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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 23, 2014

Public Comments Processing
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive
MS 2042-PDM
Arlington, Virginia 22203

Attention: FWS-R2-ES-2014-0008

Re: Special Rule for the Georgetown Salamander

Dear Sir or Madam:

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to comment on the U.S. Fish and Wildlife Service's (USFWS) notice of its proposal to adopt a special rule for the Georgetown salamander, as published in the February 24, 2014 *Federal Register*. The Georgetown salamander was listed as threatened in a concurrent action. The proposed special rule indicates that "Incidental take of the Georgetown salamander will not be considered a violation of section 9 of the [Endangered Species] Act if the take occurs on privately owned, State, or county land from activities that are conducted consistent with the conservation measures contained in the City of Georgetown, Texas Ordinance, 2013-59."

In comments to the previous proposal to list the Georgetown salamander as endangered, the TCEQ provided substantial information on the nature and importance of existing local and state programs (October 22, 2012). The TCEQ noted in those comments that a federal listing action was unnecessary to protect the Georgetown and Salado salamanders, and the information provided in those comments is also germane to the importance of allowing local control and management in the potential adoption and implementation of a special rule.

The TCEQ agrees with USFWS that the recently adopted City of Georgetown ordinance is an effective locally controlled means of managing activities in the vicinity of the salamander. State programs also address protection of aquatic species over the Edwards Aquifer; such as the TCEQ's Edwards Aquifer rule (30 TAC §213), and the TCEQ's Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer (RG-348A). The TCEQ notes that for the Georgetown salamander, the allowance of incidental take in the proposed special rule is dependent on adherence to Georgetown Ordinance 2013-59. Additional optional measures, such as those listed in TCEQ RG-348A, are not separately required.

The TCEQ offers the following two general recommendations to the USFWS in order to ensure that efforts to protect the Georgetown salamander are locally managed, efficiently administered, and reasonable.

(1) The USFWS should not add any provisions to the proposed special rule that would expand its scope beyond the existing City of Georgetown ordinance.

(2) The special rule should be implemented through local management as intended, and no separate federal reviews or authorizations should be required for individual activities that are governed by the City of Georgetown ordinance. Activities conducted in compliance with the Georgetown ordinance should not be subject to incidental take permits and owners and operators of such activities should not be required to submit Habitat Conservation Plans.

If you have any questions concerning these comments, please contact Kelly Holligan at (512) 239-2369 or by e-mail at Kelly.Holligan@tceq.texas.gov.

Sincerely,



Richard A. Hyde, P.E., Executive Director
Texas Commission on Environmental Quality