



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R4–ES–2017–N099; FXES11130400000EA–123–FF04EF1000]**

**Endangered and Threatened Wildlife and Plants; Availability of Proposed Low-Effect Habitat Conservation Plan for the Florida Scrub-Jay, Volusia, County, FL**

**AGENCY:** Fish and Wildlife Service, Interior.

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

**SUMMARY:** We, the Fish and Wildlife Service (Service), have received an application for incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ACT). Orange Dale Venture, LLC, (Applicant) is requesting a 10-year ITP. We request public comment on the permit application and accompanying proposed habitat conservation plan (HCP) as well as on our preliminary determination that the plan qualifies as low-effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** If you wish to review the application and HCP, you may request the documents by email, U.S. mail, or phone (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.

*Email:* northflorida@fws.gov. Use “Attn: Permit number TE39111C-0.”

*Fax:* Field Supervisor, (904) 731–3191, “Attn: Permit number TE39111C-0.”

*U.S. mail:* Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE39111C-0, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

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

**FOR FURTHER INFORMATION CONTACT:** Erin M. Gawera, telephone: (904) 731–3121; email: erin\_gawera@fws.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9 of the Act and our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532(19)). However, under limited circumstances, we issue permits to authorize incidental take, i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The ESA’s take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law.

In addition to meeting other criteria, an incidental take permit's proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

### **Applicant's Proposal**

Orange Dale Venture, LLC, is requesting a 10-year ITP to take approximately 5 acres (ac) of occupied scrub-jay foraging and sheltering habitat incidental to construction of an energy substation. The 161.6-ac project site is located approximately 0.5 miles northwest of the intersection of Veterans Memorial Parkway and Saxon Boulevard within Section 14, Township 18 South, Range 30 East, Volusia County, Florida. The project includes construction of a residential and commercial development, and the associated clearing, infrastructure, and landscaping. The Applicant proposes to mitigate for the take of the scrub-jay, based on Service Mitigation Guidelines, by contributing funds in the amount of \$209,220.00 to the Nature Conservancy's Conservation Fund for the management and conservation of the Florida scrub-jay.

### **Our Preliminary Determination**

We have determined that the Applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, we have determined that the incidental take permit for this project is "low effect" and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by 43 CFR 46.205 and 43 CFR 46.210. A low-effect HCP is one involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

## **Next Steps**

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act. We will also evaluate whether issuance of the ITP complies with section 7 of the ESA by conducting an intra-Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue the issue ITP number TE39111C-0 to the Applicant.

## **Public Comments**

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

## **Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, 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**

We provide this notice under section 10 of the ESA and NEPA regulation 40 CFR 1506.6.

Dated: October 3, 2017

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**Jay B. Herrington,  
Field Supervisor,  
Jacksonville Field Office,  
Southeast Region.**

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