DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

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SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Endangered Species Act (16 U.S.C. 1531 et seq.; ESA) and our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the ESA as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532(19)).

However, under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. The ESA’s take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, the take authorized by an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicant’s Proposal

DR Horton, Inc., is requesting an incidental take permit (ITP) to take sand skink (Neoseps reynoldsi) through the permanent destruction of approximately 2.8 acres (ac) of occupied foraging and sheltering habitat incidental to the widening of Avalon Road (CR 545) in Orange County, Florida. The 60.4-ac habitat conservation plan (HCP) project site is located on Avalon Road, starting at the intersection of Schofield Road and Avalon Road and ending approximately 4.0 miles north of U.S. 192, within sections 5, 8, 17, and 32, Townships 23 and 24 South, Range 27 East in Orange County. The project activities include the clearing, infrastructure building, and landscaping associated with road widening. The sand skink will likely be subjected to take in the form of injury, mortality, and/or loss of habitat. Applicant proposes to mitigate for the take of the species by purchasing 5.6 mitigation credits within the Lake Wales Ridge Conservation Bank or another Service-approved sand skink conservation bank.

Our Preliminary Determination

We have determined that the applicant’s proposed plan, including the proposed mitigation and minimization measures, would have minor or negligible effects on the covered species and the environment so as to be “low effect” and qualify for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by 43 CFR 46.205 and 46.210. A low-effect HCP is one 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.

Next Steps

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation to evaluate take of the sand skink in accordance with section 7 of the ESA. We will use the results of the consultation, in combination with the above findings, in our analysis of whether or not to issue the ITP. If the requirements are met, we will issue ITP number TE59070C–0 to the applicant.

Public Comments

If you wish to comment on the permit application, HCP, or associated documents, you may submit comments by any one of the methods listed in ADDRESSES.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: We provide this notice under section 10 of the ESA and NEPA regulation 40 CFR 1506.6.

Jay B. Herrington,
Field Supervisor, Jacksonville Field Office, Southeast Region.