



**Billing Code: 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[Docket No. FWS–R2–ES–2020–0065; FXES111602C0000–201–FF02ENEH00]**

**Environmental Assessment for a Candidate Conservation Agreement with Assurances for the Dunes Sagebrush Lizard (*Sceloporus arenicolus*); Andrews, Gaines, Crane, Ector, Ward, and Winkler Counties, Texas**

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

**ACTION:** Notice of intent; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, intend to prepare an environmental assessment (EA) on a proposed candidate conservation agreement with assurances (CCAA) that will support an application for an enhancement of survival permit under the Endangered Species Act. The potential permit would cover the dunes sagebrush lizard (*Sceloporus arenicolus*) in six Texas counties. The CCAA would cover oil and gas exploration and development, sand mining, renewable energy development and operations, pipeline construction and operations, agricultural activities, general construction activities, and the conservation, research, and monitoring activities that are integral to meeting the CCAA net conservation benefit standard. The intended effect of this notice is to gather information from the public to develop and analyze the effects of the potential issuance of the permit, which would facilitate economic activities in the planning area, while providing a net conservation benefit to the dunes sagebrush lizard. We provide this notice to describe the proposed action, advise other Federal and State agencies, potentially affected tribal interests, and the public of our intent to prepare an EA, announce the initiation of a 30-day public scoping period, and

obtain suggestions and information on the scope of issues and possible alternatives to be included in the EA.

**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: Obtaining Documents for Review:** You may obtain copies of the CCAA in the following formats:

*Internet:*

- <http://www.regulations.gov> (search for Docket No. FWS–R2–ES–2020–0065)
- <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–2020–0065).

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

**Reviewing Public Comments:** View submitted comments on <http://www.regulations.gov> in Docket No. FWS–R2–ES–2020–0065.

**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–2020–0065.

*Hard Copy:* Submit by U.S. mail to Public Comments Processing, Attn:

FWS–R2–ES–2020–0065; U.S. Fish and Wildlife Service, MS: PRB (JAO/3W); 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**).

**FOR FURTHER INFORMATION CONTACT:** Mr. 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, ext. 248.; or via the Federal Relay Service at 800–877–8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 9 of the Endangered Species Act of 1973, as amended (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, or candidate species, respectively, are found in title 50 of the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

##### **Permit Application**

The U.S. Fish and Wildlife Service (Service) received an application for an enhancement of survival (EOS) permit under section 10(a)(1)(A) of the ESA, supported by the proposed CCAA. The potential EOS permit, which would be in effect for a period of

approximately 22 years, would authorize incidental take of the dunes sagebrush lizard (*Sceloporus arenicolus*), a species that has been petitioned for listing under the ESA. The dunes sagebrush lizard is the only covered species in this potential EOS permit. The proposed incidental take would result from:

- Activities associated with otherwise lawful activities, including oil and gas exploration and development, sand mining, renewable energy development and operations, pipeline construction and operations, agricultural activities, general construction activities, and conservation, research, and monitoring activities;
- Habitat loss and fragmentation from construction, operation, and maintenance of roads, oil pads, sand mines, transmission lines, and pipelines;
- Crushing by vehicles and heavy equipment during road use and mining;
- Water withdrawal for sand processing that may impact dune stabilizing vegetation, and
- Disruption of normal lizard behaviors—breeding, feeding, and shelter—during conservation actions.

## **Alternatives**

### *Proposed Action*

The proposed action involves the issuance of an EOS permit by the Service for the covered activities in the permit area, under section 10(a)(1)(A) of the ESA. The EOS would cover “take” of the covered species associated with oil and gas exploration and development, sand mining, renewable energy development and operations, pipeline construction and operations, agricultural activities, and general construction activities within the permit area. The CCAA associated with this potential EOS permit 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 meet the net conservation benefit standard of the CCAA policy. The terms of the CCAA and EOS permit will also ensure that these activities will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

#### *No Action Alternative*

As part of the process of developing an environmental assessment (EA), we will consider at least one alternative to the proposed action: No Action. Under a No Action alternative, the Service would not issue the potential EOS permit and the applicant would not be authorized for incidental taking of the covered species, should the dunes sagebrush lizard be listed as threatened or endangered. Therefore, the applicant would not be required to implement the conservation measures described in the CCAA.

#### **Public Comments**

We are requesting information from other interested government agencies, Native American Tribes, the scientific community, industry, or other interested parties concerning the following areas of analysis in the draft EA:

- Vegetation,
- Wildlife and aquatic resources,
- Special status species,
- Surface waters and floodplains,
- Hydrology and groundwater,
- Wetlands and waters of the United States,
- Archeology,
- Architectural history,
- Sites of religious and cultural significance to Tribes,

- Noise and vibration,
- Visual resources and aesthetics,
- Economics and socioeconomics,
- Environmental justice,
- Air quality (including greenhouse gas emissions and climate change),
- Geology and soil,
- Land use,
- Transportation,
- Infrastructure and utilities,
- Hazardous materials and solid waste management, and
- Human health and safety.

In addition to the topics above, we are seeking comments on additional alternatives to potentially consider when drafting the EA.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not provide information useful in determining the issues and the impacts to the human environment in the draft EA. The public will also have a chance to review and comment on the draft EA when it is available.

You may submit your comments and materials by one of the methods described above under **ADDRESSES**.

### **Next Steps**

We will develop an EA concerning the impacts of EOS permit issuance on the human environment based on our evaluation of the CCAA and the information and comments we

receive in response to this notice. We will announce the availability of a draft EA, CCAA, and EOS permit application for public review and comment. The comments on the draft EA will assist in our determination as to the lack or presence of significant impacts on the human environment.

At that time, if we can sign a finding of no significant impact (FONSI), we would then evaluate the application, including the CCAA, as to its ability to meet the requirements of section 10(a) of the ESA. We will also evaluate whether issuance of a section 10(a)(1)(A) 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 EOS permit.

If all necessary requirements are met, we will issue the EOS permit to the applicant. If we cannot sign a FONSI, we will take all comments from this scoping period and the comment period on the draft EA to develop a draft environmental impact statement (EIS), which would be noticed for review and comment before we would finalize the EIS and sign a record of decision.

### **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. 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).

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

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