

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****National Key Deer Refuge; Key West, Great White Heron, and Crocodile Lake National Wildlife Refuges**

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

**ACTION:** Notice of Intent to Prepare Comprehensive Conservation Plans and Environmental Assessments for National Key Deer Refuge; Key West, Great White Heron, and Crocodile Lake National Wildlife Refuges in Florida.

**SUMMARY:** This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare comprehensive conservation plans and environmental assessments pursuant to the National Environmental Policy Act and its implementing regulations. The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*), to achieve the following:

- (1) Advise other agencies and the public of our intentions, and
- (2) Obtain suggestions and information on the scope of issues to include in the environmental documents.

Special mailings, newspaper articles, and other media announcements will be used to inform the public and government and non-government agencies of the opportunities for input throughout the planning process.

**ADDRESSES:** Address comments, questions, and requests for more information to the following: Van Fischer, Natural Resource Planner, National Key Deer Refuge, 28950 Watson Boulevard, Big Pine Key, Florida 33043-0510, Telephone 305/872-2239; Fax 305/872-3675; E-mail [Van\\_Fisher@fws.gov](mailto:Van_Fisher@fws.gov). Additional information concerning these refuges may be found at the Service's Internet site <http://www.fws.gov>.

**SUPPLEMENTARY INFORMATION:** Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved comprehensive conservation plan. The plan guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purpose. The planning process will consider many elements including wildlife and habitat management, public recreational activities, and cultural resource protection. Public input into the planning process is essential.

Crocodile Lake National Wildlife Refuge was established in 1980, to provide wildlife and habitat protection for federally listed threatened and endangered species and migratory birds. A draft comprehensive conservation plan is expected to be completed for this refuge by June 2004.

Key West and Great White Heron National Wildlife Refuges were established in 1908 and 1938 respectively, to protect herons and egrets from plume hunters. National Key Deer Refuge was established in 1957, to protect the endangered Key Deer and other wildlife. Each of the refuges is located in Monroe County, Florida.

As the draft plans for these refuges are completed, reviews will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (41 U.S.C. 4321 *et seq.*), NEPA regulations (40 CFR parts 1500-1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

**Authority:** This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105-57.

Dated: March 31, 2003.

**Christine E. Eustis,**

*Acting Regional Director.*

[FR Doc. 03-11534 Filed 5-8-03; 8:45 am]

**BILLING CODE 4310-55-M**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Notice of Availability and Public Comment Period for Documents Associated With the Incidental Take Permit (ITP) Previously Issued to Waterman's Realty Co./Winchester Creek Limited Partnership for the Home Port on Winchester Creek Habitat Conservation Plan**

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

**ACTION:** Notice of availability.

**SUMMARY:** Waterman's Realty Company/ Winchester Creek Limited Partnership was issued an ITP, permit number TE006310, on May 13, 1999, for take of the Delmarva for squirrel. In response to a ruling by the Court of Appeals, the U.S. Fish and Wildlife Service (Service) announces the availability of two documents associated with this ITP and the opening of a 60-day comment period.

**DATES:** Written comments on these documents should be received within 60 days of the date of this publication.

**ADDRESSES:** Persons wishing to review these documents may obtain a copy at <http://www.fws.gov/r5cbfo>, or by written or telephone request to John Wolflin, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401 (410-573-4573). Additionally, documents will be available for public inspection by appointment during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Annapolis, Maryland. Data or comments concerning the offsite mitigation map or revised analysis should be submitted in writing to the Project Leader, U.S. Fish and Wildlife Service Office, Annapolis, Maryland at the above address. Please refer to permit number TE006310 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** John Wolflin at the above Service Office, Annapolis, Maryland.

**SUPPLEMENTARY INFORMATION:** On May 13, 1999, after an expanded public comment period of 37 days on the proposed Home Port On Winchester Creek Habitat Conservation Plan (Home Port HCP), the Service issued an ITP for "take" of the Delmarva fox squirrel (DFS). The ITP was issued pursuant to the Endangered Species Act (ESA) § 10(a)(2)(B), 16 U.S.C. 1539(a)(2)(B), and its implementing regulations at 50 CFR 17.22(b)(1). On September 7, 1999, a neighbor to the proposed development (Gerber) and Defenders of Wildlife (DOW) filed suit alleging numerous violations of the National Environmental Policy Act (NEPA), ESA and the Administrative Procedure Act (APA) related to issuance of the ITP for the Home Port HCP.

The District Court granted summary judgment on all counts in favor of the Service on May 15, 2001. *See Gerber v. Babbitt*, 146 F.Supp.2d 1 (D. D.C. 2001). DOW appealed the District Court's ruling on two issues. The availability of a map during the original public comment period, and the Service's finding regarding the impracticability of a project design alternative.

A summary of the first issued follows: The Plaintiffs/Appellants, who had been provided approximately 45 days (due to receipt of an advance copy by agreement) to comment on the HCP, notified the Service shortly before the end of the public comment period of their desire for additional time to comment because no map of the offense mitigation area had been provided. The Service sent them the map, but did not extend the comment period. While the District Court ruled that omission of the map was a harmless error, not in violation of the ESA, the Court of

Appeals disagreed. *See Gerber v. Norton*, 294 F.3d 173, 175, 178–84 (D.C. Cir. 2002). The Court of Appeals held that the failure to allow additional formal opportunity to comment once provided with the map violated the ESA and therefore remanded the matter to the District Court with instructions to remand to the agency. *See id.* at 184.

The second issue is whether the Service satisfied its statutory issuance criteria. A summary of this issue follows: Section 10(a)(2) of the ESA, 16 U.S.C. 1539(a)(2), specifies the requirements for issuance of an incidental take permit. This provision is broken into two distinct subsections. One sets forth the required components of an application from which the Service can judge whether an applicant's submission is complete. *See* Section 10(a)(2)(A), 16 U.S.C. 1539(a)(2)(A). The other provides the issuance criteria by which the Service must evaluate and approve an application package once it has determined the submission is complete. *See* section 10(a)(2)(B), 16 U.S.C. 1539(a)(2)(B).

While the District Court ruled the Service had adequately justified all of its requisite findings, the Court of Appeals agreed with Plaintiffs/Appellants that the service had violated the ESA by failing to independently make the requisite finding that the developer would minimize and mitigate the impacts of the taking to the maximum extent practicable as required under § 10(a)(2)(b)(ii), 16 U.S.C. 1539(a)(2)(b)(ii). The Court of Appeals held that the Service's finding concerning whether the impacts of the taking from the project would be minimized and mitigated to the maximum extent practicable was made improperly. Specifically, the Court held that the Service did not make its own independent finding as to whether a possible project change identified in the record (the "Reduced Take Alternative") was practicable.

The Service has now conducted its own independent analysis, which is reflected in the draft document entitled "Draft—Assessment of Practicability of the Reduced Take Alternative on Remand". This document evaluates the practicability of additional minimization measures discussed in the Reduced Take Alternative in the Home Port HCP and the practicability of measures considered as alternatives in the Environmental Assessment. The Service has independently evaluated the operative constraints on these measures, which include local governmental processes and permitting, costs and time delays. While the Service was

previously aware of many of these constraints, no analysis was presented in detail in any document.

Accordingly, the Service makes available for public review and comment: (1) A map of the offsite mitigation land proposed by the applicant to mitigate for impacts to the Delmarva fox squirrel from the Home Port development in accordance with 16 U.S.C. 1539(a)(2)(B); and (2) a revised analysis of the statutorily mandated finding under 16 U.S.C. 1539(a)(2)(B)(ii), that "the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking".

#### Public Comments Solicited

The Service solicits written comments on the offsite mitigation land proposed by the applicant and a more detailed analysis of the practicability of the reduced take alternative. All comments received by the date specified above will be considered prior to completion of a revised decision document on remand.

Dated: April 18, 2003.

**Richard O. Bennett,**

*Acting Regional Director.*

[FR Doc. 03–11531 Filed 5–8–03; 8:45 am]

**BILLING CODE 4310–55–P**

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

[OR 120 5882 CD99; 3–0159]

##### Notice of Public Meeting, Coos Bay Resource Advisory Committee Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Bureau of Land Management (BLM) Coos Bay District Resource Advisory Committee (RAC) Meeting as identified in section 205 (f) (2) of the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106–393 (the Act).

**SUMMARY:** The BLM Coos Bay District RAC will be meeting on May 30, 2003 from 9 a.m. until 12:30 p.m. at the BLM Coos Bay District Office. The Coos Bay District Office is located at 1300 Airport Lane in North Bend, Oregon. The purpose of this meeting will be to review the progress of previously funded projects, elect a new Chairperson, present the RAC with this year's projects to be reviewed for funding, and provide an opportunity for dialogue between the RAC, the Bureau, and the public.

**FOR FURTHER INFORMATION CONTACT:** Sue Richardson, District Manager, at 756–

0100 or Glenn Harkleroad, District Restoration Coordinator, at 751–4361 or [glenn\\_harkleroad@or.blm.gov](mailto:glenn_harkleroad@or.blm.gov). The mailing address for the BLM Coos Bay District Office is 1300 Airport Lane, North Bend, Oregon 97459.

#### SUPPLEMENTARY INFORMATION:

Additional information about the Coos Bay RAC and a meeting agenda can be found at <http://www.or.blm.gov/coosbay>.

Dated: May 2, 2003.

**Sue E. Richardson,**

*Coos Bay District Manager.*

[FR Doc. 03–11494 Filed 5–8–03; 8:45 am]

**BILLING CODE 4310–33–P**

#### DEPARTMENT OF LABOR

##### Employment and Training Administration

##### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

##### Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.