



Balcones Canyonlands Conservation Plan (BCCP) and the Delisting of the Black-capped Vireo

The Balcones Canyonlands Conservation Plan (BCCP) section 10(a)(1)(B) incidental take permit (the Permit) was jointly issued to the City of Austin (COA) and Travis County (TC) (the Permit Holders) by the U.S. Fish and Wildlife Service (USFWS) on May 2, 1996. An incidental take permit authorizes the take of endangered species or their habitat, associated with otherwise legal activities, in exchange for minimization and mitigation measures that benefit the affected species. The BCCP is the governing document that established the Balcones Canyonlands Preserve (BCP), which was created to mitigate for the loss of habitat of eight endangered species including the black-capped vireo (BCVI), and several species of concern as a result of development in Travis County, Texas.

The BCVI was federally listed as endangered in 1987 by the USFWS. It is a small, neotropical migratory passerine bird with a breeding range that includes portions of Oklahoma, Texas, and Mexico. BCVI migrate to Texas from the wintering grounds along the Pacific coast of Mexico from late-March to mid-April and leave the breeding grounds by mid-September. They nest in mixed deciduous or evergreen shrubland. In the Travis County portion of their range, BCVI typically select nesting substrates located in early successional stages of woody shrub species. Plant species most frequently encountered in occupied habitat in Travis County include shin oak, Texas oak, plateau live oak, and Ashe juniper.



Black-capped vireo
(*Vireo atricapillus*)
**Delisted 2018*

Under the Endangered Species Act (ESA), a species may be removed (delisted) from the Federal List of Endangered and Threatened Wildlife if it is determined that it has recovered and is no longer endangered or threatened. Delisting can only be completed by issuing a rule. The USFWS published a rule on April 16, 2018 that removes the BCVI from the Federal List of Endangered and Threatened Wildlife, effective May 16, 2018.

Incidental take of a species is not prohibited after a species is removed from the List of Threatened and Endangered Wildlife. However, commitments in the BCCP Habitat Conservation Plan (HCP) are still necessary for permit compliance and must continue to be implemented. The BCCP does not have a changed circumstance provision in the Permit for the delisting of a covered species. Therefore, BCP staff is obligated to follow the terms and conditions of the BCCP Permit regardless of the change of BCVI federal protections status.

For over 20 years, the BCCP has offered Travis County developers and infrastructure providers a simplified, fast-track solution for ESA compliance as an alternative to going through the lengthy USFWS process for obtaining an individual incidental take permit. Landowners needing to comply with the ESA may do so by applying for Participation Certificates, issued by Travis County. The fees associated with these Participation Certificates are based on a per-acre assessment. BCCP Habitat Mitigation Zone maps were developed in association with the BCCP Permit area for the aforementioned listed species, including the BCVI. There are approximately 4,224 acres of BCVI Habitat Mitigation Zone in the Permit area, which includes all of Travis County except the projects and activities of nonparticipating municipalities, and the Travis County portion of the Balcones Canyonlands National Wildlife Refuge. Travis County cannot issue Participations Certificates for residential and commercial development within the core preserve area, known as the BCP Acquisition Zone, unless specifically directed to do so by the USFWS.

Approximately 1,680 acres of zoned habitat for the BCVI are located outside of the BCP Acquisition Zone. Currently, the BCCP provides take coverage of BCVI habitat at a cost of \$5,500 per acre. When the BCVI is delisted, the clearing of BCVI habitat will not be considered take. Therefore, those who wish to clear BCVI habitat will not require mitigation under the ESA. BCP staff will continue to track the loss of BCVI habitat in accordance with the Permit but will not charge a per acre fee associated with BCVI habitat in the habitat mitigation zone.

The continued success of the BCVI will largely be determined by the continuation of protective management strategies on existing preserve properties throughout the range of the species. Under the BCCP, land developed during the 30-year term of the Permit was anticipated to “take” or irrevocably convert up to 55% of the area’s known BCVI habitat to other uses. In exchange for take, the Permit requires the protection and conservation of 2,000 acres of BCVI habitat within the BCP. The BCCP Permit Holders will continue to fulfill Permit obligations to protect the BCVI. Management activities for the BCVI include monitoring, a critical component of effective habitat management; reporting on BCVI locations, population size, reproductive success (through territory mapping); vegetation surveys; and characterization of existing habitat, potential habitat, and newly created habitat areas in accordance with federally accepted standards. BCVI land management within the BCP will retain its focus on creating and maintaining sustainable nesting and rearing habitat through vegetation manipulation, reducing habitat fragmentation, reducing pressure by nest parasites and browsers, and minimizing secondary impacts of increasing urbanization.

By continuing to protect habitat for the BCVI, the Permit Holders will retain coverage for the BCVI if recovery is not sustained and the species is returned to the List of Threatened and Endangered Wildlife at a later time. As long as the Permit Holders continue to implement the Permit, it would again have incidental take coverage for BCVI without any lapse, should the species be relisted.