

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.*

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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:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
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.

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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