

Private Lands Data Confidentiality Q&As

- 1. What are these data to be used for?** Data collected by Texas Parks and Wildlife (TPWD) from private lands regarding species identification, location, and quantity of indigenous plant and animal life is used for scientific investigation and research to help TPWD track the status of populations of Species of Greatest Conservation Need (SGCN) identified in the Texas Conservation Action Plan (TCAP) in order to guide conservation action and policy decisions including: (a) guiding industry/development decisions for projects such as power line, road, and pipeline development, (b) changing listing status (downlisting/delisting/listing state and federally threatened and endangered species) of rare species, and (c) identifying populations of SGCN that need conservation assistance to prevent the need for state or federal protection.
- 2. If I allow for location-specific data, who will have access to the information and how is the information typically used?** If a landowner authorizes the release of location-specific data from his or her land, all information collected from that land is public information including the location of the property and the identity of the landowner. ***This information is not openly accessible to the public via the web.*** To access this information the public must request the information from the Texas Natural Diversity Database (TXNDD) staff or through an open records request. Approximately 95% of all information requests come from consulting firms and developers that use TXNDD data to comply with environmental regulations. Texas Department of Transportation (TxDOT) uses information from the TXNDD to assess potential impacts of road projects prior to submitting them to TPWD's Wildlife Habitat Assessment Program for review. The most consistent user of the data within TPWD is the Wildlife Habitat Assessment Program that uses TXNDD data to review over 1,000 projects annually for potential environmental impacts. TXNDD data are also used by university researchers, graduate students, land trusts, and other non-profit groups to drive research and conservation projects on private land. U.S. Fish and Wildlife Service (USFWS) uses TXNDD information in response to listing petitions or when completing a 5-year review for a listed species.
- 3. How specific is the location data, and how accessible is it by the public? What information about my property can be obtained by the public?** Location-specific release of information allows identification of the site from which the data were collected on private land. Spatial (geographic) data appear as polygons. The more accurate the data, the smaller the polygon. Data locations marked using GPS are more accurate (can be within 25 meters) than the descriptive methods used prior to GPS; older data tends to produce much larger polygons. Polygons can cross parcel boundaries and encompass multiple tracts of land depending on the data source. Accurate spatial data (smaller polygons) are more useful and are given more

weight by Wildlife Habitat Assessment Program when evaluating potential development projects for environmental impact.

Most TXNDD data requests are area-based, and the responses usually include a geographic representation of records in a requested area along with a report containing all of the tabular information for the records (*e.g., date observations are made, number of individuals observed, habitat/landscape conditions, etc.*). Landowner information is generally not requested through the TXNDD; however, parcel data can be obtained from County Appraisal Districts.

4. **If I select the “non-location specific” option, how will those data be used and by whom? Are there disadvantages if I choose this option?** Data identified as confidential (non-location specific) can be used internally at TPWD only for specific purposes (*e.g., monitoring rare species populations over time to gauge response to habitat manipulation, environmental changes, etc.*). TPWD may only report non-location specific data in a manner that prevents the identification of private property. Confidential data are marked “data sensitive” in the TXNDD and specifically cannot be used by TPWD’s Wildlife Habitat Assessment Program to attempt to steer development away from environmentally sensitive areas, nor can they be shared with consultants or other outside parties that request data. When conducting preliminary planning for public projects like roads, pipelines, reservoirs, and transmission lines that may result in condemnation of private property through eminent domain, consultants and developers consider environmental constraints (*e.g. protected species habitat, cultural resources, incompatible land uses*) that may result in extra permitting or mitigation needs. As a result, “white space” on the maps (areas with no data on the presence of a species) can be favored over more environmentally constrained properties in the selection process for such projects. If “non-location specific” is selected it appears as “white space” on these maps. Although the presence of TXNDD data provides no guarantee that a property will not be condemned for public use, known presence of sensitive resources on a property may pose a greater challenge to project planners than properties in the “white space” and may therefore influence decisions about which parcels to impact and which to avoid.

5. **What are the advantages of selecting “location specific” release of information?** When landowners provide permission for location-specific information to be released, rare species occurring on their properties can be indicated as polygons on maps provided by our Wildlife Habitat Assessment Program, and can be shared with consultants or other outside parties that request data to be used to guide site-selection and development as described previously. If “location specific” is selected, the polygons indicating presence of rare species will appear on such maps and can be considered when determining where best to site projects to avoid environmentally sensitive areas. Although TXNDD data do not preclude public or private development on any property, when unwanted development threatens to impact sensitive resources, landowners with documented rare species data who choose to make those data available may have a stronger justification for avoidance than those who choose to make those data confidential.

Rare species proposed for federal listing as threatened or endangered are often listed as a result of insufficient data. By sharing data, landowners can help avert future listings.

If a species becomes a candidate for listing, there is a tool available that provides assurances to a landowner that they will not be held to further restrictions should that species be listed in the future (Candidate Conservation Agreement with Assurances-CCAA). CCAAs are intended to provide a net conservation benefit to candidate species to ultimately preclude the need to list that species. Further data collection on candidate species that may benefit from such actions, if landowners choose to make those data available, can be used to inform final listing determinations for that species which could result in a not-warranted decision (i.e., determination that species does not need federal protection). If the listing determination warrants listing as threatened or endangered under the Endangered Species Act, there are multiple conservation tools and funding sources available that enable landowners to continue to operate without undue burden, and/or provide landowners the opportunity to implement conservation actions that can aid in the recovery of that species. Allowing for the sharing of location-specific data can also help indicate the recovery status of a species, and expedite the delisting process.

Final Note: Location-specific data have priority for data entry in the TXNDD over confidential data as a result of the utility of the data.

6. **If I mark “non-location specific” on the permission form can I later change it if I learn that unwanted development may occur in my area?** Yes, a landowner can ask to have data that were originally submitted as confidential (non-location specific) changed to location-specific at any time. However, data cannot be changed from location-specific to non-location specific. Once permission has been granted for data to be location-specific, it must remain so.