

Rebecca Hays Barho

Partner | Austin

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Rebecca Barho focuses her practice on natural resource law, with particular emphasis on the Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), the Migratory Bird Treaty Act (MBTA), and various Texas environmental and land use laws.

Rebecca has worked on a wide range of matters throughout the Southwestern United States. She has been heavily involved in preparation and negotiation of numerous habitat conservation plans under the ESA, including several plans of programmatic scale, and represents a wide variety of clients, including local governments, utilities, real estate developers, and renewable energy companies.

She has worked with several Texas counties to develop and gain approval of county-wide habitat conservation plans. Rebecca has assisted local governments and private entities on issues related to the impending listing of several species of central Texas salamanders, and she has been heavily involved in the negotiation of several listed species conservation banks in Texas. She has worked with various governmental entities in navigating the ESA permitting process – under both Section 7 and Section 10 – for major, and sometimes controversial, infrastructure projects.

Additionally, Rebecca works to assist clients with respect to various state and local environmental approvals, including, for example, compliance with the Texas Parks and Wildlife Code and Texas Administrative Code, as well as administrative proceedings and litigation involving federal and state environmental law. Finally, Rebecca has assisted with preparation for cases before federal district courts and the Fifth Circuit Court of Appeals.

EXPERIENCE

LCRA Transmission Services Corporation. Rebecca serves as outside counsel in the development and approval of a system-wide habitat conservation plan covering activities associated with electric transmission and distribution for one of the state's largest electric companies.

Oil and gas pipelines. Rebecca advises large U.S. oil and gas pipeline operators on a variety of issues, including, but not limited to, those relating to the ESA and National Historic Preservation Act.

Private development projects. Rebecca has counseled a variety of private development clients on ESA compliance, including on issues relating to ESA section 7 consultations, and compliance with the take prohibition of ESA section 9.

Williamson County Conservation Foundation. For more than a decade, Rebecca has served as an advisor in connection with the Foundation's implementation of the Williamson County, Texas Regional Habitat Conservation Plan (RHCP). Rebecca was also involved in shepherding the RHCP through the application and approval processes. The RHCP has been seen as a success story for both species preservation and infrastructure planning in one of the nation's fastest growing counties.

Hays County Habitat Conservation Plan. Rebecca was heavily involved in the development, application, and approval process for the Hays County Habitat Conservation Plan, including the County's compliance with the Texas Parks and Wildlife Code in connection therewith.

Williamson County Road and Highway Work. Rebecca has long served as outside environmental counsel to Williamson County, Texas in connection with the County's infrastructure needs. This has involved over \$500 million in critically needed roads and highway, many of which suffered complex environmental issues, including particularly under the ESA. A number of these projects were jointly pursued with TxDOT. Examples of Williamson County projects on which Rebecca worked include:

- **IH 35 Improvements at Inner Space Caverns.** Provided advice regarding ESA compliance in connection with this critical highway improvement project. The project is currently under construction.
- **Regan Boulevard.** Provided advice regarding all phases of environmental review for this multi-phase project involving a major arterial in Williamson County.
- **SH 195 Improvements.** Provided advice regarding the complicated ESA compliance required for needed improvements to this roadway, which provides critical access to the Fort Hood military reservation.
- **O'Connor Boulevard.** Provided advice regarding all environmental reviews for this short but very significant arterial. Work included assisting the client with complicated endangered species issues.

Texas Department of Transportation (TxDOT). Represents TxDOT as outside environmental counsel on TxDOT infrastructure projects.

INSIGHTS

SPEAKING ENGAGEMENTS

Speaker, "Endangered Species Act Reforms: Looking at the Horizon," University of Texas at Austin School of Law CLE Webinar, Webinar, 07.12.2019

Speaker, "Endangered Species Act: Overview of the Act, Regulations, and Policies," University of Texas at Austin School of Law CLE Webinar, 07.12.2019

Speaker, "Endangered Species Act Reform," Texas Water Conservation Association's 75th Annual Convention, Bastrop, TX, 03.08.2019

PUBLICATIONS

"New Endangered Species Act Regs Could Provide Predictability for Transportation Projects," *Natural Lawyer*, 10.2019

Co-Author, "ESA Rule Changes Less Drastic Than Critics Claim," *Law360*, 08.29.2019

Co-Author, "A Pendulum Seldom Stops in the Middle: Shifting Views on 'Take' of Raptors and Other Migratory Birds," *Environmental Law Reporter*, 07.01.2018

Revision Author, "Chapter 25 – Endangered Species Act in the Texas Law of Water Resources," *Essentials of Texas Water Resources (2nd Edition)*, 2012

Co-Author, "Ruffling Feathers: How Federal Wildlife Laws May Impact Siting and Operation of Wind Energy Facilities," *American Bar Association's Endangered Species Act Committee Newsletter*, 05.2010

COMMUNITY & PROFESSIONAL

American Bar Association

PRACTICES

Appellate Practice
CEQA & NEPA
Climate Change & Renewable Energy
Endangered Species & Wildlife Law
Environment & Land Use
Environmental Litigation
Government & Administrative Law
Land Use Entitlements & Litigation
Water Quality
Wetlands & Riparian Permitting

INDUSTRIES

Energy & Utilities

EDUCATION

Baylor University School of Law, J.D., 2006, recipient of the Buck J. Wynne Environmental Law Award
Baylor University, B.A., 2003

ADMISSIONS

Texas
U.S. Court of Appeals, Fifth Circuit
U.S. District Court, Northern District of Texas
U.S. District Court, Western District of Texas