June 9, 2026

Re: Procedural Defects, Misrepresentation of Karst Features, Invalid Surveys, and Lack of Property Owner Authorization in the Guajolote Ranch Phase I and Phase II SEP-HCP Mitigation Plan Applications

To the Members of the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) Coordinating Committee, City of San Antonio, Bexar County:

On May 12, 2026, I delivered by E-mail and in-person, a copy of a letter requesting answers to ten categories of questions relative to a Mitigation Plan submitted by Lennar Homes of Texas and according to your website under consideration for approval that same day. The vote to approve that plan was continued to June 9, 2026. Because there has been no written response to my questions, notice of which is hereby delivered, I fully expect that the committee's administrative record will reflect answers to all of the propounded questions.

I am writing to formally notify the Coordinating Committee of multiple serious procedural, factual, and compliance defects in the Phase I and Phase II mitigation plan applications submitted for the Guajolote Ranch development. These defects implicate the validity of the approvals issued under the Southern Edwards Plateau Habitat Conservation Plan (SEP-HCP) and the federal Incidental Take Permit (ITP) (TE-204440-0) held jointly by the City of San Antonio and Bexar County.

Based on publicly available records, sworn testimony, field observations, and the SEP-HCP's own requirements, it appears that:

1. **The applicant may not have had legal standing to apply for a mitigation plan**,
2. **The environmental baseline used to approve Phase I was incorrect**,
3. **The biological surveys submitted were invalid under USFWS protocols**, and
4. **Phase I clearing and grading may have occurred without valid incidental take coverage**.

These issues require immediate corrective action under the SEP-HCP and the federal ITP.

1. Lack of Property Owner Authorization (Standing Defect)

Bexar County Appraisal District records identify **Guajolote Ranch, Inc.** (Huntress family) as the legal owner of the Guajolote Ranch property. **Lennar Homes of Texas** is not the owner of record.

Under the SEP-HCP:

"Applicants must provide all information necessary to evaluate the proposed take and mitigation." *(SEP-HCP, Chapter 6: Participation Process)*

This necessarily includes **proof of legal authority to request take coverage**. Standard administrative law requires that **only the property owner or a legally authorized agent** may apply for a permit affecting real property.

If Lennar submitted the Phase I or Phase II mitigation plan applications **without a written authorization from Guajolote Ranch, Inc.**, attached to the application, then:

- The applications are **procedurally defective**,
- The approvals issued are **voidable**, and
- The committee **lacked authority** to issue incidental take coverage.

If no owner authorization exists, **Phase I was approved in error**, and all clearing and grading performed under Phase I may have occurred **without valid incidental take authorization**.This applies equally to the first mitigation applicationon both the Guajolote Ranch, Inc. properties as well as that of Sydney and Marcie Edwards who are similarly still listed as the owners of record by Bexar County.

2. Misrepresentation of Caves and Karst Features (Environmental Baseline Defect)

The applicant represented that **no caves or karst features exist** on the Guajolote property. This representation is contradicted by:

- **Sworn testimony** in the SOAH contested case hearing,
- **Bexar Grotto cave mapping**, including a cave near the center of the Guajolote property and at least eleven additional caves in the immediate area,
- **USGS mapping** showing karst features along the creek channel, and
- **Observed bat displacement** immediately following clearing.

Under the SEP-HCP:

“Karst features must be identified and evaluated to determine potential presence of listed karst invertebrates.” *(SEP-HCP, Chapter 4: Covered Species)*

If caves or karst features existed—and the evidence strongly indicates they did—then the environmental baseline used to approve Phase I was **incorrect**.

A mitigation plan approved based on incorrect environmental information is **invalid** under the SEP-HCP and the federal ITP.

3. Invalid Biological Surveys (Protocol Defect)

The applicant submitted Golden-cheeked Warbler (GCW) and karst invertebrate surveys. Under the SEP-HCP:

“If an applicant submits surveys, those surveys must meet U.S. Fish and Wildlife Service protocols.” *(SEP-HCP, Chapter 6: Participation Process)*

Karst Invertebrate Protocol Violations

USFWS requires:

- **Five (5) survey events**,
- Conducted **between March 15 and June 1**,
- **Within the same calendar year**. *(USFWS Karst Invertebrate Survey Protocol, 2012)*

The applicant submitted:

- One survey in **September** (invalid),
- One survey in **March** (insufficient).

These surveys **do not meet USFWS protocol** and cannot be used to reduce species presence assumptions.

Golden-cheeked Warbler Protocol Violations

USFWS requires:

- Surveys during the **breeding season** (March 15–June 30),
- **Multiple visits**,
- Conducted by **qualified observers**. *(USFWS GCW Survey Protocol, 1992; revised guidance 2011)*

A September survey is **invalid**, and a single March survey is **insufficient**.

Under the SEP-HCP, invalid surveys require the committee to apply the **higher-presence assumption**.

4. Clearing and Grading of Phase I May Have Occurred Without Valid Take Coverage

If Phase I was approved based on:

- An unauthorized applicant,
- Incorrect environmental information, or
- Invalid surveys,

then the Phase I mitigation plan is **procedurally defective** and **cannot confer incidental take coverage**.

Under the Endangered Species Act (16 U.S.C. §1538), "take" includes:

- **Harm**,
- **Harass**, and
- **Significant habitat modification** that kills or injures wildlife.

If caves or karst features existed and were destroyed during clearing, this may constitute **unauthorized take**.

The use of a 40-ton excavator with a pneumatic hammer to "look for caves" is **not an approved USFWS survey method** and raises serious concerns about destruction of karst habitat.

Under the SEP-HCP's federal ITP, the committee is obligated to:

"Ensure that mitigation is based on accurate information and that unauthorized take does not occur." *(SEP-HCP, Chapter 7: Implementation)*

If Phase I is void, the committee must notify USFWS and take corrective action.

5. Implications for Phase II

If Phase I is invalid:

- Phase II **cannot proceed**,
- Phase II cannot rely on the same flawed environmental baseline,
- Phase II cannot rely on Lennar's standing if they are not the owner, and

- The committee must halt Phase II until Phase I is corrected.

REQUEST FOR CORRECTIVE ACTION

In light of the defects described above, I respectfully request that the Coordinating Committee:

1. **Require Lennar to produce written authorization from Guajolote Ranch, Inc.** for both Phase I and Phase II applications.
2. **Suspend Phase II review** until Phase I's validity is resolved.
3. **Reevaluate Phase I** based on accurate, pre-disturbance environmental conditions.
4. **Require new, protocol-compliant USFWS surveys** for GCW and karst invertebrates.
5. **Notify the U.S. Fish & Wildlife Service** of potential unauthorized take, as required under the federal ITP.
6. **Determine whether Phase I clearing occurred without valid incidental take coverage** and require appropriate mitigation.

NOTICE OF POTENTIAL ESCALATION

**Because the SEP-HCP operates under a federal Incidental Take Permit, the Coordinating Committee, the City of San Antonio, and Bexar County have a nondiscretionary obligation to ensure that mitigation plans are based on accurate information, that applicants have legal standing, and that unauthorized take does not occur. The issues identified in this letter, and those raised in the letter submitted at the Committee's May 12 meeting regarding the Phase II mitigation plan, require timely investigation and corrective action.

If these defects are not investigated and corrected, it may become necessary to elevate the matter to the appropriate state and federal oversight authorities responsible for administering the Endangered Species Act, the SEP-HCP's federal Incidental Take Permit, and related statutory obligations. This may include initiating formal review or enforcement processes available under federal law.

It is my sincere hope that such escalation will not be required, and that the Committee will take the corrective actions necessary to ensure full compliance with the SEP-HCP, the federal Incidental Take Permit, and applicable state and federal law."**

Scenic Loop-Helotes Creek Alliance

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