

Summary

The Greater Edwards Aquifer Alliance (GEAA), a 501(c)(3) nonprofit organization dedicated to conservation and sustainable management of the Edwards Aquifer ecosystem and the Texas Hill Country, seeks \$200,000 to be spent between September 1, 2008 and August 31, 2010 in support of activities of the Edwards Aquifer Recovery Implementation Program (EARIP) to create a Habitat Conservation Plan for Endangered and Threatened Species reliant on the great springs of the Edwards Aquifer.

Background

The Edwards Aquifer is one of the world's unique groundwater resources, extending 180 miles from Brackettville in Kinney County to Kyle in Hays County. While it is the primary source of drinking water for over 2 million people in south central Texas and serves the domestic, agricultural, industrial and recreational needs of the area, it is also the sole-source of water for a unique system of aquatic life, including at least eight federally listed threatened and endangered species.

Water from the Edwards Aquifer feeds springs that provide the base flow for four regional rivers, the San Marcos, San Antonio, Guadalupe and Nueces. The Edwards is the source of the only two great springs remaining in Texas - the San Marcos and the Comal. These great springs are home to the Fountain Darter, San Marcos Salamander, San Marcos Gambusia, Texas Blind Salamander, Peck's Cave Amphipod, Comal Springs Dryopid and Riffle beetles and Texas Wild Rice.

Historically, groundwater in Texas was governed by "rule of capture". Simply put – however much water you could bring out of the ground was yours to use so long as you did not waste it. Since 1878, when George Brackenridge first began pumping from the Edwards to provide water to the City of San Antonio, millions of thirsty municipal users have come to rely on the Aquifer as their primary source of water. One hundred years later, the once "great" San Antonio Springs, source of the San Antonio River, flowed only intermittently; it became apparent that unchecked pumping from the Edwards threatened continued spring flow that supports not only the above-mentioned species, but also industrial, agricultural and recreational economies that depend on these waters as they flow through South Texas to the Gulf of Mexico. In 1992 the Sierra Club filed a lawsuit under the Federal Endangered Species Act that resulted in the creation of the Edwards Aquifer Authority (EAA). The Texas Legislature directed the EAA to regulate pumping from the aquifer, critical period management restrictions, and measures to ensure minimal continuous flows from the springs. Competing water needs, however, still provoke tensions within the region.

As a result, in 2007 the United States Fish and Wildlife Service (FWS) brought together stakeholders from throughout the region to participate in a unique collaborative process to balance the needs of all those who rely on the waters of the Edwards. FWS has successfully used such a process to address similar issues in the southwestern United States. In May 2007, in Senate Bill 3 (S.B. 3), the Texas Legislature directed the EAA and several state and municipal agencies to participate in the RIP process and to prepare a FWS approved Habitat Conservation Plan (HCP) by 2012 for managing the Aquifer to preserve the endangered species at Comal and San Marcos Springs. The Edwards Aquifer Recovery Implementation Program is dedicated to conservation and sustainable management of the Edwards Aquifer Ecosystem.

Texas State Senator Glenn Hegar, who authored the recovery plan portion of the 80th Legislature water bill, described the program and its goals, "The aquifer recovery program's emphasis is on using sound science and adaptive management to form effective solutions that reflect community values. A scientifically based approach to balance competing water interests is vital for achieving a consensus to resolve the continuing

wars that have plagued the region for years. I truly believe that we must work together, as a region, to solve this complex and contentious issue. We must develop the science to answer these critical water questions and everyone needs to be at the table as this scientific based solution is developed and ultimately implemented."

The Project

The EARIP is a mature effort successfully engaging a remarkably diverse group of interested parties in a formal consensus process with the goal of devising a plan to preserve the endangered species in fulfillment of Federal requirements and the demands of the State Legislature set forth in S.B. 3. Stakeholders represented in this effort include:

- Water utilities and pumpers who require certainty about the quantity of water in the system available for purveyance.
- Citizens of San Marcos and New Braunfels who rely on a vibrant economy based on recreation and tourism, and all those who appreciate the benefits of maintaining the springs and rivers in their natural state.
- Agricultural users west of San Antonio who depend the aquifer for ranching and farming.
- Citizens of communities downstream and west of the springs dependent on water from the four spring-fed rivers for their daily needs, as well as Industrial and Agricultural users downstream and west of the springs, who rely on surface water from the rivers for their livelihood.
- Those concerned about maintaining flows to the coast to support coastal ecosystem, fisheries, shrimpers, and the endangered species reliant upon the mix of salt and fresh water to maintain the health of the gulf coast bays and estuaries.
- Environmentalists concerned not only with the amount of flows required to preserve the species, but also about the impact of point and non-point source pollution to water quality, and the possibility that diminished water quality might further threaten the species.

The composition of the EARIP Steering Committee, originally mandated by the State Legislature, has since been expanded to include a wider variety of interests with the approval of all participants. The EARIP meets monthly, and has established a Science Subcommittee as required by S.B. 3. Several ad hoc working groups have also been convened to assist in the function of the EARP.

The Parties that have signed on to the Memorandum of Agreement have agree to participate in good faith in a cooperative, consensus-based process consistent with the purposes of the Program, and the requirements and deadlines imposed by S.B. 3. The Parties also agree that reasonable flexibility to adapt Program activities, particularly in response to new information and changed circumstances, is necessary to effectively meet the purposes of the RIP. In addition to these Program goals, the Parties agree that the Program will include, but is not limited to the following goals:

- (a) development and implementation of sound scientific research, analysis and other measures which contribute to understanding and meeting the needs of the Edwards Species for sustainability;
- (b) development and implementation of strategies which balance the needs of the Edwards Species with preservation of permitted Edwards Aquifer water withdrawals;
- (c) review, development and implementation of aquifer management measures and conservation measures;

(d) development and implementation of a program document that may be in the form of a habitat conservation plan (HCP) for the Edwards Species in accordance with Section 10 of the Endangered Species Act.

Timeline

The EARIP was given the following tasks and timeline by the State Legislature in S.B. 3: Sec 126 A,

- To create a Steering Committee by September 30, 2007
- To hire a program director by October 31, 2007
- To enter into a Memorandum of Agreement not later than December 31, 2007
- To appoint an expert Science Subcommittee by December 31, 2007
- The Science Subcommittee must complete and submit to the EARIP Steering Committee initial recommendations and responses to questions outlined in S.B. 3 by December 31, 2008
- To develop a habitat conservation plan by December 31, 2009
- To provide recommendations for withdrawal adjustments during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record to be approved and executed by the appropriate parties not later than September 1, 2012, to take effect December 31, 2012

Initial directives for the EARIP mandated by the Legislature have been met by the deadlines dictated in S.B.3. Members of the EARIP have convened a Steering Committee composed of twenty-one members and hired Dr. Robert Gulley as the Program Manager. Thirty-four stakeholder groups have signed the Memorandum of Agreement. And, most importantly, the EARIP has engaged fifteen top-notch scientists to serve as the Science Subcommittee, harnessing an impressive team of regional experts in the fields of biology, hydrology and modeling, to conduct and oversee the studies and tasks needed to fulfill the EARIP's Legislative mandate. The EARIP has formed a Biological Modeling workgroup whose goal is to move forward with developing biological information necessary for the jeopardy analysis, and for informing the scope of work to be done by the Science Subcommittee.

During 2008 the EARIP will produce educational materials and a presentation to further engage the general public in this project. The Steering Committee is in the process of establishing an Outreach committee to promote the work of the EARIP in the media and through meetings with policy makers and civic organizations.

The schedule for completing the tasks is submitted as Attachment I.

The schedule for the EARIP Science Subcommittee is submitted as Attachment II

Accomplishments

Process is critical to consensus efforts, especially one that embraces such a diversity of constituencies. The process creates the foundation for functioning successfully and achieving scientifically valid results that will garner the approval of the community at large. In developing this process and completing the tasks set for it within a year of inception, the EARIP has gotten off to a good start.

The period to be funded by this grant represents the transition phase, whereby the EARIP will begin to address the substantial issues that it has been tasked with, including looking at the relationships between water issues and the species, and devising a workable plan to preserve the species in their natural habitat.

We are confident that the structure in place will facilitate this work and will insure a successful outcome. The only factor lacking for this project to succeed as anticipated is full funding through its completion.

Evaluation

This project will be a success if the consensus is achieved in support of a Habitat Conservation Plan within the period set by the Texas State Legislature. This will require the EARIP to prepare, as well, a draft federal Environmental Impact Statement to satisfy the requirements of the National Environmental Policy Act and to develop the biological information necessary for FWS to evaluate the impacts of the proposed actions on federally-listed species.

Budget

Income and Expense Budgets for this project are attached as Attachment IV

The EARIP is unique. In each of the other RIPs, the action driving the RIP was a federal action such as the operation of a dam or management of water supply contracts. As a result, the federal government made significant federal funding available to these RIP processes. In the case of the EARIP, all of the participants are State agencies and private entities. FWS is contributing its scientific expertise to the process, but its ultimate role is as a regulator that will have to decide whether or not the HCP submitted by the EARIP stakeholders satisfies the criteria for issuance under the Endangered Species Act.

The Texas Legislature required that State agencies participate in the EARIP, but did not provide any funds to support the RIP process or the participation of the agencies. In deed, in S.B. 3 the Legislature directed the EARIP to "pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement...including funding for a program director."¹

The RIP process is expensive. It not only requires the full time work of a project manager, but will require significant investment for consultant assistance in conducting scientific analyses and preparing the voluminous program documents necessary to obtain the HCP.

Because of the importance of the EARIP to the region, thirteen stakeholders pledged funds to support the initial stages of the EARIP. That these agencies and organizations have contributed from their own resources is evidence of the value accorded the EARIP. Since a goal of the EARIP is to include all stakeholders in the process, many of whom cannot afford to contribute, it would be counterproductive to assess fees for participation in an effort to make the process self sufficient. Doing so would compromise the broad base of participation that makes this process unique in the region. To meet the State mandates within the timeline set forth in S.B. 3 and the FWS directive that the process reflect consensus of all stakeholders, the EARIP must obtain funds from outside sources.

The Request

"Cities, towns, rural communities, and farm and ranch lands all depend on the aquifer's water for household, agricultural, industrial and recreational purposes. The diversity of uses illustrates the importance of the aquifer to the lives and livelihoods of residents in the Edwards Aquifer region."²

¹ SB3 Section 1.26A d (2), page 148

² <http://www.edwardsaquifer.org/pages/history.htm>

We ask you to join the citizens of our region in working together to craft a plan that will resolve our water issues and protect the health and sustainability of the Edwards Aquifer Ecosystem. GEAA, with the support of other stakeholders in the EARIP, requests \$100,000 in two equal installments over two years to support the continued operation of the EARIP process, provide support for the Science Subcommittee, and support scientific evaluation of the biological need of the species served by the Comal Springs.

In the event that this request cannot be fully funded, an award in any amount would be greatly appreciated. We are confident that this proposal is consonant with your funding priorities, and we look forward to working with the Kronkosky Foundation in the future to secure a sound plan to sustain the health of the water resources and of the species that depend on the Edwards Aquifer.