

The applicant requests authorization to take (capture, mark, release, recapture) Schaus' swallowtail (*Papilio aristodemus ponceanus*) while conducting population monitoring. The proposed activities would take place in the Florida Keys and South Florida mainland.

*Applicant:* The Nature Conservancy, Brain P. Van Eerden, Charlottesville, Virginia, TE092887-0.

The applicant requests authorization to harass the red-cockaded woodpecker (*Picoides borealis*) while installing restrictor plates on cavities and while installing artificial cavities. The proposed activities would take place on the Piney Grove Preserve, Sussex County, Virginia.

*Applicant:* Lewis & Associates LLC, Julian J. Lewis, Borden, Indiana, TE091701-0.

The applicant requests authorization to take (harass) the Kentucky cave shrimp (*Palaemonias ganteri*) while conducting presence/absence surveys. The proposed activities would occur in Graham Springs Groundwater Basin, Warren County, Kentucky.

*Applicant:* Dr. David H. Nelson, University of South Alabama, Mobile, Alabama, TE091704-0.

The applicant requests authorization to take (capture, identify, release) the Alabama red-bellied turtle (*Pseudemys alabamensis*), loggerhead sea turtle (*Caretta caretta*), and gopher tortoise (*Gopherus polyphemus*) while conducting scientific ecological research. The proposed activities would occur in Mobile and Baldwin Counties, Alabama.

*Applicant:* Dr. Jeanette Wyneken, Florida Atlantic University, Boca Raton, Florida, TE092912-0.

The applicant requests authorization to take (capture, transport, hold in captivity, release) the leatherback sea turtle (*Dermochelys coriacea*) while conducting laboratory experiments to characterize the behavioral responses to simulate longline gear. The activities would take place in Palm Beach County and Boca Raton, Florida (Biology Department of Florida Atlantic University) and will be released at sea when the study is complete.

*Applicant:* Florida Power & Light Company, Turkey Point Power Plant, Juno Beach, Florida, TE092945-0.

The applicant requests authorization to take (capture, mark, recapture, insert chips in the tail, insert Hobotemp dataloggers in the interior and exterior of nests, take scute samples) the American crocodile (*Crocodylus acutus*) while conducting management

activities. The proposed activities would take place at Florida Power & Light Turkey Point Power Plant cooling canals, Dade County, Florida.

Dated: August 31, 2004.

**Cynthia K. Dohner,**

*Deputy Regional Director, Southeast Region.*

[FR Doc. 04-20773 Filed 9-14-04; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of Application for an Incidental Take Permit by the Alabama Department of Conservation and Natural Resources for Proposed Improvements to Gulf State Park Hotel/Convention Center & Pavilion, Gulf Shores, Baldwin County, AL

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

**ACTION:** Notice of availability of application for an incidental take permit, habitat conservation plan and environmental assessment.

**SUMMARY:** The Alabama Department of Conservation and Natural Resources (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit [ITP] under section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 United States Code [U.S.C.] 1531 et seq.), as amended (Act) for the take of Alabama beach mouse (*Peromyscus polionotus ammobates*) (ABM). The proposed take would be incidental to otherwise lawful activities, including the demolition of the current facility, site grading, and construction and development of a new facility. The proposed facility would consist of a seven-story hotel with a total of 350 guest rooms, a beach inn with 100 guest rooms, four beach side cottages with a total of 16 rooms, a new beach pavilion, and other amenities. The proposed project would result in a net gain of 3.16 acres of ABM habitat. The proposed action would involve approval of the Habitat Conservation Plan (HCP) developed by the applicant, as required by section 10(a)(2)(B) of the Act, to minimize and mitigate for incidental take of the federally listed endangered Alabama beach mouse (*Peromyscus polionotus ammobates*) (ABM), the threatened green sea turtle (*Chelonia mydas*), the threatened loggerhead turtle, (*Caretta caretta*), and the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*). A detailed description of the mitigation and minimization measures to address the effects of the project on the ABM and

sea turtles is provided in the applicant's HCP, the Service's Environmental Assessment and in the **SUPPLEMENTARY INFORMATION** section below. The Service announces the availability of an Environmental Assessment (EA) and Habitat Conservation Plan/Application for Incidental Take.

**DATES:** Written comments on the ITP application, HCP and EA should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before October 15, 2004.

**ADDRESSES:** Persons wishing to review the application, HCP and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. 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, Ecological Services Field Office, 1208-B Main Street, Daphne, Alabama 36526. Written data or comments concerning the application or HCP should be submitted to the Regional Office. Please reference Gulf State Park Reconstruction and the permit number TE-072831-0 in requests for the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joe Johnston, Regional Project Manager, (see **ADDRESSES** above), telephone: 404/679-4155; or Ms. Barbara Allen, Fish and Wildlife Biologist, Daphne Field Office (see **ADDRESSES**), telephone: 251/441-5873.

**SUPPLEMENTARY INFORMATION:** We announce the availability of an EA and HCP application for an incidental take permit. The EA is an assessment of likely environmental impacts associated with this project. Copies of these documents may be obtained by making a request, in writing, to the Regional Office (see **ADDRESSES**). This notice advises the public that we have opened the comment period on the permit application, which includes an HCP and the EA. This notice is provided under section 10 of the Act and NEPA regulations at 40 CFR 1506.6.

We specifically request information, views, and opinions from the public via this notice on the Federal action, including the identification of any other aspects of the human environment not already identified in the EA. Further, we specifically solicit information about the adequacy of the HCP as measured against our ITP issuance criteria found in 50 CFR parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. Please reference Gulf State

Park Reconstruction and permit number TE-072831-0 in your comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to [joe\\_johnston@fws.gov](mailto:joe_johnston@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 (see **FOR FURTHER INFORMATION**).

Finally, you may hand deliver comments to either Service office listed (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 comment. 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 ABM is one of eight subspecies of the old field mouse restricted to coastal dunes. We estimate that ABM historically occupied about 28 miles [mi] of shoreline. By 1987, the total occupied linear, shoreline habitat for the ABM, Choctawhatchee, and Perdido Key beach mice was estimated at less than 22 mi. Monitoring (trapping and field observations) of the ABM population on other private lands that hold, or are under review for, an ITP during the last five years indicates the Fort Morgan Peninsula remains occupied (more or less continuously) by ABM along its primary and secondary dunes, and interior habitats.

The ABM is known to occupy about 55.8 acres of land within the action area of the project. At this time, ABM have not been recorded on or west of the existing hotel and convention center compound. Construction and occupancy of the new park facilities may result in the incidental taking of ABM. The applicant, recognizing the potential for such an event, is seeking the issuance of

an incidental take permit for the ABM from us.

The proposed project will include the demolition, removal and off-site disposal of all existing above-ground structures and paved surfaces, south of Highway 182. Items to be removed include the following:

- A. About 16 acres of pavement from existing driveways and parking areas;
- B. Twelve existing hotel units (cottages) and two associated maintenance buildings;
- C. One abandoned tennis court; and
- D. The convention center and associated pool and deck area.

Land where the hotel and convention center now stand will be used for the new hotel center or returned to its natural state. This will result in restoration of 14.7 acres of dune habitat that will adjoin verified occupied ABM habitat to the east. The applicant's restoration of these 14.7 acres provides for a net gain of 3.16 acres of habitat over that which currently exists in the action area. All of these acres would be capable of supporting the ABM.

With the implementation of the habitat enhancement measures outlined in the applicant's HCP, the quality of existing habitat will be improved. Construction activities associated with site preparation, heavy equipment operations, and site alterations within habitat occupied by ABM may impact individuals by crushing or burying them in their burrows, or by impairing essential breeding, feeding, or sheltering behaviors.

Through project planning minimization effects, impacts to ABM habitat resulting from project conservation have been limited to 11.55 acres. This impact is primarily confined to three areas: (1) 4.54 acres west of the entrance road to Gulf State Park Pier; (2) 5.88 acres located east of the same entrance road and (3) 1.13 acres located around the pavilion. At this time, although the first two areas (near the existing hotel and convention center) appear to be suitable habitat, they are not known to contain ABM nor do they adjoin any known occupied habitat. The third area, near the pavilion site, is known to support ABM. This area will be directly affected by construction of buildings and associated infrastructure.

The majority of the new building and construction efforts will remain within the footprint of the currently impacted area. There are 2.1 acres of scrub dunes, not suitable for ABM use, which will be impacted by the proposed action. However, since this acreage is not suitable for the ABM, its loss is not considered as an adverse impact to the ABM.

Construction activities associated with site preparation, heavy equipment operations, and site alterations within habitat occupied by ABM may impact ABM by crushing or burying them in their burrows, or by impairing essential breeding, feeding, or sheltering behaviors. Following construction, use of the area may also result in take of ABM due to inadequate garbage or refuse management that could attract ABM competitors or predators, and lights that may alter ABM nocturnal behavioral patterns. Boardwalks running perpendicular to the beach will act as a safeguard against pedestrian use of the dune system that may cause erosion and the loss of habitat required for ABM shelter, food, and reproduction.

The EA considers the effects of three project alternatives, including an alternative that would result in no new construction on the project site. Alternative 1 would not be economically feasible for the applicant. Alternative 2 and 3 involve the proposed development of 44.29 or 54.09 acres of a 137.8 acre action area in connection with the replacement, construction, occupancy, use, operation, and maintenance of the proposed new Gulf State Park Hotel/Convention Center, lodging facilities, and parking. The difference between these two alternatives relate to the amount of habitat restored and preserved for the ABM.

Alternative 3, the preferred alternative involves the greatest amount of habitat restoration and preservation and includes revisions designed to avoid or minimize take by reducing the impacts to habitat and enhance restoration efforts while still providing the necessary infrastructure improvements to increase use of the Park and provide an influx of about \$65 million per year (increase of \$52 million per year) to the local economy. The resulting alternative was chosen as the preferred alternative and would create a net gain of 3.16 acres of habitat exhibiting constituent elements of ABM CH. This alternative will allow 14.7 acres of currently degraded or developed land (which is adjoining ABM occupied habitat), to be restored to natural habitat with the potential for future ABM occupancy.

Under section 9 of the Act and its implementing regulations, "taking" of endangered and threatened wildlife is prohibited. However, we, under limited circumstances, may issue permits to take such wildlife if the taking is incidental to and not the purpose of otherwise lawful activities. The applicants have prepared a HCP which includes measures for the long-term

protection, management, and enhancement of ABM habitat as required for the incidental take permit application as part of the proposed project

We will evaluate whether the 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 the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: August 25, 2004.

**Sam D. Hamilton,**

*Regional Director, Southeast Region.*

[FR Doc. 04-20772 Filed 9-14-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Land Acquisitions; Picayune Rancheria of California

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

**ACTION:** Notice of final agency determination to take land into trust under 25 CFR part 151.

**SUMMARY:** The Principal Deputy Assistant Secretary—Indian Affairs made a final agency determination to acquire approximately 48.53 acres, of land into trust for the Picayune Rancheria of California on June 30, 2004. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

**FOR FURTHER INFORMATION CONTACT:** George Skibine, Office of Indian Gaming Management, Bureau of Indian Affairs, MS-4543 MIB, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** This notice is published to comply with the requirement of 25 CFR 151.12(b) that notice be given to the public of the Secretary's decision to acquire land in trust at least 30 days prior to signatory acceptance of the land into trust. The purpose of the 30-day waiting period in 25 CFR 151.12(b) is to afford interested parties the opportunity to seek judicial review of final administrative decisions to take land in trust for Indian tribes and individual Indians before transfer of title to the property occurs. On June 30, 2004, the Principal Deputy Assistant Secretary—Indian Affairs decided to accept approximately 48.53 acres of land into trust for the Picayune

Rancheria of California under the authority of the Indian Reorganization Act of 1934, 25 U.S.C. 465. The Picayune Rancheria was restored to federal recognition pursuant to the Hardwick Stipulation of Judgement (No. C-79-1710SW) for Madera County, filed on June 16, 1987. The Stipulation restored the exterior boundaries of the Rancheria and declared all lands within the boundaries as Indian Country. The 48.53 acres are located within the boundaries of the Rancheria.

The real property consists of 48.53 acres situated in Madera County, California. The legal description of the property is as follows:

*Parcel 1:*

That portion of the North half of the Northwest quarter of the Northeast quarter and the West half of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 29, Township 8 South, Range 21 East, Mount Diablo Base and Meridian, according to the official Plat thereof, lying Northeasterly of the Northeasterly line of a strip of land 50 feet in width conveyed to the County of Madera, State of California, for highway purposes by deed dated September 11, 1961 and recorded in Records of Madera County in Volume 808 of Official records at page 410.

Excepting therefrom: That portion of the Northeast quarter of Section 29, Township 8 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof described as follows:

Beginning at the Southeast quarter corner of the West half of the Northwest quarter of the Northeast quarter of the Northeast quarter of said Section 29; thence West along the South line of the North half of the Northeast quarter of the North half of the Northeast quarter of said Section 580.8 feet; thence Northeasterly 600 feet, more or less, to a point in the East line of the West half of the Northwest quarter of the Northeast of the Northeast quarter of Section 29, located 150 feet North from the Southeast corner thereof; thence South 1,590 feet to the point of beginning.

*Parcel 2:*

All that portion of the South half of the Northwest quarter of the Northeast quarter and the West half of the Southwest quarter of the Northeast quarter of the Northeast quarter of Section 29, Township 8 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, lying North and Northeasterly of the North and Northeasterly boundary of County Road No. 417.

*Parcel 3:*

That portion of the Northeast quarter of Section 29, Township 8 South, Range 12 East, Mount Diablo Base and Meridian, according to the Official Plat thereof described as follows:

Beginning at the Southeast quarter of the West half of the Northwest quarter of the Northeast quarter of said Section 29; thence West along the South line of the North half of the North half of the Northeast quarter of said Section 580.8 feet; thence Northeasterly 600 feet, more or less, to a point in the East line of the West half of the Northwest quarter of the Northeast quarter of Section 29, located 150 feet North from the Southeast corner thereof, thence South 150 feet to the point of beginning.

APN: 054-330-025 (Parcel 1) & 054-330-026 (Parcels 2 & 3) containing 27.49 acres, more or less.

*Parcel "A":*

All that portion of the North half of the Northwest quarter of the Northeast quarter of Section 29, Township 8 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plats thereof, lying Southwesterly of County Road No. 417.

APN: 054-330-015 (containing 3.92 acres, more or less).

*Parcel "B":*

Parcel 1 of Parcel Map No. 1870, according to the map thereof, recorded August 21, 1981 in Book 27 of Maps, at page 182, Madera County Records.

APN: 054-330-031 (containing 5.92 acres more or less).

*Parcel "C":*

Parcel 2 of Parcel Map No 1870, according to the map thereof, recorded August 21, 1981 in Book 27 of Maps, at page 182, Madera County Records.

APN: 054-330-032 (containing 5.92 acres, more or less).

*Parcel "D":*

Parcel 3 of Parcel Map No. 1870, according to the map thereof, recorded August 21, 1982 in Book 27 of Maps, at page 182, Madera County Records.

APN: 054-330-033 (containing 5.28 acres, more or less).

Dated: July 1, 2004.

**Aurene M. Martin,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

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