

INSIGHTS

FWS Publishes Notice of Availability of Draft Candidate Conservation Agreements for Activities Affecting the Texas Hornshell Mussel

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On July 7, 2017, the U.S. Fish and Wildlife Service (Service) published notice of the filing of applications by the Center of Excellence in Hazardous Material Management (CEHMM) and the New Mexico State Land Office (NMSLO) for two separate enhancement of survival (EOS) permits pursuant to the Endangered Species Act (ESA). The permit applications include draft programmatic candidate conservation agreement with assurances (CCAA) for the Texas hornshell mussel and other covered species, including the Rio Grande River cooter (turtle) and Pecos springsnail and two fishes that share habitat and conservation benefits with the Texas hornshell in the Black and Delaware Rivers in Eddy County, New Mexico, and Culberson County, Texas. The CCAAs would apply to state-owned lands and private lands.

Additionally, the Service received a draft candidate conservation agreement (CCA) for the Texas hornshell and the other species for Federal lands in southeastern New Mexico. The proposed action involves the issuance of two EOS permits by the Service to the applicants and approval of the proposed programmatic CCAAs and CCA to facilitate recovery activities on Federal and non-Federal lands in west Texas and southeastern New Mexico for the benefit of the proposed endangered species candidate Texas hornshell and the other covered sensitive species that share its habitat. The proposed term of the permits is thirty years. Service will accept comments on the proposed actions until August 7, 2017.

The proposed CCAAs would implement conservation measures that contribute to the recovery of the Texas hornshell and the other covered species. CEHMM or NMSLO would hold the separate EOS permits and enroll participants who would hold individual certificates of inclusion. Through the CCAAs and their associated EOS permits, the Service would provide assurances to property owners that they will not be subjected to increased land use restrictions if the covered species become listed under the ESA in the future, provided certain conditions are met.

Participants in the CCAAs may include landowners, oil and gas operators, commercial/agricultural water withdrawers and livestock producers that hold leases, permits or other authorizations on private or State lands. The EOS permits' authorization of "take" would become effective if any of the species become listed, as long as the enrolled landowner is in compliance with the terms and conditions of the respective CCAA, the landowner's certificate of inclusion and the EOS permit.

Some examples of conservation actions include:

- (1) preventing new surface disturbance in habitat occupied by the Texas hornshell within the Black and Delaware Rivers, Blue Springs, and their associated 100-year floodplain,
- (2) avoiding of new development within the Black and Delaware Rivers, Blue Springs, and their associated 100-year floodplain,
- (3) siting new projects to take advantage of existing and available infrastructure,
- (4) avoiding obstructing or disrupting the natural flow of ephemeral drainages to the Black and Delaware Rivers,
- (5) implementing erosion control measures,
- (6) avoiding water withdrawal in habitat occupied by the Texas hornshell within the Black and Delaware Rivers,
- (7) maintaining minimal stream flows and ceasing withdrawal of water within the Black and Delaware Rivers if stream flows reach minimum levels,
- (8) avoiding using low-water crossings when other routes are available,
- (9) clearing invasive shrubs and replant with native plants in areas adjacent to occupied sites, and
- (10) buying or leasing water rights during periods of low flow to maintain minimal stream flows.

The Service will be evaluating the permit applications, associated documents and comments to determine whether the permit applications meet the requirements of the ESA, National Environmental Policy Act and implementing regulations.

For more information regarding the notice and potential benefits of submitting comments, please contact us.

[Click here](#) to view the notice published in the Federal Register, and [here](#) to view a Questions and Answers document prepared by the Service.