

APPENDIX E: Agency Correspondence



April 4, 2003

Texas Parks & Wildlife Dept.
APR 10 2003
Wildlife Habitat Assessment Program

Ms. Kathy Boydston
Habitat Assessment Branch
Resource Protection Division
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

Re.: IH 35E: IH 635 to SH 121 Bypass
CSJ: 0196-03-138

IH 35E: From SH 121 Bypass to Denton Drive South
CSJ's: 0196-02-068; 0196-02-073

IH 35E: From Denton Drive South to US 380
CSJ's: 0195-03-050; 0196-01-074; 0196-01-056

Dear Ms. Boydston:

The Texas Department of Transportation is in the process of obtaining environmental approval for roadway improvements on Interstate Highway 35E (IH 35E) from IH 635 in Dallas, Dallas County, to US 380 in Denton, Denton County, Texas. IH 35E currently consists of a six-lane highway with two-lane frontage roads, and is proposed for expansion to a 10-lane highway with three-lane frontage roads and two reversible high-occupancy vehicle (HOV) lanes. The total project length is approximately 30 miles. Alternatives will be studied, however some areas may require up to 100 feet of right-of-way on either side of IH 35E. The attached vicinity map indicates the location of the project.

We would appreciate any comments you could provide regarding rare species, rookeries, vegetation communities or other resource data pertinent to the proposed project area within Denton and Dallas County.

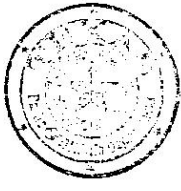
Your attention to this matter will be greatly appreciated. If you need further information, please contact myself or Mr. Scott English, HNTB Corporation, at (972) 661-5626.

Sincerely,

HNTB CORPORATION

Jennifer Halstead
Sr. Environmental Planner

Attachment: Vicinity Map


Review of the project activity as proposed indicates minimal impacts to fish and wildlife resources. However, this does not include the potential occurrence of any endangered, threatened, or otherwise rare species. Please contact the Texas Natural Heritage Program (512/912-7011) and the U.S. Fish and Wildlife Service for this information.
Reviewed: Ray C. Tallair #
April 28, 2003

62 Copy: File 37641 PL 002



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
WinSystems Center Building
711 Stadium Drive, Suite 252
Arlington, Texas 76011

2-12-03-I-262

April 14, 2003

Ms. Jennifer Halstead
Senior Environmental Planner
HNTB
5910 W. Plano Parkway, Suite 200
Plano, Texas 75093

Dear Ms. Halstead:

This responds to your April 4, 2003, letter requesting information on federally listed threatened and endangered species with regard to the proposed roadway improvements on Interstate Highway 35E in Dallas and Denton Counties, Texas. The information provided by this office is to be used in the preparation of an Environmental Assessment for the proposed project.

Threatened and Endangered Species

Our records indicate that the following threatened (T), endangered (E), proposed (P), and candidate species have been documented, or are known to occur in Dallas and/or Denton County:

Listed species:

black-capped vireo (*Vireo atricapillus*) - E
golden-cheeked warbler (*Dendroica chrysoparia*) - E
interior least tern (*Sterna antillarum*) - E
whooping crane (*Grus americana*) - E
bald eagle (*Haliaeetus leucocephalus*) - T
piping plover (*Charadrius melodus*) - T

Proposed species:

mountain plover (*Charadrius montanus*) - PT

Candidate species:

black-tailed prairie dog (*Cynomys ludovicianus*)

There is no designated critical habitat for listed species in Dallas and Denton Counties. Candidate species are not afforded federal protection under the Endangered Species Act; however, we recommend that potential impacts to these species be considered during project planning. For information on the general biology of these species, visit our website at <http://arlingtontexas.fws.gov>.


A qualified biologist should use the most current information available to evaluate the project site and adjacent areas for the presence of suitable habitat for the listed or proposed listed species occurring in the county. If, after an assessment has been conducted using appropriate biological expertise, the assessment indicates there is the potential for the proposed action to affect listed or proposed listed species (i.e., suitable habitat for listed species is present within or adjacent to the action area), you should contact this office for further evaluation. Otherwise, no further coordination with this office would be necessary regarding threatened or endangered species.

Wetlands and Wildlife Habitat

Impacts to wetlands and the clearing of vegetation from riparian areas associated with temporary and permanent right-of-way is usually damaging to fish and wildlife habitat, and can disturb the natural processes and biotic functions associated with these systems. Impacts to these areas may fragment wildlife habitat, increase soil erosion, disrupt nutrient cycling, and alter the hydrology of the impacted area. Numerous species of resident and migratory wildlife depend on wetlands and riparian corridors for food, water, and shelter. Additionally, these areas may be used as nesting and breeding areas, as well as dispersal and migration corridors between habitats. Wetlands and riparian areas are unique wildlife resources and may be the only suitable habitat for certain species of wildlife in an area.

For these reasons, we recommend the EA for the proposed project include a description and quantification of all impacts to fish and wildlife resources (especially to wetland, riparian, and upland forested areas). A mitigation plan should be developed early in the project planning process, and subsequently reviewed by the resource agencies, which demonstrates how impacts to fish and wildlife resources would be avoided, how impacts would be minimized, and plans developed to rectify/compensate for unavoidable project related impacts.

Thank you for the opportunity to provide information on the proposed project. If you have any questions, please contact Curtis Hoagland or Omar Bocanegra of my staff at (817) 277-1100.

Sincerely,

Thomas J. Cloud, Jr.
Field Supervisor



September 15, 2009

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Carter P. Smith
Executive Director

Mr. Scott English
HNTB Corporation
5910 W. Plano Parkway
Suite 200
Plano, TX 75093

RE: Coordination Request, Interstate Highway (IH) 35 Environmental Assessment (EA) for Proposed Improvements to IH 35E from IH 635 to President George Bush Turnpike, Dallas County

Dear Mr. English:

Texas Parks and Wildlife Department (TPWD) reviewed the request for coordination in conjunction with preparation of an EA on behalf of the Texas Department of Transportation (TxDOT) for proposed improvements for IH 35, Dallas County and would like to provide the following information.

Project Description

The proposed project entails reconstruction of IH 35E and extension of Dickerson Parkway over IH 35E, for a length of approximately 5 miles. Approximately 85 acres (ac) of additional right-of-way (ROW) and approximately 1 ac of easements would be required for the project. In order to assist with the development of the EA, a copy of *Texas Parks and Wildlife Guidelines on Information to Include in TxDOT NEPA Documents* is attached. These guidelines are based on Memoranda of Understanding (MOU) and Agreement between the TPWD and TxDOT, and address descriptive requirements, MOU coordination triggers, impacts disclosure and mitigation. Although the guidelines apply specifically to the development of Programmatic Categorical Exclusion (PCE) documents, they are also applicable to all levels of TxDOT NEPA documentation. In addition, a copy of *Texas Parks and Wildlife Department Suggested Guidelines for Preparation of Environmental Assessment Documents* is attached.

The *TPWD Annotated List of Rare Species for Dallas County* is attached for your reference. Please review this list, as rare and protected species may be present in the project area depending upon habitat availability. TPWD recommends that, in addition to addressing potential impacts to endangered species with regulatory protection, rare species on the County list be addressed. TPWD actively tracks rare species and promotes their

Mr. Scott English
Page Two
September 15, 2009

conservation in order to prevent their endangerment. If preferred habitat for any of the species is present within the project limits, on-ground survey by qualified biologists should be performed at the time of year when the species is most likely to be found. Rare species, natural plant communities, and special features of conservation concern to the state may occur within the project ROW. Existing ROW supports remnant habitats and rare resources in undisturbed areas and areas where routine maintenance creates favorable habitat.

A TPWD Texas Natural Diversity Database (TXNDD) check is required for TxDOT NEPA documents. TXNDD digital files (GIS shapefiles) and species occurrence records may be obtained from Ms. Dorinda Scott at (512)-389-8723, and/or at txnnd@tpwd.state.tx.us. Information from the TXNDD should be incorporated in to the biological evaluation.

The U.S. Fish and Wildlife Service (USFWS) should be contacted for species occurrence data, guidance, permitting, survey protocols, and mitigation for federally listed species.

As the project progresses, the county list at Texas Parks and Wildlife http://www.tpwd.state.tx.us/landwater/land/maps/gis/ris/endangered_species and at the USFWS at <http://www.fws.gov/southwest/es/EndangeredSpecies/lists> should be checked for updates since the status of listed species is subject to change. Please contact Dorinda Scott to obtain the most current TXNDD species occurrence records. For future projects, the ***TPWD Rare Resources Review Requests (including Threatened and Endangered Species) Form*** used to identify biological concerns early on in project development, may be found at <http://www.tpwd.state.tx.us/huntwild/wild/species/endang/index.phtml>.

The Migratory Bird Treaty Act (MBTA) implicitly prohibits intentional and unintentional take of migratory birds, including their nests and eggs, except where permitted. Additional information regarding the MBTA may be obtained through the USFWS Region 2 Migratory Bird Permit Office at (505) 248-7882. If migratory bird species are found nesting on or adjacent to the project area, they must be dealt with in a manner consistent with the MBTA. TPWD recommends excluding clearing activities during the general bird nesting season, March through August, to avoid adverse impacts to this group, including ground nesting species.

Texas Parks and Wildlife Guidelines on Information to Include in TXDOT NEPA Documents

Refer also to the Texas Department of Transportation Standards of Uniformity for Programmatic Categorical Exclusions (PCEs).

I. Descriptive Requirements

a. *Project Description:*

1. Activities should be described so that the reader can determine scale and scope of impacts according to TXDOT Standards of Uniformity for PCEs.

b. *Habitat characterization:*

1. Existing habitat should be characterized according to the TXDOT TPWD MOA*.

c. *TXNDD check:*

1. The Texas Natural Diversity Database (TXNDD) check should be in accordance with TPWD Guidelines TXDOT Standards of Uniformity for PCEs. ALL EOID records within 1.5 miles of project (MOA for TXNDD*) must be listed. TPWD Guidelines recommend a 10 mile TXNDD radius search.

d. *Biological Evaluation:*

1. Sufficient descriptive information should be provided in the biological evaluation to satisfy requirements of ESA, TPWD/TXDOT MOU*, TPWD/TXDOT MOAs & NEPA.
2. Legally sufficient information should be provided in the document to support the ESA effect call/impacts assessment for state/federally listed species. Consult the TPWD Annotated List of Rare Species for the County where project is located and The USFWS County List of Federally Listed Threatened and Endangered Species. Document should include:
 - i. A list of species considered
 - ii. A description of preferred habitat for each species on list
 - iii. An evaluation of why habitat/species would or would not be impacted. (Why there is or is not habitat based on results of surveys, desktop analysis, TXNDD records.)An effect/impacts determination for state/federally listed species
An impacts determination for Texas species of concern

II. MOU Triggers

- a. Sufficient information should be provided to address all MOU triggers to determine if
 1. The project is within range of and in suitable habitat for state/federally listed species.
If so, impacts should be described.
 2. There will be any new right-of-way in more than 1.0 ac of flood plains or creek drainages in rural or undeveloped urban areas.
If so, impacts should be described.
 3. There will be channel/water body impacts.

If so, impacts should be described.

4. There would be any affects to mature woody vegetation, dense mature brush, including any significant remnant vegetation (e.g., undisturbed native prairie or bottomland hardwood, etc.).

If so, impacts should be described.

III. Impacts Disclosure

a. **Species:** Species impacts should be adequately described. Measures to avoid, minimize, or provide compensatory mitigation for adverse impacts should be described.

b. **Vegetation:** Areal extent of impacts to ALL existing vegetation given (including mowed and maintained right-of-way) should be described and quantified. Impacts to vegetation communities should be broken down by vegetation type (MOU and MOA).

IV. Mitigation for Wildlife and Habitat Impacts

a. **Avoidance, minimization, restoration** measures should be proposed to offset described impacts.

b. **Compensatory Mitigation:** If applicable, compensatory mitigation should be addressed (MOA).

- i. If present, habitats to be considered for compensatory mitigation should be identified (MOA).

- ii. Mitigation should be addressed accordingly (MOU and MOA).

***TXDOT/TPWD MOU and MOAs That Apply to TXDOT Projects:**

1. Title 43, Part 1, Chapter 2, Subchapter B, Rule 2.22. Memorandum of Understanding with the Texas Parks and Wildlife Department (1999)
2. Memorandum of Agreement between Texas Department of Transportation and Texas Parks and Wildlife Department for Finalization of 1998 MOU, Concerning Habitat Descriptions and Mitigation (2001)
3. Memorandum of Agreement Between Texas Department of Transportation and Texas Parks and Wildlife Department for Sharing and Maintaining Natural Diversity Database Information (2007)

Texas Parks and Wildlife Department Suggested Guidelines for Preparation of Environmental Assessment Documents

Following is an outline of categories of information needed to evaluate a proposed project or action. Every effort should be made to supply quantified data. If subjective data is all that can be supplied, documentation verifying the credentials of the data collector should be provided.

Categories considered essential for adequate biological review by this agency are noted by an asterisk (*). Depending on the complexity and scope of the proposed project or action, or requirements by other agencies, all the items listed below may be required.

Whenever practical, environmental documents should be supported by aerial photography, topographic maps, schematics, charts, tables, etc. with minimum narrative sufficient to describe, quantify, and qualify the data.

A. Project Description

- * • Identify who is proposing the project.
- * • Identify who is conducting the assessments and provide credentials of this person(s).
- * • Describe the purpose of the project.
- * • Define the scope of work.
- * • Identify the project area and study area (total acres, miles of r-o-w, etc.)
- * • Identify the time table projected for the entire project.
- * • Describe any required coordination and review for the project.
- * • List or describe any required public input.
- Provide historical information significant to the project.

B. Description of the Affected Environment

1. Natural Resources

- Describe the geology within the study area.
- * • Describe the soils present and their characteristics.
- * • Describe the landform (topography) and the natural processes impacting the present landform.
- Describe the climatic factors affecting the study area.
- * • Describe the supply and quality of surface water resources in the study area.
- * • Describe the supply and quality of groundwater resources including aquifer recharge zones occurring within the study area.
- * • Describe natural hazards affecting the study area, i.e. tidal influences, flood activity, etc.).
- Describe the quality of the air in the study area.

- * • Describe the vegetation communities (cover type) specifically impacted by the project to include: dominant plant species, estimated height of trees, woody shrubs or brush; and estimated canopy coverage of woody vegetation. Total acreage of each cover type disturbed by the project should also be listed.
- * • Describe the fauna that would be associated with the dominant vegetation cover types identified above.
- * • Identify "sensitive" ecosystems which occur in the study area such as: springs, streams, rivers, floodplains, vegetation corridors, bottomland hardwoods, wetlands, bays, estuaries, native grasslands, etc.
- * • Describe the occurrence of threatened/endangered species (or their habitats) and unique or rare natural communities which occur in the study area.
 - a. On site inspection of the study area for permanent or seasonal occurrence.
 - b. On site inspection of the study area for occurrence of habitat.
 - c. Interviews with recognized experts on all species with a potential of occurrence.
 - d. Literature review of data applicable to a potential occurring species concerning species distribution, habitat needs, and biological requirements.

2. Cultural Resources

- * • Identify public use and open space areas in the vicinity of the proposed project such as parks, natural areas, wildlife preserves and management areas.
- * • Identify previous, present, and proposed land uses within the study area.
- Identify significant archeological features within the study area.
- Identify significant historical features in the study area with special consideration of "National Register of Historic Places" properties.
- Identify rights-of-ways, easements, public utilities, and transportation features within the study area.
- Identify noise pollution sources and current noise levels within the study area.
- Identify existing and proposed public health and hazardous waste facilities which exist in the study area such as land fills, hazardous waste sites, wastewater treatment facilities, septic tanks, etc.
- Identify socioeconomic factors, if applicable.

*C. Project Alternatives

List and describe project alternatives (including "no action") and associated impacts (direct and indirect) to described resources. If the project is potentially large in scope, cumulative effects with other similar projects may be required.

*D. Mitigation

A major responsibility of TPWD is to conserve and protect the state's fish, wildlife, and plant resources. Certain categories of these biotic resources warrant special consideration. These include habitats that are locally and regionally scarce, habitats

supporting unique species or communities, stream and river ecosystems, bays, estuaries, wetlands, bottomland hardwoods, and native grasslands. All projects which could adversely affect these resources should be fully evaluated, and where possible, implementation of less damaging alternatives undertaken. If it is determined that a project or action will potentially affect fish, wildlife or plant resources, a process for adverse impact reduction should be initiated. Mitigation measures should be developed and implemented sequentially as follows:

1. **AVOIDANCE:** Avoiding adverse impacts through changes in project location, design, operation, or maintenance procedures, or through selection of other less damaging alternatives to the project or action.
2. **MINIMIZATION:** Minimizing impacts and by project modification or rectification to restore or improve impacted habitat to pre-project condition; or through reducing the impacts over time by preservation and maintenance operations during the life of the project or action.
3. **COMPENSATION:** Compensating for unavoidable impacts by providing replacement or substitute resources (including appropriate management) for losses caused by project construction, operation, or maintenance.

Mitigation should be an integral part of any action or project which adversely affects fish, wildlife, and habitats upon which they depend. Failure to adequately avoid or minimize adverse impacts or to adequately compensate for unavoidable losses of natural resources is a serious deficiency in any project plan and may cause delays in this Department's review and assessment of the adverse impacts upon fish & wildlife resources. In assessing project impacts, reasonable foreseeable secondary and cumulative impacts should be included.

***E. Coordination**

Provide copies of pertinent coordination correspondence.

***F. Document Preparers and Their Qualifications**

***G. Bibliography**

(references: 40 CFR Parts 1500-1508 and various EPA handouts concerning Environmental Assessment documentation.)

DALLAS COUNTY

BIRDS

		Federal Status	State Status
American Peregrine Falcon	<i>Falco peregrinus anatum</i>	DL	T
year-round resident and local breeder in west Texas, nests in tall cliff eyries; also, migrant across state from more northern breeding areas in US and Canada, winters along coast and farther south; occupies wide range of habitats during migration, including urban, concentrations along coast and barrier islands; low-altitude migrant, stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands.			
Arctic Peregrine Falcon	<i>Falco peregrinus tundrius</i>	DL	
migrant throughout state from subspecies' far northern breeding range, winters along coast and farther south; occupies wide range of habitats during migration, including urban, concentrations along coast and barrier islands; low-altitude migrant, stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands.			
Bald Eagle	<i>Haliaeetus leucocephalus</i>	DL	T
found primarily near rivers and large lakes; nests in tall trees or on cliffs near water; communally roosts, especially in winter; hunts live prey, scavenges, and pirates food from other birds			
Black-capped Vireo	<i>Vireo atricapilla</i>	LE	E
oak-juniper woodlands with distinctive patchy, two-layered aspect; shrub and tree layer with open, grassy spaces; requires foliage reaching to ground level for nesting cover; return to same territory, or one nearby, year after year; deciduous and broad-leaved shrubs and trees provide insects for feeding; species composition less important than presence of adequate broad-leaved shrubs, foliage to ground level, and required structure; nesting season March-late summer			
Golden-cheeked Warbler	<i>Dendroica chrysoparia</i>	LE	E
juniper-oak woodlands; dependent on Ashe juniper (also known as cedar) for long fine bark strips, only available from mature trees, used in nest construction; nests are placed in various trees other than Ashe juniper; only a few mature junipers or nearby cedar brakes can provide the necessary nest material; forage for insects in broad-leaved trees and shrubs; nesting late March-early summer			
Henslow's Sparrow	<i>Ammodramus henslowii</i>		
wintering individuals (not flocks) found in weedy fields or cut-over areas where lots of bunch grasses occur along with vines and brambles; a key component is bare ground for running/walking			
Interior Least Tern	<i>Sterna antillarum athalassos</i>	LE	E
subspecies is listed only when inland (more than 50 miles from a coastline); nests along sand and gravel bars within braided streams, rivers; also know to nest on man-made structures (inland beaches, wastewater treatment plants, gravel mines, etc); eats small fish and crustaceans, when breeding forages within a few hundred feet of colony			
Peregrine Falcon	<i>Falco peregrinus</i>	DL	T

DALLAS COUNTY

BIRDS

Federal Status State Status

both subspecies migrate across the state from more northern breeding areas in US and Canada to winter along coast and farther south; subspecies (*F. p. anatum*) is also a resident breeder in west Texas; the two subspecies' listing statuses differ, *F.p. tundrius* is no longer listed in Texas; but because the subspecies are not easily distinguishable at a distance, reference is generally made only to the species level; see subspecies for habitat.

Piping Plover *Charadrius melodus* LT T

wintering migrant along the Texas Gulf Coast; beaches and bayside mud or salt flats

Western Burrowing Owl *Athene cunicularia hypugaea*

open grasslands, especially prairie, plains, and savanna, sometimes in open areas such as vacant lots near human habitation or airports; nests and roosts in abandoned burrows

White-faced Ibis *Plegadis chihi* T

prefers freshwater marshes, sloughs, and irrigated rice fields, but will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats

Whooping Crane *Grus americana* LE E

potential migrant via plains throughout most of state to coast; winters in coastal marshes of Aransas, Calhoun, and Refugio counties

Wood Stork *Mycteria americana* T

forages in prairie ponds, flooded pastures or fields, ditches, and other shallow standing water, including salt-water; usually roosts communally in tall snags, sometimes in association with other wading birds (i.e. active heronries); breeds in Mexico and birds move into Gulf States in search of mud flats and other wetlands, even those associated with forested areas; formerly nested in Texas, but no breeding records since 1960

INSECTS

Federal Status State Status

Black Lordithon rove beetle *Lordithon niger*

historically known from Texas

MAMMALS

Federal Status State Status

Cave myotis bat *Myotis velifer*

colonial and cave-dwelling; also roosts in rock crevices, old buildings, carports, under bridges, and even in abandoned Cliff Swallow (*Hirundo pyrrhonota*) nests; roosts in clusters of up to thousands of individuals; hibernates in limestone caves of Edwards Plateau and gypsum cave of Panhandle during winter; opportunistic insectivore

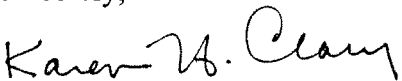
Plains spotted skunk *Spilogale putorius interrupta*

catholic; open fields, prairies, croplands, fence rows, farmyards, forest edges, and woodlands; prefers wooded, brushy areas and tallgrass prairie

Mr. Scott English
Page Three
September 15, 2009

I appreciate the opportunity to comment on this project. Please contact me at (512) 389-8054 or by email at karen.clary@tpwd.state.tx.us if I may be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Karen H. Clary". The signature is written in a cursive style with a large, looped initial "K".

Karen H. Clary, Ph.D.
Wildlife Habitat Assessment Program
Wildlife Division

KHC:gg.14119

Attachments



SCANNED .ETS

May 20, 2010

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Executive Director

Sterling J. Robertson, Ph.D.
Biological Resources Management Branch
Environmental Affairs Division
Texas Department of Transportation
125 E. 11th Street
Austin, TX 78701-2483

RE: Proposed Reconstruction of IH 35E South Section: From IH 635 to President George Bush Turnpike (Dallas County, CSJs 0196-03-138, -180, and -240)

Dear Dr. Roberston:

The Texas Parks and Wildlife Department (TPWD) Habitat Assessment Program has reviewed the Environmental Assessment (EA) for the project referenced above. The project involves reconstruction of IH 35E with additional mainlanes, collector distributor lanes, concurrent HOV/managed lanes, and continuous frontage road lanes for approximately 5 miles. Approximately 85 acres of new right-of-way (ROW) and 1 acre of easement would be required.

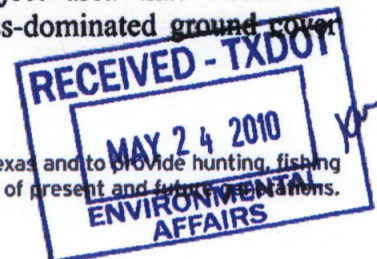
Waters

The EA indicates that impacts would occur to areas that served as wetlands mitigation on former projects.

Recommendation: Replacement compensatory mitigation should be provided for project impacts to areas that served as wetlands mitigation of past projects.

Vegetation and Wildlife

The EA indicates that the project would affect 344 acres of land within the existing and proposed ROW and easements. Of this area, approximately 145 acres is paved, 181 acres is herbaceous vegetation that is maintained, and 18 acres is woody vegetation consisting of landscape trees interspersed throughout the project (14.35 ac), riparian habitat (0.36), and woodland habitat (3.09 ac). It is anticipated that all disturbed areas within the project area that would not ultimately be paved, would be revegetated with grass-dominated ground cover that would be mowed.



4200 SMITH SCHOOL ROAD
AUSTIN, TEXAS 78744-3291
512.389.4800
www.tpwd.state.tx.us

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.

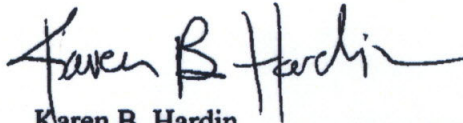
Sterling J. Robertson, Ph D
Page 2
May 20, 2010

The EA indicates that TxDOT would compensate for the individual loss of large trees of diameter-at-breast height (dbh) greater than 20 inches and for the loss of riparian woodlands in accordance with the TxDOT – TPWD Memorandum of Agreement. The TxDOT Dallas District Standards for Woodlands Mitigation planting details would be used. Mitigation would be provided for loss to 0.36 acre riparian habitat as part of the Section 404 mitigation and approved Nationwide Permit.

Recommendation: If compensatory mitigation would not be required for impact to riparian habitat through the Section 404 mitigation and Nationwide Permit, TPWD requests that TxDOT provide non-regulatory compensatory mitigation for 0.36 acres of riparian habitat on an acre-to-acre basis. TPWD Wildlife Habitat Assessment Program should be provided the mitigation plan once logistics have been determined and as the project progresses. It is recommended that the mitigation be carried out prior to the IH 35E Reconstruction being completed and finalized.

TPWD advises review and implementation of these recommendations. If you have any questions, please contact me at (512) 917-4155.

Sincerely,



Karen B. Hardin
Wildlife Habitat Assessment Program
Wildlife Division

kbh/6022

REC'D 18 Nov 04



Texas Department of Transportation

DEWITT C. GREER STATE HIGHWAY BLDG. • 125 E. 11TH STREET • AUSTIN, TEXAS 78701-2483 • (512) 463-8585

November 18, 2004

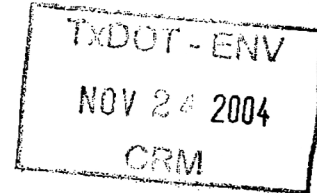
SECTION 106: IDENTIFICATION OF HISTORIC PROPERTIES AND DETERMINATION OF EFFECTS

Dallas and Denton County

CSJ: 0196-03-138

IH 35E: IH 635 to SH 121 Bypass (Southern Section)

Mr. Bob Brinkman
History Division
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711



Dear Mr. Brinkman:

In accordance with the Programmatic Agreement (PA) among TxDOT, FHWA, the Advisory Council on Historic Preservation, and the THC, we hereby initiate coordination on the results of a historic structure survey of the project area to identify properties potentially eligible for listing in the National Register of Historic Places, and the effects of the proposed undertaking on those properties.

The proposed project consists of an approximate seven-mile section of IH 35E passing through the cities of Carrollton, Dallas, Farmers Branch, and Lewisville in Denton and Dallas Counties, Texas. The limits extend from IH 635 to the SH 121 Bypass. The proposed IH 35E improvements would expand IH 35E from the current six mainlanes and two-lane frontage roads. The proposed expansion would consist of adding two mainlanes in each direction and the addition of one lane on each frontage road. Two reversible HOV lanes would also be added from just north of Frankford Road to the SH 121 Bypass and converting the existing concurrent flow HOV lanes to barrier separated reversible flow.

The project would generally follow the existing alignment from the project start to just north of Valley View Lane. The alignment would shift to the west from Valley View Lane north to Belt Line Road. From Belt Line Road north to the project end, the project would generally follow the existing alignment.

As part of the evaluation process, TxDOT personnel has undertaken a cultural resources survey in accordance with the provisions of 36 CFR 800 to identify properties potentially eligible for listing in the National Register of Historic Places (NRHP). The project area includes a mixture of urban commercial and residential development, as well as undeveloped acreage. In Farmers Branch, the project area is 1970s to 21st-century commercial and light industrial development oriented toward rail and interstate highway access. The project area in Carrollton includes a portion of the town of Carrollton, as well as newer development along the rail and highway access. *The 2003 survey found seventy-five sites that appear to have been built in or prior to 1962 within the area of potential effects, which for this project was determined to be any additional right-of-way plus 500 feet in all directions.*

I have evaluated these seventy-five properties through application of the Criteria of Eligibility for listing in the National Register of Historic Places, and I have determined that all sites, except Sites # 8 and 22, are **not eligible** for inclusion in the register. The remaining surveyed structures represent common vernacular types that do not clearly reflect the distinctive characteristic of type, period, method of construction, work or a master or high artistic

value. Additionally, the buildings do not appear to have important associations with significant historical figures or events.

Although the report recommends Sites #16-21, 23-30, 35-41, 44-48, 56, and 75 for further research, it does not appear that an NRHP-eligible historic district is present within the Carrollton Business District. There is no collection of structures with an identifiable architectural style possessing integrity within the project area that may constitute a historic district. As shown in the survey report's photographs, most of the structures evidence numerous alterations to their original configuration, fenestration, and materials. Additionally, the town square, currently providing parking facilities, does not have surviving historic landscape or architectural features.

The eligible sites are as follows:

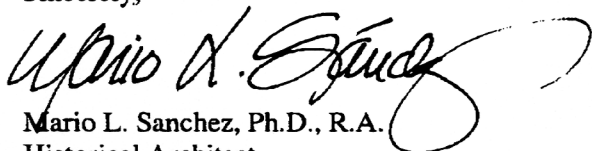
Sites #8, built circa 1900, is located at 1020 North Broadway. The one story, hipped roof, former railroad depot is **eligible** under Criterion A, Important Events and Patterns of History, at the level of local significance.

Site #22, built circa 1910, is located at 1026 South Broadway. The one-part commercial block building was the Old Bank of Carrollton and is **eligible** under Criterion C, Architecture, at the local level of significance.

In accordance with CFR 800.5, I have applied the Criteria of Effect and the Criteria of Adverse Effect, and I have determined that the proposed action will have **no effect** to those character-defining features which qualify the eligible properties for inclusion in the National Register. Nor will the proposed action effect features of the property's location, use, design, setting, materials, workmanship, feeling or association that would contribute to its eligibility. Specifically, Site #8 is located approximately 400 feet east of the right-of-way and, at this location, the widening activities will occur on the existing interstate's *west* side. Therefore, the existing right-of-way nearest to Site #8 will remain the same. Likewise, Site #22 is located two blocks away from IH 35E to the east, and at this location the majority of the widening will take place on the *west* side of IH 35E. Thus, since the current IH 35E alignment has not diminished the integrity of these properties, the proposed widening of the facility *in the opposite direction* of these sites will also not effect their character-defining features. For your review, we include the survey materials and schematics showing the location of these sites in relation to the facility.

We request your written concurrence with these determinations of eligibility and effects within 30 days of receiving this letter. If you need further information, feel free to call me at 416-2770.

Sincerely,



Mario L. Sanchez, Ph.D., R.A.
Historical Architect
Environmental Affairs Division

Attachments

CONCUR NO HISTORIC PROPERTIES AFFECTED	
NAME: <u>Ret H B O</u>	DATE: <u>22 NOV 2004</u>
for F. Lawrence Oaks, State Historic Preservation Officer	

cc: Jennifer Halstead, HNTB Corporation



Texas Department of Transportation

DEWITT C. GREER STATE HIGHWAY BLDG. • 125 E. 11TH STREET • AUSTIN, TEXAS 78701-2483 • (512) 463-8585

April 30, 2010

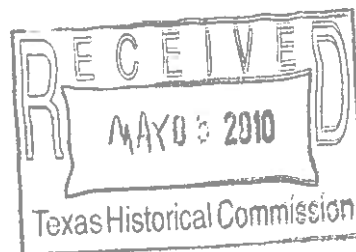
SECTION 106: Determination of Eligibility and Effects

Dallas County

CSJ# 0196-03-138, -180, -240

IH 35E from IH 635 to President George Bush Turnpike (PGBT) (South Section)

Ms. Adrienne Campbell
History Programs
Texas Historical Commission
Austin, Texas 78711



Dear Ms. Campbell:

In accordance with the Programmatic Agreement for Transportation Undertakings (PA-TU) between the Texas Department of Transportation (TxDOT), the Federal Highway Administration (FHWA), the Advisory Council for Historic Preservation (ACHP), and the Texas Historical Commission (THC), this letter *re-initiates* Section 106 consultation (36 CFR 800.4) on the eligibility and effects of the proposed undertaking on historic properties in the project's area of potential effects (APE.)

Previous Coordination

This project was previously coordinated with THC on November 18, 2004 (please see attached letter). A reconnaissance survey undertaken in 2003 identified 75 historic-age resources (built prior to 1962) in the project APE, which was determined to be any additional right-of-way plus 500' in all directions. TxDOT Historians determined and THC concurred that only two properties were eligible for inclusion in the National Register of Historic Places: Site #8, a former railroad depot, and Site #22, the Old Bank of Carrollton. The 2004 coordination also determined that the proposed project would have no effect to the properties. At that time, the project as proposed included widening the existing IH 35E roadway from six mainlanes and two-lane frontage roads to eight mainlanes. The frontage roads would be expanded to three lanes. Two reversible HOV lanes would also be added from just north of Frankford Road to the SH 121 bypass and the existing concurrent flow HOV lanes would be converted to barrier separated reversible flow. The alignment would generally follow the existing alignment except for the section from Valley View Lane north to Belt Line Road that would shift slightly to the west.

Current Coordination

Since the 2004 coordination, the project has undergone substantial design changes. The northern project limit was shortened from the SH 121 bypass to the PGBT. As a result, the entire project length is *reduced* from seven miles to five miles. The current proposed facility is wider than originally proposed and now includes four managed lanes instead of two and 10' shoulders on the inside and outside of the mainlanes and between the managed lanes. The project also includes an

extension of Dickerson Parkway at the northern project limit to connect to the PGBT. Additionally, the amount of the proposed right-of-way was increased from 74 acres to 85 acres.

As a result of these changes, an additional reconnaissance survey was undertaken in April 2009 for the Dickerson Parkway extension. This survey effort identified resources built before 1966. Furthermore, the original 2003 survey report only identified properties built before 1962. In order to update those survey results and align with the 1966 survey cut-off date for the Dickerson Parkway extension, TxDOT Historians re-examined the entire project for any additional properties built between 1962 and 1966.

Results of Updated Survey Findings

The record search revealed no previously recorded NRHP, SAL, or RTHL properties or Official State Historical Markers (OTHM) located within the APE, which for the Dickerson roadway extension segment was determined to be 150' from the existing right-of-way and 300' from the proposed extension. For the rest of the project, the APE is 150' from the existing and proposed right-of-way. The Dickerson reconnaissance survey identified nine historic-age resources (pre-1966) in the project APE (Resources 101a-102d). TxDOT Historians' updated survey efforts for the remainder of the project identified three previously undocumented historic-age resources (pre-1966) in the project APE (1-10, 2-10, 3-10). These twelve resources include five industrial buildings, four agricultural outbuildings, and three commercial buildings. Therefore, as a result of the 2003 and 2009 reconnaissance survey reports and TxDOT Historians' additional documentation efforts, a total of 87 historic-age resources were identified for this project.

Determinations of Eligibility

TxDOT Historians re-evaluated the 75 historic-age resources identified in 2003 and through application of the Criteria of Eligibility for listing in the National Register of Historic Places, we determined that with the exception of the previously determined eligible sites (#8 and 22), all resources are **not eligible** for inclusion in the register. We also evaluated the newly-identified twelve historic-age resources and we determined that all of these additional resources are **not eligible** for inclusion in the register.

The eighty-five not eligible historic-age resources do not have associations with significant historical figures or events to qualify for eligibility under Criteria A or B. They also represent common vernacular types that do not clearly reflect the distinctive characteristic of a type, period, method of construction, work of a master, or high artistic value to qualify as eligible under Criterion C. Additionally, unsympathetic alterations such as replacement windows, siding, porch supports, and rear additions compromised the buildings' integrity of materials, design, workmanship, and feeling.

Effects to Historic Properties

TxDOT Historians re-examined the proposed project's effects to Sites #8 and 22. We maintain our original 2003 determination that the project poses **no effect** to the historic properties. As part of a separate rail project unrelated to this project, the old railroad depot (Site #8) was moved 300' to the east on southwest corner of the intersection of Denton Drive and the railroad tracks (see attached map). As a result, the property is even further away from the proposed project. Both properties are located on the east side of IH 35 and the widening at their locations is occurring to the west side of IH 35. No new right-of-way is required from either property and the distance from the IH

35E existing right-of-way and pavement edge to the historic properties would remain the same. Consequently, the proposed project would not affect or diminish the character-defining features which qualify the properties for inclusion in the National Register.

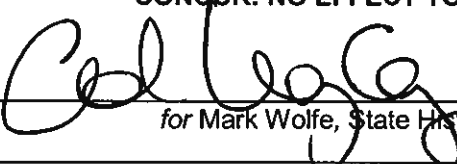
Conclusion

Pursuant to Stipulation VI "Undertakings with Potential to Cause Effects" of the PA-TU and the MOU, TxDOT has determined that the proposed action poses no potential to affect historic properties in the project APE. We request your written concurrence with these determinations of eligibility and effects within 20 days of receiving this letter. If you need further information, feel free to call me at 416-2623.

Sincerely,



Alexis A. Reynolds, Historian
Environmental Affairs Division

CONCUR: NO EFFECT TO HISTORIC PROPERTIES	
NAME: 	DATE: <u>5-24-10</u>
<small>for Mark Wolfe, State Historic Preservation Officer</small>	



Texas Department of Transportation

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4 May 2004

RECEIVED
4 May 04
GMI 30011.02.06.00
P.181

RECEIVED
MAY 25 2004
HNTB CORPORATION
DALLAS, TEXAS

Texas Antiquities Code and Section 106 Coordination
Dallas and Denton Counties
CSJ 0195-03-050, 0196-03-138, etc.
Texas Antiquities Permit No. 3330

IH 35E from IH 635 to US 380

James E. Bruseth, Ph.D.
Department of Antiquities Protection
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711

Dear Dr. Bruseth:

The proposed project will be undertaken with state and federal assistance. As required by the National Historic Preservation Act of 1966, as amended, and by Senate Bill 58, The Antiquities Code of Texas, and our Memorandum of Understanding with your agency, we are coordinating the proposed project with your office.

Please find enclosed a draft copy of *Cultural Resource Assessment of Revised Alignment of IH 35E between IH 635 and US 380 in Dallas and Denton Counties, Texas* by Christopher Lintz Ph.D. of Geo-Marine, Inc. The project was inspected previously by GMI archeologists from 2-6 February 2004 and coordinated with THC. However, the engineering consultant has added additional right-of-way to the project since the impact evaluation and THC concurrence. In the attached document, Dr. Lintz evaluates the added acreage and recommends that no further work is needed beyond the original investigation.

We request your concurrence that no archeological sites listed in, or determined eligible for designation in the National Register of Historic Places will be affected by the proposed project and that no further archeological investigation is required.. If you have any questions, please call Barbara Hickman at 512-416-2637 or e-mail bhickman@dot.state.tx.us.

Sincerely,

Barbara J Hickman

Barbara J Hickman, Staff Archeologist
Archeological Studies Program
Environmental Affairs Division

Attachment

cc w/ attachment: Dallas District, attn: Mr. Dan Perge
ERG CRM/SBW BJH

Concurrence by: *Mark W. [Signature]*
For Lawrence Oaks, State Historic Preservation Officer

5-4-04
Date

Jessica Schmerler

From: Texas Natural Diversity Database [txnidd@tpwd.state.tx.us]
Sent: Friday, November 06, 2009 4:52 PM
To: Jessica Schmerler
Subject: RE: TXNDD Request
Attachments: schmerler_20091105_113_121.zip

Hi Jessica,

As the Elm Fork Trinity River above the reservoir is designated an Ecologically Significant Stream Segment in your request area, here's the link to more information on our website:
http://www.tpwd.state.tx.us/landwater/water/environconcerns/water_quality/sigsegs/.

And, as always, lack of data does not imply lack of occurrence and rights-of-way can support rare resources and remnant habitats, including native prairie remnants.

The Texas Natural Diversity Database (TXNDD) includes federal, and state listed and tracked Threatened, Endangered, and Rare species. The attached .zip file contains documents that will guide you in [appropriate use, restrictions, and shapefile interpretation of Texas NDD data as well as a request for adding data to the TXNDD](#). Also included is a shapefile of the T&E and Rare species element occurrences, information the TXNDD has available presently, within and touching the requested quads along with a companion EO **report**; areas where EO data are absent **do not mean** absence of occurrence for Threatened, Endangered, and Rare species. An EO **list** is included, buffered to approximately 10 miles from the requested quad boundaries to notify you of other potential federal, and state listed and tracked Threatened, Endangered, and Rare species within the area. To round out your review, please use the pertinent TPWD Annotated County lists of Rare Species; webpage address found below. For questions on these county lists please contact Celeste Brancel at celeste.brancel@tpwd.state.tx.us or (512)389-8021.

Your information request includes one or more records for **colonial waterbirds**. For more up-to-date information on the **colonial waterbirds** you will need to contact Brent Ortego at brent.ortego@tpwd.state.tx.us or (361) 576-0022.

Absence of information in an area does not mean absence of occurrence. *Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Data from the TXNDD do not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features within your project area. These data cannot substitute for an on-site evaluation by qualified biologists.*

TPWD Annotated County Lists: http://www.tpwd.state.tx.us/landwater/land/maps/gis/ris/endangered_species/
USFWS species lists: http://ecos.fws.gov/tess_public/servlet/gov.doi.tess_public.servlets.EntryPage
USFWS CRITICAL HABITAT: <http://criticalhabitat.fws.gov/>

There is a one week turn-around due to the number of requests that we receive. Thank you for your patience.

Dorinda Scott, Texas Natural Diversity Database
Wildlife Diversity Program
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, TX 78744

dorinda.scott@tpwd.state.tx.us

512/389-8723 (direct)

512/389-8758 (fax)

www.tpwd.state.tx.us

Texas Natural Diversity Database requests use:

txndd@tpwd.state.tx.us

From: Jessica Schmerler [mailto:jschmerler@HNTB.com]
Sent: Thursday, November 05, 2009 8:30 AM
To: Texas Natural Diversity Database
Subject: TXNDD Request

Ms. Scott,

Could you provide us with the NDD information: 1) ArcGIS shapefile, 2) Elemental Occurrence Record list, 3) EOR report for the following ten (10) USGS quads for a TxDOT-Dallas project in Dallas and Denton Counties? The USGS quads needed are Carrollton, Lewisville East, Lewisville West, Denton East, Denton West, Little Elm, Grapevine, Addison, Hebron, and Argyle. The nearby adjacent quads were included in the original request.

The request is for two Environmental Assessments that I am working on regarding improvements to IH 35E. The proposed improvements would occur along IH 35E and extends from IH 635 in Dallas County to FM 2181 in Denton County.

Thanks!
Jessica

Jessica E. Schmerler
Environmental Planner

HNTB Corporation
5910 W. Plano Parkway, Suite 200
Plano, TX 75093
Tel (972) 628-3181
Fax (972) 661-5614
www.hntb.com

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Occurrence List for Surrounding Quads

<u>Scientific Name:</u>	<u>Common Name:</u>	<u>Occurrence Number:</u>	<u>State Status:</u>	<u>Federal Status:</u>	<u>Eo Id:</u>
<i>Quercus buckleyi series</i>	Texas Oak Series	4			2487
<i>Rookery</i>		337			2952
<i>Rookery</i>		475			7731
<i>Schizachyrium scoparium-sorghastrum nutans series</i>	Little Bluestem-indiangrass Series	78			3741
<i>Thamnophis sirtalis annectens</i>	Texas Garter Snake	19			432
<i>Ulmus crassifolia-celtis laevigata series</i>	Cedar Elm-sugarberry Series	20			520

Element Occurrence Record

Scientific Name: Rookery

Occurrence #: 479

Eo Id: 3672

Common Name:

Track Status: Track all extant and selected historical EOs

TX Protection Status:

Global Rank: GNR

State Rank: SNR

Federal Status:

Location Information:

Watershed:

12030103 - Elm Fork Trinity

County Name:

Dallas

State:

TX

Mapsheet:

32096-H8, Carrollton

Directions:

AT INTERSECTION OF JOSEY LANE AND KELLER SPRINGS ROAD AND SURROUNDING, IN NORTH CARROLLTON

Survey Information:

First Observation: 1990

Survey Date:

Last Observation: 1990

Eo Type:

Eo Rank:

Eo Rank Date:

Observed Area:

Comments:

General

Description:

Comments: COLONY NUMBER 555-070

Protection

Comments:

Management

Comments:

Data:

EO Data: NESTING COLONY OF THE SNOWY EGRET, LITTLE BLUE HERON, CATTLE EGRET

Managed Area:

Managed Area Name

Reference:

Citation:

Martin, Catrina. 1991. Texas Colonial Waterbird Census Summary - 1990. Compiled for Texas Parks & Wildlife Dept. and Texas Colonial Waterbird Society. 13 March 1991.

11/6/2009

Element Occurrence Record

Specimen:

Element Occurrence Record

Scientific Name: Schizachyrium scoparium-sorghastrum nutans series

Occurrence #: 105 **Eo Id:** 2293

Common Name: Little Bluestem-indiangrass Series

Track Status: Track all extant and selected historical EOs

TX Protection Status:

Global Rank: G2

State Rank: S2

Federal Status:

Location Information:

Watershed:

12030104 - Denton

County Name:

Denton

State:

TX

Mapsheet:

33097-A1, Lewisville West

Directions:

FROM INTERSECTION OF IH-35 AND HIGHWAY 1171, TRAVEL WEST ALONG 1171 CA. 4 MILES TO JUNCTION OF HIGHWAYS 1171 AND 2499; FROM THAT INTERSECTION, TRAVEL SOUTH ALONG 2499 CA. 1.75 MILES TO JUNCTION OF HIGHWAYS 2499 AND 3040; FLOWER MOUND PRAIRIE IS IN NORTHEAST QUADRANT OF THAT INTERSECTION

Survey Information:

First Observation:

Survey Date: 1995-02

Last Observation: 1995-02

Eo Type:

Eo Rank: C

Eo Rank Date: 1995-02-01

Observed Area:

12.00

Comments:

General Description: ALLUVIAL GRAVEL DEPOSIT CREATES MARKED TOPOGRAPHIC CHANGE WITHIN PRAIRIE

Comments: LAND USES TO THE NORTH AND EAST ARE URBAN; LANDS SOUTH AND WEST ARE VACANT (BUT SOON TO BE DEVELOPED)

Protection Comments:

Management Comments:

Data:

EO Data: COMMUNITY APPEARS TO BE LITTLE BLUESTEM-BIG BLUESTEM-INDIANGRASS ASSOCIATION

Managed Area:

Managed Area Name

Reference:

Citation:

EIDSON, JIM. NORTH TEXAS LAND STEWARD, TEXAS NATURE CONSERVANCY, 1942 SOUTH LAKESHORE, ROCKWALL, TEXAS 75087; PHONE: 903/568-4139.

11/6/2009

Element Occurrence Record

Specimen:

Element Occurrence Record

Scientific Name: Thamnophis sirtalis annectens

Occurrence #: 20

Eo Id: 434

Common Name: Texas Garter Snake

Track Status: Track all extant and selected historical EOs

TX Protection Status:

Global Rank: G5T3

State Rank: S3

Federal Status:

Location Information:

Watershed:

12030103 - Elm Fork Trinity

County Name:

Denton

State:

TX

Mapsheet:

33097-A1, Lewisville West

33097-B1, Denton East

33096-B8, Little Elm

33096-A8, Lewisville East

Directions:

LAKE DALLAS

Survey Information:

First Observation:

Survey Date:

Last Observation:

Eo Type:

Eo Rank:

Eo Rank Date:

Observed Area:

Comments:

General

Description:

Comments:

Protection

Comments:

Management

Comments:

Data:

EO Data:

Managed Area:

Managed Area Name

Element Occurrence Record

Reference:

Citation:

Specimen:

Baylor University, Bryce C. Brown Collection at Strecker Museum. No Date. H. Kirby, Catalog # 4644 BCB, SM.
