

Report of the EARIP Implementing Agreement Drafting Workgroup

To: EARIP Steering Committee and Stakeholders
From: EARIP Implementing Agreement Drafting Workgroup
Date: July 1, 2011
Subject: Fourth Report

Meeting of June 21, 2011. The EARIP Implementing Agreement Drafting Workgroup met at 9:00 a.m. on June 21, 2011, at the Landa Haus in New Braunfels. Workgroup members present were Mark Taylor, Darcy Frownfelter, Myron Hess, Mary Kelly, Mike Gershon, Mike Abbott, and Steve Kosub. Also present were Dr. Robert Gulley, Nathan Pence, Colette Barron, Dr. Todd Votteler and Dr. Calvin Finch.

The workgroup engaged in lengthy and productive discussion of then current drafts of the Implementing Agreement and Appendix A addressing the adaptive management process. With regard to the Implementing Agreement, much of the discussion focused on the severability of Incidental Take Permit protection among the permittees, permit suspension, Third Party Take Protection provisions of the agreement, and program management issues. There was also discussion on the potential role and responsibilities of the Texas Parks and Wildlife Department, and the role of third-party financial contributors to the program.

Mr. Kosub agreed to prepare and circulate new drafts of documents reflecting the workgroup's discussion for consideration and comment by the workgroup members. The workgroup also agreed to circulate a set of draft documents to the Stakeholders in advance of the July 7 Stakeholders' meeting for presentation and discussion at that meeting by the larger group.

The workgroup members have exchanged multiple drafts of documents and comments during the last ten days. The draft documents attached to this report reflect the current version of the workgroup's efforts. Of the three documents attached, the Funding and Management Agreement has had the least review and discussion by the workgroup, and further comments are anticipated on this and the other documents.

There has been much progress and agreement. A few substantive issues remain to be resolved by the potential permittees and other stakeholders. Those issues include the following:

1. Refinement of the relationship between the Program Manager, the Steering Committee, and the stakeholders;
2. Clarification of the role of third-party financial contributors;
3. Refinement of permit suspension severability;

4. Availability of a Force Majeure clause;
5. Availability of attorneys' fees;
6. Constraints on routine adaptive management decisions;
7. Constraints on changing Biological Goals; and
8. Refinement of the role of the Texas Parks and Wildlife Department.

The group scheduled its next meeting for July 11, 2011, from 1:30 p.m. until 4:30 p.m., at the New Braunfels City Hall.

The workgroup meeting adjourned at 11:45a.m.

This draft report has been reviewed but not formally approved by the Implementing Agreement Drafting Workgroup.