

**FLORIDA BEACHES HCP
ISSUE ANALYSIS**

TITLE OF DOCUMENT: Term of the Incidental Take Permit (ITP)

DRAFT VERSION: Draft 1.2 (JS)

STEERING COMMITTEE MEETING DATE: 09/XX/2010

HCP OBJECTIVE: Allow the FDEP to fulfill its CCCL permitting responsibilities in compliance with the Federal Endangered Species Act and applicable state laws by implementing minimization and mitigation strategies. The FDEP’s Bureau of Beaches and Coastal Systems is developing a *statewide* Habitat Conservation Plan (HCP) to support the ITP application.

BIOLOGICAL GOALS:

1. Maintain and, where possible, improve the quality, quantity and function of habitat for all covered species within the Plan Area.
2. Minimize impacts resulting from CCCL-permitted activities.
3. Adequately mitigate impacts resulting from CCCL-permitted activities to ensure a net conservation benefit for all covered species.
4. Ensure the long-term persistence of covered species within the Plan Area in consideration of large-scale environmental changes, such as sea level rise.

ISSUE UNDER CONSIDERATION: The duration or “term” of the ITP.

DESCRIPTION OF ISSUE: The USFWS issues ITPs for periods ranging from 1 to 100 years, based on the applicant’s request and an evaluation by the USFWS as to whether the requested term is appropriate. The Steering Committee should evaluate factors affected by the term of the ITP and recommend a term that will meet FDEP objectives. The term of the HCP must be determined in the early stages of the project in order for research and planning for the HCP to move forward.

BACKGROUND INFORMATION:

- Typical Terms for ITPs – USFWS purposefully allows a wide range of permit terms, providing the opportunity to balance the needs of the applicant with the needs of the species. While no data are readily available to quantify typical terms of ITPs, USFWS staff was consulted for a qualitative assessment. In general, the larger the scope of the ITP the longer the term. For example, single-family ITPs are generally 1 – 5 years; subdivision or commercial ITPs are generally 5 – 15 years; countywide ITPs are generally 25 – 30 years; and ITPs for logging activities in western states range up to 100 years [Note: ITPs greater than 50 years are currently discouraged by the USFWS.]
- Dynamic Coastal Environment – Beaches and dunes are fundamentally dynamic. Boundaries between habitats can change quickly with storm events and are almost always changing as a result of wave and wind energy. Due to this dynamic environment, the type and timing of activities permitted by the CCCL program are difficult to predict with

absolute certainty. This inherent degree of uncertainty increases over longer periods of time. Relative to the HCP, the estimation of “take” becomes more complicated and less accurate as a term is increased. Additionally, climate change and sea level rise models become less accurate as the term is increased.

- Additional Species – The longer the term of the ITP, the more likely additional species will be added under the ESA during its term, thus requiring an amendment if the species was not already included in the HCP. Amendments can be laborious and costly. This risk can be mitigated by including species in the HCP that are likely to be listed during the ITP’s term. Conversely, shorter ITP terms are less likely to need amendment to include newly listed species.
- Mitigation – The longer the term of the ITP, the more onerous mitigation is likely to be because the amount of take will increase with increasing term.
- Adaptive Management – Adaptive Management is utilized in the HCP process when all scientific information needed to develop comprehensive long-term conservation strategies is not available. When significant data gaps or uncertainty exist, adaptive management measures are adopted to address the uncertainty. The primary reason for using adaptive management in HCPs is to allow for changes in the mitigation strategies that may be necessary to reach the long-term goals (or biological objectives) of the HCP, and to ensure the likelihood of survival and recovery of the species in the wild. The longer the term of the ITP, the more important and complex the Adaptive Management plan needs to be.
- Renewal – The shorter the term, the more frequently renewal will be required. Renewal can be laborious and costly but also provides the opportunity to amend the HCP based on an assessment of its effectiveness. Renewal, at the end of an ITP, is required to retain coverage. USFWS does not offer grant money for renewal of HCPs.
- Volusia County Model – Volusia County applied for an ITP to authorize take associated with beach driving. The County applied for an initial term of 5 years. The County and USFWS used the 5 years to assess the effectiveness and cost of implementing the HCP. Subsequently, the ITP was renewed for an additional 25 years.

OPTION 1: Recommend a short-term (e.g. 10-year) Incidental Take Permit

Rationale for Selecting Option 1: A short-term ITP will reduce the complexity of calculating “take”; reduce the risk of required amendment due to additionally listed species; reduce the amount of mitigation required under the ITP; and reduce the complexity of the adaptive management section of the HCP. Renewal after a short-term ITP will provide the opportunity to assess minimization measures and take estimates sooner, thereby allowing corrections to these elements in a more timely manner.

Rationale against Selecting Option 1: There are costs, staff time and resources associated with permit renewal that will be required more frequently with a short-term ITP versus a long-term ITP and the USFWS does not offer grant money for renewal of HCPs. A short-term ITP may not allow sufficient time to assess the success and appropriateness of mitigation.

OPTION 2: Recommend a moderate-term (e.g. 25-year) Incidental Take Permit

Rationale for Selecting Option 2: This option moderates the uncertainty associated with calculating “take,” as modeling of erosion, upland development and species listing is considered to be reasonably accurate for the period. Mitigation for “take” impacts will be moderate. The Adaptive Management section of the HCP will be moderately complex. USFWS staff has indicated a term in the 25 – 30 year range is desirable because the climate change models during that period are fairly reliable and have reduced error.

Rationale against Selecting Option 2: Predictions of future activities and impacts are not as accurate, when compared to a short-term ITP. The costs for renewing the ITP will be realized sooner than with a long-term ITP.

OPTION 3: Recommend a long-term (e.g. 50-year) Incidental Take Permit

Rationale for Selecting Option 3: The costs associated with renewal will be delayed to their maximum extent.

Rationale against Selecting Option 3: Calculating “take” will be most difficult due to the increased uncertainty of predicting 50 years into the future. Climate change and sea level rise models become less accurate as the term is increased. The risk of a required amendment, due to additionally listed species, will be maximized. The amount of required mitigation will be greatest. The complexity of the Adaptive Management section of the HCP will be maximized.

OPTION 4: Recommend a short-term (e.g. 5-10 years) *initial* Incidental Take Permit, with the intent to renew for a moderate-term (e.g. 25-years) at the end of the *initial* authorization.

Rationale for Selecting Option 4: This approach provides a “trial” period and an opportunity to adjust parts of the HCP that have implementation hurdles or cost-limiting factors. After the renewal and likely revisions, a more customized HCP will be implemented for the longer term. Note that application prior to 30-days of the expiration date of the original ITP extends protection from the original ITP until the USFWS acts on the renewal application.

Rationale against Selecting Option 4: The cost of renewal and likely revisions to the HCP will be realized in a much shorter timeframe. Major revisions to the HCP will be required to address the longer term, including adjustment to the adaptive management and mitigation sections. The renewal and revision process will require the same high

level of stakeholder input and will likely take many years to complete. The Volusia County renewal/revision process took over 4 years.

ANALYSIS REVIEWED BY SCIENTIFIC COMMITTEE: NO

RECOMMENDATION: On June 9, 2010, the HCP Work Group voted unanimously to recommend a moderate-term – 25-year – ITP to the Steering Committee, based on the Rationale for Selecting Option 2, above.

ATTACHMENTS: N/A