

Alamo Group of the Sierra Club
Aquifer Guardians in Urban Areas
Austin Regional Sierra Club
Bexar Audubon Society
Boerne Together
Cibolo Nature Center
Citizens Allied for Smart Expansion
Environmental Stewardship
Committees of the Episcopal Church of
Reconciliation & Episcopal Diocese of
West Texas
Environment Texas
First Universalist Unitarian Church of
San Antonio
Friends of Canyon Lake
Fuerza Unida
Government Canyon Natural History
Association
Hays Community Action Network
Helotes Heritage Association
Helotes Nature Center
Hill Country Planning Association
Guardians of Lick Creek
Kendall County Well Owners Association
Kinney County Ground Zero
Medina County Environmental Action
Association
Northwest Interstate Coalition of
Neighborhoods
OST 100
Preserve Castroville
Preserve Lake Dunlop Association
Preserve Our Water-Blanco County
San Antonio Audubon Society
San Antonio Conservation Society
San Geronimo Valley Alliance
San Marcos Greenbelt Alliance
San Marcos River Foundation
Santuario Sisterfarm
Save Barton Creek Association
Save Our Springs Alliance
Scenic Loop/Boerne Stage Alliance
Securing a Future Environment
Sisters of the Divine Providence
Smart Growth San Antonio
SEED Coalition
Texas Water Alliance
West Texas Springs Alliance
Wildlife Rescue & Rehabilitation
Wimberley Valley Watershed Association

November 2, 2009

To: Loop1604EIS@AlamoRMA.org

Re: Scoping Comments on Loop 1604 EIS

The Greater Edwards Aquifer Alliance (“GEAA”) and Aquifer Guardians in Urban Areas (“AGUA”) would like to thank you for the opportunity to provide initial comments on the EIS process to assess improvements to Loop 1604 from Potranco Road to I-35 North.

A Single, Comprehensive EIS for US 281/Loop 1604

At the outset, we strongly urge (as has been argued in a currently pending lawsuit) that the lead agencies prepare a single, comprehensive EIS for US 281/Loop 1604 instead of separate EISs for US 281 and Loop 1604. The current approach of separate EISs is duplicative, confusing, wasteful, and simply not warranted in light of the common financing, environmental constraints, timing, and coordination of 281 and 1604. For many years now, US 281/Loop 1604 has been planned as one project

Analyzing the US 281/Loop 1604 project in one EIS is critically important for consideration of regional, sustainable, long-term transportation solutions that accord with the environmentally-sensitive context of the project—a context that includes the Edwards Aquifer recharge zone, extensive habitat for the endangered Golden-Cheeked Warbler, and extensive habitat for endangered Bexar County karst invertebrates. Now more than ever, it is essential that government entities take a big-picture look at the region where these roadways are located.

There is no principled reason for separating the study of 281 and 1604, and such an arbitrary division of what is one project will likely result in a deficient analysis of alternatives, under-evaluation of impacts (especially cumulative), and unsatisfactory mitigation.

Purpose and Need

The proposed purpose and need for the Loop 1604 EIS looks remarkably similar to the purpose and need that was presented in the old, discredited Environmental Assessments for US 281 and Loop 1604. The purpose seen in all these documents is basically as follows: 1) improve safety; 2) enhance mobility and operational efficiency; and 3) deliver and implement benefits in an expeditious manner.

GEAA and AGUA strongly recommend that the third part of the project's purpose (delivering and implementing in an expeditious manner) be removed. In the past, this element of purpose has served to unduly narrow the range of alternatives such that only toll-financed road expansions are seriously considered. This runs contrary to established NEPA precedent, which requires agencies not to put forward a purpose and need statement that is so narrow as to "define competing 'reasonable alternatives' out of consideration (and even out of existence)", *Simmons v. U.S Army Corps of Engineers*, 120 F.3rd 664 (7th Cir. 1997); (see also, *Alaska Wilderness Recreation and Tourism Association v. Morrison*, 67 F.3d 723 (9th Cir. 1995).

Instead of an unduly narrow purpose that defines non-toll alternatives out of existence, the agencies should consider adding a third element to its purpose that focuses on long-term environmental and community benefits and solicits a wide range of alternatives. Such a purpose could be formulated as: "Protect and/or enhance the human and natural environment in the Loop 1604 corridor." Or the purpose could state an intention to "minimize environmental and community impacts." Such a provision would be highly appropriate given the history of controversy surrounding this project, and the environmentally-sensitive context of Loop 1604.

Even more specifically, the purpose and need statement for Loop 1604 should reiterate the goal of preserving the water quality and water quantity of the Edwards Aquifer, which is San Antonio's sole-source drinking water supply. In recent years, voters have twice approved 1/8-cent sales tax increases to pay for and permanently preserve land over the recharge zone. Yet sprawl over the recharge zone, which is aggravated by roadway expansions, continues to jeopardize policies and measures designed to protect Edwards Aquifer water quality and water quantity. The purpose and need for Loop 1604 should reflect policies and efforts to preserve the Edwards Aquifer, and this element of purpose has been sorely missing from previous NEPA studies for US 281 and Loop 1604.

Given the environmental sensitivities in the Loop 1604 area, the lead agencies in this EIS should also prioritize reduction of VMT for any project in the 1604 corridor. The typical approach to past projects for Loop 1604 and US 281 has been geared toward capacity expansion on those highways, when in reality there are many better ways to reduce congestion, enhance mobility, and improve safety. In the long-run, reducing VMT and focusing on managing peak day travel demand will provide the best transportation solution for the community and the environment. Expanding the roadway capacity will only draw more traffic onto congested roads and lead to further water and air pollution.

By incorporating community and environmental goals into the purpose and need for Loop 1604, the lead agencies will provide the opportunity to consider a wide range of alternatives while ensuring an end result that fits with the environmental constraints of the area.

Agency Participation/Consultation

Elevate Edwards Aquifer Authority to Participating/Cooperating Agency

Due to its technical expertise regarding the Edwards Aquifer ecosystem, we request that the Edwards Aquifer Authority (EAA) be invited to participate in the EIS process as not only a Participating Agency, but also as a Cooperating Agency.

The proposed expansion of Loop 1604 crosses the recharge zone of the Edwards Aquifer. The Edwards is a federally designated sole source drinking water aquifer that provides water to 1.5 million people and the spring flows critical to the survival of endangered species in Comal Springs, San Marcos Springs, and in the Aquifer. In fact, the Edwards Aquifer was the first aquifer in the Nation designated as a "sole source" aquifer under the "Gonzalez Amendment" to the Safe Drinking Water Act. The amendment was authored by San Antonio Congressman Henry B. Gonzalez, in order to avoid federal taxpayer funding of projects that threaten pollution of the Edwards Aquifer.

The Edwards is a karstic aquifer and therefore is highly vulnerable to water pollution because surface water quickly enters the aquifer through recharge features, such as caves, sinkholes and streambeds, without significant filtration. The lack of a central drinking water distribution facility for San Antonio makes treatment for any contamination especially ineffective. As such, the best and perhaps only affordable protection for San Antonio's drinking water supply is prevention. Therefore, EAA needs to be included as a Cooperating Agency, in order to provide invaluable expertise regarding the environmental sensitivity of the Loop 1604 corridor area.

Invite VIA Metropolitan Transit to Be Participating/Cooperating Agency:

In order to adequately address alternatives related to multiple transportation modes and reductions in peak traffic demand, we request that the VIA Metropolitan Transit (VIA) be invited to participate in the EIS process as both a Participating Agency and a Cooperating Agency.

Since traffic congestion is rooted in excess demand, alternatives which reduce peak travel demand need to be seriously considered. Many options are available that individually, or in combination, reduce peak travel demand. Public transit is a primary means of decreasing peak travel demand. Likewise, ridesharing and park-n-ride programs also reduce the number of cars during the peak periods. VIA is the driving force in San Antonio for these three options. FHWA's own guidance lists six categories of demand-management alternatives, including travel alternatives (alternate hours of travel, work schedules, telecommuting, etc.), land use alternatives (smart growth policies, pedestrian/bicycle connections, transit-oriented design), pricing alternatives (HOV lanes, parking pricing), HOV alternatives (rideshare matching, vanpools, priority HOV parking, etc.), transit alternatives (subsidized fares, trip itinerary planning), and freight alternatives (lane restrictions, delivery restrictions).¹ Again, VIA should play a major role in the EIS process, due to its expertise in managing traffic demand in San Antonio.

Invite Camp Bullis/U.S. Army to Be Participating/Cooperating Agency:

Due to the Garrison Commander's consistent concerns regarding development within five miles of Camp Bullis, the U.S. Army at Camp Bullis should be invited to participate in the EIS process as both a Participating Agency and a Cooperating Agency. Camp Bullis has often submitted concerns in writing to the city and other agencies, in regard to these developments.

¹ Office of Operations, Federal Highway Administration, *Traffic Congestion and Reliability: Trends and Advanced Strategies for Congestion Management*.

The Loop 1604 corridor is within five miles of Camp Bullis. Within this zone, Camp Bullis has repeatedly expressed concern related to development impacts to the habitats of federally listed species. In particular, Camp Bullis seeks to avoid the clearing and fragmentation of woodland habitats for the golden-cheeked warbler, so that this species is not displaced onto Camp Bullis. Of equal concern to the Army is the protection of the Edwards Aquifer and karst features, which may be habitat for endangered karst invertebrates. Development of endangered species habitats within five miles of Camp Bullis may adversely affect training restrictions on the base.

Of additional concern to Camp Bullis is high-density development within its three-mile light buffer zone. The light pollution from such development negatively affects night training operations, which is a major focus of the base's mission.

In this manner, the direct, indirect, and cumulative effects of development induced by the proposed Loop 1604 expansion may be of concern to Camp Bullis. One study concluded that “highway capacity-increasing projects, which are typically a response to current or anticipated increase in travel demand, have coincided with immediate land-development activities.”² Another study found highway expansion to be a primary cause of population growth.³ And a third study substantially confirmed the hypothesis that “road improvements and the resulting swifter travel speeds spur building activities along a corridor.”⁴ New homes, offices, and retail stores appear near improved freeways within two to four years after construction.⁵ Clearly, the impact assessment of development potentially induced by Loop 1604 requires that Camp Bullis be invited to be both a Participating and a Cooperating Agency.

Broader and Less Biased Representation on the CAG Is Needed

According to the Loop 1604 EIS Community Involvement Plan, the Alamo RMA Board of Directors chose to invite 33 organizations to participate in the Community Advisory Group (“CAG”) for this EIS. Of the organizations in the list, 9 represent business interests, and only 3 represent environmental interests.

While we appreciate having our groups involved in this process, as well as the San Antonio Conservation Society, we request that the committee be further expanded to include representatives from several additional environmentally-focused non-profits and groups, such as the Alamo Sierra Club, the Texas Cave Conservancy, and the local chapters of the Audubon Society. The proposed highway expansion occurs in proximity to protected lands and will impact caves, critical recharge areas, endangered species habitats, and other unique environmental resources.

² Thomas W. Sanchez, *Land Use and Growth Impacts from Highway Capacity Increases*, J. Urban Planning and Development 75 (June 2004); Robert Cervero, *Road Expansion, Urban Growth, and Induced Travel: A Path Analysis*, 69 APA Journal 145, 156-57 (Spring 2003); Neal R. Peirce, *Expansion Induces Traffic* (reporting that in the five years before I-270 was widened, 1,745 new homes were approved in the 12 miles north of Rockville, the major community on the route, while in the five years after the road was widened, 13,642 new homes were approved).

³ Paul R. Voss and Guangqing Chi, *Highways and Population Change*, 71 Rural Sociology 33 (2006).

⁴ Cervero, *supra* note 2, at 156.

⁵ *Id.* at 156-57.

As the US 281 corridor is located over the Edwards Aquifer Recharge Zone, the city's main source of water, all residents of San Antonio - and the larger Texas Hill Country - will be affected by any decisions that come out of this EIS process. Therefore, we also ask that the Alamo RMA Board extend an invitation for participation on the CAG to a representative from each Council District, and to other individuals who will represent the city at-large.

Expanding the CAC in these ways would better balance the composition of the CAC and would more closely reflect the mission stated in the CAC Charter: "The CAC is intended to provide diverse representation of the communities and related interests potentially affected by US 281 transportation improvements."

More Information on the Decision-Making Process and Studies Commissioned for the EIS

A detailed schedule should be provided upfront, including deadlines, in order to indicate how timing of completed environmental analyses is coordinated with lead agencies' planning and decision-making schedule. In addition, all environmental analyses should be identified, along with corresponding lead investigators and/or consultants. More specifically, a list should be provided of all endangered species surveys and hydrogeological investigations, either to be used in assessments or to be conducted during the EIS process. All investigators should be clearly identified. In a timely manner as they are developed, all draft and final reports and databases resulting from environmental analyses used in EIS process should be publicly available via a webpage.

Endangered Species Issues and Other Background Information

First, we incorporate by reference all the studies previously provided in attachments by SOS Alliance and AGUA in their April 7, 2006 comments regarding the EA originally prepared for U.S. 281. In addition, we incorporate by reference all additional studies that were provided in attachments by GEAA, AGUA, and others in their July 10, 2006 comments regarding the EA originally prepared for Loop 1604. All of these documents should be part of the administrative record for Loop 1604 if they are not already. In addition, the legal filings (including expert affidavits or declarations) from lawsuits concerning US 281 and Loop 1604 should be incorporated into the administrative record for this project.

Because of the importance of the endangered species issues in the Loop 1604 corridor, the administrative record for this project should also include: 1) the original listing of the Bexar County Karst Invertebrates (65 Fed. Reg. 81419); 2) the August 27, 2002 proposal of critical habitat for the Bexar County Karst Invertebrates (67 Fed. Reg. 55064); 3) the Bexar County Karst Invertebrates Recovery Plan; 4) the 2007 study by Zara Environmental, Krejca, Jean K., and Weckerly, Butch. "Detection Probabilities of Karst Invertebrates." Prepared for Texas Parks and Wildlife Department; 5) the original listing of the Golden-Cheeked Warbler; 6) the Golden-Cheeked Warbler Recovery Plan; and 7) the 2006 study by Zara Environmental, Meyers and Krejca, "Cumulative Impacts on Golden-Cheeked Warblers in Bexar County, Recovery Region 6, Texas."

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Annalisa Peace". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Annalisa Peace
Executive Director
Greater Edwards Aquifer Alliance

/s/ Enrique Valdivia
President
Aquifer Guardians in Urban Areas