

2370 to request a copy. Documents also will be available for inspection, by appointment, during normal business hours at the address above. Written data or comments should be submitted to the above address. Comments also may be sent by facsimile to (303) 275-2371. Please reference permit number TE-053241 in any comments submitted.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathleen Linder, Fish and Wildlife Biologist, Colorado Field Office, telephone (303) 275-2370.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9 of the Endangered Species Act and Federal regulations prohibit the "take" of a species listed as endangered or threatened (take is defined under the Endangered Species Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct). However, the Service may issue permits to authorize "incidental take" (defined by the Endangered Species Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity) of listed species under limited circumstances. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32. Regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

The proposed action is the issuance of a permit under section 10(a)(1)(B) of the Endangered Species Act to allow the incidental take of Preble's during the construction of a proposed retail development. The proposed project will permanently affect 0.10 acres and temporarily affect 5.37 acres of potential habitat for Preble's. An HCP has been developed as part of the preferred alternative. The proposed HCP will allow for the incidental take of the Preble's by permitting construction of a retail development in an area that may be periodically used as foraging or hibernation habitat. Proposed construction will result in about 0.10 acres of permanent habitat loss and another 5.37 acres of temporary effects to the habitat associated with this localized disturbance.

Alternatives considered in addition to the proposed action were—building at an alternate location, and no action. The draft EA analyzes the onsite, offsite, and cumulative impacts of the proposed project and all associated development and construction activities and mitigation activities on the Preble's, other threatened or endangered species, vegetation, wildlife, wetlands, geology/soils, land use, water resources, air and

water quality, or cultural resources. None of the proposed impacts occur within the riparian corridor. The majority of impacts are in upland areas outside the 100-year floodplain. The Applicant, using the Service's definition of Preble's habitat, has determined that the proposed project would impact approximately 5.47 acres of potential Preble's habitat. The mitigation for the identified impacts will provide a net increase of 2.06 acres to the Preble's and other wildlife by improving potential mouse habitat through revegetation with native grasses, forbs, shrubs, and trees.

The Preble's is the only known Federally listed species that occurs on site and has the potential to be directly affected by the proposed project. The Applicant has agreed to implement the following measures to minimize and mitigate impacts that may result from incidental take of Preble's; in order to compensate for the loss of Preble's habitat, a total of 7.53 acres adjacent to the 100-year floodplain of Cherry Creek will be preserved and enhanced at a ratio of greater than 1.5:1 through seeding and planting native species.

Dated: March 4, 2002.

**John Blankenship,**

*Deputy Regional Director.*

[FR Doc. 02-6809 Filed 3-20-02; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Receipt of an Application for an Incidental Take Permit for the Lenox Village Development Site, Nashville, Davidson County, Tennessee**

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

**ACTION:** Notice.

Regent Development (Applicant) seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize incidental take of the endangered Nashville crayfish (*Orconectes shoupi*) from a 5-acre lake, incidental to lake draining for residential development in Nashville, Davidson County, Tennessee. The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the Nashville crayfish. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the Applicant's

proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a "low-effect" project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1).

The Service announces the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species 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. Further, the Service specifically solicits 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. Please reference permit number TE049322-0 in such comments. 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**).

Due to Court order, the Department of Interior has temporarily lost access to the internet and may not regain it by the time this notice is published. Commentors are encouraged to submit comments by mail or express courier, or to call (see **FURTHER INFORMATION**) to confirm whether our internet capability has been restored.

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 ITP application and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before April 22, 2002.

**ADDRESSES:** Persons wishing to review the application, supporting documentation, 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 Permit Coordinator), or Field Supervisor, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, Tennessee 38501. Written data or comments concerning the application or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Please reference permit number TE049322-0 in such comments, or in requests of the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313; or Ms. Tyler Sykes, Fish and Wildlife Biologist, Cookeville Field Office, (see **ADDRESSES**), telephone 931/528-6481.

**SUPPLEMENTARY INFORMATION:** Nashville crayfish are limited to the Mill Creek watershed in Davidson and Williamson counties, Tennessee, near metropolitan Nashville. This species has been collected in both pool (adults only) and riffle areas (adults and juveniles). The crayfish take cover under flattened limestone slabs and rocks of varying sizes on the predominately gravel and limestone bedrock substrate found in Mill Creek and its tributaries. Habitat degradation from road and bridge construction, stream channel modifications, and point and non-point source runoff threatens the continued survival of the Nashville crayfish in this restricted range.

The Applicant, Regent Development, requests a permit for incidental take of Nashville crayfish which would occur from the draining of a 5-acre lake at Lenox Village, a proposed development site in Davidson County, Tennessee. The lake is being drained to provide suitable substrate for construction of houses. If the Applicant decided not to build in this area, the lake would still be drained to either remove or repair the dam that is currently holding back the water. The dam has been deemed unsafe by the Tennessee Department of Environment and Conservation and the Applicant has been instructed to either remove the dam or repair it.

Under section 9 of the Act and its implementing regulations, "taking" of endangered and threatened wildlife is prohibited. However, the Service, under limited circumstances, may issue permits to take such wildlife if the taking is incidental to and not the purpose of otherwise lawful activities. The Applicant has developed an HCP as required for their incidental take permit application.

The HCP describes measures the Applicant will take to minimize and mitigate taking at the Project site. To minimize impacts to the Nashville crayfish from the draining of Resha Lake, the Applicant will:

1. Install proper erosion control measures prior to draining of the lake to insure minimal loss of sediment to the downstream channel during the draining process.

2. Conduct a sweep of the lake prior to initiation of the lake draining process to remove Nashville crayfish. These crayfish will be relocated to area(s) designated by the Service.

3. Conduct periodic sweeps throughout the entire lake draining process to ensure removal of all Nashville crayfish.

To mitigate for any Nashville crayfish that may be taken, the applicant will provide the following:

1. Reconstruction of the stream channel:

- a. The channel will be placed in the lake bed and will mirror the up- and down-stream portions of the existing stream channel.

- b. Slabrocks will be placed in the reconstructed channel to provide habitat for Nashville crayfish recolonizing the channel.

- c. Native vegetation will be planted in buffer zones along the stream bank.

- d. The reconstructed stream channel will be designated as greenspace in perpetuity.

2. Installation of wet cells:

Retention basins (wet cells) will be strategically located throughout the

property to collect runoff to allow materials harmful to aquatic species to settle out before that water is released to the stream.

3. Education:

- a. Informational signs discussing the Nashville crayfish and its habitat will be installed along the reconstructed stream channel.

- b. Informational flyers will be distributed through the Homeowners Association to all residents of Lenox Village discussing the Nashville crayfish and ways that residents can protect the species' habitat.

As stated above, we have determined that the HCP is a low-effect plan that is categorically excluded from further NEPA analysis, and does not require the preparation of an EA or EIS. This preliminary information may be revised due to public comment received in response to this notice. Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Nashville crayfish and its habitat. We do not anticipate significant direct or cumulative effects on this species as a result of this project, but rather expect the species to benefit.

2. Approval of the HCP would not have adverse effects on known geographic, historic, or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a federal, state, local, or tribal law or requirement imposed for protection of the environment.

5. Approval of the HCP would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITP will be issued for the incidental take of Nashville crayfish on the Applicant's project site. The Service will also evaluate whether issuance of the section

10(a)(1)(B) ITP 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 ITP.

Dated: March 7, 2002.

**David P. Flemming,**

*Acting Regional Director.*

[FR Doc. 02-6811 Filed 3-20-02; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Receipt of Application for an Incidental Take Permit for Residential Development in Collier County, Florida

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

**ACTION:** Notice.

**SUMMARY:** Vestcor Fund XV, Limited (Applicant) requests an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicant anticipates taking red-cockaded woodpeckers (*Picoides borealis*) (RCWs) associated with the clearing of 18.3 acres of foraging habitat incidental to the construction of a multi-family housing development in Collier County, Florida.

The Applicants' Habitat Conservation Plan (HCP) describes the mitigation measures proposed to address the effects of the Project to the protected species. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. The Service has determined that the Applicant's proposal, including the proposed mitigation measures, will individually and cumulatively have a minor or negligible effect on these species covered in the HCP. Therefore, the ITP is a "low-effect" project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1).

The Service announces the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species 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. Further, the Service specifically solicits 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. Please reference permit number TE042708-0 in such comments. 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**).

Due to Court order, the Department of Interior has temporarily lost access to the internet and may not regain it by the time this notice is published. Commentors are encouraged to submit comments by mail or express courier, or to call (see **FURTHER INFORMATION**) to confirm whether our internet capability has been restored.

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, Determination of Low Effect and HCP should be sent to the Service's Regional Office (see

**ADDRESSES**) and should be received on or before April 22, 2002.

**ADDRESSES:** Persons wishing to review the application, HCP, and supporting documentation 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, HCP, or supporting documents should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Please reference permit number TE042708-0 in such comments, or in requests of the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679-7313, facsimile: 404/679-7081; or Mr. Michael Jennings, Fish and Wildlife Biologist, South Florida Ecological Services Field Office (see **ADDRESSES** above), telephone: 561/562-3909 extension 225.

**SUPPLEMENTARY INFORMATION:** The RCW is a territorial, non-migratory cooperative breeding bird species. RCWs live in social units called groups which generally consist of a breeding pair, the current year's offspring, and one or more helpers (normally adult male offspring of the breeding pair from previous years). Groups maintain year-round territories near their roost and nest trees. The RCW is unique among the North American woodpeckers in that it is the only woodpecker that excavates its roost and nest cavities in living pine trees. Each group member has its own cavity, although there may be multiple cavities in a single pine tree. The aggregate of cavity trees is called a cluster. RCWs forage almost exclusively on pine trees and they generally prefer pines greater than 10 inches diameter at breast height. Foraging habitat is contiguous with the cluster. The number of acres required to supply adequate foraging habitat depends on the quantity and quality of the pine stems available. The RCW is endemic to the pine forests of the southeastern United States and was once widely distributed across 16 states. The species evolved in a mature fire-maintained ecosystem. The RCW has declined primarily due to the conversion of mature pine forests to young pine plantations, agricultural fields, and