

Development of a hydroelectric facility will not change or modify the operation of Jordanelle Dam and Reservoir.

**FOR FURTHER INFORMATION CONTACT:** Additional information on matters related to this **Federal Register** notice can be obtained from Mr. Reed R. Murray, Deputy Program Director, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo, UT 84606-6154, (801) 379-1237, [rmurray@uc.usbr.gov](mailto:rmurray@uc.usbr.gov).

**SUPPLEMENTARY INFORMATION:** The Central Utah Project's Bonneville Unit, located in northern Utah, was authorized for construction, including hydroelectric power, by the Colorado River Storage Project (CRSP) Act of April 11, 1956 (ch. 203, 70 Stat. 105) (CRSPA). The construction and operation of a hydroelectric generating facility below Jordanelle Dam was contemplated in the 1979 Municipal and Industrial System (M&I) Final Environmental Impact Statement (EIS). The 1987 Final Supplement to the M&I Final EIS deferred construction of a powerplant at Jordanelle awaiting non-federal participation. The potential to produce hydropower was incorporated in the construction of Jordanelle Dam. The Final EA and FONSI updates the 1987 Final Supplement to the M&I Final EIS regarding construction of a powerplant at Jordanelle Dam. The operation of Jordanelle Dam and Reservoir will remain the same as described in the 1987 Final Supplement to the Final EIS and the 2004 Final EIS for the Utah Lake System.

The Central Utah Project Completion Act (CUPCA), comprised of Titles II-VI of the Act of October 30, 1992 (106 Stat. 4600, Public Law 102-575) authorized the Secretary to request appropriations for the construction of other features of the Bonneville Unit. Section 208 of the CUPCA provides that power generation facilities associated with the CUP be developed and operated in accordance with the CRSPA, which explicitly embodies all Reclamation law except as otherwise provided in the CRSPA. In accordance with a **Federal Register** notice published July 2, 1999 (Volume 64, Number 127, Pages 36030-36032), Interior, in consultation with the Western Area Power Administration, selected the joint proposal of the District/HL&P to develop non-federal hydroelectric power at Jordanelle Dam through a lease of power privilege. A lease of power privilege is an alternative to Federal hydroelectric power development. A lease of power privilege grants a non-federal entity the right to utilize, consistent with CUP purposes, water power head and storage at and/or

operationally in conjunction with the CUP, for non-federal electric power generation and sale by the entity. The general authority for lease of power privilege under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. 522) and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act). The intent to hold public negotiations for the lease of power privilege contract was announced in the **Federal Register** on October 25, 2000 (Volume 65, Number 207, Pages 63879-63880). The lease of power privilege contract was successfully negotiated and will be executed by all parties. Power developed by the Jordanelle hydroelectric generation facility will be purchased by HL&P and sold to their customers.

Dated: July 15, 2005.

**Ronald Johnston,**

*Program Director, Department of the Interior.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of an Application for an Incidental Take Permit for the Florida Scrub-jay Resulting From Construction of a Single-Family Residence in Sarasota County, FL

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

**ACTION:** Notice.

**SUMMARY:** Results Home Buyer Inc. (Applicant) requests 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 Applicant anticipates removal of about 0.18 acre of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging, sheltering, and possibly nesting habitat, incidental to lot preparation for the construction of a single-family residence and supporting infrastructure in Venice, Sarasota County, Florida (project). The take of one family of scrub-jays, consisting of up to four individuals, could occur as a result of the Applicant's proposed activities.

The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the project to the scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the 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 HCP. Therefore, the ITP is a "low-effect" project and qualifies as a categorical exclusion 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). The Service announces the availability of the ITP application, HCP, and Screening Form for Low-Effect HCP Determinations for this incidental take application. Copies of the ITP application, HCP, and Screening Form 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 Act and NEPA regulations (40 CFR 1506.6).

**DATES:** Written comments on the ITP application, accompanying HCP, and Screening Form should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before August 24, 2005.

**ADDRESSES:** Persons wishing to review the application, HCP, and Screening Form may obtain a copy by writing the Service's Southeast Regional Office at the address below. Please reference permit number TE098966-0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Southeast Regional Office, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or the South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida, 32960-3559 (Attn: Field Supervisor).

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional HCP Coordinator, Southeast Regional Office (see **ADDRESSES** above), telephone: 404-679-7313, facsimile: 404-679-7081; or Mr. George Dennis, Fish and Wildlife Ecologist, South Florida Ecological Services Office (see **ADDRESSES** above), telephone: 772-562-3909, ext. 309.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE098966-0 in such comments. You may mail comments to the Service's Southeast 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 e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at either telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand-deliver comments to either Service office 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 addresses 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 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 (well-drained, sandy soil habitats supporting a growth of oak-dominated scrub). Increasing urban and agricultural development has 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 west-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Historical 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 west-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 interruption of the natural fire regime that is needed to

maintain xeric uplands in conditions suitable for scrub-jays.

A 2004 survey reported that the project area was being utilized by a family of scrub-jays. The scrub-jays using the site and adjacent properties are part of a larger complex of scrub-jays located in a matrix of urban and natural settings in southern Sarasota County. 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 exclusion slowly results in vegetative overgrowth. Thus, over the long term, scrub-jays are unlikely to persist in urban settings, and conservation efforts for this species should target acquisition and management of large parcels of land outside the direct influence of urbanization.

Construction of the project's infrastructure and facilities will result in harm to scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed residential construction will reduce the availability of foraging, sheltering, and possible nesting habitat for one family of scrub-jays. The Applicant proposes to conduct clearing activities outside of the nesting season. The Applicant proposes to replace any scrub oaks and wax myrtles that might be removed during land clearing. Wherever possible, native vegetation will be used in landscaping.

The Applicant proposes to mitigate the take of scrub-jays through contribution of \$15,300 to the Sarasota County Scrub-jay Mitigation Plan Fund administered by Sarasota County. Funds in this account are earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and management. The \$15,300 is maximum extent of mitigation practicable for the Applicant.

The Service has determined that the HCP is a low-effect plan that is categorically excluded from further NEPA analysis, and does not require the preparation of an EA or EIS. This preliminary information may be revised based on our review of any public comment we receive 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

Applicant's HCP 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. The Service does not anticipate significant direct or cumulative effects to the Florida scrub-jay population as a result of the project.

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 actions or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has determined that approval of the Plan qualifies as a categorical exclusion under 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.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITP will be issued for incidental take of the Florida scrub-jay. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies 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 ITP.

Dated: July 10, 2005.

**Cynthia K. Dohner,**

*Acting Regional Director.*

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