

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 the Service that we have received your Internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION**). 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.

**DATES:** Written comments on the permit application, supporting documentation, EA and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before February 20, 2004.

**ADDRESSES:** Persons wishing to review the application, supporting documentation, EA, and HCP, 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 Field Supervisor, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, Florida 32960-3559. Written data or comments concerning the application, supporting documentation, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be adequately considered in the Service's decision-making process. Please reference permit number TE065793-0 in such comments, or in requests for the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional Coordinator, (see **ADDRESSES** above), telephone: (404) 679-7313, facsimile: (404) 679-7081; or Ms. Sharon Tyson, South Florida Ecological Services Field Office (see **ADDRESSES** above), telephone: (772) 562-3909 extension 324.

**SUPPLEMENTARY INFORMATION:** 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 southeastern Florida has been greater than in most other regions of the State. Southeastern Florida has experienced tremendous urban growth in the past 50 years and much of commercial and residential development has occurred on the dry soils which historically supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal east Florida occurs along a narrow stretch of historic sand dunes that are situated on a north-south axis from Dade to Flagler County. 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.

Scrub-jays using the Project site and adjacent lands are considered part of a larger complex of scrub-jays that occupy xeric uplands of southeastern Florida. This complex of scrub-jay families ranges from about east-central Martin County south to northeastern Palm Beach County. The majority of scrub-jays within this complex are found within Jonathan Dickinson State Park which is located about eight miles north of the Project site. The continued survival of scrub-jays in this area may depend on the maintenance of suitable habitat and the restoration of unsuitable habitat in northeastern Palm Beach and southeastern Martin counties.

Scrub-jay use of the Project site and adjacent lands has been assessed on several occasions. In February 1998, field investigations by Fish and Wildlife Service staff determined that one scrub-jay family comprising three individual birds used portions of the Project site as well as adjacent lands. Systematic surveys conducted by the Applicant subsequently found scrub-jays using 0.85 acre of the 1.00-acre Project site.

The Project site represents one of the few remaining undeveloped private parcels supporting scrub-jays in northern Palm Beach County. Several tracts of public conservation lands are also located in the vicinity of the Project site, but much of the remaining landbase has been developed for commercial or residential uses. The Project site is bounded on two sides by major roadways and on another by commercial development. The Project site and surrounding lands have been negatively influenced by previous land clearing activities, off-road vehicle use, and invasion by exotic species. Due to the proximity of the Project site to existing commercial development and urban infrastructure, fire has been actively excluded because of safety concerns. As a result, the condition of the xeric habitat within the Project site is degraded; periodic fire or land management practices that mimic fire are required to maintain habitat conditions suitable for the scrub-jay.

Land clearing in preparation for commercial construction will destroy habitat and result in death of, or injury to, scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed commercial development will reduce the availability of feeding, nesting, and sheltering habitat for scrub-jays.

The Applicant's HCP and the Service's EA describes the following minimization and mitigation strategy to be employed by the Applicant to offset the impacts of the Project to the scrub-jay:

- The Applicant agrees to contribute \$95,978 to the Florida Scrub-jay Conservation Fund for use in conservation of this species.
- The Applicant agrees to avoid land clearing activities during the scrub-jay nesting season.

The EA considers the environmental consequences of one action alternative which would result in issuance of the Permit. The no action alternative (not issue the Permit) would ultimately result in loss of scrub-jay habitat within the Project site due to habitat degradation. The no action alternative may also expose the Applicant under