

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 exclusion 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 Applicants' properties provide habitat for foraging and sheltering. Accordingly, loss of this habitat due to residential construction will result in the destruction of scrub-jay habitat. The lots combined encompass about 1.27 acres 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. Therefore, no on-site minimization measures are proposed to reduce take of scrub-jays.

In combination, the Applicants propose to mitigate for the loss of 1.27 acres of scrub-jay habitat by contributing a total of \$15,977 (\$9,660 for Markieh, \$3,377 for Chunilall, and \$2,940 for Thomas) 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 \$15,977 is sufficient to acquire and perpetually manage 2.54 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. In addition, a 5 percent operating cost of \$335 per acre will be included. Mr. Thomas's mitigation was calculated at a total cost of \$5,250 per acre. He had been given prior information from the

Service on the mitigation costs in August 2004.

We have determined that the Applicants' 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). This preliminary information may be revised based on our review of public comments that 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.

We will evaluate the HCPs and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If we determine that those requirements are met, the ITPs will be issued for 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. This notice is provided pursuant to section 10 of the Endangered Species Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Dated: July 3, 2006.

Cynthia K. Dohner,

Acting Regional Director, Southeast Region.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for an Incidental Take Permit for Construction of Three Single-Family Homes in Brevard County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Duke Construction Corporation (Applicant) requests an incidental take permit (ITP) for a duration of two years pursuant to section 10(a)(1)(B) of the Endangered

Species Act of 1973, as amended (Act). The Applicant anticipates taking about 0.77 acre of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging, sheltering, and potential nesting habitat incidental to lot preparation for the construction of three single-family homes and supporting infrastructure, over a two-year term, in Brevard County, Florida (Project). The destruction of 0.77 acre of foraging, sheltering, and possibly nesting habitat is expected to result in the take of one family of scrub-jays. The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the Florida scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments on the ITP application and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before August 31, 2006.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE109694-0 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 HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Ms. Erin Gawera, Fish and Wildlife Biologist, Jacksonville Field Office, Jacksonville, Florida (see **ADDRESSES** above), telephone: 904/232-2580, ext. 121.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE109694-0 in such requests. 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 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.

Residential construction for Duke Construction Corporation will take place within Section 23, Township 23 South, Range 35 East, Port St. Johns, Brevard County, Florida on Lots 09, 10, and 11, Block 42. These lots are within locations where scrub-jays were sighted during surveys for this species from 1999–2003.

Scrub-jays affected by the issuance of this permit are found on the extreme western edge of a large area supporting a 16-family cluster of birds that inhabits urban areas, commercial development, and undeveloped native habitat in the Tico and Grissom territory cluster just south of Port St. Johns, Florida. This cluster of scrub-jays is part of a larger metapopulation complex of scrub-jays that persists in northern Brevard County. The number of scrub-jay families in the vicinity of the project site and in the northern Brevard County metapopulation has declined in recent years. Survey results indicate that the number of scrub-jay families has declined in the Tico and Grissom cluster from 72 in the early 1990s to 47 in 2002 (33 percent decline). Similarly, the number of families of scrub-jays within the northern Brevard County

metapopulation, which includes the Tico and Grissom territory cluster, has declined from 102 to 67 families (34 percent decline) during this same time period. Both of these observed rates of decline approximate the four percent per year decline estimated by recent research findings.

The decline in numbers of scrub-jay families in northern Brevard County is the cumulative result of habitat destruction, fragmentation, and degradation. Metapopulation viability analysis suggests that this metapopulation of scrub-jays has a high quasi-extinction risk if no further conservation efforts are undertaken to acquire and manage land for the benefit of scrub-jays.

The Applicant agrees to confine construction activities to a time period outside of the nesting season, will look for active nests nearby during the nesting season, and will contact the Service 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 0.77 acre (0.24 acre for Lot 9, 0.24 acre for Lot 10, and 0.29 acre for Lot 11) and the footprints 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.

The Applicant proposes to mitigate for the loss of 0.77 acre of scrub-jay habitat by contributing a total of \$10,318 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 \$10,318 is sufficient to acquire and perpetually manage about 1.54 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.

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). This preliminary information may be revised based on our review of public comments that 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 Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If it is determined that those requirements are met, an 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 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 an ITP. This notice is provided pursuant to section 10 of the Endangered Species Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Dated: July 3, 2006.

Cynthia K. Dohner,

Acting Regional Director, Southeast Region.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Ivania Castro and Edward Nissan (Applicants) each request an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicants anticipate taking a total of about 0.97 acre of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging, sheltering, and potential nesting habitat incidental to lot preparation for the construction of four single-family homes and supporting infrastructure in Brevard County, Florida (Project). Each of the Applicants seek an incidental take permit for a one-year term. The destruction of 0.97 acre