

Hays County Habitat Conservation Plan

Interim Phase 2 Progress Report

December 21, 2007

In September 2005, the U.S. Fish and Wildlife Service (USFWS) awarded Hays County a \$753,750 federal grant to develop and process a Regional Habitat Conservation Plan (RHCP). The County selected Smith|Robertson (SR) as outside legal counsel and Loomis Austin, Inc. (LAI) as environmental consultants for the project in April 2006 and September 2006, respectively. On October 24, 2006, the Commissioners' Court approved a Work Plan for the Hays County Habitat Conservation Plan identifying tasks necessary to complete the RHCP, and an estimated schedule and budget for the project. The Work Plan divides these tasks into six phases to develop and complete the RHCP. Phase 1 of the RHCP was completed in October 2006, with the approval of the Work Plan.

This progress report summarizes work completed to date, as part of Phase 2 of the project. Phase 2 of the Work Plan involved tasks related to initial project development and early community guidance that would guide the preparation of a first conceptual draft RHCP in Phase 3.

1.0 Completed Activities and Deliverables

As of November 30, 2007, the project team has completed the following work during Phase 2 of the project:

- **Progress Report for Phase 1** – LAI and SR prepared a progress report for Phase 1 of the project. This progress report was delivered to Hays County on November 8, 2006.
- **Formation of the CAC** – SR and LAI assisted County Commissioners and Hays County staff with the early organization of the Citizens Advisory Committee (CAC) and identification of Hays County citizens willing to serve on the committee. Identification of stakeholder groups and potential participants began in Phase I and culminated with a list of recommended CAC members for Court approval in June 2007. The Commissioners Court appointed citizens to the CAC on June 12 and June 27, 2007. SR and LAI also prepared organizational materials for the CAC, including a summary of legal requirements, committee member responsibilities, a draft charge, and a binder of background materials related to the RHCP. These materials were presented to the CAC prior to or during the first CAC meeting on July 5, 2007. The Work Plan anticipated formation of the CAC by April 6, 2007.

- **Formation of the BAT** – LAI and SR assisted County Commissioners, County staff, and the CAC with the identification of biologists willing to serve on the Biological Advisory Team (BAT). LAI presented the CAC a list of potential BAT candidates at the July 5, 2007 CAC meeting and provided the Commissioners Court a list of recommended team members (incorporating suggestions from the CAC) on July 24, 2007. The Commissioners Court appointed six members to the BAT on August 7, 2007. Consistent with state law requirements for RHCP development, the CAC landowner members appointed a seventh member on September 13, 2007. The Work Plan anticipated formation of the BAT by April 6, 2007.
- **Develop Public Outreach/Public Participation Protocol** – LAI and SR began developing a website for the project in October 2006, with early drafts ready for review in November 2006. The website was posted online April 10, 2007 and is the primary public outlet for information about the RHCP, including regular updates and postings regarding progress, meeting notices, agendas and minutes, and documents prepared to support development of the plan. The website is updated on an approximately biweekly basis. The website encourages public involvement and comment, and contains information on how to submit comments and questions to the HCP workgroup. In addition to the website, LAI and SR prepared a Public Participation handout (June 11, 2007), a memo to the HCP workgroup summarizing a protocol for handling public comments (June 13, 2007), and created a self-maintaining email distribution list for public notices (July 19, 2007). The Work Plan anticipated having a public outreach protocol and materials in place by January 16, 2007.
- **Baseline Data Acquisition and Preliminary Analysis** – This task represents ongoing work to identify, collect, or develop the species, habitat, land use, land development, and population data needed to support the impact analysis and conservation strategy for the RHCP. Information developed by LAI and Zara Environmental (subconsultants to LAI) have included draft resource maps for golden-cheeked warblers, black-capped vireos, karst features, and aquatic features (draft maps dated October 3, 2007). LAI also prepared reports summarizing and evaluating mapping efforts for the warbler and vireo (draft papers dated November 29, 2007) and the karst environment (draft paper by Zara dated August 17, 2007) for review by BAT and other species experts. LAI is also developing a database of currently protected public and private lands in Hays County. Preliminary baseline data on resources and potential impacts was summarized in a presentation to the CAC in September 2007, and to the BAT in October 2007 (draft presentation “Baseline Study of Sensitive Natural Resources and Land Development Activities in Hays County, Texas” dated September 13,

2007). The Work Plan anticipated completion of the baseline study on February 23, 2007.

- **Initial Strategy/Framework Development** – LAI and SR prepared a draft, annotated RHCP outline on October 11, 2007. Discussions with County Commissioners, the CAC, and the BAT revealed the need for more detailed discussion and consideration of which species to address in the RHCP and how to address them. LAI and SR have developed a number of materials for committee discussion on which species should be covered by the RHCP, including a species options chart (draft September 13, 2007), decision flow charts (draft November 8, 2007), and an annotated species of concern master list and table (draft November 2, 2007). SR and LAI have also developed materials for CAC and BAT discussion regarding conservation strategy options, including a review of other RHCP conservation programs (draft October 9, 2007) and an analysis of possible conservation models (draft November 8, 2007). Discussions on the species covered and conservation strategy issues are ongoing within the CAC and the BAT. LAI and SR have also arranged for presentations to the CAC and/or BAT from representatives of other regional conservation programs, including the Edwards Aquifer Recovery Implementation Program (EARIP) and the Balcones Canyonlands Conservation Plan (BCCP). A presentation from representatives of the Williamson County Regional Habitat Conservation Plan is planned for the January 10, 2008 CAC meeting. The Work Plan anticipated achieving consensus on the RHCP scope and strategy by June 19, 2007.
- **NEPA Scoping Process** – The Work Plan anticipated a National Environmental Policy Act (NEPA) scoping meeting on April 10, 2007, with a summary of public comments prepared by June 19, 2007. LAI and SR have deliberately postponed work on this task to allow more time for development of the RHCP scope and strategy.
- **Prepare RFQ for Economist, advertise, select** – SR and LAI assisted the County with the preparation of an RFQ for an economist for the RHCP project team. Hays County posted the RFQ on June 12, 2007. SR and LAI reviewed and ranked both responses to the RFQ, and provided recommendations to the Commissioners Court in July 2007. Commissioners Court selected an economist team lead by Mr. Joseph Lessard on August 7, 2007, and negotiated a contract with Mr. Lessard on November 6, 2007. The Work Plan anticipated selecting an economist by March 23, 2007.
- **Miscellaneous Project Activities** – LAI and SR organized a work session with the Hays County Commissioners Court and staff on January 29, 2007 to

introduce the newly elected Court to the RHCP project. SR negotiated an extension of the Interlocal Agreement between Hays County and the Texas Parks and Wildlife Department from July 31, 2007 to April 30, 2009. LAI and SR staff also assisted the Citizens' Parks Advisory Team as requested, including delivering a presentation to the CPAT on July 26, 2007.

2.0 Project Schedule

Phase 2 formally began after the approval of the Work Plan on October 24, 2006 and is ongoing. Phase 2 is approximately six months behind the schedule established by the Work Plan, but should be completed by Spring 2008. The additional time will give advisory committees sufficient opportunity to review species information and provide recommendations for the species to include in the RHCP and conservation strategy for the plan. Table 1 sets forth the completed activities and deliverables of Phase 2 to date and a more detailed discussion of those activities and deliverables follows below.

Table 1. Phase 2 Timeline October 24, 2007 to date.

Completion Date	Major Task/Milestone
November 8, 2006	Phase I progress report delivered.
January 29, 2007	Work session with Hays County Commissioners Court.
April 10, 2007	Hays County HCP website posted online.
June 27, 2007	Formation of the Citizens Advisory Committee.
July 26, 2007	Federal Grant and Interlocal Agreement deadline extended to April 30, 2009.
September 13, 2007	Formation of the Biological Advisory Team.
September 13, 2007	Baseline study of natural resources, land development, and potential impacts completed.
October 2007 – to date	Ongoing discussion by advisory committees regarding which species to include and how to address them and the conservation strategy.
November 6, 2007	Economist (Mr. Joseph Lessard) engaged to begin financial analysis of the plan.

3.0 Budget

Phase 2 set forth a total estimated budget of \$200,900 for work performed by the consultant teams. Phase 2 is more than 75 percent complete, with developing committee consensus on the project scope and strategy still underway. Note that the invoiced amount through November 2007 for services by Smith|Robertson appears more than the amount budgeted as shown in the chart below. In reality, a portion of legal services conducted through November 2007 may more properly be allocated towards tasks contained in later phases of the Work Plan. Smith|Robertson instituted steps over the past several months to limit fees expended, and will continue to closely monitor expenditures as compared to the budget. The dollar amounts set forth in the initial estimated budget for each phase were approximate, and subject to reallocation among phases.

Table 2. Project Budget and Billings.

	Budgeted and Invoiced Costs					
	Subconsultants to LAI and SR are included in the reported dollar amounts.)					
	LAI	SR	Economist	Hays County (in kind)	Contingency	Total
Total Invoiced To Date (Nov. 30, 2007)	\$135,295.65	\$196,362.91	\$0	(unreported)	\$0	\$331,658.56
Total Budgeted through Phase 2	\$150,900.00	\$135,000.00	\$0	(unreported)	\$0	\$285,900.00
Total Project Budget	\$474,000.00	\$325,000.00	\$80,000	\$51,000	\$70,000	\$1,000,000
Remaining Budget (%)	\$338,704.35 (71%)	\$128,637.09 (40%)	\$80,000 (100%)	(unreported)	\$70,000 (100%)	\$668,341.44 (67%)

4.0 Comments and Recommendations

Although tasks in Phase 2 are behind the anticipated schedule, careful progress during this initial development phase of the RHCP development will ultimately help ensure that the community has ample opportunity to discuss and contribute to the formation of the plan.

Early schedule delays involved the orientation of new County Commissioners and staff to the RHCP project following the November 2006 elections. Additional early delays were due to the identification and selection of potential members of the CAC and BAT. Careful consideration by the County was given to the composition of each of these committees. Final formation of the BAT required the input of the landowner members of the CAC. Both committees are now fully formed and actively participating in the development of the scope and strategy of the RHCP. Additionally, the RHCP website, a public participation/comment process, and detailed baseline habitat assessments are complete and will collectively reduce the amount of effort needed to develop the corresponding parts of the first conceptual draft of the RHCP in Phase 3.

The Work Plan was developed with the assumption that the RHCP would cover only the golden-cheeked warbler and possibly the black-capped vireo for incidental take. Early assumptions anticipated that the RHCP would identify and track benefits to other sensitive resources (such as karst or aquatic species), but would not cover these species for incidental take as sufficient information to do so was not available. However, the grant language left open the possibility for evaluating how to address these other species. The CAC and the BAT have been discussing in detail which species are most important to address in the RHCP and how to include them in the plan. LAI and SR are preparing materials and other assistance s as needed to assist the committees with this issue. Consensus on the scope of the RHCP by the advisory committees should be forthcoming in January or February 2008.

The advisory committees are also beginning discussions on a preferred conservation strategy and preserve design criteria for the RHCP. In addition to the materials already prepared to help guide these discussions, the consultant teams (including the Economic consultant) will be assisting both committees with this issue by developing basic preliminary assessments of preserve size and configuration, funding sources and mechanisms, and potential legal or regulatory issues associated with various conservation strategies. We are anticipating BAT and CAC consensus on the basic structure of the conservation program by April or May 2008.

While the Initial Strategy and Framework task of Phase 2 may not be completed until Spring 2008 (almost a year behind the anticipated schedule in the Work Plan), we believe that the delay was an important and positive part of the overall task. Stakeholder and expert scientific input at this early stage of project development is vitally important to ensuring that community values and the best available science are incorporated into the plan. Further, we have begun to fill in the background sections of the conceptual first draft of the RHCP (a Phase 3 task), where possible, to help compensate for schedule delays in Phase 2.

We believe that postponing the NEPA scoping task until Phase 3 is appropriate, since the basic framework of the RHCP would help provide information for the public to understand the proposed project and comment on issues to include in the NEPA analysis. Postponing this

task should not delay the overall project schedule, since the NEPA scoping process will be completed concurrent with other project tasks in Phase 3.

We anticipate completion of all Phase 2 tasks by Spring 2008. At that time, we will prepare the final Phase 2 progress report and update the anticipated project schedule and task list in the Work Plan.