

Date signed: August 16, 1995.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 95-20686 Filed 8-21-95; 8:45 am]

BILLING CODE 4310-84-P

Bureau of Land Management

[ES-960-1910-00-4489; ES-47531, Group 25, Illinois]

Filing of Plat of Survey; Illinois

The plat, in four sheets, of the dependent resurvey of the north boundary of U.S. Survey No. 622, and a portion of the subdivisional lines; the survey of the subdivision of sections 28 and 29 and the Horseshoe Lake Acquisition Boundary, Township 3 North, Range 9 West, Third Principal Meridian, Illinois, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on September 28, 1995.

The survey was made at the request of the Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., September 28, 1995.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of \$2.75 per copy.

Dated: August 14, 1995.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 95-20700 Filed 8-21-95; 8:45 am]

BILLING CODE 4310-GJ-M

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT-805737

Applicant: Woodward-Clyde Consultants, Franklin, Tennessee.

The applicant requests a permit to take (live-capture, handle, and release) Higgins' Eye Pearly Mussels (*Lampsilis higginsii*) in the Mississippi River, Iowa side, between river mile 491 and 487 (Pool 15) for population surveys aimed

at enhancement of propagation or survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with Woodward-Clyde's application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/725-3536, x 250); FAX: (612/725-3526).

Dated: August 16, 1995.

John A. Blankenship,

Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95-20724 Filed 8-21-95; 8:45 am]

BILLING CODE 4310-55-M

Notice of Intent to Issue of an Incidental Take Permit, PRT-802986, to Aronov Realty Management, Incorporated, in Baldwin County, Alabama

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Public Notification of an Intent to Issue a Section 10(a)(1)(B) Incidental Take Permit and Announcement of a Public Workshop/Informational Meeting to Discuss Section 10 of the Endangered Species Act and Management of the Bon Secour National Wildlife Refuge.

SUMMARY: The Fish and Wildlife Service gives Notice Of An Intent to Issue an incidental take permit to Aronov Realty and Management Incorporated for the endangered Alabama Beach Mouse pursuant to the Service's authority under Section 10(a)(1)(B) of the Endangered Species Act of 1973 as amended (16 U.S.C. 1631 *et seq.*). The Service's decision is reached after review of public comments on the application, the adequacy of minimization and mitigation measures outlined in the Applicant's Habitat Conservation Plan as measured against the Service's issuance criteria found at § 17.22 and § 13.21, and the availability of the best biological and commercial data available on the Alabama beach mouse.

The Service published in the **Federal Register** a notice of availability of the Applicant's Habitat Conservation Plan

and the Service's Environmental Assessment on May 30, 1995 (60 FR 28428). The permit number PRT-802986 was assigned to the Applicant. The original public comment period was to close on June 30, 1995. In the intervening period, however, the Applicant proposed additional mitigation and minimization measures for the project. In response to this additional submittal, the Service extended the public comment period of the application to July 15, 1995 through another **Federal Register** notice dated June 20, 1995 (60 FR 32161-32162).

During the public comment period, the Service received two requests for the Applicant's Habitat Conservation Plan and the Service's draft Environmental Assessment for the project. The two requestors of the documentation did not provide the Service any comments on the application. One request for the documentation was received after the close of the public comment period and was provided to the requestor. The Service did receive, however, 23 individual comment letters from members of the public, none of whom requested in writing the documents available in either of the **Federal Register** notices. All of the public comment letters expressed objections to the Applicant's request for incidental taking of the Alabama beach mouse and other concerns as outlined in the Supplementary Information section of this notice. Because the Service has decided to issue a permit contrary to objections, the Service is publishing this notice pursuant to § 17.22(c)(2) and it is to serve as the 10-day notice to objecting parties.

DATES: The Service will likely issue an incidental take permit to the Applicant no earlier than 10 days after the date of this **Federal Register** notice but no later than 60 days of this **Federal Register** notice.

ADDRESSES: Any questions regarding this action should be addressed to Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, (telephone 404/679-7110, fax 404/679-7280).

FOR FURTHER INFORMATION CONTACT: Rick G. Gooch at the Atlanta, Georgia, Regional Office at 404/679-7110.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of any threatened or endangered species, including the Alabama beach mouse. The Service, under limited circumstances, may issue authorizations to take threatened and endangered wildlife species if such taking is

incidental to, and not the purpose of, otherwise lawful activities.

As stated above, the Service received 23 public citizen comment letters, 22 of which were received during the open public comment period. One additional comment letter, which was actually submitted as a supplementary comment letter from the conservation organization, was received after the close of the public comment period. The Service's response to all public comments are set forth in this notice.

Both general and specific public comments are broken down as follows, with an accompanied Service response:

Specific Public Concern 1

The mitigation/minimization measures, including the control of cats, lighting restrictions, monitoring and control of the Alabama beach mouse competitors, as outlined for the project will not be enforceable.

Service Response: The Section 10 permit process provides the opportunity for complete compliance by the permittee with a granted permit through enforcement of the permit's terms and conditions.

Section 11 of the Act, Penalties and Enforcement, provides for civil and/or criminal penalties for any person, including a business entity, who knowingly violates any provision of any permit issued under the Act. The mitigation and minimization measures outlined in the Habitat Conservation Plan will become binding provisions of the incidental take permit and will therefore become enforceable against all persons who hold title to the land for the duration of the permit.

Specific Public Concern 2

One commentator felt that the applicant's earlier negotiations with the Service concerning the possible sale of the land showed a lack of cooperations, because, in the commentator's opinion, the asking price was too high. The commentator urged the Service to view the applicant's earlier non-cooperation as grounds for the Service to be "uncooperative" in processing the Section 10 permit application.

Service Response: The Service finds this comment to be without support. Even if the commentator could demonstrate that the applicant had not been cooperative in earlier land acquisition negotiations, that fact would be irrelevant. The Service has worked cooperatively with the applicant on an acceptable design of the project. The Service has certain regulations which limit its ability to offer more than the market value for a piece of property it wishes to acquire, either from a willing

seller or through condemnation. The statutory and regulatory criteria for Section 10 permit issuance does not address an applicant's behavior, whether it is cooperative or uncooperative.

Specific Public Concern 3

Insufficient biological data was used in the analysis of the impact of the project on the Alabama beach mouse.

Service Response: The biological surveys conducted on the project were approved by the Service and achieved the expected result of identifying, in a qualitative manner, the general distribution and population density of the Alabama beach mouse relative to the site's habitat features. This data confirms the current scientific literature for habitat selection of the Alabama beach mouse, and it provides an accurate assessment of the population size and identifies habitat utilization patterns. Additional survey data will not increase the Service's ability to draw conclusions of the effects of construction of this project on the Alabama beach mouse.

Specific Public Concern 4

Development should be redesigned to avoid take of the Alabama beach mouse.

Service Response: The Applicant, through consultation with the Service, designed the project to minimize take of the Alabama beach mouse. Alternatives explored by the applicant on design of the project are identified in the Habitat Conservation Plan, including a no-build alternative and several alternatives constructing a higher-density development. It is the Service's position that the Section 10 issuance criteria, including the criteria that the take be minimized and mitigated to the maximum extent practicable, has been met in this case.

General Public Concern 1

Issuance of the incidental take permit will lead to a taking of an endangered species, destroy the Alabama beach mouse, or otherwise not promote the conservation of the species.

Service Response: A central premise of Section 10 of the Act is to provide a legal means for private landowners to take, incidental to other lawful activities, members of endangered or threatened wildlife in exchange for a conservation plan (a Habitat Conservation Plan) which minimizes and/or mitigates permitted take to the benefit of the species.

The project may result in incidental taking of the Alabama beach mouse in some areas. However, the Habitat Conservation Plan and the

implementing permit will contain minimization and mitigation measures to minimize losses of individual Alabama beach mouse. Design of each building's footprint, as outlined in the Habitat Conservation Plan, will minimize destruction of secondary dunes and interdunal swales.

Conservation of the secondary dune system, the interdunal swale systems and all of the primary dune system will be achieved. No construction of habitable buildings is proposed within the primary dune system, which is the critical habitat of the Alabama beach mouse. Controlling cats, a known predator of the Alabama beach mouse, and addressing other indirect effects of human habitation of the project, are also required as a result of issuance of a permit. The competitors of the Alabama beach mouse will also be monitored over the life of the project. Control of human access to the beach will be maintained through construction of boardwalks over the primary dune system. All of these measures are mandatory elements of accepting the project and compliance is assured through enforcement of the permit.

On review of the action of issuance of the permit and these measures, and use of the best biological and commercial data available on the species affected, the Service expects that the project will result in minimal effects to the extant Alabama beach mouse population.

General Public Concern 2

Issuance of this incidental take permit will lead to future coastal development projects on the Fort Morgan peninsula which will impact the Alabama beach mouse population.

Service Response: Most of the private land which fronts the Gulf of Mexico on the Fort Morgan peninsula has the potential to support the Alabama beach mouse. Consequently, every private landowner seeking incidental take of endangered species will likely use the Section 10 permit or Section 7 consultation process. The Service for the past 2 years has secured Section 10 permits from every high density or large-scale development on the Fort Morgan Peninsula, as well as from several small property owners. It is therefore reasonable to conclude that cumulative detrimental effects to extant Alabama beach mouse populations from continued gulf-front construction will be minimized through use of the Section 10 permits for coastal development. Also, it is important to note that the Act is not a land use regulation. Only local authorities (States and local governments) have the ability to dictate zoning or other community safety,

health and welfare issues. Development on the Fort Morgan peninsula will occur regardless of whether or not a Section 10 permit is obtained from the Service. The Section 10 process addresses the impact of otherwise lawful activities such as residential and commercial development on an endangered and/or threatened wildlife species and provides a mechanism for resolution of endangered species conservation and private economic development. The applicant is required to comply with all other laws and authorities to maintain the validity of an issued incidental take permit for the Alabama beach mouse.

General Public Concern 3

The project would be constructed inside the Bon Secour National Wildlife Refuge or otherwise compromise the biological resources of the refuge.

Service Response: The lands subject to the application are currently privately-owned, they are not owned or controlled by the Service or any other governmental agency. They are identified, however, as Priority I acquisition lands for inclusion into the refuge. This designation does not alter ownership or restrict private property rights. The Service concluded in the Environmental Assessment on the project that acquisition of the site is the environmentally preferred alternative, and would very much like to acquire the lands owned by the Applicant for inclusion into the refuge. The Service, as outlined in detail in the Environmental Assessment, has several options: (1) Condemn the property, (2) accept it from (donated by) the applicant, (3) acquire it from a willing seller at market value, or (4) have the lands acquired by a third-party and donated to the Service.

The Service has no funding immediately available to purchase the land, nor are monies likely to be available in the foreseeable future. There is no reliable way to predict when or if the property would be acquired, since a willing seller must be available for acquisition by others (Option 4 above). The applicant has not indicated a willingness to donate the property, nor sell it to the Service at an agreed-upon price. Based on this uncertainty, it is problematical at best to identify specific time schedules for acquisition. The situation is similar should the Service pursue condemnation of the property. The action of condemnation of the parcel for inclusion into the refuge is separate but related to the action before the Service, (e.g., determining whether the Applicant's proposal satisfies conditions for an incidental take permit). The statutory requirements of

the Act do not allow the Service to delay, or hold in abeyance, a decision of issuance or denial on the application for incidental taking, while acquisition funding is sought. Note also, that even if an incidental take authorization is granted for the project, it will not preclude the ability of the Service to exercise any options for land acquisition presented in the above discussion should the property not be developed.

General Public Concern 4

Many commentors requested a public hearing to allow the community to share its opinions on the project.

Service Response: The Act and its governing regulations mentioned above do not require the Service to hold a public hearing for receipt of applications for incidental taking. A 45-day public comment period was provided for review of the documentation associated with the request for incidental taking by the project. After review of these comments, the Service concludes that no substantial new information on the effects of the project on the Alabama beach mouse was provided. The public comments submitted did indicate numerous misperceptions concerning the Section 10 permit process and raised numerous questions concerning the management of the adjacent refuge.

The Service will hold a public informational workshop near the project site in Baldwin County as specified below:

Date: September 6, 1995.

Location: Gulf Shores Adult Activity Center, 260 Clubhouse Drive, Gulf Shores, Alabama.

Time: 6:30 p.m. to 9:30 p.m.

The purpose of this public information meeting will be to provide opportunities for the Service to explain the role of the Section 10 process when reviewing private developments which may affect endangered species, to explain the status of the Service's land acquisition efforts in the refuge, and to discuss other matter germane to the refuge. All members of the public are invited to attend this informational meeting.

Dated: August 15, 1995.

Noreen K. Clough,

Regional Director.

[FR Doc. 95-20725 Filed 8-21-95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Offshore Pipelines

AGENCIES: Minerals Management Service (MMS), Department of the Interior (DOI), and Research and Special Programs Administration (RSPA), Department of Transportation (DOT).
ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the comment period for the proposed memorandum of understanding (MOU) between MMS and RSPA on their respective responsibilities concerning offshore pipelines published May 24, 1995 (60 FR 27546), from August 22, 1995, to September 22, 1995.

DATES: Interested persons are invited to submit comments by September 22, 1995.

ADDRESSES: Written comments should be directed concurrently to: (a) John V. Mirabella, Chief, Engineering and Standards Branch; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070-4817; and (b) L. E. Herrick, Office of Pipeline Safety Regulatory Programs; Research and Special Programs Administration; 400 Seventh Street SW., room 2335, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Carl W. Anderson, Engineering and Standards Branch, MMS; telephone (703) 787-1600; or L. E. Herrick, Office of Pipeline Safety Regulatory Programs, RSPA; telephone (202) 366-5523.

SUPPLEMENTARY INFORMATION: The American Petroleum Institute (API) requested a 30 day extension of time be granted for public comment to the proposed MOU between MMS and RSPA on their respective responsibilities concerning offshore pipelines. The request argued an extension of time was necessary to allow API members time to review the proposal, to meet and discuss the issues, and to prepare detailed responses to the proposal.

RSPA and MMS have decided the 30 day extension to the public comment period is reasonable to allow API to meet and respond to the MOU. The comment period will therefore be extended to close on September 22, 1995.

Authority: 49 U.S.C. Chapter 601; 43 U.S.C. 1331 et seq.