

Supervisor, Ecological Services Field Office, Phoenix, AZ, (see address above). Please refer to permit number TE-026887-0 when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:**

Doug Duncan at the above Tucson Sub Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the "taking" of threatened and endangered species such as the Gila topminnow and desert pupfish. However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The proposed action is issuance of an enhancement of survival permit and implementation of the Safe Harbor Agreement as submitted by the Applicant. The Safe Harbor Agreement provides for actions that promote conservation and recovery of the Gila topminnow and desert pupfish by providing refugia sites. One refugium site in Tempe, Arizona, is proposed for release of Gila topminnow and desert pupfish. Other sites owned by the Arizona Department of Transportation within the natural ranges of the species may be used as refugia for either species. Sites will be determined mutually by the Service and the Arizona Department of Transportation. The Safe Harbor Agreement is designed to provide a net conservation benefit to the Gila topminnow and desert pupfish. The Safe Harbor Agreement has stipulations for monitoring of species populations and habitats and functioning of the Safe Harbor Agreement. The Safe Harbor Agreement also provides for funding the mitigation measures and monitoring.

**APPLICANT:** The Arizona Department of Transportation intends to manage certain retention basins and other sites for Gila topminnow and desert pupfish. The incidental take of these fish may occur at the release sites during certain management activities. The Service anticipates that this Safe Harbor Agreement will provide a net

conservation benefit for these two species of native Arizona fish.

**Geoffrey L. Haskett,**

*Regional Director, Region 2, Albuquerque, New Mexico.*

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**BILLING CODE 4510-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Availability of a Draft Environmental Assessment and Preliminary Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit for Residential, Commercial, and School Board Development in Northern Indian River County, FL**

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

**ACTION:** Notice.

Indian River County Board of County Commissioners and City of Sebastian City Council (Applicants) 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 up to seven families of the threatened Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay), over the next 30 years incidental to the clearing of land associated with residential construction in northern Indian River County, including infill in the existing Sebastian Highlands subdivision located within the city limits of Sebastian. Take is also requested for commercial development on about 88 acres of property owned by the City of Sebastian. Indian River County School Board anticipates that take of scrub-jays may also occur in the future due to expansion of school facilities on about four acres. The anticipated take and measures to minimize and mitigate these takings will occur in sections 18, 19, 20, 29, and 30, Township 31 South, Range 39 East and sections 13, 14, 23, 24, 25, and 26, Township 31 South, Range 38 East, northern Indian River County, Florida.

The issuance of land clearing permits by the City of Sebastian will destroy about 79 acres of habitat occupied by the scrub-jay in residential areas. Another 88 acres of habitat within commercial property owned by the City of Sebastian and about 4 acres of property owned by the School Board is currently unoccupied by scrub-jays, but may become occupied due to proposed habitat management activities. Future development within these parcels may also result in take of scrub-jays.

Measures to mitigate for taking of scrub-jays are proposed by the Applicants. A more detailed description of the mitigation and minimization measures to address the effects of the Project to the scrub-jay are outlined in the Applicant's Habitat Conservation Plan (HCP), the Service's draft Environmental Assessment (EA), and in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of a draft EA and HCP for the incidental take application. Copies of the draft EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major 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 (NEPA). The preliminary Finding of No Significant Impact (FONSI) is based on information contained in the draft 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 of the Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the federal action, including the identification of any other aspects of the human environment not already identified in the Service's draft EA. Further, the Service is specifically soliciting information regarding the adequacy of the HCP as measured against the Service's ITP issuance criteria found in 50 CFR parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to "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 telephone number listed below (see **FURTHER INFORMATION**). 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.

**DATES:** Written comments on the ITP application, draft EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before July 3, 2000.

**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, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Post Office Box 2676, Vero Beach, Florida 32961-2676. Written data or comments concerning the application, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Please reference permit number TE026007-0 in such comments, or in requests of the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Mr. Mike Jennings, Fish and Wildlife Biologist, South Florida Field Office, Vero Beach, Florida (see **ADDRESSES** above), telephone: 561/562-3909.

**SUPPLEMENTARY INFORMATION:** The 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 eastern Florida has likely been greater than in most regions of the State. Eastern coastal Florida has experienced tremendous urban growth in the past 50 years and much of this commercial and residential development has occurred on the dry soils which historically supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal east Florida occurs along a narrow stretch of historic sand dunes that are situated on a north-south axis from Dade to Flagler County. 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.

Remnant patches of suitable scrub-jay habitat remain in northern Indian River County, particularly within the large residential subdivision of Sebastian Highlands. Seven families of scrub-jay are known to persist in 317 single-family residential lots. Scrub-jays within Sebastian Highlands are part of a larger complex of scrub-jays that occupy xeric uplands of eastern coastal Florida. This complex of scrub-jay families (metapopulation) ranges from central Brevard County south to northern Indian River County and represents one of the largest metapopulations of scrub-jays remaining in the State. Scrub-jays within Sebastian Highlands represent the southern-most distribution of this metapopulation. The continued survival of scrub-jays in this metapopulation will depend on the maintenance of suitable habitat and the restoration of unsuitable habitat in key locations.

Scrub-jay use of Sebastian Highlands has been reported periodically since 1991. Early surveys documented the presence of about 26 families of scrub-jays in and near Sebastian Highlands. Since that time there has been a steady decline in the numbers and distribution of scrub-jays in northern Indian River County. Habitat degradation and continued habitat fragmentation are believed responsible for this decline. Scrub-jays currently occupy about 79 acres within Sebastian Highlands subdivision.

The Applicants recognize that the conservation of scrub-jays and

fulfillment of existing land-use plans which call for residential infill within Sebastian Highlands cannot reasonably be achieved on a lot-by-lot basis through existing regulatory mechanisms. As a result, the Applicants jointly agreed to address the conservation needs of this species through preparation of an HCP for northern Indian River County.

Land clearing permits issued by the City of Sebastian in preparation for residential, commercial, or School Board construction will destroy habitat and result in death of, or injury to, scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed residential development will reduce the availability of feeding, nesting, sheltering habitat for scrub-jays. About 79 acres of habitat currently occupied by scrub-jays is expected to be destroyed incrementally as residential build-out occurs in Sebastian Highlands over the next 30 years. Another 92 acres encompassing city-owned commercial property and School Board property may also result in the take of scrub-jays. However, these sites are not currently occupied by scrub-jays and would only become so due to conservation measures proposed in the HCP. These interim conservation measures could provide habitat for scrub-jays until such time that demand for commercial facilities or school expansion are necessary. If these sites are managed well in the interim and scrub-jay subsequently recolonize them, future take may occur during construction activities.

The Applicant's HCP and the Service's EA describe the following minimization and mitigation strategy to be employed by the Applicants to offset the impacts of the Project to the scrub-jay:

- The Applicants agree to perpetually preserve and manage about 324 acres of scrub-jay habitat in northern Indian River County in a manner that will create a mosaic of habitats suitable for this species.
- The Applicants agree to perpetually preserve and manage about 253 acres of unsuitable scrub-jay habitat for use as buffers areas and dispersal corridors for the scrub-jay.
- The Applicants agree to restore and manage 92 acres of potentially suitable scrub-jay habitat on an interim basis, until such time that demand for commercial facilities and/or school expansion require construction within these areas.

The EA considers the environmental consequences of two action alternatives which would require issuance of an ITP. The no action alternative (not issue the ITP) will ultimately result in loss of

scrub-jay habitat within the Project site due to habitat degradation. The no action alternative may also expose the Applicants under Section 9 of the Act. The preferred alternative would affect about 79 acres of occupied scrub-jay habitat and possibly 92 acres of currently unoccupied but restorable habitat, while protecting and enhancing 324 acres of occupied habitat and unoccupied but restorable habitat in northern Indian River County. With management of habitat, existing conditions are expected to improve over the long-term for scrub-jays in northern Indian River County.

As stated above, the Service has made a preliminary determination that the issuance of the ITP 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 draft EA and HCP.

The Service will also evaluate whether the issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: May 25, 2000.

**H. Dale Hall,**

*Acting Regional Director.*

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**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability, Draft Assessment Plan

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior (DOI), as a natural resource trustee, announces the release for public review of the Draft Assessment Plan (AP) for the Natural Resource Damage Assessment and Restoration of the August 27, 1998, Clinch River Chemical Spill. The Draft AP describes the DOI's proposal to assess natural resources injured as a result of chemical spill in the Clinch River in Tazewell County, Virginia.

**DATES:** Written comments must be submitted on or before July 1, 2000.

**ADDRESSES:** Requests for copies of the Draft AP may be made to: Susan Lingenfelter, Ph.D., U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061.

Written comments or materials regarding the Draft AP should be sent to the same address.

**FOR FURTHER INFORMATION CONTACT:**

Susan Lingenfelter, Ph.D., Environmental Contaminants Branch, U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061. Interested parties may also call (804) 693-6694. Ext. 113, or send e-mail to susan\_lingenfelter@fws.gov for further information.

**SUPPLEMENTARY INFORMATION:** On August 27, 1998, a tanker truck overturned on U.S. Route 460 in Tazewell County, Virginia. The truck released approximately 1,250 gallons of Octocure 554-revised, a rubber accelerant, into an unnamed tributary about 500 feet from its confluence with the Clinch River. The spill turned the river a snowy white color and appeared to have killed most aquatic organisms, including three species of federally listed endangered mussels, for at least 6.6 miles downstream.

Under the authority of the Comprehensive Response, Compensation and Liability Act of 1980, as amended (CERCLA), "natural resource trustees may assess damages to natural resources resulting from a discharge of oil or a release of a hazardous substance \* \* \* and may seek to recover those damages." Natural resource damage assessments are separate from the cleanup actions undertaken at a hazardous waste or spill site, and provide a process whereby the natural resource trustees can determine the proper compensation to the public for injury to natural resources. The natural resource damage assessment process seeks to: (1) Determine whether injury to, or loss of, trust resources has occurred; (2) ascertain the magnitude of the injury or loss; (3) calculate the appropriate compensation for the injury, including the cost of restoration; and (4) develop a restoration plan that will restore, rehabilitate, replace, and/or acquire equivalent resources for those resources that were injured or lost.

The Draft AP presents the trustee's approaches for determining the quantifying natural resource injuries and calculating the damages associated with those injuries. By developing an Assessment Plan, the trustee can ensure

that the natural resource damage assessment will be completed at a reasonable cost relative to the magnitude of damages. This Assessment Plan presents proposed assessment methodologies to potentially responsible parties, other trustees, affected agencies, and to the public, so that these groups can productively participate in the assessment process. The Draft AP is being released in accordance with the Natural Resource Damage Assessment Regulations found at Title 43 of the Code of Federal Regulation Part II.

Interested members of the public are invited to review and comment on the Draft AP. Copies of the Draft AP are available from the U.S. Fish and Wildlife Service's Virginia Field Office at 6669 Short Lane, Gloucester, Virginia 23061. Additionally the Draft AP is available for review at the Tazewell County Main Library, 310 East Main Street, Tazewell, Virginia 24651 and the Tazewell County Library, Richlands Branch, 102 Suffolk Avenue, Richlands, Virginia 24641. All comments received on the Draft AP will be considered and a response provided either through revision of this Draft AP and incorporation into the Final Assessment Plan, or by letter to the commentor.

#### Author

The primary author of this notice is Susan Lingenfelter, Ph.D., U.S. Fish and Wildlife Service, Virginia Field Office at 6669 Short Lane, Gloucester, Virginia 23061.

**Authority:** The authority for this action is the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C.

Dated: May 22, 2000.

**Mamie A. Parker,**

*Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.*

[FR Doc. 00-13614 Filed 5-31-00; 8:45 am]

**BILLING CODE 4310-55-M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Issuance of Right-of-Way Permit

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

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that the Fish and Wildlife Service will issue a right-of-way permit to Petroleum Properties Corporation for the construction of a 20-inch underground natural gas pipeline on lands of the Sutter National Wildlife Refuge in