

## GENERAL CONSERVATION TOOLS AND APPROACHES

### Types of Conservation Actions

- **Avoidance** –avoiding take of a listed species negates the need for ESA compliance for that species or, if complete avoidance of take is not possible, reduces the amount of mitigation needed to compensate for adverse impacts
- **Minimization** – actions that reduce the amount of take associated with a project or that reduce the magnitude of adverse impact to the species; minimization actions reduce the amount of mitigation needed to compensate for adverse impacts
- **Mitigation** – actions that compensate for the adverse impacts of take; mitigation actions for an HCP typically involve the protection, enhancement, restoration, or creation of habitat for the affected species

Definition of “take” – To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. (*per Section 3 of the ESA*)

Definition of “harass” – An intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt the normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. (*per 50 CFR 17.3*)

Definition of “harm” – An act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. (*per 50 CFR 17.3*)

**\*\*Work with BAT to identify appropriate avoidance and minimization measures for each of the covered species.\*\***

(The Lost Pines Habitat Conservation Plan in Bastrop County relies almost entirely on avoidance and minimization measures for its conservation program.)

### Habitat Preserve Acquisition Tools

There are many tools available to conserve open space. See attached publication by the National Park Service that describes several conservation tools for protecting open space in Texas (the publication is also available through the Texas Land Trust Council at [www.texaslandtrustcouncil.org](http://www.texaslandtrustcouncil.org)). Conservation tools that may be most applicable to the SEP-HCP are summarized below.

- **Fee Simple Ownership** – the property is owned by the plan partners; land can either be purchased or accepted as a donation or in lieu of other forms of mitigation (i.e., land accepted in lieu of mitigation fees)
  - Fee simple ownership gives the greatest degree of control over the use and management of the property.
  - Fee simple land purchases may be more expensive than other types of acquisitions.
  - Publically owned preserve lands may be subject to strong pressures for public access; trespassing can be a substantial management issue.
- **Conservation Easements** - A conservation easement is a voluntary legal agreement between a landowner and conservation organization that places restrictions on specified future land uses; the easement is either voluntarily donated or sold by the landowner; the land remains in private hands
  - See the attached Texas Land Trust Council booklet on conservation easements (also available at [www.texaslandtrustcouncil.org](http://www.texaslandtrustcouncil.org))
  - Easement purchases may be less expensive than fee simple purchases

- Management responsibilities may be shared between the easement holder and the property owner
- Ongoing coordination with the property owner is essential to maintain the integrity of the easement
- **Conservation Banks** – Conservation banks are lands protected for the purpose of creating “conservation credits” that can be used by or sold to other parties to compensate for adverse impacts on other properties. Conservation bankers voluntarily enter into binding agreements with the USFWS to protect and manage habitat in perpetuity. In return, the conservation value of the protected lands are translated into conservation credits that can be used to compensate for impacts to similar habitats in other areas.
  - See the attached USFWS guidance on conservation banking (also available at [www.fws.gov/endangered/pdfs/MemosLetters/conservation-banking.pdf](http://www.fws.gov/endangered/pdfs/MemosLetters/conservation-banking.pdf))
  - SEP-HCP could purchase conservation credits from independent conservation banks within the Plan Area (if consistent with the Service Area of the bank) or establish its own conservation bank and sell credits to plan participants
  - If purchasing credits from an independent conservation bank, the SEP-HCP would not be responsible for ongoing management or monitoring costs for lands within the independent bank. These responsibilities are taken care of by the conservation banker.

Once preserve land is acquired, adaptive management is needed to achieve conservation objectives and can include actions intended to:

- maintain the existing condition of protected habitats;
- enhance or restore the conservation value of lower quality or degraded habitats; or
- create new habitats on protected lands.

The management plan for preserves will also consider how to address other types of preserve uses (such as recreational use or grazing), infrastructure corridors, and addressing various threats to species and habitats.

## General Approaches to Preserve Acquisitions

The conceptual strategy for preserve acquisitions may include considerations of preserve design and acquisition schedule. See attached table comparing these conceptual alternatives. SEP-HCP could include elements of both approaches.

- **Upfront Pre-determined Preserve System** – Plan would define a “target area” for preserve acquisitions within which the applicant would agree to acquire or otherwise protect a certain amount of habitat with certain characteristics for the species covered by the plan and set it aside permanently as preserve land. Plan would authorize incidental take (up to a certain limit) for projects outside of the target acquisition area.
  - Examples: Balcones Canyonlands Conservation Plan in Travis County; San Diego Multispecies Conservation Plans in California
- **Phased Conservation Bank** – Plan would be structured as a conservation bank through which the plan would preserve, via a series of transactions over time, parcels containing habitat for the covered species. The protected habitats would create conservation credits for the covered species that could be “banked” for future sale to voluntary plan participants (or used by the applicants themselves). The applicants would coordinate with the USFWS to determine the appropriate method for establishing the number of credits that would be associated with each parcel protected through the bank. With every potential plan participant, the applicants would have to ensure that sufficient credits were available in the bank before they could allow a particular project to mitigate for impacts through the plan.
  - Examples: Williamson County, Comal County, and Hays County regional HCPs