

AGENDA ITEM 51

Discuss and take appropriate action on new slot for County Attorney for a civil secretary.

Moved: **Commissioner Limmer**

Seconded: **Judge Doerfler**

Motion: To approve a new slot for County Attorney for a civil secretary.

Vote: **3 - 0**

AGENDA ITEM 52

Discuss and take appropriate action concerning the firm of Smith, Robertson, Elliott & Glen, L.L.P to apply for federal grant money for endangered species habitat acquisition on behalf of Williamson County.

Thornton Wood of Smith, Robertson, Elliott & Glen, L.L.P., addressed the court and answered questions on this agenda item.

Moved: **Judge Doerfler**

Seconded: **Commissioner Boatright**

Motion: To authorize the firm of Smith, Robertson, Elliott & Glen, L.L.P to apply for federal grant money for endangered species habitat acquisition on behalf of Williamson County, and to authorize the County Judge to sign the letter of understanding to the U.S. Fish & Wildlife Service.

Vote: **3 - 0**

< Attachment >

Smith, Robertson, Elliott & Glen, L.L.P.**MEMORANDUM**

TO: The Honorable John C. Doerfler
Eugene Taylor, Esq. VIA FACSIMILE

FROM: Thornton O. Wood *q/n*

DATE: May 30, 2001

RE: Williamson County Road Program; Federal Grant Funds

Please find attached the final U.S. Fish and Wildlife Service (FWS) guidelines regarding Endangered Species Act (ESA) Section 6 grants. This memorandum discusses these guidelines and sets out the necessary steps Williamson County should take to become eligible for such grants.

For background purposes, FWS is asking states to submit proposals for grant money under programs established by Congress to promote endangered species conservation. These grants are being made from the Cooperative Endangered Species Fund, authorized by Section 6 of the ESA. Eleven million dollars in grant money is being provided for what is called "Recovery Land Acquisition." These grants will provide money for the acquisition of habitat for endangered and threatened species. The money is only available this year and all proposals must be made to FWS through the Texas Parks and Wildlife Department (TPWD). The deadline for submitting proposals to TPWD is June 22, 2001.

Williamson County (the "County") may be a good candidate for receipt of some of these grants. As part of the County's Road Program, the County is in a position to help conserve certain endangered cave and karst invertebrates through land preserve acquisition. This opportunity to help promote the recovery of an endangered species, such as *Texella reyesi*, may present the County, and possibly other private entities, with collateral benefits. Because of this likely effort, the County may be able to successfully compete for some of the grant funds. Listed below are specific steps we should take in order to compete for these grants.

First, we need to draft and submit a proposal to the regional FWS office through TPWD. Information in the proposal is the basis upon which FWS determines whether proposed projects meet eligibility requirements and the standards for approval. If approved, the proposal becomes the basis for subsequent grant agreements. A proposal consists of a formal application for federal assistance and a project statement. The project statement is the heart of the proposal and contains information regarding project

need, objective, benefits, approach, location, and estimated cost. Because the proposal process is a competitive one, FWS has devised a ranking system whereby points are awarded on the basis of certain factors. For example, the more species that are benefited by a particular proposal the more points that are awarded. Other factors are also considered (see attached ranking factors).

Second, the guidelines have established general and specific eligibility criteria that every applicant must meet. For instance, general eligibility criteria require that a proposal must include a twenty-five percent (25%) non-federal cost share, and proposals cannot include activities required to comply with a biological opinion. In addition to general eligibility criteria, FWS has set out specific eligibility criteria for Recovery Land Acquisitions grants (see attached criteria). Significant to the County, eligibility criteria require that specific parcel(s) be identified to be acquired with awarded grant money. Further, evidence demonstrating that landowners are willing sellers of such parcels is required prior to transfer of any grants funds.

In sum, then, to be eligible for grant funds, the County must submit a grant proposal and be able to identify specific land to be purchased with possible grant funds. Because of the quickly approaching deadline, it is important that the County, with the help of its consultants, identify suitable sites for land acquisition.

In addition, it is important that we coordinate our grant efforts with FWS and TPWD. By working closely with these agencies, we can get their input regarding the proposal and perhaps get an edge on the competition. Currently, we are setting up meetings with both FWS and TPWD, identifying possibilities with ACi and Julie Wolff, and drafting a rough proposal.

Please contact me with any questions you may have regarding these grants.

-TOW-

cc w/encl: The Honorable David Hays
 Mike Weaver
 Steve Paulson
 Julie Wolff
 Nancy Ledbetter
 Alan Glen (Firm)

Section 6 - Cooperative Endangered Species Conservation Fund
Final Eligibility Criteria/Ranking Factors for FY 2001 New Grants

<u>Available Funds (\$millions)</u>	
Recovery Land Acquisition	\$11.00
HCP Grants	\$7.00
Safe Harbor Grants	\$5.00
Candidate Conservation Agreement Grants	\$5.00
Total	\$28.00

General Eligibility Criteria

1. A proposal must include 25 percent non-Federal cost share (decreases to 10 percent if 2 or more States are contributors) as per section 6 of the ESA.
 2. A proposal cannot involve acquisition of lands that will come into Federal ownership.
 3. A proposal cannot include FWS FTE costs.
 4. A proposal cannot include activities required to comply with a Biological Opinion. A proposal can include activities that implement conservation recommendations.
 5. A proposal cannot include activities required to comply with a permit (e.g., mitigation responsibilities). A proposal can include activities by State or local governments that complement permit requirements.
-

Recovery Land Acquisition Grants

One of the primary threats to species is loss of habitat. Therefore, acquisition of habitat is crucial before development or other land use changes impair or destroy key habitat values. The Recovery Land Acquisition Grants Program provides funding to States for acquisitions of habitat that support approved recovery plans.

Because the existing HCP Land Acquisition Grants Program provides substantial funding for land acquisitions associated with HCPs, the Recovery Land Acquisition Grants Program will not be used to fund land acquisitions associated with permitted HCPs.

Eligibility Criteria:

1. Habitat must be set aside in perpetuity for the purposes of recovery (this can include easements deeded in perpetuity or other similar instruments). Funds cannot be used for management.
2. The funds cannot be used to support habitat acquisition that is associated with a permitted HCP.
3. The funds should contribute to the implementation of an approved (finalized) recovery plan for at least one listed species. Some points will be awarded for draft recovery plans (see ranking factor number 2 below). However, considering (1) the time required to develop and finalize recovery plans for newly listed species, (2) the fact that some species are exempt from the requirement for development of a recovery plan, and (3) the fact that some species conservation planning efforts have identified land acquisition priorities, an exception to this criterion could be made with sufficient justification.
4. The specific parcel(s) to be acquired with the grant money is identified. NOTE: Evidence demonstrating that the landowners are willing sellers will be required prior to transfer of funds.
5. The proposal must state a commitment to funding for and implementation of management of the habitat in perpetuity, consistent with the conservation needs of the species.

Ranking Factors: (Total points = 100)

1. Listed species benefits (28 pts maximum)
Extent to which the habitat acquisition contributes to recovery. (Consideration should be given to the magnitude of the benefit in terms of the proportion of the species range/area encompassed by the acquisition, the contribution to stated recovery goals, and whether the acquisition will allow for delisting or downlisting of a listed species. Please provide a brief justification for the score.)
-

- ☐ Low benefit to recovery - 8 pts
 - ☐ Medium benefit to recovery - 18 pts
 - ☐ High benefit to recovery - 28 pts
2. Number of species benefitted (listed, proposed, and candidate only; at least one listed species must benefit) (20 pts maximum)
- ☐ Species with final recovery plans - 8 pts for each species with a final plan
 - ☐ Species with draft recovery plans - 4 pts for each species with a draft plan
 - ☐ Listed (without draft or final recovery plan), proposed, or candidate species - 2 pts for each species
3. Ecosystem benefits (20 pts maximum)
- Function
- ☐ Habitat fills a critical role in the life cycle of the primary species for which the land is acquired (8 pts)
 - ☐ Habitat is nearly pristine or requires very little management to provide benefits to the primary species (4 pts)
- Connectivity
- ☐ Habitat links two existing protected areas together or is adjacent to existing protected areas, to reduce habitat fragmentation (8 pts)
4. Amount of cost-share (12 pts maximum)
- ☐ Minimum 25% (or 10% where two or more States are involved) (0 pts)
 - ☐ Each additional 5% (2 pts)
5. Other considerations (20 pts maximum--no more than 5 pts per factor below) (Please provide a brief justification for each score)
- ☐ Urgency (species on the brink of extinction, prevents imminent habitat loss (may be unoccupied); acts on short-term opportunity)
 - ☐ Unique qualities
 - ☐ Benefit to other conservation efforts (complements, promotes, or has positive impact on other projects)
 - ☐ Benefits to species at risk (sensitive species/TNC species (G1-G3, T1-T3)/species of concern/State-listed species)
-

DRAFTDraft Section 6 Proposal**RECOVERY LAND ACQUISITION
BONE CAVE HARVESTMAN HABITAT PRESERVE
WILLIAMSON COUNTY, TEXAS****Background and Need**

The Bone Cave harvestman (*Texella reyesi*) was originally described in 1992. Prior to that it was considered to be the Bee Creek harvestman (*Texella reddelli*), its nearest relative. It is now distinguished as a separate species. Because the Bone Cave harvestman was considered to be the Bee Creek harvestman at the time the Bee Creek harvestman was listed as endangered on September 12, 1988 (53 Fed. Reg. 36,029), the Bone Cave harvestman was included in the original listing. Subsequently, the U.S. Fish and Wildlife Service (USFWS) reviewed the taxonomic change and other available information on this species and determined the Bone Cave harvestman should remain listed as endangered (58 Fed. Reg. 43,818). In 1994, USFWS drafted a recovery plan for the Bone Cave harvestman. The recovery plan for this species calls for the protection of at least three karst faunal areas within each karst faunal region in order to achieve recovery of the species.

The Bone Cave harvestman is a small troglobitic (cave-dwelling), blind, pale orange, long-legged harvestman which is associated with moist karst habitats. The Bone Cave harvestman spends its entire life underground and is endemic to karst formations (caves) in Williamson and Travis County, Texas. Population estimates for the Bone Cave harvestman are not currently available due to its inaccessibility and secretive habits.

Williamson County is located in the biologically diverse Texas Hill Country. Situated on the Edwards Plateau west of the Balcones Escarpment, Williamson County is home to six endangered species (three birds, including the golden-cheeked warbler and black-capped vireo, and three karst invertebrates), more than seventeen other threatened or rare animals and plant species, and a wide diversity of common species. This area is dominated by shallow topsoil overlaying limestone deposits up to 10,000 feet (3,050 meters) deep.

Williamson County's strong economy has led, in part, to a rapidly expanding human population in the area. The growth rate in Williamson County ranks it as one of the five fastest growing counties in the United States. Estimates show a County population increase of approximately 400% by the year 2025. To accommodate this growth, Williamson County recently initiated the Williamson County Multi-Corridor Transportation Plan (the "Road Program"), the County's long-range (2025) transportation plan. The Road Program was established for the purpose of expanding and improving the road and highway system in Williamson County.

Population growth and the need for more roads, however, have put environmental issues at the forefront of the County's transportation plans. The Bone Cave harvestman occurs in an area that has and is currently undergoing continued urban expansion at a rapid rate.

DRAFT

Most of the Bone Cave harvestman's localities occur adjacent to or near developed areas (residential subdivisions, schools, golf courses, roads, commercial and industrial facilities, etc.) or in areas that are proposed for development.

As the natural environment is developed and converted to urban land to accommodate the growing Williamson County population, the surface dynamics that influence the Bone Cave harvestman may be altered. In Williamson County, more than 97% of land-holdings are privately owned. Conservation plans, therefore, need to include private lands as a key component in developing long-term management solutions. Williamson County recognizes that the potential negative effects of an increase in urban development within the County may be significantly minimized by the acquisition and preservation of key karst faunal areas containing the Bone Cave harvestman. Therefore, the County proposes to acquire and set aside, with "Recovery Land Acquisition" grant funds, a Bone Cave harvestman habitat preserve.

Objective

1. To acquire and set aside, in perpetuity, _____ acres of karst-preserve land in Williamson County, Texas for the protection and recovery of the Bone Cave harvestman. Williamson County hopes that this proposed karst preserve would help in the eventual recovery and delisting of the Bone Cave harvestman.
2. To implement necessary conservation measures and manage the karst preserve by providing protection from threats such as fire ants, habitat destruction, and contaminants.
3. To provide long-term protection of the Bone Cave harvestman at the preserve in question by working cooperatively with private owners and government agencies, including USFWS and the Texas Parks and Wildlife Service.

Expected Results and Benefits

Protection of the Bone Cave harvestman as part of the _____-acre karst preserve should help to further recovery of this species. Many other species inhabiting the proposed karst preserve may benefit as well. In general, setting aside preserve land will likely aid in the recovery of the Bone Cave harvestman, help protect other important elements of the karst ecosystem in Williamson County, and possibly prevent the need to list other species in the future.

Approach

Williamson County proposes to acquire with grant funds _____ acres of habitat considered key for recovery of the endangered Bone Cave harvestman. These parcels would be protected and monitored in perpetuity as a karst preserve. Conservation measures on the acquired parcels will include, among others, gating significant cave entrances, routine inspections and maintenance work, restrictions on recreational use of

DRAFT

some areas (with no public access to the most sensitive sites), vegetation management to control noxious non-native plants and excess growths of juniper, and control of fire ants.

Because karst ecosystems cannot be recreated once destroyed, the preserve in question would be designed in a way to incorporate the full array of biotic and abiotic factors needed to promote the integrity of the ecosystem on which the Bone Cave harvestman depends. To promote long-term conservation of the Bone Cave harvestman and the ecosystem on which it depends, the preserve would be designed to rely on minimal management rather than frequent human intervention to control threats to the system.

Location

Williamson County, Texas.

Estimated Cost

The County proposes to acquire the preserve land in question for \$1,000,000. Williamson County will provide a 25% cost-share or \$250,000 for recovery land acquisition, with the government providing the remaining amount or \$750,000.

The price of land in Williamson County is on the increase. The Texas Real Estate Center at Texas A&M University estimates that current "urban fringe" land values of \$11,750 per acre in Williamson County represent an increase of approximately 300% since 1995. Rapid and sustained development in Williamson County will undoubtedly foster further land value increases in the area. Therefore, acting now to acquire non-federally owned land in Williamson County will be more cost effective than in the future where land values will be even higher.

With "Recovery Land Acquisition" grant money, Williamson County is committed to funding and implementing management of the above Bone Cave harvestman preserve habitat in perpetuity, consistent with the conservation needs of the species.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

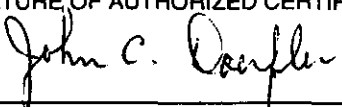
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL  6-19-01		TITLE County Judge	
APPLICANT ORGANIZATION Williamson County, Texas		DATE SUBMITTED June 22, 2001	

AGENDA ITEM 53

Consider approving change order #3 for radio system tower site in Round Rock.

Moved: **Commissioner Limmer**

Seconded: **Judge Doerfler**

Motion: To approve Change Order #3 in the amount of \$9,697.00 for the radio system tower site in Round Rock, for additional concrete.

Vote: **3 - 0**

< Attachment >



Change Order Form

Purchaser:

Change Order No. 003

Name: Williamson County

Date: 6-1-01

Address: 508 S. Rock St.
Georgetown, TX 78626

In accordance with the terms and conditions of the Agreement dated 6-28-2000, the following changes are approved:

Contract Price Adjustments:

Contract Value from Change Order 002	\$ 5,656,137
This Change Order #003	\$ 9,697
New Contract Value	\$ 5,665,834

Completion Date Adjustments:

Original Completion Date	N/A
Previous Schedule Change #1 through ____	
This Schedule Change # ____	
New Completion Date	

Reason for Change:

Cost difference for non-standard soil at Prime Site. Price increase due to the increase in the amount of concrete. The original normal soil design used 74 cubic yards and the new design per the soil report uses 88 cubic yards of concrete. The difference is the clay soil at the prime site compared to the limestone rock found at the two previous sites. Rock has better cohesion and friction. For example Liberty hill site had a cohesion of 5000 verses 2800 within the same area and the friction for Liberty Hill is 34 verses 0 at the Prime Site.

Information is based on the Prime Site soil report provided by T.S.I Laboratories dated May, 2001.

To be added to the existing lease.

Unless amended above, all other terms and conditions of the Agreement shall remain in full force and effect.