

determination. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other in writing to terminate or modify the agreement.

Dated: May 31, 2001.

**Gloria R. Parker,**

*Chief Information Officer.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of Amended Environmental Assessment for Proposed Amendment of Incidental Take Permit PRT-816732

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

**ACTION:** Notice.

The Fish and Wildlife Service (Service) announces the availability of amendments to Incidental Take Permit (ITP) PRT-816732, originally issued October 22, 1996. The originally issued, and currently active, ITP authorizes the take of bald eagles (*Haliaeetus leucocephalus*) in Osceola County, Florida. The proposed ITP modifications respond to the Permittee's request for clarification of specific conditions of the original ITP and address revised development plans submitted by the Permittee.

The Service also announces the availability of an amended EA and HCP for the incidental take amendment application. Copies of the draft EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (NEPA). The preliminary Finding of No Significant Impact (FONSI) is based on information contained in the draft EA and HCP. The final determination will be made no sooner than 60 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests 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 Service's amended EA. Further, the Service is specifically soliciting information regarding the adequacy of the HCP as measured against the Service's 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. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to [david\\_dell@fws.gov](mailto:david_dell@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 the Service that we have received your internet message, contact us directly at either telephone number listed below (see **FURTHER INFORMATION CONTACT**). 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 proposed ITP amendments should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before August 6, 2001.

**ADDRESSES:** Persons wishing to review the amended EA or the EA originally prepared for the issuance of this ITP, may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. These 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, Post

Office Box 2676, Vero Beach, Florida 32961-2676.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Mr. Mike Jennings, Fish and Wildlife Biologist, South Florida Ecosystem Office, Vero Beach, Florida (see **ADDRESSES** above), telephone: 561/562-3909.

**SUPPLEMENTARY INFORMATION:** On October 22, 1996, Mr. Nick Gross, the Permittee, was issued ITP PRT-816732 in response to the submission of an adequate Habitat Conservation Plan (HCP) and complete permit application pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The current ITP authorizes the one-time taking of nesting bald eagles, through harassment, resulting from earth moving, land clearing, and human habitation of a residential community being developed by the Permittee. The ITP requires a number of measures to minimize the impacts of residential development on nesting bald eagles, including phased construction within a 250 foot buffer zone around the nest, limitations on vegetation removal within the 250 foot buffer zone, as well as various prohibited activities and building restrictions within the buffer zone. The ITP also requires mitigation in the form of payment of \$25,000 to a bald eagle conservation fund upon a determination that the nesting eagles abandoned the nest site.

Bald eagles successfully nested during the 1996-1997, 1997-1998, and 1998-1999 nesting seasons due to the implementation of minimization measures prescribed within the ITP. However, the Permittee's 1999-2000 monitoring report indicated that bald eagles failed to nest, although adult birds were documented regularly at the nest site and immediate vicinity. In the 2000-2001 nesting season, bald eagles appeared at the project area, but there was no nesting activity. As a result of this nesting failure, the Service requested, and the Permittee subsequently fulfilled, the mitigation requirements stipulated in the ITP.

The Permittee has fully implemented the HCP and is in compliance with the terms and conditions of the ITP, including the funding of off-site mitigation measures. Following the determination of nest abandonment, the Permittee provided the Service with a written request for modifications to the ITP that would alter allowable construction timing and revise development plans. The requested

revision of timing considerations would allow construction during the nesting season after monitoring confirms that nesting attempts by any eagles present had been abandoned. Current ITP conditions require monitoring and restrictions on construction until the end of the nesting season. This revision will not result in additional take of bald eagles.

Revised development plans, if implemented, will result in a decrease in the existing buffer zone surrounding the nest site. The Service proposes to modify the current ITP allowing for the construction of five additional single-family homes within the 250-foot buffer zone surrounding the bald eagle nest site. Under the current ITP, the five lots are encompassed within the 250-foot buffer zone, and represent natural areas where construction is prohibited. The proposed ITP modification will result in a reduction in the "no-build" buffer to a 30-foot radius around the nest tree, however, revised construction timing restrictions within this reduced buffer and other protective measures currently required within the current buffer zone will remain in effect. Although this revision may cause take in the form of harassment of adult eagles, the Service believes take of active nests to be highly unlikely because the eagles have not nested here in the past two seasons.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the draft EA and HCP.

The Service will also evaluate whether the issuance of a 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: May 25, 2001.

**Sam D. Hamilton,**  
Regional Director.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of an Environmental Action Statement and Receipt of an Application for a Permit To Enhance the Survival of the Oregon Chub in Lane County, OR Under a Safe Harbor Agreement

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

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that Robert Russell (Applicant) has applied to the Fish and Wildlife Service (we, the Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act) for the Oregon Chub (*Oregonichthys crameri*) in Lane County, Oregon. This permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service. The proposed permit and Agreement would become effective upon initialization of the Agreement and remain in effect for 30 years. The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement, which also is available for public review.

We announce the opening of a 30-day comment period to receive comments from the public on the Applicant's enhancement of survival permit application, the accompanying proposed Agreement, and Environmental Action Statement.

The Agreement fully describes the proposed project, management actions, and the conservation benefits that will be gained for Oregon chub. The management actions and conservation benefits are also described in the Background section below.

**DATES:** Written comments must be received by July 9, 2001.

**ADDRESSES:** Comments should be addressed to the Manager, Fish and Wildlife Service, Oregon Fish and Wildlife Office, fax number (503) 231-6195 (see Public Review and Comment section below).

#### FOR FURTHER INFORMATION CONTACT:

Amy Horstman, Fish and Wildlife Service, Oregon Fish and Wildlife Office, telephone (503) 231-6179.

#### SUPPLEMENTARY INFORMATION:

### Background

Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

We have worked with the Applicant to develop the proposed Agreement for the conservation of Oregon chub within his 800 square meter (0.2 acre) artificial pond in Lane County, Oregon. The area is currently not occupied by Oregon chub or any other Federal or State listed species. Under the proposed Agreement, the Applicant will: (1) Allow translocation of Oregon chub to the pond, (2) allow the Service and Oregon Department of Fish and Wildlife access to the pond for translocation and habitat and chub population monitoring, (3) provide the Service with written notice of intent to modify the pond or introduce competing fish species, (4) work cooperatively with the Service on other issues necessary to further the purposes of the Agreement.

Threats to the Oregon chub include: dam construction, channelization, diking, wetland fill, and loss of riparian vegetation which have changed flooding, streamflow, and temperature patterns of the watershed and subsequent loss of backwater habitats used by Oregon chub (Markle *et al.* 1991). Degradation of habitat has also occurred, primarily due to sedimentation from construction activities, logging, alterations of water flow, and other causes. Introductions of exotic game fish (e.g., bass, crappie, mosquito fish) may have contributed to the decline of existing Oregon chub populations and may reduce the potential for Oregon chub to recolonize suitable habitats through increased competition for resources, predation, and introduction of parasites and disease (Markle and Pearsons 1990). The proximity of many populations to rail, highway, and power transmission corridors, and state park campgrounds poses the threat of chemical spills, runoff or spill of agricultural or right-of-