

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit for a Proposed Residential Development Called Ocean Reef Club, Plats 18 and 19, Monroe County, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

Driscoll Properties, Inc. and Driscoll Foundation, Inc. previously obtained 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 previous ITP authorized the take of the endangered Key Largo woodrat (*Neotoma floridana smalli*), Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*), and Schaus swallowtail butterfly (*Heracles aristodemus ponceanus*) in association with residential construction on 89 lots in Plats 18 and 19 of Ocean Reef Club, north Key Largo, Monroe County, Florida. However, the original ITP expired on May 31, 1995, and 70 of the 89 lots covered under that ITP were not altered. Accordingly, a new ITP is required to ensure compliance with the prohibitions of section 9 of the Act while residential construction occurs on the remaining undeveloped lots that still contain suitable habitat for the species listed above. Review of the undeveloped lots by the Fish and Wildlife Service (Service) indicated that 49 of the 70 lots still contain suitable habitat for the Key Largo woodrat, Key Largo cotton mouse, and Schaus swallowtail butterfly.

Forty-one of the 49 lots for which take of federally listed species will occur during construction related activities have been sold by Driscoll Properties, Inc. and Driscoll Foundation, Inc. to third parties. The Ocean Reef Community Association represents all third party lot owners.

Driscoll Properties, Inc., Driscoll Foundation, Inc., and Ocean Reef Community Association (Applicants), seek an ITP from the Service. The ITP would authorize for a period of 10 years the incidental take of the endangered Key Largo woodrat, Key Largo cotton mouse and Schaus swallowtail butterfly. The proposed residential development is called Ocean Reef Club, Plats 18 and 19 and will consist of 49 homes located on about 20 acres in section 24,

Township 59 South, Range 40 East, and section 19, Township 59 South, Range 41 East, Monroe County, Florida (Project). Clearing of the 49 residential lots will destroy suitable habitat for the three species identified above. A more detailed description of the mitigation and minimization measures to address the effects of the Project to the protected species are outlined in the Applicant's Habitat Conservation Plan (HCP), the Service's Environmental Assessment (EA), and in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an EA and HCP for the incidental take application. Copies of the 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 Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 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, 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 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.

DATES: Written comments on the ITP application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before December 18, 1998.

ADDRESSES: Persons wishing to review the application, HCP, and EA 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, Fish and Wildlife Service, Post Office Box 2676, Vero Beach, Florida 32961-2676. Written data or comments

concerning the application, 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 TE004859-0 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679-7110, 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: The Key Largo woodrat and Key Largo cotton mouse are subspecies that occur only on Northern Key Largo. They have been extirpated from much of the Key Largo due to clearing of tropical hardwood hammocks for urban development. The Schaus swallowtail butterfly is restricted to extreme Southeast Florida and the upper and middle keys. This butterfly is also dependant on tropical hardwood hammock vegetation and has been adversely affected by urban growth in South Florida and the Florida Keys.

The Key Largo woodrat represents the southern most subspecies of the eastern woodrat (*Neotoma floridana*). It is restricted to the tropical hardwood hammocks of Key Largo. Like the cotton mouse, the woodrat has experienced substantial declines in their range due principally to urban development on Key Largo. Extant woodrats are now found only north of the intersection of U.S. 1 and C.R. 905. More than 41 percent of the historical habitat of this species has been lost to urbanization. Like the cotton mouse, woodrats are vulnerable to habitat loss and fragmentation and the indirect effects of urban encroachment (e.g., competition with black rats and increased predation from domestic animals).

Key Largo woodrats, like other members of the genus *Neotoma*, are known for their construction of large stick nests. Nests are typically built at the base of a tree and are composed of sticks, twigs, and other organic matter. Woodrats are territorial in the vicinity of their nest sites, but probably interact socially under some form of hierarchy with other woodrats. Woodrats appear to attain their greatest densities in mature hardwood hammocks, with lower densities found adjacent to urban settings.

The Key Largo cotton mouse is larger and more reddish in appearance than other subspecies in Florida. It is found only on Key Largo in relict tropical hardwood hammock vegetation. Historically the Key Largo cotton mouse was found throughout Key Largo where tropical hardwood hammocks existed but development and the subsequent loss of tropical hardwood vegetation resulted in a range reduction of this species. It is now found only in North Key Largo, north of the intersection of U.S. 1 and C.R. 905.

Little is known about the Key Largo cotton mouse and much is inferred from other cotton mice populations in Florida. In general, this subspecies is considered a nocturnal tropical hardwood hammock dweller that constructs nests in logs, tree hollows and rock crevices. Key Largo cotton mice may breed at any time of the year and produce two to three litters per year. These cotton mice are omnivorous and are believed to rely heavily on the large fruit and berry crop produced by tropical hardwood hammock vegetation.

Key Largo cotton mice are threatened by habitat loss and fragmentation as well as the indirect effects of urbanization. As of 1991, 41.2 percent of all tropical hardwood hammock vegetation had been cleared to meet human needs. Residential and commercial development also lead to increases in feral or free-roaming domestic animals and provide habitat for black rats. Domestic animals and black rats compete with or prey upon Key Largo cotton mice.

The Schaus swallowtail butterfly is a large dark brown and yellow butterfly that inhabits tropical hardwood hammocks of extreme South Florida. Historically, the Schaus swallowtail butterfly was distributed from South Miami to Lower Matecumbe Key. More recently, Schaus swallowtail butterflies were known only from undisturbed tropical hardwood hammocks from Elliott Key in Biscayne National Park south to Northern Key Largo. Reintroductions have recently occurred from Southern Dade County to Lower Matecumbe Key. This species was federally listed due to habitat destruction, mortality associated with application of pesticides for mosquito control, and over-harvesting by collectors. These factors acting in combination with high natural mortality associated with predation of caterpillars resulted in substantial declines in the number and range of this species.

The Schaus swallowtail butterfly prefers dense, mature tropical hardwood hammocks where direct sunlight is filtered or dappled. Adults feed on a

number of nectar producing plant species endemic to hardwood hammocks, but have most often been observed feeding on guava (*Psidium guajava*), cheese shrub (*Morinda royoc*), and wild coffee (*Psychotria undata*). Adults rarely feed in open areas exposed to direct sunlight. The eggs of this species are typically laid on wild lime (*Zanthoxylum fagara*) and torchwood (*Amyris elemifera*) with caterpillars subsequently eating young, tender shoots of these species.

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 Key Largo woodrat, Key Largo cotton mouse, and Schaus swallowtail butterfly. Many of the mitigation measures identified below were implemented and completed as part of the ITP previously issued to Driscoll Properties, Inc. and Driscoll Foundation, Inc.:

- Protect and convey through conservation easement 5.94 acres of tropical hardwood hammock to the Florida Game and Fresh Water Fish Commission (completed).
- Construct 10 rock piles within conservation easement to provide nesting habitat for woodrats (completed).
- Revegetate scarified portions of conservation easement (completed).
- Revegetate five acres of scarified land with tropical hardwood hammock vegetation (complete).
- Monitor revegetation success (ongoing).
- Sixty to 80 percent of each lot to not be disturbed (ongoing, pursuant to Monroe County ordinance).
- Hand clearing of vegetation from the footprint of construction activities and allowing a minimum of 14 days before mechanical removal of felled vegetation. This measure minimizes the potential for directly killing Key Largo woodrats or Key Largo cotton mice (ongoing).
- Deed restrictions to prohibit free ranging domestic animals (completed)

The EA considers the environmental consequences of two alternatives. A third alternative, acquisition of lots, was considered but not fully evaluated in the EA because ranking of lands suitable for acquisition under the State of Florida Conservation and Recreation Lands (CARL) acquisition program did not identify these lots (either singularly or in combination) as a priority properties. Their small size, proximity to adjacent residential areas, high cost, and low biological value likely preempted consideration for acquisition.

The no action alternative may result in the loss of habitat and exposure of the Applicants under Section 9 of the Act if lots were cleared. If the ITP were not issued and the Applicants did not remove vegetation from any of the lots, habitat for the three federally listed species would remain intact and probably provide suitable habitat in the future. The proposed action alternative is issuance of the ITP according to the HCP as submitted and described above. Under the proposed alternative, about 19.6 acres of suitable habitat will be destroyed during residential development. The effect of the minimization and mitigation strategy will be that about 11 acres of habitat will be protected or enhanced and another 11 to 15 acres will be preserved onsite through vegetation set asides.

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 EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

- Issuance of the ITP will not appreciably reduce the likelihood of survival and recovery of the affected species in the wild.
- The HCP contains provisions which sufficiently minimize and/or mitigate the impacts of issuing the ITP.
- Issuance of the ITP would not have significant effects on the human environment in the project area.
- The proposed take is incidental to an otherwise lawful activity.
- Adequate funding will be provided to implement the measures proposed in the submitted HCP and authorizing ITP.
- Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

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: November 10, 1998.

H. Dale Hall,

Deputy Regional Director.

[FR Doc. 98-30787 Filed 11-17-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-020-1320-00]

Notice of Intent to Plan

AGENCY: Bureau of Land Management (BLM), Montana, Miles City Field Office, Interior.

ACTION: Notice of Intent to Plan, Spring Creek Coal Company's Coal Lease Application MTM 88405 for Certain Coal Resources in the Powder River Coal Region, Big Horn County, Montana.

SUMMARY: On June 26, 1998, Spring Creek Coal Company (SCCC) filed an application with the Bureau of Land Management (BLM) to lease a 150 acre tract containing about 19.8 million tons of Federally owned coal reserves near the Spring Creek Coal Mine. On June 3, 1998, Spring Creek Coal Company filed an application with the State of Montana Department of Natural Resources and Conservation (DNRC) to lease a 479 acre coal tract. The tract, which would consist of three separate state leases, contains an estimated 62.1 million tons of state owned coal.

As Co-Lead Agencies, the BLM and Montana DNRC will prepare one Environmental Assessment to evaluate the impacts of coal mining which would result from leasing the tracts of Federal and State coal.

The lands included in the coal lease applications are located in Big Horn County, Montana and are described as follows:

Federal Lease Tract MTM 88405

T. 8 S., R. 39 E., P.M.M.

Sec. 13: SW¹/₄SW¹/₄SW¹/₄, SW¹/₄SE¹/₄SW¹/₄SW¹/₄;

Sec. 14: S¹/₂SW¹/₄NE¹/₄SE¹/₄, S¹/₂NE¹/₄SE¹/₄SE¹/₄, NW¹/₄NE¹/₄SE¹/₄SE¹/₄, S¹/₂SE¹/₄SE¹/₄, NW¹/₄SE¹/₄SE¹/₄;

Sec. 23: NE¹/₄NE¹/₄, SE¹/₄SW¹/₄NW¹/₄NE¹/₄, N¹/₂SW¹/₄NW¹/₄NE¹/₄, E¹/₂NW¹/₄NE¹/₄;

Sec. 24: NW¹/₄SE¹/₄NW¹/₄NW¹/₄, N¹/₂SW¹/₄NW¹/₄NW¹/₄, N¹/₂NW¹/₄NW¹/₄.

150 acres, more or less

State of Montana Lease Tracts

Lease C-1099-XX

T. 8 S., R. 39 E., P.M.M.

Sec. 14: S¹/₂S¹/₂NW¹/₄, SW¹/₄, W¹/₂SE¹/₄.

Lease C-1100-XX

T. 8 S., R. 39 E., P.M.M.

Sec. 15: NE¹/₄SW¹/₄SE¹/₄, SE¹/₄SE¹/₄, N¹/₂SE¹/₄, S¹/₂SE¹/₄NE¹/₄.

Lease C-1101-XX

T. 8 S., R. 39 E., P.M.M.

Sec. 23: N¹/₂N¹/₂NW¹/₄, NW¹/₄NW¹/₄NE¹/₄. 479.16 acres, more or less

This action could amend the Powder River Resource Management Plan (1984) if certain Federal coal leasing unsuitability designations on or adjacent to the Federal coal tracts are changed. The analysis will be based on existing statutory requirements and will meet the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976 and the Surface Mining Control and Reclamation Act (SMCRA) of 1977.

DATES: Public scoping on the proposal will begin with the date of publication of this Notice and will end 30 days after publication. Any issues, concerns or alternatives should be submitted to BLM December 18, 1998, so they can be addressed in the environmental analysis.

To facilitate the planning effort, two public scoping meetings have been scheduled as follows:

1. December 3, 2 pm, Lame Deer, Montana, Dull Knife Memorial College Auditorium;

2. December 3, 7 pm, Hardin, Montana, Becker Hotel Conference Room, 200 North Center.

3. December 7, 1 pm, Sheridan, Wyoming, Fulmer Public Library, 335 W. Alger.

ADDRESSES: All submissions should be sent to the following address: Bureau of Land Management, Miles City Field

Office, Dan Benoit, Team Leader, 111 Garryowen Road, Miles City, Montana 59301.

FOR FURTHER INFORMATION CONTACT: Dan Benoit, Team Leader, Bureau of Land Management, Miles City Field Office, (406) 232-7001, ext 206.

SUPPLEMENTARY INFORMATION: Spring Creek Coal Company is the lessee and operator of Federal Coal Lease MTM 069782 at the Spring Creek Mine. The proposed lease area adjoins the current lease to the north.

Due to its coal reserve base and configuration, the Spring Creek lease application area is a logical step to extend the life of the Spring Creek Mine. With the current permitted reserves of coal, the current level of production at the Spring Creek Mine can be maintained for approximately 19 more years.

The areas applied for would be mined as an extension of the Spring Creek Mine and would utilize the same methods as those currently being used. The leases being applied for would extend the life of the mine for an additional 8 years beyond what is currently permitted, and enable recovery of coal as a logical extension of the current pits at the Spring Creek Mine.

Dated: November 9, 1998.

Timothy M. Murphy,

Miles City Field Manager.

[FR Doc. 98-30860 Filed 11-17-98; 8:45 am]

BILLING CODE 4310-DN-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-956-98-1420-00]

Colorado: Filing of Plats of Survey

November 5, 1998.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215-7093, effective 10:00 am, November 5, 1998. All inquiries should be sent to this address.

Township	Range	Meridian	Group No.	Approval date
T. 13 S.	R. 85 W.	6	1216	October 1, 1998.
T. 04 N.	R. 84 W.	6	1134	October 13, 1998.
T. 05 N.	R. 92 W.	6	1188	October 23, 1998.
T. 03 N.	R. 75 W.	6	1208	October 23, 1998.
T. 01 S.	R. 78 W.	6	1198	October 26, 1998.
T. 45 N.	R. 03 W.	NM	Supplemental Plat	October 26, 1998.
T. 13 S.	R. 85 W.	6	1216	November 3, 1998.
T. 01 S.	R. 01 W.	UTE	1144	November 4, 1998.