

Save Our Scenic Hill Country Environment, Inc.
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LCRA TSC draft Environmental Assessment/draft Habitat Conservation Plan Comments

Permit Number TE-46542A-0

December 23, 2011

The following comments are being submitted on behalf of the approximately 600 members of Save Our Scenic Hill Country Environment, Inc. (SOSHCE). A large number of our members are landowners in Kimble, Kerr and Gillespie counties in the Texas Hill Country. Significant parts of those counties are in the area to be impacted by the two LCRA TSC Competitive Renewable Energy Zone (CREZ) transmission line projects (Projects) and by the associated draft Environmental Assessment (dEA), draft Habitat Conservation Plan (dHCP) and related Incidental Take Permit (ITP).

In general, we strongly support development of Environmental Impact Statements (EIS's)/HCP's/ITP's for industrial wind and related transmission line projects. We appreciate the role of the U.S. Fish & Wildlife Service (Service) in helping protect the Hill Country environment. We also are very supportive of LCRA TSC's efforts to minimize and mitigate the environmental impacts of their CREZ transmission line projects. However, we do have some specific concerns and comments regarding the dEA and dHCP as follows.

The Projects will significantly affect the quality of the human environment; as such, the Service should prepare an EIS rather than the EA

- (1) The Projects will still have a major impact even though they are better defined and more limited in scope than when an EIS was planned for during the scoping process.
- (2) It is stated in the dEA that the Projects (two) now involve 178 miles versus 450 miles (four projects) at the time of the scoping; however, the May 15, 2009 Public Utility Commission (PUC) final Order on Rehearing (Docket 35665-1340) indicates that the estimated mileage (123 miles) of the two eliminated lines was well less than one-half of the total (291 miles) for the four lines.
- (3) The Study Area includes six counties (Tom Green, Schleicher, Kimble, Kerr, Gillespie and Kendall) traversed by the two lines plus two counties with limited potential (Mason and Menard) plus Sutton County for a total of 10,194 square miles.
- (4) The "action area" includes the designated right-of-ways (ROW's), and access roads, as well as an area 300 feet of each side; it is stated in the dEA that "It is possible some of the resources (e.g., socioeconomic resources) may experience indirect effects at greater distances from the ROW's".
- (5) The dEA and dHCP include the potential mitigation of up to 1,026.7 acres of Golden Cheeked Warbler (GCW) habitat and of up to 2,584.3 acres of Black Capped Vireo (BCV) habitat.
- (6) The transmission lines will cover 178 miles through six counties.

- (7) The related ROW's will require 2,715 acres at a 160 feet width or 2,375 acres at a 140 feet width.
- (8) The transmission line structures will be predominately lattice towers with a height of 120 to 180 feet.
- (9) There will be four to six structures per mile which equates to a total number of between 712 and 1068.
- (10) The transmission lines and structures will be highly visible as they pass through the City of Kerrville and to the large number of travelers on Interstate 10 from the Comfort area to west of Junction.
- (11) In their Original Petition and Application for Temporary Restraining Order and Temporary and Permanent Injunctive Relief before the Travis County District Court, the City of Kerrville, the Kerrville Public Utility Board and City of Junction testified that the CREZ transmission line through Kerrville will have significant negative economic and aesthetics impacts.
- (12) In addition to the new Big Hill (McCamey D) substation, there will be two approximately 50 acre American Electric Power-Electric Transmission of Texas series compensation stations that are expected to be built east and west of Junction; these two stations are not included in the dEA and dHCP; it is stated in the dHCP that the extent of impacts is not known.
- (13) It is stated in the dEA that the long term adverse impacts to the visual and aesthetics characteristics on the landscape would be minor to major depending on several factors.
- (14) It is stated in the dEA that "It is likely that the value of many, probably most, properties along the transmission line routes would not be affected; however, it is reasonable to conclude that the value of some properties along the ROW could be reduced; the nature and magnitude are impossible to predict."
- (15) It can be argued that the studies that LCRA TSC used to address property value impacts in the dHCP do not apply to an area like the Texas Hill Country where rural properties values are generally not based on agricultural use. Instead, in the Texas Hill Country, land values are based much more on aesthetic and natural resource values.
- (16) An EIS is being prepared in conjunction with the Oncor transmission and distribution dHCP which is referenced in the LCRA TSC dHCP.
- (17) EIS's are being utilized for the dHCP's being prepared for Comal and Hays counties that are referenced in the dEA and dHCP; the proposed mitigation acreage for the Black Capped Vireo (BCV) in the LCRA TSC dEA/dHCP exceeds that for the two counties.
- (18) An EA was prepared for the 2007 TXU Electric HCP; however, this transmission line was only 16 miles long and the permit duration was only 5 years.
- (19) This CREZ line process has been very controversial. As such, it is imperative that a full EIS be completed in order to adequately give the public full notice and opportunity to be involved in the Endangered Species Act (ESA)/HCP and National Environmental Protection Act (NEPA) processes and provide a complete opportunity to contribute regarding affects to the human and natural environments.

The PUC target completion date of the fall of 2013 should not impact the provisions of the dEA and dHCP

- (1) It is stated in the dEA that “The PUC is requiring LCRA TSC to have these projects operational by the fall of 2013.”
- (2) There are several references in the dEA and dHCP to “tight project schedules” and other factors possibly requiring clearing during the GCW breeding season.
- (3) The January 24, 2011 PUC Final Order (Docket 38354-3625) did not include a required completion date; however, it did state “LCRA TSC shall use a habitat conservation plan development process and Endangered Species Act Section 10(a) permitting process that is ongoing with the USFWS.”
- (4) The May 15, 2009 PUC Order on Rehearing in the Selection of Entities Responsible for Transmission Improvements Necessary to Deliver Renewable Energy From Competitive Renewable-Energy Zones (Docket 35665-1340) did reference the Commission’s anticipated general schedule for completion of CTP projects by year-end 2013 , that the Commission anticipates that the projects will be completed by year-end 2013, that the CCN application timing should ensure that the year-end 2013 target for the completion of construction can be met, that the Commission anticipates that the CTP projects will be completed by year-end 2013, and that the sequencing of CCN’s and project must facilitate the timely completion of all CREZ projects by the target completion date of year-end 2013.
- (5) In any case, the PUC does not have the authority to override the requirements of the ESA and the NEPA, and LCRA TSC must comply fully with all applicable federal laws and regulations. The ESA and NEPA are controlling and must be adhered to as a matter of law.
- (6) In addition, the PUC extended the LCRA TSC Certificate of Convenience and Necessity (CCN) submission date for the McCamey D (Big Hill) to Kendall line by approximately nine months to allow for consideration of additional alternative routes.

The 30 year term of the dHCP and ITP should not be extendable without development of a new dEIS and dHCP

- (1) It is stated in the dHCP that the permit may be renewed or extended, and amended if necessary, beyond its initial 30 year term with the approval of the Service and that no additional mitigation will be provided if the permit is renewed or extended.
- (2) The dHCP for Oncor does not include similar provisions for extension.

Cumulative impacts should acknowledge and include the fact that the CREZ transmission system is designed to accommodate 18,456 megawatts of wind generation as compared to the current capacity of about 9,600 megawatts

- (1) The CREZ transmission system was directly tied to the CREZ wind energy production through the enabling legislation in 2005 and through the related PUC proceedings.
- (2) Wind generators in two of the CREZ zones were required to provide financial commitments to the PUC that they would use the CREZ transmission system; the other three CREZ zones were assumed to have sufficient existing capacity, under development capacity and capacity represented by signed interconnection agreements.

- (3) It is acknowledged that the amount of future wind generation is dependent on several factors including extension of federal subsidies and competition from relatively low priced natural gas.
- (4) It is inappropriate to only mention the U.S. EIA projection of an additional 700 megawatts of wind generation by 2035.
- (5) The Electric Reliability Council of Texas (ERCOT) is tracking potential wind energy transmission interconnection requests that significantly exceed the CREZ design capacity; based on signed interconnection agreements, ERCOT is projecting that an additional 1,755 megawatts of wind energy capacity will be installed through 2014.
- (6) It is stated in the dEA that wind generation impacts include creating collision hazards for birds and bats, can result in local displacement of certain wildlife species, decreasing aesthetic qualities of local viewsheds and creating a small number of jobs.

Mitigation measures should be implemented prior to any authorized take and be located in the associated recovery regions

- (1) For the Golden Cheeked Warbler (GCW), it is stated that LCRA TSC has solicited mitigation price quotations from conservation banks in Burnet and Bandera counties; at least the two in Burnet County are not in the two recovery regions (6, 7) impacted by the projects.
- (2) For the BCV, it is stated that mitigation funding is assured prior to the occurrence of any authorized take; actual utilization of those funds should be required.

Is it correct that the Priority Projects will likely go forward whether or not they have a permit and that the ITP is voluntary?

- (1) It is stated in several places in the dEA and dHCP that it is unlikely that GCW and BCV habitat can be avoided.
- (2) The dEA states that "In the absence of a permit, and the conservation planning entailed by the permit review process, take would violate the ESA."
- (3) As indicated previously, the PUC Final Order states that LCRA TSC shall use a habitat conservation plan development process and Endangered Species Act Section 10(a) permitting process that is ongoing with the USFWS.
- (4) Again, the PUC does not have the authority to override the requirements of the ESA and NEPA, and LCRA TSC must comply fully with all applicable federal laws and regulations.
- (5) In addition, would internal LCRA TSC policies allow it to proceed without compliance?

Based on the significant impacts the Projects will have on the environment, it is requested that our comments be seriously considered and that changes be incorporated accordingly.

Robert Weatherford
President