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June 21, 2016

Ms. Jennifer L. Loda
Reptile and Amphibian Staff Attorney
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612

Mr. Bill Bunch
Executive Director
Save Our Springs Alliance
905 W. Oltorf St., Suite A
Austin, TX 78704

RE: Mopac Intersections Project – 60-Day Notice of Intent to Sue for Alleged ESA Violations

Dear Ms. Loda and Mr. Bunch:

On May 19, 2016, the Texas Department of Transportation (TxDOT) received a 60-day notice (notice) from the Center for Biological Diversity (CBD) and Save Our Springs Alliance (SOS) indicating the groups' intent to sue TxDOT for alleged violation of Section 7 of the Endangered Species Act (ESA), 16 U.S.C. § 1536, and the ESA's consultation regulations, found in 50 C.F.R. Part 402, regarding impacts to endangered species. Specifically, CBD and SOS alleged in the notice that TxDOT and FHWA failed to engage in consultation with the U.S. Fish and Wildlife Service (USFWS) regarding the impacts to the Barton Springs Salamander (BSS), the Austin Blind Salamander (ABS), and the Golden-Cheeked Warbler (GCW) in the MoPac Intersections project (the project). Additionally, it was alleged that TxDOT and FHWA failed to ensure that the project is not likely to jeopardize the continued existence of those three species, and that the project's Biological Evaluation did not support TxDOT's "no effect" determination and subsequent decision to not consult with USFWS for the listed species.

TxDOT has modified its prior "no effect" determinations and has now determined that the project is not likely to adversely affect the BSS, ABS, and GCW. Pursuant to 50 C.F.R. §§ 402.13 and 402.14(b)(1), TxDOT has initiated consultation with USFWS and seeks USFWS's concurrence with TxDOT's determinations for the three species. As such, the arguments presented in the notice from CBD and SOS are rendered moot by TxDOT's ongoing efforts to consult with USFWS for the project.

Should you have any questions, please contact me at (512) 416-2734.

Sincerely,

Carlos Swonke, P.G.
Director of Environmental Affairs Division

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OUR MISSION: Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

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Ms. Jennifer L. Loda and Mr. Bill Bunch

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cc: Gregory G. Nadeau, Administrator, Federal Highway Administration
Adam Zerrenner, Field Supervisor, U.S. Fish & Wildlife Service

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