

writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE-106063 in your comments, or in the request for the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Pat Mehlhop, Regional Safe Harbor Coordinator (see **ADDRESSES**), telephone (303) 236-4215, or Henry Maddux, Utah Field Supervisor (see **ADDRESSES**), telephone (801) 975-3330.

**SUPPLEMENTARY INFORMATION:** The Utah prairie dog is the westernmost member of the genus *Cynomys*. The species' range, which is limited to the southwestern quarter of Utah, is the most restricted of all prairie dog species in the United States. Distribution of the Utah prairie dog has been greatly reduced due to disease (plague), poisoning, drought, and human-related habitat alteration. Protection of this species and enhancement of its habitat on private land will benefit recovery efforts.

The primary objective of this proposed SHA is to implement voluntary conservation measures to benefit the species and the landowner. Through this agreement, the landowner will receive relief from any section 9 liability under the Act beyond that which exists at the time the agreement is signed ("regulatory baseline"). The private land immediately to the south of the property contains an active Utah prairie dog colony approximately 2 hectares (5 acres) in size. This colony abuts the fence line, but does not extend onto the property to be addressed in the proposed SHA due to unsuitable habitat. To benefit the Utah prairie dog, foraging and visual surveillance habitat will be enhanced by thinning decadent stands of brush and by increasing forage quantity and quality using mechanical and herbicidal treatments and reseeding native grasses and forbs. The habitat improvements will be maintained throughout the term of the permit through managed grazing, additional brush treatments if necessary, and to some degree by the Utah prairie dogs themselves. The Cooperator will receive an ESP that authorizes incidental take of the covered species above the Cooperator's baseline responsibilities, as defined in the SHA.

The Service has evaluated the impacts of this action under the NEPA and determined that it warrants categorical exclusion as described 516 DM 6, Appendix 1, section 1.4 C.(1). The Service will evaluate whether the issuance of the ESP complies with section 7 of the Act by conducting an

intra-Service section 7 consultation on the issuance of the permit. The result of the biological opinion, in combination with the above finding and any public comments will be used in the final analysis to determine whether or not to issue the requested ESP, pursuant to the regulations that guide issuance of the type of permit.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Dated: July 26, 2005.

**Elliott N. Sutta,**

*Regional Director, Denver, Colorado.*

[FR Doc. 05-17668 Filed 9-6-05; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of Four Applications for Incidental Take Permits for Construction of Single-Family Homes in Brevard County, FL

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

**ACTION:** Notice.

**SUMMARY:** Eugene T. Butler, Carlos E. Gauthier, Robert Moren, and Kheino A. Phidd (Applicants) individually request an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicants anticipate taking a combined total of about 1.03 acres of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging, sheltering, and possibly nesting habitat incidental to lot preparation for the construction of single-family homes and supporting infrastructure in Brevard County, Florida (Projects). Requested permit duration is one year for all applicants, except for Moren, who requests a 10-year permit term. The destruction of 1.03 acre of foraging, sheltering, and possibly nesting habitat is expected to result in the take of three families of scrub-jays.

Each of the Applicants' Habitat Conservation Plans (HCPs) describe the mitigation and minimization measures proposed to address the effects of the proposed Project to the Florida scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. We have determined that each Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible

effect on the species covered in the HCPs. Therefore, the ITPs are "low-effect" projects and qualify as categorical exclusions under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). We announce the availability of the HCPs for the incidental take applications. Copies of the HCPs may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

**DATES:** Written comments on the ITP applications and HCPs should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before October 7, 2005.

**ADDRESSES:** Persons wishing to review the applications and HCPs may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE099682-0, for Butler, number TE099683-0, for Gauthier, number TE099684-0, for Moren, and number TE099685-0, for Phidd, in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216-0912.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Ms. Paula Sisson, General Biologist, Jacksonville Field Office, Jacksonville, Florida (see **ADDRESSES** above), telephone: 904/232-2580, ext. 126.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE099682-0, for Butler, number TE099683-0, for Gauthier, number TE099684-0, for Moren, and number TE099685-0, for Phidd, in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to [http://www.david\\_dell@fws.gov](http://www.david_dell@fws.gov). Please submit comments over the internet as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your

internet message, contact us directly at either telephone number listed below (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The Florida scrub-jay (scrub-jay) is geographically isolated from other species of scrub-jays found in Mexico and the western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development have resulted in habitat loss and fragmentation which has adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in east central Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal east-central Florida occurs proximal to the current shoreline and larger river basins. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

Proposed residential construction for Eugene T. Butler would take place

within Section 5, Township 29 South, Range 37 East, Palm Bay, Brevard County, Florida on Lot 48, Block 337. Proposed residential construction for Carlos E. Gauthier would take place within Section 16, Township 29 South, Range 37 East, Palm Bay, Brevard County, Florida on Lot 21, Block 790. Proposed residential construction for Robert Moren would take place within Section 5, Township 29 South, Range 37 East, Palm Bay, Florida on Lot 15, Block 341. Proposed residential construction for Kheino A. Phidd would take place within Section 8, Township 29 South, Range 37 East, Palm Bay, Brevard County, Florida on Lot 13, Block 434. Each of these lots is within 438 feet of locations where scrub-jays were sighted during surveys for this species from 1999–2003.

Scrub-jays using the subject residential lots and adjacent properties are part of a larger complex of scrub-jays located in a matrix of urban and natural settings in areas of southern Brevard and northern Indian River counties. Within the City of Palm Bay, 20 families of scrub-jays persist in habitat fragmented by residential development. Scrub-jays in urban areas are particularly vulnerable and typically do not successfully produce young that survive to adulthood. Persistent urban growth in this area will likely result in further reductions in the amount of suitable habitat for scrub-jays. Increasing urban pressures are also likely to result in the continued degradation of scrub-jay habitat as fire suppression slowly results in vegetative overgrowth. Thus, over the long-term, scrub-jays within the City of Palm Bay are unlikely to persist, and conservation efforts for this species should target acquisition and management of large parcels of land outside the direct influence of urbanization.

The subject residential parcels lie within a "high density" urban setting, and the corresponding territory size of the resident scrub-jays has been estimated to range from 5.2 to 10.8 acres based on average territory sizes of scrub-jay in other urban areas. Data collected from 12 scrub-jay families within the city limits of Palm Bay during the 2000 and 2001 nesting seasons provided information about survival and reproductive success of scrub-jays, but did not attempt to estimate territory sizes. This information indicated that territory boundaries tended to shift from year to year, making calculations of territory size difficult. Similarly, point data do not reliably indicate occupied habitat over time since birds in urban settings tend to move within and between years. Thus, using known

territory boundaries and point data to delineate occupied habitat likely underestimates areas occupied by scrub-jays.

To assess whether the Applicants' parcels were within occupied scrub-jay habitat, we calculated the maximum average "shift" in territories locations between 2000 and 2001. Based on these estimates, we calculated a maximum average shift of 438 feet between years. We subsequently used the 438 feet as a buffer to surround known territory boundaries and point locations for scrub-jays. We reasoned that 438 feet represented a biologically-based buffer, within which scrub-jays were likely to occur. Application of the 438-foot buffer to known territories and point locations provides a quantitative method to delineate occupied scrub-jay habitat in highly urbanized areas within the city limits of Palm Bay.

The four Applicants' residential lots fall within the 438-foot buffer established for known scrub-jay territories and/or point data. The Applicants' properties provide habitat for foraging, sheltering, and possibly nesting. Accordingly, loss of this habitat due to residential construction will result in the destruction of scrub-jay habitat.

The Applicants agree to avoid construction during the nesting season if active nests are found onsite, but no other on-site minimization measures are proposed to reduce take of scrub-jays. The lots combined encompass about 1.03 acres and the footprint of the homes, infrastructure, and landscaping preclude retention of scrub-jay habitat. On-site minimization is not expected to be a biologically viable alternative due to increasing negative demographic effects caused by urbanization.

In combination, the Applicants propose to mitigate for the loss of 1.03 acres of scrub-jay habitat by contributing a total of \$11,187 (\$2,785 for Butler, \$2,440 for Gauthier, \$3,290 for Moren, and \$2,672 for Phidd) to the Florida Scrub-jay Conservation Fund administered by the National Fish and Wildlife Foundation. Funds in this account are ear-marked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management. The \$11,187 is sufficient to acquire and perpetually manage about 2.06 acres of suitable occupied scrub-jay habitat based on a replacement ratio of two mitigation acres per one impact acre. The cost is based on previous acquisitions of mitigation lands in southern Brevard County at an average \$5,700 per acre, plus a \$1,000 per acre management endowment necessary to

ensure future management of acquired scrub-jay habitat.

We have determined that the HCPs are low-effect plans that are categorically excluded from further NEPA analysis, and do not require the preparation of an EA or EIS. This preliminary information may be revised due to public comment received in response to this notice. Low-effect HCPs are those 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. Each of the Applicants' HCPs qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Florida scrub-jay population as a whole. We do not anticipate significant direct or cumulative effects to the Florida scrub-jay population as a result of the construction projects.

2. Approval of the HCP would not have adverse effects on known unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

We have determined that issuance of each of these incidental take permits qualify as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Therefore, no further NEPA documentation will be prepared.

We will evaluate the HCPs and comments submitted thereon to determine whether the applications meet the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITPs will be issued for the incidental take of the Florida scrub-jay. We will also evaluate whether issuance of the section 10(a)(1)(B) ITPs 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 ITPs.

Dated: August 4, 2005.

**Cynthia K. Dohner,**

*Acting Regional Director.*

[FR Doc. 05-17676 Filed 9-6-05; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for Beach Driving and Related Activities in St. Johns County, FL

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

**ACTION:** Notice.

**SUMMARY:** St. Johns County (Applicant) is seeking an incidental take permit (ITP) from the Fish and Wildlife Service (Service) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The Applicant anticipates that authorization of beach driving and related activities, over a requested permit term of 20 years, will result in the incidental taking of the endangered Anastasia Island beach mouse (*Peromyscus polionotus phasma*), leatherback sea turtle (*Dermochelys coriacea*), green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and hawksbill sea turtle (*Eretmochelys imbricata*), as well as the threatened loggerhead sea turtle (*Caretta caretta*). The anticipated taking of these federally listed species is incidental to otherwise legal vehicle operation on the beaches of St. Johns County, pursuant to the Beach and Shore Preservation Act of 1998, section 161.36, Florida Statutes.

A description of the mitigation and minimization measures outlined in the Applicant's Habitat Conservation Plan (HCP) to address the effects of the beach access and beach access-related activities on federally listed species is described further in the **SUPPLEMENTARY INFORMATION** section below. The Service has made a preliminary determination that the issuance of the Permit is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the Environmental Assessment (EA) and HCP. Copies of the HCP and EA may be obtained by making a request to the

Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This Notice is provided pursuant to section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

**DATES:** Written comments on the permit application, supporting documentation, EA and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before November 7, 2005.

**ADDRESSES:** Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE091980-0 in such requests.

Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216-0912.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679-7110; or Mr. Michael Jennings, Fish and Wildlife Biologist, Jacksonville Field Office, (see **ADDRESSES** above), telephone: 904/232-2580, extension 113.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE091980-0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to [david\\_dell@fws.gov](mailto:david_dell@fws.gov). Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either of the telephone numbers listed below (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either of the Service offices listed above (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be