



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
WinSystems Center Building
711 Stadium Drive, Suite 252
Arlington, Texas 76011

May 6, 2009

21420-2009-F-0270-R001

Mr. Roderick A. Chisholm
Directorate of Public Works
Department of the Army
U.S. Army Installation Management Command
Headquarters, U.S. Army Garrison, Fort Hood
Fort Hood, Texas 76544-5000

Dear Mr. Chisholm:

This document amends the U.S. Fish and Wildlife Service's (Service) biological opinion dated July 15, 2004, on the proposed transfer of approximately 672 acres of property at Fort Hood Military Installation to the Texas A&M University System (TAMUS) in Bell County Texas, and its effects on the endangered black-capped vireo (*Vireo atricapilla*) (BCVI) and golden-cheeked warbler (*Dendroica chrysoparia*)(GCWA). According to information provided in your letter of February 27, 2009, and a meeting with your staff on April 15, 2009, the proposed action does not expand the project area, but will incur more incidental take due to additional habitat development on site. As such, the effects analysis of the original opinion remains valid with some added information below. We are also providing the amended project language and incidental take statement for the proposed action.

Background

On March 12, 2004, Fort Hood initiated formal consultation on the transfer of approximately 672 acres of land to the TAMUS for the development of a 20,000-student university campus. The property to be transferred is located in Training Area 74 (formerly Training Area 27) and contained approximately 10 acres of occupied habitat for the BCVI and approximately 174 acres of occupied habitat for the GCWA. As part of the action, Fort Hood agreed to incorporate "No Build" zones for approximately 142.39 acres of habitat as a conservation measure. The No Build zones consisted of four habitat areas, three of which are contiguous with breeding habitat on the adjacent Fort Hood, and included a 50-meter buffer area where construction would not be permitted.

The Service's non-jeopardy biological opinion was issued on July 15, 2004. The incidental take statement authorized take of 10 GCWA pairs and 2 BCVI pairs, in the form of harm and harassment, based on the maximum density of available habitat. Direct removal habitat consisted of 41.57 acres of GCWA habitat and 0.23 acres of BCVI habitat. The remainder of authorized take was due to harassment from campus activities on the available habitat. To date, the transfer of the land has not been accomplished.

Proposed Changes to the Action

The majority of the originally proposed action remains the same – transfer of 672 acres of Training Area 74 to the TAMUS for the development of a campus; however, changes to the conservation measures and the amount of habitat present has changed.

Habitat availability: Due to past manipulation of habitat on the property, additional habitat for the BCVI has been “restored” so that approximately 142 acres now occurs on the site. Re-evaluation of the available habitat for the GCWA indicates a slight reduction in available habitat, which is estimated at approximately 170 acres. Both habitats are occupied by each species; however, the number or density of birds in available habitat is unknown.

Conservation measures: Changes to the conservation measures consist of reducing the “No Build” zones for GCWA habitat and elimination of the BCVI No Build zone, and redefining buffer zone. In order to differentiate the purpose of the habitat zones and buffer zones, the newly proposed zones are now referred to as “Golden-cheeked Warbler Management Areas.” The GCWA Management Areas will be managed, in perpetuity, as breeding habitat for the GCWA. A 100-meter buffer area surrounding the GCWA Management Areas will serve to reduce adverse effects to the management area. Within the 100-meter buffer zones, no vertical structure (e.g., housing, buildings, towers, etc.) will be constructed. The following additional measures will also be implemented:

Phased development of site – The construction and development of the proposed campus may occur over several years, allowing the existing habitat for GCWA to remain until those areas are needed for new structures. Using a “phased” approach for site development where GCWA habitats are utilized only in the final phase, would allow GCWA to continue to use the habitat and potentially recruit individuals into the population for several years until these areas are phased into the campus development. Campus planning and construction will be planned to utilize non-GCWA habitat areas (i.e., northern portion of property bordered by State Highway 201) first. GCWA habitat occurring outside of GCWA Management Area will only be removed just prior to scheduled construction for planned projects.

Habitat removal scheduling – Scheduling the removal of BCVI and GCWA habitat to occur outside of the breeding season (generally March through August) would avoid direct impacts to breeding birds on site. All removal of habitat for the BCVI and GCWA will be scheduled to occur between September 1 and February 28. Once habitat has been

removed during the non-breeding season, construction of campus facilities may occur without seasonal restrictions.

Effects of the Action

The anticipated direct, indirect, and cumulative effects discussed in the original biological opinion remain the same. Specific actions related to the development and operation of the proposed campus have not changed within the proposed site. The direct loss of habitat has been increased; but is expected to have the same overall effect on the GCWA and BCVI. The extent to which these effects extend across the property boundary onto habitat occurring on Fort Hood is adequately described in the original biological opinion.

Conclusion

The amount of incidental take has increased for the BCVI and is slightly reduced for the GCWA. The increase in take of the BCVI is a result in a net gain in available habitat due to the delay in implementation of the original action. Although the anticipated incidental take of BCVI (using habitat area) has increased from 10 acres to 152 acres, the current baseline at Fort Hood has increased approximately 3,800 acres since the original opinion was issued. For these reasons, the Service's biological opinion that the proposed project is not likely to jeopardize the continued existence of the BCVI and GCWA remains valid.

Incidental Take Statement

Based on the information above, the following statements are substituted in the incidental take statement of the biological opinion:

Amount or extent of take anticipated: The Service anticipates that the proposed action could result in the incidental take of GCWAs and BCVIs. Take would be in the form of harm and harassment. Take, in the form of harm and/or harassment, is difficult to quantify and usually cannot be estimated in terms of numbers of individuals. However, because the area of habitat for both species is known for the action area, suitable habitat area will be used as a surrogate for the species. Take in the form of harm to the GCWA would occur from the direct conversion or removal of approximately 90.66 acres of habitat. Take in the form of harm to the BCVI would occur from the direct conversion of approximately 142.4 acres of habitat. Take in the form of harassment would occur on approximately 9.91 acres of BCVI habitat and approximately 129.0 acres of GCWA habitat.

Reasonable and Prudent Measures:

- 1) Clearing of BCVI and GCWA habitat on the property outside of the GCWA Management Areas will be scheduled between September 1 and February 28. All

vegetation clearing will be consistent with the current practices recommended by the Texas Forest Service to prevent the spread of oak wilt.

- 2) The buffer zone surrounding the GCWA Management Areas will not include any vertical manmade structure (i.e., limited to road or path). The buffer zone will be maintained with native vegetation to create a transitional area between the campus and management area. The GCWA Management Area will be clearly marked prior to construction, vegetation removal, or other earth-disturbing activities to prevent accidental clearing by work crews.
- 3) The right-of-way for perimeter fence construction will be a maximum of 21 feet where it crosses GCWA habitat.
- 4) Impacts related to lighting generated by the university will be minimized by the use of directional lighting and buffers around GCWA habitat. Available lighting designs and methods will be investigated and used as appropriate to reduce impacts to birds.
- 5) Trails developed within the GCWA Management Areas will be designed as low-impact “nature trails” with no hard surface, minimal vegetation removal, and in low density to maintain management of area for GCWA.

This amendment only addresses the specific items mentioned above. All other measures, actions or specific details within the original biological opinion not specifically identified remain unchanged and in effect.

We appreciate the opportunity to review the changes to the proposed action and coordinate this amendment. If you have any questions, please contact Mr. Omar Bocanegra, of my staff, at 817-277-1100.

Sincerely,

A handwritten signature in cursive script that reads "Tom Cloud".

Thomas J. Cloud, Jr.
Field Supervisor