



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R4-ES-2012-N065]

[40120-1112-0000-F2]

Endangered and Threatened Wildlife and Plants; Receipt of Application for Incidental Take Permit; Availability of Proposed Low-Effect Habitat Conservation Plan and Associated Documents; Lee County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) application and Habitat Conservation Plan (HCP). The City of Cape Coral (applicant) requests an ITP under the Endangered Species Act of 1973, as amended (Act). The applicant anticipates taking about 75 acres of Florida scrub-

jay habitat in Lee County, Florida, for the construction of a 215-acre multi-use recreational park, several nearby single-family residences, and associated infrastructure. The applicant's HCP describes the minimization and mitigation measures proposed to address the effects of the project on the scrub-jay.

DATES: Written comments on the ITP application and HCP should be sent to the South Florida Ecological Services Office (see ADDRESSES) and should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may request documents by email, U.S. mail, or fax (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

E-mail: Trish_Adams@fws.gov. Use "Attn: Permit number TE75891A-0" as your message subject line.

Fax: Trish Adams, 772-562-4288, Attn.: Permit number TE75891A-0.

U.S. mail: Trish Adams, HCP Coordinator, South Florida Ecological Services Field Office, Attn: Permit number TE75891A-0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960-3559.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, HCP Coordinator, South Florida Ecological Services Office, Vero Beach, Florida (see ADDRESSES), telephone: 772-469-4232.

SUPPLEMENTARY INFORMATION: The City of Cape Coral (applicant) anticipates taking 75 acres of habitat used for breeding, feeding, and sheltering by the Florida scrub-jay (*Aphelocoma coerulescens*) in Lee County, Florida. The Service listed the scrub-jay as threatened on June 3, 1987 (52 FR 20715). The listing became effective July 6, 1987.

Applicant's Proposed Project

We received an application for an incidental take permit (ITP), along with a proposed habitat conservation plan (HCP). The applicant requests a 25-year permit under section 10(a)(1)(B) of the Act (87 Stat. 884; 16 U.S.C. 1531 *et seq.*). If we approve the permit, the applicant anticipates taking 75 acres of Florida scrub-jay habitat for construction of Festival Park (a 215-acre multi-use recreational park), single-family residences, and associated infrastructure. The project is located in the north-central part of the City of Cape Coral at latitude 26.701016, longitude -81.999287, Lee County, Florida.

The applicant proposes to mitigate for the loss of 75 acres of occupied scrub-jay habitat by restoring 125 acres of off-site scrub habitat to be managed by Lee County, and to establish a fund that will provide for the long-term management of the mitigation area.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITP is a "low-effect" action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1), and as defined in our Habitat Conservation Planning Handbook (November 1996).

We base our determination that issuance of the ITP qualifies as a low-effect action on the following three criteria: (1) Implementation of the project would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the project would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. As more fully explained in our

environmental action statement and associated Low-Effect Screening Form, the applicant's proposed project qualifies as a "low-effect" project. This preliminary determination may be revised based on our review of public comments that we receive in response to this notice.

Next Steps

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP would comply with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP. If it is determined that the requirements of the Act are met, the ITP will be issued for the incidental take of the scrub-jay.

Submitting Comments

If you wish to submit comments or information, you may do so by any one of several methods. Please reference permit number TE75891A-0 in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see ADDRESSES). You may also comment via email to *trish_adams@fws.gov*. Please also include your name and return address in your e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at

the telephone number listed under FOR FURTHER INFORMATION CONTACT.

Finally, you may hand deliver comments to the Service office listed under ADDRESSES.

Availability of Public Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: __ July 26, 2012 _____

Larry Williams
Field Supervisor,
South Florida Ecological Services Office.

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