

APPENDIX E: Agency Coordination

**Appendix E-1: U.S. Army Corps of Engineers (USACE)
Fort Worth District**

Mark Hull

From: Messer, Orville D (Darvin) CIV USARMY CESWF (USA) <Darvin.Messer@usace.army.mil>
Sent: Tuesday, January 11, 2022 10:22 AM
To: Mark Hull
Subject: RE: [Non-DoD Source] SWF-2020-00340 Spur 399 Extension (US 75 to US 380) USACE Project Coordination

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mark,

I've reviewed the submittals and delineations/assessments appear reasonable. We await further information concerning preferred routing and potential impacts being quantified. Thanks.

Darvin Messer
Regulatory Project Manager
USACE Fort Worth District
(817) 886-1744
darwin.messer@usace.army.mil

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<https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.swf.usace.army.mil%2FPortals%2F47%2Fd%2Focs%2Fregulatory%2Fpublicnotices%2F2020%2FPublicNoticeElectronicApplications.pdf%3Fver%3D2019-11-21-123723-627&data=04%7C01%7Cmark.hull%40txdot.gov%7C28f69ba97c17432a950f08d9d51f73ab%7C39dba4765c094c6391dace7a3ab5224d%7C0%7C0%7C637775153469819288%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C3000&sdata=J8xXqalISBkVUHWfNFTCU3cftRHDyf3D0nZraAYD MJ0%3D&reserved=0>

USACE Fort Worth District Regulatory Division Website:
<https://nam11.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.swf.usace.army.mil%2FMissions%2FRegulatory.aspx&data=04%7C01%7Cmark.hull%40txdot.gov%7C28f69ba97c17432a950f08d9d51f73ab%7C39dba4765c094c6391dace7a3ab5224d%7C0%7C0%7C637775153469829253%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C3000&sdata=Vqc0h3IhyvjLLzT1sDmK21uc81s7QXXQKYk JZohpVjY%3D&reserved=0>

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-----Original Message-----

From: Messer, Orville D (Darvin) CIV USARMY CESWF (USA)
Sent: Wednesday, December 01, 2021 3:35 PM
To: mark.hull@txdot.gov

Subject: FW: [Non-DoD Source] SWF-2020-00340 Spur 399 Extension (US 75 to US 380) USACE Project Coordination

Mark - Howdy, I'm the new 214 PM. I'll send you an upload link. Once I have some time to get familiar with this project, maybe we could have a call...?

Thanks.

Darvin Messer
Regulatory Project Manager
USACE Fort Worth District
(817) 886-1744
darwin.messer@usace.army.mil

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-----Original Message-----

From: Walker, Jennifer R CIV USARMY CESWF (USA) <Jennifer.R.Walker2@usace.army.mil>
Sent: Wednesday, December 01, 2021 3:21 PM
To: Messer, Orville D (Darvin) CIV USARMY CESWF (USA) <Darvin.Messer@usace.army.mil>
Subject: FW: [Non-DoD Source] SWF-2020-00340 Spur 399 Extension (US 75 to US 380) USACE Project Coordination

Hi Darvin,

Would you please reach out to Mark Hull on this? Thank you!!

Jennifer Walker

Chief, Evaluation Branch Regulatory Division

U.S. Army Corps of Engineers Ft. Worth District

819 Taylor Street

Fort Worth, Texas 76102-00300

Phone - 817-886-1863

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In the Fort Worth District Regulatory Branch we continue to seek ways to improve our Program.

We would greatly appreciate your help in improving our service by completing our Customer Service Survey.

We review these results on a monthly basis and truly welcome all feedback.

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Fort Worth Regulatory Home Page

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From: Mark Hull <Mark.Hull@txdot.gov>

Sent: Wednesday, December 01, 2021 11:36 AM

To: Walker, Jennifer R CIV USARMY CESWF (USA) <Jennifer.R.Walker2@usace.army.mil>

Subject: [Non-DoD Source] SWF-2020-00340 Spur 399 Extension (US 75 to US 380) USACE Project Coordination

Jennifer,

I haven't heard who will be taking over this 214 Agreement Project; therefore, I'm requesting an upload link to submit the Water Feature Report/Wetland Delineation Report and Impacts Table for the above referenced project for the USACE review and comments. Barry's procedure was the NJD/Concurrence Letter so that is how this project was planned. Once we receive the USACE comments, we will:

- * Develop the Alternative Analysis Memo
- * Submit the Alternative Analysis Memo For USACE Review
- * TxDOT Preferred Alternative/USACE LEDPA Concurrence

Mark Hull, Ph.D.

Environmental Specialist

Water Resource SME

Dallas District - ENV

Texas Department of Transportation

4777 East Highway 80

Mesquite, Texas 75150

(214) 320-6123 office

(214) 320-4470 FAX

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txdot%2Fmedia-
center%2Ffeatured.html&data=04%7C01%7Cmark.hull%40txdot.gov%7C28f69ba97c17432a950f08d9d51f73ab%7C
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Klx6nu5Irun5AWQvSChyCjWI%3D&reserved=0>

Appendix E-2: Tribal Coordination

From: [Scott Pletka](#)
To: [jrohre@mycaddonation.com](#); [bgonzalez@mycaddonation.com](#); [martina.minthorn@comanchenation.com](#); [theodorev@comanchenation.com](#); [jflynn@jenachotaw.org](#); [mattocknie@kiowatribe.org](#); [holly@mathpo.org](#); [tonya@shawnee-tribe.com](#); [mallen@tonkawatribe.com](#); [lbrown@tonkawatribe.com](#); [Terri.Parton@wichitatribe.com](#); [robin.williams@wichitatribe.com](#); [mary.botone@wichitatribe.com](#); [gary.mcadams@wichitatribe.com](#)
Subject: Section 106 Consultation Request - 0364-04-051, Spur 399 Extension, Collin County, Dallas District
Date: Monday, March 14, 2022 11:10:00 AM

Sec. 106 Consultation

MARCH 14, 2022

Contacts:

[Scott Pletka](#)
512-416-2631

Notice:

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 9,

We kindly request your comments on historic properties of cultural or religious significance to your Tribe that may be affected by the proposed project. Please see the following summary for project details and information. To access the associated reports, which include a detailed project description, APE definition and identification efforts, use the attached link. After 30 days, the link will expire. We will provide an updated link upon request. This project will also be included during our monthly Sec. 106 conference call every third Wednesday of the month at 2 p.m.

Summary:

| | |
|---|--|
| <i>Project ID (CSJ), Roadway, Limits, County and TxDOT District</i> | <i>CSJ: 0364-04-051, Spur 399 from US 75 to SH 5, Collin County, Dallas District</i> |
| <i>Lat/Longs:</i> | <i>Begin:33.1671936, -96.6291835 End:33.1580089, -96.6455560</i> |
| <i>Project Sponsor:</i> | <i>TxDOT</i> |
| <i>Consultation Status:</i> | <input type="checkbox"/> Initial Consultation <input checked="" type="checkbox"/> Continuation of Consultation <i>Reason(s): Initial survey completed</i> |
| <i>Short Description:</i> | <i>Construct new roadway lanes</i> |
| <i>New Right of Way:</i> | <i>326.1 acres</i> |
| <i>Depth of Impacts:</i> | <i>The estimated depth of impacts is typically five feet with a maximum depth of impacts of 40 feet.</i> |
| <i>Known Archeological Sites or Properties in project area:</i> | <i>Two previously-identified historic-age farmsteads (41COL168 and 41COL776) could not be relocated and have been destroyed by previous development; those two sites had been determined to not be eligible for inclusion in the National Register of Historic Places.</i> <i>The survey identified one new site, 41COL358. This new site is a scatter of trash dating to the 1960's and 1970's. The new site is recommended as ineligible for inclusion in the National Register of Historic Places.</i> |
| <i>Identification Efforts:</i> | <i>Survey</i> |
| <i>Recommendations:</i> | <i>No historic properties affected within surveyed areas; complete survey once access obtained to remainder of APE</i> |
| <i>Link to Detailed Report:</i> | https://txdot.box.com/s/pzas67shoe8ntk0sf912j8oa08nec20i |

Please provide any comments that you may have on the TxDOT findings and recommendations. Please provide your comments within 30 days of receipt of this letter. Any comments provided after that time will be addressed to the fullest extent possible.

*2019, and
executed by
FHWA and
TxDOT.*

Cannon-Mackey, Shari

From: Martina Minthorn <Martina.Minthorn@comanchenation.com>
Sent: Tuesday, October 19, 2021 4:42 PM
To: Laura Cruzada
Subject: RE: TxDOT CSJ: 0364-04-051, Spur 399, Roadway Extension; Collin County, Dallas District
Attachments: RE TxDOT CSJ 0364-04-051, Spur 399, Roadway Extension Collin County, Dallas District.docx

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Dear Mrs. Laura Cruzada,

In response to your request, the above reference project has been reviewed by staff of this office to identify areas that may potentially contain prehistoric or historic archeological materials. The location of your project has been cross referenced with the Comanche Nation site files, where an indication of "No Properties" have been identified. (IAW 36 CFR 800.4(d)(1)).

This review is performed in order to identify and preserve the Comanche Nation and State cultural heritage, in conjunction with the State Historic Preservation Office. Please contact the Comanche Nation Tribal Historical Preservation Office at (580) 595-9618, if you require additional information on this project.

Best Regards,

Martina Minthorn

Comanche Nation
Tribal Historic Preservation Officer (THPO)
6 SW D Ave., Suite C
Lawton, OK 73501
(580) 595-9618 Phone
(580) 595-9733 Fax
Martina.Minthorn@comanchenation.com



Enchanted Rock, Texas

"To preserve historic and sacred landmarks of the Comanche Nation"

COMANCHE NATION

October 19, 2021

Texas Department of Transportation (TXDOT)
Public Involvement Specialist & Tribal Liaison
ATT: Laura Cruzada
125 E. 11th Street
Austin TX 78701

RE: TxDOT CSJ: 0364-04-051, Spur 399, Roadway Extension; Collin County, Dallas District

Dear Mrs. Laura Cruzada,

In response to your request, the above reference project has been reviewed by staff of this office to identify areas that may potentially contain prehistoric or historic archeological materials. The location of your project has been cross referenced with the Comanche Nation site files, where an indication of ***"No Properties"*** have been identified. (IAW 36 CFR 800.4(d)(1)).

This review is performed in order to identify and preserve the Comanche Nation and State cultural heritage, in conjunction with the State Historic Preservation Office. Please contact the Comanche Nation Tribal Historical Preservation Office at (580) 595-9618, if you require additional information on this project.

Best Regards,

Martina Minthorn

Comanche Nation Historic Preservation Office
Martina Minthorn, Tribal Historic Preservation Officer
#6 SW "D" Avenue, Suite C
Lawton, OK. 73501
Martina.Minthorn@comanchenation.com
(580) 595-9618/Fax (580) 595-9733

FYI: We have a new Chairman of the Comanche Nation, Mr. Mark Woommavovah, and his email address is Mark.Woommavovah@comanchenation.com

“

"To preserve historic and sacred landmarks of the Comanche Nation"

COMANCHE NATION P.O. BOX 908 LAWTON, OK 73507
TOLL FREE 1-877-492-492-4988 OR (580) 492-4988

From: Laura Cruzada <Laura.Cruzada@txdot.gov>

Sent: Friday, September 10, 2021 1:02 PM

To: mattocknie@kiowatribe.org; holly@mathpo.org; gary.mcadams@wichitatribe.com; Terri.Parton@wichitatribe.com; bgonzalez@mycaddonation.com; jflynn@jenachoctaw.org; lbrown@tonkawatribe.com; mallen@tonkawatribe.com; Martina Minthorn <Martina.Minthorn@comanchenation.com>; Theodore Villicana <Theodore.Villicana@comanchenation.com>; tonya@shawnee-tribe.com; robin.williams@wichitatribe.com; mary.botone@wichitatribe.com; jrohrer@mycaddonation.com

Cc: Allen Bettis Jr <Allen.Bettis@txdot.gov>

Subject: [EXTERNAL] TxDOT Sec. 106 Consultation Request - CSJ: 0364-04-051, Spur 399, Roadway Extension; Collin County, Dallas District

[SYSTEM: This email came from outside our organization, please exercise caution.]

Good afternoon,

Please see the details for the above referenced project, which will require intensive survey. If you'd like to participate, let me know.

Thank you for your consultation on this request.

| | |
|--|--------------------------------|
| | <h2>Sec. 106 Consultation</h2> |
|--|--------------------------------|

| |
|--------------------|
| SEPTEMBER 10, 2021 |
|--------------------|

Contacts:

[Laura Cruzada](#)
512-416-2638

We kindly request your comments on historic properties of cultural or religious significance to your Tribe that may be affected by the proposed project. Please see the following summary for project details and information. To access the associated reports, which include a detailed project description, APE definition and identification efforts, use the attached link. After 21 days, the link will expire. We will provide an updated link upon request. This project will also be included during our monthly Sec. 106 conference call every third Wednesday of the month at 2 p.m.

Summary:

| | |
|---|--|
| <i>Project ID (CSJ), County and TxDOT District</i> | <i>CSJ: 0364-04-051, Collin County, Dallas District</i> |
| <i>Project Sponsor:</i> | <i>TxDOT</i> |
| <i>Consultation Status:</i> | <input checked="" type="checkbox"/> <i>Initial Consultation</i> <input type="checkbox"/> <i>Continuation of Consultation</i> <i>Reason(s):</i> |
| <i>Short Description:</i> | <i>Spur 399, Roadway Extension</i> |
| <i>Lat/Longs:</i> | <i>Begin: 33° 10' 01.89" N 96° 37' 95.06" W</i> <i>End: 33° 09' 28.83" N 96° 38' 44.00" W</i> |
| <i>New Right of Way:</i> | <i>The amount of acreage for the proposed new ROW has not been determined at this time (no easements needed)</i> |
| <i>Depth of Impacts:</i> | <i>5.0 feet typical and 50.0 feet maximum (increase of depth of construction impacts)</i> |
| <i>Known Archeological Sites or Properties in project area:</i> | <i>No recorded sites within the APE or within 150 feet of the APE</i> |
| <i>Identification Efforts:</i> | <i>Archeological Background Study</i> |
| <i>Recommendations:</i> | <i>Archeological intensive survey of APE</i> |
| <i>Link to detailed report:</i> | https://txdot.box.com/s/n9zobeasxo4621jifannvz3si7182li |

Please provide any comments that you may have on the TxDOT findings and recommendations. Please provide your comments within 30 days of receipt of this letter. Any comments provided after that time will be addressed to the fullest extent possible.

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.

Laura Cruzada
Public Involvement Specialist and Tribal Liaison
Environmental Affairs Division
laura.cruzada@txdot.gov
TxDOT office: 512-416-2638
TxDOT mobile: 737-212-3795

Appendix E-3: Texas Historical Commission



125 EAST 11TH STREET, AUSTIN, TEXAS 78701-2483 | 512.463.8588 | WWW.TXDOT.GOV

April 8, 2022

RE: CSJ: 036404051; Spur 399, Convert Non-Freeway to Freeway, Collin County, Dallas District; Section 106 Consultation and Antiquities Code Coordination; Texas Antiquities Permit No. 30310

Mr. Mark Wolfe
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711

Dear Mr. Wolfe:

As required by the Programmatic Agreement and the Memorandum of Understanding with your agency, we are initiating consultation on this project. Environmental studies are in the process of being conducted for this project. 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 9, 2019 and executed by FHWA and TxDOT. We have enclosed for your review a draft report of archeological investigations for this undertaking.

Undertaking Description

The proposed project will be undertaken with federal funds and will occur in part or in whole on non-federal public lands. TxDOT is proposing to extend Spur 399. The proposed project would build a road on new alignment. TxDOT is currently considering two alignments, and TxDOT is evaluating both alignments.

Area of Potential Effects

The project's area of potential effects (APE) comprises the following area.

- The project limits extend from US 75 to SH 5 along Spur 399. The total project length is thus 34,320 feet, and the APE includes any existing ROW within these limits.
- The existing ROW comprises a maximum of 158.51 acres.
- Existing easements comprise approximately zero acres.
- The proposed project would require a maximum of 325.98 acres of new right of way.
- The proposed project would require zero acres of new easements.

OUR VALUES: People • Accountability • Trust • Honesty

OUR MISSION: Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

An Equal Opportunity Employer

- The proposed project would require zero acres of additional project specific locations and/or utility installations specified by the project sponsor.
- The estimated depth of impacts is typically five feet with a maximum depth of impacts of 40 feet.
- The APE is further detailed and illustrated in the attached report.

Identification Efforts

For this project, TxDOT has conducted a survey. The enclosed report of investigations has more details regarding this work. The following bullets summarize the identification efforts.

- The investigations reported here concern portions of the APE that did not warrant survey and portions of the APE that were accessible during survey.
- Archeologists undertook a survey. For this survey,
 - Zero acres had been previously surveyed or otherwise evaluated for this project;
 - Zero acres were identified as not requiring field survey, due to existing conditions of the setting identified through background research and described in the attached report;
 - 443 acres were surveyed and described in the attached report;
 - 41.6 acres still require survey due to access issues;
 - previous investigation within the APE identified 41COL168 and 41COL776; and
 - the current survey identified 41COL358.
- Identified archeological sites that are not eligible for inclusion in the National Register of Historic Places and/or that do not warrant formal designation as State Antiquities Landmarks include: 41COL168, 41COL348, and 41COL776. Sites 41COL168 and 41COL776 are historic-age farmsteads previously documented as profoundly disturbed and lacking sufficient integrity and data to qualify for inclusion in the National Register of Historic Places (NRHP) or for designation as State Antiquities Landmarks (SALs). Site 41COL358 is a mid-twentieth century artifact debris scatter that lacks sufficient data to qualify for inclusion in the NRHP or for designation as an SAL.

Effects Determination

The proposed project would have direct effects resulting from ground-disturbing construction activities within the APE. Given the results of the identification efforts, TxDOT proposes that the project will have no effect on archeological historic properties as the evaluated portions of the APE do not contain sites that are eligible for inclusion in the National Register of Historic Places or that warrant formal designation as State Antiquities Landmarks. The next section identifies the steps recommended by TxDOT based on the results of the identification efforts and this effects analysis.

OUR GOALS

MAINTAIN A SAFE SYSTEM ▪ ADDRESS CONGESTION ▪ CONNECT TEXAS COMMUNITIES ▪ BEST IN CLASS STATE AGENCY

An Equal Opportunity Employer

Recommendations

TxDOT seeks your concurrence on the following points:

- The evaluation of the identified sites is adequate.
- TxDOT did not have permission to conduct trenching, so trenching will be conducted in proximity of Wilson Creek, the East Fork of the Trinity River, and associated tributaries once access has been obtained and prior to construction.
- Once access is obtained to areas where access has been denied, TxDOT will complete required investigations prior to construction.
- TxDOT will complete reporting and consultation on the remaining required investigations prior to construction.
- The attached draft report meets the reporting requirements of the Texas Antiquities Permit issued for the investigation.

Thank you for your consideration of this matter. If you have any questions or have need of further information, please contact me at 512-865-8694

Sincerely,

Scott Pletka
Archeological Studies Branch
Environmental Affairs Division

Cc w/o attachments: ECOS Scan

From: noreply@thc.state.tx.us
To: [Scott Pletka](#); reviews@thc.state.tx.us
Subject: Section 106 Submission
Date: Friday, April 22, 2022 9:59:25 AM

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



Re: Project Review under Section 106 of the National Historic Preservation Act
THC Tracking #202208846

Date: 04/22/2022

036404051 Spur 399 Extension (Permit 30310)

Spur 399 at SH 5

McKinney, TX 75069

Description: TxDOT proposed to construct a road on new location. The submitted report is the draft archeological survey report for the accessible portions of the project area.

Dear TxDOT Staff:

Thank you for your submittal regarding the above-referenced project. This response represents the comments of the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission (THC), pursuant to review under Section 106 of the National Historic Preservation Act.

The review staff, led by Bill Martin, has completed its review and has made the following determinations based on the information submitted for review:

Archeology Comments

- No historic properties affected. However, if cultural materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue where no cultural materials are present. Please contact the THC's Archeology Division at 512-463-6096 to consult on further actions that may be necessary to protect the cultural remains.
- THC/SHPO concurs with information provided.
- This draft report is acceptable. Please submit a final report: one restricted version with any site location information (if applicable), and one public version with all site location information redacted. To facilitate review and make project information and final reports available through the Texas Archeological Sites Atlas, we appreciate submitting abstracts online at <https://xapps.thc.state.tx.us/106Review/Abstract/Create> and e-mailing survey area shapefiles to archeological_projects@thc.texas.gov if this has not already occurred. Please note that these steps are required for projects conducted under a Texas Antiquities Permit.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this review process, and for your efforts to preserve the irreplaceable heritage of Texas. If the project changes, or if new historic properties are found, please contact the review staff. If you have any questions concerning our review or if we can be of further assistance, please email the following reviewers: bill.martin@thc.texas.gov.

This response has been sent through the electronic THC review and compliance system (eTRAC). Submitting your project via eTRAC eliminates mailing delays and allows you to check the status of the review, receive an electronic response, and generate reports on your submissions. For more information, visit <http://thc.texas.gov/etrac-system>.

Sincerely,



for Mark Wolfe, State Historic Preservation Officer
Executive Director, Texas Historical Commission

Please do not respond to this email.

Appendix E-4: Texas Parks and Wildlife Department



Form

Documentation of Texas Parks and Wildlife Department Best Management Practices

Project Name: **Spur 399 Extension**

CSJ(s): **0364-04-051, 0047-05-058, 0047-10-002**

County(ies): **Collin**

Date Form Completed: **01/20/2023**

Prepared by: **Derek Green, Burns & McDonnell**

Information on state-listed species, SGCN, water resources, and other natural resources can be found in the ECOS documents tab under the filenames specified in the e-mail sent to WHAB_TXDOT@tpwd.texas.gov.

1. Does the project impact any state parks, wildlife management areas, wildlife refuges, or other designated protected areas?

☒ No

☐ Yes
2. Does TxDOT need TPWD assistance in identifying and locating Section 404 mitigation opportunities for this project?

☒ No / N/A / Not yet determined

☐ Yes
3. Is there a species or resource challenge that TPWD can assist with additional guidance? If so, describe below:

There are no species or resource challenges known at this time.

4. List all BMP that will be applied to this project per the document *Beneficial Management Practices: Avoiding, Minimizing, and Mitigating Impacts of Transportation Projects on State Natural Resources*.

***Note, these are BMP that TxDOT commits to implement at the time this form is completed. This list may change prior to or during construction based on changes to project impacts, design, etc.**

BMP to be Implemented:

- Minimize impacts to wetland and riverine habitat.
- Minimize impacts to wetland habitats including isolated ephemeral pools.

Freshwater Mussel BMP

The following Freshwater Mussel BMP apply to projects within the range and in suitable habitat for mussel SGCN found below and that are also listed on TPWD's RTEST online application.

- In addition to Water Quality and Stream Crossing BMP, follow the most recent, "TPWD-TxDOT Annual Work Plan for Pre-Construction Surveys, Aquatic Resources Relocations, and Other Best Management Practices to Avoid, Minimize, and Mitigate Impacts to Freshwater Resources."
- When work is adjacent to the water: Water Quality BMP implemented as part of the Texas Commission on Environmental Quality (TCEQ) Stormwater Pollution Prevention Plan (SWPPP) for a construction general permit or any conditions of the 401 Water Quality Certification for the project will be implemented. (Note: SWPPP and 401 BMP are not listed in this document).

Water Quality BMP

In addition to BMP required for a TCEQ Storm Water Pollution Prevention Plan and/or 401 Water Quality Certification:

- Minimize the use of equipment in streams and riparian areas during construction. When possible, equipment access should be from banks, bridge decks, or barges.
- When temporary stream crossings are unavoidable, remove stream crossings once they are no longer needed and stabilize banks and soils around the crossing.
- Wet-Bottomed detention ponds are recommended to benefit wildlife and downstream water quality. Consider potential wildlife-vehicle interactions when siting detention ponds.
- Rubbish found near bridges on TxDOT ROW should be removed and disposed of properly to minimize the risk of pollution. Rubbish does not include brush piles or snags.

Stream Crossing BMP

- Use spanning bridges rather than culverts.
- If using a culvert, staggered culverts that concentrate low flows but provide conveyance of higher flows through staggered culverts placed at higher elevations is recommended.
- Bottomless culverts are recommended to allow for fish and other aquatic wildlife passage in the low flow channel. If bottomless culverts are not used, making a low flow channel for fish passage is recommended.
- Avoid placing riprap across stream channels and instead use alternative stabilization such as biotechnical stream bank stabilization methods including live native vegetation or a combination of vegetative and structural materials. When riprap or other bank stabilization devices are necessary, their placement should not impede the movement of aquatic and terrestrial wildlife underneath the bridge. In some instances, rip rap may be buried, back-filled with topsoil and planted with native vegetation.
- Incorporate bat-friendly design into bridges and culverts.
- Design bridges for adequate vertical and horizontal clearances under the roadway to allow for terrestrial wildlife to safely pass under the road.
- A span wide enough to cross the stream and allow for dry ground and a natural surface path under the roadway is encouraged. For culverts, incorporation of an artificial ledge inside the culvert on one or both sides for use by terrestrial wildlife is recommended.
- Riparian buffer zones should remain undisturbed.

Bird BMP

In addition to complying with the Migratory Bird Treaty Act (MBTA) and Chapter 64 of the Parks and Wildlife Code (PWC) regarding nongame bird protections, perform the following BMP:

- Avoid vegetation clearing activities during the general bird nesting season, March through August, to minimize adverse impacts to birds.

- Prior to construction, perform daytime surveys for nests including under bridges and in culverts to determine if they are active before removal. Nests that are active should not be disturbed. If active nests are observed during surveys, TPWD recommends a 150-foot buffer of vegetation remain around the nests until the young have fledged or the nest is abandoned.
- Do not disturb, destroy, or remove active nests, including ground nesting birds, during the nesting season.
- If unoccupied, inactive nests will be removed, ensure that nests are not protected under the Endangered Species Act (ESA), MBTA, or BGEPA.
- Prevent the establishment of active nests during the nesting season on TxDOT owned and operated facilities and structures proposed for replacement or repair.
- Do not collect, capture, relocate, or transport birds, eggs, young, or active nests without a permit.
- Minimize extended human presence near nesting birds during construction and maintenance activities. Protect sensitive habitat areas with temporary barriers or fencing to limit human foot-traffic and off-road vehicle use to alert and discourage contractors from causing any unintentional impacts.
- Minimize construction noise above ambient levels during general bird nesting season to minimize adverse impacts on birds.
- Minimize construction lighting during the general bird nesting season by scheduling work activities between dawn and dusk.

Aquatic Amphibian and Reptile BMP

- For projects within existing right-of-way (ROW) when work is in water or will permanently impact a water feature and potential habitat exists for the target species complete the following:
 - Minimize impacts to wetlands, temporary and permanent open water features, including depressions, and riverine habitats.
 - Maintain the existing hydrologic regime and any connections between wetlands and other aquatic features.
 - Use barrier fencing to direct animal movements away from construction activities and areas of potential wildlife-vehicle collisions in construction areas directly adjacent, or that may directly impact, potential habitat for the target species.
 - Apply hydromulching and/or hydroseeding in areas for soil stabilization and/or revegetation of disturbed areas around wetlands and in riparian areas. If erosion control blankets or mats will be used, the product should not contain netting, but should only contain loosely woven natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic netting should be avoided.
 - Project specific locations (PSLs) proposed within state-owned ROW should be located in uplands away from aquatic features.
 - When work is directly adjacent to the water, minimize impacts to shoreline basking sites (e.g., downed trees, sand bars, exposed bedrock) and refugia/overwinter sites (e.g., brush and debris piles, crayfish burrows, aquatic logjams, and leaf packs).
 - If gutters and curbs are part of the roadway design, install gutters that do not include the side box inlet and include sloped (i.e., mountable) curbs to allow small animals to leave roadway. If this modification to the entire curb system is not possible, install sections of sloped curb on either side of the storm water drain for several feet to allow small animals to leave the roadway. Priority areas for these design recommendations are those with nearby wetlands or other aquatic features.
- For projects that require acquisition of additional ROW and work within that new ROW is in water or will permanently impact a water feature, implement BMP for projects within existing ROW above plus those below:
 - For sections of roadway adjacent to wetlands or other aquatic features, install wildlife barriers that prevent climbing. Barriers should terminate at culvert openings in order to funnel animals under the road. The barriers should be of the same length as the adjacent feature or 80 feet long in each direction, or whichever is the lesser of the two.
 - For culvert extensions and culvert replacement/installation, incorporate measures to funnel animals toward culverts such as concrete wingwalls and barrier walls with overhangs.
 - When riprap or other bank stabilization devices are necessary, their placement should not impede the movement of terrestrial or aquatic wildlife through the water feature. Biotechnical streambank stabilization methods using live native vegetation or a combination of vegetative and structural materials should be used.

Terrestrial Amphibian and Reptile BMP

- For open trenches and excavated pits, install escape ramps at an angle of less than 45 degrees (1:1) in areas left uncovered. Visually inspect excavation areas for trapped wildlife prior to backfilling

- Avoid or minimize disturbing or removing cover objects, such as downed trees, rotting stumps, brush piles, and leaf litter. If avoidance or minimization is not practicable, consider removing cover objects prior to the start of the project and replace them at project completion.
- Examine heavy equipment stored on site before use, particularly after rain events when reptile and amphibian movements occur more often, to ensure use will not harm individuals that might be seeking temporary refuge.
- Due to increased activity (mating) of reptiles and amphibian during the spring, construction activities like clearing or grading should attempt to be scheduled outside of the spring (March-May) season. Also, timing ground disturbing activities before October when reptiles and amphibians become less active and may be using burrows in the project area is also encouraged.
- When designing roads with curbs, consider using Type I or Type III curbs to provide a gentle slope to enable turtles and small animals to get out of roadways.
- If Texas tortoises (*Gopherus berlandieri*) or box turtles (*Terrepenne spp.*) are present in a project area, they should be removed from the area and relocated between 100 and 200 meters from the project area. After removal of the individuals, the area that will be disturbed during active construction and project specific locations should be fenced off to exclude reentry by turtles, tortoises, and other reptiles. The exclusion fence should be constructed and maintained as follows:
 - The exclusion fence should be constructed with metal flashing or drift fence material.
 - Rolled erosion control mesh material should not be used.
 - The exclusion fence should be buried at least 6 inches deep and be at least 24 inches high.
 - The exclusion fence should be maintained for the life of the project and only removed after the construction is completed and the disturbed site has been revegetated.
- After project is complete, revegetate disturbed areas with an appropriate locally sourced native seed mix. If erosion control blankets or mats will be used, the product should not contain netting, but should only contain loosely woven natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic netting should be avoided.

Vegetation BMP

- Minimize the amount of vegetation cleared. Removal of native vegetation, particularly mature native trees and shrubs should be avoided. Impacted vegetation should be replaced with in-kind onsite replacement/restoration of native vegetation.
- To minimize adverse effects, activities should be planned to preserve mature trees, particularly acorn, nut or berry producing varieties. These types of vegetation have high value to wildlife as food and cover.
- It is strongly recommended that trees greater than 12 inches in diameter at breast height (DBH) that are removed be replaced. TPWD's experience indicates that for ecologically effective replacement, a ratio of three trees for every one (3:1) lost should be provided to either on-site or off-site. Trees less than 12 inches DBH should be replaced at a 1:1 ratio.
- Replacement trees should be of equal or better wildlife quality than those removed and be regionally adapted native species.
- When trees are planted, a maintenance plan that ensures at least an 85 percent survival rate after three years should be developed for the replacement trees.
- The use of any non-native vegetation in landscaping and revegetation is discouraged. Locally adapted native species should be used.
- The use of seed mix that contains seeds from only regional ecotype native species is recommended.

Aquatic Invertebrate BMP

- For projects within the range of a SGCN or state-listed species and work is adjacent to water: Water Quality and Stream Crossing BMP.
- For projects within the range of a SGCN or state-listed species and work is in the water: Water Quality, Stream Crossing, and Dewatering BMP.
- For spring-seep associated caddisflies (*Cheumatopsyche morsei*, *Chimarra holzenthali*, and *Hydroptila ouachita*): Avoid or minimize impacts to the natural riparian buffer along stream channel including native shrubs and trees.

Bat BMP

The following Bat BMP apply to projects within the range and in suitable habitat for all bat SGCN and that are also listed on TPWD's RTEST online application. Review the habitat descriptions for species of interest on RTEST and other trusted resources to determine the appropriate beneficial management practice to avoid or minimize impacts to bats. All bat surveys and other activities that include direct contact with bats shall comply with TPWD-recommended white-nose syndrome protocols located on the TPWD Wildlife Habitat Assessment Program website under "Project Design and Construction". The following survey and exclusion protocols should be followed prior to

commencement of construction activities. For the purposes of this document, structures are defined as bridges, culverts (concrete or metal), wells, and buildings.

- Inform TPWD WHAB during initial collaborative review phase for projects that may impact the following bat species:
 - Any *Myotis* spp.
 - Tricolored bat (*Perimyotis subflavus*)
- If identification of a bat species is in question, consult with TPWD or a qualified TxDOT biologist during initial collaborative review phase.
- For activities that have the potential to impact structures, cliffs or caves, or trees; a qualified biologist will perform a habitat assessment and occupancy survey of the feature(s) with roost potential as early in the planning process as possible or within one year before project letting.
- For roosts where occupancy is strongly suspected but unconfirmed during the initial survey, revisit feature(s) at most four weeks prior to scheduled disturbance to confirm absence of bats.
- If bats are present or recent signs of occupation (i.e., piles of guano, distinct musky odor, or staining and rub marks at potential entry points) are observed, take appropriate measures to ensure that bats are not harmed, such as implementing non-lethal exclusion activities or timing or phasing of construction.
- Exclusion devices can be installed by a qualified individual between September 1 and March 31. Exclusion devices should be used for a minimum of seven days when minimum nighttime temperatures are above 50°F AND minimum daytime temperatures are above 70°F. Prior to exclusion, ensure that alternate roosting habitat is available in the immediate area. If no suitable roosting habitat is available, installation of alternate roosts is recommended to replace the loss of an occupied roost. If alternate roost sites are not provided, bats may seek shelter in other inappropriate sites, such as buildings, in the surrounding area.
- If feature(s) used by bats are removed as a result of construction, replacement structures should incorporate bat-friendly design or artificial roosts should be constructed to replace these features.
- Conversion of property containing cave or cliff features to transportation purposes should be avoided.
- Avoid unnecessary removal of dead fronds on native and ornamental palm trees in south Texas (Cameron, Hidalgo, Willacy, Kenedy, Brooks, Kleberg, Nueces, and San Patricio counties) from April 1 through October 31. If removal of dead fronds is necessary at other times of the year, limit frond removal to extended warm periods (nighttime temperatures $\geq 55^{\circ}\text{F}$ for at least two consecutive nights), so bats can move away from the disturbance and find new roosts.
- Large hollow trees, snags (dead standing trees), and trees with shaggy bark should be surveyed for colonies and, if found, should not be disturbed until the bats are no longer occupying these features. Post-occupancy surveys should be conducted by a qualified biologist prior to tree removal from the landscape.
- Retain mature, large diameter hardwood forest species and native/ornamental palm trees.
- If gating a cave or abandoned mine is desired, consult with TPWD before installing gates. Gating should only be conducted by qualified groups with a history of successful gating operations. Gate designs must be approved by TPWD.
- In all instances, avoid harm or death to bats. Bats should only be handled as a last resort and after communication with TPWD.
- Coordinate with TPWD about the latest bat handling restrictions and protocols involving COVID19 and bat handling. In general, all staff must follow the guidelines listed below:
 - Do not handle bats if not part of a critical or time-sensitive research project. Contact TPWD to discuss your project needs before beginning work.
 - All participants must follow CDC social-distancing guidelines.
 - Wear a face mask to minimize the exchange of respiratory droplets such as a surgical mask, dust mask, or cloth mask when within 6 feet of a living bat.
 - Use disposable exam gloves or other reusable gloves (e.g., rubber dish-washing gloves) that can be decontaminated to prevent spread of pathogens. Do not touch your face or other potentially contaminated surfaces with your gloves prior to handling bats.
 - Limit handling to as few handlers as possible.
 - Do not blow on bats for any reason.
 - Use separate temporary holding containers for each bat such as disposable paper bags.
 - Caves housing bats should be avoided unless absolutely necessary.
 - Implement additional disinfection, quarantine, and cleaning procedures.
- Bat surveys of structures should include visual inspections of structural fissures (cracked or spalled concrete, damaged or split beams, split or damaged timber railings), crevices (expansion joints, space between parallel beams, spaces above supports piers), and alternative structures (drainage pipes, bolt cavities, open sections between support beams, swallow nests) for the presence of bats.
- Before excluding bats from any occupied structure, bat species, weather, temperature, season, and geographic location must be incorporated into any exclusion plans to avoid unnecessary harm or death to

bats. Winter exclusion must entail a survey to confirm either, 1) bats are absent or 2) present but active (i.e., continuously active – not intermittently active due to arousals from hibernation).

- Avoid using materials that degrade quickly, like paper, steel wool or rags, to close holes.
 - Avoid using products or making structural modifications that may block natural ventilation, like hanging plastic sheeting over an active roost entrance, thereby altering roost microclimate.
 - Avoid using chemical and ultrasonic repellents.
 - Avoid use of silicone, polyurethane or similar non-water-based caulk products.
 - Avoid use of expandable foam products at occupied sites.
 - Avoid the use of flexible netting attached with duct tape.
- In order to avoid entombing bats, exclusion activities should be only implemented by a qualified individual. A qualified individual or company should possess at least the following minimum qualifications:
 - Experience in bat exclusion (the individual, not just the company).
 - Proof of rabies pre-exposure vaccinations.
 - Demonstrated knowledge of the relevant bat species, including maternity season date range and habitat requirements.
 - Demonstrated knowledge of rabies and histoplasmosis in relation to bat roosts.
- Contact TPWD for additional resources and information to assist in executing successful bat exclusions that will avoid unnecessary harm or death in bats.

General Design and Construction BMP

- Employees and contractors will be provided information prior to start of construction to educate personnel of the potential for all state-listed threatened species or other SGCN to occur within the project area and should be advised of relevant rules and regulations to protect plants, fish, and wildlife.
- Contractors will be informed to avoid harming all wildlife species if encountered and allow them to safely leave the project site. Due diligence should be used to avoid killing or harming any wildlife species in the implementation of transportation projects.
- Direct animals away from the construction area with the judicious use and placement of sediment control fencing to exclude wildlife. Exclusion fence should be buried at least 6 inches and be at least 24 inches high, maintained for the life of the project, and removed after construction is completed. Contractors should examine the inside of the exclusion area daily to determine if any wildlife species have been trapped inside the area of impact and provide safe egress opportunities prior to initiation of construction activities.
- Apply hydromulching and/or hydroseeding in areas for soil stabilization and/or revegetation of disturbed areas around wetlands and in riparian areas.
- If erosion control blankets or mats will be used, the product should not contain netting, but should only contain loosely woven natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic netting should be avoided.
- Project staging areas, stockpiles, temporary construction easements, and other project related sites should be situated in previously disturbed areas to avoid or minimize impacts to sensitive or unique habitats including intact native vegetation, floodplains, riparian corridors, wetlands, playa lakes, and habitat for wildlife species.
- When lighting is added, consider wildlife impacts from light pollution and incorporating dark-sky practices into design strategies. Minimize sky glow by focusing light downward, with full cutoff luminaires to avoid light emitting above the horizontal. The minimum amount of night-time lighting needed for safety and security should be used.

Rare Plant BMP

- Survey project area during appropriate seasons to allow for correct species identification. Habitat and survey seasons are usually during the flowering and/or fruiting period listed on the RTEST website, if available. Surveys should be performed within suitable habitat for the species. Survey effort is project-, species- and habitat-dependent. Botanical field surveys should be conducted by qualified individual(s) with botanical experience and according to commonly accepted survey protocols. Ensure that any equipment, tools, footwear and clothing are clean prior to entering the project site area to avoid introducing invasive species. Prior to surveying, TPWD Staff is available to provide assistance with species identification and appropriate survey effort.
- If SGCN plants are located, the surveyor should attempt to determine the complete extent of the occurrence and the approximate number of individuals within the occurrence. Suitable GPS equipment should be used to map the boundaries of the population. Photographs should be taken and/or voucher specimens should be collected (if sufficient plants are present, i.e., more than 10 reproductive plants). Please note that a state collection permit is required from TPWD to collect voucher specimens of state-listed species and a federal collection permit is required from U.S. Fish and Wildlife Service (USFWS) to collect federally listed species. Photographs should capture diagnostic characters of the species for

verification and should be discussed with TPWD Staff prior to surveys if surveyor is unfamiliar with the species. Vouchers should be deposited with TPWD Staff or in one of Texas' major herbaria (e.g., University of Texas at Austin, Botanical Research Institute of Texas, Texas A&M University, Sul Ross State University, etc.).

- If there is a known TXNDD SGCN plant population within the project area and project timing or other constraints do not allow for surveys, contact TPWD Transportation Staff as soon as possible to discuss other options.
- If an SGCN plant species is located during surveys of the project area, then complete the following during the construction phase:
 - a. Avoid impacts and minimize unavoidable impacts. Plant locations should be protected with temporary barrier fencing and contractors should be instructed to avoid protected areas. Conducting construction outside of the growing season or after a plant has produced mature fruit is the preferred way to avoid/minimize impacts to SGCN plant populations. Staging areas, stockpiles, and other project related sites on TxDOT ROW should not impact SGCN plant populations. After construction begins, minimize herbicide use near SGCN plant populations (if possible, use hand-held spot sprayers, several meters from rare plants, on still or days with little wind).
 - b. If there are unintended impacts to SGCN populations, these impacts should be reported to TPWD Transportation Staff.
 - c. If the project footprint is finalized or is subject to change AND impacts to SGCN plants cannot be avoided, notify TPWD Transportation Staff as soon as possible. Early notification will allow adequate time and opportunity to seed bank or otherwise conserve populations prior to construction.
- Submit observation(s) of SGCN plant populations and associated data to the TXNDD and WHAB_TxDOT@tpwd.texas.gov. A TXNDD Reporting Form with shapefiles delineating the outer boundary of the population are preferable. Include detailed information on who identified and how a species was identified (resources/references used; diagnostic characters observed). If an SGCN plant population is located near non-native invasive plants, this should be recorded and reported in TXNDD Reporting Form.
- Although these BMP do not apply to federally listed species, the observation of federally listed species should also be submitted to TPWD.
- During project period, conduct work during times of the year when plants are dormant and/or conditions minimize disturbance of the habitat.
- Develop a plan based on growing season, mower height/season, etc. for protecting sites into future. Maps should also be developed for rare plant area, which includes no mow areas. Known rare plant sites on ROWs and/or new sites found in future projects can be added to this map/plan.
- Conducting maintenance outside of the growing season or after a plant has produced mature fruit is the preferred way to avoid/minimize impacts to habitat.

Invasive Species BMP: Avoiding, Minimizing, and Mitigating Impacts of Transportation Projects on State Natural Resources

- For all work in water bodies designated as 'infested' or 'positive' for invasive zebra (*Dreissena polymorpha*) or quagga mussels (*Dreissena bugensis*) on <http://texasinvasives.org/zebramussels/> as well as waters downstream of these lakes, all machinery, equipment, vessels, or vehicles coming in contact with such waters should be cleaned prior to leaving the site to remove any mud, plants, organisms, or debris, water drained (if applicable), and dried completely before use in another water body to prevent the potential spread of invasive mussels.
- Care should be taken to prevent the spread of aquatic and terrestrial invasive plants during construction activities. Educate contractors on how to identify common invasive plants and the importance of proper equipment cleaning, transport, and disposal of invasive plants in a manner and location that prevents spread when invasive plants are removed during construction.
- Care should be taken to avoid the spread of aquatic invasive plants such as giant Salvinia (*Salvinia molesta*), common salvinia (*Salvinia minima*), hydrilla (*Hydrilla verticillata*), water hyacinth (*Eichhornia spp.*), Eurasian watermilfoil (*Myriophyllum spicatum*), water lettuce (*Pistia stratiotes*), and alligatorweed (*Alternanthera philoxeroides*) from infested water bodies into areas not currently infested. All machinery, equipment, vessels, boat trailers, or vehicles coming in contact with waters containing aquatic invasive plant species should be cleaned prior to leaving the site to remove all aquatic plant material and dried completely before use on another water body to prevent the potential spread of invasive plants. Removed plants should be transported for disposal in a secure manner to prevent dispersal.
- Colonization by invasive plants should be actively prevented on disturbed sites in terrestrial habitats. Vegetation management should include removing or chemically treating invasive species as soon as practical while allowing the existing native plants to revegetate the disturbed areas; repeated removal or treatment efforts may be needed. Only native or non-invasive plants should be planted. Care should be taken to avoid mowing invasive giant reed (*Arundo donax*), which spreads by fragmentation, and to clean



equipment if inadvertently mowed to prevent spread. If using hay bales for sediment control, use locally grown weed-free hay to prevent the spread of invasive species. Leave the hay bales in place and allow them to break down, as this acts as mulch assisting in revegetation.

- Aquatic invasive species (e.g., tilapias (*Oreochromis spp.*, *Tilapia zillii*), suckermouth armored catfish (*Hypostomus plecostomus*, *Pterigoplichthys spp.*), Asian clams (*Corbicula fluminea*), zebra mussels (*Dreissena polymorpha*)) or those not native to the subwatershed should not be relocated but rather should be dispatched. Invasive mussels attached to native mussels should be removed and destroyed or disposed prior to relocation of the native mussels. Prohibited aquatic invasive species, designated as such in 31 TAC §57.112, should be killed upon possession.

5. List all TxDOT species protection specifications that will be applied to this project (e.g., Amphibian and Reptile Exclusion Fence, Bat Houses, etc.)

Species protection specifications to be Implemented:

None at present time.

Leslie Mirise

From: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>
Sent: Tuesday, November 22, 2022 9:06 AM
To: Christine Polito
Cc: Michelle Lueck; Dan Perge; Leslie Mirise
Subject: RE: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS
Attachments: WL49335-TxDOT-0364-04-051-EIS-11-21-2022.pdf

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Christine,

I sent the letter with that one paragraph removed without its attachment in my previous email this morning. Attached is the letter with error removed/attachment. Sorry for any confusion. If you have any questions, please let me know. Happy Holidays!

Thanks,
Suzanne

From: Christine Polito <Christine.Polito@txdot.gov>
Sent: Tuesday, November 22, 2022 8:49 AM
To: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>
Cc: Michelle Lueck <Michelle.Lueck@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Leslie Mirise <Leslie.Mirise@txdot.gov>
Subject: RE: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS

ALERT: This email came from an external source. Do not open attachments or click on links in unknown or unexpected emails.

Thank you for the clarification. Have a good Thanksgiving!

From: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>
Sent: Tuesday, November 22, 2022 8:47 AM
To: Christine Polito <Christine.Polito@txdot.gov>
Cc: Michelle Lueck <Michelle.Lueck@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Leslie Mirise <Leslie.Mirise@txdot.gov>
Subject: RE: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Christine,

Thank you for alerting me of the error. It was a mistake on my part and that one paragraph should not have been in the letter. See attached letter with that one paragraph removed.

Thanks,
Suzanne

From: Christine Polito <Christine.Polito@txdot.gov>
Sent: Tuesday, November 22, 2022 8:25 AM
To: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>
Cc: Michelle Lueck <Michelle.Lueck@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Leslie Mirise <Leslie.Mirise@txdot.gov>
Subject: RE: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS

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Suzanne,

Thank you for providing these comments. We don't need a hard copy. I do have a question about the project description information on the first page of the letter – It references a proposed solar energy facility in Tom Green County; however, our DEIS is describing a roadway improvement in Collin County. It does appear the other information in the letter is correct, but I just wanted to confirm that the solar project is not being conflated with the Spur 399 roadway.

Thank you,
Christine

From: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>
Sent: Monday, November 21, 2022 7:14 PM
To: Christine Polito <Christine.Polito@txdot.gov>
Cc: Michelle Lueck <Michelle.Lueck@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Leslie Mirise <Leslie.Mirise@txdot.gov>
Subject: RE: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Christine,

Please see attached letter for TxDOT Dallas District's EIS Spur 399 between US 75 to US 380 in Collin County (CSJ: 0364-04-051). Please let me know if TxDOT needs a hard copy to be mailed.

Sincerely,

Suzanne Walsh
Transportation Conservation Coordinator

(512) 389-4579

From: WHAB_TxDOT <WHAB_TxDOT@tpwd.texas.gov>

Sent: Friday, October 7, 2022 4:45 PM

To: Christine Polito <Christine.Polito@txdot.gov>; WHAB_TxDOT <WHAB_TxDOT@tpwd.texas.gov>

Cc: Michelle Lueck <Michelle.Lueck@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Leslie Mirise <Leslie.Mirise@txdot.gov>; Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>

Subject: RE: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS

The TPWD Wildlife Habitat Assessment Program has received your request and has assigned it project ID # 49335. The Habitat Assessment Biologist who will complete your project review is copied on this email.

Thank you,

John Ney

Administrative Assistant

Texas Parks & Wildlife Department

Wildlife Diversity Program – Habitat Assessment Program

4200 Smith School Road

Austin, TX 78744

Office: (512) 389-4571

From: Christine Polito <Christine.Polito@txdot.gov>

Sent: Friday, October 7, 2022 9:47 AM

To: WHAB_TxDOT <WHAB_TxDOT@tpwd.texas.gov>

Cc: Michelle Lueck <Michelle.Lueck@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Leslie Mirise <Leslie.Mirise@txdot.gov>

Subject: 0364-04-051, etc. Spur 399 Notice of Availability of DEIS

ALERT: This email came from an external source. Do not open attachments or click on links in unknown or unexpected emails.

Attached please find a Notice of Availability of a DRAFT environmental impact statement for the subject project. For your convenience, you can use this link to access the DEIS: <https://www.keepitmovingdallas.com/Spur399>

Type of Request: Coordination of an EIS

CSJ: 0364-04-051, etc.

Project Name: Spur 399 Extension

Project Location: McKinney, Collin County, Texas

File names for Draft EIS in ECOS (note that these are on the Documents page under the Project heading):

[0364-04-051etc APPROVED SPUR399 DEIS 2022-09-27.pdf](#)
[0364-04-051etc APPROVED SPUR399 DEIS APPENDICES A-B-C-D-E-F-G-H 2022-09-27.pdf](#)
[0364-04-051etc APPROVED SPUR399 DEIS APPENDICES I-J-K-M 2022-09-27.pdf](#)
[0364-04-051etc APPROVED SPUR399 APPENDIX O 2022-09-27.pdf](#)
[0364-04-051etc APPROVED SPUR399 DEIS APPENDICES P-Q-R 2022-09-27.pdf](#)
[0364-04-051etc APPROVED SPUR399 DEIS APPENDIX N 2022-09-27.pdf](#)
[0364-04-051etc APPROVED SPUR399 APPENDIX L 2022-09-27.pdf](#)

Thank you,

Christine Polito (*she/her/hers*)
Environmental Program Manager
Dallas Environmental
Texas Department of Transportation
4777 E. Highway 80
Mesquite, TX 75150-6643
(214) 320-6141
Christine.Polito@txdot.gov

A Texas Department of Transportation message



A Texas Department of Transportation message





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Fort Worth

Travis B. "Blake" Rowling
Dallas

Lee M. Bass
Chairman-Emeritus
Fort Worth

T. Dan Friedkin
Chairman-Emeritus
Houston

Carter P. Smith
Executive Director

November 21, 2022

Ms. Christine Polito
Environmental Project Manager
Texas Department of Transportation
4777 E. Highway 80
Mesquite, Texas 75150-6643

RE: Draft Environmental Impact Statement for Spur 399 Extension from US 75 to US 380, Collin County, Texas (CSJs: 0364-04-051, 0047-05-058, and 0047-10-082)

Dear Ms. Polito:

Texas Parks and Wildlife Department (TPWD) has reviewed the Draft Environmental Impact Statement (DEIS) upon TxDOT's Notice of Availability of DEIS received by our office on October 7, 2022, regarding the above-referenced transportation project.

TPWD, as the state agency with primary responsibility for protecting the state's fish and wildlife resources and in accordance with the authority granted by Parks and Wildlife Code (PWC) section 12.011, hereby provides the following comments and recommendations to minimize adverse impacts to natural resources. Please reference TPWD project number 49335 in any return correspondence on this project.

Project Description

Section 2.2 (page 2-6) of the DEIS included the following "Descriptions of Reasonable Alternatives and the No-Build Alternative" for the project:

"Two reasonable alternatives to extend Spur 399 are carried forward for detailed study in addition to the No-Build Alternative. The Purple Alternative and the Orange Alternative would each construct an 8-lane freeway with frontage roads primarily on new location connecting US 75 south of McKinney to US 380 east of McKinney (see Appendix A). Depending on the location, the typical freeway section would consist of four 12-foot-wide travel lanes in each direction with 10-foot-wide inside and outside shoulders and 2-lane (each 12-feet-wide), one-way frontage roads on either side of the mainlanes. Grade-separated interchanges would include 14-footwide ramps with 2-foot-wide inside shoulders and 6-foot-wide outside shoulders, with curb and gutter to support drainage. Bridges and overpasses along the mainlanes would have a desired vertical clearance of 18.5 feet, with a vertical clearance over railroads proposed at 23.5 feet. Shared-use paths (SUPs) built along the outside of the frontage roads would provide bicycle and pedestrian accommodations and support multimodal access. The anticipated ROW width needed to accommodate the proposed new location improvements ranges between 165 feet and 696 feet, with an average ROW width of approximately 400 feet⁶.

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

The Purple and Orange Alternatives share a section of “Common Alignment” from the southern terminus of the proposed action (Spur 399/US 75/SRT-SH 121 junction) extending north along SH 5 to just south of FM 546/Harry McKillop Boulevard where the alignment turns east on new location. The Common Alignment ends approximately 500 feet west of Couch Drive where the remaining portions of the Build Alternatives diverge to connect to US 380, the northern project terminus.”

Proposed Alternative in DEIS

The Orange Alternative in the DEIS is the Preferred Alternative recommended by TxDOT for this project. TxDOT’s Selected Alternative will be given in a combined Final Environmental Impact Statement (FEIS) and Record of Decision (ROD).

Previous Coordination

After attending an Agency Scoping Meeting on December 8, 2020, TPWD provided recommendations on December 22, 2020, for natural resource information, issues, or concerns for this project. TxDOT submitted a request for initial collaborative review on November 19, 2021, under the 2021 Memorandum of Understanding (MOU) and provided early environmental documents for review. TPWD determined that initial collaborative review could not be completed due to the reduced review period and requested that TxDOT review previous scoping recommendations on February 28, 2022. TxDOT provided responses to TPWD’s previous scoping recommendations on June 14, 2022.

Recommendation: TPWD recommends that Section 3.11.11 (page 3-79) of the DEIS should document the early communication between TxDOT and TPWD during the scoping period. TPWD also recommends including this letter with an attachment of TPWD’s Scoping Comments on December 22, 2020, for Agency Coordination Section in Appendix E (page 21) of the DEIS.

Recommendation: As stated in TPWD’s scoping comments on the project, TPWD prefers the shorter Purple Alternative as this alignment makes use of existing transportation corridors and has the least impacts to undeveloped areas, streams, wetlands, floodplains, and habitat for wildlife and aquatic species. All waterways and associated floodplains, riparian corridors, and wetlands, regardless of their jurisdictional status, provide valuable wildlife habitat and should be protected to the maximum extent possible. TPWD recommends selecting the Purple Alternative that would minimize adverse impacts to natural resources.

TPWD advised against and discouraged the consideration of the longer Orange Alternative due to the greater natural resource impacts, including concerns about impacts to the East Fork Trinity River, fragmentation of riparian

corridors, water quality, and increased development pressure. If TxDOT moves forward with the selection of the Orange Alternative in the FEIS, TPWD recommends the consideration of additional modifications to the Orange Alternative's alignment to further minimize natural resource impacts, particularly to Waters of the United States (WOTUS).

Comments on the DEIS

Appendix E in the DEIS includes documentation of TPWD's response on February 28, 2022, to TxDOT's initial collaborative review under the 2021 TxDOT-TPWD MOU that states "TPWD is interested in the specific measures that TxDOT will commit to implement for a project and requests that TxDOT specify all the individual BMP within a category" (page 27).

Recommendation: TPWD recommends adding the full language as previously requested for all of the individual BMP within a given BMP category and updating the DEIS. If there is a change in project design that arises during the period between the National Environmental Policy Act (NEPA) process and construction phase, TPWD understands that the list of project commitments made be revised at a later date. TxDOT projects classified as an Environmental Assessment (EA) generally include a list of the full BMP language for all individual BMPs within a given BMP category during the initial collaborative review and coordination of a Draft EA, and the DEIS should also provide the same information on project commitments. TPWD requests that the DEIS provide a list of the full BMP language for all BMP in addition to the BMP category type that TxDOT agrees to avoid, minimize, and mitigate impacts to natural resources from this project.

Appendix O in the DEIS lists TxDOT's Form "*Documentation of Texas Parks and Wildlife Department Best Management Practices*" with a date of September 29, 2021 (page 49), USWFS's Information for Planning and Consultation (IPaC) (page 56) with a date of July 5, 2022, and TPWD's Rare, Threatened, and Endangered Species of Texas by County (RTEST) (page 72) with a date of March 17, 2022. TPWD notes that an updated IPaC and RTEST were included in the DEIS compared to those submitted for initial collaborative review on November 19, 2021, under the 2021 Memorandum of Understanding (MOU), with a date of June 17, 2021, and June 22, 2021, respectively. Please note that RTEST for Collin County was updated on July 12, 2022. Further, TxDOT's Form 310.01 "*Documentation of Texas Parks and Wildlife Department Best Management Practices*" with an Effective Date of September 2021 in the DEIS has not been updated to Form 300.04 with an Effective Date of April 2022 as found on TxDOT's Natural Resources Toolkit Website (see link: [300-04-frm.docx \(live.com\)](#)).

Recommendation: TPWD recommends accessing the most recent RTEST list and TxDOT Form 300.04 to document TPWD BMP for the project and updating the DEIS.

Water Resources

Section 3.10.1 (page 3-58) of the DEIS states “*An initial impact assessment (see Appendix N) was conducted based on the Geometric Schematic Design including the proposed ROW developed for the Purple and Orange Alternatives. The Purple Alternative would result in temporary impacts of 1.00 acre (1,527 linear feet [LF]) and permanent impacts of 0.20 acre (767 LF) to WOTUS. The Orange Alternative would result in temporary impacts of 1.73 acres (2,854 LF) and permanent impacts of 0.38 acre (2,997 LF) to WOTUS. Total permanent and temporary impacts to WOTUS would be greater for the Orange Alternative compared to the Purple Alternative. Figure 3-26 below summarizes these impacts by water feature type.*

Discharges of dredged or fill material into WOTUS, including wetlands, require permit authorization from the USACE under Section 404 of the Clean Water Act (CWA) prior to the initiation of project activities involving discharges.

Typically for linear transportation projects, if no more than 0.50 acre of loss of non-tidal WOTUS occurs at a single and complete crossing, the impacts to any WOTUS, including wetlands could be authorized under NWP 14. A loss of greater than 0.50 acre would require an Individual Standard Permit. For NWP 14, a loss that exceeds 0.10 acre of discharge into a special aquatic site, including wetlands, would require a PCN. Based on the initial impact assessment described above, both the Purple and Orange Alternatives would meet the terms and conditions of NWP 14 with a PCN for the crossings of the East Fork Trinity River, Wilson Creek, and their respective tributaries, as a result of minimal loss of these water features”.

For Section 404 of the Clean Water Act authorization, it appears that TxDOT proposes to seek individual USACE Nationwide Permits (NWP) for each stream crossing rather than seeking an Individual Permit (IP) that covers the entire project. For both alternatives, all of the stream impacts are within the watershed of Lake Lavon, which has a Watershed Protection Plan to improve water quality in the watershed and assist Wilson Creek and East Fork of the Trinity River with addressing bacterial levels. The impacts are also within watersheds of segments that are on the 303(d) list for *E. coli* contamination.

Recommendation: Due to these water quality concerns as well as the concern for sedimentation into Lake Lavon, TPWD recommends that all WOTUS impacts be covered under a single IP for the entire project area, regardless of selected alternative.

Invasive Species

The DEIS does not address the potential of the project to introduce or spread invasive plants and animals during construction activities that may require equipment and materials to come into contact with inland water bodies. The colonization by invasive species, including harmful fish, shellfish, and plants, should be actively prevented when entering or leaving waters at the project site.

Recommendation: TPWD recommends implementing the following Invasive Species BMP for preventing inadvertent transfer of invasive plants and animals to and from the project site as outlined in TPWD's *Beneficial Management Practices: Avoiding, Minimizing, and Mitigating Impacts of Transportation Projects on State Natural Resources (Version September 17, 2021)*.

- For all work in water bodies designated as 'infested' or 'positive' for invasive zebra (*Dreissena polymorpha*) or quagga mussels (*Dreissena bugensis*) on <http://texasinvasives.org/zebramussels/> as well as waters downstream of these lakes, all machinery, equipment, vessels, or vehicles coming in contact with such waters should be cleaned prior to leaving the site to remove any mud, plants, organisms, or debris, water drained (if applicable), and dried completely before use in another water body to prevent the potential spread of invasive mussels.
- Care should be taken to prevent the spread of aquatic and terrestrial invasive plants during construction activities. Educate contractors on how to identify common invasive plants and the importance of proper equipment cleaning, transport, and disposal of invasive plants in a manner and location that prevents spread when invasive plants are removed during construction.
- Care should be taken to avoid the spread of aquatic invasive plants such as giant Salvinia (*Salvinia molesta*), common salvinia (*Salvinia minima*), hydrilla (*Hydrilla verticillata*), water hyacinth (*Eichhornia* spp.), Eurasian watermilfoil (*Myriophyllum spicatum*), water lettuce (*Pistia stratiotes*), and alligatorweed (*Alternanthera philoxeroides*) from infested water bodies into areas not currently infested. All machinery, equipment, vessels, boat trailers, or vehicles coming in contact with waters containing aquatic invasive plant species should be cleaned prior to leaving the site to remove all aquatic plant material and dried completely before use on another water body to prevent the potential spread of invasive plants. Removed plants should be transported for disposal in a secure manner to prevent dispersal.

- Colonization by invasive plants should be actively prevented on disturbed sites in terrestrial habitats. Vegetation management should include removing or chemically treating invasive species as soon as practical while allowing the existing native plants to revegetate the disturbed areas; repeated removal or treatment efforts may be needed. Only native or non-invasive plants should be planted. Care should be taken to avoid mowing invasive giant reed (*Arundo donax*), which spreads by fragmentation, and to clean equipment if inadvertently mowed to prevent spread. If using hay bales for sediment control, use locally grown weed-free hay to prevent the spread of invasive species. Leave the hay bales in place and allow them to break down, as this acts as mulch assisting in revegetation.
- Aquatic invasive species (e.g., tilapias (*Oreochromis* spp., *Tilapia zillii*), suckermouth armored catfish (*Hypostomus plecostomus*, *Pterigoplichthys* spp.), Asian clams (*Corbicula fluminea*), zebra mussels (*Dreissena polymorpha*)) or those not native to the subwatershed should not be relocated but rather should be dispatched. Invasive mussels attached to native mussels should be removed and destroyed or disposed prior to relocation of the native mussels. Prohibited aquatic invasive species, designated as such in 31 TAC §57.112, should be killed upon possession.

TPWD appreciates the opportunity to provide comments and recommendations for the DEIS of this project. If you have any questions, please contact me at (512) 389-4579 or Suzanne.Walsh@tpwd.texas.gov.

Sincerely,

Suzanne Walsh
Wildlife Habitat Assessment Program
Wildlife Division

SCW:49335

Attachments (1)

Suzanne Walsh

From: Suzanne Walsh
Sent: Tuesday, December 22, 2020 4:56 PM
To: Stephen Endres
Cc: Christine Polito
Subject: RE: SPUR 399 Extension Environmental Impact Statement (EIS) Invitation to Become a Participating Agency and Attend an Agency Scoping Meeting

Stephen,

This email is in response to your request for agency information, issues, or concerns about the proposed Spur 399 Extension EIS between US 75 to US 380 in Collin County (CSJ: TBD). Below is a list of topics that TPWD believes that TxDOT should consider when choosing an alternative route and should study in detail in the EIS. Please note that this list is based on the very limited amount of preliminary information TPWD has about the project and does not represent all TPWD comments and recommendations on the project. Please continue to include me in notifications about upcoming scoping meetings. TPWD would like to review and comment on the draft EIS when it is available.

TPWD prefers that the alignment selected for the project utilize existing transportation corridors to minimize impacts to undeveloped areas, such as the Purple Route. The purple route would have the least impact to floodplains, wetlands, streams, and habitat for wildlife and aquatic species.

TPWD specifically advises against and strongly discourages the selection of alignments that propose a new crossing over the East Fork Trinity River, such as the Orange Route. TPWD has concerns that the orange route would result in new disturbances to the Trinity River. The placement of the road in this area will not only have direct effects on the Trinity River, including fragmentation of the riparian area and negative impacts to water quality, but will incur development that increases impacts to the river, associated riparian habitat, floodplain, and ultimately to Lake Lavon.

TPWD recommends referring to the Texas Conservation Action Plans (TCAP), TPWD Rare, Threatened, and Endangered Species of Texas (RTEST) by County application, and the Texas Natural Diversity Database (TXNDD), and Ecological Mapping System of Texas (EMST) for information regarding sensitive resources potentially occurring in the area, priority habitats, and issues affecting sensitive resources within Collin County and avoid adverse impacts to these resources by route selection and or adjustments.

TPWD recommends TxDOT consider potential impacts to wildlife travel corridors and incorporate wildlife crossings into design strategies to avoid further fragmentation of native habitats and minimize wildlife-vehicle interactions. Further, TPWD encourages TxDOT to consider opportunities within the study area to modify bridges and culverts to further enhance wildlife passage. Bridges and culverts can be modified by installing fences to direct wildlife to structures, creating pathways or installing passage benches/artificial ledges for wildlife movement, regularly cleaning out debris material from structures to ensure wildlife use, or incorporating vegetative cover to encourage wildlife to use structures.

TPWD recommends choosing the alignment with the least impact on wetlands and streams. Impacts at stream crossings should be minimized during the design phase by spanning stream channels and other water features when feasible, reducing culvert lengths, and utilizing metal-beam guard fence to increase slope angles and reduce embankment. To further minimize impacts, where culverts are used for road crossings, the crossings should be designed with the culvert(s) in the active channel area lower than those in the floodplain benches so that the flow in the channel is not overly spread out. The central/low-flow culvert(s) should be large enough to handle a 1.5-year flow without backing up water. The bottoms of these lower culverts should be set at least a foot below grade (i.e. recessed) to allow natural

substrate to cover the culvert bottom and to allow for aquatic organism passage. These lower, recessed culverts should be installed in the thalweg or deepest part of the channel and be aligned with the low flow channel.

State-listed mussels have the potential to occur within perennial streams or intermittent streams with perennial pools in Collin County. TPWD recommends further evaluating species where suitable habitat may be present and relocating potentially impacted native aquatic resources in conjunction with a Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters and an Aquatic Resource Relocation Plan (ARRP) if dewatering activities are required. ARRPs assist in the permitting process to ensure that aquatic organisms are being handled properly and protected from danger during dewatering and/or relocation activities. The ARRP should be completed and approved by TPWD 30 days prior to activity within project waters and/or resource relocation and submitted with an application for a no-cost Permit to Introduce Fish, Shellfish, or Aquatic Plants into Public Waters. ARRPs can be submitted to Bregan Brown, TPWD Region 2 Kills and Spills Team (KAST) Biologist at (903) 520-3821 cell or kirian.brown@tpwd.texas.gov.

TPWD recommends TxDOT consider wildlife impacts from light pollution and incorporating dark-sky lighting practices into design strategies. When lighting is added, TPWD recommends minimizing sky glow by focusing light downward, with full cutoff luminaires to avoid light emitting above the horizontal. TPWD recommends using the minimum amount of night-time lighting needed for safety and security and to use dark-sky friendly lighting that is on only when needed, down-shielded, as bright as needed, and minimizing blue light emissions. Appropriate lighting technologies and beneficial management practices (BMPs) can be found on the International Dark-Sky Association website at: <https://www.darksky.org/>

The Land and Water Resource Conservation and Recreation Plan (LWRCRP) inventory indicated parks located within the project area. The TPWD Recreation Grants Program should be contacted to determine whether TxDOT's proposed Spur 399 Extension project may impact Land and Water Conservation Fund (LWCF) projects. The TPWD Recreation Grants Program can be contacted by email at rec.grants@tpwd.texas.gov or by phone at (512) 389-8224 (<https://tpwd.texas.gov/business/grants/recreation-grants/contact-us/contact-us>).

TPWD appreciates the opportunity to provide comments on the proposed Spur 399 Extension EIS in Collin County.

Sincerely,

Suzanne Walsh
Transportation Conservation Coordinator
TPWD – Wildlife Habitat Assessment Program
Phone: (512) 389-4579
Suzanne.Walsh@tpwd.texas.gov

From: Suzanne Walsh
Sent: Tuesday, December 1, 2020 1:40 PM
To: Stephen Endres <Stephen.Endres@txdot.gov>
Cc: Christine Polito <Christine.Polito@txdot.gov>
Subject: RE: SPUR 399 Extension Environmental Impact Statement (EIS) Invitation to Become a Participating Agency and Attend an Agency Scoping Meeting

Thank you for your letter of November 23, 2020 inviting the Texas Parks and Wildlife Department (TPWD) to become a Participating Agency for the preparation of an Environmental Impact Statement for Spur 399 Extension in Collin County. TPWD appreciates the opportunity to participate in the environmental review process, and this email acknowledges that TPWD will act as a participating agency for this project. If you have any questions, please contact me at (512) 389-4579.

Sincerely,

Suzanne Walsh
Transportation Conservation Coordinator
Wildlife Division – Wildlife Habitat Assessment Program
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, TX 78744
Phone: (512) 389-4579
Suzanne.Walsh@tpwd.texas.gov

From: Stephen Endres <Stephen.Endres@txdot.gov>
Sent: Tuesday, November 24, 2020 9:23 AM
To: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>
Cc: Christine Polito <Christine.Polito@txdot.gov>
Subject: SPUR 399 Extension Environmental Impact Statement (EIS) Invitation to Become a Participating Agency and Attend an Agency Scoping Meeting

ALERT: This email came from an external source. Do not open attachments or click on links in unknown or unexpected emails.

Please read the attached SPUR 399 Extension Environmental Impact Statement (EIS) Invitation to Become a Participating Agency and Attend an Agency Scoping Meeting letter with attachments.

I would appreciate a response to this email that it has been received.

I am the project manager for this EIS for TxDOT. Please contact me if you have any questions.

Stephen Endres
214-320-4469

A Texas Department of Transportation message

HELP
#EndTheStreakTX

End the streak of daily deaths
on Texas roadways.

Cannon-Mackey, Shari

From: Leslie Mirise <Leslie.Mirise@txdot.gov>
Sent: Tuesday, June 14, 2022 4:07 PM
To: Suzanne Walsh
Cc: Christine Polito; Dan Perge; Stirling Robertson
Subject: RE: 0364-04-051, etc. Spur 399 - Request for initial collaborative review for an EIS

Suzanne,

To follow up on the email provided in February 2022, TxDOT has reviewed the scoping comments provided by TPWD on December 22, 2021. TxDOT will provide notification when the DEIS is available for agency review.

TPWD comment 1: TPWD prefers that the alignment selected for the project utilize existing transportation corridors to minimize impacts to undeveloped areas, such as the Purple Route. The purple route would have the least impact to floodplains, wetlands, streams, and habitat for wildlife and aquatic species.

TxDOT response 1: Comment noted. TxDOT will consider impacts to natural resources in the alternative selection process that includes impact analyses of multiple resource areas.

TPWD comment 2: TPWD specifically advises against and strongly discourages the selection of alignments that propose a new crossing over the East Fork Trinity River, such as the Orange Route. TPWD has concerns that the orange route would result in new disturbances to the Trinity River. The placement of the road in this area will not only have direct effects on the Trinity River, including fragmentation of the riparian area and negative impacts to water quality, but will incur development that increases impacts to the river, associated riparian habitat, floodplain, and ultimately to Lake Lavon.

TxDOT response 2: Comment noted. TxDOT will consider impacts to natural resources in the alternative selection process that includes impact analyses of multiple resource areas.

TPWD comment 3: TPWD recommends referring to the Texas Conservation Action Plans (TCAP), TPWD Rare, Threatened, and Endangered Species of Texas (RTEST) by County application, and the Texas Natural Diversity Database (TXNDD), and Ecological Mapping System of Texas (EMST) for information regarding sensitive resources potentially occurring in the area, priority habitats, and issues affecting sensitive resources within Collin County and avoid adverse impacts to these resources by route selection and or adjustments.

TxDOT response 3: As part of the Species Analysis process, a variety of available resources are reviewed, including, but not limited to, those referenced above.

TPWD comment 4: TPWD recommends TxDOT consider potential impacts to wildlife travel corridors and incorporate wildlife crossings into design strategies to avoid further fragmentation of native habitats and minimize wildlife-vehicle interactions. Further, TPWD encourages TxDOT to consider opportunities within the study area to modify bridges and culverts to further enhance wildlife passage. Bridges and culverts can be modified by installing fences to direct wildlife to structures, creating pathways or installing passage benches/artificial ledges for wildlife movement, regularly cleaning out debris material from structures to ensure wildlife use, or incorporating vegetative cover to encourage wildlife to use structures.

TxDOT response 4: TxDOT designs bridges and culverts to meet current hydraulic specifications. In general, these specifications span wider areas than older structures. TxDOT considers the latest available information and has conducted research into wildlife crossings. Ample space for wildlife crossings will be considered.

TPWD comment 5: TPWD recommends choosing the alignment with the least impact on wetlands and streams. Impacts at stream crossings should be minimized during the design phase by spanning stream channels and other water features when feasible, reducing culvert lengths, and utilizing metal-beam guard fence to increase slope angles and reduce

embankment. To further minimize impacts, where culverts are used for road crossings, the crossings should be designed with the culvert(s) in the active channel area lower than those in the floodplain benches so that the flow in the channel is not overly spread out. The central/low-flow culvert(s) should be large enough to handle a 1.5-year flow without backing up water. The bottoms of these lower culverts should be set at least a foot below grade (i.e., recessed) to allow natural substrate to cover the culvert bottom and to allow for aquatic organism passage. These lower, recessed culverts should be installed in the thalweg or deepest part of the channel and be aligned with the low flow channel.

TxDOT response 5: TxDOT will consider impacts to wetlands and streams in the alternative selection process that includes impact analyses for multiple resource areas. TxDOT designs culverts according to current specifications. TxDOT prioritizes bridging over culverts for fish passage, wetland avoidance, and wildlife crossings and incorporating culvert designs that allow fish passage where appropriate.

TPWD comment 6: State-listed mussels have the potential to occur within perennial streams or intermittent streams with perennial pools in Collin County. TPWD recommends further evaluating species where suitable habitat may be present and relocating potentially impacted native aquatic resources in conjunction with a Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters and an Aquatic Resource Relocation Plan (ARRP) if dewatering activities are required. ARRPs assist in the permitting process to ensure that aquatic organisms are being handled properly and protected from danger during dewatering and/or relocation activities. The ARRP should be completed and approved by TPWD 30 days prior to activity within project waters and/or resource relocation and submitted with an application for a no-cost Permit to Introduce Fish, Shellfish, or Aquatic Plants into Public Waters. ARRPs can be submitted to Bregan Brown, TPWD Region 2 Kills and Spills Team (KAST) Biologist at (903) 520-3821 cell or kirian.brown@tpwd.texas.gov.

TxDOT response 6: As part of the Species Analysis process, TxDOT investigates impacts/effects to protected freshwater mussels. In alignment with the TPWD-USFWS Joint Freshwater Mussel Survey Protocols, TxDOT will prepare an ARRP and permit application for submittal to TPWD after an alternative is selected and before suitable habitat is disturbed.

TPWD comment 7: TPWD recommends TxDOT consider wildlife impacts from light pollution and incorporating dark-sky lighting practices into design strategies. When lighting is added, TPWD recommends minimizing sky glow by focusing light downward, with full cutoff luminaires to avoid light emitting above the horizontal. TPWD recommends using the minimum amount of night-time lighting needed for safety and security and to use dark-sky friendly lighting that is on only when needed, down-shielded, as bright as needed, and minimizing blue light emissions. Appropriate lighting technologies and beneficial management practices (BMPs) can be found on the International Dark-Sky Association website at: <https://www.darksky.org/>

TxDOT response 7:

While we should maintain a realization that the reduction or elimination of light trespass must never take precedence over the provision of adequate roadway lighting, the following standard TxDOT practices go into lighting decisions.

- It is TxDOT standard practice to:
 - Evaluate if the purpose of outdoor lighting could be achieved by reflective road markers, lines, warning or informational signs or effective passive methods that preserve the night sky environment. Lighting is typically only added if there is a safety need.
 - Utilize standard fixtures with zero uplight to reduce sky glow. TxDOT standard light fixtures are luminaires specified to have a Backlight, Uplight, and Glare (BUG) rating where the luminaire has zero uplight (i.e., U=0).
 - Reduce intensity of lighting by utilizing LED lights. While TxDOTs standard color temperature is 4000K lower color temperature lighting can be specified when needed. If special wildlife situations are present color temperature of 3000K and lower are available on request. (Remember individual species may have different response to different color lighting so it may take some looking into to find the “right” color temperature for a species.)
 - Direct lighting only where needed. For safety lighting, poles are placed to best light the conflict areas. Light fixtures are oriented so that most of the light hits the roadway.
 - Prevent/limit light trespass by using the minimum height pole needed to accomplish lighting the roadway area.

TPWD comment 8: The Land and Water Resource Conservation and Recreation Plan (LWRCRP) inventory indicated parks located within the project area. The TPWD Recreation Grants Program should be contacted to determine whether TxDOT's proposed Spur 399 Extension project may impact Land and Water Conservation Fund (LWCF) projects. The TPWD Recreation Grants Program can be contacted by email at rec.grants@tpwd.texas.gov or by phone at (512) 389-8224 (<https://tpwd.texas.gov/business/grants/recreation-grants/contact-us/contact-us>).

TxDOT response 8: Comment noted. As part of the NEPA process, TxDOT would be in compliance with Chapter 26 of the Parks and Wildlife Code concerning parks located within the project area. One park, Wilson Creek Greenbelt, owned by the City of McKinney, would be impacted by the Orange Alternative. It is considered both a 4(f) and Ch 26 protected resource. Wilson Creek Park, on the south side of Wilson Creek Parkway, is listed as a LWCF 6(f) property. The area of the Wilson Creek Greenbelt that would be impacted is well south of this location. Wilson Creek Park, which appears to be renamed Towne Lake Park, received the funding in 1984. The LWCF funds would be tied to the park boundary at that time. It does not appear that this would be a 6(f) impact. Other parks in the study area are either vacant lands designated for future park/recreation use by the City of McKinney or are owned by the Town of Prosper and not open to the public for park/recreation use.

Please let me know if you have any questions or require additional information.

Thanks,

Leslie Mirise

Environmental Specialist
Dallas District – DAL-ENV
Texas Department of Transportation
4777 East Highway 80
Mesquite, Texas 75150
(214) 320-6162 office
(214) 320-4470 FAX

From: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>

Sent: Monday, February 28, 2022 5:27 PM

To: Leslie Mirise <Leslie.Mirise@txdot.gov>

Subject: RE: 0364-04-051, etc. Spur 399 - Request for initial collaborative review for an EIS

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Leslie,

I wanted to send an email to follow-up on our discussions in November and December 2021 about this project. TPWD provided recommendations on December 22, 2020 to TxDOT's request for agency information, issues, or concerns about the proposed Spur 399 Extension EIS project. Please review the TPWD scoping comments as these recommendations remain applicable to the project as proposed project.

TPWD looks forward to reviewing the draft EIS when it becomes available for public review. Please send the notice of availability of the DEIS to TPWD at WHAB_TxDOT@tpwd.texas.gov. As discussed, TPWD is interested in the specific measures that TxDOT will commit to implement for a project and requests that TxDOT specify all the individual BMP within a category. If you have any questions, please let me know.

Thanks,
Suzanne

Suzanne Walsh
Transportation Conservation Coordinator
Wildlife Division – Wildlife Habitat Assessment Program
Phone: (512) 389-4579

From: WHAB_TxDOT <WHAB_TxDOT@tpwd.texas.gov>

Sent: Friday, November 19, 2021 2:13 PM

To: Leslie Mirise <Leslie.Mirise@txdot.gov>; WHAB_TxDOT <WHAB_TxDOT@tpwd.texas.gov>; Christine Polito <Christine.Polito@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Stirling Robertson <Stirling.Robertson@txdot.gov>; Michelle Lueck <Michelle.Lueck@txdot.gov>

Cc: Suzanne Walsh <Suzanne.Walsh@tpwd.texas.gov>

Subject: RE: 0364-04-051, etc. Spur 399 - Request for initial collaborative review for an EIS

The TPWD Wildlife Habitat Assessment Program has received your request and has assigned it project ID # 47799. The Habitat Assessment Biologist who will complete your project review is copied on this email.

Thank you,

John Ney

Administrative Assistant

Texas Parks & Wildlife Department

Wildlife Diversity Program – Habitat Assessment Program

4200 Smith School Road

Austin, TX 78744

Office: (512) 389-4571

From: Leslie Mirise <Leslie.Mirise@txdot.gov>

Sent: Friday, November 19, 2021 12:04 PM

To: WHAB_TxDOT <WHAB_TxDOT@tpwd.texas.gov>

Cc: Christine Polito <Christine.Polito@txdot.gov>; Dan Perge <Dan.Perge@txdot.gov>; Stirling Robertson <Stirling.Robertson@txdot.gov>; Michelle Lueck <Michelle.Lueck@txdot.gov>

Subject: 0364-04-051, etc. Spur 399 - Request for initial collaborative review for an EIS

ALERT: This email came from an external source. Do not open attachments or click on links in unknown or unexpected emails.

Hello,

TxDOT requests initial collaborative review for the Spur 399 project (EIS) in Collin County, Texas. Please see ECOS WPD I screen in ECOS for the project description. The project location would include new location from US 75 south of

McKinney, including the existing intersection of US 75, SH 5, and Spur 399, north and east to intersect with US 380 east of McKinney. The following file names for relevant documents are available in ECOS:

1. APPROVED 01 0364-04-051, etc. Spur 399 SppAnalysisSpreadsheet 9-29-2021.pdf
2. APPROVED 02 0364-04-051, etc. Spur 399 SppAnalysisForm 9-29-2021.pdf
3. APPROVED 03 0364-04-051, etc. Spur 399 TPWD BMP Form 9-29-2021.pdf
4. APPROVED 04 0364-04-051, etc. Spur 399 USFWS OfficialSppList accessed 6-17-2021.pdf
5. APPROVED 05 0364-04-051, etc. Spur 399 TPWD RTEST Collin accessed 9-28-2021.pdf
6. APPROVED 06 0364-04-051, etc. Spur 399 NDD figure accessed 6-17-2021.pdf
7. APPROVED 07 0364-04-051, etc. Spur 399 EMSTfigures 9-29-2021.pdf
8. APPROVED 08 0364-04-051, etc. Spur 399 ObservedVegFigures 9-29-2021.pdf
9. APPROVED 09 0364-04-051, etc. Spur 399 EMST_ALTComparisonTable 9-29-2021.xlsx
10. APPROVED 10 0364-04-051, etc. Spur 399 EMSTdiscrepanciesPhotos 9-29-2021.pdf
11. APPROVED 11 0364-04-051, etc. Spur 399 RepresentativePhotos 9-29-2021.pdf
12. APPROVED 12 0364-04-051, etc. Spur 399 MusselHabitat 9-29-2021.pdf
13. APPROVED 13 0364-04-051, etc. Spur 399 WoodlandBatHabitat 9-29-2021.pdf
14. APPROVED 0364-04-051etc_SPUR399_SurfaceWaterAnalysisForm_2021-10-04.pdf
15. APPROVED 0364-04-051etc_SPUR399_404-10 Impacts Table_2021-11-04_SMS_v2_STUDY TEAM REV_2021-11-16.xlsx
16. Appoved_0364-04-051etc_SPUR399_WaterFeaturesDelinReport_COMPLETE_2021-11-04.pdf
17. 0364-04-051, etc. Spur 399 DRAFT 60% schematic_revised ROW at north end of project.pdf

These documents, along with other project-related information, are available in ECOS under the CSJ 0364-04-051. Just as general timeline information, the DEIS is expected to be published in mid-January. Please feel free to contact me with any questions or if additional information is needed.

Thank you,

Leslie Mirise

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