

**Implementing Committee of the Edwards Aquifer Habitat Conservation Plan
Minutes
January 30, 2012**

1. Call to order – establish that all Implementing Committee members are present or represented.

The meeting was called to order at 9:00 am. All members of the Implementing Committee (Committee) were present; therefore a quorum was present for all purposes. Attached to these minutes is an attendance list that was created at the meeting.

2. Public comment.

None.

3. Selection of a temporary Chair.

Tom Taggart moved and Mike Morrison seconded to elect Karl Dreher as temporary chair. Motions passed unanimously.

4. Discuss and consider operational procedures.

Karl Dreher announced that, after consulting with other members of the Committee prior to the EARIP Steering Committee meeting on January 12, he asked Darcy Frownfelter to prepare draft Operational Procedures for the committee that were provided to the group over the weekend. Further, Darcy would provide a brief summary of the draft Operational Procedures content and then go over the document with counsel for other committee members while the Committee discussed other matters. Darcy summarized the document for the Committee. One section of the Operational Procedures that was mentioned was engagement of outside consultants, specifically Legal Counsel (5.4) and Legislative Consultants (5.5). The document does not provide for the Committee to engage such services on its behalf. Rather, each member is to carry out those activities through the parties they represent. Mike Morrison suggested language be added that described how the individual parties could work together as many of the parties retained those services, particularly Legislative Consultants. Committee members were asked to provide comments on the draft Operational Procedures by Monday, February 13. Following Darcy's presentation, the legal counsel representatives present convened in a nearby room to discuss the Operational Procedures.

The attorneys returned at 10:42. Darcy noted that New Braunfels and Texas State University (TSU) did not have legal representatives at the meeting. Given that caveat, there was general support for the document and a recommendation for an orientation for new members. Mike Morrison stated that the document provides for members to have alternates and it also suggests that three officers be elected. He suggested that, in the event an alternate is sitting in on a meeting for a regular member who is an officer (such as Chair), the alternate should not assume the duties of the regular member for the meeting they are attending.

5. Receive status report and schedule from the Program Manager related to the implementation of the Habitat Conservation Plan.

Robert Gulley reported that the Habitat Conservation Plan (HCP) was submitted on January 5, received on January 6 and the U. S. Fish & Wildlife Service (Service) has been assigned a number; meaning it is a complete document. The Environmental Impact Statement (EIS) was being drafted by RECON; however, the contract was terminated. BIO-WEST has been retained to complete the document, and a complete draft is expected this week. The document will be reviewed by Robert for consistency with the HCP. After FWS completes its review, the draft EIS will be noticed in the Federal Register; that could occur by mid-March. The Service has requested a Word version of the Implementing Agreement to provide suggestions

for modification. It appears unlikely that a decision will be made on the HCP by September 1, 2012; however, a decision is likely before January 1, 2013.

6. Discuss Comprehensive Phase I Work Plan to be adopted by March 1, 2012.

Karl Dreher suggested that the Committee start the Comprehensive Phase I Work Plan identified in Section 4.2 of the Funding and Management Agreement with Table 7.1 and related information in the HCP. Additionally, he asked Robert Gulley to prepare a draft document for consideration at the next meeting.

7. Discuss the annual work plans and cost estimates for 2013 to be submitted by April 15, 2012, for the following Habitat Conservation Plan elements:

- Status of Voluntary Irrigation Suspension Program Option

Karl Dreher announced that as there are minimal instructions on implementation of the VISPO and concerns have been expressed by the agricultural community, a workgroup is going to be appointed to work with three EAA board members to develop operational details for VISPO. Work group members may represent grain/seed dealers, chemical dealers, implement dealers and lenders. In addition, the EAA is going to ask an economist to help flesh out details and work through issues [I am not sure he said this]. Calvin Finch requested that SAWS be a member of the workgroup. Tom Taggart stated that San Marcos was not necessarily interested in participating on the workgroup, but did want to be kept informed of all activities as soon as possible. Karl indicated that Rick Illgner would be the EAA person that would head up administration of the VISPO. Parties concerned about the fee increase have asked the EAA to consider holding off VISPO enrollment until 2013; however, Karl indicated that he believes the delay would not be prudent. Robert Gulley recommended that we have public meetings on the program soon.

- Status of Municipal Conservation Initiative

Robert Gulley reported that the municipal conservation program in the HCP calls for 10,000 acre-feet of water to be pledged while the conservation initiatives are being implemented. However, the only firm water pledged to date is 8,000 acre-feet by SAWS. The city of Uvalde has conditionally offered 250 acre-feet, subject to the remaining 1,750 acre-feet being secured. Robert and Calvin Finch have met with the cities of Schertz and Universal City and only Schertz has expressed a possible interest. While the water does not have to be secured immediately, it likely will need to be committed before the HCP is approved and Robert indicated a need for more participation in the form of persons to help solicit participation of other communities that may be candidates. Bill Nance indicated that TSU is completing a 50-year water need assessment and will consider the program when the study is finished. Karl suggested that quarries which are considering "contracting down" so as not to pay Program Aquifer Management Fees may be willing to participate. Mike Morrison said that New Braunfels has been working with CEMEX aggregate and will discuss the matter with them. Tom Taggart will do the same for TXI as they will be receiving some recycled water for their operations.

- Status of the Experimental Channel

Robert Gulley said that the current plans call for the experimental channel to be constructed at the Service fish hatchery in San Marcos. Therefore, it is necessary to begin conceptual discussions on the project to be ready in 2013. He will set up a meeting with Tom Brandt, Thom Hardy, and Ed Oborny soon to discuss issues. Thom Hardy and Melani Howard have had a preliminary meeting with Tom Brandt to begin the discussions.

- Status of the Refugia [The concern here is public reaction. You don't want to set that off through the minutes]

Robert Gulley was asked to arrange a meeting as soon as possible with Tom Brandt, Nathan Pence, Mike Montagne, and Todd Votteler to discuss drought contingency plans with respect to the refugia.

- Strategy for Alternative Funding Mechanism(s)

Karl Dreher reported that some of the EAA board members were opposed to the idea of a sales tax for HCP funding as they thought it was shifting the burden of payment from business to individuals and was regressive. Therefore, the EAA is going to retain an economist to evaluate some of the issues that will be necessary prior to the 2013 Legislative Session. Calvin Finch said a special meeting of the Committee was necessary to discuss finding issues. After a brief discussion, having the meeting through the EARIP was decided to be a better strategy. Tom Taggart expressed his thought that the Funding and Management Agreement called for the Committee to work together on alternative funding. Calvin offered to notice a meeting with the EARIP to discuss the sales tax issue and invite members of the Committee.

Karl indicated that Darcy Frownfelter has prepared a draft sales-tax bill that would apply to the EAA jurisdiction only and would provide for the EAA to handle all of the revenues, not the Texas Water Development Board (TWDB) as contemplated in the draft 2011 legislation that was introduced. A copy will be sent to members of the Committee. Robert Gulley reminded the group that the reason for the TWDB to handle funds in the 2011 legislation was to avoid any voting rights issues. Karl responded that the matter was dealt with in the new legislation by having the State set the tax rate rather than the EAA and the imposition of the tax by majority vote.

- Federal Funding

Robert Gulley said the Service is working on their 2014 budget; consequently, it would be beneficial to plan a trip to Washington D. C. with a specific request for line-item funding. At this time the Service is considering funding for the refugia and bio-monitoring which total approximately \$2.2 million annually. The Service has also suggested that the Department of Defense (DoD) consider providing funding. Robert has prepared a paper on the matter for use by SAWS' legislative consultants. Karl Dreher suggested that Robert be authorized to draft white paper justifying line-item funding by the Service, a proposed budget, and coordinate a trip to Washington D. C. There were no objections.

- Status of SAWS Aquifer Storage & Recovery Facility Contract

Karl Dreher reported that no work has been done on this matter, but needs to be started soon. New Braunfels, San Marcos, and GBRA expressed interest in participating in the contract development.

- Melani Howard and Thom Hardy discussed progress made on their Phase I work plan due March 1. Efforts have focused solely on responsibilities for San Marcos as described in Chapter 5 of the HCP. They have met with several parties to discuss issues in early January and another meeting is planned in February. A detailed budget for 2012 is being prepared and eleven collection and monitoring permits from the Service have been identified. A draft work plan and budget should be ready in a couple of weeks. Nathan Pence requested a meeting with Melani and Thom to review the plan and format. Calvin Finch requested that SAWS be a participant in mitigation plans for the two spring ecosystems.

8. Consider future meeting dates, locations and agendas.

Draft

The third Thursday of the month was deemed to be a good regular meeting date; however, for February the meeting will be on Thursday, February 23 from 9:00 to 1:00 in New Braunfels. Items to be considered include:

- Comprehensive Phase I work plan
- SAWS Aquifer Storage & Recovery contract
- Report from EARIP sales tax meeting
- Discuss the white paper on federal funding
- Report on the status of the municipal conservation initiative
- Discuss the annual work plans and cost estimates for 2013 to be submitted by April 15, 2012
- Discuss/adopt Operational Procedures

There being no further business, the meeting was adjourned at 11:40 am.