

mice), attraction of predators and permanent human disturbances. Occupation of the proposed structures could adversely affect sea turtle nesting by disorienting nesting females and disorienting hatchlings by excess artificial lighting, trampling nests, and trapping or disorienting nesting females and emerging hatchlings among tire ruts or beach equipment left after dark.

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 prepared an HCP as required for the incidental take permit application, and as described above as part of the proposed project.

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.

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: April 26, 2002.

**Thomas M. Riley,**

*Acting Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for FML81A, LLC, Fort Morgan Peninsula, Baldwin County, AL

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

**ACTION:** Notice.

**SUMMARY:** FML81A, LLC (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 the take of the Federally listed endangered Alabama beach mouse (*Peromyscus polionotus ammobates*) (ABM), the threatened green sea turtle (*Chelonia mydas*), the threatened loggerhead turtle (*Caretta caretta*), and the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*), in Baldwin County, Alabama. The proposed taking is incidental to construction of four duplex dwelling units on a 3.23 acre tract containing 100 linear feet of coastal dune habitat, fronting the Gulf of Mexico. The Project would permanently remove about 30% of the 3.23 acre tract (or approximately 41,226 square feet) that could potentially be inhabited by the ABM and three sea turtle species in Baldwin County, Alabama. A description of the mitigation and minimization measures outlined in the Applicant's Habitat Conservation Plan (HCP) to address the effects of the Project to the protected species is described further in the **SUPPLEMENTARY INFORMATION** section below. It should be noted that this application for an incidental take permit is one of seven applications currently being considered by the Fish and Wildlife Service for construction of single family/or duplex residences in coastal dune habitat fronting the Gulf of Mexico, on the Fort Morgan Peninsula, in Baldwin County, Alabama. Other Notices relating to these applications will appear in this issue of the **Federal Register** or in subsequent issues.

The Service also announces the availability of an environmental assessment (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 (NEPA), as amended. 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).

**DATES:** Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before June 10, 2002.

**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 Office, U.S. Fish and Wildlife Service, 1208-B Main Street, Daphne, Alabama 36526 (Attn: Ms. Barbara Allen). Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments and requests for the documentation must be in writing to be processed. Please reference permit number TE054163-0 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. Barbara Allen, Fish and Wildlife Biologist, Daphne Field Office, (see **ADDRESSES** above), telephone: 334/441-5181, extension 33.

**SUPPLEMENTARY INFORMATION:** The ABM is one of eight subspecies of the oldfield mouse restricted to coastal dunes. The Service estimates that ABM historically occupied approximately 45 km (28 mi) of shoreline. By 1987, the total occupied linear, shoreline habitat for the ABM, Choctawhatchee, and Perdido Key beach mice was estimated at less than 35 km (22 mi). Monitoring (trapping and field observations) of the ABM population on other private lands that hold, or are under review for, an ITP during the last five years indicates the Fort Morgan Peninsula remains occupied (more or less continuously) by ABM along its primary and secondary dunes while ABM use interior habitats intermittently. The current occupied coastline for the ABM extends approximately 37 km (23 miles). ABM habitat on the Applicant's property consists of approximately 3.23 acres of wet beach, primary and secondary dunes, escarpment, and scrub habitat. There is no designated critical habitat on the property.

The green sea turtle has a circumglobal distribution and is found in tropical and sub-tropical waters. The Florida population of this species is federally listed as endangered; elsewhere the species is listed as threatened. Primary nesting beaches in the southeastern United States occur in a six-county area of east-central and southeastern Florida, where nesting activity ranges from approximately 350-

2,300 nests annually. The Service's turtle nesting surveys of the Fort Morgan Peninsula, from Laguna Key west to Mobile Point, for the period 1994–2001 have not confirmed any green turtle nests, though some crawls were suspected in 1999 and 2000.

The loggerhead turtle is listed as a threatened species throughout its range. This species is circumglobal, preferring temperate and tropical waters. In the southeastern United States, 50,000 to 70,000 nests are deposited annually, about 90 percent of which occur in Florida. Most nesting in the Gulf outside of Florida appears to be in the Chandeleur Islands of Louisiana; Ship, Horn and Petit Bois Islands in Mississippi; and the outer coastal sand beaches of Alabama. The Service's nesting surveys of the Fort Morgan Peninsula, from Laguna Key to Mobile Point, for the 2001 report included over 70 loggerhead turtle nests.

The Kemp's ridley sea turtle is an endangered species throughout its range. Adults are found mainly in the Gulf of Mexico. Immature turtles can be found along the Atlantic coast as far north as Massachusetts and Canada. The species' historic range is tropical and temperate seas in the Atlantic Basin and in the Gulf of Mexico. Nesting occurs primarily in Tamaulipas, Mexico, but occasionally also in Texas and other southern states, including an occasional nest in North Carolina. In 1999, a Kemp's ridley sea turtle nested on Bon Secour National Wildlife Refuge and another along the Gulf Island's National Seashore in Perdido Key, Florida. In 2001, two dead Kemp's ridley sea turtle hatchlings were recovered, one on Bon Secour National Wildlife Refuge, and the second in Gulf Shores, Alabama.

The EA considers the environmental consequences of three alternatives, including a no-action alternative that would result in no new construction on the Project site. This alternative would not be economically feasible for the applicant. The remaining two development alternatives involve construction of four duplex residential units, including a common deck with a pool, and a primary crushed rock driveway with extensions and parking pads for each of the four residential buildings. The difference between the two development alternatives relates to the amount of undisturbed habitat remaining on the property after construction has been completed.

In the Applicant's preferred alternative, the project involves construction of four duplex units on approximately 29.3 percent of the total lot (Lot 81 of Resubdivision A, Gulf Beach A Subdivision). The remaining

70.7 percent of the habitat on the lot would be undisturbed. This alternative includes measures designed to avoid or minimize take by reducing the footprint of impervious surface and allowing the remainder of the property to remain in indigenous vegetation.

In addition, a more aggressive land development alternative was considered. Under this alternative wholesale clearing, grading, and formal landscaping landward of the Coastal Construction Control Line would remove nearly all of the natural habitat and indigenous vegetation currently present on the property, with the exception of that protected by zoning and construction setbacks.

Trapping has not been done on the lot, however, based on trapping data on adjacent properties with similar habitat and the presence of ABM tracks, the ABM uses portions (some on a permanent basis, other episodically) of the entire lot. The proposed project would adversely impact the ABM population directly by killing individuals in the construction areas via crushing or entombment and indirectly by introduction of house pets (cats), introduction of competitors (house mice), attraction of predators and permanent human disturbances. Occupation of the proposed structures could adversely affect sea turtle nesting by disorienting nesting females and disorienting hatchlings by excess artificial lighting, trampling nests, and trapping or disorienting nesting females and emerging hatchlings among tire ruts or beach equipment left after dark.

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 prepared an HCP as required for the incidental take permit application, and as described above as part of the proposed project.

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.

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: April 19, 2002.

**Sam D. Hamilton,**

*Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for Mr. John Hancock, Fort Morgan Peninsula, Baldwin County, AL

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

**ACTION:** Notice.

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**SUMMARY:** Mr. John Hancock (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 the take of the Federally listed endangered Alabama beach mouse (*Peromyscus polionotus ammobates*) (ABM), the threatened green sea turtle (*Chelonia mydas*), the threatened loggerhead turtle (*Caretta caretta*), and the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*), in Baldwin County, Alabama. The proposed taking is incidental to construction of a single family residence on an approximately 0.33 acre tract containing 50 linear feet of coastal dune habitat, fronting the Gulf of Mexico. The Project would permanently remove about 30% of the 0.33 acre tract (or approximately 2,100 square feet) that could potentially be inhabited by the ABM and three sea turtle species in Baldwin County, Alabama. A description of the mitigation and minimization measures outlined in the Applicant's Habitat Conservation Plan (HCP) to address the effects of the Project to the protected species is described further in the **SUPPLEMENTARY INFORMATION** section below. It should be noted that this application for an incidental take permit is one of seven applications currently being considered by the Fish and Wildlife Service for construction of single family/or duplex residences in coastal dune habitat fronting the Gulf of Mexico, on the Fort Morgan Peninsula, in Baldwin County, Alabama. Other Notices relating to these applications will appear in this issue of