

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-R2-ES-2013-0128];
[FXES1112020000F2-145-FF02ENEH00]

Notice of Intent To Prepare an Environmental Assessment for the Barton Springs/Edwards Aquifer Conservation District for Proposed Incidental Take Permit Addressing Take of Two Federally Listed Species in Central Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent, announcement of public scoping period, and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise the public that we intend to prepare a draft Environmental Assessment (EA) to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit to the Barton Springs/Edwards Aquifer Conservation District (District). The permit, issued under the Endangered Species Act, as amended (Act), would allow for potential take of two federally listed species associated with the ongoing management and withdrawal of groundwater from the Barton Springs segment of the Edwards Aquifer (Aquifer) in Central Texas.

DATES: *Comments:* We will accept comments received or postmarked on or before April 4, 2014. 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.

Scoping Meeting: A public scoping meeting will be held within the District's jurisdictional area on a date to be announced. The notice of the exact meeting date, times, and location will be published at least 2 weeks before the event in the *Austin-American Statesman* newspaper and on the Service's Austin Ecological Services Office Web site, <http://www.fws.gov/southwest/es/AustinTexas/>.

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

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R2-ES-2013-0128, 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-2013-0128; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

Please note that your comments are in regard to the proposed Barton Springs/Edwards Aquifer Conservation District Habitat Conservation Plan.

We request that you send comments only by 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: Mr. Adam Zerrenner, Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758-4460; telephone 512/490-0057; facsimile 512/490-0974; or email Adam_Zerrenner@fws.gov.

SUPPLEMENTARY INFORMATION: The District proposes to develop a habitat conservation plan (HCP) and apply for an incidental take permit. The District HCP will include measures necessary to minimize and mitigate the impacts of potential taking of the endangered Barton Springs salamander (*Eurycea sosorum*) and Austin blind salamander (*Eurycea waterloensis*) resulting from loss or degradation of habitats upon which they depend due to actions associated with the management and use of the Aquifer.

The Service seeks information from stakeholders and the public necessary to determine impacts on the human environment and alternative actions to be considered in the EA that documents our decision regarding the potential issuance of an incidental take permit and implementation of the supporting draft HCP.

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) prohibits "taking" of fish and wildlife species listed as endangered under section 4 of the Act. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. The term "harm" is defined in the regulations as significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or

sheltering (50 CFR 17.3). The term "harass" is defined in the regulations as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). However, the Service may, under specified circumstances, issue permits that allow take of federally listed fish and wildlife, provided that the take occurs incidental to, but is not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

Section 10(a)(1)(B) of the Act authorizes issuance of such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) The applicant will develop a draft habitat conservation plan and ensure that adequate funding for the plan will be provided; (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) The applicant will carry out any other measures that we may require as being necessary or appropriate for the purposes of implementing the habitat conservation plan.

The District is a political subdivision of the State of Texas, with a legislative mandate to conserve, preserve, and protect the groundwater resources, including springflows, of the aquifers within its jurisdictional area. The District regulates groundwater within its jurisdiction by adopting, implementing, and enforcing regulations and management programs that address water demand, springflow protection, aquifer recharge, and other management strategies.

The purpose of issuing the proposed permit is to allow for the ongoing use of the waters of the Aquifer by end-users under the management authority of the District while conserving listed species and the ecosystems upon which they depend. Adoption of a multispecies habitat conservation approach, rather than a species-by-species or project-by-project approach, will reduce the costs of implementing minimization and mitigation measures for the covered species; and eliminate cost and time-consuming efforts associated with processing individual incidental take permits for each user of the Aquifer. In addition, the multispecies habitat conservation approach provides a program including avoidance,

minimization, and mitigation for each species that is coordinated on a landscape level that provides increased benefits to the covered species.

Scoping Period and Meeting

The purpose of scoping is to provide an early and open process to determine concerns to be addressed and to identify potentially significant issues related to the proposed action. The publication of this notice initiates a 30-day scoping period, during which stakeholders and the public are encouraged to provide input and recommendations to the Service. Specifically, the Service seeks to identify people or organizations interested in the proposed action, any potentially significant issues to be analyzed, gaps in data or information, and alternatives to the proposed action that should be considered.

The Service will host an open house and public scoping meeting that will provide an opportunity for stakeholders and the public to provide comments and information on the scope of issues and alternatives to be considered. Comments can also be submitted electronically or at the address above at any time during the scoping period.

The U.S. Fish and Wildlife Service is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs with your request by close of business at least 3 working days prior to the meeting date to Mr. Adam Zerrenner, Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758-4460; telephone 512/490-0057; facsimile 512/490-0974; or email Adam_Zerrenner@fws.gov, TTY 800-877-8339.

Alternatives

The alternative actions will be compared to the No-Action alternative in the draft EA. The No-Action alternative represents the estimated future conditions under the existing management and use, to which the alternative action's estimated future conditions can be compared. The Service seeks comments and recommendations from stakeholders and the public regarding the alternatives under consideration and others that should be considered.

No-Action Alternative

Under the No-Action alternative, the management and use of the Aquifer will continue regardless of whether an Incidental Take Permit is sought or issued. The District, and those covered by the proposed permit, would continue

to be subject to the take prohibitions of the Act. Where potential impacts could not be avoided and where a Federal nexus exists, measures designed to minimize and mitigate for impacts would be addressed through individual formal or informal consultation with the Service. In the absence of a Federal nexus, parties engaging in actions that would affect protected species would comply with the Act by obtaining individual section 10(a)(1)(B) incidental take permits on a project-by-project basis.

Alternative Number One: Proposed Issuance of an Incidental Take Permit

The proposed action is issuance of an incidental take permit based upon an HCP developed by the District. Texas counties that may be included in the proposed permit are those within the District's jurisdiction, including portions of Caldwell, Hays, and Travis Counties. The District has indicated their preference for a permit duration of 20 years.

The actions to be covered under the requested incidental take permit have yet to be determined, but may include activities associated with the ongoing groundwater management and use of the Barton Springs segment of the Edwards Aquifer, and actions to protect spring flow at the multiple spring outlets located at Barton Springs.

The alternative could allow for a comprehensive mitigation approach for unavoidable impacts to listed species while reducing permit processing effort for the Service.

Alternative Number Two: Water Demand Reduction

Under this alternative, the District would create regulatory mechanisms that reduce pumping of fresh water from the Barton Springs Segment of the Edwards Aquifer during periods of drought. If such regulatory demand reductions could avoid adverse impacts to the listed species and their habitats, then no Incidental Take Permit would be required and none would be issued. If demand reduction regulatory programs could not avoid take of listed species, the District would develop an HCP that would minimize and mitigate impacts within their authorities to the maximum extent practicable and seek an Incidental Take Permit.

Alternative Number Three: Water Supply Augmentation and Substitution

Under Alternative Number Three, supplies of freshwater pumped from the Barton Springs segment of the Edwards Aquifer would be augmented or substituted with alternative supplies

during periods of drought. If such enhancement or substitution actions could avoid take of the listed species, no Incidental Take Permit would be required and none would be issued. If these measures were not able to avoid all such take, the District would develop an HCP that would minimize and mitigate the impacts of such take to the maximum extent practicable and seek an Incidental Take Permit.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email 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 (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4721 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulos

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK4004200/A0R5C4040.999900/134A2100DD]

Proclaiming Certain Lands as Reservation for the Muckleshoot Indian Tribe of Washington State

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 20.16