



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

3-201
(1/97)

2. AUTHORITY-STATUTES
16 USC 1539(a)(1)(B)
REGULATIONS (Attached)
50 CFR §§ 13 & 17

3. NUMBER
TE-078366-0

1. PERMITTEE

Aqua Water Supply Corporation
Bluebonnet Electric Cooperative, Inc.
Lower Colorado River Authority
City of Austin Electric Utility Department (dba Austin Energy)
Bastrop and Lee Counties, Texas

4. RENEWABLE
 YES
 NO

5. MAY COPY
 YES
 NO

6. EFFECTIVE
8/22/2005

7. EXPIRES
8/31/2035

8. NAME AND TITLE OF PRINCIPAL OFFICER (if #1 is a business)
See list below.

9. TYPE OF PERMIT
Endangered Species – Incidental Take

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Approximately 142,526 acres within central, eastern, and northern Bastrop County (106,953 acres) and western Lee County (35,573 acres) see attached figure.

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2, ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORDANCE WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW. THIS PERMIT DOES NOT WAIVE THE OBLIGATION TO ABIDE BY OTHER FOREIGN, STATE, LOCAL OR FEDERAL LAW IN CARRYING OUT AUTHORIZED ACTIVITIES.
- C. VALID FOR USE BY PERMITTEES NAMED ABOVE.
- D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THAT THE PERMITTEE UNDERSTANDS AND AGREES TO ABIDE BY THE "GENERAL CONDITIONS FOR NATIVE ENDANGERED AND THREATENED WILDLIFE SPECIES PERMITS" (copy enclosed).

12. REPORTING REQUIREMENTS: Annually on October 1 and quarterly on April 30, July 31, October 1, and January 31.

ISSUED BY:

TITLE **ACTING**
Regional Director

DATE

8/19/05

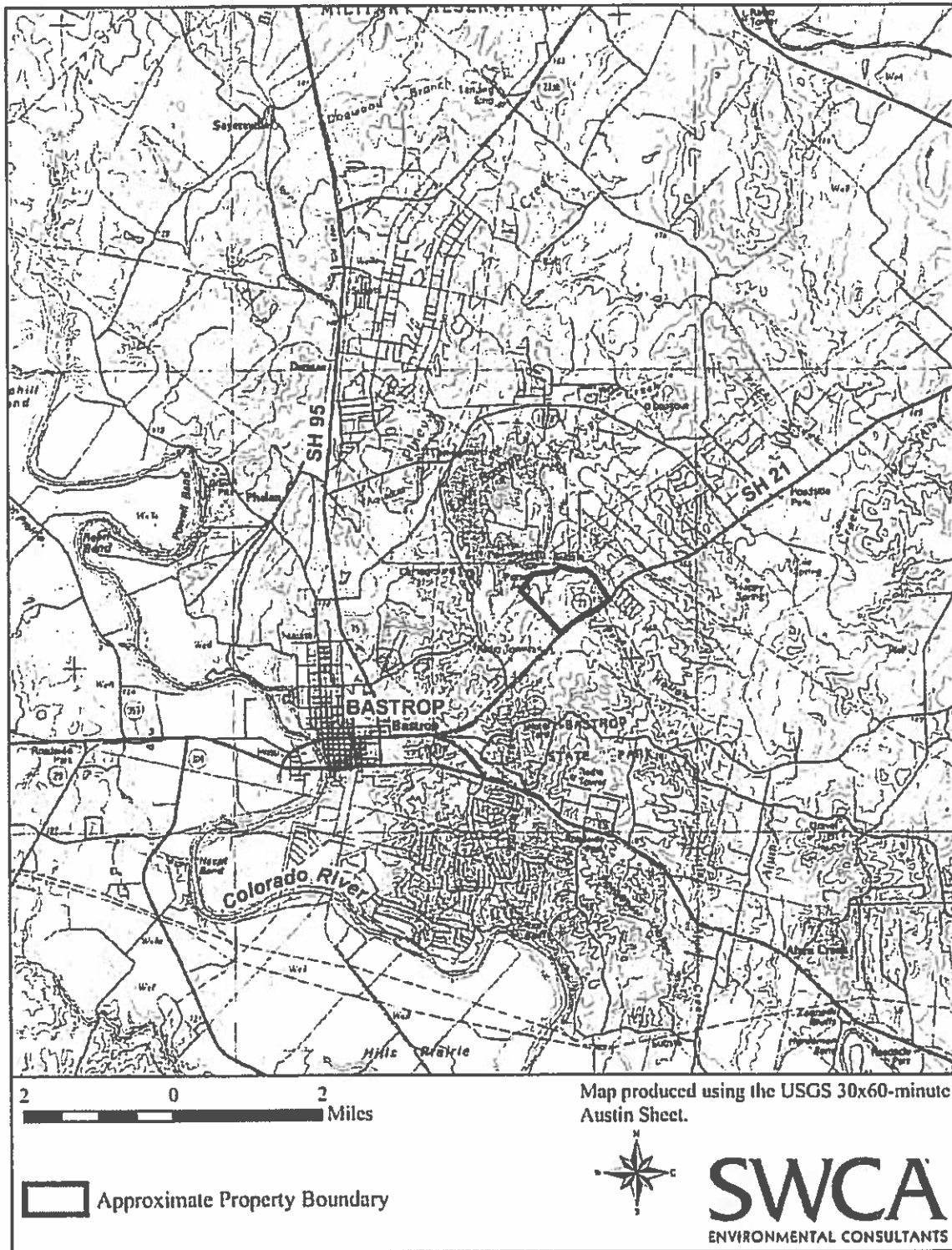


Figure 1A. General Location Map.

**Aqua Water Supply Corporation
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This permit is issued to the following utility companies:

Aqua Water Supply Corporation
415 Old Austin Highway
P.O. Drawer P
Bastrop, Texas 78602
512/303-3943
Principal Officer: Michael J. Neese – Manager of Operations

Bluebonnet Electric Cooperative, Inc.
3198 East Austin
Giddings, Texas 78942
979/542-3151
Principal Officer: Terry L. McMullen – Assistant General Manager

Lower Colorado River Authority
3700 Lake Austin Blvd.
Austin, Texas 78703
512/473-3586
Principal Officer: Joseph J. Beal – General Manager

City of Austin Electric Utility Department (dba Austin Energy)
721 Barton Springs Road
Austin, Texas 78704
512/322-6062
Principal Officer: AJ Lujan – Senior Vice President

- E.** The Permittees and their authorized officers, employees, contractors, and agents are authorized to "Take" (kill, harm, or harass) the Houston toad (*Bufo houstonensis*) within the 142,526-acre permit area as identified in section 1.0 of the February 16, 2005 Environmental Assessment and Habitat Conservation Plan (EA/HCP). Take associated with this permit shall be incidental to activities necessary for the routine maintenance and repair of utility facilities and installation of new facilities within the 142,526-acre permit area.
- F.** The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the terms and conditions identified in section 6.0 of the February 16, 2005 EA/HCP and Final Implementing Agreement, executed by the Permittees and the U.S. Fish and Wildlife Service (Service).

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- G.** Upon locating a dead, injured, or sick Houston toad, or any other endangered or threatened species, the Permittees and their authorized officers, employees, contractors, and agents are required to contact the Service's Law Enforcement Office, Austin, Texas, (512) 490-0948, for care and disposition instructions. Extreme care should be taken in handling sick or injured individuals to ensure effective and proper treatment. Care should also be taken in handling dead specimens to preserve biological material in the best possible state for analysis of cause of death. In conjunction with the care of sick or injured endangered/threatened species or preservation of biological materials from a dead specimen, the Permittees and their authorized officers, employees, contractors, and agents have the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
- H.** Conditions of this permit shall be binding on and for the benefit of the Permittees and their respective successors and assigns.
- I.** If during the tenure of this permit the project design and/or the extent of the habitat impact described in the EA/HCP is altered, such that there may be an increase in the anticipated take of the Houston toad, the Permittees are required to contact the Service and obtain authorization and/or amendment of this permit before commencing any construction or other activities that might result in take beyond that described in the EA/HCP.
- J.** The Permittees shall refer to permit number TE-078366-0 in all correspondence and reports concerning permit activities. Reporting requirements of this permit are set forth in Section 6.4 of the February 16, 2005 EA/HCP. Written annual reports shall be submitted by October 1 of each year to the USFWS Field Office, 10711 Burnet, Suite 200, Austin, Texas 78758; and to the USFWS, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103.
- K.** The current "No Surprises" policy of the Service provides that additional mitigation requirements for land, water, or financial obligations shall not be required of the Permittees or their successors or assigns beyond the level of mitigation provided for in the HCP, if fully and completely complied with and implemented.
- L.** The Permittees will adhere to the Best Management Practices set forth in Section 6.1 of the EA/HCP. Permittees shall:
- L.-1** Provide training, education, and employee/contractor awareness to employees who may be involved in installation and construction projects, as well as contractors and landowners directly associated with covered utilities projects.
 - L.-2** Include language requiring the use of BMPs identified in the EA/HCP and language specifying consequences and liabilities for non-compliance on the part of contractors in all contracts covering work within the proposed permit area.
 - L.-3** Provide new customers with a Houston toad information package and a Service contact number.

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- L.-4 To the maximum extent practicable, select installation and construction sites within existing, maintained ROWs, or other similar disturbed areas.
- L.-5 To the maximum extent practicable, avoid potential Houston toad habitat (forestlands with deep sands, and possible breeding sites).
- L.-6 Not initiate new clearing or construction/installation on certain lands without prior discussion with and timely approval from the Service, including, but not limited to, Bastrop and Buescher state parks, the University of Texas M. D. Anderson Cancer Center Science Park-Research Division (UT Science Park), and any other lands recognized by the Service as being managed as a preserve for the Houston toad.
- L.-7 Minimize potential impacts resulting from clearing and ground disturbance activities resulting from new installation and construction activity.
- L.-8 Avoid or minimize the use of herbicides and pesticides. If herbicides or pesticides are used, Permittees shall seek guidance for pesticide use from the Recommended Protection Measures for Pesticide Applications in Region 2 of the U.S. Fish and Wildlife Service, 2004 (or more recent edition).
- L.-9 Only use the least-toxic, non-persistent herbicides.
- L.-10 Require that employees and contractors conducting covered activities comply with the conditions above and all pesticide label requirements for dilution, application, disposing of rinse water, and disposing of empty containers.
- L.-11 To the maximum extent practicable, avoid clearing and ground-disturbing activities from the toad breeding season (1 January to 30 June). If clearing or ground-disturbing activities must be conducted between January 1 and June 30, Permittees shall provide written notice and justification requesting concurrence from the Service at least 30 days prior to initiation of these activities, except in the event of an emergency. In the event of such an emergency, Permittees shall notify the Service within 72 hours of emergency clearing or ground disturbing activities.
- L.-12 Where practicable, maintain a buffer greater than 150 feet from wetlands and potential breeding sites.
- L.-13 Require a trained individual (able to recognize anurans and familiar with their biology) to be on-site during line installation or construction efforts if between 1 January and 30 June and if within 150 feet of a potential Houston toad breeding site to ensure that no toads were present in a project area while activities were being conducted. That individual will be responsible for surveying potential breeding sites immediately prior to any clearing or construction activity. If any anuran eggs or tadpoles are found in or adjacent to a project area, the area containing the eggs/tadpoles will be marked with construction barrier fencing and avoided. Survey results shall be provided to the Service prior to the clearing or construction activity.

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- L.-14 Place stones along the bottom of a stream and its banks to allow vehicle access if crossing wetlands, creeks, ephemeral drainages, ponds, or stock tanks outside of the breeding season cannot be avoided, and as long as natural hydrologic flow is unimpeded and all stormwater and jurisdictional waters of the United States protections are met under state and federal regulations.
- L.-15 Non-vegetated, steep stream bank slopes may be graded for accessibility if: 1) stormwater and jurisdictional waters of the United States protection criteria are met under state and federal regulations; 2) the stream does not have wooded riparian borders; and 3) bare, graded stream banks are vegetated with native species following project completion.
- L.-16 Limit clearing to the minimum amount that allows for the safe completion of a particular project.
- L.-17 When practical, clear vegetation by hand and minimize the use of track equipment.
- L.-18 Inspect gasoline- and diesel-fueled field equipment daily for signs of fuel or hydraulic leaks; such leaks shall be repaired promptly and measures shall be taken to prevent soil contamination. All hazardous materials related to construction or maintenance activities shall be properly contained, used, and/or disposed of.
- L.-19 Retain as many trees as possible within ROWs as long as they do not compromise the safety or reliability of the facility. The removal of large trees, when necessary, shall be achieved using hand-held equipment. Felled trees will be separated and cut into pieces small enough to be removed from the ROW without using track equipment.
- L.-20 Deploy best non-point source pollution controls to protect potential breeding sites from receiving run-off from installation/construction areas.
- L.-21 Cover small excavations (e.g., trenches for sub-surface lines and holes for poles and standards) overnight. Large excavations that remain open overnight shall be appropriately fenced to prevent access by anurans, and shall be inspected prior to initiating installation/construction activities. Any toad encountered in an excavation shall be removed and placed outside of the activity area.
- L.-22 Conduct vegetation and BMP monitoring for all areas disturbed during construction and/or maintenance. Within 30 days of project completion, the Applicants will perform an inspection of all BMPs to evaluate their effectiveness and to make recommendations on which to base adaptive management decisions. Vegetation monitoring will be conducted within 6 months of construction completion to determine the effectiveness of the vegetation restoration efforts. Two years after construction is complete, a follow-up monitoring will be performed to evaluate the effectiveness of BMPs, vegetation restoration, and any adaptive management strategies that were employed following construction.
- L.-23 Restore disturbed areas to approximate pre-construction contours where possible.
- L.-24 Re-seed large disturbed areas with native, non-sod-forming species.

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- L.-25 Inspect any imported topsoil for evidence of fire ants and if fire ants or their eggs are found, topsoil shall be treated prior to use.
- L.-26 Revegetate bare, graded stream banks with native species following project completion.

*** End of Permit Terms and Conditions for Permit # TE-078366-0 ***