

Background

The Florida scrub-jay (scrub-jay) is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development has resulted in habitat loss and fragmentation, which have 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 east-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. 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.

Applicants' Proposals

The four (4) applicants are requesting take of approximately 1.5 ac of combined occupied scrub-jay habitat incidental to the construction of six single-family homes in Volusia County, Florida. Residential construction for one single-family home for Formosa Homes, Inc., is located within parcel #8115-00-00-0204, in Deltona, Florida. Residential construction for two single-family homes for LaPalma Construction, Inc., would occur within parcel #8009-05-04-0010; one single-family home for Vincent Scorpio would be located within parcel #8009-05-19-0400; and two single-family homes for Today Homes, Inc., would be located within parcels #8009-02-15-0190 and #8009-02-14-0340. All are located in Orange City, Florida.

The lots combined encompass about 1.5 ac, and the footprint of the homes, infrastructure, and landscaping preclude retention of scrub-jay habitat. In order to minimize take on site, the applicants propose to mitigate for the loss of 1.5 ac of scrub-jay habitat by contributing a total of \$70,974 (\$12,045 from Formosa Homes, Inc.; \$22,726 from LaPalma Construction, Inc.; \$11,363 from Scorpio; and \$24,840 from Today Homes, Inc.) to the Florida Scrub-jay Conservation Fund administered by The Nature

Conservancy. Funds in this account are earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

We have determined that the applicants' proposals, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCPs. Therefore, the ITPs are "low-effect" projects and qualify for categorical exclusions under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). This preliminary information may be revised based on our review of public comments that we receive 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.

We will evaluate the HCPs and comments submitted thereon to determine whether the applications meet the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If we determine that the applications meet those requirements, we will issue the ITPs for incidental take of the Florida scrub-jay. We 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. We will use the results of this consultation, in combination with the above findings, in the final analysis to determine whether or not to issue the ITPs.

Authority: We provide this notice under Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

Dated: February 28, 2007.

David L. Hankla,

Field Supervisor, Jacksonville Field Office.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Reviews of 71 Species in Oregon, Hawaii, Commonwealth of the Northern Mariana Islands, and Territory of Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the

initiation of a 5-year review of 71 species under section 4(c)(2)(B) of the Endangered Species Act (Act). The purpose of a 5-year review is to ensure that the classification of a species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants is accurate and consistent with the best scientific and commercial data currently available. We are requesting submission of any such information that has become available since the original listing of each of the 71 species identified in Table 1 below. Based on the results of these 5-year reviews, we will determine whether any species should be proposed for removal from the list or its listing status should be changed pursuant to section 4(c)(2)(B) of the Act.

DATES: We must receive your information no later than May 7, 2007. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: See "Public Solicitation of New Information" section for instructions on how to submit information.

FOR FURTHER INFORMATION CONTACT: For species-specific information, contact the appropriate individual named in "Public Solicitation of New Information."

SUPPLEMENTARY INFORMATION:

Why Is a 5-year Review Conducted?

Under the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*), we maintain a List of Endangered and Threatened Wildlife and Plants (List) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Then, on the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. These Actions must be supported by the best scientific and commercial data available, delisting a species is considered only if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)). Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal**

Register announcing those species currently under active review. This

notice announces our active review of the 71 species listed in Table 1.

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR THE FOLLOWING 71 SPECIES IN OREGON (OR)

[Hawaii (HI), Commonwealth of the Northern Mariana Islands (MP), and Territory of Guam (GU). **Note:** Common names are listed as published in the CFR and may not reflect all or current common names.]

Common name	Scientific name	Status	Where listed	Final listing rule
Animals				
Bat, little Mariana fruit	<i>Pteropus tokudae</i>	Endangered	U.S.A. (GU)	49 FR 33881 (27–Aug–84).
White-eye, Bridled (Guam)	<i>Zosterops conspicillatus conspicillatus</i> ...	Endangered	U.S.A. (GU)	49 FR 33881 (27–Aug–84).
Rail, Guam	<i>Rallus owstoni</i>	Endangered	U.S.A. (GU)	49 FR 33881 (27–Aug–84).
Crow, Hawaiian	<i>Corvus hawaiiensis</i>	Endangered	U.S.A. (HI)	32 FR 4001 (11–Mar–67).
Duck, Hawaiian	<i>Anas wyvilliana</i>	Endangered	U.S.A. (HI)	32 FR 4001 (11–Mar–67).
Hawk, Hawaiian	<i>Buteo solitarius</i>	Endangered	U.S.A. (HI)	58 FR 41684 (11–Mar–67).
Moorhen, Mariana common	<i>Gallinula chloropus guami</i>	Endangered	U.S.A. (GU, MP)	49 FR 33881 (27–Aug–84).
Warbler, nightingale reed, (old world warbler).	<i>Acrocephalus luscini</i>	Endangered	U.S.A. (MP)	35 FR 18319 (02–Jun–70).
Elepaio, Oahu	<i>Chasiempis sandwichensis ibidis</i>	Endangered	U.S.A. (HI)	65 FR 20760 (19–Apr–00).
Palila (honeycreeper)	<i>Loxioides bailleui</i>	Endangered	U.S.A. (HI)	32 FR 4001 (11–Mar–67).
Thrush, small Kauai	<i>Myadestes palmeri</i>	Endangered	U.S.A. (HI)	32 FR 4001 (11–Mar–67).
Snail, Newcomb's	<i>Erinna newcombi</i>	Endangered	U.S.A. (HI)	65 FR 4162 (26–Jan–00).
Moth, Blackburn's sphinx	<i>Manduca blackburni</i>	Endangered	U.S.A. (HI)	65 FR 4770 (01–Feb–00).
Chub, Oregon	<i>Oregonichthys crameri</i>	Threatened	U.S.A. (OR)	58 FR 53800 (18–Oct–93).
Plants				
No common name	<i>Achyranthes mutica</i>	Endangered	U.S.A. (HI)	61 FR 53108 (10–Nov–96).
Round-leaved chaff-flower	<i>Achyranthes splendens var. rotundata</i>	Endangered	U.S.A. (HI)	51 FR 10518 (07–Apr–86).
No common name	<i>Alsinidendron trinerve</i>	Endangered	U.S.A. (HI)	56 FR 55770 (29–Oct–91).
No common name	<i>Alsinidendron viscosum</i>	Endangered	U.S.A. (HI)	61 FR 53070 (10–Oct–96).
Mauna Loa Silversword	<i>Argyroxiphium kauense</i>	Endangered	U.S.A. (HI)	58 FR 18029 (07–Apr–93).
Kamanomano	<i>Cenchrus agrimonioides</i>	Endangered	U.S.A. (HI)	61 FR 53108 (10–Oct–96).
Haha	<i>Cyanea acuminata</i>	Endangered	U.S.A. (HI)	61 FR 53089 (10–Oct–96).
Haha	<i>Cyanea asarifolia</i>	Endangered	U.S.A. (HI)	59 FR 9304 (25–Feb–94).
No common name	<i>Cyanea crispa</i>	Endangered	U.S.A. (HI)	59 FR 14482 (28–Mar–94).
Haha	<i>Cyanea hamatiflora ssp. carlsonii</i>	Endangered	U.S.A. (HI)	59 FR 10305 (04–Mar–94).
Haha	<i>Cyanea hamatiflora ssp. hamatiflora</i>	Endangered	U.S.A. (HI)	64 FR 48307 (03–Sep–99).
Haha	<i>Cyanaea longiflora</i>	Endangered	U.S.A. (HI)	61 FR 53089 (10–Oct–96).
Haha	<i>Cyanea shipmanii</i>	Endangered	U.S.A. (HI)	59 FR 10305 (04–Mar–94).
Haiwale	<i>Cyrtandra polyantha</i>	Endangered	U.S.A. (HI)	59 FR 14482 (28–Mar–94).
Haiwale	<i>Cyrtandra viridiflora</i>	Endangered	U.S.A. (HI)	61 FR 53089 (10–Oct–96).
Naenae	<i>Dubautia pauciflora</i>	Endangered	U.S.A. (HI)	56 FR 47695 (20–Sep–91).

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR THE FOLLOWING 71 SPECIES IN OREGON (OR)—Continued
[Hawaii (HI), Commonwealth of the Northern Mariana Islands (MP), and Territory of Guam (GU). **Note:** Common names are listed as published in the CFR and may not reflect all or current common names.]

Common name	Scientific name	Status	Where listed	Final listing rule
Naenae	<i>Dubautia plantaginea</i> ssp. <i>humilis</i>	Endangered	U.S.A. (HI)	64 FR 48607 (03–Sep–99).
Mehamehame	<i>Flueggea neowawraea</i>	Endangered	U.S.A. (HI)	59 FR 56333 (10–Nov–94).
Na Pali beach hedyotis	<i>Hedyotis st.-johnii</i>	Endangered	U.S.A. (HI)	56 FR 49639 (30–Sep–91).
No common name	<i>Hesperomannia arborescens</i>	Endangered	U.S.A. (HI)	59 FR 14482 (28–Mar–94).
No common name	<i>Hesperomannia arbuscula</i>	Endangered	U.S.A. (HI)	56 FR 55770 (29–Oct–91).
Kauai hau kuahiwi	<i>Hibiscadelphus distans</i>	Endangered	U.S.A. (HI)	51 FR 5903 (29–Apr–86).
Mao hau hele	<i>Hibiscus brackenridgei</i>	Endangered	U.S.A. (HI)	59 FR 56333 (10–Nov–94).
Aupaka	<i>Isodendron laurifolium</i>	Endangered	U.S.A. (HI)	61 FR 53108 (10–Oct–96).
Koki'o	<i>Kokia drynarioides</i>	Endangered	U.S.A. (HI)	49 FR 47394 (12–Apr–84).
Kamakahala	<i>Labordia lydgatei</i>	Endangered	U.S.A. (HI)	56 FR 47695 (20–Sep–91).
Kamakahala	<i>Labordia tinifolia</i> var. <i>wahiawaensis</i>	Endangered	U.S.A. (HI)	61 FR 53070 (10–Oct–96).
Anaunau	<i>Lepidium arbuscula</i>	Endangered	U.S.A. (HI)	61 FR 53089 (10–Oct–96).
Nehe	<i>Lipochaeta kamolensis</i>	Endangered	U.S.A. (HI)	57 FR 20772 (15–May–92).
No common name	<i>Lobelia gaudichaudii</i> ssp. <i>koolauensis</i> ...	Endangered	U.S.A. (HI)	61 FR 53089 (10–Oct–96).
No common name	<i>Lysimachia filifolia</i>	Endangered	U.S.A. (HI)	59 FR 9304 (25–Feb–94).
Alani	<i>Melicope haupuensis</i>	Endangered	U.S.A. (HI)	59 FR 9304 (25–Feb–94).
Alani	<i>Melicope knudsenii</i>	Endangered	U.S.A. (HI)	59 FR 9304 (25–Feb–94).
Alani	<i>Melicope lydgatei</i>	Endangered	U.S.A. (HI)	59 FR 14482 (28–Mar–94).
Aiea	<i>Nothocestrum peltatum</i>	Endangered	U.S.A. (HI)	59 FR 9304 (25–Feb–94).
No common name	<i>Phyllostegia knudsenii</i>	Endangered	U.S.A. (HI)	61 FR 53070 (10–Oct–96).
No common name	<i>Phyllostegia mollis</i>	Endangered	U.S.A. (HI)	56 FR 55770 (29–Oct–91).
No common name	<i>Phyllostegia wawrana</i>	Endangered	U.S.A. (HI)	61 FR 53070 (10–Oct–96).
No common name	<i>Platanthera holochila</i>	Endangered	U.S.A. (HI)	61 FR 53108 (10–Oct–96).
Loulu	<i>Pritchardia remota</i>	Endangered	U.S.A. (HI)	61 FR 43178 (21–Aug–96).
Loulu	<i>Pritchardia schattaueri</i>	Endangered	U.S.A. (HI)	61 FR 53137 (10–Oct–96).
Maui remya	<i>Remya mauiensis</i>	Endangered	U.S.A. (HI)	56 FR 1450 (14–Jan–91).
No common name	<i>Schiedea kauaiensis</i>	Endangered	U.S.A. (HI)	61 FR 53108 (10–Oct–96).
No common name	<i>Schiedea nuttallii</i>	Endangered	U.S.A. (HI)	61 FR 53108 (10–Oct–96).
No common name	<i>Schiedea verticillata</i>	Endangered	U.S.A. (HI)	61 FR 43178 (21–Aug–96).
Aiakeakua, popolo	<i>Solanum sandwicense</i>	Endangered	U.S.A. (HI)	59 FR 9304 (30–Oct–92).
No common name	<i>Stenogyne campanulata</i>	Endangered	U.S.A. (HI)	57 FR 20580 (13–May–92).
No common name	<i>Tetramolopium lepidotum</i> ssp. <i>lepidotum</i>	Endangered	U.S.A. (HI)	56 FR 55770 (29–Oct–91).
Thelypody, Howell's Spectacular	<i>Thelypody howellii</i> var. <i>spectabilis</i>	Threatened	U.S.A. (OR)	64 FR 28393 (26–MAY–99).
No common name	<i>Trematalobelia singularis</i>	Endangered	U.S.A. (HI)	61 FR 53089 (10–Oct–96).

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Common name	Scientific name	Status	Where listed	Final listing rule
Nani waialeale	<i>Viola kauaensis</i> var. <i>wahiawaensis</i>	Endangered	U.S.A. (HI)	61 FR 53070 (10–Oct–96).
No common name	<i>Xylosma creantum</i>	Endangered	U.S.A. (HI)	57 FR 20580 (13–May–92).
Ae	<i>Zanthoxylum dipetalum</i> var. <i>tomentosum</i> .	Endangered	U.S.A. (HI)	51–FR 53137 (25–Sep–96).
Pauoa	<i>Ctenitis squamigera</i>	Endangered	U.S.A. (HI)	59 FR 49025 (26–Sep–94).
No common name	<i>Diellia erecta</i>	Endangered	U.S.A. (HI)	59 FR 56333 (25–Sep–96).
Wawaeiole	<i>Phlegmariurus (=Huperzia) nutans</i>	Endangered	U.S.A. (HI)	59 FR 14493 (28–Mar–94).
No common name	<i>Pteris lydgatei</i>	Endangered	U.S.A. (HI)	59 FR 49025 (26–Sep–94).

What Information Is Considered in the Review?

A 5-year review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that has become available since the current listing determination or most recent status review, such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends (see five factors under heading “How Do We Determine Whether a Species is Endangered or Threatened?”); and

E. Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act requires that we determine whether a species is endangered or threatened based on one or more of the five following factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Our assessment of these factors is required, under section 4(b)(1) of the Act, to be based solely on the best scientific and commercial data available.

What Could Happen as a Result of This Review?

If we find information concerning the 71 species listed in Table 1 indicating that a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from threatened to endangered; (b) reclassify the species from endangered to threatened; or (c) remove the species from the List. If we find that a change in classification is not warranted, the species will remain on the List under its current status.

Public Solicitation of New Information

To ensure that these 5-year reviews are complete and based on the best available scientific and commercial information, we solicit new information from the public, governmental agencies, Tribes, the scientific community, environmental entities, industry, and any other interested parties concerning the status of the species.

If you wish to provide information for any species included in these 5-year reviews, submit your comments and materials to the Field Supervisors at the appropriate Fish and Wildlife Office listed below. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at

the beginning of your comment. To the extent consistent with applicable law, 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. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

For the species under review, submit information and direct species specific questions to the addresses and individuals as follows:

For the Oregon chub and the Howell's spectacular thelypody, submit information to the following address: Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266, or at FW1OR5yearReview@fws.gov. For information concerning these species, Contact Rollie White at 503–231–6179.

For the species in Hawaii, Commonwealth of the Northern Mariana Islands, and Territory of Guam, submit information to the following address: Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Blvd., Room 3–122, Box 50088, Honolulu, HI 96850, or at pifwo-5yr-review@fws.gov. For information concerning these species, contact Marilet A. Zablan at 808–792–9400.

Authority: This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 1, 2007.

David J. Wesley,
Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

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