



United States Department of the Interior

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



July 31, 2007

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

Dear Colonel Grosskruger:

This document amends the Fish and Wildlife Service's (Service) October 5, 2006, March 16, 2007; April 2, 2007; and May 31, 2007, biological opinions. It is based on our review of new and existing information regarding five proposed projects located in the Upper Keys of Monroe County, Florida, and their potential effects on the West Indian (= Florida) manatee (*Trichechus manatus*) (manatee). Our review is in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (87 Stat. 884; 16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (MMPA) (16 U.S.C. 1361 *et seq.*), and the provisions of the Fish and Wildlife Coordination Act of 1958, as amended (48 Stat. 401; 16 U.S.C. 661 *et seq.*). No other listed species will be affected by the proposed actions.

This amendment is based on information provided by the Corps, the Corps' Reach Characterization Analysis, the *Florida Manatee Recovery Plan* (Service 2001), the *South Florida Multi-Species Recovery Plan* (Service 1999), data supplied by the Florida Fish and Wildlife Conservation Commission (FWC) and the Florida Wildlife Research Institute (FWRI), and other sources of information. A complete administrative record of this consultation is on file at the Service's South Florida Ecological Services Office in Vero Beach, Florida.

The proposed actions below will add 25 new slips to the coastal waters of the upper Florida Keys.

Applicant	Corps Application Number	Service Federal Activity Code	Shoreline Length	Existing Slips	New Slips	Total Number of Slips
Robert Jones	2006-6043 (LP-IF)	41420-2007-FA-0760	50 feet	1	2	3
Key Largo Fisheries	1999-1720 (LP-MLC)	41420-2007-FA-0672	690 feet	25	11	36
Dennis Leith	2006-5449 (LP-INS)	41420-2007-FA-0943	249 feet	4	2	6
John Gilbert	2002-8174 (LP-RK)	41420-2006-FA-0653	100 feet	4	4	8
Marine Resources	2005-2628 (LP-MLC)	41420-2006-FA-0103	1435 feet	24	6	30
Julio and Juan Lago	2006-5024 (LP-INS)	41420-2006-FA-0036	354 feet	1	6	7

The Service originally concurred with the Corps determination of "may affect, likely to adversely affect" the West Indian manatee. However, the Service has reviewed additional manatee data from FWC (aerial survey data, carcass recovery data) and found that new multi-slip

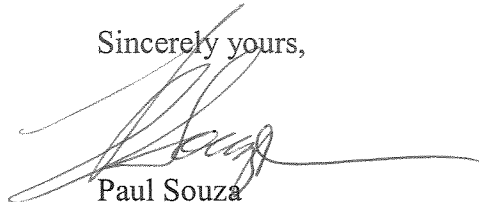


projects or the expansion of existing multi-slip facilities with access to the Atlantic Ocean are not likely result in take of manatees because (1) manatee aggregations occur almost exclusively on the Florida Bay side of the Florida Keys from Key Largo to Marathon and (2) boat-related manatee mortality is extremely low (two since 1989) along the Atlantic Ocean side of the Keys. The Service will continue to evaluate multi-slip projects on the Atlantic side of the upper Florida Keys for accessibility to Florida Bay and proximity of nearby manatee aggregations on an individual project basis. Therefore, the Service believes these projects may affect, but are not likely to adversely affect the West Indian manatee. If the Corps agrees with this determination, this letter may be used as our concurrence.

This concludes formal consultation on the outlined actions. 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.

Thank you for your cooperation and effort in protecting threatened and endangered species. If you have any questions regarding this project, please contact Winston Hobgood at 772-562-3909, extension 306.

Sincerely yours,

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

Paul Souza
Field Supervisor
South Florida Ecological Services Office

cc:

Corps, Miami, Florida (Megan Clouser, Ingrid Sotelo, Ivan Fannin)
FWC (ISM), Tallahassee, Florida (Carol Knox)
FWC, Vero Beach, Florida
NOAA Fisheries, West Palm Beach, Florida
Regional Solicitor, DOI, Atlanta, Georgia (Delores Young)
Service, Jacksonville, Florida (Species lead)