



December XX, 2014
DRAFT

Mr. Adam Zerrenner
United States Fish and Wildlife Services
Austin Ecological Services Field Office
107011 Burnet Road, Suite 200
Austin, Texas 78758

RE: Minor Administrative Amendment of the Edwards Aquifer Habitat Conservation Plan (EAHCP) and the Incidental Take Permit (ITP) #TE-63663A-0 related to the Refugia Program

This letter, submitted on behalf of the Edwards Aquifer Authority (EAA), the City of New Braunfels (CoNB), the City of San Marcos (CoSM), the San Antonio Water System (SAWS), and Texas State University (collectively the Permittees), seeks a minor administrative amendment to both the Edwards Aquifer Habitat Conservation Plan (EAHCP) and the Incidental Take Permit #TE-63663A-0 to allow the EAA to contract with entities other than the USFWS (Service) for a functioning refugia program for the EAHCP Covered Species. This letter is submitted pursuant to Section 9.2.1 of the EAHCP.

Section 5.1.1 of the EAHCP and Condition K of the ITP both state the EAA will support and coordinate with the Service on the work relating to the San Marcos Aquatic Resource Center's operation and maintenance of off-site refugia at the Service's San Marcos, Uvalde and Inks Dam facilities. The Permittees seek your formal acceptance on this minor amendment to allow the EAA to develop a refugia program with contractors potentially other than the Service, while maintaining compliance with the EAHCP and ITP. Exhibit 1 includes the specific amendment language for Section 5.1.1. of the EAHCP and for Condition K of the ITP.

Since December 2012, the EAA and the Service have been working towards a mutual agreement on a contract, scope of work and budget for off-site refugia to be operated and maintained by the Service at its facilities. During this process, the EAA, in consultation with its general counsel, expressed concerns relating to the ownership of new facilities and payment methods required by the Service and thus determined that it may not have the legal authority to contract with the Service under the terms and conditions as proposed by the Service.

This minor administrative amendment is not a substantive change in the EAHCP or the ITP, as it does not change the requirement to provide a series of refugia, with back-up populations, to house

and protect adequate populations of the Covered Species. Nor does this amendment result in additional Take of the Covered Species.

To ensure transparency in the implementation of the EAHCP, the Implementing Committee¹ provided the public the opportunity to comment on this minor administrative amendment during its October 16, 2014 and November 20, 2014 meetings. The agendas from these meetings are included as Exhibits 2 and 3 and the minutes from the meetings are included as Exhibits 4 and 5.

The reduced springflows in both the Comal and San Marcos systems for several weeks calls attention to the need for expediting the development of a refugia program. Your approval of this amendment will allow the EAA to implement this critical aspect of the EAHCP. With this said, the EAA, the Implementing Committee, and I look forward to your formal acceptance of this amendment. We appreciate your consideration and response on this issue.

Respectfully,

Nathan Pence
Program Manager
Edwards Aquifer Habitat Conservation Plan

¹ The Implementing Committee (representing the five Permittees and the Guadalupe-Blanco River Authority as a non-voting member) unanimously approved this letter at their meeting on November 20, 2014.

Exhibit 1: Administrative Amendment of the Edwards Aquifer Habitat Conservation Plan, Section 5.1.1. And ITP# TE-63663A-0 Condition K

The following excerpted paragraphs from the EAHCP and the ITP are amended with strikethrough (eliminated) text and with bolded (added) text.

Edwards Aquifer Habitat Conservation Plan

~~§5.1.1 San Marcos National Fish Hatchery and Technology Center, Uvalde National Fish Hatchery, and Inks Dam National Fish Hatchery— Refugia~~

~~“The EAA will support and coordinate with the USFWS on the work relating to the San Marcos NFHTC’s operation and maintenance of a series of off-site refugia at USFWS’s San Marcos, Uvalde, and Inks Dam facilities. (See Section 6.4). The limited geographic distribution of these species leaves the populations vulnerable to extirpation throughout all or a significant part of their range. A series of refugia, with back-up populations at other facilities, will preserve the capacity for these species to be re-established in the event of the loss of population due to a catastrophic event such as the unexpected loss of springflow or a chemical spill.~~

The support of the refugia will augment the existing financial and physical resources of ~~these facilities~~ **USFWS**, and provide supplementary resources for appropriate research activities, as necessary, to house and protect adequate populations of Covered Species and expanded knowledge of their biology, life histories, and effective reintroduction techniques. The use of this support will be limited to the Covered Species in this HCP.”

ITP# TE-63663A-0

Condition K

~~“The EAA will support and coordinate with the U.S. Fish and Wildlife Service (Service) on the work relating to the San Marcos NFHTC’s operation and maintenance of a series of off-site refugia at USFWS’s San Marcos, Uvalde, and Inks Dam facilities. (Section 6.4 of the HCP). The support of the refugia will augment the existing financial and physical resources of ~~these facilities~~ **the Service**, and provide supplementary resources for appropriate research activities, as necessary, to house and protect adequate populations of Covered Species and expanded knowledge of their biology, life histories, and effective reintroduction techniques. The use of this support will be limited to the Covered Species in the EARIP HCP.”~~

Exhibit 2: IC meeting agenda 10/16

Exhibit 2: IC meeting agenda 11/20

Exhibit 2: IC meeting minutes 10/16

Exhibit 2: IC meeting minutes 11/20

