



November 23, 2022

Ms. Karen Myers
c/o Christina Williams
U.S. Fish and Wildlife Service
1505 Ferguson Ln
Austin, TX 78754

RE: Clarification to Sections 2.7, 5.2.2.2, 5.6.1, 5.8.3.1, and 9.1.1 of the Edwards Aquifer Habitat Conservation Plan relative to a State Scientific Area in the Comal Spring System.

Dear Ms. Myers,

This letter is submitted on behalf of the City of New Braunfels (CONB), the City of San Marcos (COSM), the Edwards Aquifer Authority (EAA), the San Antonio Water System (SAWS), and Texas State University (collectively the Permittees of Incidental Take Permit (ITP) (TE63663A-1)) and the Texas Parks and Wildlife Department (TPWD) to advise of a clarification regarding the establishment of a TPWD State Scientific Area (SSA) in the Comal Spring System as discussed in Sections 2.7, 5.2.2.2, 5.6.1, 5.8.3.1, and 9.1.1 of the Edwards Aquifer Habitat Conservation Plan (EAHCP).

An SSA may be established for the purpose of education, scientific research, and preservation of flora and fauna of scientific or educational value for threatened and endangered species. TPWD is authorized to establish an SSA under the Parks and Wildlife Code (Sections 13.101 and 81.501).

Relative to the establishment of an SAA in the Comal Spring System, the EAHCP provides as follows:

Section 2.7: "TPWD also will pursue the creation of state scientific areas in the Comal Springs ecosystem for the protection of existing fountain darter habitat and additional habitat created by the City of New Braunfels."

Section 5.2.2.2: "Once the habitat has been established, TPWD will pursue creation of State Scientific Areas to protect fountain darter habitat."

Section 5.6.1: "In order to protect existing and restored fountain darter habitat, TPWD will pursue creation of state scientific areas in the Comal Springs ecosystem."

Section 5.8.3.1: "Similar state scientific areas will be established in the Comal River to protect restored fountain darter habitat."

Section 9.1.1: "The TPWD will be signing to reflect certain limited obligations it has and will undertake to issue regulations creating state scientific areas in the Comal and San Marcos rivers."

On May 23, 2019, the Implementing Committee approved the Comprehensive Phase II Work Plan for the EAHCP and clarified the above sections of the EAHCP by changing that TPWD "may pursue," instead of "will pursue," the designation of an SSA in the Comal Spring System, "if necessary."

The CONB's Code of Ordinances include several sections that limit or prohibit recreation in portions of Landa Lake, the Old Channel of the Comal River and the Mill Race of the Comal River. These ordinances include:

Section 86.6 which provides that it is an offense for any person, child, or adult, to enter, wade, swim or engage in any aquatic activity in any portion of Landa Park Lake or any waterway or spring area flowing into Landa Park Lake between spring areas adjacent to the entrance/exit to/from Landa Park and Landa Park Lake.

Section 86-4 (a) which provides that it shall be unlawful for any person to launch any type of boat, canoe, water vehicle or floatation device from the banks of Landa Park Lake within designated park areas.

Section 86-4 (i) which provides that it shall be unlawful for any person to wade or swim in any pond, stream (i.e. the Old Channel of the Comal River), or water hazard within the boundaries of the Landa Park Golf Course.

Section 142-5 provides that it is an offense and violation of this section for any person, child, or adult to enter, wade, swim, float or engage in any aquatic activity in any portion of the waterway between Landa Park Lake and the confluence with the Comal River (Dry Comal Creek).

Due to the implementation of CONB's ordinances, the establishment of an SSA in Landa Lake and Comal River is no longer necessary for these areas. The ordinances minimize impacts of recreational activities on Covered Species habitat in the Comal Springs ecosystem and in areas such as Landa Lake and the Old Channel of the Comal River where a majority of EAHCP-associated aquatic vegetation restoration and habitat improvements have taken place. In light of this, TPWD no longer needs to establish an SSA in the Comal Spring System as long as ordinances remain in place. TPWD may implement an SSA in the Comal Spring System if such ordinances are not effective in prohibiting recreational activities.

The Permittees and TPWD, therefore, advise the U.S. Fish and Wildlife Service of the clarification of Sections 2.7, 5.2.2.2, 5.6.1, 5.8.3.1, and 9.1.1 of the EAHCP and that it is no longer necessary for TPWD to create or establish an SSA in the Comal Spring System because CONB has adopted and is implementing several ordinances as an alternative to the establishment of an SSA in Landa Lake and the Comal River.

We ask for your confirmation that the replacement of a TPWD SSA in the Comal Springs System with the aforementioned sections of City Code, along with the interpretation of Sections 2.7, 5.2.2.2, 5.6.1, 5.8.3.1, and 9.1.1 of the EAHCP as no longer requiring the creation or establishment of an SSA in the Comal Spring System. We look forward to and appreciate your consideration on this matter.

Kind regards,

A handwritten signature in black ink, appearing to read "Scott D. Storum". The signature is written in a cursive style with a large initial "S" and a distinct "D".

Scott D. Storum
Program Manager
Edwards Aquifer Habitat Conservation Plan

From: [Robinson, Donelle M](#)
To: [Olivia Ybarra](#); [Williams, Christina](#)
Cc: [Scott Storment](#); [Phillip Quast](#)
Subject: RE: [EXTERNAL] EAHCP State Scientific Area in the Comal River - Clarification Memo
Date: Wednesday, November 30, 2022 11:01:18 AM

External Email

Hi Olivia,

Thank you for sending this detailed explanation. We will update the compliance spreadsheet with the information that you sent.

Cheers,
Donelle

From: Olivia Ybarra <oybarra@edwardsaquifer.org>
Sent: Wednesday, November 23, 2022 1:27 PM
To: Williams, Christina <christina_williams@fws.gov>
Cc: Robinson, Donelle M <donelle_robinson@fws.gov>; Scott Storment <ssstorment@edwardsaquifer.org>; Phillip Quast <PQuast@newbraunfels.gov>
Subject: [EXTERNAL] EAHCP State Scientific Area in the Comal River - Clarification Memo

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Hello Christina,

Please find attached a letter of clarification regarding State Scientific Areas in the Comal River, per the EAHCP and City of New Braunfels' ordinances.

Best,

Olivia Ybarra

Habitat Conservation Plan Coordinator

www.edwardsaquifer.org

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- EAA Helpdesk
