



Biological Evaluation

US 281 and SH 71 Interchange

Marble Falls, Burnet County, Texas

CSJ: 0252-02-058

USFWS IPaC Project Code: 2024-0035913

January 2026

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Table of Contents

1	INTRODUCTION	1
1.1	Purpose.....	1
1.2	Federal Nexus	1
2	PROJECT DESCRIPTION	2
2.1	Project Elements	2
2.1.1	Existing Facility.....	2
2.1.2	Proposed Facility.....	2
2.1.3	Operation and Maintenance	4
2.2	Project Area, Action Area, and Setting.....	5
2.2.1	Ecological Setting.....	5
2.2.2	Existing Land Use.....	5
2.2.3	Vegetation	5
2.3	Consultation History.....	Error! Bookmark not defined.
2.4	Conservation Measures.....	6
2.4.1	Measures Previously Implemented	6
2.4.2	Measures to be Implemented During Project Planning and Design	6
2.4.3	Measures to Be Implemented Prior to Project Construction	6
2.4.4	Measures to be Implemented During Project Construction.....	7
2.4.5	Measures to be Implemented Following Construction.....	7
3	SPECIES AND CRITICAL HABITAT	7
3.1	Species Potentially Occurring in the Action Area	7
3.1.1	Golden-Cheeked Warbler	8
4	EFFECTS ANALYSIS	12
4.1	Effects of the Action on Federally Listed Species.....	12
5	CONCLUSION AND DETERMINATION	12
5.1	May Affect, Not Likely to Adversely Affect Determination for Listed Species	12
6	LITERATURE CITED.....	13
	Appendix A.....	15
	Appendix B.....	16
	Appendix C.....	17

Figures

Figure 1. Project location and action area, Burnet County, Texas.	1
Figure 2. TXNDD Element Occurrence records mapped within a 10-mile buffer of the Project.	10
Figure 3. Potential GCWA habitat mapped within the action area.	11

Tables

Table 1. Permanent rural seed mix for clay soils in the Austin District (TxDOT 2024).	4
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Appendices

Appendix A	Project Design Plans
Appendix B	Species Analysis Spreadsheet
Appendix C	GCWA Habitat Assessment Memo

1 INTRODUCTION

1.1 Purpose

The Texas Department of Transportation (TxDOT) proposes the reconstruction of the U.S. Highway (US) 281 and State Highway (SH) 71 Interchange, from a cloverleaf configuration to a two-level grade separated turbine configuration in Marble Falls, Burnet County, Texas (**Figure 1**). The proposed project would extend approximately seven miles along US 281 and SH 71 and include direct connectors, main lane improvements, frontage road improvements, and ramps.

The purpose of the project is to upgrade the existing interchange to meet current design standards, to improve mobility, and to meet future projected traffic demands. The purpose of this Biological Evaluation (BE) is to assess the effects of the proposed action on federally protected resources including the Golden-cheeked Warbler (GCWA; *Setophaga chrysoparia*) and obtain federal concurrence. Specifically, this BE addresses potential effects of the project to the GCWA as required for consultation with the U.S. Fish and Wildlife Service (USFWS). Specific project design elements that avoid or minimize adverse effects of the proposed project on listed species are also identified.

1.2 Federal Nexus

This BE has been prepared by TxDOT to address the proposed action in compliance with section 7(c) of the Endangered Species Act (ESA) of 1973, as amended. The project would be partially funded with federal resources and is, therefore, a federal action. Further, portions of the funding for the project may come from the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL). Since the project letting date is farther than two years out, TxDOT cannot predict with certainty that BIL funding will be utilized for this project. An additional federal nexus includes a U.S. Army Corps of Engineers section 404 non-reporting Nationwide Permit 14.

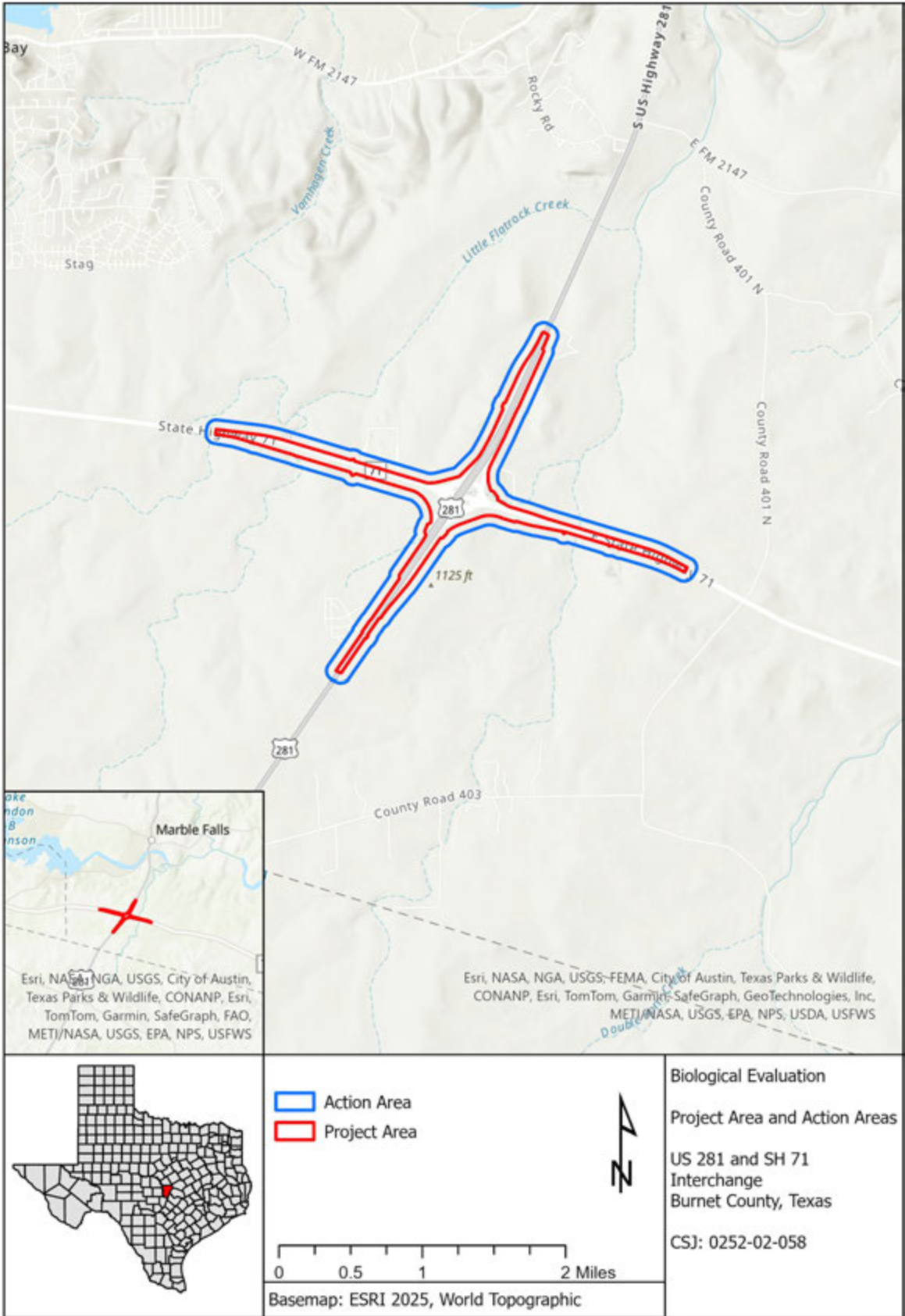


Figure 1. Project location and action area, Burnet County, Texas.

2 PROJECT DESCRIPTION

2.1 Project Elements

2.1.1 Existing Facility

The existing facility is a cloverleaf interchange that serves as a major highway corridor for the distribution of traffic from Austin to the Hill Country and Highland Lakes regions of Burnet County. Within the proposed project area, the existing US 281 and SH 71 Interchange facility consists of four loop ramps with connections to US 281 and SH 71 in all directions. The current interchange utilizes these loop ramps to accommodate left-turning movements between loop ramps and the highways, concentrate potential conflict points, and contain smaller radius curves that are designed for lower speeds making them inefficient for larger trucks. Surrounding the interchange, US 281 is a four-lane roadway with traffic travelling via two lanes in each direction separated by a grass median. At and west of the interchange, SH 71 is an undivided two-lane roadway with one lane of traffic in each direction. Conversely, SH 71 east of the interchange is an undivided four-lane roadway with traffic traveling in two lanes in each direction.

2.1.2 Proposed Facility

The proposed facility would reconstruct the current cloverleaf into a two-level grade separated turbine interchange configuration. This configuration would allow free-flowing traffic through and around the interchange by eliminating the need for yielding when directly connecting between US 281 and SH 71. The proposed project would require the addition of approximately 88.1 acres of new right of way (ROW) to add frontage roads to separate high-speed through traffic from local traffic and add shared-use paths to accommodate bicyclists and pedestrians. Project design plans are displayed in **Appendix A**.

2.1.2.1 Water Quality

Construction phase water quality is addressed through compliance with the Texas Commission on Environmental Quality (TCEQ) Texas Pollutant Discharge Elimination System (TPDES) Construction General Permit (CGP), which applies to stormwater discharges from construction projects that disturb soil on areas of one acre or greater. The CGP requires the preparation and implementation of a project specific Stormwater Pollution Prevention Plan (SWP3) that describes Best Management Practices (BMPs) designed to decrease erosion from and sediment generated by the project. Construction BMPs may include vegetation preservation/buffer zones, erosion control logs, sediment control fences, temporary seeding, soil retention blankets, stabilized construction exits, outfall protection, rock filter dams, stockpile management, and street sweeping. When selecting construction phase BMPs from the TxDOT Approved Products List, biodegradable/wildlife friendly options (e.g., those that minimize wildlife entrapment risks) will be used whenever possible. Many of these also have TxDOT standard specifications for which contractors must use and comply (TxDOT 2024).

The CGP and SWP3 require that BMPs be in place before soil disturbing construction activities are initiated and be monitored and maintained in accordance with the project SWP3. The CGP and SWP3 also require the following to be addressed:

- Spill and leak response;
- Sanitary waste management;
- Chemical management;
- Concrete waste management;
- General material and equipment management;
- Dewatering;
- Inspection and maintenance of BMPs; and
- Revegetation, temporary, and permanent stabilization

Both TxDOT and its contractors are subject to the requirements of the CGP and SWP3. Project BMPs are typically included in the project plans and the SWP3 is maintained as separate document, created once construction plans are complete. The SWP3 may not be available at the time of consultation if project design is still underway. The requirement to comply with the CGP and preparation of a SWP3 will be included in plans on the Environmental Permits, Issues, & Commitments (EPIC) sheet, which may also not be available at the time of consultation if project design is still underway.

2.1.2.2 Timeline and Sequence

The proposed Project is anticipated to let in 2031. Acquisition of ROW would begin in mid-2029 and is anticipated to take three years. The start of construction is anticipated in 2032 and would take approximately two years. Construction sequencing or phasing will be detailed in the construction plans and will follow TxDOT's standard construction practices.

2.1.2.3 Construction Equipment, Access, and Staging

The construction of the proposed project would include typical activities such as vegetation clearing, surface milling and grading, excavation, and pier drilling. Milling machines are used to remove surface soils and existing pavement, which would be collected and transported by excavators and dump trucks. Excavation equipment such as trackhoes and backhoes are typically used in smaller areas where access is limited, and the impact areas are localized. Bank stabilization (e.g., riprap and bridge abutments) and side slope management may also require excavation and soil disturbance. Asphalt laying trucks; dump trucks; and grading, excavation, and compaction equipment would be needed to construct the proposed project. Cranes would be used to lift bridge beams and retaining wall panels, and drilling equipment would be required for the drilled shafts. Haul trucks would be needed to bring in precast concrete elements. Watering trucks may be needed to seed and/or block sod areas or for dust management. In some areas, bulldozers may be used to clear vegetation.

Construction access and the placement of project specific locations (PSLs) such as staging areas, equipment storage areas, temporary access roads, borrow pits, etc., would likely occur within and immediately adjacent to existing TxDOT ROW. Any proposed locations for PSLs within the ROW must be approved by TxDOT Austin district staff before moving into the selected site. All PSLs associated with the proposed project area are also subject to the CGP and SWP3 and will be protected with BMPs. The contractor will be advised of the presence of potential habitat for protected species in the vicinity of the project. No PSLs will be allowed in a Waters of the United States (WOTUS). Any PSLs outside of the ROW and project area are not within the scope of this consultation as they would be selected by, and under the control of, the contractor.

2.1.2.3.1 Post-Project Site Restoration

Any temporary structures and materials (e.g., BMPs, debris, haul roads, etc.) that are not part of the finished work will be removed at the completion of construction. All disturbed areas will be re-vegetated according to TxDOT’s standard practices for rural areas and to the extent practicable, in compliance with Executive Order 13112 on Invasive Species as amended by Executive Order 13751 on Safeguarding the Nation from the Impacts of Invasive Species and the Executive Memorandum on Beneficial Landscaping, the CGP, and the project-specific SWP3. The seed mixture designated for revegetation can be found in **Table 1**.

Table 1. Permanent rural seed mix for clay soils in the Austin District (TxDOT 2024).

Species	Rate (lb. Pure Live Seed/acre)
Hooded windmillgrass (Burnet)	0.40
White tridens (Guadalupe)	0.20
Sideoats grama (South Texas)	1.50
Shortspike windmillgrass (Welder)	0.20
Plains bristlegrass (Catarina Blend)	0.60
Silver bluestem (Santiago)	0.40
Little bluestem (OK Select)	0.70
Halls panicum (Oso)	0.10
Texas grama (Atascosa)	0.50
Canada wildrye (Lavaca)	2.00

2.1.3 Operation and Maintenance

TxDOT’s standard practices for roadway operations and maintenance would be implemented following the completion of post-project site restoration activities. TxDOT maintenance staff will follow maintenance plan BMPs, including mowing, vegetation, and drainage channel maintenance.

2.2 Project Area, Action Area, and Setting

The project area for the proposed project is approximately 332.96 acres. This includes the existing ROW of variable widths and additional 88.1 acres of proposed new ROW within the limits of construction. A 300-foot buffer was added to the project area to create the action area totaling approximately 764.49 acres (**Figure 1**). The action area accounts for the potential spatial and temporal effects to protected species, with focus on the GCWA. The action area buffer is based on findings indicating that maintaining a 300-foot minimum woodland buffer is beneficial to GCWA because avian predation is greatest within 300 feet of the edge of habitat occupied by this species (Bocanegra 2020). Therefore, a 300-foot buffer will account for potential habitat use by GCWA and indirect effects that may be caused from habitat removal within the proposed project area.

2.2.1 Ecological Setting

The action area is in southern Burnet County and is wholly contained within the Balcones Canyonlands ecoregion of the Edwards Plateau of Texas (Griffith et al. 2007). The Edwards Plateau was uplifted during the Miocene epoch at the Balcones Fault Zone, separating central Texas from the coastal plain. The Balcones Canyonlands, forming the southeastern region of the Edwards Plateau, are highly dissected through the erosion and solution of springs, streams, and rivers working both above and below ground; percolation through the porous limestone contributes to the recharge of the Edwards Aquifer.

2.2.2 Existing Land Use

The proposed project is in a rapidly developing area of Burnet County that serves as a major connection point to nearby Marble Falls for commuters traveling from Austin via SH 71 and from San Antonio and Blanco via US 281. The fast rate of residential, commercial, and business development in recent years is similar to neighboring counties, including Travis, Williamson, Blanco, and Llano have nearly tripled in population growth from 1980 to 2020 (Texas Demographic Center [TDC] 2022). Within Burnet County, the population is estimated to increase by 33 percent over the next 30 years. Land use within the action area is a mix of vacant/undeveloped land with residential, commercial, and industrial use. There continues to be development on adjacent properties including high-density residential housing and medical facilities.

2.2.3 Vegetation

Within the existing ROW, the project area is primarily mowed and maintained with vegetation that is generally consistent with the Urban Low intensity vegetation type. The extent of the action area primarily consists of maintained ROW and woodland vegetation that continues onto adjacent parcels. Dominant vegetation observed within the action area during site visits can be categorized as Edwards Plateau Ashe juniper (*Juniperus ashei*)/oak (*Quercus* spp.) woodlands and shrublands, savanna grassland, riparian herbaceous vegetation, and

urban. The paved US 281 and SH 71 Interchange is present at ground level and the ROW consists of typical herbaceous vegetation associated with regular maintenance along state highways.

During October 2024 field investigations, vegetation within the action area consisted of grasslands dominated by King Ranch bluestem (*Bothriochloa ischaemum*), Johnson grass (*Sorghum halepense*), dallis grass (*Paspalum dilatatum*), and silver bluestem (*Bothriochloa laguroides*), along with a variety of other shrubs, vines, and grasses. The upland woodlands within the action area were dominated by Ashe juniper, plateau live oak (*Quercus fusiformis*), cedar elm (*Ulmus crassifolia*), and hackberry (*Celtis laevigata*). Vegetation throughout the action area included dense groundcover, understory, and/or canopy.

2.3 Conservation Measures

Conservation measures are incorporated into many aspects of project design and construction to avoid, minimize, and/or mitigate impacts to federally listed and proposed species. TxDOT offers the following measures as commitments to avoid and minimize impacts while conserving species in this consultation to the maximum extent practical for the purposes of the project. The following measures are broken out by phases of project development and construction.

2.3.1 Measures Previously Implemented

- A habitat assessment for the GCWA was completed in the project area and action area in October 2024.

2.3.2 Measures to be Implemented During Project Planning and Design

- TxDOT will design the project to minimize impacts to vegetation and protected species and their habitat to the extent practical while achieving the project purpose. Design engineers narrowed the project corridor on the east and west ends of the project to decrease impacts to potential GCWA habitat.
- TxDOT will place all conservation measures on the EPIC sheet in the project plans and all other requirements and restrictions for contractors within the project plans and general notes, as appropriate.
- TxDOT will design temporary BMPs to minimize construction phase erosion and sedimentation impacts and include these in any required permitting documents, the SWP3, and construction plans, in accordance with the CGP requirements.

2.3.3 Measures to Be Implemented Prior to Project Construction

- TxDOT will hold a pre-construction meeting with its employees and contractors working on this project. TxDOT shall provide awareness training on protected species and habitat that may occur in the project area and outside the ROW. TxDOT shall also

provide specific instructions on the implementation of TxDOT's proposed conservation measures documented in the project plans and the consequences to the project from failing to ensure full compliance with the measures.

- TxDOT will require contractors to have all PSLs approved by the TxDOT Austin District staff before moving into the selected site to avoid impacts to protected species.
- TxDOT will require contractors to implement the project specific SWP3 prior to soil disturbance and comply with the CGP for the duration of construction.

2.3.4 Measures to be Implemented During Project Construction

- TxDOT will require contractors to adhere to the project plans and standard specifications applicable to the project.
- TxDOT will clearly display areas considered potential GCWA habitat and a 300-foot buffer of those areas on project plans.
- All woody vegetation removal will be restricted to occurring outside of the GCWA breeding season (March 1 – September 15).

2.3.5 Measures to be Implemented Following Construction

- TxDOT will require contractors to remove temporary structures, debris, or other temporary materials placed during construction operations that are not part of the finished work at the completion of construction activities.
- Disturbed areas shall be re-vegetated according to TxDOT's standard practices, the TCEQ CGP, and project specific SWP3, in compliance with Executive Order 13112 on Invasive Species as amended by Executive Order 13751 on Safeguarding the Nation from the Impacts of Invasive Species and the Executive Memorandum on Beneficial Landscaping. Re-vegetation efforts shall provide appropriate and sustainable cover to prevent erosion and siltation.
- TxDOT will require contractors to remove all temporary erosion and sedimentation BMPs once final stabilization is reached and at the completion of the project in accordance with the CGP and project specific SWP3.

3 SPECIES AND CRITICAL HABITAT

3.1 Species Potentially Occurring in the Action Area

A review of the USFWS Information for Planning and Consultation (IPaC) data for the action area identified five species federally listed as threatened, endangered, proposed for federal listing as threatened or endangered, or candidate species potentially occurring in the action area: piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Texas

fatmucket (*Lampsilis bracteata*), monarch butterfly (*Danaus plexippus*), and GCWA (USFWS 2025, Project Code 2024-0035913). The Species Analysis Spreadsheet prepared for this project includes consideration and documentation for all species (**Appendix B**). No Effect determinations were reached for Piping Plover, Rufa Red Knot, and Texas fatmucket. These species will not be discussed further in this document.

Project activities may result in adverse effects to monarch butterfly adults, larvae, and eggs. To assess the take of individuals is difficult due to unknowns related to the plant community composition within the project area, the incidental nature of adult monarch occurrence, fluctuations in populations from year to year, and difficulty in finding eggs and larvae. Although adverse effects to monarch butterflies are possible, TxDOT is a partner participant in the Nationwide Candidate Conservation Agreement for Monarch Butterfly on Energy and Transportation Lands (Agreement). The Agreement applies to maintenance and modernization activities that occur primarily within existing ROW. Modernization activities are defined as construction and other land disturbing activities that involve the repair, replacement, and upgrading of existing infrastructure. This project qualifies as a modernization activity. The Agreement authorizes incidental take for all activities included in the proposed project should the monarch butterfly be listed as threatened or endangered. Based upon the Agreement, the monarch butterfly will not be discussed further in this document.

The following species has the potential to be affected by the proposed project. Further background information on this species and the potential to occur within the project and action area is provided in the sections below.

3.1.1 Golden-Cheeked Warbler

The GCWA is a small, insectivorous, neo-tropical songbird whose breeding range is restricted to the closed canopy Ashe juniper/oak woodlands of the Texas Hill Country, which includes Burnet County (Campbell 2003). The GCWA is the only bird whose breeding range is confined entirely within the state's boundaries, spending its breeding season in Texas from roughly March through August before wintering in the mountainous pine-oak forests of Mexico and Central America.

The GCWA was listed as an endangered species on 4 May 1990 by means of an Emergency rule by the USFWS (USFWS 1990). The final rule listing the GCWA as endangered was published on 27 December 1990 (USFWS 1992). In February 1991, the species was also designated as endangered by the State of Texas (USFWS 1992). Current threats to the species include habitat loss and fragmentation from urban sprawl, the conversion of wooded areas to agricultural lands, the eradication of Ashe juniper woodlands, the creation of impoundments for flood control and livestock, loss of winter and migratory habitat, destruction of oaks by oak wilt, over-browsing by white-tailed deer (*Odocoileus virginianus*)

and domesticated livestock, and nest parasitism by the Brown-headed Cowbird (*Molothrus ater*).

3.1.1.1 Status of the Golden-cheeked Warbler in the Action Area

There are two documented GCWA element occurrence records within 10 miles of the project area on the Texas Natural Diversity Database (TXNDD) (**Figure 2**; EO ID Record Numbers: 112 and 7449; TXNDD 2024). There are also a number of GCWA observations reported within 10 miles of the project in the citizen science databases iNaturalist and eBird (exact locations obscured; iNaturalist 2025; eBird 2025). A habitat assessment for the GCWA was conducted within the action area in October 2024 (**Appendix C**). Approximately 94.19 acres of the action area is considered potential GCWA habitat, 35.03 acres of which are within the project area's proposed ROW (**Figure 3**). The majority of potential habitat within the action area consists of small, lower quality patches that are isolated from other large contiguous patches of potential habitat. Due to the increased proportion of habitat edge to interior area, these smaller patches of potential habitat may have increased rates of predation and brood parasitism and may be difficult to recolonize once vacated by the GCWA (Campbell 2003). Ongoing urban development surrounding the project area is also removing and exacerbating the fragmentation of potential GCWA habitat. Potential habitat at the eastern and western ends of the project along SH 71 include characteristics (e.g., connected to contiguous habitat, higher percentage canopy cover, presence of mature Ashe juniper, proximity to water) that are more conducive to GCWA utilization, especially the western end. However, these areas lack the topographic relief, such as mesic canyons and draws, where the GCWA would be more likely to occur.

3.1.1.2 Critical Habitat for the Golden-cheeked Warbler

No critical habitat has been designated or proposed for the GCWA. Critical habitat will not be discussed further in this document.

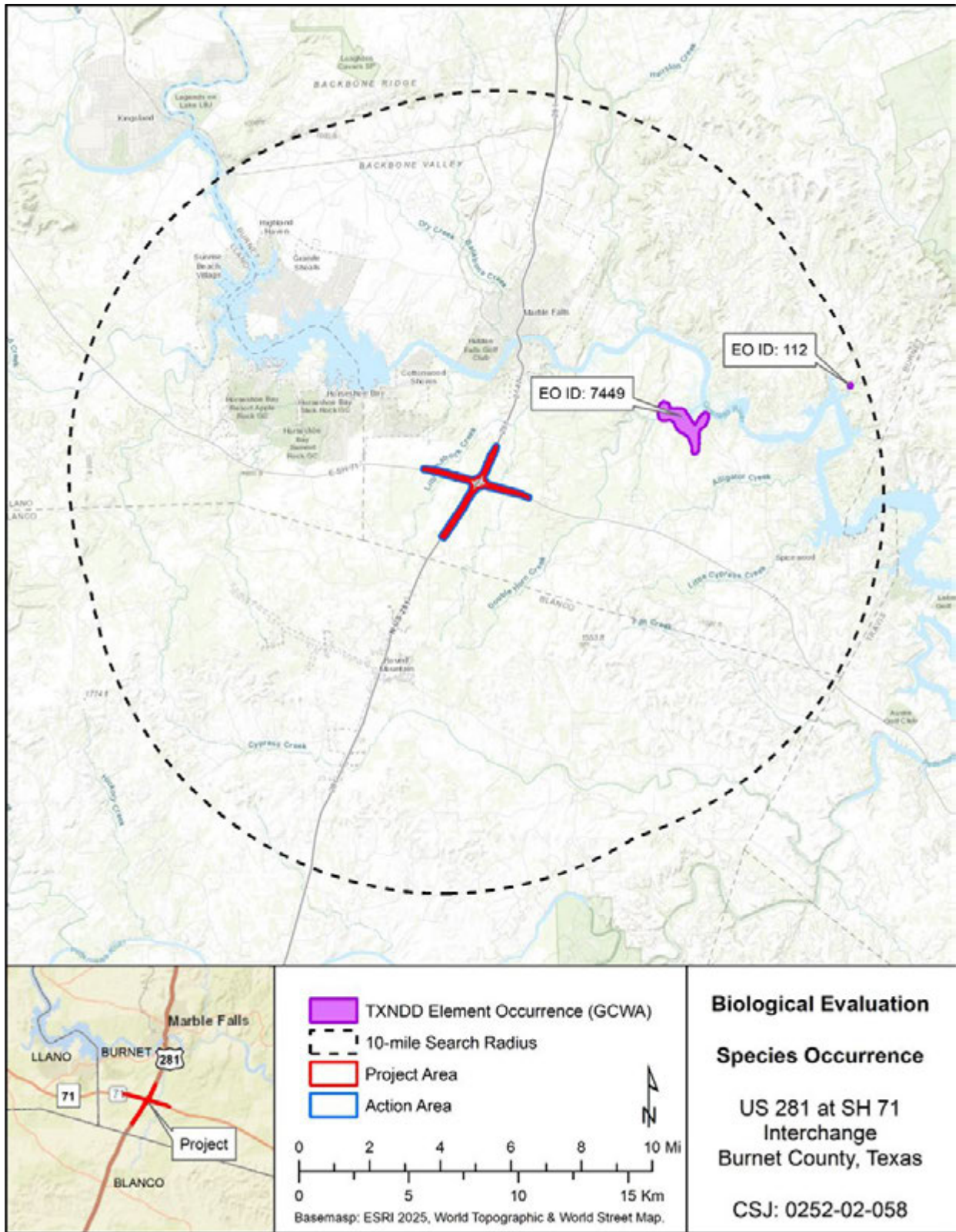


Figure 2. TXNDD Element Occurrence records mapped within a 10-mile buffer of the Project.

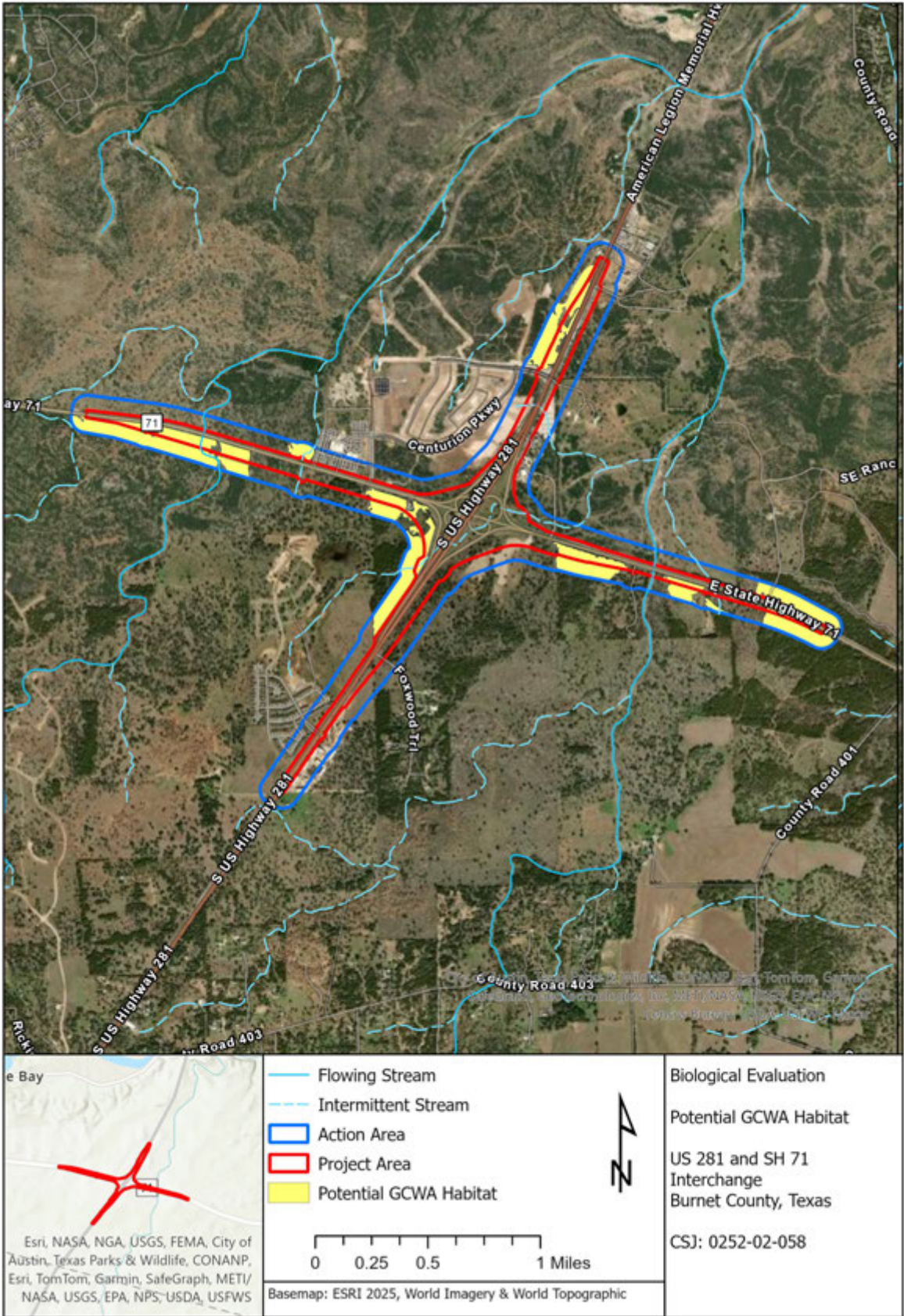


Figure 3. Potential GCWA habitat mapped within the action area.

4 EFFECTS ANALYSIS

4.1 *Effects of the Action on Federally Listed Species*

Effects of the action are consequences to the listed species that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action, and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action.

The presence of potential habitat within the project area indicates that the GCWA could utilize the project area for foraging or nesting; however, there are no documented occurrences of the species within the action area, and the nearest documented occurrences on TxNDD occur over four miles from the project area (**Figure 2**). The disjunct nature of the available habitat patches and the increased rates of urbanization within and adjacent to the project area make it unlikely that GCWA regularly utilize the action area for nesting. Further, any woody vegetation removal will occur outside of the breeding season (March 1 – September 15).

5 CONCLUSION AND DETERMINATION

5.1 *May Affect, Not Likely to Adversely Affect Determination for Listed Species*

The US 281 and SH 71 Interchange project described within this BE may affect, but is not likely to adversely affect, the GCWA. Based on results of the habitat assessment, the general rarity of the GCWA within the project vicinity, and the lack of any observation records within the action area, the project is not expected to have direct effects on these species. Indirect effects to the GCWA caused by vegetation removal adjacent to mapped GCWA habitat are not anticipated to adversely affect the species as vegetation removal will occur outside of the breeding season. All previously described effects to the GCWA are anticipated to be insignificant and or discountable when combined with the VCMs presented in Section 2.4.4

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APPENDIX A

Project Design Plans

See attached Appendix A.

APPENDIX B

Species Analysis Spreadsheet

See attached Appendix B.

APPENDIX C

GCWA Habitat Assessment Memo

See attached Appendix C.

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