
3	Cain, Delmar (Kendall County landowner)	<i>Delmar L. Cain</i>		
4	Cude, Ian (Cude Engineering)			
5	Dietert, Ann (Kerr County landowner)	<i>A. Dietert</i>	Kathy Ward	<i>Kathy Ward</i>
6	Fenstermaker, Bebe (Bexar County landowner)	<i>B. Fenstermaker</i>		
7	Fenstermaker, Mary (Hill Country Planning Association)	<i>Mary Fenstermaker</i>	Susan Beavin	<i>Susan W. Beavin</i>
8	Fitzgerald, Bob (Medina County landowner)	<i>Bob Fitzgerald</i>		
9	Forster, Charles ("Frosty") (Pape-Dawson Engineers)	<i>Charles Forster</i>		
10	Hisler, Deirdre (Texas Parks and Wildlife Department)	<i>Deirdre E. Hisler</i>		
11	Hornseth, Tom (Comal County)			
12	Jenkins, Sandy (City of San Antonio)		Eric Lautzenheiser	<i>E. Lautzenheiser</i>
13	Johnson, Randy (Bexar County landowner)	<i>Randy Johnson</i>		
14	Letz, Jonathan (Kerr County)	<i>Jonathan Letz</i>		
15	McFarlen, Gerald (Cibolo Nature Center)	<i>Gerald McFarlen</i>		
16	Moore, Michael (Ironstone Development)	<i>Michael D. Moore</i>		
17	Nottingham, Jennifer (City of Grey Forest)	<i>Jennifer Nottingham</i>		
18	Peace, Annalisa (Greater Edwards Aquifer Alliance)	<i>Annalisa Peace</i>		

19	Schott, Gary (Bexar County landowner)			
20	Terrez, Jenna (CPS Energy)			
21	Wright, Susan (Susan Wright & Associates)			

# GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Richard Heilbrun	TPWD	on file	_____	
SANDRA SCHNEIDER	LAND OWNER	_____	_____	
MIKE BAVV	SAWS	_____	_____	
Charlotte Kucera	USFWS			
Allison Arnold	USFWS			
→ Randy Schott	Borden SWCD	RPSchott@outdors.net	210-213-6247	
Christopher Allison	M.E. Allison			
Tom HALLSTEN	Public	on file	210-240-0674	
Linda Beestead	"			
Cliffon Ladd	Loomis	on file		

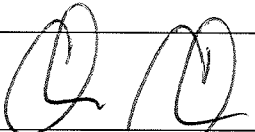
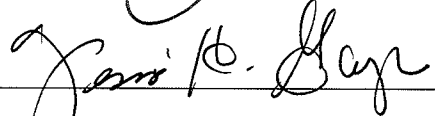
# GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Jerry Webberman	Jackson Walker	jwebberman@jw.com	512-236-2270	
Amanda Aurora	loomis	aaurora@loomis-partners.com	512-672-8977	
→ George Nelson	landowner uvade county	george.nelson.kgc@mac.com	5210 355 3915	
Jayne Neal	COSA	jayne.neal@sanantonio.gov	210-372-9124	
Kyle Cunningham	COSA	Kyle.Cunningham@sanantonio.gov	532-5765	
→ Andy Winters	<del>BE</del> Baxter Co			
→ Cary Dupuy	CPA	Cary.dupuy@cpa.state.tx.us	512-936-3384	
Julie Groce	BAT MEMBER	on-file	on-file	
→ Kevin O Grant	UTSA	KEVIN GRANT036@YAHOO.COM		
Judith Green	TPWD	on file	on-file	

# GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
Frank Sherman	COSA	— on file		
Christine Westerman	SWCA citizen	cweslerman@swca.com	210 877 2847	
J KREJCA	ZARA	on file —		
→ M Barton	EWA	mbarton@chete.net		
Ray Bartons	EWA			
MARIBO FAVIA del Cone Dorromeo	Exotic Wildlife Assoc.	on file		
Lottie E. Mills		alt on committee		
Wylfe Moore	CACalt	on-file		
Boss Bennett	Bexar Co.	RBNAULT@BEXAR.CO.GOV	335-1243	
Kristen Betts	SAMHD	Kristen.Betts@sanantonio.gov	532-5521	

# GENERAL SIGN-IN SHEET

NAME	AFFILIATION	EMAIL ADDRESS	PHONE NUMBER	PLEASE NOTE IF YOU WOULD LIKE TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THE AGENDA
				
	COSA			
Socia Jimenez	Xitmens & Assoc.			