

endangered species and/or marine mammals. Both the Endangered Species Act and the Marine Mammal Protection Act require that we invite public comment on these permit applications.

**DATES:** Written data, comments or requests must be received by May 14, 2009.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358-2104.

**SUPPLEMENTARY INFORMATION:**

**Endangered Species**

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

*Applicant:* Richard E. McFalls, Alabaster, AL, PRT-209358.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Marine Mammals**

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a

hearing is at the discretion of the Director.

*Applicant:* U.S. Geological Survey, Alaska Science Center, Anchorage, AK, PRT-690038.

The applicant requests an amendment to the permit to take polar bears (*Ursus maritimus*) by using internal temperature data-loggers, collecting muscle biopsies, and using glue-on or ear tag radio transmitters for the purpose of scientific research. This notification covers activities to be conducted by the applicant over the remainder of the 5-year permit.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: April 3, 2009.

**Lisa J. Lierheimer,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

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**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS-R2-ES-2008-N0224; 21450-1112-0000-F2]**

**Regional Habitat Conservation Plan, Williamson County, TX**

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice of availability of record of decision.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), make available a record of decision (ROD) under the National Environmental Policy Act of 1969 (NEPA). This ROD documents our decision to select an alternative including implementation of the Williamson County Regional Habitat Conservation Plan (RHCP). Our selected action (Alternative B, described below and in the ROD) entails the issuance of a 30-year incidental take permit (ITP) to Williamson County, Texas (the County), to incidentally take golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapilla*), Bone Cave harvestman (*Texella reyesi*), and Coffin Cave mold beetle (*Batrissodes texanus*). The RHCP will mitigate for take by purchasing mitigation credits in an existing conservation bank and by acquiring and managing replacement habitats and additional conservation measures as specifically described in the RHCP.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Seawell, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; (512) 490-0057.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a ROD, which we developed in compliance with the agency decision-making requirements of the National Environmental Policy Act (NEPA) of 1969, as amended. The ROD documents our decision to select the alternative including implementation of the Williamson County Regional Habitat Conservation Plan (RHCP). We have described in detail all alternatives, and evaluated and analyzed them, in our August 2008 final environmental impact statement (FEIS) and also in our regional habitat conservation plan (RHCP). The ROD is designed to: (1) State our decision, present the rationale for its selection, and discuss its implementation; (2) identify the alternatives we considered in reaching the decision; and (3) state whether we have adopted all means to avoid or minimize environmental harm from implementation of the selected alternative in accordance with NEPA.

Based on our review of the alternatives and their environmental consequences described in our FEIS, we have decided to implement Alternative B, the Proposed RHCP (the proposed action). The selected action entails the issuance of a Section 10(a)(1)(B) incidental take permit (ITP) to Williamson County, Texas (the County), to incidentally take golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapilla*), Bone Cave harvestman (*Texella reyesi*), and Coffin Cave mold beetle (*Batrissodes texanus*). We refer to all four species collectively as "the covered species." The RHCP will mitigate for take of these species by purchasing mitigation credits in an existing conservation bank and by acquiring and managing, in perpetuity, replacement habitats and additional conservation measures as described specifically in the RHCP. While the County will hold the Permit, the entity that will manage the Permit will be the Williamson County Conservation Foundation (Foundation).

The term of the permit is 30 years (2008-2038). The Foundation will implement mitigation and minimization measures according to the schedule in the RHCP. By year 4 of the RHCP, the Foundation will acquire 1,000 acres of mitigation credits for golden-cheeked warbler (GCWA) in an existing conservation bank. In addition, the County will purchase GCWA habitat

that will be an additional source of mitigation. The Foundation will mitigate take of black-capped vireo (BCVI) by restoring and enhancing BCVI habitat in perpetually preserved Service-approved conservation areas.

The Foundation will mitigate take of the Bone Cave harvestman and Coffin Cave mold beetle by acquiring and managing from 9 to as many as 15 protected karst faunal areas (KFAs) in the County. The County will acquire, through direct purchase or acquisition of perpetual conservation easements, a minimum of nine protected KFAs (totaling approximately 700 acres of cave preserves) by year 17 of the RHCP. In addition, the Foundation will consolidate the management of up to 10 of 22 existing conservation areas (totaling an estimated 400 to 800 acres) to enhance their viability as KFAs, control their availability for scientific research, and ensure their long-term contribution to recovery.

### Background

The County applied to us for an ITP. As part of the permit application, the County developed and will implement the RHCP to meet the requirements of an ITP. Our issuance of an ITP allows the County to take the covered species that would result from proposed road construction, maintenance, and improvement projects; utility construction and maintenance; school development and construction; public or private construction and development; and land clearing within western Williamson County during the 30-year ITP period.

The Secretary of the Interior has delegated to us the authority to approve or deny an ITP in accordance with the ESA. To act on the County's permit application, we must determine that the RHCP meets the approval criteria specified in the ESA, including Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32. The issuance of an ITP is a Federal action subject to NEPA compliance, including the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR 1500–1508).

On September 16, 2008, we issued a final environmental impact statement (FEIS) to evaluate the potential impacts associated with issuance of an ITP for implementation of the RHCP and to evaluate alternatives, along with the final RHCP (73 FR 53440). We included public comments and responses associated with the Draft EIS and Draft RHCP in an appendix to the FEIS.

### Purpose and Need

The purpose of the Section 10(a)(1)(B) permit is to authorize incidental take associated with the activities listed in the background section.

We identified key issues and relevant factors through public scoping and also through working with a Citizens' Advisory Committee; a Scientific Advisory Team; other agencies and groups; and comments from the public. These issues included the needs for: (1) Development to continue in the County; (2) mitigation of impacts on covered species; and (3) mitigation of impacts on listed species. We thoroughly examined these issues in the draft and final EIS and RHCP. No new significant issues arose following publication of the draft documents.

### Environmentally Preferable Alternative

Our selected alternative is the Proposed RHCP, the preferred alternative (Alternative B) as we described in the FEIS. This alternative provides for the issuance of an ITP to the County for take that would occur as a result of projects described above. This alternative includes implementation of RHCP measures to minimize and mitigate the potential take of Federally listed species to the maximum extent practicable. The intent of this alternative is to allow continued development in the County; to minimize the biological, environmental, and socioeconomic impacts; and to satisfy the habitat, species, and issuance criteria of section 10 of the ESA.

To mitigate for the loss of 6,000 acres of GCWA habitat, the County will purchase habitat at a 1:1 ratio. For the loss of 4,267 acres of BCVI, the Foundation will mitigate impacts primarily through habitat restoration, habitat management, enhancement of existing protected BCVI habitat, or an alternate, Service-approved mitigation program. For the impact of up to 210 caves occupied by the Bone Cave harvestman and Coffin Cave mold beetle, mitigation will be to acquire and manage 9 to 12 KFAs, a minimum of 3 KFAs in each of the karst faunal regions occupied by the covered species.

We considered two additional alternatives in the FEIS:

- *Alternative A (No Action)*: The No Action alternative assumed that we would not issue a regional permit for the County. Although development could occur on lands not occupied by endangered species, development activities that would cause take of listed species would require individual authorizations through section 7 or section 10(a)(1)(B) of the ESA.

Individual entities could also elect to avoid take on properties containing endangered species by avoiding direct and indirect impacts on the species (*i.e.*, take-avoidance). Processing individual section 7 consultations and section 10(a) permits could cause delays in permit issuance by the agency or approval of a proposed project, because we often take 1 to 2 years to process an individual permit.

- *Alternative C (Modified (Reduced Take and Mitigation) Williamson County RHCP)*: Alternative C would be similar to our Selected Alternative, except:

1. The ITP would cover fewer species;
2. The amount of permitted take, and the mitigation required for the take, would be smaller;
3. Section 6 funds would not be sought to acquire additional KFAs over and above mitigation efforts; and
4. The anticipated participation rate would be lower because fewer species would be covered, less take would be authorized, and less mitigation provided.

Compared with that under Alternative B, allowable take for the GCWA would be reduced from 6,000 acres to 1,000 acres. Under Alternative C, mitigation for impacts to GCWA habitat would be limited to the 1,000 acres of credits from the Hickory Pass Ranch Conservation Bank and 115.52 acres of credits from the Whitney Tract. Once those credits were exhausted, no additional take or mitigation would be authorized for the GCWA under the plan without an amendment; thus, no efforts would be made to establish additional preserves for GCWA in the County or to seek additional mitigation credits outside of the County. No take or mitigation would be authorized under the plan for BCVI. However, the conservation measures for the Georgetown salamander and the public outreach and research program identified in the Proposed Action would remain the same, with less allotted funding.

### Decision

Our decision is to issue an ITP allowing the County to implement the preferred alternative (Alternative B), as it is described in the Final EIS. Our decision is based on a thorough review of the alternatives and their environmental consequences. Implementation of this decision entails the issuance of the ITP, including all terms and conditions governing the permit. Implementation of this decision requires adherence to all of the minimization and mitigation measures specified in the RHCP, as well as

monitoring and adaptive management measures.

### Rationale for Decision

We have selected the preferred alternative (Alternative B) 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.

In order for us to be able to issue an ITP, we must ascertain that the RHCP meets the criteria set forth in 16 U.S.C. 1539(a)(2)(A) and (B). We have made that determination. These criteria, and how the RHCP satisfies these criteria, are summarized below:

1. The taking will be incidental. We find that the take will be incidental to otherwise lawful activities, including the proposed road construction, maintenance, and improvement projects; utility construction and maintenance; school development and construction; public or private construction and development; and land clearing. The take of individuals of covered species will be primarily due to habitat destruction and/or alteration.

2. The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such takings. The County has committed to a wide variety of conservation measures, land acquisition, management activities, monitoring, adaptive management, and other strategies designed to avoid and minimize harm to the covered species and mitigate for any unavoidable loss. Impacts to the covered species will be minimized and mitigated as described in the selected alternative section above.

3. The applicant will develop an HCP and ensure that adequate funding for the HCP will be provided. The County has developed the RHCP and committed to fully funding all of the obligations necessary for its implementation. These obligations include the cost for purchase of GCWA, BCVI, Bone Cave harvestman, and Coffin Cave mold beetle habitat, management of mitigation lands in perpetuity, enforcement of conservation easements, and monitoring of species populations and habitat. In addition, the County has committed to adaptive management measures that identify areas of uncertainty and questions that need to be addressed to resolve this uncertainty; developed alternative management strategies and determine which experimental strategies to implement; integrate a monitoring program that is able to acquire the necessary information for effective strategy evaluation; and incorporate

feedback loops that link implementation and monitoring to the decision-making process that result in appropriate changes in management. To accomplish RHCP implementation, the County estimated that costs could total up to \$80.8 million. The County will fund the actual costs of implementing the RHCP by advance funding from participation fees, endowment investment income, road improvement mitigation funds, and tax benefit financing.

The Service's No Surprises Assurances are discussed in the RHCP, and measures to address changed and unforeseen circumstances have been identified. Adaptive management in the form of conservation, mitigation, or management measures and monitoring will be implemented to address changed circumstances over the life of the permit that were able to be anticipated at the time of RHCP development. Unforeseen circumstances would be addressed through the Service's close coordination with the County in the implementation of the RHCP. The County has committed to a coordination process to address such circumstances.

We have, therefore, determined that the County's financial commitment and plan, along with the County's willingness to address changed and unforeseen circumstances in a cooperative fashion, is sufficient to meet this criterion.

4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. As the Federal action agency considering whether to issue an ITP to the County, we have reviewed the issuance of the ITP under section 7 of the ESA. Our biological opinion concluded that issuance of the ITP will not jeopardize the continued existence of the GCWA, BCVI, Bone Cave harvestman, and Coffin Cave mold beetle in the wild. No critical habitat has been designated for any of the covered species in the action area, and thus none will be affected.

5. The applicant agrees to implement other measures that the Service requires as being necessary or appropriate for the purposes of the HCP. We have cooperated with the County in the development of the RHCP. We commented on draft documents, participated in advisory group meetings, and worked closely with the County in every step of plan and document preparation, so that conservation of the covered species would be assured and recovery would not be jeopardized. The RHCP incorporates our recommendations for minimization and mitigation of impacts, as well as steps to monitor the effects of the RHCP and

ensure success. Annual monitoring, as well as coordination and reporting mechanisms, have been designed to ensure that changes in conservation measures can be implemented if measures prove ineffective or impacts exceed estimates. It is our position that no additional measures are required to implement the intent and purpose of the RHCP to those detailed in the RHCP and its associated ITP.

We determine that the preferred alternative best balances the protection and management of suitable habitat for covered species, while allowing and providing a streamlined process for ESA compliance for continued development in the County. Considerations used in this decision include: (1) Mitigation will benefit GCWA, BCVI, Bone Cave harvestman, and Coffin Cave mold beetle, managed for the species in perpetuity, as well as other conservation measures to protect and enhance habitat; (2) mitigation measures species will fully offset anticipated impacts of development to the species and provide recovery opportunities; and (3) the RHCP is consistent with the GCWA, BCVI, Bone Cave harvestman, and Coffin Cave mold beetle recovery plans.

**Thomas L. Bauer,**

*Acting Regional Director, Region 2.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NV-930-1430-ET; NVN-83210; 9-08807; TAS:14x1109]

#### Public Land Order No. 7731; Withdrawal of Public Lands for Gold Point and Ione Townsites; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order No. 7731, Withdrawal of Public Lands for Gold Point and Ione Townsites; Nevada.

**SUMMARY:** This order withdraws approximately 672 acres of public lands from location and entry under the United States mining laws for a period of 5 years to protect historic and cultural resources within the Gold Point and Ione Townsites pending special legislation that would resolve land ownership conflicts.

**DATES:** *Effective Date:* April 10, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Gratton, Bureau of Land Management, Nevada State Office, P.O. Box 12000, 1340 Financial Boulevard, Reno, Nevada 89520, 775-861-6532.