



Billing Code: 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2020–N069; FXES1114020000–201–FF02ENEH00]

Receipt of Application for an Incidental Take Permit and Draft Habitat Conservation Plan for Five Species; Texas Parks and Wildlife Department, Balmorhea State Park, Texas; Low-Effect Screening Form for a Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the Texas Parks and Wildlife Department (TPWD) for an incidental take permit (ITP), accompanied by TPWD’s habitat conservation plan (HCP) for the Balmorhea State Park Management Plan. The ITP, which would be granted under the Endangered Species Act, would authorize incidental take of five federally endangered species. A low-effect screening form supporting a categorical exclusion is also available for public

review. We request public comment on the ITP application, HCP, and low-effect screening form.

DATES: To ensure consideration, written comments must be received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *Accessing Documents:*

Internet: *Low effect screening form and HCP:*

<https://www.fws.gov/southwest/es/AustinTexas/>.

U.S. Mail: You may obtain the documents at the following addresses. In your request for documents, please reference Balmorhea State Park HCP.

- *Low-effect screening form and HCP:* A limited number of CD-ROM and printed hardcopies are available from Mr. Adam Zerrenner, Field Supervisor, Austin Ecological Services Field Office, Austin, TX, 78758; telephone 512-490-0057.
- *ITP application:* Hardcopies are available from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103, Attention: Environmental Review Branch.

Submitting Comments: Regarding any of the documents available for review, you may submit written comments by one of the following methods. In your comments, please reference Balmorhea State Park HCP.

- *Email:* FW2_AUES_Consult@fws.gov.

- *U.S. Mail:* Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758; telephone 512-490-0057.

We request that you send comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, by mail (see above), via phone at 512-490-0057, or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act (ESA; 16 U.S.C 1531 *et seq.*), we, the U.S. Fish and Wildlife Service (Service), have received an application from the Texas Parks and Wildlife Department (TPWD) for an incidental take permit (ITP), along with an accompanying habitat conservation plan (HCP) for the Balmorhea State Park Management Plan. If granted, the ITP would authorize incidental take of five federally endangered species resulting from the ongoing management of Balmorhea State Park.

The HCP included with the ITP application is for five endangered species that occur at San Solomon Springs, located at Balmorhea State Park, Balmorhea, Texas. The HCP describes TPWD's plans to minimize and mitigate the effects of the operation and maintenance of the pool at Balmorhea State Park. We have made a preliminary determination that the HCP is eligible for categorical exclusion under the National Environmental Policy Act. The basis for this determination is contained in a low-effect screening form for a categorical exclusion (low-effect screening form), which evaluates the impacts of implementation of the proposed HCP.

We request public comment on the ITP application, HCP, and low-effect screening form.

Background

Section 9 of the ESA and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize the incidental take of threatened and endangered species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing such take of endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Application

The TPWD has applied to the Service for an ITP under section 10(a)(1)(B) of the ESA. The requested ITP, which would be in effect for a period of 10 years, if granted, would authorize incidental take of the Comanche Springs pupfish (*Cyprinodon elegans*), Pecos gambusia (*Gambusia nobilis*), Phantom tryonia (*Tryonia cheatumi*), diminutive amphipod (*Gammarus hyalleloides*), and Phantom springsnail (*Pyrgulopsis texana*). The proposed incidental take would result from activities associated with otherwise lawful activities, including the ongoing operation and maintenance of the swimming pool at Balmorhea State Park. The HCP and associated permit would

implement a voluntary conservation plan to protect and conserve five aquatic endangered species occurring at Balmorhea State Park. The conservation strategy includes conservation measures to minimize and mitigate direct and indirect impacts to the five species and their aquatic habitat and an adaptive management program. If approved, the ITP would be for a 10-year period following permit issuance and would authorize incidental take of the five species, all of which are listed as endangered under the ESA.

Proposed Action

The proposed action involves the issuance of an ITP by the Service for the covered activities in the permit area, under section 10(a)(1)(B) of the ESA. The ITP would cover “take” of the covered species associated with operation and maintenance of the Balmorhea State Park including the swimming pool, pupfish refugium, and Hubbs Ciénega. The applicant will fully implement the HCP if approved by the Service. The terms of the HCP and ITP will also ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

Next Steps

We will evaluate the HCP and comments we receive on the low-effect screening form to determine whether the ITP application meets the requirements of section 10(a) of the ESA. We will also evaluate whether issuance of a section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in

our final analysis to determine whether to issue an ITP. If all necessary requirements are met, we will issue the ITP to the applicant.

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 ESA and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy L. Lueders,
Regional Director,
Albuquerque, New Mexico.

[FR Doc. 2020-14982 Filed: 7/10/2020 8:45 am; Publication Date: 7/13/2020]