

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 0.48 acre (0.24 acre each) and the footprint of the homes, infrastructure, and landscaping preclude retention of scrub-jay habitat. On-site minimization may not be a biologically viable alternative due to increasing negative demographic effects caused by urbanization.

Based on the above information, we believe that scrub-jays in the vicinity of the Applicant's lots, currently have little long-term demographic value to the metapopulation overall. Consequently, we feel that the loss of 0.48 acres of habitat is likely to result in only minor or negligible impacts on the species.

In combination, the Applicants propose to mitigate for the loss of 0.48 acres of scrub-jay habitat by contributing a total of \$6,432 (\$3,216 for Maronda Homes and \$3,216 for Duke Construction) 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 \$6,432 is sufficient to acquire and perpetually manage about 0.96 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. The Applicants' HCPs qualify for the following reasons:

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

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

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

5. Approval of the Plans 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 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 11, 2005.

**Cynthia K. Dohner,**

*Acting Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of a Proposed Amendment to Environmental Defense, Inc.'s Safe Harbor Agreement

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

**ACTION:** Notice of availability and 30-day public comment period.

**SUMMARY:** Environmental Defense, Inc. (ED) has submitted to the U.S. Fish and Wildlife Service (Service) a request to amend their Safe Harbor Agreement (SHA) and associated Endangered Species Act (Act) Section 10(a)(1)(A) Safe Harbor Enhancement of Survival permit (Permit) for habitat restoration activities on private lands for the endangered Black-capped vireo (*Vireo atricapilla*) (BCVI) and Golden-cheeked warbler (*Dendroica chrysoparia*) (GCWA) in the Hill Country of Texas to include twelve additional counties, along with amending language in Attachment 2 of their SHA. The amendment would allow the Safe Harbor program to expand onto additional private lands in Texas, thus furthering the conservation of BCVIs and GCWAs.

**DATES:** To ensure consideration, written comments must be received on or before September 28, 2005.

**ADDRESSES:** Persons wishing to review the application may obtain copies by calling or faxing a request to the Service at the U.S. Fish and Wildlife Service Austin Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512/490-0057 voice, 512/490-0974 fax). The amendment request will also be available for public inspection, by appointment, during normal business hours (8 a.m. to 4:30 p.m.) at the Fish and Wildlife Service Austin Office. During the 30-day public comment period, written comments or data should be submitted to the Field Supervisor at the above address. Please refer to the amendment to ED's SHA in the Texas Hill Country (TE-024875-1). All comments received, including names and addresses, will become a part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:**

Christina Williams at the Fish and Wildlife Service Austin Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512/490-0057 voice, 512/490-0974 fax).

**SUPPLEMENTARY INFORMATION:**

In addition to the 25 counties covered under their current permit, habitat enhancement activities could now occur in any or all of the following additional counties: Bexar, Callahan, Coke, Concho, Hamilton, Hood, Kinney, McLennan, Palo Pinto, Runnels, Taylor, and Tom Green. Habitat enhancement activities could include, but are not limited to, prescribed burning, selective Ashe juniper thinning, rotational grazing, cowbird trapping, and hardwood regeneration.

Currently, ED is prevented by the terms and conditions of their original SHA from enrolling non-habitat within 300 feet of GCWA habitat, which would create and maintain a strip of non-habitat between two patches of habitat. Therefore, ED is requesting that language in Attachment 2 of the SHA be amended to allow for the creation of habitat for BCVIs or GCWAs within 300 feet of GCWA habitat, so long as no alteration of existing habitat occurs.

BCVI and GCWA were listed as endangered in November 1987 and May 1990, respectively. The BCVI and GCWA are migratory songbirds that occupy breeding habitat in Texas from about March 1–August 31. The BCVI requires an early successional stage, patchy island habitat of wooded areas with shrubs up to about 6 feet tall surrounded by grasslands. GCWA habitat is mixed closed canopy woodland of mature Ashe juniper and oaks.

Approximately 98 percent of the land in Texas is privately owned, with a substantial majority of existing and restorable BCVI and GCWA habitat falling into this category. Therefore, the participation of private landowners in the recovery of these two species is highly important.

Landowners having currently unoccupied or unsuitable, but restorable habitat and thus a zero baseline condition for the Safe Harbor, would be eligible for Certificates of Inclusion. Exceptions to the zero baseline may also be included for certificates under very limited circumstances with concurrence from the Service. Upon completion and maintenance of the habitat improvements for at least four breeding seasons, the landowners would be permitted to conduct any otherwise lawful activity on their property, including activities that result in the partial or total elimination of the restored habitat and the incidental taking of either of these species as a result of such habitat elimination (return to baseline).

The authority for this action is the Endangered Species Act of 1973, as amended, through its permitting provisions (50 CFR part 17). The amendment request is available for public review, and subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such document within the

comment period to the address specified below (43 CFR part 2).

**Joy E. Nicholopoulos,**

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

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## **INTERNATIONAL TRADE COMMISSION**

### **Possible Modifications to the International Harmonized System Nomenclature**

**AGENCY:** United States International Trade Commission.

**ACTION:** Request for proposals to amend the international Harmonized System.

**SUMMARY:** The Commission is soliciting proposals from interested parties and agencies to amend the international Harmonized Commodity Description and Coding System (Harmonized System), including the rules of interpretation, section and chapter notes and the texts of the headings and subheadings, with a view to keeping the System current with changes in technology and trade patterns. Specific proposals in this connection will be reviewed by the Commission staff for potential submission to the World Customs Organization (WCO), in Brussels, Belgium.

**EFFECTIVE DATE:** August 18, 2005.

**FOR FURTHER INFORMATION CONTACT:**

David Beck, Acting Director, Office of Tariff Affairs and Trade Agreements (O/TATA) (202–205–2595, [david.beck@usitc.gov](mailto:david.beck@usitc.gov)) or Ronald Heller (202–205–2596, [ronald.heller@usitc.gov](mailto:ronald.heller@usitc.gov)). The O/TATA fax number is 202–205–2616. The media should contact Margaret O’Laughlin, Office of External Relations (202–205–1819, [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810). General information concerning the Commission, including subsequent notices published pursuant to section 1210 of the 1988 act, may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission’s electronic docket (EDIS–ONLINE) at <http://www.usitc.gov/secretary/edis.htm>.

*Background:* Soon after the implementation of the Harmonized System (HS) in 1988, the Harmonized System (HS) Review Subcommittee (RSC) of the World Customs

Organization (WCO) began a series of reviews of the entire HS. The fourth review cycle begins this year, with an expected implementation date for changes of January 2012.

The HS was established by an international Convention, which, *inter alia*, provides that the System should be kept up-to-date in light of changes in technology and patterns of international trade. The international HS nomenclature, which is maintained by the WCO, provides a uniform structural basis for the customs tariff and statistical nomenclatures of all major trading countries of the world, including the United States. The Commission, the U.S. Bureau of Customs and Border Protection and the Bureau of the Census are responsible for the development of U.S. technical proposals concerning the HS under section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3010). A 1988 notice issued by the United States Trade Representative (53 FR 45646, Nov. 10, 1988), establishes the Commission as the lead U.S. agency in considering proposals for HS amendments that are intended to ensure that it reflects such changes in technology and trade.

A copy of the U.S. Harmonized Tariff Schedule (HTSA), which incorporates the international Harmonized System in its overall structure, can be downloaded at <http://www.usitc.gov/tata/index.htm>. Hard copies and electronic copies of the HTSA can be found at many of the 1,400 federal Depository Libraries located throughout the United States and its territories; further information about these locations can be found at <http://www.gpoaccess.gov/fdlp.html>, or by contacting GPO Access at the Government Printing Office, 866–512–1800.

Note that the international HS comprises the broadest levels of categories in the HTSA, that is, the General Rules for the Interpretation of the Nomenclature, Section and Chapter titles, Section and Chapter legal notes, and heading and subheading texts to the six-digit level of detail. Additional U.S. Notes, further subdivisions (eight- and ten-digit subheadings) and statistical notes, as well as the entire chapters 98 and 99, are national legal and statistical detail added for the administration of the tariff and statistical programs and are not part of the international HS review process that is the subject of this Notice.

*Request for Proposals:* In accordance with the USTR notice, the Commission is seeking proposals for specific modifications to the Harmonized System (including the rules of