

strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife science, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, the CCP identifies wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, wildlife observation and photography, and environmental education and interpretation. We will review and update these CCPs at least every 15 years in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended by the National Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370d).

**Background:** Fish Springs National Wildlife Refuge was established under the Migratory Bird Conservation Act (MBCA) by the Migratory Bird Conservation Commission. The stated purpose is “\* \* \* for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.” 16 U.S.C. 715d (Migratory Bird Act)

Significant issues addressed in the Draft CCP/EA include: habitat and wildlife management, ecological integrity, visitor services, cultural resources, and partnerships. The Service developed three alternatives for management of the Refuge: Alternative A—No Action; Alternative B—Restoration; Alternative C—Enhanced Habitat Management and Public Use. All three alternatives outline specific management objectives and strategies related to wildlife and habitat management, ecological integrity, visitor services, cultural resources, and partnerships.

Alternative A—No Action (Current Management) focuses on managing water in nine marsh units to meet the life cycle needs of waterfowl, shorebirds, and water birds. The marsh units are currently rotated through a 5-year drawdown schedule according to the Marsh Management Plan approved in 1991. In addition, the units drawn down each year are burned according to a prescribed fire plan approved in August 2002. Visitation to Fish Springs currently ranges between 2000 and 3100 visitors each year. Up to 40 percent of the Refuge is open for duck and coot hunting each year. Waterfowl hunting remains the greatest recreational interest. Continuing to provide educational and interpretive opportunities for visitors will enhance

understanding and appreciation of the wildlife and cultural resources represented on the Refuge. Efforts to inventory and analyze unmapped cultural resource sites and fully understand known sites will continue. Continuing to foster and increase opportunities for participation in conservation initiatives, such as the Eastern Bonneville partnership, will help the Refuge maximize its contribution to natural resource conservation.

Alternative B—Restoration, will restore, maintain and enhance the Refuge’s original hydrological system and high-desert shrubland habitat to a condition resembling their historic nature prior to Refuge development. Marsh restoration will ensure that habitat that is critical to maintain the flora and fauna that historically inhabited the Refuge is provided. Marsh restoration will call for the removal of all dikes and water control structures. High-desert shrubland will be restored to its historic native composition benefiting those species dependent on this habitat type, such as kit fox, Bonneville pocket gopher, loggerhead shrike, black-throated sparrow, and neotropical migrants. Visitor services will change slightly under the restoration alternative, with more emphasis placed on non-consumptive uses, such as environmental education, interpretation, wildlife observation and photography. The shift in visitor services is due mainly to the removal of water control structures (*i.e.* dikes and roads) which will limit vehicle access. The current hunting program will continue with the addition of a goose hunt. Access to hunting areas will be provided via boat and/or foot passage, promoting a remote hunting experience. Restoration and subsequent monitoring of the marsh ecosystem will provide expanded opportunities for interpretation and environmental education.

Alternative C—Enhanced Habitat Management and Visitor Services, the Service’s Proposed Action, emphasizes the utilization of Fish Springs NWR by a diversity of migratory birds. Marshes will continue to be managed for waterfowl, shorebirds, and water birds. Current marsh water management will continue, with few minor modifications to improve foraging and nesting habitat for shorebirds and water birds. High-desert shrublands will be restored to historic native composition, thereby benefiting those species dependent on this habitat type, such as kit fox, Bonneville pocket gopher, loggerhead shrike, black-throated sparrow, and neotropical migrants. One of the five

major thermal springs that arise from a fault line at the base of the east slope of the Fish Springs Range will be restored to its historic natural condition providing habitat that is critical to maintain the flora and fauna that historically inhabited the Refuge. Restoration and subsequent monitoring of the marsh ecosystem will provide expanded opportunities for interpretation and environmental education. Increased efforts in visitor services and the addition of a goose hunt to the current hunting program will attract more visitors to the Refuge. The Refuge will maintain an auto-tour route which traverses a cross section of the habitats and provides opportunity for wildlife viewing and photography. The construction of an interpretive boardwalk and an observation platform will further enhance wildlife viewing and photography.

The review and comment period is 30 calendar days commencing with publication of this Notice of Availability in the **Federal Register**. After the review and comment period for this Draft CCP/EA, all comments will be analyzed and considered by the Service. All comments received from individuals on the Environmental Assessment become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, the Council on Environmental Quality’s NEPA regulations (40 CFR 1506.6(f)) and other Service and Departmental policies and procedures.

Dated: July 14, 2004.

**John A. Blankenship,**

*Deputy Regional Director, Region 6.*

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**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of an Application for an Incidental Take Permit for Construction of a Single-Family Home in Brevard County, FL

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

**ACTION:** Notice.

**SUMMARY:** David Sime (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 taking about 0.33 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 home and supporting infrastructure in Brevard County, Florida (Project). The destruction of 0.33 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. We have 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 DM2, Appendix 1 and 516 DM 6, Appendix 1). We announce the availability of the HCP for the incidental take application. Copies of the HCP 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 Endangered Species Act and NEPA regulations (40 CFR 1506.6).

**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 19, 2004.

**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 TE086774-0 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 Mr. Rob Bittner, Fish and Wildlife Biologist, Jacksonville Field Office, Jacksonville, Florida (*see ADDRESSES* above), telephone: (904) 232-2580, ext. 120.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit

comments by any one of several methods. Please reference permit number TE086774-0 in such comments. 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 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.

The decline in the number and distribution of scrub-jays in east-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic 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 east-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 the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

A family of scrub-jays is known to have used the residential lot during 2001 as a nesting site, then were observed again in 2002 using the site for foraging. The scrub-jays using the subject residential lot and adjacent properties are part of a larger complex of scrub-jays located in a matrix of urban and natural settings in areas of northern Brevard County. The project site is positioned on the extreme western edge of an area supporting 16 families of scrub-jays. 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 construction activities outside of the nesting season. Other on-site minimization measures are not practicable as the footprint of the home, infrastructure and landscaping on the 0.33 acre lot will utilize all the available land area. Retention of scrub-jay habitat on-site may not be a biologically viable alternative due to increasing negative demographic effects caused by urbanization.

The Applicant proposes to mitigate the take of scrub-jays through contribution of \$4,422 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 \$4,422 is sufficient to acquire and perpetually manage 0.66 acre 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 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 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 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. We do not anticipate significant direct or cumulative effects to the Florida scrub-jay population as a result of the construction 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 action or represent a decision in principle about future actions with potentially significant environmental effects.

We have determined that approval of the Plan qualifies 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 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 the 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. 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.

Pursuant to the June 10, 2004, order in *Spirit of the Sage Council v. Norton*, Civil Action No. 98-1873 (D. D.C.), the Service is enjoined from approving new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with the public notice and comment requirements of the Administrative Procedure Act. This notice concerns a step in the review and processing of a section 10(a)(1)(B) permit and any subsequent permit issuance will be in accordance with the Court's order. Until such time as the Service's authority to issue permits with "No Surprises" assurances has been reinstated, the Service will not approve any incidental take permits or related documents that contain "No Surprises" assurances.

Dated: July 3, 2004.

**Mitch King,**

*Acting Regional Director, Southeast Region.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Scotts Valley Band of Pomo Indians' Trust Acquisition and Casino Project, Contra Costa County, CA

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA) as lead agency, with the Scotts Valley Band of Pomo Indians (Band) as cooperating agency, intends to gather information necessary for preparing an Environmental Impact Statement (EIS)

for a proposed 29.87± acre trust acquisition and casino project to be located within unincorporated Contra Costa County, California. The purpose of the proposed action is to help provide for the economic development of the Band. This notice also announces a public scoping meeting to identify potential issues and content for inclusion in the EIS.

**DATES:** Written comments on the scope and implementation of this proposal must arrive by August 19, 2004. The public scoping meeting will be held August 4, 2004, from 6 p.m. to 9 p.m., or until the last public comment is received.

**ADDRESSES:** You may mail or hand carry written comments to Clay Gregory, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. The public scoping meeting will be held at Richmond Memorial Auditorium, 403 Civic Center Plaza, Richmond, California.

**FOR FURTHER INFORMATION CONTACT:** William Allan, (916) 978-6043.

**SUPPLEMENTARY INFORMATION:** The Band proposes that 29.87± acres of land be taken into trust and that a casino, parking and other facilities supporting the casino be constructed on the trust acquisition property. The 29.87± acres encompasses 6 parcels of land located entirely within unincorporated Contra Costa County, California, contiguous with the city of Richmond. The project site is adjacent to Richmond Parkway and Parr Boulevard, and within 3 miles of Interstate 80. Regional access to the casino complex would be from Richmond Parkway via Interstate 80.

The Proposed Action includes the development of a 225,000± square foot, 30-foot tall casino complex, which would consist of a combination of uses including, but not limited to the following: a main gaming hall; food and beverage facilities, including a restaurant, buffet, food court and sports bar; an entertainment lounge; banking and administration facilities; and an event center. The proposed facility would also include approximately 1,200 surface parking stalls and 1,400 parking stalls located in a 3± level parking structure. Spaces for self-parking, valet parking, overflow parking, bus and RV parking, employee parking and executive parking would also be provided. Driveways along Parr Boulevard would provide access to the parking areas and the casino.

Areas of environmental concern to be addressed in the EIS include land use, geology and soils, water resources, agricultural resources, biological