

Our Preliminary Determination

The Service has made a preliminary determination that the applicants' proposed project—including the construction of a warehouse, loading docks, parking lots, and Marion County's expansion of SW 49th Avenue, and the associated stormwater systems and associated infrastructure (e.g., electric, water, and sewer lines)—would individually and cumulatively have a minor effect on the scrub-jay and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a low-effect ITP that individually or cumulatively would have a minor effect on the scrub-jay and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect incidental take permit is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER1971641 to Richard McGinley and Marion County (Florida Crossroads Commerce Park).

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Robert L. Carey,

Manager, Division of Environmental Review,
Florida Ecological Services Field Office.

[FR Doc. 2023–13780 Filed 6–27–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2023–0066;
FXES11140400000–234–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Audubon's Crested Caracara, Brevard County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Malabar PO, LLC and Stellar Communities, LLC (applicants) for an incidental take permit (ITP) under the Endangered Species Act. The applicants request the ITP to take the federally listed Audubon's crested caracara (*Polyborus plancus audubonii*) incidental to the construction, operation, maintenance, vegetative management, and occupancy of a residential development in Brevard County, Florida. We request public comment on the application, which includes the applicants' proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before July 28, 2023.

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS–R4–ES–2023–0066 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2023–0066.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS–R4–ES–2023–0066; U.S. Fish and Wildlife

Service, MS; PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Kenneth McDonald, by U.S. mail (see **ADDRESSES**), via phone at 772–562–3909, or by email at kenneth_mcdonald@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application from Malabar PO, LLC and Stellar Communities, LLC (applicants) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicants request the ITP to take the federally listed Audubon's crested caracara (*Polyborus plancus audubonii*) incidental to the construction, operation, maintenance, vegetative management, and occupancy of 266 residential units, clubhouse, maintenance facility, roads and parking spaces, green spaces, and other amenities on a 27.9-acre site in Brevard County, Florida. We request public comment on the application, which includes the applicants' habitat conservation plan (HCP), and on the Service's preliminary determination that this proposed ITP qualifies as low effect, and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Proposed Project

The applicants request a 5-year ITP to take Audubon's crested caracara via the impaired reproduction and survival of one Audubon's crested caracara nest and their young annually. Records of Audubon's crested caracara, both adult and juvenile, are ubiquitous within a 4921-foot (1,500-meter) radius of the project site. The site contains habitat suitable for Audubon's crested caracara foraging, and it is assumed to be part of an existing nesting territory.

Malabar PO, LLC and Stellar Communities, LLC plan to mitigate for unavoidable periodic failure of one Audubon's crested caracara nest and impaired foraging in the project footprint with a contribution of \$12,555.00 (based on 27.9 ac of proposed impact at a cost of \$450 per ac) to the Fish and Wildlife Foundation of Florida's caracara conservation fund. This sum will be allocated to restore abandoned citrus groves to habitat suitable for caracara nesting and foraging. The area of abandoned citrus grove restored to suitable caracara habitat will be equal to the area of existing suitable habitat that will be impacted by the proposed action. The contribution to the fund must be completed prior to construction. Upon contribution of the \$12,555.00, a letter will be secured from the Foundation by the Service confirming that the full amount of mitigation has been contributed.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicants' proposed project, including the additional construction activities, operation, maintenance, vegetative management, and public use, would individually and cumulatively have a minor effect on Audubon's crested caracara and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a low-effect ITP that individually or cumulatively would have a minor effect on the eastern indigo snake and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect incidental take permit is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant

cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER2261354 to Malabar PO, LLC and Stellar Communities, LLC.

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Robert L. Carey,

Manager, Division of Environmental Review,
Florida Ecological Services Office.

[FR Doc. 2023–13781 Filed 6–27–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On June 22, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of West Virginia in the lawsuit entitled *United States and West Virginia v. Messer LLC*, Civil Action No. 5:23–cv–0023–JPB.

The United States and State of West Virginia filed this lawsuit under the Clean Water Act. The complaint seeks injunctive relief and civil penalties against Defendant Messer LLC for National Pollutant Discharge Elimination System permit numeric effluent limit violations with respect to wastewater discharges from Messer's industrial gas manufacturing plant in New Cumberland, West Virginia. The consent decree requires the defendant to perform injunctive relief, including, but not limited to, the operation of a newly installed copper treatment system by certain deadlines, the implementation of a tiered effluent limit response plan, as well as revision and routine performance of stormwater best management practice measures. The consent decree also requires the

defendant to pay a \$1.9 million civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and West Virginia v. Messer LLC*, D.J. Ref. No. 90–5–1–1–12590. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$13.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–13779 Filed 6–27–23; 8:45 am]

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DEPARTMENT OF JUSTICE

[OMB Number 1140–0040]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Amended Federal Firearms License—ATF Form 5300.38

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of