

INFORMATION MEMORANDUM

FROM: U.S. Fish and Wildlife Service (FWS)

SUBJECT: SpaceX

CONG. OFFICES: Senator John Cornyn, Senator Ted Cruz, Representative Vicente Gonzales

BACKGROUND

- SpaceX received a license from Federal Aviation Administration (FAA) in 2013 to launch satellites from Boca Chica Texas. SpaceX later requested revised FAA licensing to test and launch rockets to Mars. The FAA prepared a Draft Programmatic Environmental Assessment (PEA) pursuant to the National Environmental Policy Act (NEPA) and reinitiated section 7 consultation under the Endangered Species Act. FWS and National Park Service were Cooperating Agencies under NEPA and submitted comments on the Draft PEA in November 2021. FWS met with Senator Cornyn and Cruz's staff in February 2022 to go over review schedules and completed the Biological Opinion (BO) and an acceptable 4(f) agreement by March 2022. FAA's final PEA and Finding of No Significant Impact along with a license, or an intent to scope an Environmental Impact Statement (EIS), is delayed due to changes in SpaceX plans involving splash downs in the Pacific Ocean and ongoing consultation with National Marine Fisheries Service. A license may be issued as early as May 2023. The latest FWS BO is not valid until FAA issues the license.

CURRENT STATUS

- Development of the SpaceX site has increased wildlife mortality along State Highway 4; increased human disturbance to trust species and unique habitats; made the Lower Rio Grande Valley National Wildlife Refuge inaccessible to staff and researchers during testing and launches; encroached on refuge lands; closed public access; caused explosions; and created fires. These issues were partially addressed through the BO with FAA and Department of Transportation Act section 4(f) processes. FAA declined jurisdiction over rocket production facilities and most routine rocket tests except when loaded with explosives to abort an operation. FWS recommends SpaceX prepare a Habitat Conservation Plan to cover new facilities planned for the Boca Chica site including staff housing.
- FWS recommends that stormwater drainage from the production site (Starbase) comply with TCEQ stormwater permit guidance.
- SpaceX's continued site development has incurred trespass violations on FWS lands.
- An Army Corps of Engineers Clean Water Act Section 404 wetland permit application for launch pad expansion is on hold and if restarted will require a mitigation plan.
- SpaceX has increased requests for rights-of-way across refuge lands for infrastructure needs.
- Ongoing SpaceX requests for permits or tracking impacts from testing or development have constrained FWS staff workload in multiple FWS divisions.

TALKING POINTS

- Environmental groups continue to express concerns about the environmental impacts from SpaceX testing and launch operations and the lack of an EIS. American Bird Conservancy has a campaign to save the piping plovers. FAA received 19,000 comments on their draft PEA released in November 2021, most expressing concern over the environmental impacts. Members of the local community also routinely express dissatisfaction with Boca Chica Beach closures during launches. Public lands affected include the Lower Rio Grande Valley National Wildlife Refuge, Texas Parks and Wildlife Department, and National Park Service lands.

APPROVED BY: [INSERT ARD/ACTING]

DATE: [INSERT DATE]

Contact: Jonna Polk, 505-248-6671

NOTES FROM MEETING WITH SENATORS STAFF (background material not part of the briefing)

On Thursday afternoon 2/24/22 FWS staff met with staff for Senator Cruz (TX) and Senator Cornyn (TX) regarding the FAA-EA related to the SpaceX project and our role in the process. Staff from FWS included Katie Pritchard (HQ-CLA); Jonna Polk (ES-RO); Dawn Gardiner (ES-TX); Chris Perez (Refuges – RO); and Lesli Gray (EA-RO). Staff from Senator Cruz's office included James Schindler, Leg. Counsel; Danny Butherus, Leg. Assistant; Duncan Rankin, Leg. Assistant; and Matthew Swint, Leg. Correspondent. Senator Cornyn's staffer Jacob Smith, Leg. Assistant, also participated in the call.

Chris Perez provided a geographic overview of the area including the areas owned/leased by TPWD and the Port of Brownsville. Jonna Polk and Dawn Gardiner provided an overview of the FWS role in the consultation with FAA. Jonna emphasized our coordination with FAA and how we have worked within their timeframes. She told staff we would be sharing our draft biological opinion with FAA on Monday.

After the overview we opened up the discussion for questions. Duncan asked who managed the WMA and Loma Preserve. Chris clarified that the areas are managed by the Lower Rio Grande Valley NWR while being owned/leased by others. James asked when the Lower Rio Grande Valley NWR and Laguna Atascosa NWR were established. Chris provided the establishment dates for each refuge. James complimented the FWS for the speed with which they have moved forward on the consultation. He asked if the suggested mitigation in the draft BO had been agreed to by FAA. Dawn indicated that we have been working closely with FAA/SpaceX on issues that might impact species/habitat. She discussed some of the ideas that have been suggested in the draft BO to address lighting, sea turtle monitoring/relocation and the Red knot and Piping plover use of tidal flats. The staff thanked us for the conversation and expressed an interest in visiting the area in the future.

After the call FWS staff had a post-briefing call. We agreed the discussion went well and will provide updates to the Senate staff as appropriate. As a follow up Katie is sending the map Chris shared as well as the FWS consultation fact sheet.

Please let me know if you have any questions.