

## ATTACHMENT 2

### CONSIDERATIONS RELATED TO DELAYING THE COMPLETION OF THE HABITAT CONSERVATION PLAN UNTIL AFTER THE 2013 LEGISLATIVE SESSION

#### EARIP Issues

- If we were to delay submitting the HCP until after the 2013 session, the earliest it could be approved would be 2015.
- Will San Marcos want to obtain its own ITP?
- Are there interim measures that the EARIP could be put in place during the delay? If so:
  - What are they?
  - How will we pay for them?
- If the EARIP wants to implement some interim measures, will San Marcos, New Braunfels, and/or Texas State allow access to the property absent an HCP?
  - Some of the activities associated with the mitigation and restoration measures may involve “take,” that would have been protected under the HCP. How will we get take protection for these measures?
- TPWD appears to be willing to create a scientific study area absent an HCP.
- What would be done with HCP contractors? Program manager? Will the same contractor personnel who have worked on the project still be available in 2013?
  - According to Matt Nelson, TWDB can extend the existing contracts.
  - What effect will it have on the TPWD Section 6 grant?
- Will the science have to be updated?
- Will there be turnover in EARIP Steering Committee members and how will that affect what has gone before?
- How do you maintain or regain momentum?
- If the sales tax does not pass in 2013, what reasons do we have to believe that the allocation problem will be easier to resolve then than it is now? How can we avoid being disadvantaged in those discussions by the fact that both the EARIP will have blown its statutory deadline?
- How can we be sure that one or more EARIP stakeholders will not file suit? FWS?
- What impact will the delay have on the TAPS lawsuit?

#### EAA Issues

- EAA must ensure minimum continuous flows to protect the listed species by December 31, 2012.
  - How will EAA deal with this if the EARIP decides to delay the HCP or reaches an impasse on funding?
  - Is turning the process over to EAA a better alternative than delaying the completion of the HCP?
    - If we do so is EAA willing to allow the Steering Committee to serve as its Citizen Advisory Committee?

- Would the EARIP be willing to function as the Citizen Advisory Committee? If so would decision-making still be on a consensus basis up to the Board recommendation?
- Karl Dreher told HNR that he had a plan that might be put in place if the EARIP was unable to complete its job, but that he could not discuss it because he not presented it to his Board. When will he be able to discuss it?
- Is the EARIP willing to transfer the TWDB and Section 6 grants to EAA? Are they even transferable at this point?
- How can EAA be sure that one or more EARIP stakeholders or FWS will not file suit?

### **FWS Issues**

- How can we be sure that FWS will be able to devote the same resources to the EARIP in 2013?
- Will the apparent acceptance of the phased approach still be there?
- How will new FWS personnel affect the process?
- FWS has expressed a willingness to consider a federal role in the funding of the EARIP. Will FWS feel the same if there is no certainty that this process will ever be completed?
- If we were to decide to go delay the completion of the HCP, does it affect our planned trip to D.C.?