

## **INFORMATION MEMORANDUM**

**FROM:** U.S. Fish and Wildlife Service (FWS)

**SUBJECT:** SpaceX

**CONG. OFFICES:** Senator John Cornyn (TX), Senator Ted Cruz (TX), and Representative Vicente Gonzalez (TX-34)

### **BACKGROUND**

- SpaceX received a license from Federal Aviation Administration (FAA) in 2014 to launch satellites from Boca Chica, Texas. In 2020, FAA requested SpaceX stop activities not in their license that SpaceX initiated in 2018, so FAA could reissue a license to test and launch rockets for Mars.
- The FAA prepared a Draft Programmatic Environmental Assessment (PEA) pursuant to the National Environmental Policy Act (NEPA) and reinitiated section 7 Endangered Species Act (ESA) consultation. The section 7 Biological Opinion (BO) under the ESA and a section 4(f) agreement under Department of Transportation Act were completed by March 2022.
- FAA has not issued a decision under NEPA due to SpaceX's revised plan for splash downs in the Pacific and consultation with National Marine Fisheries Service. Licensing is possible May 2023. The FWS BO is for FAA's issuance of the permit and will cover SpaceX once the license is issued.

### **CURRENT STATUS**

- SpaceX's continued site development has incurred trespass violations on FWS lands.
- SpaceX has increased requests for rights-of-way across FWS lands for infrastructure.
- SpaceX site development has increased wildlife mortality along State Highway 4; increased human disturbance; restricted access the Lower Rio Grande Valley National Wildlife Refuge during testing and launches; encroached on refuge lands; closed public access; and caused explosions and fires. These issues were partially addressed through the BO with FAA and Department of Transportation Act section 4(f) processes.
- FAA declined jurisdiction over rocket production facilities and most routine rocket tests.
- An Army Corps of Engineers Clean Water Act (CWA) Section 404 wetland permit application for launch pad expansion is on hold and will need a mitigation plan.

### **TALKING POINTS**

- Environmental groups express continued concerns about the environmental impacts from SpaceX testing and launch operations and the lack of an EIS. American Bird Conservancy has a campaign to save the piping plovers.
- FAA received 19,000 comments on their draft PEA released in November 2021, most expressing concern over the environmental impacts.
- Members of the local community also routinely express dissatisfaction with Boca Chica Beach closures during launches.
- Public lands affected include the Lower Rio Grande Valley National Wildlife Refuge, Texas Parks and Wildlife Department, and National Park Service lands.
- FWS recommends SpaceX prepare a Habitat Conservation Plan for portions of their operation not covered by FAA license and consultation.

APPROVED BY: Jonna Polk, ES-ARD

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