



FEDERAL FISH AND WILDLIFE PERMIT

2. AUTHORITY-STATUTES
16 USC 1539(a)

REGULATIONS (Attached)
50 CFR 17.22

50 CFR 13

3. NUMBER
TE065406-0

4. RENEWABLE
 YES
 NO

5. MAY COPY
 YES
 NO

6. EFFECTIVE
11/05/2003

7. EXPIRES
11/05/2053

1. PERMITTEE

BOY SCOUTS OF AMERICA CAPITOL AREA COUNCIL #564
7540 ED BLUESTEIN BLVD.
AUSTIN, TX 78723
U.S.A.

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)
TOM VARNELL
SCOUT EXECUTIVE

9. TYPE OF PERMIT
ENDANGERED SPECIES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
The 4,848-acre Griffith League Ranch in Bastrop, Bastrop County, Texas

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 ACCORD 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.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. Management Plans

1. Initial use of the Griffith League Ranch will include low-impact activities, such as hiking, camping, backpacking, nature studies, and moderate-impact COPE training, horseback riding, and mountain biking. Such activities will be conducted in accordance with the principles of minimizing environmental impacts. Scouts and Scout leaders participating in low impact activities on Griffith League Ranch will receive training in low-impact use. Low-impact use of wildlands is based upon the following concepts:

- a. Always camp on durable surfaces,
- b. Dispose of waste by utilizing "pack in" and "pack out" techniques,
- c. Minimize disturbance of natural objects and avoid introducing permanent structures,
- d. Minimize campfire impacts by using established fire rings, fire pans or mound fires, burning all wood and coals

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

Annual report due December 1 each year that includes the period between October 1 and September 30.

ISSUED BY

[Handwritten Signature]
Acting
REGIONAL DIRECTOR

DATE

11/05/2003

to ash, extinguishing campfires completely and properly disposing of campfire residues,

e. Utilize established trails when available,

f. For mountain biking, use only single-track trails created in low erosion areas in daylight hours,

g. Supervise all low-impact activities to avoid any off-trail or off-site disturbance.

2. BSA/CAC may only construct trails on Griffith League Ranch following the approval by the Service of a trail plan showing, in reasonable detail, the location, design, and construction techniques of the proposed trails.

2. Additional ranch management plans (such as a Vegetation Management Plan, a Fire Management Plan, a Trails Plan, and a Wildlife Management Plan) shall be submitted to the U.S. Fish and Wildlife Service (Service) for its review and approval with respect to impacts to the Houston toad, and, as necessary, comments from outside experts shall be obtained on specific issues related to the Houston toad prior to implementation. Plans describing activities affecting the toad not covered by the HCP or other plans specified therein, consistent with the concepts of adaptive management, shall be submitted to the Service for review and approval before implementation.

E. **Activities**

1. Off-trail activities in undeveloped areas of Griffith League Ranch shall be limited to low impact activities such as hiking, camping, nature studies, jogging, and orienteering. These activities will be supervised and controlled by trained leaders or camp staff.

2. Staff and camp users shall be instructed on proper Service specified procedures to follow should any living, trapped, injured, dead, or diseased Houston toads be found or encountered on Griffith League Ranch.

3. Programs, uses, and activities shall be restricted or limited within 100 feet of maximum pool height of a documented, known, and active Houston toad breeding site, except for areas for which the development and use has been previously mitigated through preservation by conservation easement of other land on Griffith League Ranch. Such restrictions and limitations shall include, but not be limited to, group size restrictions, limiting programs to educational and research activities, and limitations on the time of day and time of year activities may take place. Restrictions and limitations shall be in effect during the Houston toad's breeding/dispersal season, which shall be determined annually with the Service's concurrence for each breeding site based on survey results and expert opinion.

4. Skeet, trap, and sporting clay ranges shall not utilize lead shot.

5. Access to breeding sites shall be supervised during the Houston toad's breeding/dispersal season and programs, uses, and activities relating to such access shall be designed to prevent adverse impacts on the Houston toad.

6. Where practicable, the horseback riding trail shall follow old logging skid paths, fence lines, and secondary roads. Placement of hitching posts and corrals will be outside of creeks and drainages.

7. Traffic beyond the main road of the Griffith League Ranch shall be controlled as follows:

a. Restrict speed limits,

- b. Restrict night time driving to authorized vehicles for purposes of emergency or maintenance, and
- c. Restrict daytime access to areas outside of the main complex to authorized vehicles.

F. Livestock

- 1. The number of cattle, horses, and other farm animals on Griffith League Ranch shall be limited to the minimum number deemed necessary for program use.
- 2. Commercial grazing shall be prohibited.
- 3. Livestock shall be watered by aboveground troughs or other alternatives that do not impact known Houston toad breeding sites or attract Houston toads. Spillage and overflow from troughs shall be kept to a minimum to avoid attracting Houston toads to livestock watering sites.
- 4. Livestock shall be restricted to pastures segregated from breeding sites and woodland areas.
- 5. Excess manure and other livestock waste material from corrals and stables shall be composted away from drainages, creeks, ponds, and wetlands to minimize eutrophication of water sources and breeding sites.

G. Fire Ants

- 1. Any imported soils or the source of such soils, fill materials, and nursery stock shall be inspected for the non-native red imported fire ant (*Solenopsis invicta*) and its eggs. Should the pest be detected, these materials shall be treated using methods selected based upon input from experts including the Service.

H. Construction Activities

- 1. Construction activities, such as for board walks and observation decks providing access for research and education, within 100 feet of maximum pool height of known breeding sites shall only be scheduled during the Houston toad non-breeding/dispersal season. These activities will be extremely rare events in the overall management scheme and will be designed to enhance the pond or provide appropriate access for research and educational purposes.
- 2. All construction areas shall be demarcated on site so that soil and vegetation disturbances are confined to construction areas only.
- 3. Because trenches, pits, and holes could trap or injure individual toads, all open construction trenches and excavations shall be covered overnight or suitable barriers erected to prevent entry by the Houston toad at all construction sites, including utilities, on a year-round basis.
- 4. Construction sites shall be inspected for the presence of Houston toads prior to beginning each workday and prior to backfilling open pits or trenches.
- 5. Instruction shall be provided for contractors on proper procedures to be followed should any living, trapped, injured, dead, or diseased Houston toads be found or encountered on Griffith League Ranch. BSA/CAC shall advise contractors, staff, and volunteers engaged in construction and maintenance projects on Griffith League Ranch about the requirements of the permit regarding such activities and the measures to be implemented to avoid or minimize take of the Houston toad.
- 6. Best management practices shall be implemented to prevent soil erosion during construction phases and to

prevent runoff and sedimentation from contaminating nearby ponds, creeks, or breeding sites.

7. Only materials resistant to termite damage, such as pretreated lumber, stone, or concrete, shall be utilized for construction of foundation members in order to minimize any future need for application of potentially harmful pesticides.
8. As necessary to control soil erosion, exposed soils in disturbed sites shall be revegetated with native plants or stabilized when construction is finished. Only those plants native to the Lost Pines will be used for landscaping, restoration, and revegetation.
9. The golf course shall be designed to environmentally friendly standards that would require less maintenance (mowing, fertilizer/chemical treatments) than those of standard golf course design.
10. Lake construction practices shall be designed to minimize adverse impacts on the Houston toad. No groundwater withdrawal or well construction for use in the filling and maintenance of the proposed lakes will be commenced until the impact of such withdrawal has been evaluated. Clearing and construction shall occur only during months that the Houston toad is believed to be less active (June through December) to minimize impacts of construction on the species. The lakes shall be filled slowly during the period that the species is emergent (December through May). Prior to construction, surveys shall be conducted to characterize the habitat and determine the extent of its use by the Houston toad. Post-construction, studies shall be conducted to document the lake's impact on Houston toads and to determine whether or not the species can successfully use shallows along lake margins for breeding.

I. **Management Activities**

1. Activity and development shall be restricted or limited near the Caretaker Residence and Maintenance Area, and contingency plans for managing spills and possible pollutants that might threaten Pond 8 shall be prepared. In the event of a hazardous material spill, the response plan will be activated to prevent serious impact on the Houston toad habitat.
2. Should wild hogs threaten the integrity of the Breeding Sites, a plan to remove such animals and remediate their impacts shall be implemented.

J. **Education**

1. Design a program demonstrating the unique, rare, and privileged opportunities and consequent responsibilities that BSA/CAC has assumed in their participation in managing habitat of the endangered, Texas endemic, Houston toad, incorporating information about the Endangered Species Act, protection of the Houston toad, and conservation of its habitat.

K. **Monitoring and Adaptive Management**

1. Within one year from issuance of the Incidental Take Permit, BSA/CAC will develop and implement an on-going monitoring program of the Houston Toad on Griffith League Ranch to estimate population trends over time, and assess the impacts of BSA/CAC activities on Houston toad mortality and breeding success. At minimum, the BSA/CAC shall monitor:
 - a. Houston toad breeding activity at all ponds, including the timing of breeding activity and numbers of adult males and females, presence of egg strings and tadpoles, and emergence of toadlets.
 - b. Environmental conditions at the ponds, including night time temperatures and water levels during the breeding season.

- c. Presence of imported non-native fire ants and other predators, such as turtles, snakes, fish, and mammals, in or near the ponds coincident with the breeding/dispersal season.
 - d. Any observations of mortality of Houston toads due to predators, roads, or construction activities or other accidental incidents.
 - e. The presence and numbers of Gulf Coast and Woodhouse's toads, or their hybrids, encountered in breeding ponds coincident with the breeding season.
2. BSA/CAC shall prepare an annual report of all monitoring activities on Griffith League Ranch conducted during the preceding year. The annual report will be submitted to the Service by December 1 each year and include the period between October 1 and September 30. The annual report will include the following:
- a. Houston toad surveys completed for the period and a description and map of the locations at which the species was observed. The report will include any updated distribution and abundance information;
 - b. An analysis of population trends and an assessment of road mortality;
 - c. A discussion of the effectiveness of mitigation measures taken to avoid, minimize, or rectify impacts on the Houston toad;
 - d. A report of any locations at which imported non-native imported fire ants were observed that might be associated with development;
 - e. A map and description of activities that have been implemented as per the EA/HCP and its associated management plans, including new development, resource manipulation, user activities, and user statistics;
 - f. An assessment of habitat conditions, including a discussion of any signs of habitat degradation, and notable presence or absence of Houston toads;
 - g. Anticipated management actions for the upcoming year;
 - h. A report of any minor amendments requested or any refinements to the EA/HCP or its related management plans;
 - i. Any suggested refinement of adaptive management strategies based upon the past year's observations and research activity; and
 - j. Documentation of BSA/CAC's compliance with the terms of the EA/HCP and this permit.
2. Written annual reports of activities, including development activities and mitigation actions, shall be submitted by December 1 of each year to the U.S. Fish and Wildlife Service, Ecological Services, 10711 Burnet, Suite 200, Austin, Texas 78758; and to the U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103.
3. When it appears that a localized effect on the toad is the result of BSA/CAC activities, BSA/CAC shall adapt its plans to prevent harm to the Houston toad. Specifically, to this end, BSA/CAC shall:
- a. Install a drift fence to prevent further mortality if monitoring reveals that road mortality is occurring despite restrictions placed on traffic;

- b. When feasible and not inconsistent with the safe and prudent operation of a Scout ranch, modify its management strategies and management techniques whenever monitoring or research data indicate that doing so would reduce or eliminate adverse impacts on the Houston toad and promote its survival on Griffith League Ranch;
- c. During preparation and implementation of ranch management plans (such as a Vegetation Management Plan or Wildlife Management Plan) for Griffith League Ranch, address and minimize, to the maximum extent practicable consistent with the scope of the permitted activities, the impacts of implementing such plans on the Houston toad;
- d. Periodically review and update each resource management plan to incorporate the most current information about the Houston toad and refine management techniques. Submit the various ranch management plans to the Service for review, comment, and approval to confirm that such plans are consistent with the EA/HCP;
- e. If imported, non-native fire ants are detected in or near a breeding pond, and their occurrence is a result of BSA/CAC activity, BSA/CAC shall treat the area for fire ants using the safest methods for the Houston toad according to current Service recommendations. BSA/CAC shall implement a program to avoid introducing the imported, non-native fire ant through importation of soil or infected nursery stock. Infestations of the fire ant in or near known breeding ponds on Griffith League Ranch shall be controlled using integrated pest management strategies and following recommendations of experts, including those from the Texas Department of Agriculture and from the Service. This program will be detailed in the Integrated Pest Management Plan for Griffith League Ranch;
- f. Construction of Lakes 2 and 3 shall be postponed until research from Lake 1 has been interpreted. No groundwater withdrawal or well construction for use in the filling and maintenance of the proposed lakes will be commenced until the impact of such withdrawal has been evaluated. Post-construction, studies shall be conducted to document the lake's impact on Houston toads and to determine whether or not the species can successfully use shallows along lake margins for breeding. In the event that the lakes result in a strong negative effect on the toad, BSA/CAC shall change the design, placement or installation of Lakes 2 and 3;
- g. Should studies indicate that fish predation or the stocking of fish in the lakes is a serious threat to the species, appropriate designs shall be constructed and maintained to reduce or eliminate predation and encourage successful reproduction of the Houston toad. Fish shall also be removed at specific ponds if predation by fishes were determined to be detrimental to Houston toad survival. In addition, effects of pathogens from stocked fish, bait, or other introduced animals shall be evaluated and assessed. Monitoring results shall be used to alter and adapt current plans for the benefit of the toad;
- h. During the initial phases of trail use, animal waste concentrations shall be evaluated and, if deemed necessary in consultation with Houston toad biologists, a management plan will be implemented to minimize potential eutrophication of Houston toad breeding sites; and
- i. If monitoring on Griffith League Ranch indicates a decline in the toad population on Griffith League Ranch due to BSA/CAC activities, BSA/CAC shall alter its proposed plan in order to prevent any further decline resulting from these activities.

L. **Mitigation**

1. Prior to each development project, BSA/CAC shall restrict by conservation easement and commit to manage, as approved by the Service, one acre of impacted Houston toad habitat for one acre of "High Disturbance" habitat (1:1 ratio) and six-tenths of an acre of habitat for one acre of impacted "Moderate Disturbance" habitat (0.6:1 ratio) as described in Table 1 of the EA/HCP for each such project. The

"impacted habitat" shall be calculated based on the final design of the improvement or use area, which may be greater (subject to subchapter 6.5 of the EA/HCP) or less than the estimated acreages set forth on Table 1, but shall include the footprint of the development and areas of indirect effects.

2. The conservation easement shall have the Service as Third Party Beneficiary and be granted to an entity approved by the Service. The conservation easement shall remain in effect unless an event occurs where (i) the Houston Toad has been classified as "extinct" by the Service, (ii) the Houston Toad has been classified as "recovered" by the Service or has otherwise been removed from the federal threatened and endangered species list and the existence of the Houston Toad on the Easement Area was not a factor in the determination of such classification or removal, or (iii) the Easement Area is no longer determined by the Service to contain known habitat for the Houston Toad.
3. Activities within the conservation easement area shall be restricted to low impact and Service-approved moderate impact activities. Low impact use shall be limited to upkeep, research, hiking, camping, and jogging. Horseback riding and mountain biking shall be restricted to maintained trails that have been approved by the Service and mitigated according to subchapter 6.2.1.4(2). These activities will be supervised and controlled by camp staff.
4. Habitat conserved for the needs of the Houston toad shall be in a contiguous block. Service roads, trails, new roads, and utility lines will not be a factor in the determination of contiguity. The initial area under conservation easement will be located in the north corner of the property. The Service must give approval prior to construction of any new service road, utility line or trail within the conservation easement and proposed for use in connection with activities other than the Low Impact activities. The area occupied by trails, roads, and utility lines will not be counted as mitigation acres, but may be included in the conservation easement area.
5. As an alternative to a simple conservation easement, BSA/CAC may choose to mitigate through a Conservation Bank on Griffith League Ranch for the conservation of Houston toad habitat. The Conservation Bank would be established by entering into a formal Conservation Bank Agreement with the Service and dedicating property to be restricted under the same conditions as described in subchapters 6.2.1.4 (1, 2, 3, and 4). The agreement establishing such bank would provide for the granting of a conservation easement on land deposited in the bank and establish Houston toad conservation credits on a one-acre for one-credit basis. With respect to the development and use of Griffith League Ranch by the BSA/CAC, the use of such conservation credits for mitigation would be based upon the High Disturbance and Moderate Disturbance ratios noted above. BSA/CAC may deposit Griffith League Ranch land in the conservation bank as the need for mitigation on other Scout property arises, or if credits are to be sold to others. The mitigation ratios established for the Griffith League Ranch will not affect the mitigation ratios for mitigation on other Scout properties or for third party mitigation. The mitigation ratios contained in this EA/HCP are unique to the Griffith League Ranch and are associated with the specific nature of management and use of the ranch by the BSA/CAC.

M. Other Permit Requirements and Conditions

1. Upon locating a dead, injured, or sick Houston toad, or any other endangered or threatened species, the Permittee is required to contact the Service's Law Enforcement Office, Austin, Texas, (512) 490-0948, or in San Antonio, Texas, (210) 681-8419, 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 materials 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 Permittee and its contractor/subcontractor have the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

2. The conservation easement, permit, and appropriate attachments shall be recorded with the County Clerk, Bastrop County, Texas, prior to the beginning of development related activities on the Griffith League Ranch. A recorded copy of this action will be returned to the Service within 30 days.
3. This permit authorizes the habitat impact described in the habitat conservation plan and the anticipated take of the Houston toad incidental to that impact. 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 Permittee is required to contact the Service and obtain authorization and/or amendment of the permit before commencing any construction or other activities that might result in take beyond that described in the EA/HCP.
4. BSA/CAC funding obligations are set forth in Section 6.3 of the HCP.
5. While no contradiction between the EA/HCP and the permit conditions is intended, in the event of any direct contradiction, the terms of the permit document shall control. In all other cases, the terms of the permit document and the terms of the EA/HCP shall be interpreted to be supplementary to each other.
6. In the event that any judicial decision or determination, including without limitation the decision from the District Court for the District of Columbia in *Spirit of the Sage, et al. v. Norton et al.*, 98-CV-1873 (D.D.C. 2003), may hold that the Department of Interior's "No Surprises" assurances rule (or similar successive rule) is vacated, unenforceable or enjoined for any reason to any extent, this permit shall be enforceable only to the degree allowed by any such decision or determination; provided that the remainder of the permit shall remain in full force and effect to the maximum extent permitted by law. In the event that the "No Surprises" assurances rule may be vacated, unenforceable or enjoined by such decision or determined but is later reinstated, this section of the permit likewise be automatically reinstated and apply to the entire term of this permit. If, in response to any such judicial decision or determination, the "No Surprises" assurances rule is revised, the permit shall be automatically amended in a manner consistent with the revised rule so as to afford the maximum protection to the Applicant consistent with the revised rule.

End Permit TE 065406-0