



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2020-N148; FXES1114020000-212-FF02ENEH00]

Draft Environmental Assessment and Habitat Conservation Plan; CPS Energy Programmatic Habitat Conservation Plan, Bexar County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce that CPS Energy has applied for an incidental take permit (ITP) under the Endangered Species Act (ESA) that would authorize incidental take of one endangered songbird, the golden-cheeked warbler, and eight endangered karst invertebrates. We make available a draft environmental assessment (dEA) under the National Environmental Policy Act and a habitat conservation plan (HCP) for CPS Energy's covered activities in and around San Antonio, Bexar County, Texas. The dEA evaluates the impacts of, and alternatives to, implementation of the proposed HCP.

DATES: To ensure consideration, written comments must be received or postmarked on or before 11:59 p.m. eastern time on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. We may not consider any comments we receive after the closing date in the final decision on this action.

ADDRESSES: *Accessing Documents:*

Internet: The *dEA and HCP*: You may obtain electronic copies of these documents on the Service's website at <https://www.fws.gov/southwest/es/AustinTexas/>.

U.S. Mail: You may obtain the documents by writing to the following addresses. In your request for documents, please reference CPS Energy HCP.

- *DEA and HCP*: A limited number of CD-ROM and printed copies of the dEA and HCP are available, by request, from Mr. Adam Zerrenner, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758; telephone 512-490-0057; fax 512-490-0974.
- *ITP application*: The ITP application is available by mail 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 CPS Energy HCP.

- *Email*: FW2_AUES_Consult@fws.gov
- *Hard copy*: Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758; telephone 512-490-0057; fax 512-490-0974.

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

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, by mail at U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758; via phone at 512-490-0057; or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) 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 incidental take of listed 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.

Background

CPS Energy 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 30 years, if granted, would authorize incidental take of nine endangered species: Golden-cheeked warbler (*Setophaga [=Dendroica] chrysoparia*), Madla Cave meshweaver (*Cicurina madla*), Government Canyon Bat Cave spider (*Tayshaneta [=Neoleptoneta] microps*), Government Canyon Bat Cave meshweaver (*C. vespera*), Helotes mold beetle (*Batrisodes venyivi*), two ground beetles with no common names (*Rhadine exilis* and *Rhadine infernalis*), Robber Baron Cave meshweaver (*C. baronia*), and Cokendolpher cave harvestman (*Texella cokendolpheri*) (collectively the covered species). The proposed incidental take would result from activities associated with otherwise lawful activities, including electric transmission and distribution lines; natural gas transmission and distribution lines; electric or natural gas substations, switching stations, metering stations, and similar site-based facilities; and lighting on public roadways (covered activities).

Alternatives

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 for covered activities within the permit area. An application for an ITP must include an HCP that describes the conservation measures the applicant has agreed to undertake to minimize and mitigate for the impacts of the proposed taking of covered species to the maximum extent practicable. 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.

No Action Alternative

We have considered one alternative to the proposed action as part of this process: No Action. Under a No Action alternative, the Service would not issue the requested ITP and the applicant would either consult under the ESA on a project-by-project basis, rather than programmatically, or conduct those activities in a manner that avoids incidental take. Additionally, the applicant would not implement the conservation measures as described in the CPS Energy HCP.

Next Steps

We will evaluate the dEA, HCP, and comments we receive 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, e-mail 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. 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, Southwest Region.

[FR Doc. 2021-06421 Filed: 3/26/2021 8:45 am; Publication Date: 3/29/2021]