

concerning the HCP should be received on or before January 2, 2003.

**ADDRESSES:** Persons wishing to review the application and HCP may obtain a copy by writing the Service's Southeast Regional Office at Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: Endangered Species Permits,) or Field Office, U.S. Fish and Wildlife Service, 1208-B Main Street, Daphne, AL 36526 (Attn: Ms. Barbara Allen). Documents will be available for public inspection by appointment during normal business hours at the regional office. Written data or comments concerning the HCP and our notice of intent to prepare an EIS should be submitted to the Regional Office. Please reference permit numbers TE-007985-0 (Gulf Highlands) and TE-031307-0 (Fort Morgan Peninsula Joint Venture) in such comments, or in requests for documents.

**FOR FURTHER INFORMATION CONTACT:** Mr. Aaron Valenta, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679-4144; or Ms. Barbara Allen, Fish and Wildlife Biologist, Daphne Field Office, (see **ADDRESSES** above), telephone: 334/441-5181, extension 33.

**SUPPLEMENTARY INFORMATION:** The proposed residential/recreational condominium developments will be located on approximately 196 acres in south Baldwin County, Alabama, between State Highway 180 and the Gulf of Mexico (Section 28, Township 9 South, Range 2 East) about twelve miles west of Highway 59 in Gulf Shores, Alabama, on the Fort Morgan Peninsula.

Some of the Applicants' future activities have the potential to impact species subject to protection under the Act, including the Alabama beach mouse (*Peromyscus polionotus ammobates*). Section 10(a)(1)(B) permits non-Federal landowners to take endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood for the survival and recovery of the species in the wild, among other permit issuance criteria. An applicant for a permit under section 10 of the Act must prepare and submit to the Service for approval a plan containing, among other things, a strategy for minimizing and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for implementation of the plan will be provided.

The Applicants have initiated and continued discussions with the Service regarding the possibility of Permits and

an associated HCP for their activities on lands to be covered by the Permits. General activities proposed for permit coverage include residential, commercial and industrial development, construction, and maintenance activities.

The Service previously considered the Applicants' HCP in an Environmental Assessment and issued a finding of no significant impact. 67 FR 17089 (April 9, 2002). That environmental analysis was challenged in an action for judicial review brought by Sierra Club and Friends of the Earth. The United States District Court for the Southern District of Alabama granted a preliminary injunction against any take of the Alabama beach mouse pursuant to the permits previously issued to Applicants. *Sierra Club and Friends of the Earth v. Norton*, 207 F. Supp. 2d. 1310 (S.D. Ala. 2002).

Subsequently, the Service determined to revisit the earlier NEPA analysis for this HCP and the issued permits. See Defendant's Motion for Voluntary Remand, *Sierra Club and Friends of the Earth v. Norton*, No. CV-02-0258-CB-C (S.D. Ala. Aug. 8, 2002). The Service has decided, and announces through this and the previous notice, its intent to review the proposed HCP and the environmental effects of issuing the permits through preparation of an EIS.

The environmental review will analyze the Applicants' proposed HCP as well as a full range of reasonable alternatives and the associated impacts of each. The Service is currently in the process of developing alternatives for analysis. The alternatives identified to date are as follows:

**Alternative 1—No action:** The service would not re-affirm the ITPs.

**Alternative 2—Development according to original Gulf Highlands Subdivision plat:** A portion of the Applicants' properties were originally platted and zoned for single family residential development by the Baldwin County Planning Commission. This development alternative involves development according to the original plat or by additional platting and subdivision of the lands.

**Alternative 3—Development with primary features occupying full width of the escarpment:** Alternative 3 consists of the residential high-rise building complexes placed atop the escarpment.

**Alternative 4—Development entirely north of the escarpment:** This alternative would involve development of residential condominium buildings and infrastructure approximately 300 feet north of the escarpment for both projects.

**Alternative 5—Development of portions of the escarpment with a 325-ft. habitat corridor between the projects:** Alternative 5 consists of the development of the same number of units, but placed on different portions of the escarpment and adjacent areas. This development configuration would result in the preservation of an undeveloped corridor of ABM habitat approximately 325 feet wide separating the individual developments and connecting the interior scrub areas with the designated critical habitat to the south of the developments.

**Alternative 6—Development of onsite mitigation including a 909-foot corridor connecting adjacent primary/secondary dunes and escarpment to the interior:** This alternative increases the width of the undeveloped corridor described above and repositions the corridor to the west side of the property. This alternative provides for dedication of 105.5 acres of Applicant-owned lands into conservation status via covenants, conditions and restrictions attached to the property, and conditions of any ITP that might be issued.

Persons wishing to provide relevant information and comments regarding this activity should submit these to the above address. For information, please contact the individual identified above in the section entitled **FOR FURTHER INFORMATION CONTACT**.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR parts 1500 through 1508), and with other appropriate Federal laws and regulations, policies, and procedures of the Service for compliance with those regulations. It is estimated that the draft EIS will be available for public review in early 2003.

Dated: December 4, 2002.

**Sam D. Hamilton,**  
Regional Director.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of a Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit for The Meadows, Douglas County, CO

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

**ACTION:** Notice of availability and receipt of application.

**SUMMARY:** Castle Rock Development Company and Castle Rock Land Company have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The permit would authorize the incidental take of Preble's meadow jumping mouse (*Zapus hudsonius preblei*) ("Preble's"), federally listed as threatened, and loss and modification of its habitat associated with construction and use of a portion of The Meadows property in the Town of Castle Rock, Colorado. The permit would be in effect for 30 years from the date of issuance.

We announce the receipt of the applicants' incidental take permit application that includes a combined proposed Habitat Conservation Plan (HCP) and Environmental Assessment (EA) for the Preble's at The Meadows. The proposed HCP/EA is available for public comment. It fully describes the proposed project and the measures the applicants would undertake to minimize and mitigate project impacts to Preble's.

The Service requests comments on the Plan for the proposed issuance of an Incidental Take Permit. We provide this notice pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6). All comments on the Plan and permit application will become part of the administrative record and will be available to the public.

**DATES:** Written comments on the permit application, Habitat Conservation Plan, and Environmental Assessment should be received on or before February 18, 2003.

**ADDRESSES:** Comments regarding the permit application and HCP/EA should be addressed to LeRoy Carlson, Field Supervisor, U.S. Fish and Wildlife Service, Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Linder, Fish and Wildlife Biologist, Colorado Field Office, telephone (303) 275-2370.

**SUPPLEMENTARY INFORMATION:**

**Document Availability**

Individuals wishing copies of the HCP/EA and associated documents for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business

hours at the Lakewood, Colorado, Field Office (see **ADDRESSES** above).

**Background**

Section 9 of the Act and Federal regulation prohibit the "take" of a species listed as endangered or threatened. Take is defined under the Act, in part, as to kill, harm, or harass a federally listed species. However, the Service may issue permits to authorize "incidental take" of listed species under limited circumstances. Incidental take is defined under the Act as take of a listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity under limited circumstances. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32.

The applicants plan to develop portions of The Meadows in Douglas County, Colorado, that may constitute habitat for the Preble's. Such development would include commercial parcels, water well construction and a recreational trail extension. The planning area for the permit application is approximately 194 hectares (480 acres) and is located west of Interstate Highway 25 (I-25), within the corporate boundaries of the Town of Castle Rock. The area subject to the permit application straddles the East Plum Creek drainage and is entirely contained within two major railway lines, with the exception of one small parcel. An existing bridge spans East Plum Creek and carries The Meadows Parkway as it crosses the property on the southern (upstream) portion of the property. The project would permanently alter a total of 3.5 hectares (8.6 acres) of vegetation within the riparian corridor and would temporarily alter an additional 10.06 hectares (24.87 acres) of vegetation. As discussed below, the applicants propose a number of measures to mitigate possible impacts of the proposed action.

Alternatives considered in addition to the proposed action were: alternative site design based on land use plans approved by the Town of Castle Rock, alternative site location, wait for a regional 10(a)(1)(B) permit, and no action. None of these alternatives eliminated potential take of Preble's.

Only one federally listed species, the threatened Preble's, occurs onsite and has the potential to be adversely affected by the project. To mitigate impacts that may result from incidental take, the HCP provides that mitigation will include the dedication of 17.5 hectares (43.3 acres) of additional open space (in addition to 98.6 hectares (243.7 acres) already designated as open space), enhancement of habitat within 4 hectares (10 acres) of existing open

space, segregation of commercial areas and riparian areas with barriers, revegetation of areas of temporary disturbance with native vegetation, limitations on project sizes, limitations on access, elimination of cattle grazing, and regulation of trail use and location. All efforts will be made to minimize the temporary disturbance during construction of water wells and water delivery systems and impacts to in-stream flows. All construction will be initiated between October 15 and April 30 to minimize and avoid impacts to Preble's.

The Applicants are committed to providing the necessary funding to support the mitigation. The Applicants will place the necessary funds into an escrow or similar type account that will limit use of the funds to mitigation activities.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the Preble's in conjunction with the construction and use of The Meadows. The final permit decision will be made no sooner than 60 days from the date of this notice.

Dated: December 4, 2002.

**Ralph O. Morgenweck,**

*Regional Director, Denver, Colorado.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Neotropical Migratory Bird Conservation Act: Request for Grants Proposals for Year 2003**

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

**ACTION:** Notice of request for proposals.

**SUMMARY:** The purpose of this notice is to advise the public that the Fish and Wildlife Service (Service) is accepting proposals for funding under the Neotropical Migratory Bird Conservation Act (Act) program. Projects may be for protection and management of neotropical migratory bird populations; maintenance, management, protection, and restoration of their habitats; research and monitoring; law enforcement; and community outreach and education. Projects may be located in the United