



# Biological Evaluation Form

**Main CSJ:** 0204-01-063

**Form Prepared By:** Cox|McLain Environmental Consulting

**Date of Evaluation:** October 11, 2019

Project has no Federal nexus.

**Proposed Letting Date:** March 2022

Project not assigned to TxDOT under the NEPA Assignment MOU

**District(s):** Austin

**County(ies):** Williamson

**Roadway Name:** US Highway (US) 79

**Limits From:** Interstate (I-) 35

**Limits To:** East of Farm-to-Market Road (FM) 1460

**Project Description:** See Attachment 1 in the Supplemental Attachments for a detailed project description.

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT.

## Endangered Species Act (ESA)

Yes Is the action area of the proposed project within the range of federally protected species?

Yes Did the USFWS IPaC system identify any endangered species that may occur or could potentially be affected by the proposed project activities?

Date that the [IPaC system](#) was accessed: October 11, 2019

Yes Is the action area of the proposed project in suitable habitat of federally protected species?

Yes Would the proposed project affect protected species and/or their habitat?

**\*Explain:**

USFWS identifies the following federally protected species as occurring within Williamson County: Georgetown salamander (*Eurycea naufragia*), Jollyville Plateau salamander (*Eurycea tonkawae*), Salado salamander (*Eurycea chisholmensis*), Bone Cave harvestman (*Texella reyesi*), Golden-cheeked warbler (*Dendroica chrysoparia*), Whooping Crane (*Grus americana*), Coffin Cave mold beetle (*Batrisodes texanus*), and Tooth Cave ground beetle (*Rhadine persephone*). The Least Tern (*Sterna antillatum*), Piping Plover (*Chorardrius melodus*), and Red Knot (*Calidris canutus rufa*) are identified as within range of the proposed project, however, potential effects are only considered in cases of wind energy projects.

The Texas fawnsfoot (*Truncilla macrodon*) and Texas pimpleback (*Cyclonias [=Quadrula] petrina*) are candidates for federal listing.

The proposed project intersects a known occurrence and critical habitat unit for the Jollyville Plateau salamander. The project may affect this species. Formal consultation with the USFWS is underway.

No suitable habitat for the remainder of these species was identified during the August 2017 field visit.



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Additional information regarding the effect determination for these species can be found in the Species Impact Table, Attachment 2 of the Supplemental Attachments.

  Yes   Would the proposed project impact Critical Habitat as designated by USFWS?

\*Explain:

The proposed project intersects a known occurrence and critical habitat unit (Critical Habitat Unit 2) for the Jollyville Plateau salamander. The project may affect and is likely to adversely affect this species. Formal consultation with the USFWS is underway.

**Resources consulted or activities conducted to make effect determination (if applicable):**

- TPWD County List       USFWS Critical Habitat Maps       Species Expert Consulted
- Aerial Photography       Coastal Areas Maps       Site Visit
- Topographic Map       Species Study Conducted       Karst Zone Maps
- Ecological Mapping System of Texas (EMST)       Natural Diversity Database (NDD)

Other:

**Migratory Bird Treaty Act (MBTA)**

  Yes   Is there potential for nesting birds to be present in the project action area during construction?

  No   Were active nests identified during the site survey?

  Yes   Will BMPs will be incorporated to protect migratory bird nests?

**Bald and Golden Eagle Protection Act (BGEPA)**

  No   Does the proposed project have the potential to impact Bald or Golden Eagles?

**Fish and Wildlife Coordination Act (FWCA)**

  Yes   Does the project have impacts on one or more Waters of the U.S. or wetlands?

  Yes   Is the project covered by a Nationwide Permit?

  No   Is the project covered by an Individual Permit from the USACE?



### Executive Order 13112 on Invasive Species

Yes Would the proposed project be in compliance with EO 13112?

Comments:

This project is subject to and will comply with federal Executive Order 13112 on Invasive Species. The department implements this Executive Order on a programmatic basis through its Roadside Vegetation Management Manual and Landscape and Aesthetics Design Manual.

### Executive Memorandum on Environmentally and Economically Beneficial Landscaping

Yes Would landscaping be included in the proposed projects?

\*Describe the landscaping activities:

This project is subject to and will comply with the federal Executive Memorandum on Environmentally and Economically Beneficial Landscaping, effective April 26, 1994. The department implements this Executive Memorandum on a programmatic basis through its Roadside Vegetation Management Manual and Landscape and Aesthetics Design Manual.

Yes Would the proposed project be in compliance with the Executive Memorandum on Beneficial Landscaping?

### Farmland Protection Policy Act (FPPA)

Yes Would the project require new ROW or permanent easements (Do not include temporary easements)?

No Is the project located in a "non-urbanized area" that contain areas mapped as prime, unique, statewide important or locally important farmland by the NRCS Web Soil Survey or Census Bureau?

### General Comments

See the Supplemental Attachments for additional information.



## Findings

### *Endangered Species Act (ESA)*

According to the U.S. Fish and Wildlife Service (USFWS), at least one threatened and/or endangered species is known to occur in the project action area. Based on the information available, the proposed project may affect federally protected species.

USFWS identifies the following federally protected species as occurring within Williamson County: Georgetown salamander (*Eurycea naufragia*), Jollyville Plateau salamander (*Eurycea tonkawae*), Salado salamander (*Eurycea chisholmensis*), Bone Cave harvestman (*Texella reyesi*), Golden-cheeked warbler (*Dendroica chrysoparia*), Whooping Crane (*Grus americana*), Coffin Cave mold beetle (*Batrisodes texanus*), and Tooth Cave ground beetle (*Rhadine persephone*). The Least Tern (*Sterna antillatum*), Piping Plover (*Chorradrius melodus*), and Red Knot (*Calidris canutus rufa*) are identified as within range of the proposed project, however, potential effects are only considered in cases of wind energy projects.

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Additional information regarding the effect determination for these species can be found in the Species Impact Table, Attachment 2 of the Supplemental Attachments.

The proposed project intersects a known occurrence and critical habitat unit (Critical Habitat Unit 2) for the Jollyville Plateau salamander. The project may affect and is likely to adversely affect this species. Formal consultation with the USFWS is underway.

Consultation with the USFWS will be required. The USFWS IPaC website was accessed on October 11, 2019.

### *Essential Fish Habitat (EFH)*

Tidally influenced waters do not occur within the project action area. Coordination with National Marine Fisheries Service is not required.

### *Coastal Barrier Resources Act (CBRA)*

This project is not located within a designated CBRA map unit. Coordination with the U.S. Fish and Wildlife Service (USFWS) is not required.

### *Marine Mammal Protection Act (MMPA)*

Marine mammals are protected under the Marine Mammal Protection Act (MMPA). The Texas coast provides suitable habitat and is within range of several marine mammals including the West Indian Manatee (*Trichechus manatus*), and bottlenose dolphin (*Tursiops truncatus*).

The project area does not contain suitable habitat for marine mammals. Coordination with NMFS is not required.

### *Migratory Bird Treaty Act (MBTA)*



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The Migratory Bird Treaty Act (MBTA) states that it is unlawful to kill, capture, collect, possess, buy, sell, trade, or transport any migratory bird, nest, young, feather, or egg in part or in whole, without a federal permit issued in accordance within the Act's policies and regulations.

A site survey did not identify active nests within the project action area. While no impact to migratory birds is expected, TxDOT will take all appropriate actions to prevent the take of migratory birds, their active nests, eggs, or young should they be discovered on the project site. Direction to contractors is provided on the standard EPIC sheet.

### *Bald and Golden Eagle Protection Act (BGEPA)*

The proposed project does not have the potential to impact Bald or Golden Eagles.

### *Fish and Wildlife Coordination Act (FWCA)*

The Fish and Wildlife Coordination Act (FWCA) of 1958 requires that federal agencies obtain comments from USFWS and TPWD. This coordination is required whenever a project involves impounding, diverting, or deepening a stream channel or other body of water.

The proposed project is authorized under a Section 404 of the Clean Water Act Nationwide Permit; therefore, no coordination under FWCA would be required.

### *Executive Order 13112 on Invasive Species (EO 13112)*

Re-vegetation of disturbed areas would be in compliance with the Executive Order on Invasive Species (EO 13112). Regionally native and non-invasive plants will be used to the extent practicable in landscaping and re-vegetation.

### *Executive Memorandum on Beneficial Landscaping*

Landscaping would be a part of the proposed project activities. Revegetation of disturbed areas will be in compliance with the Executive Memorandum on Environmentally and Economically Beneficial Landscaping. Regionally native and noninvasive plants will be used to the extent practicable in landscaping and revegetation.

This project is subject to and will comply with the federal Executive Memorandum on Environmentally and Economically Beneficial Landscaping, effective April 26, 1994. The department implements this Executive Memorandum on a programmatic basis through its Roadside Vegetation Management Manual and Landscape and Aesthetics Design Manual.

### *Farmland Protection Policy Act (FPPA)*

Coordination with the National Resources Conservation Service (NRCS) for FPPA would not be required because the project is not located in areas mapped as prime, unique, statewide or locally important nor is it located in an "urbanized area" identified by the NRCS Web Soil Survey or Census Bureau.



## *Suggested Attachments*

**Aerial Map (with delineated project boundaries)**

**USFWS T&E List**

**TPWD T&E List**

**Species Impact Table**

**NDD EOID List and Tracked Managed Areas (Required for TPWD Coordination)**

**NOAA EFH Mapper Printout**

**USFWS CBRA Mapper Printout**

**EMST Project MOU Summary Table (Required for TPWD Coordination)**

**TPWD SGCN List**

**FPPA Documentation**

**NRCS Web Soil Survey Map**

**Census Bureau Urbanized Area Map**

**Landscaping Plans**

**Photos (Required for TPWD Coordination)**

**Previous TPWD Coordination Documentation (if applicable)**