



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

I. PERMITTEE

ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
64 NORTH UNION STREET
SUITE 468
MONTGOMERY, AL 36130
U.S.A.

2. AUTHORITY-STATUTES
16 USC 1539(a)

REGULATIONS
50 CFR 17.22

50 CFR 13

3. NUMBER **TE072831-3** AMENDMENT

4. RENEWABLE
 YES
 NO

5. MAY COPY
 YES
 NO

6. EFFECTIVE
05/16/2014

7. EXPIRES
12/27/2034

8. NAME AND TITLE OF PRINCIPAL OFFICER *(If #1 is a business)*
N. GUNTER GUY, JR.
COMMISSIONER

9. TYPE OF PERMIT
NATIVE ENDANGERED SP. HABITAT CONSERVATION PLAN - E
WILDLIFE

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Gulf State Park, Fort Morgan Peninsula, Baldwin County, Alabama.

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL, TRIBAL, OR OTHER FEDERAL LAW.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

Also valid for use by Permittee's authorized agents.

D. Acceptance of this Permit serves as evidence that the Permittee and its authorized agents understand and agree to abide by the terms of this Permit and all sections of Title 50 Code of Federal Regulations, Parts 13 and 17, pertinent to issued permits. Section 11 of the Endangered Species Act of 1973, as amended, provides for civil and criminal penalties for failure to comply with Permit conditions.

BLOCK 11 OF THIS PERMIT CONSISTS OF CONDITIONS A - L (5 PAGES TOTAL).

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

Reports will be provided to the U.S. Fish and Wildlife office appearing in Condition 11.L of this Permit.

ISSUED BY

TITLE

Field Supervisor, Alabama Ecological Services Field Office, Daphne, Alabama

DATE

05/16/2014

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- E. The authorization granted by this permit is subject to compliance with, and implementation of, the Habitat Conservation Plan (HCP) for Gulf State Park Infrastructure Improvements and Restoration, Gulf Shores, Alabama (formerly called Hotel/Convention Center and Pavilion, Gulf Shores, Baldwin County, Alabama). The HCP was modified on: February 7, 2005, to include a shift eastward by the Beach Pavilion and reconfiguration of the parking lot footprint; June 16, 2006, to include a shift in the fishing pier into the permit area and a reduced building footprint; and March 2014 to include updates to the project description (no changes to footprint) and conservation measures. This Permit and HCP are binding upon the Permittee, its officers and employees, authorized contractors, and other agents conducting covered activities.

The Permittee, and any authorized agents, are authorized to take the Alabama beach mouse within the Project area incidental to earth moving, grading, other land alteration and construction activities necessary to construct the Lodge, Conference Center, Interpretive Center, Dune Restoration/Enhancement and associated facilities as described in the Permittee's HCP, and as conditioned here. The Permittee, and any authorized agents, are authorized to take the Alabama beach mouse within the Project area incidental to on-going occupancy and usage of the Lodge, Conference Center, Interpretive Center, Dune Restoration/Enhancement and associated facilities. The Permittee, and any authorized agents, are authorized to take the Alabama beach mouse within the Project area incidental to habitat restoration activities. This permit does not authorize take of any covered species resulting from unlawful activities.

- F. The Permittee, with reasonable notice, must permit the contact office of the U.S. Fish and Wildlife Service personnel identified in Condition 11.M, below, or other properly permitted and qualified persons designated by the U.S. Fish and Wildlife Service, to enter the Project area boundaries at reasonable hours and times for the general purposes specified in Title 50 Code of Federal Regulations § 13.21(e)(2).
- G. The Permittee must implement the following measures to ensure that the covered species take is minimized and fully mitigated: All measures outlined in the HCP and biological opinion will be implemented. The reconfigured layout of the Beach Pavilion and attendant parking lots submitted on February 7, 2005, was implemented resulting in a net gain of 2.65 acres of ABM habitat. The reconfigured location of the Fishing Pier submitted on June 16, 2006, was implemented resulting in a net gain of 4.9 acres of ABM habitat. With these two modifications, a total of 22.7 acres ABM habitat restoration/enhancement was required and has been completed. The March 2014 HCP did not result in changes

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to the project footprint, the amount of take authorized, or the amount of mitigation required.

- H. The Permittee and the U.S. Fish and Wildlife Service agree that modification and amendments to the Permittee's HCP and this Permit may occur through its effective term. The Permit is based upon the Permittee's expected compliance with the provisions and commitments established in the submitted HCP and the Permit's stated terms and conditions identified herein. Where a conflict occurs between the HCP and this Permit, the Permit will control. The following procedures will govern the modification and amendment process:
1. Either the Permittee or the U.S. Fish and Wildlife Service may propose modifications and/or amendments to the HCP or this Permit by providing written notice. Such notice must include a statement of the reason for the proposed modification and an analysis of its environmental effects, including its effects on operations under the HCP and on the covered species. This analysis will be conducted jointly between the Permittee and the contact office of the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service or the Permittee will use best efforts to respond to a proposed modification or amendment within sixty (60) days of receipt of such notice. Absent any objection from the U.S. Fish and Wildlife Service or the Permittee, the proposed modification and/or amendment will be determined as minor and will become effective upon written approval by the U.S. Fish and Wildlife Service or the Permittee. If, for any reason, a receiving party objects to a proposed amendment or modification, it must be processed in accordance with Condition 11.H.3, below.
 2. The U.S. Fish and Wildlife Service will not propose or approve minor modifications or amendments to the HCP or this Permit if the U.S. Fish and Wildlife Service determines that such modifications would result in operations under the HCP and Permit that are significantly different from those analyzed in connection with the original HCP, adverse effects on the environment that are new or significantly different from those analyzed in connection with the original HCP or additional take of the covered species not analyzed in connection with the original HCP.
 3. Any amendment or modification shall conform with all applicable legal requirements, including but not limited to the Endangered Species Act, the National Environmental Policy Act, and the U.S. Fish and Wildlife Service's permit regulations at 50 C.F.R. §13 and §17.

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4. The Permittee will submit an annual report, due by the following January 31 for each year the permit is in effect, to the U. S. Fish and Wildlife Service offices listed in Condition 11. L of this Permit. The first report will be due on or before January 31, 2006. The annual report must also include the certification required in condition 11.I.
- I. The report required by Condition 11.G.4, above will include the following certification from a responsible official who supervised or directed the preparation of the report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

- J. The Permittee and the U.S. Fish and Wildlife Service acknowledge that even with the above detailed provisions for mitigating and/or minimizing impacts to the covered species, changes in circumstances could arise which were not fully anticipated by this permit and which may result in substantial and adverse change in the status of the covered species. The U.S. Fish and Wildlife Service's policy on changed and unforeseen circumstances is contained in the final "No Surprises" rule published on February 23, 1998, (63 Fed. Reg. 8859) and codified at 50 C.F.R. Part §17.

Unforeseen and/or changed circumstances may become apparent either to the Permittee, authorized agents, or to personnel of the U.S. Fish and Wildlife Service. For purposes of implementation of this condition, unforeseen circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that could not reasonably have been anticipated by the HCP developers and the U.S. Fish and Wildlife Service at the time of the HCP's negotiation and development, and that result in a substantial and adverse change in the status of the covered species. Changed circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that can reasonably be anticipated by HCP developers and the U.S. Fish and Wildlife Service, and that can be planned for. Should either unforeseen or changed circumstances arise, the Permittee and the contact office of the U.S. Fish and Wildlife Service must meet within twenty (20) working days following notice. The U.S. Fish and Wildlife Service and Permittee must together agree upon appropriate and reasonable measures for addressing such circumstances, within the rule of applicable law, and the Permittee will implement appropriate and reasonable measures within an additional thirty (30) working

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days, unless a longer period of time is agreed to by the U.S. Fish and Wildlife Service.

- K. Upon locating a dead, injured, or sick *Alabama beach mouse* (*Peromyscus polionotus ammobates*) or any other threatened or endangered species, initial notification must be made immediately to the U.S. Fish and Wildlife Service Law Enforcement Office, Daphne, Alabama at (251) 441-5787. Notification should also be made, by the next work day, to the contact office of the U.S. Fish and Wildlife Service noted in Condition 11.L. Care should be taken in handling sick, injured, or dead specimens to ensure effective treatment or to preserve biological materials for later analysis. In conjunction with the care of sick or injured threatened or endangered species or preservation of biological materials from a dead animal, the finder should take responsible steps to ensure that the site is not unnecessarily disturbed.
- L. For purposes of receiving reports, and monitoring compliance and administration of the terms and conditions of this permit, the contact office of the U.S. Fish and Wildlife Service is:

U.S. Fish and Wildlife Service
1208 Main Street
Daphne, Alabama 36526
(251)-441-5181

END