

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Notice of Availability for the Lost Pines Habitat Conservation Plan and Draft Environmental Assessment in Support of the County of Bastrop's Permit Application for Incidental Take of the Houston Toad Resulting From a Variety of Development and Other Land Use Activities in a 124,000-Acre Plan Area in Bastrop County, TX**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and 90-day public comment period.

**SUMMARY:** The County of Bastrop (County) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The applicant has been assigned permit number TE-113500-0. The requested permit, which is for a period of 30 years, would authorize the incidental take of the endangered Houston toad (*Bufo houstonensis*). The proposed take would occur as a result of new residential, commercial, and multi-family development; expansion of existing residential, commercial, and multi-family development; ongoing uses of previously developed lands; Bastrop County infrastructure maintenance and improvement; emergency services; conservation subdivision development; wildlife management activities; forestry management activities; and agricultural management activities in an approximately 124,000-acre Plan Area in Bastrop County, Texas.

**DATES:** To ensure consideration, written comments must be received on or before June 25, 2007.

**ADDRESSES:** 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 4102, Albuquerque, New Mexico 87103. Persons wishing to review Bastrop County's Lost Pines Habitat Conservation Plan (LPHCP) or the draft Environmental Assessment (EA) may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490-0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas. Written data or comments concerning the application, LPHCP, or draft EA should be submitted to the

Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE-113500-0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:**

Clayton Napier at the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490-0057).

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 90 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

*Applicant:* The Lost Pines Habitat Conservation Plan (LPHCP) was developed by the County of Bastrop for an approximately 124,000-acre Plan Area which encompasses the entire currently known habitat for the Houston toad in Bastrop County, Texas.

The LPHCP supports the application for the issuance of an incidental take permit for the Houston toad within the Plan Area for specific land use and development activities over the next 30 years. Participation by landowners in the plan would be voluntary. Landowners that choose to participate in the LPHCP could receive incidental take authorization through the LPHCP's streamlined process, rather than seek individual authorization directly from the Service. The LPHCP proposes to implement measures to minimize and mitigate for adverse impacts to the toad and its habitat, and would apply an area-wide, habitat-based conservation approach, including financial incentives for voluntary conservation and public outreach, education, and research programs.

Landowners, developers, and other local interests could participate in the LPHCP and receive authorization for incidental take resulting from certain types of construction activities, conservation subdivision development, low-impact land management practices, and public infrastructure activities. High-density or large-scale land developments would not be eligible for participation in this plan, nor would the

plan cover the implementation of high-impact land management activities (e.g., the conversion of pastured woodland to improved pasture and clear-cutting timber). The following specific activities would be eligible for incidental take coverage under the LPHCP: single family residential construction and use on legal, non-platted lots, single family residential construction within existing platted lots, commercial and multi-family construction and use on up to one acre, conservation subdivision development, agricultural management, forest management, wildlife management; Bastrop County infrastructure maintenance and improvement, emergency services; and, ongoing use of previously developed land.

Single family residential, commercial, and multi-family development activities on existing lots and existing unplatted lots would require potential LPHCP participants to obtain a Certificate of Participation from the County to receive incidental take authorization for these types of covered activities. Construction activities could receive incidental take coverage on up to one acre per project. Mitigation would be in the form of a fee paid to the LPHCP to fund the operation of conservation programs, or landowners with sufficient acreage could permanently protect acreage on-site to offset negative impacts from construction activities.

Conservation subdivision developers would be required to obtain a Subdivision Certificate from the County that certifies that their proposed project meets the Conservation Subdivision Development Guidelines of the LPHCP. The subdivision guidelines require an evaluation of existing habitat resources on the property, limit the density of residential lots or dwelling units, and require the designation of at least 70 percent of the subdivision for the permanent protection and management of the Houston toad. The two options available to subdivision applicants who wish to be eligible for incidental take coverage under the LPHCP are the low-density, large-lot design and higher density, clustered design. The guidelines address management and use standards for conservation areas within the subdivision and specify restrictive covenants for other areas that limit further subdivision of lots, encourage environmentally sensitive pesticide use, and encourage the use of native plants for landscaping. Efforts to minimize the impact of subdivision infrastructure would also be required under the guidelines. Mitigation for subdivision development impacts would be the preservation and management of

conservation areas within the subdivision for the Houston toad. The application fees generated by the issuance of Subdivision Certificates would be used to fund the LPHCP and its conservation programs.

The LPHCP includes guidelines for agricultural management, forest management, and wildlife management. Participation in the LPHCP and adherence to the guidelines would be voluntary; however, incidental take authorization under the LPHCP would be restricted to those activities that are in compliance with the guidelines. The purpose of the guidelines is to allow for reasonable land use practices while avoiding or minimizing negative or long-term impacts to the Houston toad. The agricultural management guidelines cover practices related to cultivated land, improved pasture or hayland, and rangeland/native grazing lands/grazable woodland/native pasture. The forest management guidelines would provide a framework for forest management activities such as management planning, road construction and maintenance, site preparation and planting, chemical applications, timber harvesting, and prescribed burning. The wildlife management guidelines describe the framework for activities such as management planning, brush management, reforestation, prescribed burning, providing supplemental food sources, restoring native grassland, constructing Houston toad breeding ponds, and controlling fire ants. The agriculture, wildlife and forestry guidelines are intended to be "self-mitigating." This means that although there could be some short-term impacts to the toad or its habitat as a result of conducting activities included under the various guidelines, the applicant anticipates that there will be an overall net improvement in the quality or quantity of the toad habitat over the long-term.

Public infrastructure activities, emergency services, and ongoing use of previously developed land would be offered automatic coverage under the County's incidental take permit by following the guidelines outlined in the LPHCP. Low-impact land uses would be covered upon Bastrop County issuing a Notice of Receipt. No mitigation fees would be required for landowners seeking authorization for low-impact land uses. However, any incidental take that may occur as a result of land management practices that are not consistent with the applicable guidelines in the LPHCP are not covered.

The LPHCP conservation program and administration would be funded by a

combination of fees collected from Plan participants and general revenue from the County. Collected fees would be used primarily to fund the biological monitoring, landowner incentive, and community outreach and education programs of the LPHCP. The County would provide funds sufficient to hire a LPHCP administrator, whose duties would include much of the actual operation of the LPHCP. Part of the job description for the LPHCP administrator would be to regularly apply for outside grants to increase funding for the Plan. Grants could be used to purchase land, easements, or development rights on Houston toad habitat from willing partners.

Rather than provide for the purchase and management of a publicly-owned, interconnected, habitat preserve system for the Houston toad, the LPHCP proposes to focus resources on strategic land protection and encourage voluntary conservation efforts by private landowners. This conservation program would use mitigation fees from participants seeking incidental take permits to help fund conservation and management activities that have broad community support. Using this method, a large portion of the active management for the Plan Area would be through the voluntary efforts of private landowners.

A key to maintaining quality toad habitat between designated conservation areas is the participation of private landowners in conservation efforts. The LPHCP would seek the help of private landowners by encouraging use of new and existing landowner incentive programs and by forming partnerships with community organizations to manage habitat. These initiatives would include: management of open space in existing residential subdivisions, supporting wildlife management associations, supporting the conversion of agricultural use land to a wildlife management use, private landowner partnerships and grant funding; and, expanding access to existing assistance programs.

In addition to encouraging and supporting the voluntary management of private lands for the Houston toad, the LPHCP would also support the acquisition of development rights, conservation easements, or land from willing partners, if sufficient funds become available. Because funds are limited, the LPHCP would prioritize the use of funds for acquiring development rights, easements, and land. A set of minimum and preferred criteria to evaluate tracts in the Plan Area that may be available to benefit the Houston toad have been established. These criteria would ensure that funds would be used

on the properties that provide the most desirable characteristics for Houston toad conservation.

The LPHCP would also offer mitigation in the form of community education and public outreach. Activities would include: distribution of LPHCP guidelines; distribution of a fact sheet about the ESA and LPHCP to septic permit applicants in Bastrop County; conducting an annual Houston toad community education workshop; and, developing a county-wide Integrated Pest Management Plan.

Support for Houston toad monitoring and research programs would also be included in the LPHCP. The LPHCP administrator would maintain a database of Houston toad surveys and known locations, distribute spatial data for use in conservation planning, and help researchers team with private landowners willing to provide access to Houston toad habitat on their property.

The County expects that by creating a fair, simple, and certain process for obtaining incidental take authorization, the burden on individual landowners is reduced and it facilitates desired economic development in the Plan Area while preserving Houston toad habitat and supporting conservation research.

**Larry G. Bell,**

*Acting Regional Director, Region 2,  
Albuquerque, New Mexico.*

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**BILLING CODE 4510-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR-130-1020-ML; GP7-0092]

#### Notice of Public Meeting, Eastern Washington Resource Advisory Council Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management Eastern Washington Resource Advisory Council will meet as indicated below.

**DATES:** The Eastern Washington Resource Advisory Council will meet Friday, April 13, 2007 at the Spokane District Office, Bureau of Land Management, 1103 North Fancher Road, Spokane Valley, Washington 99212-1275.