



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Post Office Box 1306
Albuquerque, N.M. 87103

In Reply Refer To:
R2/ES/032776

SEP 04 2007

Mr. Glenn Shankle
Executive Director
Texas Commission on Environmental Quality-MC109
P. O. Box 13087
Austin, Texas 78711-3087

Dear Mr. Shankle:

The U.S. Fish and Wildlife Service (Service) is pleased that the second phase of our joint project with the Texas Commission on Environmental Quality (TCEQ) to provide a new level of "one-stop shopping" is complete. Our joint goal was to develop guidelines to the Edwards Aquifer Protection Program that if voluntarily followed, would satisfy scientific information available and result in "no take" of covered species from potential water quality impacts.

The Service concurs that the Appendix B voluntary water quality measures protect the following karst species from potential water quality impacts that may have otherwise resulted from development over the Edwards Aquifer region (Bexar, Travis, and Williamson Counties):

Bexar County:

Madla cave meshweaver *Cicurina madla*
Robber Baron Cave meshweaver *Cicurina baronia*
Braken Bat Cave meshweaver *Cicurina venii*
Government Canyon Bat Cave meshweaver *Cicurina vespera*
Government Canyon Bat Cave spider *Neoleptoneta microps*
Cokendolpher cave harvestman *Texella cokendolpheri*
Ground beetle (no common name) *Rhadine exilis*
Ground beetle (no common name) *Rhadine infernalis*
Helotes mold beetle *Batrisodes venyivi*

Travis and Williamson Counties:

Bee Creek Cave harvestman *Texella reddelli*
Bone Cave harvestman *Texella reyesi*
Kretschmarr Cave mold beetle *Texamaurops reddelli*
Tooth Cave pseudoscorpion *Tartarocreagris texana* Tooth Cave ground beetle *Rhadine persephone* Tooth Cave spider *Neoleptoneta myopica*
Coffin cave mold beetle *Batrisodes texanus*
Warton meshweaver *Cicurina wartoni* (candidate)

Non-Federal landowners and other non-Federal managers using these practices would have the support of the Service that no "take" under the Endangered Species Act (ESA) would occur unless projects:

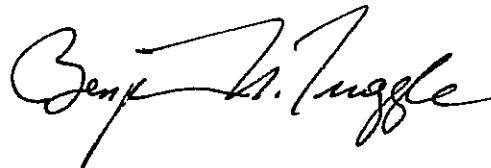
1. Are outside the Edwards Aquifer Rules jurisdiction, including projects in the contributing zone (area where runoff from precipitation flows to the recharge zone of the aquifer) less than 5 acres or if the project is not part of a common plan for development that is less than 5 acres.
2. Result in impacts to listed karst species that are not water quality related.
3. Have site-specific circumstances described in the optional Appendix B measures.
4. That may impact listed species not benefited by the Edwards Rules with Appendices.
5. Have karst features discovered during project construction.

Our concurrence is not a delegation of the Service's responsibilities under the ESA, but rather an acknowledgment that the TCEQ rules address known water quality threats to the identified species. TCEQ and the Service share the goal of protecting water quality of the Edwards Aquifer for both human and biological needs. Listed species represent a means to reflect water quality for both species and human uses. These voluntary water quality measures reflect our common goals and are designed to enhance the conservation of species covered under this document by providing water quality protection measures that satisfy the regulatory missions of both the State of Texas and the Service.

The Service is committed to collaborating with TCEQ in a monitoring and adaptive management program. Users of these measures will be committed to sharing the results of their monitoring, making it available for trend analyses. My understanding is that if analysis of Edwards Aquifer monitoring information indicates water quality degradation that may impact the aforementioned species, then TCEQ and the Service would meet to evaluate the causes, and if necessary, take additional actions. This adaptive management program assures that the optional technical guidance measures (applied in conjunction with Edwards Rules) will protect listed species.

Thank you for your continued commitment to conservation. I look forward to further enhancing the partnership between the State of Texas and the Service. If you have questions or need assistance, please contact Adam Zerrenner, Field Supervisor of our Austin Ecological Services Field Office, at 512-490-0057.

Sincerely,

A handwritten signature in black ink, appearing to read "Geny B. Fugle". The signature is fluid and cursive, with the first name "Geny" being the most prominent.

Regional Director

Mr. Glenn Shankle

3

cc: Commissioner H. S. Buddy Garcia, TCEQ, Austin, TX
Commissioner Larry R. Soward, TCEQ, Austin, TX