



Guadalupe-Blanco River Authority

Guadalupe River
Habitat Conservation Plan

First Public Stakeholder Meeting

June 28, 2022

NATHAN PENCE

EXECUTIVE MANAGER OF ENVIRONMENTAL SCIENCE

Introductions



- Nathan Pence
Executive Manager of Environmental Science
npence@gbra.org
- Chad Norris
Deputy Executive Manager of Environmental Science
cnorris@gbra.org
- Jana Gray
HCP Coordinator
jgray@gbra.org

Introductions: GRHCP Project Team

Blanton & Associates, Inc.

*Project Management,
HCP, NEPA*

HCP, NEPA



Water Quality

PLUMMER

Mussels



Water Quantity

ESA Legal



Suzanne Schwartz
Facilitation & Mediation

Facilitation



Meeting Agenda

- Meeting Purpose / Overview
- Budget
- Timeline

10-minute
break

- Fundamental Elements
 - Area, Duration, Species, Activities

10-minute
break

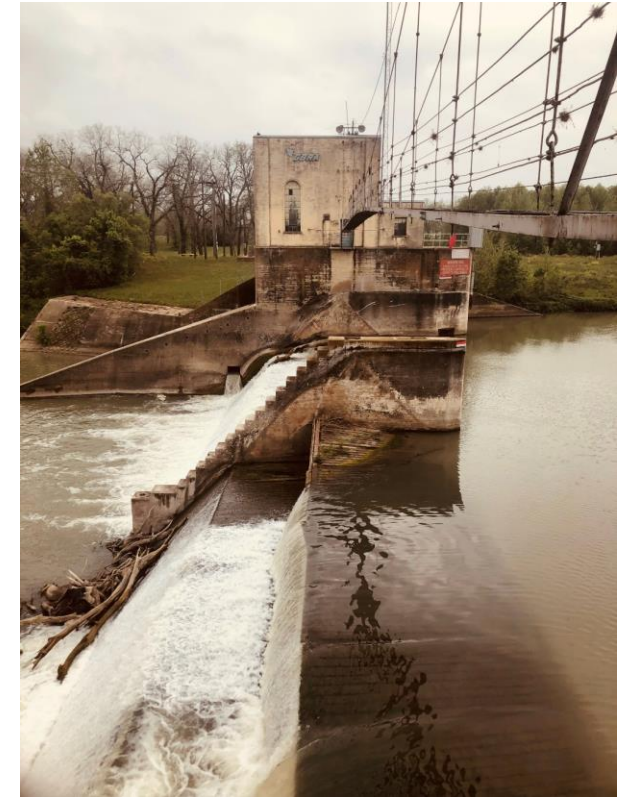
- Stakeholder Involvement
 - Public, 2nd Party Take, TAG
- Next Steps



Meeting Purpose

- Introduce concept of Habitat Conservation Plan for Guadalupe River basin
- Provide Information and schedule for planning effort
- Introduce stakeholder roles

Today's meeting is not a U. S. Fish & Wildlife (USFWS) Scoping Meeting for National Environmental Policy Act (NEPA) Environmental Impact Statement Process



Overview: GBRA Priorities for Pursuing an HCP

- Basin anticipated growth
 - Increasing water supply needs
 - Increasing wastewater treatment needs
- Existing and new infrastructure Operations & Maintenance
- Long-term Endangered Species Act (ESA) compliance provides ***stability and predictability to GBRA services***
- Regional environmental leadership
- Potential mussel/salamander species federal listing in the Guadalupe River Basin



Overview: GBRA Priorities for Pursuing an HCP

Honoring The Aransas Project (TAP) Agreement

- Expansion of Whooping Crane Habitat
- Fuller utilization of the Guadalupe River delta
- Freshwater inflows for the Whooping Crane
- Texas Costal Exchange / Soil Value Exchange



Overview: Internal Support

2019 Board Resolution of Support

- Plan for and take action to develop a basin-wide HCP
- Provide annual funding
- Provide direction to seek external funding

RESOLUTION AUTHORIZING THE GUADALUPE-BLANCO RIVER AUTHORITY TO INITIATE DEVELOPMENT OF A HABITAT CONSERVATION PLAN

WHEREAS, pursuant to its Enabling Act and its mission and vision statements, the GBRA is committed to supporting responsible watershed protection, stewardship, providing quality operational service, and promoting conservation and educational opportunities in order to enhance quality of life for those we serve; and

WHEREAS, Habitat Conservation Plans (HCPs) can apply to both listed and non-listed species, including those that are candidates or have been proposed for listing, and conserving those species before they are in danger of extinction or are likely to become so, which can provide early benefits and prevent the need for listing; and

WHEREAS, a Guadalupe Basin HCP can fulfil the commitments of the GBRA / The Aransas Project Agreement; and

WHEREAS, HCPs are recognized under Section 10(a)(1)(B) of the Endangered Species Act (ESA) in order to provide a means whereby ecosystems upon which endangered species and threatened species depend may be conserved and to provide a program for the conservation of such species; and

WHEREAS, HCPs are planning documents required as part of an application for an Incidental Take Permit, which describe the anticipated effects of the proposed incidental taking, how those impacts will be minimized, or mitigated, and how the HCP is to be funded; and

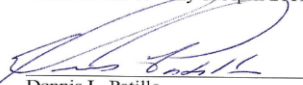
WHEREAS, GBRA recognizes that HCPs can provide for stability of services provided by GBRA, allow for long-term assurances and sustainability of resources, can build on GBRA's past efforts and represent a proactive approach to environmental management;


NOW THEREFORE, BE IT RESOLVED that the Board of Directors of the Guadalupe-Blanco River Authority authorizes the development of a Guadalupe Basin Habitat Conservation Plan to fulfil the requirements of Section 10(a)(1)(B) of the Endangered Species Act in order to better protect and steward the watershed and resources of the Guadalupe Basin for the people of Texas.

Specifically, GBRA staff are directed to:

- a) Plan for and take actions that lead to the development of a basin-wide HCP; and
- b) Initiate a procurement process to consider utilization of a contractor to assist in the development of a HCP; and
- c) Seek and apply for external funding to assist in development of a HCP; and
- d) Shall allocate up to \$100,000 annually to fund efforts and be used for grant match in support of the HCP; and
- e) Keep the Board informed and engaged as decision points arise and on progress of the HCP development process.

PASSED and APPROVED by the Board of Directors of the Guadalupe-Blanco River Authority, Texas on the 17th day of April 2019.


Dennis L. Patillo
Chairman, Board of Directors
Guadalupe-Blanco River Authority

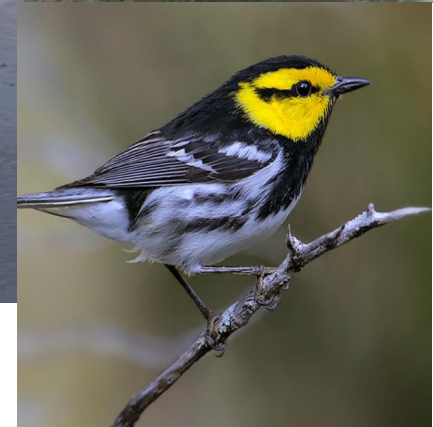
ATTEST: 
Kenneth A. Mott
Secretary-Treasurer, Board of Directors
Guadalupe-Blanco River Authority



Overview: Budget and Funding

Project Budget Approximately **\$3.5 Million**

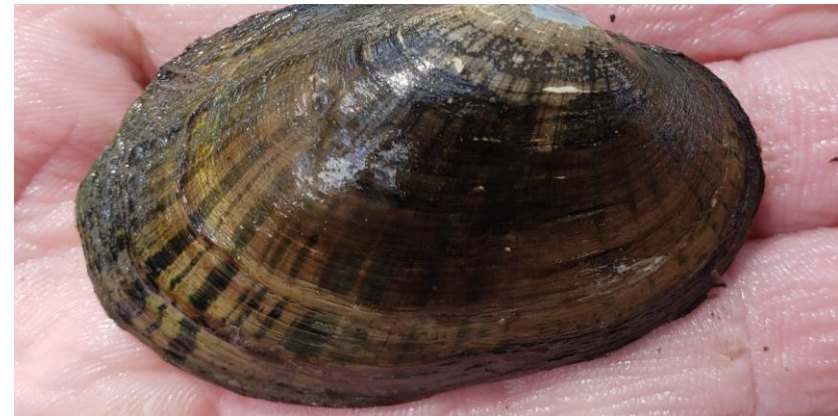
- \$2.9 Million – Consulting Team
- \$0.6 Million – Internal GBRA support
- Grant Funds



Background: What is Take?

ESA Section 9: All **persons** are prohibited from importing, exporting, **taking**, transporting, or selling fish and wildlife species listed as **endangered** under federal ESA

- Take of **threatened** wildlife species is prohibited by Section 4(d) of the ESA
- **Persons:** Prohibition applies to all private or public entities or individuals subject to federal jurisdiction
- **Take:** To hunt, **harass, harm**, pursue, shoot, wound, kill, trap, capture, or collect a species, or attempt to engage in any such conduct



Background: What is Take?

- **Take:** To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a species, or attempt to engage in any such conduct
 - **Harm:** Any significant habitat modification or degradation where it actually kills or injures wildlife by impairing essential behavior patterns.
 - **Harass:** Any act or omission, intentional or negligent, that creates the likelihood of injury to wildlife by annoying or disrupting essential behavior patterns.



Background: What is a Habitat Conservation Plan?

Legal definition of a conservation plan under ESA Section 10(a)(2)(A)

- *No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefore submits to the Secretary a **conservation plan***

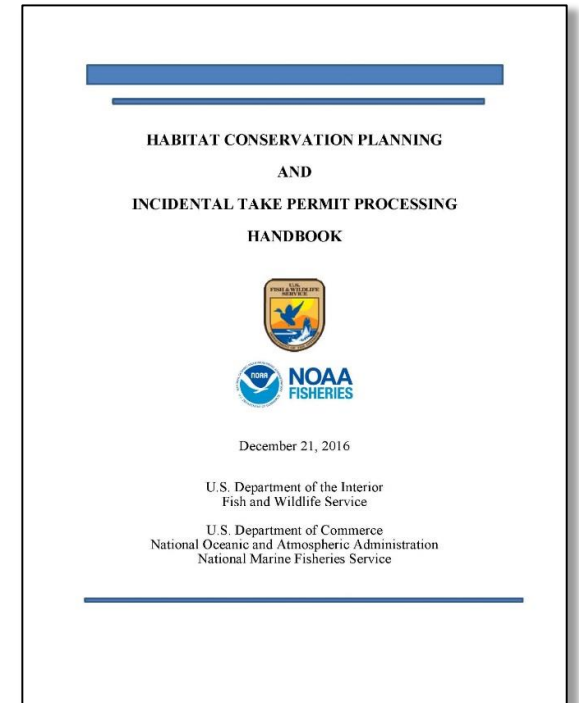
HCP approved by

- USFWS
- National Marine Fisheries Service
- Or both



Background: What is a Habitat Conservation Plan?

- An HCP is required for issuance of a Section 10 **Incidental Take Permit (ITP)**
- Only needed if “take” is expected of a listed wildlife species
- Only non-federal entities can receive an incidental take permit
- Federal agencies can participate in an HCP
 - Take authorization through ESA Section 7 federal consultation, consistent with HCP

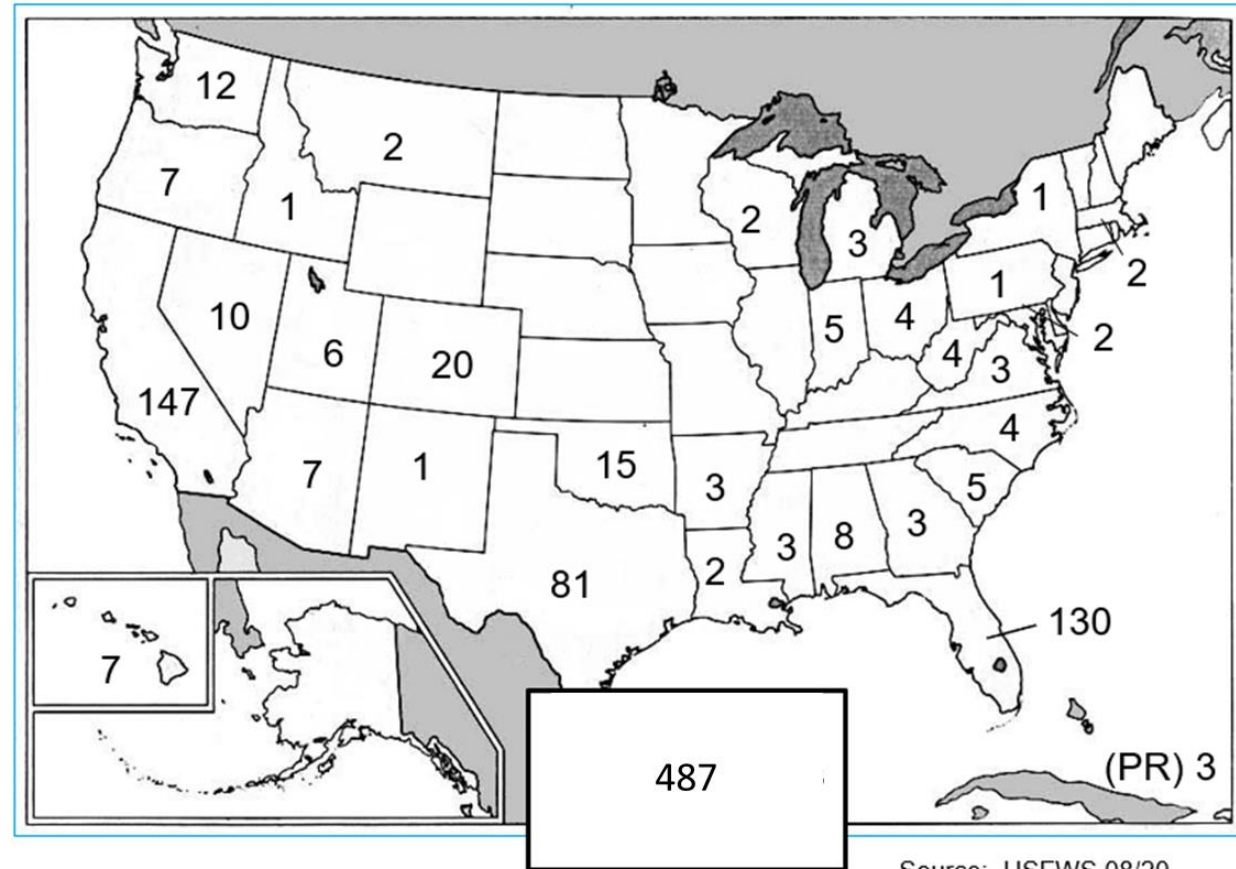


Background: Incidental Take Permit

- ESA Section 10 added by Congress in 1982 to allow incidental take by non-federal entities
- Intended to foster “creative partnerships between the public and private sectors and among governmental agencies in the interest of species and habitat conservation.”
- “No Surprises” assurances added by Secretary Bruce Babbitt in 1990’s
- Required for ITP: Final HCP + Final Environmental Impact Statement + Biological Opinion



Background: Approved Habitat Conservation Plans with Incidental Take Permits



Source: USFWS 08/20

Project Schedule: HCP & NEPA Timeline

Initiate Stakeholder and Technical Advisory Group Involvement

June 2022

Determine Levels of Take

July 2023

Complete Approach for Second Party Take Stakeholders

August 2023

NEPA Public Scoping
December 2023

National Environmental Policy Act (NEPA) is a law that requires federal agencies to prepare an Environmental Impact Statement for proposed federal actions, such as approving an HCP.



Project Schedule: HCP & NEPA Timeline

Submit Preliminary draft HCP to the USFWS
January 2024

Submit ITP Permit Application to the USFWS
October 2024

Public Review of draft HCP and Environmental Impact Statement
May 2025

Submit Final HCP and Final Environmental Impact Statement to the USFWS and Address comments on Draft HCP and Environmental Impact Statement
December 2025

USFWS approval and issuance of ITP
June 2026

10 Minute Break

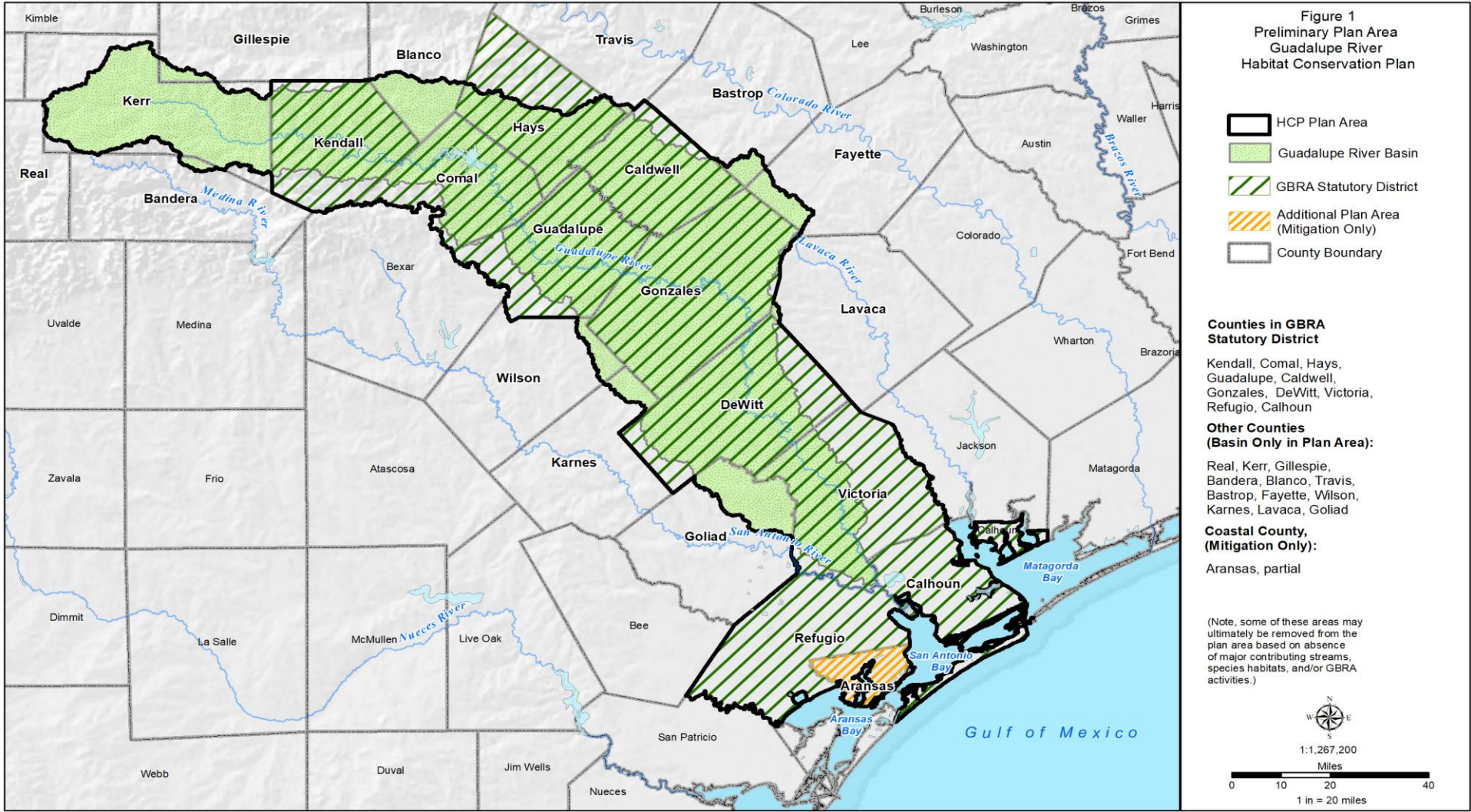


Fundamental Elements: Plan Area and Permit Area



- **Plan area:** Area in which all covered activities and mitigation is expected to occur - where all planning occurs
- **Permit area:** Specific areas where covered activities and mitigation occur during implementation - may be same as plan area
- GRHCP plan area considers:
 - GBRA jurisdictional boundary
 - Location of GBRA facilities and operations
 - Watershed boundaries
 - County boundaries
 - Expected location of mitigation

Fundamental Elements: Plan Area and Permit Area (proposed)



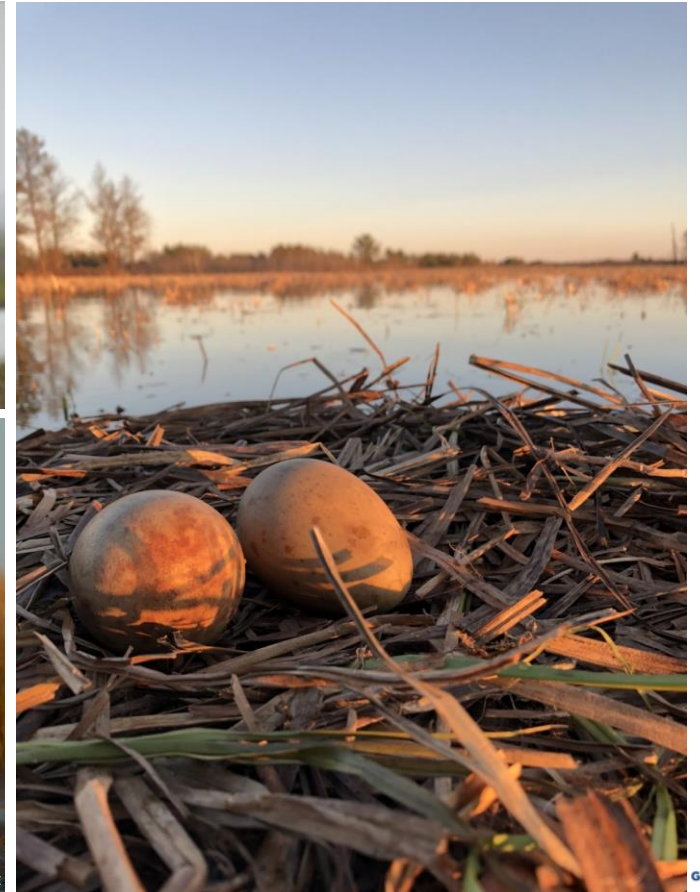
Fundamental Elements: Permit Duration

- Factors considered in deciding GRHCP permit term:
 - Limitations of projections used to develop the HCP
 - Water modeling and impact modeling assumptions
 - Regional Water Plans and other long-range planning horizons
 - Length of time that covered activities are anticipated to occur
 - Time needed to implement conservation measures
 - Adequacy of existing information for species, habitat, and changing future conditions
 - Time needed to conduct effectiveness monitoring
 - Time needed to assemble sufficient funding
 - Awareness that permit conditions will remain in effect for duration of permit



Fundamental Elements: Permit Duration

- Two options for GRHCP: 30-year and 50-year
- GBRA proposing 50-year permit term
 - Sufficient time to construct infrastructure projects, secure funding, and implement conservation measures
 - Certainty for GBRA construction and operations over a longer time period
 - Timeframe may provide more certainty to the USFWS that conservation strategy, monitoring, and adaptive management program contribute adequately to species recovery



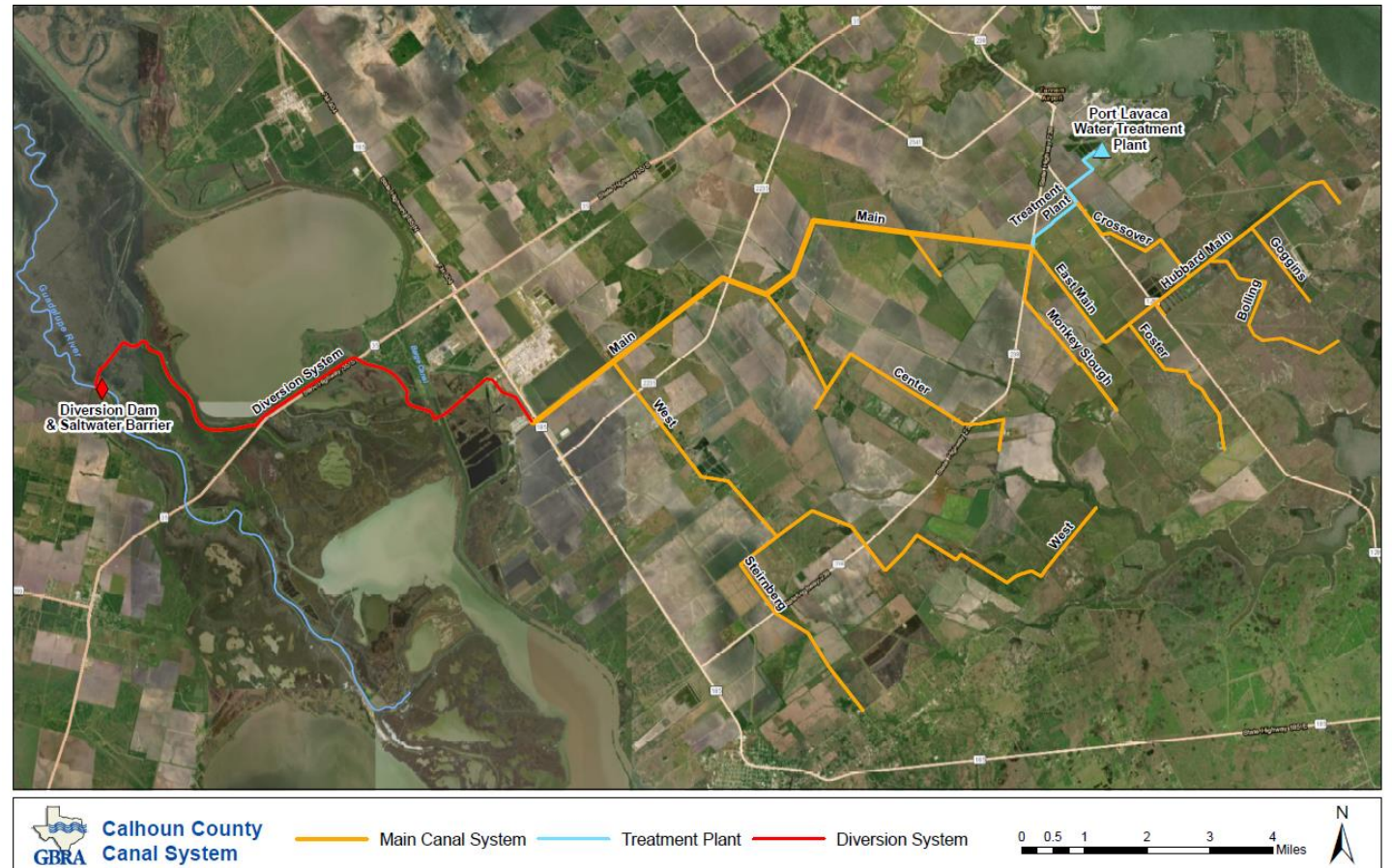
Fundamental Elements: Preliminary Covered Activities



- HCP Handbook states - to be eligible for incidental take authorization, covered activities must meet these criteria:
 - **Otherwise lawful:** Projects and activities legally carried out provided permittee complies with laws
 - **Non-federal:** Projects and activities not carried out by federal agency and do not occur on federal land
 - **Direct control:** Projects and activities under permittee's direct control through jurisdictional authority, employment, contracts, leases, land ownership, or similar mechanisms establishing controlling authority

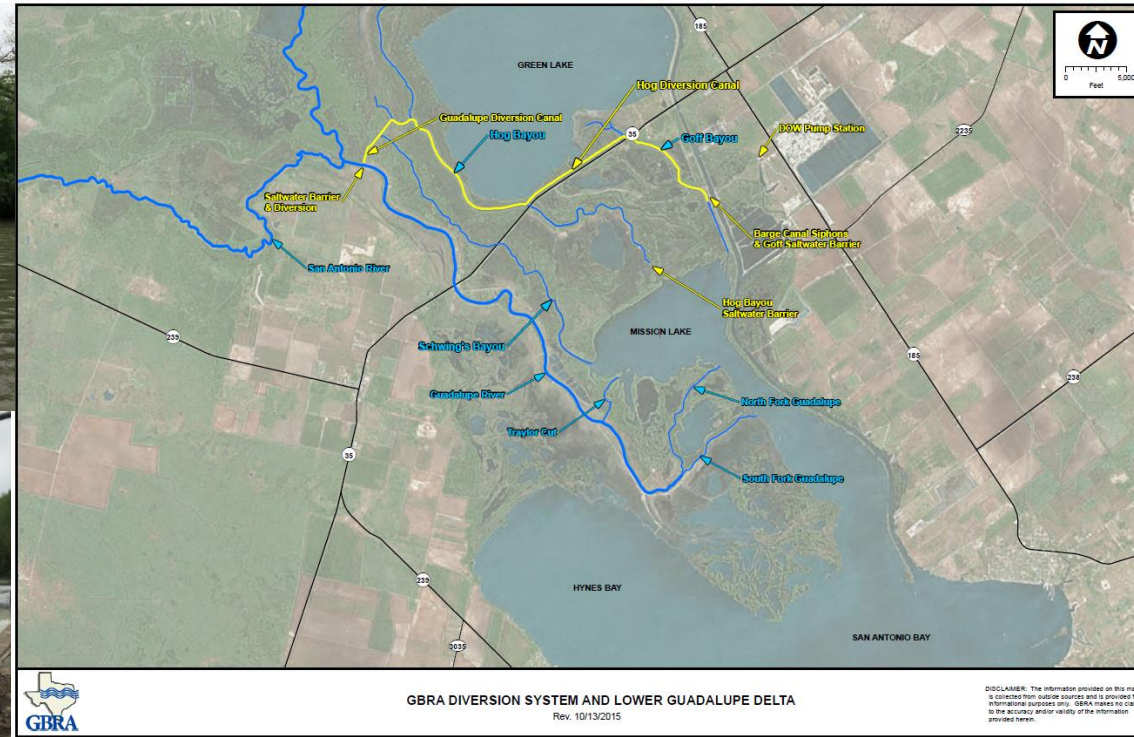
Fundamental Elements: Preliminary Covered Activities - Evaluation Criteria

- **Location:** In the GRHCP plan area?
- **Timing:** Project will occur during permit term?
- **Impact:** Is project or activity reasonably likely to take at least one covered species?
- **Data:** Do we know enough about project or activity to describe and quantify effects on covered species?
- **Control:** Activity under “direct control” of permit applicants? (Or can control be established?)



Fundamental Elements: Preliminary Covered Activities

- Design, planning, construction, and maintenance of:
 - Water supply impoundment, diversion, and delivery
 - Wastewater treatment/discharge
 - O&M of dam facilities
 - Other in-stream infrastructure
 - Water management activities
 - Utility lines
 - Parks and recreation facilities
 - Administration and maintenance buildings/facilities
 - GRHCP conservation strategy



Fundamental Elements: Covered Species

For the Covered Species, the GRHCP must provide:

- Sufficient information to perform quantitative or qualitative take analysis
- Effective conservation actions with measurable benefits
- Conservation actions for species that are practicable to implement
- Evidence that “take” does not jeopardize survival and recovery of the species in the wild



Fundamental Elements: Covered Species

GBRA reviewed:

- Lists generated by USFWS and TPWD
- Species identified in GBRA's federal grant applications as potentially benefitted by GRHCP
- Recommendations and ideas from TAP personnel and other stakeholders
- Discussions with Edwards Aquifer Authority staff about their Edwards Aquifer HCP and future plans

GBRA evaluated four criteria applied to determine covered species:

- Range
- Listing Status
- Impact
- Species Data



Fundamental Elements: Proposed Covered Species



Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*)



Golden-cheeked Warbler (*Setophaga chrysoparai*)



Monarch butterfly (*Danaus plexippus*)



Guadalupe Orb (*Cyclonaias necki*)



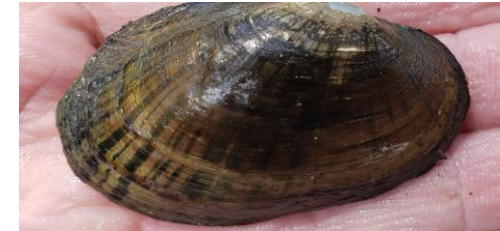
Piping Plover (*Charadrius melodus*)



Red knot (*Calidris canutus rufa*)



Whooping Crane (*Grus americana*)



Guadalupe fatmucket (*Lampsilis bergmanni*)



False Spike (*Fusconaia mitchelli*)



Undescribed *Eurycea* Species 2 (Devitt, T.)



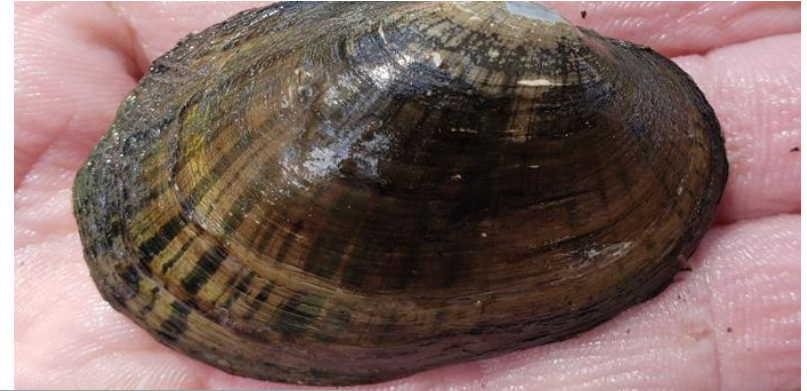
Cascade Caverns Salamander (*Eurycea latitans*) (Devitt, T.)



Fern Bank Salamander (*Eurycea pterophila*) (Devitt, T.)

GBRA Projects that will inform the GRHCP

- Whooping Crane Mapping Project
- Freshwater Mussel Toxicity Study
- Freshwater Mussel Conservation Action Plan
- Freshwater Mussel Habitat Characterization and Stream Reach Assessment
- Freshwater Mussel Surveys
- Salamander Surveys



10 Minute Break



Framework for Governance: Stakeholder Involvement

Three groups related to stakeholder involvement:

- Public Stakeholders
- Second Party Take Stakeholder Work Group
- Technical Advisory Group



Stakeholder Involvement: Public Stakeholders



- **Public Stakeholder Role**
 - Public stakeholders will be kept up-to-date on GRHCP effort
 - Can provide input on GRHCP key elements
 - Can provide continuous input through listserv
 - Will not have a decision-making role
- **Get involved by:**
 - Accessing the project website:
<https://www.gbra.org/environmental/habitat-conservation-plan/>
 - Attending Stakeholder meetings
 - Attending Technical Advisory Group meetings
 - Attending NEPA public meetings
 - Looking for project email updates
 - Emailing questions or comments to GRHCP@GBRA.org

Stakeholder Involvement: Public Stakeholders - Process and Timeline

Meeting	Purpose	Date
Kick-off Meeting	Will be held at GBRA with virtual option to view the meeting and enter comments/questions in chat Obtain information and ask questions on the planning process	Summer 2022
Meeting 2	Provide input on water quality and quantity analysis, modeling approaches, second party take, climate change, impact assessments and take estimates	Fall 2022
Meeting 3	Provide input Biological goals/objectives; conservation measures, Adaptive Management Plan	Spring 2023
Meeting 4	Provide input on the preliminary conservation strategy, approaches for take alternatives, changed circumstances, implementation, and costs/funding	Fall 2023
Meeting 5	Provide input on the preliminary draft GRHCP	Spring 2024
Meeting 6	Provide input on Final public draft GRHCP and report on all public comments	Spring 2025

Stakeholder Involvement: What is Second Party Take?

- GBRA will be issued an incidental take permit by USFWS
 - Authorizes take of covered species due to covered activities
 - Can allocate portion of take authorization to others, called "second party participants"
 - Can design HCP and permit to allow for additional take authorization of those under "direct control" of permittee



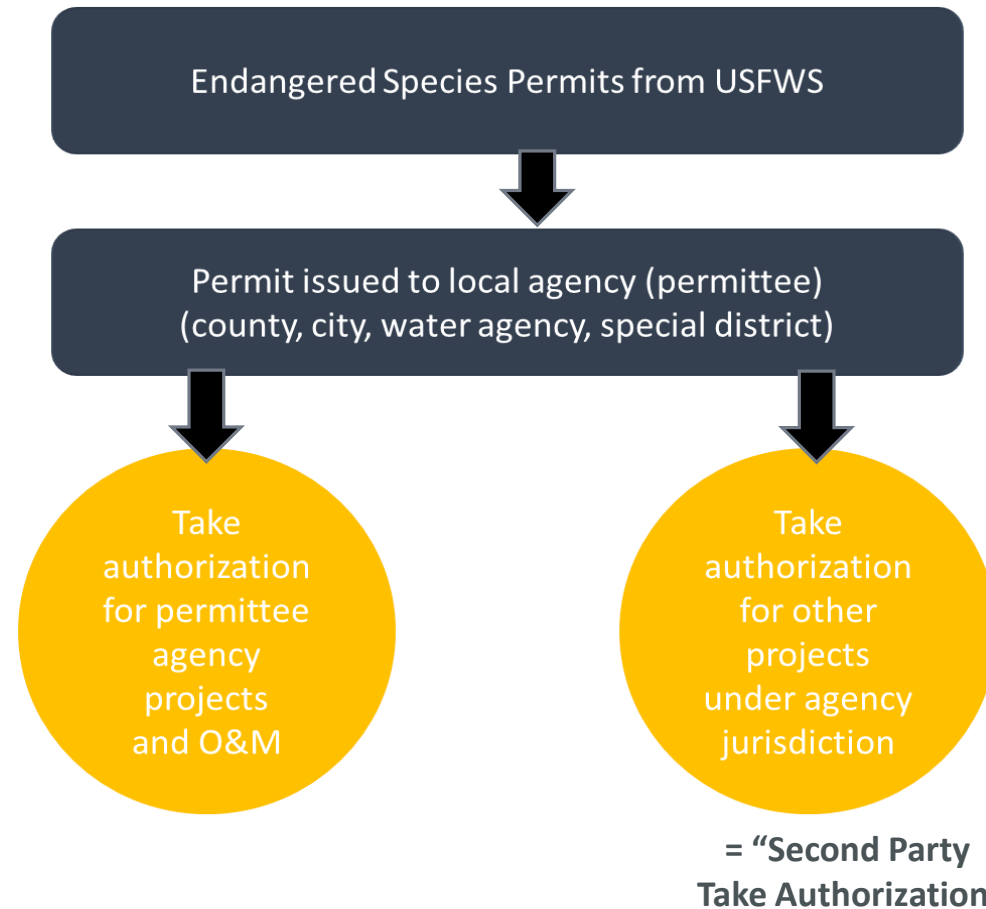
Stakeholder Involvement: What is Second Party Take?

Take authorization can be extended to anyone or any organization under the direct control of permittee

- What does this mean?
 - Persons employed by permittee
 - Person or entity under contract to permittee
 - Applicants under regulatory jurisdiction of permittee
 - Person or entity receiving permit from permittee
 - Lease holder from permittee
- HCP can create new agreement between permittee and second party participants
 - Certificate of Inclusion
 - Certificate of Participation
 - Landowner Agreement
 - Cooperative Agreement

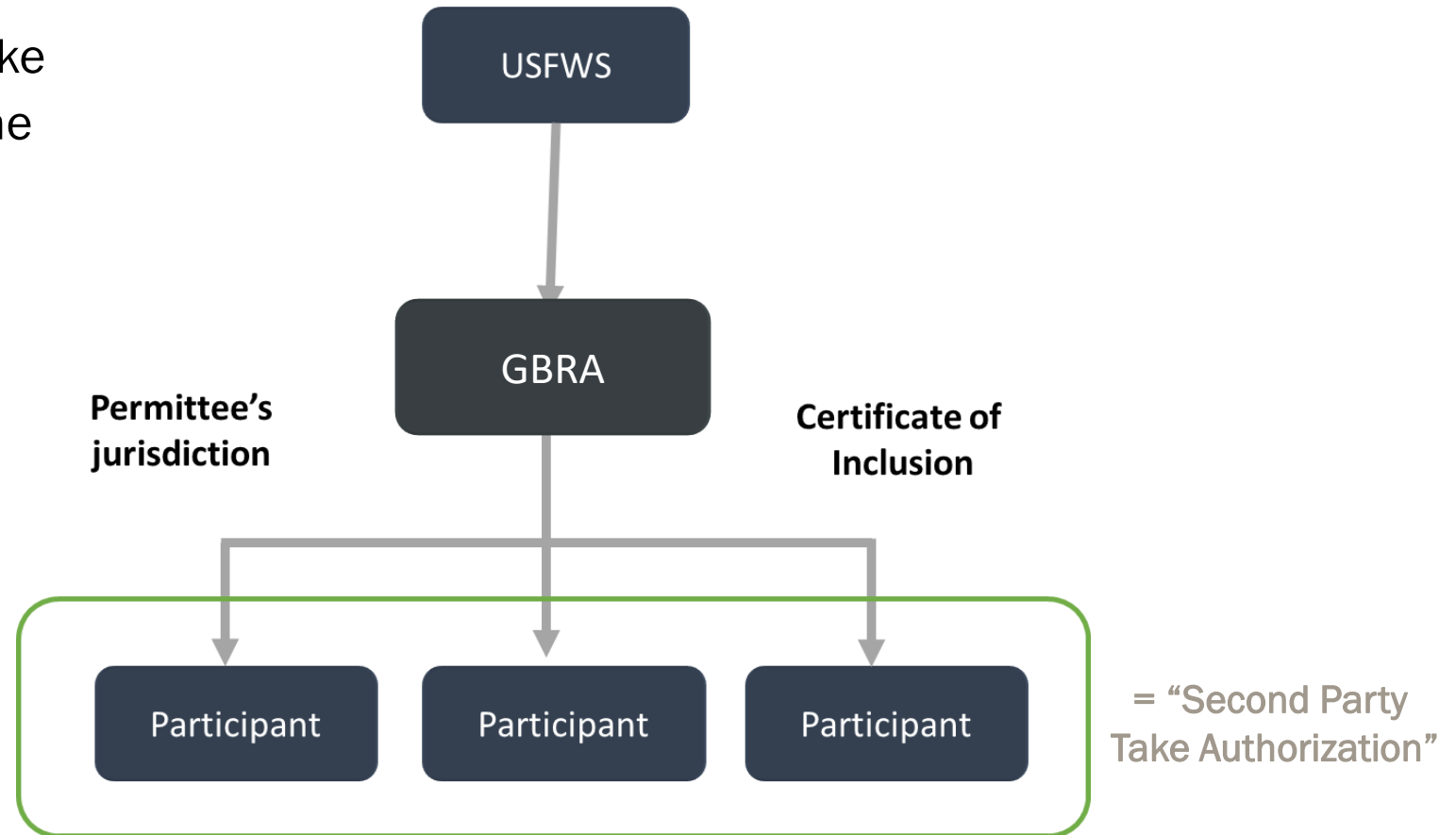


Stakeholder Involvement: What is Second Party Take? How does it work?



Stakeholder Involvement: What is Second Party Take? How does it work?

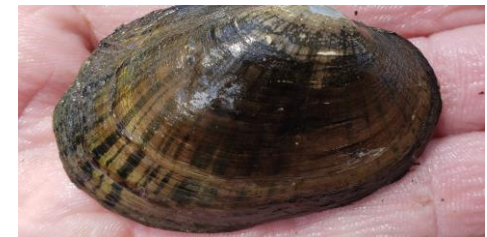
How does second party take authorization work with one permittee?



Stakeholder Involvement: Second Party Take Stakeholders

Process to identify Second Party Take candidates:

- Does the candidate have activities occurring within plan area?
- Does the candidate have activities resulting in take?
- Do activities align with scope and type of GBRA's covered activities?
- Will covered activities impact federally listed species not proposed for coverage?
- Will activities present new impact mechanisms and require additional analysis/different mitigation?
- If interested, email GBRA staff at grhcp@gbra.org to obtain an informational packet.



Stakeholder Involvement: Second Party Take Stakeholder Work Group

- Work Group will engage with GBRA to design program
- Membership determined by a candidate's covered activity and potential take
- Program discussions will focus on aligning conservation with take analysis
- First Meeting: Fall 2022
- Work group decisions will be presented at Public Stakeholder meetings.



Stakeholder Involvement: Technical Advisory Group



Role of Technical Advisory Group:

- Review and provide input on scientific information considered to develop GRHCP
- Consulted individually or as group
- Review and provide comments on working draft chapters of GRHCP
- Two public meetings to be scheduled with additional meetings as necessary

Stakeholder Involvement Technical Advisory Group

Process to identify Technical Advisory Group:

- GBRA considered experts from state agencies, other river authorities, universities, and private firms
- Selected because of their expertise in their respective fields or have extensive habitat conservation planning experience
- Selected because they will provide GBRA with objective and independent peer-reviews



Stakeholder Involvement: Technical Advisory Group

Members include:

- **Dan Opdyke:** Anchor QEA
- **Webster Mangham:** Trinity River Authority
- **Cindy Loeffler:** Texas Parks and Wildlife Department *retired*
- **Ryan Smith:** Texas Nature Conservancy



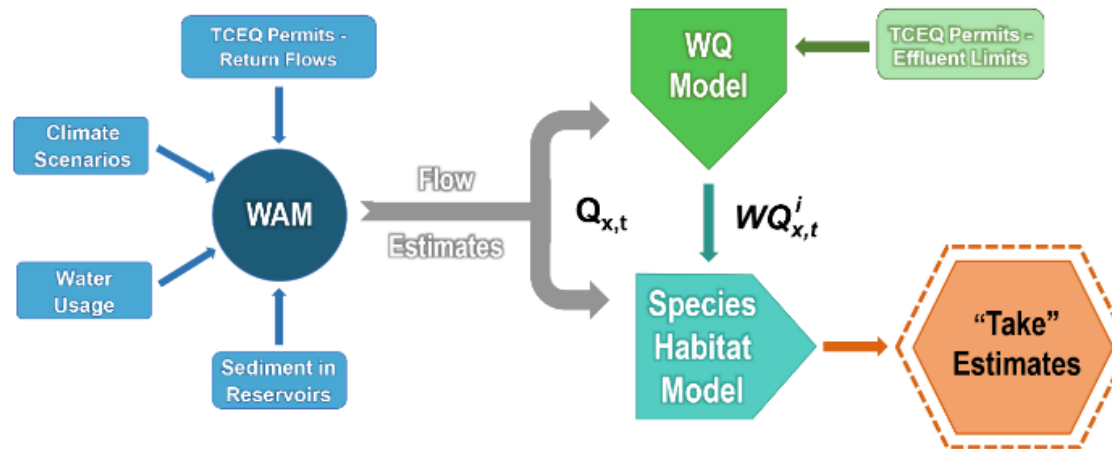
Next Steps: Activities Planned for Second Half - 2022

- Next Stakeholder Meeting – Fall 2022
- Stakeholder input on:
 - Water quantity and water quality analysis
 - Modeling approaches
 - Climate change assessments
 - Impact assessment



Next Steps: Water Quantity and Water Quality Modeling

Exhibit D. GRHCP Model Flow Diagram to Determine “Take” Estimates



$Q_{x,t}$ is flow estimate at time (t) and location (x)

$WQ_{x,t}^i$ is the value of the water quality parameter (i) at time (t) and location (x)

Ways to Stay Informed

- Accessing the project website
<https://www.gbra.org/environmental/habitat-conservation-plan/>
- Attending Stakeholder meetings
- Attending Technical Advisory Group meetings
- Attending NEPA public meetings
- Looking for project email updates



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