



GUADALUPE-BLANCO RIVER AUTHORITY

GENERAL OFFICE  
933 East Court Street  
Seguin, Texas 78155  
Phone: 830-379-5822  
800-413-5822  
Fax: 830-379-9718

BUDA WASTEWATER  
RECLAMATION  
PLANT  
575 County Road 236  
Buda, Texas 78610  
Phone: 512-312-0526  
Fax: 512-312-0526

COLETO CREEK PARK  
AND RESERVOIR  
P.O. Box 68  
Fannin, Texas 77960  
Phone: 361-575-6366  
Fax: 361-575-2267

LAKE WOOD  
RECREATION AREA  
167 FM 2091 South  
Gonzales, Texas 78629  
Phone: 830-672-2779  
Fax: 830-672-2779

LOCKHART WATER  
TREATMENT PLANT  
547 Old McMahan Road  
Lockhart, Texas 78644  
Phone: 512-398-3528

LOCKHART  
WASTEWATER  
RECLAMATION  
SYSTEM  
4435 FM 20 East  
Lockhart, Texas 78644  
Phone: 512-398-6391  
Fax: 512-398-2036

LULING WATER  
TREATMENT PLANT  
350 Memorial Drive  
Luling, Texas 78648  
Phone: 830-875-2132  
Fax: 830-875-2132

PORT LAVACA  
OPERATIONS  
P.O. Box 146  
Port Lavaca, Texas 77979  
Phone: 361-552-9751  
Fax: 361-552-6529

SAN MARCOS WATER  
TREATMENT PLANT  
91 Old Bastrop Road  
San Marcos, Texas 78666  
Phone: 512-353-3888  
Fax: 512-353-3127

VICTORIAL REGIONAL  
WASTEWATER  
RECLAMATION  
SYSTEM  
P.O. Box 2085  
Victoria, Texas 77902-2085  
Phone: 361-578-2878  
Fax: 361-578-9039

GBRA WEBSITE  
[www.gbra.org](http://www.gbra.org)

September 6, 2005

Mr. Robert T. Pine, Supervisor  
U.S. Fish and Wildlife Service  
Austin Ecological Services Office  
10711 Burnet Road, Suite 248  
Austin, Texas 78758

Re: Draft Habitat Conservation Plan for the Edwards Aquifer

Dear Mr. Pine:

I am writing to bring to your attention recent developments that bear directly on your agency's consideration of the draft Habitat Conservation Plan for the Edwards Aquifer (the "Draft HCP") that was submitted by the Edwards Aquifer Authority ("EAA") in March 2005. These developments also potentially affect certain other decisions previously made by the U.S. Fish and Wildlife Service ("USFWS") pursuant to the Endangered Species Act regarding species and habitats dependent on the maintenance of continuous, adequate springflows from the Comal Springs and the San Marcos Springs -- the two largest springs in the Western United States, and the major surface outlets of the Edwards Aquifer.

The recent developments discussed below so alter the conditions and commitments upon which the Draft HCP was based that, as a matter of law and policy, the Draft HCP must be rejected by USFWS. If the EAA desires to pursue approval of an HCP at this time, it should begin that effort anew, based on the new conditions.

I do not mean to imply that the Draft HCP was adequate under the conditions and commitments that existed at the time it was filed with USFWS. In our opinion it was not, and for that reason it should be rejected by USFWS even if the recent developments are not considered. Some of the significant deficiencies in the Draft HCP are addressed in comments submitted to the EAA by Guadalupe-Blanco River Authority ("GBRA"), the City of San Marcos, the City of Victoria and the Sierra Club on the previous version of the Draft HCP, which also apply to the current draft. Copies of those comments are enclosed for your convenience (Attachments 1-4).

As set forth in GBRA's comments to the EAA, a fundamental deficiency in the Draft HCP is the lack of regulation of aquifer pumping to the extent necessary to ensure that continuous minimum springflows of Comal and San Marcos Springs will be maintained at all times, including throughout a repeat of the drought of record. In Texas, the statewide drought of record was the drought of the 1950's. That drought extended over nearly a decade and severely damaged the economy of much of Texas. It ended less than 50 years ago. Since then, the drought of the 1950's has been the *minimum* standard by which cities and water suppliers in Texas measure the adequacy and reliability of their supplies, and the same minimum standard must be applied to measure the adequacy of any plan to protect the endangered and threatened species that rely upon a supply of water. During the 1950's drought, the Comal Springs dried up for a period of five months, and springflows from San Marcos Springs dropped to 46 cfs. Pumping from the Aquifer averaged only 219,000 acre-feet per year over the ten-year period that ended with the end of the drought. Thus, it is clear that pumping during a repeat of the drought of record must be reduced to something less than an average of 219,000 acre-feet per year in order to ensure continuous minimum springflows from Comal and San Marcos Springs. But permits for more than twice this amount have been issued by the EAA, and the EAA's "critical period management plan" is completely inadequate to protect springflows during a repeat of the drought of record because the critical period management plan does not contemplate reductions below 340,000 acre-feet in *any* year. The EAA admits in its Draft HCP that the measures it is proposing would not protect the springs through a repeat of the drought of record and that it relies upon placing the species in artificial refugia.

Also as set forth in GBRA's comments to the EAA, the Draft HCP virtually ignores the substantial risk of contamination of the Aquifer by intrusion of adjacent bad-quality water into the fresh water of the Aquifer as a result of the excessive pumping. The draft document likewise ignores the risk of contamination of the surface waters of the Comal, San Marcos and Guadalupe Rivers by the discharge of contaminated fresh water from the Aquifer through the spring openings when the Aquifer levels rise after a severe drought. These risks are addressed in detail in the May 26, 1993 Amended Findings and Conclusions entered in *Sierra Club v. Babbitt*. Copies of those Amended Findings and Conclusions, and the Amended Final Judgment also entered on that date, are also enclosed for your convenience.

Notwithstanding these and other significant deficiencies in the Draft HCP, there was a clear understanding and commitment at the time the Draft HCP was filed that the region, and in particular the San Antonio Water System ("SAWS"), was moving to rapidly develop alternatives to additional pumping from the Aquifer. SAWS is by far the major pumper from the Aquifer. It provides the majority of the funding for the EAA through pumping fees, and in addition seven of fifteen EAA Board Members are elected from Bexar County, the SAWS service territory. Thus, it was extremely important that SAWS committed to develop, in sequence, three new water projects that would provide significant additional water supplies from other sources that

would be “firm” – meaning that the water in fact would be there throughout a repeat of the drought of record. SAWS’ commitment to develop these three projects was reflected in the approved 50-year plan of the South Central Texas Water Planning Group (Region L), which was developed under Texas Senate Bill 1 of 1997 and has been in place since 2002. The first two of those three projects were to come on line in less than ten years, and they were to provide San Antonio roughly 150,000 acre-feet of firm water annually. The third project was a far-off next step, not scheduled to proceed until 2020.

With that extensive background, here are the recent developments that warrant rejection of the current Draft HCP. On August 16, 2005, SAWS took formal action terminating its commitment to pursue development of the first two major water supply projects in the Region L 50-year plan. (see Attachments 5 – 7). SAWS does not propose to replace this lost 150,000 acre-feet-per-year of firm water with firm water provided by timely development of some other project or projects – instead, it argues that the additional 150,000 acre-feet-per-year of firm water is now not needed. SAWS’ new plan ignores the drought of record, and instead uses the short-term drought of 1984 as the standard to evaluate the reliability and “firmness” of water supplies from the Aquifer, both for people and listed species. The brief drought of 1984, while relatively severe, was not even the second worst drought in the last fifty years. Drought periods in the early 1960’s and in 1989 were even more severe. Consistent with its new plan, SAWS announced that it intends to acquire additional pumping rights from the Edwards Aquifer, thereby increasing its reliance upon the Aquifer (see Attachment 8). In other words, SAWS is proposing to alter the baseline for its planning to create a convenient, but entirely inaccurate, portrait of the Aquifer’s capacity to support people, the economy, and environmental values, including protected species, during periods of severe drought. It does so by proposing that everyone simply forget a drought that ended less than 50 years ago. To my knowledge, San Antonio is now the *only* major city in Texas, and the entire western part of the nation, that ignores their corresponding drought of record and their water needs during a repeat of the drought of record.

In light of SAWS’ recent termination of alternative water supply projects and its policy of ignoring the drought of record for water planning purposes, I urge the USFWS to reject the Draft HCP. SAWS’ actions are particularly significant given its status as the largest pumper from the Aquifer, and its financial and political influence over the EAA. For these reasons, USFWS also should view with great skepticism all other commitments or forecasts included in the Draft HCP.

Finally, it seems inevitable that the USFWS must now re-evaluate every opinion or decision issued by your agency with regard to the Edwards Aquifer that depended upon Aquifer pumping being restricted to ensure that the springs continued to flow during a repeat of the drought of record, and the development of alternative water supply projects to relieve demand on the Aquifer. Among other actions, USFWS will need to reinitiate consultation under the Endangered Species Act with each federal

Mr. Robert T. Pine  
September 6, 2005  
Page 4

agency that in any way is involved in the Edwards Aquifer, particularly those agencies that pump or use water from the Aquifer.

Thank you for your attention to this important matter. If you have any questions, please contact me at (830) 379-5822.

Sincerely,

A handwritten signature in black ink, appearing to read "W. E. West, Jr.", with a stylized flourish at the end.

W. E. West, Jr.  
General Manager

Attachments

Cc: Dale Hall, Albuquerque USFWS  
Ren Lohofener, DC USFWS  
Robert Potts, Edwards Aquifer Authority