

Billing Code: 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2016–0141; FXES11140200000F2–178–FF02ENEH00]

**Draft Environmental Impact Statement and Draft Barton Springs Edwards
Aquifer Conservation District Habitat Conservation Plan**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; notice of receipt of a permit application; and
announcement of a public meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the
availability of a draft environmental impact statement (dEIS), which evaluates the
impacts of, and alternatives to, the proposed Barton Springs Edwards Aquifer
Conservation District (BSEACD) Habitat Conservation Plan (dHCP) for incidental take
of the federally-listed Barton Springs salamander (BSS) and the Austin blind salamander
(ABS) (collectively, covered species) in portions of Travis and Hays Counties, Texas,

where pumping withdrawals are implemented, authorized, or permitted by BSEACD.

We also announce that we will hold a public meeting on this project.

DATES: *Comments:* We will accept comments received or postmarked on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on these actions.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the dEIS and dHCP on the Federal eRulemaking Portal at <http://www.regulations.gov> (Docket Number **FWS-R2-ES-2016-XXXX**); or
- You may also obtain copies of the dEIS and dHCP on the Service's Web site at <http://www.fws.gov/southwest/es/AustinTexas/> (refer to permit number TE10607C).
- *U.S. Mail:* A limited number of CD-ROM and printed copies of the dEIS and dHCP are available, by request, from the Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; phone (512) 490-0057; or fax (512) 490-0974. Please note that your request is in reference to the HCP for BSS and ABS (TE10607C).

- *In-Person:* Copies of the dEIS and dHCP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
 - U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758, 512/490-0057.
 - U.S. Fish and Wildlife Service, 500 Gold Avenue, SW, Albuquerque, NM 87102, Room 6034, 505/248-6920.
 - Department of the Interior, Natural Resources Library, 1849 C. St., NW, Washington, DC 20240.

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103 (attention; Branch of Environmental Review).

Submitting Comments: You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. In the Search box, enter **FWS-R2-ES-2016-XXXX**, which is the docket number for this notice. On the left side of the screen, under the Document Type heading, click on the Notices link to locate this document and submit a comment.
- *By Hard Copy:* Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: **FWS-R2-ES-2012-XXXX**; U.S. Fish and Wildlife Service;

MS BPHC–PPM; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

- For how to view comments on the EIS from the Environmental Protection Agency (EPA), or for information on EPA’s role in the EIS process, see **EPA’s Role in the EIS Process** under **SUPPLEMENTARY INFORMATION**.
- We will also accept written and oral comments at the public meeting (see **DATES**).

We request that you send comments by only the methods described above. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Availability of Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758 or (512) 490–0057.

SUPPLEMENTARY INFORMATION: In addition to this notice of the dEIS, EPA is publishing a notice announcing the dEIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). The publication of EPA’s notice is the official start of the comment period for an EIS (see EPA’s Role in the EIS Process below).

Background

We initially prepared a notice of intent (NOI) to prepare an environmental

impact statement (EIS), which was published in the *Federal Register* on August 9, 2005 (70 FR 46186). A scoping meeting was held in Austin, Texas, on August 23, 2005. Issues identified during the initial scoping meeting were incorporated into a combined dHCP and dEIS dated August 2007. Subsequent to preparation of this document, the ABS became listed as an endangered species and new information became available for the BSS. In 2014 we initiated a process to update the scope of issues and concerns concerning the proposed action. We prepared a second NOI to prepare an environmental assessment (EA), which was published in the *Federal Register* on March 5, 2014 (79 FR 12522) and a public scoping meeting was held on April 3, 2014. After reviewing the scope and possible controversy on the activities covered in the dHCP, the Service determined that an EIS was the appropriate NEPA analysis. A summary of comments provided during both scoping periods can be found in Appendix A of the dEIS.

Proposed Action

The proposed action involves the issuance of an ITP by the Service for the covered activities in the permit area, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would cover “take” of the covered species associated with permitted pumping occurring within the permit area.

The requested term of the ITP is 20 years. To meet the requirements of a section 10(a)(1)(B) ITP, the applicant developed and proposes to implement their dHCP, which

describes the conservation measures the applicant has agreed to undertake to minimize and mitigate for the impacts of the proposed incidental take of the covered species to the maximum extent practicable, and ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild.

Alternatives

Four alternatives to the proposed action we are considering as part of this process are:

No Action Alternative. Under the No Action Alternative BSEACD would not seek, and the Service would not issue, an ITP. Under this alternative, compliance with the Act would continue to occur only on an individual basis through project-specific consultations with the Service. BSEACD would notify pumpers of approaching drought and issue notices to stop pumping once drought is declared and take of the covered species is imminent. Under this Alternative, each pumper would be expected to comply with pumping cessation notices issued by BSEACD, or would need to seek an individual ITP for the covered species in order to continue pumping. Each independent consultation would require an analysis of the incidental take and impacts to listed species, the identification and implementation of appropriate and practicable mitigation measures, and the preparation of appropriate documentation to support the permitting action. Mitigation requirements would be individually negotiated with the Service on the basis of the level of impact to listed species and the conservation value of the

mitigation options and opportunities available to the individual applicant.

Alternative 2: The preferred alternative. Permitted Pumping Under the District HCP.

The permitted pumping alternative would involve approval of the BSEACD HCP addressing authorized pumping of the Barton Springs Segment of the Edwards Aquifer and the issuance of an ITP by the Service. Alternative 2 measures could meet state-mandated Desired Future Conditions (DFC). These actions would limit Aquifer pumping during Drought of Record (DOR)-like conditions to no more than 5.2 cubic feet per second (cfs), thereby maintaining a minimum average Barton Springs monthly springflow of 6.5 cfs. The BSEACD HCP incorporates actions to minimize and mitigate unavoidable incidental take and, includes demand reduction measures, programs encouraging the development and use of new water supplies, greater enforcement capabilities, cooperative efforts with other entities, and mechanisms to adapt management strategies and respond to emergencies.

Alternative 3: Water Demand Reduction. Under the water demand reduction alternative BSEACD would not seek, and the Service would not issue, an ITP. BSEACD's permitting program would control Aquifer pumping, both in absolute-use terms and during drought conditions, to protect the covered species and avoid incidental take. Alternative 3 would require mandated pumping reductions during DOR conditions to less than 1 cfs to maintain minimum average monthly

Barton Springs springflow of 11 cfs. These regulatory curtailments, backed with effective enforcement to ensure compliance, would protect springflow for the covered species. Minimum required springflows equivalent to historical conditions would be ensured under Alternative 3. However, this alternative would employ the most severe regulatory measures to achieve the level of pumping reductions needed and would require one or more sources of replacement water for some indeterminate fraction of the amount curtailed to meet residual demand.

Alternative 4: Water Supply Augmentation and Substitution. Under Alternative 4

BSEACD would propose an HCP and seek a 5 year ITP, and the Service would issue an ITP. Alternative 4 would involve the development of other alternative water supplies that would augment the amount of water pumped from the Aquifer, substitute for Aquifer withdrawals, or involve a combination of both to achieve the goal of substantially reducing Aquifer pumping to a level below 1 cfs in order to provide for a minimum average monthly springflow of 11 cfs during drought of record conditions. As additional water supplies become available, the amount of Aquifer pumping would be reduced in direct proportion to the amount of water augmented or substituted. BSEACD currently does not have the regulatory authority to develop alternative water supplies. Use of augmented or substituted water supplies would have to be implemented voluntarily as is currently being done by some users within the permit area. There are also current limitations on the amount of alternative water supplies that could

economically be made available to groundwater users within the region.

Section 9 of the Act and its implementing regulations prohibit "take" of fish and wildlife species listed as threatened or endangered under section 4 of the Act. However, section 10(a) of the Act authorizes us to issue permits to take listed wildlife species where such take is incidental to, and not the purpose of, otherwise lawful activities and where the applicant meets certain statutory requirements.

Public Meeting

The Service will hold a public meeting during the public comment period. The date, time, and location of the meeting will be noticed in local newspapers at least two weeks before the meeting and will also be posted on the following website:

<http://www.fws.gov/southwest/es/AustinTexas/>. The public meeting will be physically accessible to people with disabilities. Requests for reasonable accommodations (e.g., auxiliary aids or sign language interpretation) should be directed to Charlotte Kuchera, 512/490-0057, ext. 224, at least 5 working days prior to the meeting date.

EPA's Role in the EIS Process

In addition, EPA is publishing a notice announcing the [draft EIS], as required under section 309 of the Clean Air Act. The publication date of EPA's notice of availability is the official start of the public comment period for the [draft EIS]. Under the Clean Air Act, EPA also must subsequently announce the final EIS via the Federal Register. The EPA is charged under section 309 of the Clean Air Act to review all

Federal agencies' EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the *Federal Register*. The EIS database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

The notice of availability is the start of the 60-day public comment period for draft EISs. For more information, see <http://www.epa.gov/compliance/nepa/eisdata.html>. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Regional Director, Southwest Region,
Albuquerque, New Mexico.