

Applicant's Proposal

The applicant is requesting take of approximately 1.55 ac of occupied scrub-jay habitat incidental to the construction of a single-family-home subdivision. The project is located within Section 17, Township 28 South, Range 37 East, Melbourne, Brevard County, Florida, south of Eber Rd, west of the Eber Rd-Dairy Rd interchange.

Development of the project, including infrastructure and landscaping, precludes retention of scrub-jay habitat on site. Therefore, the applicant proposes to mitigate for the loss of 1.55 ac of occupied scrub-jay habitat by donating \$31,043 to the Florida Scrub-jay Fund administered by The Nature Conservancy. Funds in this account are earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, the ITP is a "low-effect" project and qualifies for categorical exclusions under the National Environmental Policy Act (NEPA), as provided by the Department of the 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. A low-effect HCP is one 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 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 we determine that the application meets those requirements, we will issue the ITP for incidental take of the Florida scrub-jay. We 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. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP.

Authority: We provide this notice under Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

Dated: June 10, 2007.

David L. Hankla,

Field Supervisor, Jacksonville Field Office.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Application From the Duckwater Shoshone Tribe, Nye County, Nevada for an Enhancement of Survival Permit for the Railroad Valley Springfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability, receipt of application

SUMMARY: The Duckwater Shoshone Tribe (Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (SHA) between the Applicant and the Service. The SHA provides for voluntary habitat restoration, maintenance, and enhancement activities to implement the reintroduction and long-term recovery of Railroad Valley Springfish (*Crenichthys nevadae*) within Nye County, Nevada. The proposed duration of both the SHA and permit is 25 years.

The Service has made a preliminary determination that the proposed SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for this determination is contained in an Environmental Action Statement and low-effect screening form, which are also available for public review.

DATES: Written comments must be received by 5 p.m. on August 9, 2007.

ADDRESSES: Comments should be addressed to Robert D. Williams, Field Supervisor, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada, 89502, facsimile number (775) 861-6301 (see **SUPPLEMENTARY INFORMATION**, Public Review and Comment).

FOR FURTHER INFORMATION CONTACT: Bridget Nielsen, Conservation Partnerships Coordinator for the Nevada Fish and Wildlife Office, at the above address or by calling (775) 861-6300.

SUPPLEMENTARY INFORMATION:

Background

The primary objective of this SHA is to encourage the reintroduction

activities and voluntary maintenance of previously implemented habitat restoration activities, to benefit the Railroad Valley springfish by relieving the Applicant, who enters into the provisions of the Safe Harbor Agreement with the Service, from any additional Section 9 liability under the Endangered Species Act beyond that which exists at the time the Safe Harbor Agreement is signed ("regulatory baseline"). A SHA encourages landowners and tribes to conduct voluntary conservation activities and assures them that they will not be subjected to increased listed species restrictions should their beneficial stewardship efforts result in increased listed species populations. Application requirements and issuance criteria for enhancement of survival permits through SHAs are found in 50 CFR 17.22 and 17.32(c). As long as the Applicant allows the agreed upon conservation measures to be completed on their property and maintain their baseline responsibilities, they may make any other lawful use of the property during the permit term, even if such use results in the take of individual Railroad Valley springfish or harm to their habitat.

The Duckwater Shoshone Tribe, located within Nye County, Nevada has suitable aquatic habitat for the reintroduction and long-term recovery of the Railroad Valley springfish which may be enrolled under the SHA. The Safe Harbor Agreement will include: (1) A map of the property and its legal location; (2) a description of the existing biological community including nonnative aquatic species and sensitive or protected species if any; (3) the portion of the property to be enrolled and its acreage; (4) a description of the habitat types that occur on the portion of the property to be enrolled including an accurate description of ponds or other aquatic habitats and their characteristics; and (5) current land-use practices and existing development, and the characteristics of water supplies to aquatic habitats.

The Applicant is committed to the long-term recovery of the Railroad Valley springfish and in so doing; an elevated baseline was negotiated for Big Warm Spring. In order to meet recovery objectives, at least 21,000 adult Railroad Valley springfish must be present within the 6 springs identified for recovery, with each population containing at least 1,000 adults and documented annual reproduction and recruitment for 5 consecutive years. Considering Big Warm Spring is currently not populated with of Railroad Valley springfish, the regulatory baseline would be zero however, the

Applicant voluntarily offered to maintain an elevated baseline of a minimum of 3,000 Railroad Valley springfish in order to achieve the recovery goals stated in the Service's Railroad Valley Springfish Recovery Plan.

The Applicant, as the Permittee, will be responsible for annual monitoring and reporting related to implementation of the SHA and fulfillment of its provisions. The Service will also assist the Applicant with monitoring and training of tribal staff in order to achieve annual monitoring and reporting goals as part of the partnership. As specified in the SHA, the Applicant will issue yearly reports to the Service related to implementation of the program.

The SHA will cover conservation activities to create, maintain, restore, or enhance habitat and reintroduce a self-sustaining population of Railroad Valley springfish while achieving species' recovery goals. Management activities that are undertaken through this SHA will result in the reintroduction and re-establishment of a self-sustaining population of Railroad Valley springfish within designated critical habitat at Big Warm Spring. The overall goal of this SHA is to systematically achieve recovery goals and conservation measures for the Railroad Valley springfish while ensuring that tribal economic, agricultural and cultural interests are preserved and protected.

Given the probable species response time of Railroad Valley springfish to the planned conservation measures the Service estimates it will take 2 years of implementing the SHA to fully reach a net conservation benefit. Although some level of benefits will likely occur within a shorter time period.

After maintenance of the restored/created/enhanced habitat and reintroduction of Railroad Valley springfish habitat on the property for the agreed-upon term, the Applicant may then conduct otherwise lawful activities on their property that result in the direct take of Railroad Valley springfish. However, the restrictions on returning a property to the elevated baseline condition include: (1) The Applicant must demonstrate that elevated baseline conditions were maintained and the conservation measures necessary for achieving a net conservation benefit were carried out; (2) the Service will be notified a minimum of 30 days prior to the activity and given the opportunity to capture, rescue, and/or relocate any Railroad Valley springfish; and (3) return to elevated baseline conditions must be completed within the 25-year term of the permit issued to the Applicant.

The Service has made a preliminary determination that approval of this SHA qualifies as a categorical exclusion under the NEPA, as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) based on the following criteria: (1) Implementation of the SHA would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the SHA would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the SHA, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects would not result, over time, in cumulative effects to environmental values or resources which would be considered significant. This is more fully explained in our Environmental Action Statement.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

Public Review and Comments

Individuals wishing copies of the permit application, the Environmental Action Statement, or copies of the full text of the SHA, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section. Documents will also be available for public inspection, by appointment, during normal business hours at this office (see **ADDRESSES**).

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6). All comments received on the permit application and SHA, including names and addresses, will become part of the administrative record and may be released to the public. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

Decision

We will evaluate the permit application, the SHA, and comments submitted thereon to determine whether

the application meets the requirements of section 10(a) of the Act and NEPA regulations. If the requirements are met, the Service will sign the proposed SHA and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the Railroad Valley springfish incidental to otherwise lawful activities of the project. The Service will not make a final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: July 3, 2007.

Robert D. Williams,

Field Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Nevada Department of Wildlife, Lincoln County, Nevada, Enhancement of Survival Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application; request for comments.

SUMMARY: In response to an application from the Nevada Department of Wildlife (Applicant), we, the Fish and Wildlife Service (Service), are considering issuance of an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA). The permit application includes a proposed programmatic Safe Harbor Agreement (SHA) between the applicant and the Service. The proposed SHA provides for voluntary habitat restoration, maintenance, enhancement, or creation activities to enhance the reintroduction and recovery of White River springfish (*Crenichtheys baileyi baileyi*), Hiko White River springfish (*Crenichtheys baileyi grandis*), Pahranaagat roundtail chub (*Gila robusta jordani*) and southwestern willow flycatcher (*Empidonax trailii extimus*), within the Pahranaagat Valley, Nevada. The proposed duration of both the SHA and permit is 50 years.

We have made a preliminary determination that the proposed SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for our determination is contained in an environmental action statement, which also is available for