

INTERIM REPORT

As Required by

THE ENDANGERED SPECIES PROGRAM

TEXAS

Grant No. TX E-143-HP

Endangered and Threatened Species Conservation

Cobb Cavern Habitat Conservation Plan Lands Acquisition

Prepared by:

Gary Boyd



Carter Smith
Executive Director

Clayton Wolf
Director, Wildlife

6 November 2012

INTERIM REPORT

STATE: Texas **GRANT NUMBER:** TX E-143-HP

GRANT TITLE: Cobb Cavern Habitat Conservation Plan Lands Acquisition

REPORTING PERIOD: 22 Aug 11 to 30 Sep 12

OBJECTIVE(S): To acquire a 67-acre conservation easement as karst habitat preserve (Western Cobb Preserve) including a portion of Cobb Cavern during 2011-2012 in Williamson County, Texas.

Segment Objectives:

- Task 1.** Arrange reimbursement contract TPWD;
- Task 2.** Obtain survey/legal description of property;
- Task 3.** Obtain and review property appraisal;
- Task 4.** Apprise landowner of appraisal;
- Task 5.** Grant easement covering property;
- Task 6.** Record title(s) with federal interest included; and
- Task 7.** Final Report.

Significant Deviations: approval process for target property failed. See details below, and Attachment A.

Summary Of Progress: For target property, Cobb Preserve, appraisal was rejected for lack of substantiating data, per USFWS review. Subsequently, the landowner backed out of the sale. Williamson County Conservation Foundation (WCCF; subgrantee) then submitted written (6 Mar 12, on file) request to re-direct funds to which TPWD responded (26 Mar 12, on file) in the affirmative pending submission of a new Project Statement describing and supporting acquisition of a new parcel of equal or greater conservation benefit compared to the original (Cobb Preserve).

Please see Attachment A provided by subgrantee (WCCF) for further details.

Location: Williamson County, Texas.

Cost: Costs were not available at time of this report, they will be available upon completion of the Final Report and conclusion of the project.

Prepared by: Craig Farquhar

Date: 6 November 2012

Approved by: 

C. Craig Farquhar

Date: 6 November 2012

ATTACHMENT A



Board of Directors
As of May 15, 2012

Pct. 1 Commissioner
Lisa Birkman,
Board President
Williamson County, TX

Pct. 3 Commissioner
Valerie Covey
Board Vice President
Williamson County, TX

Brent A. Baker, PLA
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Rothenberg Realty
Georgetown, TX

Larry Quick
President, Upper Brush Creek
Water Control &
Improvement District
Round Rock, TX

Williamson County
Conservation Foundation
c/o Parks and Recreation
219 Perry Mayfield
Leander, TX 78641
512/943-1921

Interim Performance Report

Cobb Cavern Habitat Conservation Plan Lands Acquisition

Project E-143-HL

For Period 1 Oct 2011 – 30 Sept 2012

Gary D. Boyd
Director, Environmental Programs
Williamson County, Texas
512/943-1921
gboyd@wilco.org

Summary of Progress:

- The original conservation easement under this contract became unavailable (change to willing seller status) during February 2012. This followed an appraisal and review of the appraisal. Ultimately the appraised value was not agreed to by the USFWS section responsible for contract review.
- The easement was acquired by the Williamson County Conservation Foundation through other funding sources.
- A notice was sent to USFWS by way of the TPWD as to this outcome and situation. Copies of correspondence are attached.
- Subsequent discussions have been held with the local USFWS office (Austin) to outline alternative projects that will score equally or better than the original project so that application for a re-direct may be made.
- To date no suitable alternative project has been determined.
- Tasks listed in the Project Statement are not applicable at this time. All items in the award letter (dated 8/26/11) were otherwise completed and submitted.

Significant Deviations

Investigation of a "Replacement Parcel" is underway. We understand that a must be identified no later than the end of the 2013 fiscal year.

APPLICATION FOR
FEDERAL ASSISTANCE

JAN 18 2011

Version 7/03

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		2. DATE SUBMITTED 01/14/2011	Applicant Identifier
3. DATE RECEIVED BY STATE 01/10/2011		State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier TX E-143-HL-1	
5. APPLICANT INFORMATION			
Legal Name: TEXAS PARKS AND WILDLIFE DEPARTMENT		Organizational Unit: Department: TEXAS PARKS AND WILDLIFE DEPARTMENT	
Organizational DUNS: 806782256		Division: WILDLIFE	
Address: Street: 4200 SMITH SCHOOL ROAD		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Dr. First Name: Charles	
City: AUSTIN		Middle Name: Craig	
County: TRAVIS		Last Name: Farquhar	
State: TEXAS Zip Code: 78744-3291		Suffix: NA	
Country: U.S.		Email: craig.farquhar@tpwd.state.tx.us	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 74-1680372		Phone Number (give area code): (512) 389-4933 Fax Number (give area code): (512) 389-8043	
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) A. State Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 15-615 TITLE (Name of Program): COOPERATIVE ENDANGERED SPECIES		9. NAME OF FEDERAL AGENCY: U.S. Department of Interior, Fish and Wildlife Service	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Comal County		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Cobb Cavern Habitat Conservation Plan Lands Acquisition SR	
13. PROPOSED PROJECT Start Date: 07/01/2011 Ending Date: 06/30/2014		14. CONGRESSIONAL DISTRICTS OF: a. Applicant 25 b. Project 21	
15. ESTIMATED FUNDING: a. Federal \$ 1,130,625.00 b. Applicant \$ c. State \$ 376,875.00 d. Local \$ e. Other \$ f. Program Income \$ g. TOTAL \$ 1,507,500.00		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. <input checked="" type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: 09/16/2008 b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No		18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.	
a. Authorized Representative Prefix: Dr. First Name: Charles Middle Name: Craig Last Name: Farquhar Suffix: NA b. Title: Endangered Species Grants Coordinator c. Telephone Number (give area code): (512) 389-4933 d. Signature of Authorized Representative: [Signature] e. Date Signed:			



United States Department of the Interior

FISH AND WILDLIFE SERVICE

P.O. Box 1306

Albuquerque, New Mexico 87103

AUG 26 2011



In Reply Refer To:
R2/WSFR
TX E-143-HL-1

Carter Smith, Executive Director
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

Attention: C. Craig Farquhar, Section 6 Grant Program Coordinator

Dear Mr. Smith:

The enclosed Application for Federal Assistance (AFA), TX E-143-HL-1, Cobb Cavern Habitat Conservation Plan Lands Acquisition, is conditionally approved for funding under the Endangered Species Grant Program (CFDA# 15.615). The purpose of this grant is for Texas Parks and Wildlife Department (the Department), as grantee, and Williamson County Conservation Foundation (the Foundation), as subgrantee, to acquire a conservation easement on approximately 67 acres of the Cobb Ranch in order to enhance the Northern Cobb Preserve. The proposed conservation easement will acquire a portion of Cobb Cavern, one of the 30 longest caves in Texas with the largest habitats known for endangered terrestrial karst invertebrates. This acquisition will protect and benefit habitat for the Bone Cave harvestman and Coffin Cave mold beetle which are endangered species. Title to this interest in real property will vest with the Foundation, as subgrantee. The effective date for this amendment is August 22, 2011. The grant agreement period is August 22, 2011 – August 21, 2014, with the approved cost share as follows:

Program Subaccount Code	5955	Approved Funding	%
State		\$ 376,875	25
Federal		\$ 1,130,625	75
Grant Total		\$ 1,507,500	

An AFA amendment will be required to add or delete a project; increase or decrease the Federal funds; increase the rate of Federal participation; change key personnel; and/or modify the agreement period.

This grant award is subject to the following conditions:

a. Reporting requirements:

1. Submit an Interim Federal Financial Report (SF 425) and an Interim Performance Report annually, 90 days after the 1-year anniversary of the end of the fourth full fiscal quarter after the effective date of the grant. The interim reports (financial and

performance) for this grant will be due annually no later than **December 29**. The first interim report will cover the period from **August 22, 2011 – September 30, 2012**. Subsequent interim reports will cover a 1-year period from the end date of the first interim report.

2. Submit a Final Federal Financial Report and a Final Performance Report, 90 days after the end of the grant period. Final reports (financial and performance) for this grant will be due no later than **November 19, 2014**.
3. Requests for an extension of report due date up to an additional 90 days must be submitted to, and received by, this office, before the report due date. If these reports are not received by the original or extended due date, the WSFR Program may:
 - 1) withhold cash payments; 2) deny the use of Federal funds and credit for the use of matching cash and in-kind contributions for all or part of the award; 3) suspend or terminate the award, partially or entirely; 4) withhold further awards for the grant program; and 5) pursue other legal remedies. The sanctions that the WSFR Program imposes will remain in effect until the required reports are received [(43CFR12.80(b)(1); 43CFR12.81(b)(3); U.S. Fish and Wildlife Service Manual Chapters 516 FW 1 & 516 FW 2; and U.S. Fish and Wildlife Service revised "Interim Guidance for Financial Status and Performance Reporting," May 12, 2009].
- b. U.S. Fish and Wildlife Service (Service) policy allows a maximum of a 3-year grant period for all Cooperative Endangered Species Conservation Section 6 funds. Requests for extension of the grant period beyond the 3-year limit will require the approval of the Director of the Service and should be coordinated with this office no later than 3 months before the grant is due to expire.
- c. The grant has been approved to include third party in-kind match. The in-kind match is subject to the provisions of 43 CFR, Part 12. In summary, the in-kind match must: 1) be documented in accordance with OMB requirements for each grant; 2) not be used to match any other grant; 3) be necessary and reasonable for accomplishment of grant objectives; 4) be allowable costs under provisions of 2 CFR Part 225; and 5) not be paid from other Federal funds unless specifically authorized by law or regulation.
- d. In accordance with 522 FW 16.5 pre-agreement costs specified in the grant documents are approved.
- e. Submission of a certified appraisal indicating the market value of the real property interest (i.e., fee simple, conservation easement in perpetuity, etc.) to be acquired including in-kind match properties, if applicable. The appraisal must not only conform to Uniform Standards of Professional Appraisal Practice (USPAP), but also conform to the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) as of December 2000 (available at www.usdoj.gov).
- f. Certified review of the appraisal, which also conforms to USPAP and UASFLA.
- g. Receipt of the notification to the landowner of just compensation for the property to be acquired (Example form enclosed).

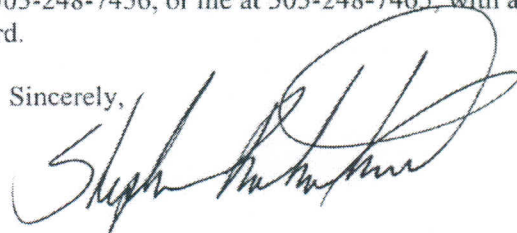
- h. Submission of the proposed conservation easement, which defines the restrictions and permitted uses and practices placed on the property, to the U.S. Fish and Wildlife Service (the Service) for review and approval.
- i. Receipt of a signed Cooperative Agreement between grantee and subgrantee. The agreement will have language which provides assurance that the lands or monies will revert to the Service in case of noncompliance by the subgrantee.
- j. Surveys, maps, and legal descriptions for all real property acquired including in-kind match properties.
- k. Title Vesting Evidence, such as a title insurance policy or a certificate from the Attorney General or other authorized State official, signifying that title is vested in the real property interest acquired by the grantee or subgrantee.
- l. As outlined in the Assurances – Construction Programs form (SF 424D), grantee and/or subgrantee will record the Federal interest in the real property acquired with Endangered Species Habitat Conservation Plan Land Acquisition Grant Program funded by the Secretary of the Interior. Grantee and/or subgrantee will also include a covenant in the recording instrument acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

This office will notify you in writing once the preliminary land conditions e. to j. have been met and final approval is granted for the property to be acquired. The final land conditions k. and l. can be met upon completion of this purchase. Final documents to be received by this office include the summary of the land costs which outlines the approved costs associated with this acquisition (copy enclosed), conservation easement (recorded instrument), and the settlement statement.

Acceptance of a Federal financial award carries with it the responsibility to be aware of and comply with the terms and conditions of the award, including those assurances submitted annually by your agency per <http://www.doi.gov/pam/financialassistance/award/index.html>. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Awards are based on the application and supporting documents as submitted to and approved by the WSFR Program.

Please contact Carlotta Ortiz, Grant Manager, at 505-248-7456, or me at 505-248-7465, with any questions or concerns about the terms of this award.

Sincerely,



Stephen M. Robertson
Chief, Wildlife and Sport Fish Restoration Program

Enclosures

cc: Assistant Regional Director, Ecological Services (Attn: Marty Tuegel), USFWS, R2

Example – Standard Purchase with Grantee Holding Title

Notification to the Landowner of Just Compensation

I certify that the appraisal report dated _____ for the _____ (tract name) _____ has been prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. I hereby inform the landowner that the report established _____ (dollar amount) _____ as market value and just compensation. I further state that the _____ (State agency name – Grantee and Subgrantee) _____ will not acquire the subject real property in the event a mutually satisfactory agreement of sale cannot be reached.

Agency Director

Date

I acknowledge the above information.

(Landowner)

Date

Example – Purchase (includes Donation) with Subgrantee Holding Title

Notification to the Landowner of Just Compensation

I certify that the appraisal report dated _____ for the _____ (tract name) _____ has been prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. I hereby inform the landowner that the report established _____ (dollar amount) _____ as market value and just compensation. A mutually satisfactory agreement of sale has been reached between _____ (State agency name – Grantee and Subgrantee) _____ and _____ (name of landowner) _____ in the amount of _____ (purchase price) _____. The difference between the purchase price and market value is a donation from the landowner.

Agency Director

Date

Subgrantee Name

Date

I acknowledge the above information.

(Name of Landowner)

Date

Wildlife and Sport Fish Restoration Program

Summary of Land Costs

State :

Grantee:

Subgrantee (if applicable):

County(ies):

Grant No.:

Grant Title:

Grant Period:

Grant Funding Approved	Federal	State / Third Party	Total
Estimated Costs	\$ -	\$ -	\$ -
Cost Share Percentage	#DIV/0!	#DIV/0!	#DIV/0!

Acquisition Name:

Grantor:

Date Acquired:

Acreage:

Appraised Value:

Acquisition Costs (Actual)	
Purchase Price	\$ -
Appraisal Costs	\$ -
Relocation Costs	\$ -
Survey Costs	\$ -
Closing Costs	\$ -
Salaries, Per Diem & Associated Costs	\$ -
In-Kind Match Value	\$ -
Miscellaneous (including Lands Donated Value)	\$ -

Notes Re: Acquisition Costs

Instructions

* If Total Cost < Total Grant Funding Estimate then fill out actual costs/reimbursement section below. If Total Cost = Total Grant Funding Estimate then same amount. If Total Cost > Total Grant Funding Estimate then place amount from E19 here.

** When Total Cost (actual) > Total Grant Funding Estimate then place difference here.

TOTAL COST	\$ -
Total Federal Reimbursement (Stewardship Investment)*	\$ -
Excess Match**	\$ -

Final Grant Costs	Federal	State / Third Party	Total
Cost Share Percentage	#DIV/0!	#DIV/0!	#DIV/0!
Actual Costs/Reimbursement			

Comments:



March 6, 2012

Board of Directors
As of February, 2012

Pct. 1 Commissioner
Lisa Birkman,
Board President
Williamson County, TX

Pct. 3 Commissioner
Valerie Covey
Board Vice President
Williamson County, TX

Ken Boyer, P.E.
Boyer and Associates
Round Rock, TX

Patty Eason
Council Member
City of Georgetown, TX

Maria Acosta
Cedar Park, TX

Rob Rothenberg,
Rothenberg Realty
Georgetown, TX

Larry Quick
Don Quick & Associates
Round Rock, TX

c/o Parks and Recreation
219 Perry Mayfield
Leander, TX 78641

Dr. C. Craig Farquhar
Endangered Species Grants Coordinator
Wildlife Division
Texas Parks and Wildlife Department
4200 Smith School Rd.
Austin, Texas 78744

Re: Notice of Unavailability of Parcel Described in Originally Awarded Grant Proposal, and Reassignment of ESA Section Grant Award, TX E-143-HL-1

Dear Dr. Farquhar:

As you know, Williamson County, Texas, and the Williamson County Conservation Foundation ("WCCF") submitted in coordination with the Texas Parks and Wildlife Department ("TPWD") the Application for Federal Assistance, TX E-143-HL-1, Cobb Cavern Habitat Conservation Plan Lands Acquisition ("Application"). By letter dated August 26, 2011, Mr. Stephen M. Robertson, U.S. Fish and Wildlife Service ("Service") informed Carter Smith, Executive Director, TPWD, that the Application was conditionally approved for funding under the Endangered Species Section 6 grant program to acquire a conservation easement on approximately 67 acres of the Cobb Ranch in order to enhance the Northern Cobb Preserve ("Grant Award"). WCCF proposed acquisition of this parcel as more particularly described in the Application in order to enhance the Williamson County Regional Habitat Conservation Plan, HCP permit #TE-181840-0.

We understand the Service has provided guidance regarding "General Compliance Guidance on the Allocation of Section 6 Funds to States and Territories for Land Acquisition" ("General Guidance"). The General Guidance discusses several issues raised by the Regions and the Washington Office of the Service related to the Section 6 funds awarded to States to acquire land associated with Habitat Conservation Plans and other land acquisition grant funds. The Section of the General Guidance involving "Criteria for Reassignment of Funds" states in part as follows:

"If during the grant period, an approved proposal is not completed or the proposal will not require the entire amount that was allocated (e.g., the seller is no longer willing or the State increased its cost-

{002.00093457.1}

share), the Regions must follow the fund reallocation procedures below:

1). The unused funds may be used to acquire alternative tracts of land that would provide similar benefits to the same HCP or recovery effort for which the original allocation was awarded. Requests to transfer funds from one approved proposal to another project supporting the same HCP or species recovery effort may be approved by the Regional Director based on a determination that the alternate action or acquisition will provide benefits that compare favorably with the original proposal. . . ."

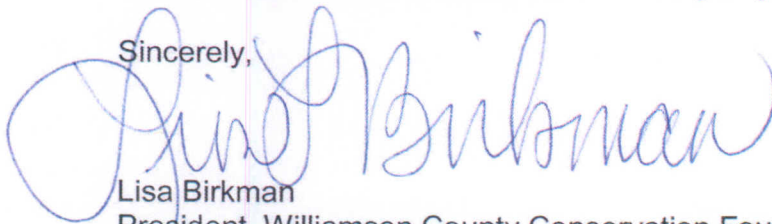
The Section of the General Guidance regarding "Replacement Parcels" states in part the following:

"For projects where the parcels described in the originally awarded grant proposal become unavailable for purchase, replacement parcels that meet project objectives of the originally awarded grant proposal must be identified within the next fiscal year. In order to be eligible to select replacement parcels within the next fiscal year, the grantee must notify the Service in writing within 90 days of the original award parcel(s) becoming unavailable."

In accordance with the foregoing provisions of the Guidance, I am writing to notify you on behalf of WCCF as subgrantee under the Award, that as of February 29, 2012, the conservation easement on Cobb Ranch as more particularly set forth in the Grant Award, is no longer available for acquisition under the Grant Award and the seller is no longer a willing seller as to the foregoing parcel. We look forward to working with you and other officials at TPWD and the Service in identifying appropriate replacement parcel(s) of land that will provide similar benefits to the Williamson County RHCP for which the original allocation was awarded so that funds under the Award may be reassigned to acquire such replacement parcel(s), as contemplated under the Guidance.

Should you have any questions about this notification and request, please feel free to contact me at 512/244-8610 or Gary Boyd at 512/943-1921.

Sincerely,



Lisa Birkman

President, Williamson County Conservation Foundation

cc: Carter Smith, Executive Director
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

Mr. Stephen M. Robertson
U.S. Fish and Wildlife Service
Region 2 Office
Chief, Wildlife and Sport Fish Restoration Program
500 Gold Ave. SW, Room 634
P.O. Box 1306
Albuquerque, New Mexico 87103

Mr. Marty Tuegel
U.S. Fish and Wildlife Service
Region 2 Office - Ecological Services
500 Gold Ave. SW, Room 634
P.O. Box 1306
Albuquerque, NM 87103

Gary Mowad, Texas State Administrator
US Fish and Wildlife Service
10711 Burnet Road, Suite 200
Austin, Texas 78758

Adam Zerrenner, Field Supervisor
US Fish and Wildlife Service
10711 Burnet Road, Suite 200
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