

## **APPENDIX C**

# **FEDERAL FISH AND WILDLIFE PERMIT: CITY OF AUSTIN AND TRAVIS COUNTY PERMIT PRT-788841**



EXHIBIT "C"

Additional Requirements of Participant

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE		3-201 (10/86)	
		2. AUTHORITY-STATUTES 16 USC 1539(a)(1)(A)	
 FEDERAL FISH AND WILDLIFE PERMIT		REGULATIONS (attached) 50 CFR § 13 & 17	
		3. NUMBER PRT-788841	
1. PERMITTEE  CITY OF AUSTIN P.O. BOX 1088 AUSTIN, TEXAS 78767  TRAVIS COUNTY P.O. BOX 1748 AUSTIN, TEXAS 78767		4. RENEWABLE  XXXX YES ____ NO	5. MAY COPY  XXXX YES ____ NO
		6. EFFECTIVE  MAY 2, 1996	7. EXPIRES  MAY 2, 2026
8. NAME AND TITLE OF PRINCIPAL OFFICER (if # 1 is a business)  BRUCE TODD, MAYOR, CITY OF AUSTIN BILL ALESHIRE, COUNTY JUDGE, TRAVIS COUNTY		9. TYPE OF PERMIT  ENDANGERED SPECIES	
10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED  TRAVIS COUNTY, TEXAS OUTSIDE OF THE PRESERVES IDENTIFIED IN THE HABITAT CONSERVATION PLAN AND FINAL ENVIRONMENTAL IMPACT STATEMENT DATED MARCH 1996			
11. CONDITIONS AND AUTHORIZATIONS:  SEE SPECIAL CONDITIONS A THROUGH P ON ATTACHED PAGES 2 THROUGH 11.			
12. REPORTING REQUIREMENTS  REPORTS WILL BE PROVIDED TO THE U.S. FISH AND WILDLIFE SERVICE OFFICES APPEARING IN CONDITION G OF THIS PERMIT. REPORTING FORMAT AND CONTENT IS OUTLINED IN CONDITION G OF THIS PERMIT.			
ISSUED BY:	TITLE	DATE	
<i>Nancy M. Kaufman</i>	REGIONAL DIRECTOR, REGION 2	MAY 2, 1996	

ORIGINAL

## CITY OF AUSTIN &amp; TRAVIS COUNTY PERMIT PRT-788841

- A. If during the tenure of this permit, the amount of incidental take is exceeded, issuance of Participation Certificates must be stopped and the permittees must re-initiate consultation with the USFWS to avoid violation of section 9, Endangered Species Act.
- B. Acceptance of this permit serves as evidence that the permittees understand and agree to abide by the terms of this permit and all sections of Title 50 Code of Federal Regulations Parts 13, 17, and 21 (attached) pertinent to issued permits.
- C. The authorization granted by this permit is subject to compliance with, and implementation of, the terms and conditions of the Environmental Impact Statement/Habitat Conservation Plan, Biological opinion, and all specific conditions contained in this permit. If there are any discrepancies between the requirements in these documents, the requirements identified in the special conditions of this issued permit take precedence.
- D. Upon locating any dead, injured, or sick individuals from the list of animal species covered by this permit, or any other endangered or threatened animal species, permittees are required to contact the U.S. Fish and Wildlife Service's Law Enforcement Office, Austin, Texas (512) 490-0948, for care and disposition instructions. Extreme care should be taken in handling sick or injured individuals to ensure effective and proper treatment. Care should also be taken in handling dead specimens to preserve biological materials in the best possible state for analysis of cause of death. In conjunction with the care of sick or injured endangered/threatened species, or preservation of biological materials from a dead specimen, the permittees and their contractor(s) or subcontractor(s) have the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
- E. The validity of this permit is also conditioned upon observance of all relevant international, state, local, or other Federal law.
- F. The permittees are authorized to "take" (kill, harm, or harass) the following federally-listed endangered species:

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<i>Vireo atricapillus</i>	Black-capped vireo
<i>Dendroica chrysoparia</i>	Golden-cheeked warbler
<i>Tartarocreagris texana</i>	Tooth Cave pseudoscorpion
<i>Neoleptoneta myopica</i>	Tooth Cave spider
<i>Texella reddelli</i>	Bee Creek Cave harvestman
<i>Texella reyesi</i>	Bone Cave harvestman
<i>Rhadine persephone</i>	Tooth Cave ground beetle
<i>Texamaurops reddelli</i>	Kretschmarr Cave mold beetle

Additionally, the permittees would be covered for incidental take of the following species of concern if these species become listed during the life of the permit and the mitigation measures identified in this permit are being performed.

<i>Philadelphus ernestii</i>	Canyon Mock-orange
<i>Croton alabamensis</i>	Texabama croton
<i>Sphalloplana mohri</i>	Flatworm
<i>Candona</i> sp. nr. <i>stagnalis</i>	Ostracod
<i>Caecidotea reddelli</i>	Isopod
Trichoniscinae N. S.	Isopod
<i>Miktoniscus</i> N. S.	Isopod
<i>Cicurina wartoni</i>	Spider
<i>C. ellioti</i>	Spider
<i>C. bandida</i>	Spider
<i>C. reddelli</i>	Spider
<i>C. reyesi</i>	Spider
<i>C. cueva</i>	Spider
<i>C. travisae</i>	Spider
<i>Neoleptoneta cocinna</i>	Spider
<i>Neoleptoneta devia</i>	Spider
<i>Eidmannella reclusa</i>	Spider
<i>Aphrastochthonius</i> N. S.	Pseudoscorpion
<i>Tartarocreagris reddelli</i>	Pseudoscorpion
<i>T. intermedia</i>	Pseudoscorpion
T. N. S. 3	Pseudoscorpion
<i>Texella spinoperca</i>	Harvestman
<i>T. comanche</i>	New Comanche Trail Cave harvestman
<i>Speodesmus</i> N. S.	Millepede
<i>Rhadine s. subterranea</i>	Ground beetle
<i>R. s. mitchelli</i>	Ground beetle
<i>R. austinica</i>	Ground beetle

- G. An annual report, due June 1 of each year beginning in 1997, is to be provided to the Austin Ecological Services Field Office. This report is to include:

1. a list of all development activities west of the MOPAC Railroad that were permitted by the Permit Holders in the previous 12 months,
2. a list of all tracts for which Participation Certificates were purchased,
3. amount of funds collected for land acquisition,
4. amount of funds expended for land acquisition,
5. amount of funds expended for operations and maintenance.
6. an updated map of the lands dedicated to preserve management,
7. a list of public use and habitat management activities that have been undertaken or completed within the bounds of the preserve units, including the status of land management plans undertaken by the permit holders and managing partners, and
8. a copy of all research or investigation reports that have been prepared within the previous 12 months.

In addition to the above annual requirements, the Permit Holders must provide quarterly updates for the tracts for which Participation Certificates were purchased that include the following information:

1. a general map of each tract location and
  2. a tract boundary map that identifies the areas for which the Participation Certificate applies. If a location and/or tract map is not provided to the Permit Holder during the normal permitting process, a street address will meet this requirement.
- H. A copy of a recorded Participation Certificate provided by the Permit Holders must be posted at the property site from the time vegetation clearing begins until the construction is completed. For residential development, completed construction is when all roads and utilities are completed to the extent that they meet the applicable acceptance criteria of the City of Austin or Travis County. For commercial, industrial and multi-family developments completed construction is when buildings are suitable for occupancy.

- I. The funds collected and expended for this Permit and compliance with the financial requirements of the Permit shall be evaluated by financial audits conducted after the sale of Participation Certificates covering 3,000 fee-paid acres or every five years, whichever comes sooner, until permit expiration. Such audits will be coordinated between the USFWS and the Coordinating Committee. This audit may be part of the permittees audit processes as required by State law and shall not be more frequent than every two years.
- J. The funds collected under this Permit will be expended for land or easement acquisition and other preserve system needs in accordance with the following criteria:
1. traots considered for acquisition will be within or contiguous to the boundaries of the preserve units identified in the issued Permit;
  2. expenditure priority should be in the following decreasing order: Bull Creek, Cypress Creek, South Lake Austin, and North Lake Austin; and
  3. dispensing of funds from the BCCP Fund account should be accomplished as soon as there are adequate funds to complete a transaction or implement a strategy for acquisition, taking into account opportunity, preserve priority and development threat.
- K. The Permit Holders will administer the issuance of the Participation Certificates.
- L. Incidental take that may result from the implementation of land management activities within the boundaries of a preserve and contained in a management plan approved by the Coordinating Committee, are covered and authorized under this Permit.
- M. Incidental take that may result from the implementation of utility and infrastructure corridor projects approved by the Secretary of the Coordinating Committee and within one of the BCCP-Shared vision approved utility and infrastructure corridors, as provided in the final EIS/HCP, Appendix B, is covered and authorized under this Permit.
- N. Incidental take of the Barton Springs salamander is not covered by this Permit. Entities who purchase Participation Certificates for activities within the Travis County portion of the Barton Springs watershed should obtain guidance with respect to avoiding the impacts of their activities on water quality as they relate to the Barton Springs salamander.

- O. The incidental take authorization of this permit does not apply to the "take" of any endangered or threatened species outside of the boundary of the permit as identified in the EIS/HCP dated March 1996 or any modifications/amendments to that boundary.
- P. The "No Surprises" policy of the U. S. Fish and Wildlife Service provides that additional mitigation, lands or financial compensation shall not be required of the permittees or their successors beyond the level of mitigation provided for in the EIS/HCP. With respect to this permit, the EIS/HCP and supporting documents adequately addressed the species listed in special condition 6 above. To be fully covered by the "No Surprises" policy for a specific species, all of the requirements identified for that species must be met.

GOLDEN-CHEEKED WARBLER:

1. Ensure at least 28,428 acres within the seven identified macrosites will be acquired and managed for the golden-cheeked warbler during the permit duration. Acquisition and management activities through this Permit, other issued incidental take permits, and section 7 consultations where the mitigation activities are within or contiguous to the proposed preserve boundaries, count toward this goal.
2. In conjunction with the managing partners, control human activities to eliminate or mitigate any adverse impacts of human activities to the warbler on these 28,428 acres, for the acreage acquired.
3. No vegetation clearing activities will be accomplished within golden-cheeked warbler habitat, Zones 1 and 2, from March 1 through August 31 to prevent the disturbance of nesting activities unless current breeding season surveys, conducted in accordance with Fish and Wildlife Service protocol, indicate that the warbler is not nesting within 300 feet of the proposed clearing.
4. Develop and implement an approved land management plan, in accordance with the land management guidelines set forth by the Coordinating Committee, for each tract within 12 months after permit issuance or within 12 months of land acquisition whichever is later.

## BLACK-CAPPED VIREO

1. Ensure at least 2,000 acres within the seven identified macrosites will be acquired and managed for the black-capped vireo during the permit duration. Acquisition and management activities through this Permit, other issued incidental take permits, and section 7 consultations where the mitigation activities are within or contiguous to the proposed preserve boundaries, count toward this goal.
2. In conjunction with the managing partners, control human activities to eliminate or mitigate any adverse impacts of human activities to the vireo on these 2,000 acres, for the acreage acquired.
3. No vegetation clearing activities will be accomplished within black-capped vireo habitat between March 1 and August 31 to prevent the destruction of an active nest unless current breeding season surveys, conducted in accordance with Fish and Wildlife Service protocol, indicate that the vireo is not nesting within 300 feet of the proposed clearing.
4. Develop and implement an approved land management plan, in accordance with the land management guidelines set forth by the Coordinating Committee, for each tract within 12 months after permit issuance or within 12 months of land acquisition whichever is later.

## LISTED KARST INVERTEBRATES

1. Acquire and manage, or implement formal management agreements, as provided in subsection (4) below, adequate to preserve the environmental integrity of the following 35 caves that support federally-listed karst invertebrates:

Amber Cave	Kretschmarr Double Pit
Bandit Cave	Kretschmarr Cave
Beard Ranch Cave	Lamm Cave
Bee Creek Cave	Little Bee Creek Cave
Broken Arrow Cave	M.W.A. Cave
Cave Y	McDonald Cave
Cold Cave	McNeil Bat Cave
Cotterell Cave	New Comanche Trail Cave
Disbelievers Cave	No Rent Cave
Eluvial Cave	North Root Cave
Fossil Cave	Rolling Rock Cave
Fossil Garden Cave	Root Cave
Gallifer Cave	Spider Cave
Hole-In-The-Road	Stovepipe Cave

Japygid Cave	Tardus Hole
Jest John Cave	Tooth Cave
Jester Estates Cave	Weldon Cave
Jollyville Plateau Cave	

2. If during investigations for development of a tract, karst features are discovered with a significant diversity of troglobitic fauna, those karst features may be submitted to the USFWS for consideration for exchange with karst features identified for protection by the BCCP. The determination of "significant diversity" will be made by the permit applicants and the USFWS, in association with karst experts. The inclusion of such a karst feature would not increase the number of caves to be protected by the BCCP, but would result in the new feature replacing a previously identified cave or caves.
3. Where the surface and subsurface hydrogeologic area around a cave identified for protection is not known, the area delineated by the contour level at the bottom of the cave will be managed for cave protection. In the absence of such site specific information, no Participation Certificates are to be awarded within 0.25 miles of the cave entrance until the hydrogeologic areas are properly delineated.
4. Enter into formal management agreement(s) for all caves that are recommended for protection but have yet to be acquired. The management agreement(s) will detail the area to be managed for cave protection, what such management will entail, and who is responsible for the management.

#### KARST SPECIES OF CONCERN

1. Acquire and manage, or implement formal management agreements, as provided in subsection (4) below, adequate to preserve the environmental integrity of the following 27 caves, in addition to the caves protected for the federally-listed species, that support the karst species of concern:

Adobe Springs Cave	Jack's Joint
Airman's Cave	Lost Oasis Cave
Armadillo Ranch Sink	Lost Gold Cave
Arrow Cave	Maple Run Cave
Blowing Sink	Midnight Cave
Buda Boulder Spring	Moss Pit
Cave X	Pennie Cave
Ceiling Slot Cave	Pickle Pit
District Park Cave	Pipeline Cave

- Flint Ridge Cave
- Get Down Cave
- Goat Cave
- Ireland's Cave
- Whirlpool Cave
- Slaughter Creek Cave
- Spanish Wells Cave
- Stark's North Mine
- Talus Spring

The caves in which the karst species of concern occur are listed below. To receive the "no surprises" guarantee for the identified species, the caves identified must be protected, as per "1" above.

<u>SPECIES</u>	<u>CAVE</u>
<i>Sphalloplana mohri</i>	Spanish Wells Cave
<i>Candona</i> sp. nr. <i>stagnalis</i>	Cave X
<i>Caecidotea reddelli</i>	Buda Boulder Cave, Cave X, Jack's Joint
<i>Trichoniscinae</i> N. S.	Bandit Cave
<i>Miktoniscus</i> N. S.	Cave X
<i>Cicurina wartoni</i>	Pickle Pit
<i>C. ellioti</i>	Cotterell Cave, Fossil Garden Cave, Gallifer Cave, No Rent Cave, Weldon Cave
<i>C. bandida</i>	Bandit Cave, Ireland's Cave
<i>C. reddelli</i>	Cotterell Cave
<i>C. reyesi</i>	Airman's Cave
<i>C. cueva</i>	Cave X, Flint Ridge Cave
<i>C. travisae</i>	Amber Cave, Broken Arrow Cave, Kretschmarr Cave, McDonald Cave, Root Cave, Spider Cave, Stovepipe Cave, Tooth Cave
<i>Neoleptoneta cocinna</i>	Lost Gold & Stark's North Cave
<i>N. devia</i>	McDonald Cave
<i>Eidmannella reclusa</i>	Tooth Cave, Gallifer Cave, Kretschmarr Cave, Stovepipe Cave
<i>Aphrastochthonius</i> N. S.	Stovepipe Cave
<i>Tartarocreagris reddelli</i>	McDonald Cave
<i>T. intermedia</i>	Airman's Cave
<i>T. N. S. 3</i>	BCNWR
<i>Texella spinoperca</i>	Airman's Cave
<i>T. comanche</i>	New Comanche Trail Cave
<i>Speodesmus</i> N. S.	Bandit Cave, Cave X, Get Down Cave, Goat Cave, Pennie Cave, Pipeline Cave, Slaughter Creek Cave, Whirlpool Cave
<i>Rhadina s. subterranea</i>	Cotterell, Fossil, Fossil Garden, No Rent, McNeil Bat, & Weldon Cave
<i>R. s. mitchelli</i>	Amber, Kretschmarr, & Tooth Cave

*R. austinica*

Airman's, Arrow, Bandit, Bee Creek, Blowing Sink, Cave Y, Cave X, District Park, Flint Ridge, Get Down, Ireland's, Lost Gold, Lost Oasis, Maple Run, Midnight, Pennie, & Whirlpool

2. If during investigations for development of a tract, karst features are discovered with a significant diversity of troglobitic fauna, those karst features may be submitted to the USFWS for consideration for exchange with karst features identified for protection by the BCCP. The determination of "significant diversity" will be made by the permit applicants and the USFWS, in association with karst experts. The inclusion of such a karst feature would not increase the number of caves to be protected by the BCCP, but would result in the new feature replacing a previously identified cave or caves.
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4. Enter into formal management agreement(s) for all caves that are recommended for protection but have yet to be acquired. The management agreement(s) will detail the area to be managed for cave protection, what such management will entail, and who is responsible for the management.

#### CANYON MOCK-ORANGE

Protect and manage the portions of the known populations found within the preserve boundaries, for the acreage acquired.

#### TEXABAMA CROTON

Protect and manage the populations at Pace Bend Park.