

Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended. The Finding of No Significant Impact is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA and HCP should be received on or before March 13, 1995.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, or the Jacksonville, Florida, Field Office.

Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Please reference permit under PRT-798698 in such comments.

Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 210, Atlanta, Georgia 30345, (telephone 404/679-7110, fax 404/679-7280).

Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216-0912, (telephone 904/232-2580, fax 904/232-2404).

FOR FURTHER INFORMATION CONTACT: Dawn Zattau at the Jacksonville, Florida, Field Office, or Rick G. Gooch at the Atlanta, Georgia, Regional Office.

SUPPLEMENTARY INFORMATION: *Aphelocoma coerulescens coerulescens* is geographically isolated from other subspecies of scrub jays found in Mexico and the Western United States. The Florida scrub jay is found almost exclusively in peninsular Florida and is restricted to scrub habitat. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub jay population has been reduced by at least half in the last 100 years. Surveys have indicated that two families of Florida scrub jays inhabit the Project site. Construction of the Project's infrastructure and subsequent construction of the individual homesites will likely result in death of, or injury to, *Aphelocoma coerulescens coerulescens* incidental to the carrying out of these otherwise lawful activities. Habitat alteration

associated with property development will reduce the availability of feeding, shelter, and nesting habitat.

The EA considers the environmental consequences of three alternatives. The no action alternative may result in loss of habitat for *Aphelocoma coerulescens coerulescens* and exposure of the Applicant under Section 9 of the Act. A third alternative is the proposed Project that is designed to reduce the impacts to *Aphelocoma coerulescens coerulescens* by restricting the Project's total buildable area. The proposed action alternative is issuance of the incidental take permit. This provides for restrictions of construction activity, purchase of off-site habitat for the Florida scrub jay, the establishment of an endowment fund for the off-site acquired habitat, and donation of additional off-site habitat. The HCP provides a funding mechanism for these mitigation measures.

Dated: February 3, 1995.

Jerome M. Butler,

Acting Regional Director.

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Endangered and Threatened Species Permit Application

AGENCY: Forest Service, Interior.

ACTION: Notice of availability.

Availability of a Draft Environmental Impact Statement and Receipt of an Application for an Incidental Take Permit for Desert Tortoises in Clark County, Nevada.

SUMMARY: This notice advises that Clark County; the cities of Mesquite, Las Vegas, North Las Vegas, Henderson, and Boulder City; and Nevada Department of Transportation (Applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize the incidental take of the threatened desert tortoise (*Gopherus agassizii*). The permit application is accompanied by a Habitat Conservation Plan (HCP) entitled the *Clark County Desert Conservation Plan* (CCDCP) and an implementing agreement.

The Service also announces the availability of a draft Environmental Impact Statement (EIS) for the incidental take permit application. This EIS, the CCDCP, and the implementing agreement are available for public review. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as

amended, and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6). Comments and suggestions are requested.

The permitted take would be in association with various proposed public and private development projects. Two alternatives are being considered. The proposed action would allow for development to occur on up to 113,900 acres of desert tortoise habitat. Take would be minimized through a pick-up and collection service for desert tortoises encountered in harm's way, implementation of a public information and education program, and specific measures for Nevada Department of Transportation to implement during roadway maintenance and construction. The Applicants propose to mitigate impacts to desert tortoise by providing at least \$1 million per year for State and Federal resource managers to implement desert tortoise recovery measures recommended in the *Desert Tortoise (Mojave Population) Recovery Plan*, providing funding to address the needs of other sensitive plants and animals in Clark County, and purchasing a conservation easement for more than 85,000 acres of non-Federal land in Clark County.

DATES: Written comments are requested by April 11, 1995.

ADDRESSES: Comments should be addressed to: Sheryl L. Barrett, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C, Room 125, Reno, Nevada 89502.

FOR FURTHER INFORMATION CONTACT: Sheryl L. Barrett at the above Reno, Nevada address, telephone (702) 784-5227. Individuals wishing copies of the permit application, HCPURPA, implementing agreement, and draft EIS for review should immediately contact the above individual or Dr. Dolores Savignano at U.S. Fish and Wildlife Service, 1500 North Decatur Boulevard, #01, Las Vegas, Nevada 89108, telephone (702) 646-3499. Copies of the above documents have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

SUPPLEMENTARY INFORMATION: On April 2, 1990, the Service issued a final rule that determined the desert tortoise to be a threatened species (55 FR 12178). This regulation became effective on the date of its publication in the Federal Register. Because of its listing as a threatened species, the desert tortoise is protected by the Act's prohibition against "taking." The act defines "take" to mean: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or

collect, or to attempt to engage in such conduct. "Harm" is further defined by regulation as any act that kills or injures wildlife including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3)

The Service, however, may issue permits to carry out otherwise lawful activities involving take of endangered and threatened wildlife under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. For threatened species, such permits are available for scientific purposes, enhancing the propagation or survival of the species, economic hardship, zoological exhibition or educational purposes, incidental taking, or special purposes consistent with the purposes of the Act.

Clark County; the cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City; and Nevada Department of Transportation (NDOT) (Applicants) submitted an application to the Service for a permit to incidentally take desert tortoises (*Gopherus agassizii*), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), in association with various proposed public and private projects in Clark County, Nevada. The proposed permit would allow incidental take of desert tortoises for a period of 30 years, resulting from development on up to 113,900 acres of private lands with Clark County, Nevada. The permit application was received September 28, 1994, and was accompanied by the *Clark County Desert Conservation Plan* (CCDCP), which serves as the Applicant's habitat conservation plan and details their proposed measures to minimize, monitor, and mitigate the impacts of the proposed take on the desert tortoise.

To minimize the impacts of take, the Applicants propose to provide a free pick-up and collection service for desert tortoises encountered in harm's way within Clark County. These desert tortoises will be made available for beneficial uses such as translocation studies and programs, research, education, zoos, museums, or other programs approved by the Service and Nevada Division of Wildlife. Sick or injured desert tortoises will be humanely euthanized. NDOT will incorporate specific measures into its operations to avoid or minimize impacts to desert tortoises. Clark County will also implement a public information and education program to benefit the desert tortoise and the desert ecosystem.

To mitigate the impacts of take, the Applicants propose to provide funding of between \$1 million and \$1.325 million per year for State and Federal resource managers to implement desert tortoise recovery measures recommended in the *Desert Tortoise (Mojave Population) Recovery Plan* and for the planning and management of lands both within and outside of desert wildlife management areas to address the needs of other plant and wildlife resources to avoid the need to list these species as threatened or endangered under the Act in the future. The Applicants also propose to purchase a conservation easement that preserves, protects, and assures the management and study of the conservation values, and in particular the habitat of the desert tortoise, of more than 85,000 acres of non-Federal land in Clark County.

Clerk County or the cities would approve the issuance of land development permits for otherwise lawful public and private project proponents during the 30-year period in which the proposed Federal permit would be in effect. Clark County or the cities would impose, and NDOT would pay, a fee of \$550 per acre of habitat disturbance to fund the measures to minimize and mitigate the impacts of the proposed action on desert tortoises.

The underlying purpose or goal of the proposed action is to develop a program designed to ensure the continued existence of the species, while resolving potential conflicts that may arise from otherwise lawful private and public improvement projects.

Two alternatives are under consideration. Issuance of the permit with the mitigation, minimization, and monitoring measures outlined in the CCDCP is the Service's preferred action and is discussed above. The EIS also outlines alternative measures that may be considered by the Service in issuing the permit. The other alternative selected for detailed evaluation is a No Action alternative. The No Action alternative was not identified as the preferred alternative because it would diffuse existing regional conservation planning efforts for the desert tortoise and possible concentrate activity on individual project needs and not meet the purpose and need of the applicants. Additionally, the No Action alternative could result in adverse impacts to the social environment within Clark County due to constraints on land-use activities that would impact the desert tortoise.

In the development of this draft EIS, the Service initiated action to ensure compliance with the purpose and intent of the National Environmental Policy

Act of 1969, as amended. Scoping activities were undertaken preparatory to developing the EIS with a variety of Federal, State, and local entities. A Notice of Intent to prepare the EIS was published February 4, 1994 (59 FR 5439), and a public scoping meeting was held February 14, 1994.

Key issues addressed in this draft EIS are identified as the effects that implementation of the alternatives would have upon: (1) The desert tortoise, (2) plant communities of concern, (3) other species of concern, (4) land uses, (5) socioeconomics, and (6) cultural resources.

Eight alternatives were considered before limiting the alternatives to be advanced for further study. Alternatives considered but not advanced for detailed analysis included: (1) A multiple-species plan, (2) a statewide plan, (3) a range-wide plan, (4) mitigation on non-Federal land, and (5) continuation of the short-term HCP. Alternatives advanced for detailed analysis include: (1) Issuing the permit with the mitigation, minimization, and monitoring measures outlined in the CCDCP or with one or more of the alternative measures provided and (2) a No Action Alternative. Alternative 1 is the Service's preferred alternative.

The No Action alternative would benefit individual desert tortoises on private lands in the short-term, however, it has been determined that viable populations of desert tortoises will not persist in the urban areas over the long-term. The No Action alternative would, therefore, not provide the benefits of the long-term recovery efforts for the desert tortoise identified in the CCDCP. In addition, the No action alternative would diffuse existing regional conservation planning efforts for the desert tortoise and possibly concentrate activity on individual project needs and not meet the purpose and need of the applicants. The No Action alternative could also result in adverse impacts to the social environment within Clark County due to constraints on land-use activities that would impact the desert tortoise.

Dated: February 1, 1995.

Thomas Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

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