



United States Department of the Interior

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



November 4, 2008

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

Service Consultation Code: 41420-2008-FA-0524

Date Received: October 27, 2008

Formal Consultation Re-Initiation Date: October 30, 2008

Project: Palm Beach Harbor Maintenance
Dredging and Sand Placement

Sponsor: Palm Beach Harbor
County: Palm Beach

Dear Colonel Grosskruger:

The U.S. Fish and Wildlife Service (Service) has reviewed the October 24, 2008, request from the U.S. Army Corps of Engineers (Corps) to amend the Service's December 23, 2005, Biological Opinion (Service Log Number 4-1-05-TR-13258) for the Palm Beach Harbor maintenance dredging and sand placement project. The Biological Opinion 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*). 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 Service's December 23, 2005, biological opinion provided the Corps with an incidental take statement as it related to dredging approximately 100,000 cubic yards of material from Palm Beach Harbor (Lake Worth Inlet), Palm Beach County, Florida. Using a hopper dredge with pump-out capability, material was removed from the entrance channel to a depth of 37 feet (ft); the inner channel, turning basin, and settling basin to a depth of 35 ft; and the extended turning basin to a depth of 25 ft. The slurred material was pumped from the dredge onto the beach through a temporary pipeline positioned over the south jetty. Bulldozers moved the material above mean high water (MHW) and the material graded to the design profile. All beach compatible sand was placed along 3,450 ft of beach between Florida Department of Environmental Protection (DEP) monuments R-76 and R-79.



The Corps anticipates maintenance dredging will need to be conducted biannually to remove shoals that rapidly build up between Stations 32 and 40 of the entrance channel and Stations 44 to 52 of the inner channel. This material encroaches into the channel and centerline, where it presents navigation hazards. Since 1993, the Corps has observed accelerated shoaling in both these areas. Consequently, a more aggressive maintenance dredging schedule is required to maintain navigation access. The Corps has requested to modify the maintenance dredging and sand placement project as follows:

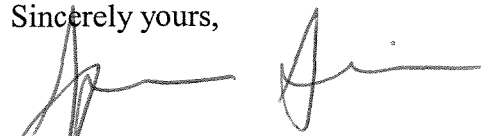
1. The fall/winter maintenance dredging event will involve the placement of beach compatible sand above MHW outside of the primary sea turtle nesting season (May 1 through October 31).
2. The spring/summer maintenance dredging event will not involve the placement of beach compatible sand above MHW, but instead will be placed in water at a depth of 17 ft or less below mean lower low water (MLLW).
3. The volume of beach compatible sand placed above MHW will not exceed the current erosion volume or historical fill template volumes. Any excess sand will be placed in water at a depth of 17 ft or less below MLLW.
4. If beach and nearshore sand placement is unavailable, sand will be placed in an approved Ocean Dredged Material Disposal Site or borrow area.
5. The Service's incidental take statement will expire on March 17, 2015, to coincide with DEP's permit expiration date, at which time the Corps will reinitiate formal consultation with the Service.

The Service has discussed the project with the DEP, Florida Fish and Wildlife Conservation Commission, and the Corps, reviewed sea turtle nesting data, and considered the cumulative effects. Based on our review, the Service believes that the proposed modifications will not significantly change the effects of the project on nesting sea turtles. Therefore, the Service amends the Biological Opinion as requested. With the exception of the criteria as referenced above, all parts of the December 23, 2005, Biological Opinion for this project remain 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,



Paul Souza
Field Supervisor
South Florida Ecological Services Office

cc:

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DEP, Tallahassee, Florida (Steve Macleod)

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