

RECORD OF DECISION

Barton Springs/Edwards Aquifer Conservation District Habitat Conservation Plan Issuance of an Incidental Take Permit for Federally Listed Endangered Species in Texas

Introduction

The U.S. Department of the Interior, U.S. Fish and Wildlife Service (Service) is responsible for issuing incidental take permits as authorized under §10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 USC §1531-1544, ESA). This document records the Service's decision to issue an incidental take permit (ITP) to the Barton Springs/Edwards Aquifer Conservation District (BSEACD, Applicant, or District) for implementation of the April 2018 *Habitat Conservation Plan for Managed Groundwater Withdrawals from the Barton Springs Segment of the Edwards Aquifer* (HCP).

The Applicant developed the BSEACD HCP in coordination with the Service and other interested parties to protect two endangered salamander species in central Texas. The requested permit will authorize incidental take of Barton Springs salamanders (*Eurycea sosorum*, BSS) and Austin blind salamanders (*Eurycea waterlooensis*, ABS) (Covered Species) over a period of 20 years.

We prepared this Record of Decision (ROD) in compliance with the agency decision-making requirements of the National Environmental Policy Act of 1969 (40 CFR 1505.2, NEPA). The purpose of this ROD is to document the Service's decision regarding the selection of the preferred alternative as evaluated in our final Environmental Impact Statement (EIS). This ROD describes (1) the Service's decision; (2) the proposed action; (3) alternatives considered in the EIS, including the preferred alternative; (4) key issues; (5) associated impacts, mitigation, and findings, providing all practicable means to avoid and minimize environmental harm; (6) public involvement; and (7) the conclusion. We published the draft ROD with the final EIS on July 17 2018 and this decision has not been made prior to at least 30 days after publication in the *Federal Register* of the notice of availability for the final EIS.

The Decision

We intend to issue an ITP to authorize incidental take of BSS and ABS during the Applicant's implementation of the preferred alternative based on a thorough review of the alternatives and their environmental consequences as described in the final EIS. Implementing this decision entails issuance of the ITP, including all terms and conditions in the permit. It also requires that BSEACD fully implement all of the avoidance, minimization, and mitigation measures specified in the BSEACD HCP to offset impacts to the Covered Species to the maximum extent practicable, including the described monitoring and adaptive management measures. The HCP meets all issuance criteria for an ITP. Since implementing the BSEACD HCP will result in incidental take and the resulting impacts, we prepared a Biological Opinion (BO) prior to making a permit decision in accordance with §7(a)(2) of the ESA. Our BO documents our determination that issuance of the ITP will not jeopardize the continued existence of federally listed species, and will not destroy or adversely modify designated critical habitat.

Alternatives Considered

Four alternatives, including the No Action Alternative, and their environmental consequences were evaluated in the draft EIS released July 18, 2017. On July 18, 2017, we published a Notice of Availability of the HCP and draft EIS, and a request for comments, initiated a 60-day public comment period (77 FR 42756). Several elements were common to all action alternatives and included interagency coordination, NEPA compliance, and protection of threatened and endangered species and cultural resources. The following is a brief summary of the alternatives considered. A longer summary and complete description is included in the final EIS.

Alternative 1 - No Action Alternative: Under the No-Action Alternative, the Service would not issue an incidental take permit to the Applicants for take associated with the otherwise lawful groundwater management and managed pumping of the Edwards Aquifer. Total aquifer pumping allowed during drought of record conditions would be less than one cubic foot per second (cfs) as a result of the No Action Alternative, if all pumpers voluntarily ceased pumping.

Alternative 2 - Proposed Action: Our preferred alternative is the proposed BSEACD HCP with a 20-year term. As described in the final EIS, we would issue an ITP to the Applicant for incidental take of the Covered Species that is anticipated to occur as a result of Covered Activities. This alternative includes full implementation of measures to avoid, minimize, and mitigate the potential incidental take to the maximum extent practicable through multiple conservation/mitigation measures described in the BSEACD HCP, as discussed below.

Alternative 3 – Water Demand Reduction: Under this alternative the Applicant would modify water withdrawal permits unilaterally to require permittees cease pumping during declared drought when take may occur.

Alternative 4 – Water Supply Augmentation and Substitution: This alternative would require BSEACD to begin immediate development of alternative water supplies for substitution, and then modify to-be-substituted permits unilaterally to use alternate supplies during declared drought when take may occur.

Rationale for Decision

We selected the preferred alternative (Alternative 2) for implementation based on multiple environmental and social factors, including potential impacts and benefits to Covered Species and their habitat, the extent and effectiveness of minimization and mitigation measures, and social and economic considerations. We did not choose the No Action Alternative because we must issue an ITP when issuance criteria have been met.

We determined that the preferred alternative best balances the protection and management of habitat for the Covered Species, while allowing water from the Edwards Aquifer to supply the public's needs. This alternative provides compliance with the ESA for groundwater management and activities necessary to manage potential habitat for the Covered Species within the permit area. Considerations used in this decision, as described in the BSEACD HCP, include: 1) minimization and mitigation measures that will benefit the Covered Species, 2) other conservation measures that will protect and enhance habitat, 3) mitigation measures for the Covered Species that will fully offset anticipated impacts to the Covered

Species and provide recovery opportunities, and 4) the HCP is consistent with the Covered Species' recovery plan.

Minimization and Mitigation

The minimization measures include: providing the most efficient use of groundwater, controlling and preventing waste of groundwater, addressing conjunctive surface water management issues, addressing natural resource management issues, addressing drought conditions, addressing demand reduction through conservation, addressing supply through structural enhancement, and quantitatively addressing established desired future conditions.

The mitigation measures include:

- a commitment to support the operations of an existing refugium through in-kind, contracted support, cash, or other appropriate means;
- conduct a feasibility study of dissolved oxygen augmentation, and if warranted, implement a pilot project at the springs;
- maintain and operate the Antioch Recharge Enhancement Facility for the permit term;
- establish a new reserve fund for closing abandoned wells to eliminate high-risk abandoned wells as potential conduits for contaminants from the surface or adjacent formations into the aquifer, with priority given to problematic wells close to the Barton Springs outlets or those associated with water chemistry concerns under severe drought conditions; and,
- provide leadership and technical assistance to other government entities, organizations, and individuals when prospective land-use and groundwater management activities in those entities' purview will, in the District's assessment, significantly affect the quantity or quality of groundwater in the Aquifer.

Monitoring and Reporting

The District will monitor aggregated use of various types of water wells in the District to assess overall groundwater use and trends on a continuing basis. The District will also evaluate quantitatively at least every five years the amount of groundwater withdrawn by exempt wells in the District to ensure an accurate accounting of total withdrawals in a water budget that includes both regulated and non-regulated withdrawals, so BSEACD can take appropriate groundwater management actions. BSEACD will develop and maintain programs that inform and educate citizens of all ages about groundwater and spring flow-related matters, which affect both water supplies and salamander ecology.

Annual reports will serve as the primary tracking method for measuring performance and progress towards achieving the HCP's goals and objectives.

Public Comments on the EIS

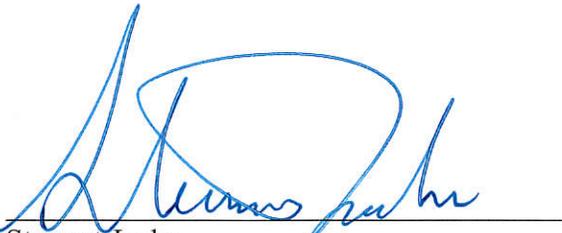
We initially prepared a notice of intent (NOI) to prepare an environmental impact statement (EIS), which was published in the *Federal Register* on August 9, 2005 (70 FR 46186). We held a scoping meeting in Austin, Texas, on August 23, 2005. Issues identified during the initial scoping meeting were incorporated into a combined HCP and draft EIS dated August 2007. Subsequent to preparation of the 2007 version, the Austin blind salamander was listed as an endangered species with designated critical

habitat and new information became available for the Barton Springs salamander. In 2014, the Service initiated a process to update the scope of issues and concerns regarding the proposed action.

A second NOI was prepared for an environmental assessment (EA), which was published in the Federal Register on March 5, 2014 (79 FR 12522), and we held a public scoping meeting on April 3, 2014. After reviewing the scope and possible controversy of the activities covered in the draft HCP, the Service determined that an EIS was the appropriate NEPA analysis. Therefore, we published a Notice of Availability of the HCP and accompanying draft EIS in the *Federal Register* on July 18, 2017 (82 FR 32861). We held a public meeting on the draft documents in Austin, Texas, on August 22, 2017. The public comment period closed on September 18, 2017. We received three detailed comment letters. Subsequently, changes were made to both the HCP and EIS to address those comments. We provide a list of those comments and our responses in Appendix A5-1 of the final EIS. We believe these comments are addressed and reasonably accommodated in the final documents.

For More Information

The final EIS is available at <https://www.fws.gov/southwest/es/AustinTexas/>, or the Service's Albuquerque, New Mexico Regional Office or Austin, Texas Field Office. For additional information, call Marty Tuegel at 505/248-6651.



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Date