



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R4-ES-2012-N057]

[40120-1112-0000-F2]

Endangered and Threatened Wildlife and Plants; Receipt of Applications for Incidental Take Permits; Availability of Proposed Low-Effect Habitat Conservation Plan and Associated Documents; Sarasota County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of incidental take permit (ITP) applications and a Habitat Conservation Plan (HCP). Walter and Marilyn Krieseder, Brian and Pamela Sullivan, and Fritz and Ping Faulhaber (applicants) request ITPs under the Endangered Species Act of 1973, as amended (Act).

The applicants anticipate taking approximately 0.43 acres of nesting habitat of endangered and threatened sea turtle species in Sarasota County, Florida, for the construction of a shoreline armoring structure. The applicants' HCP describes the minimization and mitigation measures proposed to address the effects of the project on nesting sea turtles.

DATES: Written comments on the ITP applications and HCP should be sent to the South Florida Ecological Services Office (see ADDRESSES) and should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may request documents by e-mail, U.S. mail, or fax (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

E-mail: Trish_Adams@fws.gov. Use "Attn: Permit numbers TE65165A-0, TE65167A-0, and TE65168A-0" as your message subject line.

Fax: Trish Adams, (772) 562-4288, Attn: Permit numbers TE65165A-0, TE65167A-0, and TE65168A-0.

U.S. mail: Trish Adams, HCP Coordinator, South Florida Ecological Services Field Office, Attn: Permit numbers TE65165A-0, TE65167A-0, and TE65168A-0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960-3559.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, HCP Coordinator, South Florida Ecological Services Office, Vero Beach, Florida (see ADDRESSES); telephone: 772-562-3909, extension 232.

SUPPLEMENTARY INFORMATION: The applicants anticipate taking beach nesting habitat of the threatened loggerhead sea turtle (*Caretta caretta*), endangered leatherback sea turtle (*Dermochelys coriacea*), endangered green sea turtle (*Chelonia mydas*), endangered hawksbill sea turtle (*Eretmochelys imbricata*), and endangered Kemp's ridley sea turtle (*Lepidochelys kempii*) in Sarasota County, Florida. The Service listed both the leatherback and hawksbill sea turtle as endangered on June 2, 1970 (35 FR 8491), and the Kemp's Ridley sea turtle as endangered on December 2, 1970 (35 FR 18320). The Service listed the loggerhead as threatened and the green sea turtle as endangered in the same final rule, on July 28, 1978 (43 FR 32800).

Applicants' Proposed Project

We have received applications for incidental take permits, along with a proposed habitat conservation plan. The applicants request 5-year permits under section 10(a)(1)(B) of the Act (87 Stat. 884; 16 U.S.C. 1531 *et seq.*). If we approve the permits, the applicants anticipate taking a total of 0.43 acres of sea turtle nesting habitat for the

installation of a geotextile dune core system (an engineered dune feature constructed with tiered sand-filled geotextile containers as its core that is regularly maintained with 3 feet of beach compatible sand), dune crossovers (a stairway over the engineered dune to the beach), and native vegetation; post-construction maintenance throughout the life of the project (e.g., ongoing placement and regular maintenance of sand cover); and response to Emergency Management Events (e.g., events triggered by exposure or less than 3 feet of sand cover over the core). The project is located at latitude 27.1563, longitude -82.4848, Sarasota County, Florida. The project includes Sarasota County Parcels 0159-25-0006, 0159-24-0003, and 0159-24-0001. Parts of these parcels include sea turtle nesting habitat.

The applicants propose to mitigate for potential take of sea turtles as a result of the project through implementation of a predator control program. The applicants will contract with the U.S. Department of Agriculture to implement a trap and removal program targeting raccoons; this program would begin during the first nesting season post ITP issuance. The applicants' ability to financially cover the costs of implementing the HCP—such as mitigation, sea turtle monitoring, physical monitoring, maintenance of sand coverage, and removal of the dune core container system—are assured by: (a) Funds that will be placed annually in an escrow managed by the Coastal Engineer of Record (CEOR) in an amount equal to the estimated costs of mitigation, sea turtle monitoring, HCP Coordinator, and physical monitoring and (b) a Financial Assurance Agreement between applicants, the State of Florida, and Sarasota County that is guaranteed by a major financial institution(s) in accordance with Chapter 62B-56.090 F.A.C.

All annual fees are to be paid into an escrow account managed by the CEOR. The account will be managed in accordance with a Joint Maintenance Agreement signed by each applicant. Approximately \$243,900 has been committed for physical and biological monitoring, sand placement construction, and mitigation over the course of the requested 5-year permit. In addition, \$122,500 has been committed for anticipated removal/restoration costs for the entire project, including the small portion of the dune core system located on the Crouse (2315 Cay Key Road) and Meekison (2207 Casey Key Road) properties, to tie into the seawalls on these properties.

Our Preliminary Determination

The Service has made a preliminary determination that the applicants' project, including the proposed minimization and mitigation measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITPs is a "low-effect" action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1), and as defined in our Habitat Conservation Planning Handbook (November 1996).

We base our determination that issuance of the ITPs qualifies as a low-effect action on the following three criteria: (1) Implementation of the project would result in

minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the project would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the project, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. As more fully explained in our environmental action statement and associated Low-Effect Screening Form, the applicants' proposed project qualifies as a "low-effect" project. This preliminary determination may be revised based on our review of public comments that we receive in response to this notice.

Next Steps

The Service will evaluate the HCP and comments received to determine whether the applications meet the requirements of section 10(a) of the Act. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITPs complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITPs. If it is determined that the requirements of the Act are met, the ITPs will be issued for the incidental take of loggerhead, green, leatherback, hawksbill, and Kemp's Ridley sea turtles.

Submitting Comments

If you wish to submit comments or information, you may do so by any one of several methods. Please reference permit numbers TE65165A-0, TE65167A-0, and TE65168A-0 in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see ADDRESSES). You may also submit comments via e-mail to *trish_adams@fws.gov*. Please also include your name and return address in your e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at the telephone number listed under FOR FURTHER INFORMATION CONTACT. Finally, you may hand deliver comments to the Service office listed under ADDRESSES.

Availability of Public Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal

identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: March 15, 2012

**Larry Williams,
Field Supervisor,
South Florida Ecological Services Office.**

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