

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

[FWS-R2-ES-2019-0016;  
FXES1114020000-190-FF02ENEH00]

**Draft Environmental Impact Statement and Habitat Conservation Plan; Lower Colorado River Authority's Transmission Services Corporation, 241 Counties, Texas**

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

**ACTION:** Notice of availability; request for public comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), make available the draft Environmental Impact Statement (dEIS) and Habitat Conservation Plan (HCP) covering activities within 241 counties in Texas (permit area). The Lower Colorado River Authority's Transmission Services Corporation (LCRA TSC; applicant) has applied to the Service for an incidental take permit (ITP) under the Endangered Species Act. The requested ITP would authorize incidental take of 22 federally threatened or endangered species and 1 non-listed species that could result from activities associated with otherwise lawful activities, including construction, operation, upgrade, decommissioning, and maintenance of existing and future LCRA TSC electric transmission facilities.

**DATES:** To ensure consideration, written comments must be received or postmarked on or before June 13, 2019. Comments submitted electronically at <http://www.regulations.gov> (see Public Participation under **SUPPLEMENTARY INFORMATION**) must be received by 11:59 p.m. Eastern time on the closing date. Any comments we receive after the closing date may not be considered in the final decision on these actions.

**ADDRESSES:** See Public Participation under **SUPPLEMENTARY INFORMATION** for how to obtain documents for review and submit comments.

**FOR FURTHER INFORMATION CONTACT:** Adam Zerrenner, Field Supervisor, via U.S. mail at Austin Ecological Service Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758-4460; via phone at 512-490-0057, ext 241; or via the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of several documents related to an incidental take

permit (ITP) application under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The draft Environmental Impact Statement (dEIS) was developed in compliance with the agency decision-making requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), and is based on the habitat conservation plan (HCP) as submitted by Lower Colorado River Authority Transmission Services Corporation (LCRA TSC, applicant). We described, fully evaluated, and analyzed all three alternatives in detail in the dEIS. The HCP is also provided in support of the ITP application under section 10(a)(1)(B) of the ESA. If granted, the requested ITP, which would be in effect for a period of 30 years, would authorize incidental take of 22 federally threatened or endangered species and 1 non-listed species (covered species). The proposed incidental take would result from activities associated with otherwise lawful activities, including construction, operation, upgrade, decommissioning, and maintenance of existing and future LCRA TSC electric transmission facilities (covered activities). In addition to this notice of the dEIS, the Environmental Protection Agency (EPA) is publishing a notice announcing the dEIS, as required under the Clean Air Act, section 309 (42 U.S.C. 7401 *et seq.*; see EPA's Role in the EIS Process below).

### Background

Section 9 of the ESA and its implementing regulations in title 50 of the Code of Federal Regulations (CFR) prohibit "take" of fish and wildlife species listed as endangered or threatened. However, section 10(a) authorizes us to issue permits to take listed wildlife species where take is incidental to, and not the purpose of, otherwise lawful activities and where the applicant meets certain statutory requirements.

We prepared a notice of intent (NOI) to prepare an EIS for LCRA's TSC habitat conservation plan (HCP), which was published in the **Federal Register** on July 31, 2017 (82 FR 35539). We held four public scoping meetings across Texas in August of 2017. A total of 9 individuals attended from 5 different counties: Travis, Nueces, Walker, Fort Bend, and Harris. We also received two written comments regarding the proposed issuance of an ITP and its potential impacts. One letter was

submitted by the Katy Prairie Conservancy and the other was submitted by the National Park Service. We incorporated issues identified during the scoping period into the dEIS.

We, the Service, make available the dEIS for the LCRA TSC HCP and the associated HCP. In accordance with the requirements of NEPA, we advise the public that:

1. We have gathered the information necessary to determine impacts and formulate alternatives for the dEIS related to potential issuance of an ITP to the applicant; and

2. The applicant has developed an HCP as part of the application for an ITP, which describes the measures the applicant has agreed to take to minimize and mitigate the impacts of incidental take of the covered species to the maximum extent practicable pursuant to section 10(a)(1)(B) of the ESA.

### Proposed Action

The proposed action involves the issuance of an ITP by the Service for the covered activities in the permit area. The ITP would cover incidental take of the covered species associated with the covered activities within the permit area.

The requested term of the permit is 30 years. To meet the permit issuance requirements of a section 10(a)(1)(B) ITP, the applicant has developed and proposes to implement its HCP. The HCP considers the direct and indirect effects of implementation of the HCP, and describes the conservation measures the applicant has agreed to undertake to minimize and mitigate, to the maximum extent practicable, the impacts of the incidental take of the covered species, and ensures that incidental take will not appreciably reduce the likelihood of the survival and recovery of the covered species in the wild.

### Alternatives

We are considering two alternatives to the proposed action as part of this process.

*No Action:* No ITP would be issued. Under a No-Action alternative, the Service would not issue the requested ITP, and the applicant would either not construct the development or would construct the development avoiding all impacts to federally threatened or endangered species. Therefore, the applicant would not implement the

conservation measures described in the HCP.

**Reduced Permit Duration:** Under this alternative, the Service would issue an ITP for a term of 15 years (from the date of issuance) to LCRA TSC to authorize incidental take of covered species that could result from covered activities. This alternative would implement all minimization and mitigation measures identified for the proposed action, but the permit would be issued for a shorter duration. A reduced permit duration would also reduce the total amount of incidental take authorized for most species, while still providing a streamlined permit process to LCRA TSC during the ITP duration. Projects extending beyond the 15-year permit could require additional permitting.

#### EPA's Role in the EIS Process

In addition to this notice, EPA is publishing a notice in the **Federal Register** announcing dEIS and for LCRA's TSC HCP, as required under the Clean Air Act, section 309. The EPA is charged with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs.

The EPA also serves as the repository (EIS database) for EISs that Federal agencies prepare. All EISs must be filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**. For more information, see <https://www.epa.gov/nepa>. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

#### Public Participation

##### Obtaining Documents for Review

- Environmental Impact Statement (EIS) and Habitat Conservation Plan (HCP): You may obtain copies of the EIS and HCP in the following formats.

##### Internet:

- <http://www.regulations.gov> (search for Docket No. FWS-R2-ES-2019-0016).

- <http://www.fws.gov/southwest/es/AustinTexas/>.

##### Hard copies or CD-ROM:

- Contact Field Supervisor by phone or U.S. mail (see **FOR FURTHER INFORMATION CONTACT**; reference the notice title and docket number FWS-R2-ES-2019-0016).

- Copies of the EIS and HCP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:

- Austin Ecological Services Field Office (at the address in **FOR FURTHER INFORMATION CONTACT**).

- U.S. Fish and Wildlife Service; 500 Gold Avenue SW, Room 6034; Albuquerque, NM 87102 (telephone: 505-248-6920).

- Department of the Interior, Natural Resources Library, 1849 C. St. NW, Washington, DC 20240.

- Incidental Take Permit Application: You may obtain copies of the incidental take permit application by either of the following methods.

- *U.S. Mail:* Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103 (attention: Environmental Review Branch).

- *Email:* [fw2\\_HCP\\_Permits@fws.gov](mailto:fw2_HCP_Permits@fws.gov).

- Public Comments: View submitted comments on <http://www.regulations.gov> in Docket No. FWS-R2-ES-2019-0016.

- Comments on the EIS from the Environmental Protection Agency: For how to view comments on the EIS from the Environmental Protection Agency (EPA), or for information on EPA's role in the EIS process, see EPA's Role in the EIS Process under **SUPPLEMENTARY INFORMATION**.

##### Submitting Comments

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

- *Internet:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R2-ES-2019-0016.

- *Hard Copy:* Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: FWS-R2-ES-2019-0016; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you submit comments by only the methods described above. We will post all information received on <http://www.regulations.gov>. This generally means we will post any personal information you provide us (see Public Availability of Comments).

##### 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 (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can request in your comment that we withhold your PII from public review, we cannot guarantee that we will be able to do so. 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 ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

**Amy Lueders,**

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

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**BILLING CODE 4333-15-P**

#### DEPARTMENT OF THE INTERIOR

##### National Park Service

[NPS-WASO-NAGPRA-NPS0027610, PPWOCRADN0-PCU00RP14.R50000]

#### Notice of Intent To Repatriate Cultural Items: Birmingham Museum of Art, Birmingham, AL

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice.

**SUMMARY:** The Birmingham Museum of Art, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of an unassociated funerary object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Birmingham Museum of Art. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Birmingham Museum of Art at the address in this notice by May 29, 2019.

**ADDRESSES:** Emily G. Hanna, Senior Curator, Birmingham Museum of Art, 2000 Rev. Abraham Woods Jr. Boulevard, Birmingham, AL 35203, telephone 205-254-2983, email [ehanna@artsbma.org](mailto:ehanna@artsbma.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and