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Highways/Endangered Species Act: Center for Biological Diversity Notice of Intent to Sue Texas Department of Transportation/Federal Highway Administration in Regards to Austin, Texas Project

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The Center for Biological Diversity and Save Our Springs (collectively, “CBD”) sent a May 18th Notice of Intent to Sue the Texas Department of Transportation and the Federal Highway Administration (collectively, “FHWA”) alleging violation of Section 7 of the Endangered Species Act (“ESA”).

The Notice of Intent to Sue alleges violations associated with what is referred to as the MoPac (State Loop 1) Intersections Project, Austin District Project in Austin, Texas.

CBD’s May 18th letter states that it is providing notice pursuant to Section 11(g) of the Endangered Species Act, that the Texas Department of Transportation and Federal Highway Administration are in violation of Section 7 of the ESA, and the ESA’s consultation regulations, 50 C.F.R. Part 402.

CBD states that they intend to file a lawsuit challenging FHWA’s alleged:

1. Failure to timely initiate and complete consultation with the U.S. Fish and Wildlife Service regarding the impacts of the MoPac (State Loop 1) Intersections Project on the Barton Springs salamander, the Austin Blind Salamander and the Golden-cheeked Warbler
2. Failure to ensure that the project is not likely to jeopardize the continued existence of the previously referenced ESA-listed species.

CBD further alleges that FHWA’s Biological Evaluation was inadequate and failed to support the agencies’ “no effect” determination and decision not to consult with the U.S. Fish and Wildlife Service.

CBD describes the Intersections Project as providing “operational improvements” to the Slaughter Lane at MoPac and La Crosse Avenue at MoPac intersections in Travis County, Texas (referencing the National Environmental Policy Act Environmental Assessment). It further states that the Project would extend approximately two miles in length, from 2500 feet north of Slaughter Lane to 3700 feet south of La Crosse, adding six new travel lanes, two each way as express lanes and one each way as an additional “auxiliary” lane. For a substantial part of the distance, construction of the new lanes will require digging

down twenty-three feet below grade and directly into the cave forming Edwards Aquifer limestone that is exposed to the surface.

CBD states that if FHWA does not act within sixty days to correct what it characterizes as “ongoing violations” of the ESA, they will pursue litigation in federal court seeking injunctive and declaratory relief.

[Click here to download a copy of the May 18th letter.](#)