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BALCONES CANYONLANDS CONSERVATION PLAN (BCCP) RULES GOVERNING PUBLIC USE AND RECREATION ON THE BALCONES CANYONLAND PRESERVE (BCP)

- 1.0 There are four policy documents that serve as the source of authority for public use and recreation decision making on the BCP tracts:
 - 1.1 U.S. Fish and Wildlife Service Endangered Species Act Section 10(a) 1B permit Number PRT 788841, Issued to the City of Austin and Travis County May 2, 1996 (Federal permit), and
 - 1.2 Habitat Conservation Plan and Final Environmental Impact Statement March 1996 (HCP).
 - 1.3 Biological Opinion for the Issuance of a Section 10(a) (1) (B) Permit for the Balcones Canyonlands Conservation Plan April 29, 1996
 - 1.4 The BCCP Shared Vision document and The Interlocal Cooperation Agreement between Travis County and the City of Austin Implementing the BCCP Shared Vision August 1995
- 2.0 Additionally covenants for the City of Austin Bonds approved by voters in Austin, Proposition 10, May 2, 1992 (Bonds) carry significant weight in decisions on how land purchased by the City of Austin with Bond proceeds will be managed.
- 3.0 The guidelines for public use and recreation are well defined throughout these documents.
 - 3.1 Federal Permit
 - 3.1.1 Condition C states that authorizations in the permit are subject to compliance with implementation of the HCP and all permit conditions (p2).
 - 3.1.2 Species specific conditions for golden-cheeked warbler and black-capped vireo require "...partners control human activities to eliminate or mitigate any adverse impacts of human activities to the (*Warbler, Vireo ed.*) on these...acres" (p6 and p7).
 - 3.2 HCP
 - 3.2.1 "The BCCP preserve system is to be managed to permanently conserve and facilitate the recovery of the populations of target endangered species inhabiting western Travis County. This priority objective will govern preserve management activities to improve target species habitat, while protecting preserves against degradation caused by urbanization of surrounding lands and increased public demand for recreation usage within preserves." (p2-31).
 - 3.2.2 "Long-term monitoring of both the environmental quality of the preserve and the health of its populations of endangered species is a necessary part of this endeavor. This is primarily because the basic biology of most local federally-listed species is not sufficiently well understood to allow prediction of the impact on those species of specific management activities or use-intensity levels for public recreation. Consequently, management practices

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- should be prescribed and monitored with an appropriate multi-species emphasis and overall ecosystem approach”. (p2-34)
- 3.2.3 The welfare of target species (species of concern) will be the overriding influence on all decisions regarding activities on preserve lands (p2-32).
 - 3.2.4 Decisions about activities within preserves should be made cautiously, so as to meet biological objectives to protect and enhance target species and minimize risk of damage to the habitat (p2-32).
- 3.3 Biological Opinion
- 3.3.1 Section 9 of the Act prohibits take (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct) of federally-listed species without a special permit or exemption (p4).
 - 3.3.2 Within the context of this definition, harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering (p4).
 - 3.3.3 Additionally, harass is defined as actions that create the likelihood of injury to a listed species to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (p4).
- 3.4 City of Austin Proposition 10
- 3.4.1 “Shall the City Council of the City of Austin, Texas, be authorized to issue and sell general obligation bonds of said city in the aggregate principal amount of \$22,000,000, for the public purpose of paying costs incurred and to be incurred in the acquisition and improvement of land to protect water quality, conserve endangered species, ..., and providing open space for passive public use and other costs of implementing the Balcones Canyonlands Conservation Plan...”.
- 4.0 Additional direct and indirect guidance on managing public access and recreation has been provided prior to and following the issuance of the HCP and Federal permit.
- 4.1 Comprehensive Report of the Biological Advisory Team (BAT), January 1990.
 - 4.1.1 The BAT recognizes that public access and use of the preserves for such activities as education, hiking, birding and hunting are important adjuncts to habitat conservation and could be used to help build public support for the ARHCP (=BCCP). These uses of the preserves should not compromise the primary purpose of the preserves, which is to protect the rare and endangered species encompassed by the ARHCP (p54).

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- 4.1.2 One concern is that human activities could cause failed nesting attempts of the black-capped vireo and golden-cheeked warbler (p54).
- 4.1.3 Finally, buildings, trails, roads, blinds and other structures constructed for human access and use will increase fragmentation of a preserve. Although footpaths will probably not be a problem, many other structures built to aid public access will increase fragmentation. These considerations are a particular concern within golden-cheeked warbler habitat because of evidence showing that warblers can be severely impacted by even small amounts of habitat fragmentation, and for karst invertebrates because of their vulnerability to imported fire ants (p55).
- 4.2 October 25, 1991 letter from Andrew Sansom, Executive Director, Texas Parks and Wildlife Department to the Honorable J.J. Pickle, U.S. House of Representatives and to the Honorable Bruce Todd, Mayor of the City of Austin.
 - 4.2.1 Item 1: In general the Department found the biological information developed by the Biological Advisory Team (BAT) and contained within the BCCP sound.
 - 4.2.2 Item 2: Other than possibly Post Oak Ridge, the potential preserve areas are small and while that is of concern they can meet the needs of the plan. Assuring their success is not simply a matter of making them larger; the habitat is just not there to do so. It will require careful and intensive management to make the preserves viable.
- 4.3 Biological Assessment of the Balcones Canyonlands Conservation Plan by Texas Parks and Wildlife Department.
 - 4.3.1 Forward by Dr. Larry McKinney, Director, Resource Protection.
 - 4.3.1.1 Without a BCCP we will continue to see fragmentation of habitat within the plan area to the point that the species with which we are concerned will all but disappear.
 - 4.3.1.2 The BCCP, in its scope, strikes to the heart of what the Endangered Species Act contemplates, but in practice has most often failed to achieve: Biodiversity. The concept includes the conservation of population, species, and ecosystem diversity within the framework of maintaining systems integrity (the latter referring to functions like the hydrological cycle, carbon cycle, etc., water quality).
- 4.4 BCCP Scientific Advisory Committee Recommendations Regarding Recreational Use of BCCP Non-Grandfathered Preserves, November 1998.
 - 4.4.1 The Scientific Advisory Committee (SAC) recommends that all forms of recreational activity be curtailed and further prohibited on the non-grandfathered preserve sites during the golden cheeked warbler (GCWA) and black-capped vireo (BCVI) nesting season until adequate studies can be completed to demonstrate that all or

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- certain recreational activities do not result in detectable negative effects on the abundance and productivity of the target species of concern (p1).
- 4.4.2 If any negative effects are demonstrated by the studies for any or all types of recreational activities, those recreational activities should be permanently prohibited on all non-grandfathered preserve tracts and held to pre-preserve designation limits or levels on all grandfathered tracts (p1).
 - 4.4.3 The SAC believes that recreational activities that do not adversely alter the terrain or natural vegetation can be conducted on BCCP preserve sites during the non-nesting (September 1 to March 1) (p1).
 - 4.4.4 If this benefit (long-term viability of the preserve areas, Ed. from p1) to economic development in the county is to be preserved for its maximum utility, secondary uses and benefits of the preserve areas, such as recreational use, should be considered only when there is no demonstrable detriment to the long-term viability of the preserve areas' capacity to support the species of concern at levels at least commensurate with current populations and productivity (p1 and 2).
 - 4.4.5 Based on the existing literature, it is the opinion of the Scientific Advisory Committee (SAC) that some level of negative effect may occur to certain target species of concern within the preserve areas as a result of existing or potential future recreational activities (p4).
- 5.0 Current access and recreational activities in non-grandfathered preserve lands is limited to passive, wildlife compatible and wildlife dependent activities, which may include on designated tracts hiking and nature observation and in more restricted access tracts, guided educational tours and volunteer projects designed to conserve and enhance the natural resources and habitats of Balcones Canyonlands Preserve.
- 6.0 The types of activities allowed or excluded within the non-grandfathered preserve lands is based on the policy documents that serve as the source of authority for public use and recreation, current scientific literature, on-going academic research projects in preserve lands, and monitoring and observation of the species of concern and their habitats over the last ten years in accord with the BCCP permit.
- 7.0 It has been recognized by the SAC (1998), the BAT (1990), and the USFWS (Golden-cheeked Warbler Recovery Plan, 1992) that BCP and GCWA specific research and literature does not exist for all types of recreation that occurs in the BCCP permit area. However, the SAC, the BAT, and the USFWS recognize a body of literature addressing various types of recreation effects on wildlife and avian species populations and that, in general, many forms of recreation have been demonstrated to have negative effects on wildlife and avian behavior and productivity.
- 8.0 Currently, within the City of Austin non-grand fathered BCP lands, one area is open to controlled and regulated public access. The Bull Creek Preserve trail

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system through portions of the Forest Ridge, Jester and 3M tracts is open to foot traffic only from August 1 through the last day of February each year and by Bull Creek Preserve permit-holders March 1 through July 31 of each year. No bicycles are allowed at anytime in the Bull Creek Preserve as directed by the Land Management Guidelines in the HCP (p 2-37). Additionally, recent research in the City's BCP lands has indicated that biking may have a negative impact on golden-cheeked warblers (Graber, Davis, and Leslie, Jr. 2003). Foot traffic activity, walking or running, is restricted to group sizes of three or less. This restriction is also based on the Land Management Guidelines in the HCP (p 2-37) that state "Unsupervised group access should not be allowed within 100 meters of occupied songbird habitat..." Moreover, peer reviewed scientific literature assessing ecological impacts of recreational use of trails has demonstrated that disturbance from recreation (noise and motion) "clearly has at least temporary effects on behavior and movement of birds", and that "rapid movement by joggers was more disturbing than slower hikers" (Bennett and Zuelke 1999; Jordan 2000). Other ecological effects on natural resources have been noted when large groups use woodland trails for recreation, such as, trampling (compaction of leaf litter and soil), decrease of plant species along trails, and widening of trails (Jordan 2000). The literature base on recreational effects on wildlife and natural resources is far larger than the few works cited here.

9.0 Grandfathered Tracts (page #s from HCP)

- 9.1 The term "grandfathered" was used by the SAC (1998) and by the staff in the 1999 BCP Land Management Plan to refer to the tracts that were owned by the City of Austin and Travis County pre-1996 and incorporated into the BCP when the 10(a) permit was issued.
- 9.2 These tracts, sometimes called "Recreational Areas" in the HCP, are listed in Table 26 and shown on maps in Exhibit "B", the areas totaling 2,562 acres of City of Austin land and 507 acres of Travis County land. These maps show some grandfathered tracts with both Preserve portions and Non-preserve portions.
- 9.3 Each individual grandfathered tract is named and described by agency (Travis County, City of Austin, and LCRA) and the allowed activities and management on each tract (p3-93 through 3-101). This section includes Management Rules, Guidelines, and Standards by agency for each grandfathered tract. These "vary from park to park depending on the types of activities allowed or encouraged. However, there are some guidelines that are consistent for all facilities, including the prohibition of firearms and hunting, fires in designated areas only, and animals under direct control of owner except when in a posted no-leash area. The preserve areas have restricted access and more stringent use regulations. The (Austin) Parks and Recreation Department is developing consolidated park rules and regulations; this document is currently in draft form and has not been formally adopted."(p3-99)
- 9.4 "Cumulative impacts to recreational facilities in the region will be positively affected by the proposed action (issuance of the permit); the

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proposed preserve maintains existing activities in parks incorporated into it and provides additional acreage for specified types of public recreation.” (p4-104)

- 9.5 “The preserve will also increase the opportunity for minimum–impact activities engaged in by individuals and small groups, developing the educational potential of the preserve and appreciation for the environment and species. The nature of use of some facilities (referring to both the non-grandfathered newly acquired tracts and also the grandfathered tracts) may change with the creation of the BCCP preserve system. The system has been designed to preserve known habitat for the species of concern, as well as to provide area that has the potential for being managed for the increased viability of the species.” (p4-77).
- 9.6 The “Land Management Plans and Guidelines” lists the requirements for management of all preserve tracts including the grandfathered tracts, with implied exceptions for activities previously allowed on grandfathered tracts if there are conflicts between activities allowed on some grandfathered tracts and some of the LMP&G requirements (p2-31 through p2-44).