

MEMORANDUM

To: Con Mims

From: Robert Gulley

Date: December 29, 2008

Re: Overview of Activities in 2009

You asked me to prepare an overview of the activities that I believe that the EARIP should undertake in 2009.

We have made significant progress during this year. Much of that progress has been “procedural” in nature. But we are now well into the substantive phase of our work – developing the scientific building blocks to use in 2010 in our decision-making process regarding the proposed actions for the program document, adaptive management, and the minimization and mitigation of “take.” The following describes the work I believe is necessary in 2009 to put the EARIP in a position to begin that decision-making process in 2010. I also have attached my thoughts as to what a tentative schedule for EARIP-related activities might look like through July 2009.

(1) Development of the Scientific Building Blocks For Decision-making

The Science Subcommittee has already completed its “k” recommendations. After those recommendations are peer-reviewed, we will have one of the four scientific building blocks needed for our decision-making process in 2010. The three remaining building blocks should be completed this year.

First, the Recharge Facility Feasibility Subcommittee plans to complete its report on recharge options in July 2009.

Second, the initial phases of the Hardy study should be complete in July 2009 and a final report available in November 2009. If we have a contractor in place, peer review can begin as soon as the report is complete.

Third, if the Science Subcommittee functions as effectively as it did in 2008, we should have the Science Subcommittee’s recommendations on the “j” charges available for peer review in early 2010. We will have recommendations from the Science Subcommittee Work Group regarding the composition of the Science Subcommittee at the March meeting. As soon as the EARIP makes a decision on those recommendations, the Subcommittee can organize itself, plan its work, and interact with the Hardy team. In July, after the initial phase of the Hardy study and the work of the Recharge Facility Subcommittee are complete, the Science Subcommittee should be able to begin its work on the recommendations on the “j” charges in earnest.

Being ready to begin putting together the actions for the HCP early in 2010 is important, not only because it keeps us on schedule to meet the deadlines of S.B. 3, but also because we have gotten some clear signals that the most realistic opportunity for federal funding for implementation of the HCP may come in late 2010 or very early in 2011. If this is true, we will need some specific actions developed by that time to be able to effectively compete for an appropriation.

(2) Work of the EARIP

The EARIP itself will have substantive work to do in 2009. In March, Thom Hardy plans to present preliminary influence diagrams to the EARIP. He will be seeking the EARIP's input on whether the influence diagrams include all of the impacts needed by the EARIP for its decision-making process.

In addition, probably in the late spring or early summer, the EARIP will need to begin discussing issues such as: (a) the length of time to be covered by the HCP; (b) who, if anyone, will be applicants on the HCP with EAA; (c) what species will be covered by the HCP; and (d) the geographic scope of the HCP. As further background for those discussions and for decision-making in 2010, Adam Zerrenner, Jean Cochrane, and Mike Runge will give a presentation on adaptive management in February; FWS will give a presentation in April on "mitigation" and "minimization" measures in April; and I will schedule a presentation on the results of TAMU's whooping crane study as soon as it is available.

(3) Development of the HCP and Draft EIS

The EARIP needs to begin to develop the HCP and Draft EIS, although much of this work will have to await the development of the action.

- We should be able to simply update much of the species information and other parts of the draft HCP and draft EIS prepared by EAA. We need to consider soon whether to have the drafts evaluated for their sufficiency.
- Our ability to begin work on the HCP and draft EIS will depend on the availability of the Section 6 grant. We should have word about the grant in March.
- If the Section 6 Grant is awarded, we should promptly retain a contractor to update the EAA documents as appropriate.
- If such funding is not available from FWS or another source we will need to evaluate what other options are available for satisfying the "program document" requirement of S.B. 3.

(4) Development of an Implementation Agreement

Senate Bill 3 requires the EARIP to "enter into an implementing agreement" to "develop a program document" no later than December 31, 2009. It is not entirely clear what is intended by this requirement. A straight forward reading of the requirement would require the development of an agreement for funding, developing the action, and completing the program document. However, typically, in the HCP context, the term "implementing agreement" refers to an agreement between the applicants and FWS regarding the how the HCP will be implemented,

including the obligation of the stakeholders, funding arrangements, and the assurances of the FWS. Such an agreement is developed concomitant with, or right after, the development of the action. Thus, we need to see if we have a consensus as to what S.B. 3 means with respect to an “implementing agreement” and begin work on satisfying that requirement. The agreement may not require too much work to complete if it is simply an agreement for preparing the program document - -so long as the Section 6 Grant is awarded.

(5) Structured Decision-making

If we receive the Section 6 Grant, we need to get the SDM process in place as soon as possible. Based on my discussions with Robin Gregory, the process can and should begin to discuss process and objectives and alternatives in advance of the completion of the scientific building blocks. Moreover, the SDM process will be useful in discussing the elements in item 2 above before we begin discussions on the actions themselves.

Tentative Calendar of Events in Early 2009			
	Date	Events	Activities
January			
	January 7	San Marcos River Restoration Meeting	
	January 8	EARIP Meeting	
	January 22	Meeting of the SSCWG	Receive Input From SSC
	January 26	Draft Peer Review Report	
February			
	February 12	EARIP Meeting (Austin)	Report on EARIP Survey
			Adaptive Management Presentation
			Recommendations of POR Work Group
			Preliminary Report of SSCWG
			Discussion of Implementation Agreement
			Discussion of EAA draft HCP/EIS
	TBD	RFS Meeting	Presentation on Recharge and Recirculation
March			
	March 1	Final Peer Review Report	
	March 12	EARIP Meeting (GBRA)	Hardy presentation of Initial Influence Diagrams
			Final SSCWG Recommendations
		Possible Decision on Section 6 Grant	
April			
	April 9	EARIP Meeting (SAWS)	FWS Presentation on Mitigation and Minimization Measures
			Possible Decisions on (SDM) facilitator and HCP/DEIS contractor
			Presentation of results of Whooping Crane Study (if available)
		SSC begins work on “j” charges	
May			
	May 14	EARIP Meeting (San Marcos)	Begin facilitated discussions with discussion of (1) process design; and (2) objectives and alternatives
June			
	June 11	EARIP Meeting (GBRA)	Continue facilitated discussions including topics such as Covered Species, length of HCP, geographic scope of HCP

Tentative Calendar of Events in Early 2009 (continued)			
	Date	Events	Activities
July			
	July 9	EARIP Meeting (New Braunfels)	
		Initial Phases of Hardy Study Complete	
		RFS Report Complete	