

United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960



April 27, 2007

Colonel Paul L. Grosskruger
District Commander
U.S. Army Corps of Engineers
701 San Marco Boulevard, Room 372
Jacksonville, Florida 32207-8175

Service Federal Activity Code: 41420-2007-FA-0840
Formal Consultation Re-Initiation Date: April 12, 2007
Project: Indian River County Sector 7
Beach Nourishment
Applicant: Indian River County Board of
County Commissioners
County: Indian River County

Dear Colonel Grosskruger:

The Fish and Wildlife Service (Service) has reviewed the April 12, 2007, request from the U.S. Army Corps of Engineers (Corps) to amend the Service's November 22, 2005, Biological Opinion (Service Log Number 4-1-05-TR-9179) concerning the Indian River County Sector 7 Beach Nourishment Project (Corps permit: SAJ-2003-6106 [IP-IS]). This letter is submitted in accordance with section 7 of the Endangered Species Act of 1973, as amended (87 Stat. 884; 16 U.S.C. 1531 *et seq.*).

The project involves placement of approximately 360,000 cubic yards of beach compatible material along 2.2 miles of shoreline between Florida Department of Environmental Protection monument R-97 and R-108. This beach nourishment project was scheduled to be completed by May 1, 2007. The Applicant has requested an extension of project activities to May 15, 2007, followed by 5 additional days to demobilize from the beach during daylight hours.

The Service's November 22, 2005, Biological Opinion concerning this project provided an incidental take statement for the threatened loggerhead sea turtle (*Caretta caretta*), endangered green sea turtle (*Chelonia mydas*), endangered leatherback sea turtle (*Dermochelys coriacea*), endangered hawksbill sea turtle (*Eretmochelys imbricata*), and endangered Kemp's ridley sea turtle (*Lepidochelys kempii*).

On April 23, 2007, the Service met to discuss this project with the Corps, the Applicant and their representatives and other interested parties. The Service also met with the Applicant on April 25, 2007, for an update on the project and to discuss opportunities to minimize potential impacts.



During this meeting, the Applicant informed us that the project was proceeding faster than expected with a date of completion (including demobilization) anticipated for May 15, 2007. The Applicant also agreed to undertake several proactive conservation measures which we believe will directly benefit sea turtles at the project site and throughout Indian River County (County) over the long term.

Specifically, the Applicant has agreed to:

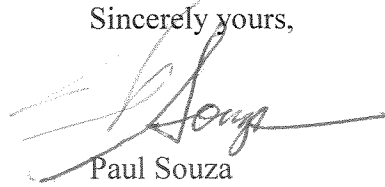
1. Conduct night time sea turtle monitoring starting May 1st using a qualified sea turtle monitor;
2. Provide daily sea turtle monitoring reports to state and Federal agencies via email and/or telephone starting May 1st;
3. Sponsor a beach lighting workshop to inform the public about lighting issues and impacts to nesting sea turtles;
4. Routinely investigate and enforce all beach lighting violations in accordance with the County's beach lighting ordinance; and
5. Provide an update on the progress of the project on May 10, 2007, to affected state and Federal agencies.

A review of the available sea turtle nesting data (from 2005 and 2006) for the project area over the requested extension period indicates there was an average of 7.5 loggerhead nests, 0 green nests, and 2 leatherback nests. Thus, we anticipate potential adverse affects to nesting sea turtles resulting from the project extension will be minor. In view of this, as well as the Applicant's agreements identified above, the Service amends its November 22, 2005, Biological Opinion. With the exception of the 15 day extension, all parts of the November 22, 2005, Biological Opinion for this project remains as written.

This concludes formal consultation on the action outlined in the request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If you have any questions regarding this amended Biological Opinion, please contact Jeff Howe at 772-562-3909, extension 283.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Paul Souza', with a stylized flourish extending to the right.

Paul Souza
Field Supervisor
South Florida Ecological Services Office

cc:

Applied Technology & Management, West Palm Beach, Florida (Peter Seidle)
Corps, Cocoa, Florida (Irene Sadowski)
DEP, Tallahassee, Florida (Stephanie Gudeman)
EPA, West Palm Beach, Florida
FWC, Bureau of Protected Species Management, Tallahassee, Florida (Robbin Trindell)
NOAA Fisheries, Marineland, Florida (George Getsinger)
Service, Ecological Services, Jacksonville, Florida (Sandy MacPherson)
Service, Atlanta, Georgia (Noreen Walsh) electronic copy
USGS, Florida Integrated Science Center, Gainesville, Florida (Susan Walls)