



United States Department of the Interior

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



January 13, 2010

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

Service Consultation Code: 41420-2007-F-0935
Date Received: October 27, 2009
Formal Consultation Initiation Date: June 5, 2007
Project: Canal 111

Dear Colonel Pantano:

The U.S. Fish and Wildlife Service (Service) has received your letter dated October 27, 2009, requesting an update to the 2007 Biological Opinion based on revisions to critical habitat for the Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*) and other minor modifications to the Canal 111 (C-111) Project. This document transmits the Service's amendment to the Biological Opinion for the C-111 Project and its potential effects on the Cape Sable seaside sparrow and their designated critical habitat, 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.*). The project site is located within the C-111 basin just east of Everglades National Park (ENP) in southern Miami-Dade County, Florida (Figure 1).

Cape Sable Seaside Sparrow Critical Habitat

Critical habitat for the Cape Sable seaside sparrow was originally designated on August 11, 1977 (42 FR 47840). This designation included areas of land, water, and airspace in the Taylor Slough vicinity of Collier, Miami-Dade, and Monroe Counties. Much of this area is within the boundaries of ENP. Because this was one of the first critical habitat designations under the Act, there were no primary constituent elements (PCE), or those physical and biological features that are essential to the conservation of the species, defined. The originally designated area encompassed about 197,260 acres (ac) and included portions of subpopulations B through F. Subpopulation A was the only area occupied by sparrows that did not have associated designated critical habitat.

On November 6, 2007, the Service published the final rule for the revised designation of critical habitat for the Cape Sable seaside sparrow (72 FR 62736). The final rule reduced the total acreage of critical habitat to 84,865 ac contained within 5 units which includes portions of



subpopulations B through F (Figure 2). The main reason for the reduction in acreage is that many areas designated in the 1977 rule were never sparrow habitat, such as forested areas of Long Pine Key in ENP, dwarf cypress forests, deep-water slough communities, and agricultural areas. The final rule represents a more accurate delineation of specific areas suitable for sparrows. Critical habitat for subpopulation A was not designated because benefits of excluding this area outweighed the benefits of including it (72 FR 62736).

The final rule (see 72 FR 62736) also defined four PCEs that are essential to the conservation of the species and may require special management considerations and protection. They are: (1) calcitic marl soils characteristic of the short-hydroperiod freshwater marl prairies of the southern Everglades; (2) herbaceous vegetation that includes greater than 15 percent combined cover of live and standing dead vegetation of one or more of the following species: Muhly grass (*Muhlenbergia filipes*), Florida little bluestem (*Schizachyrium rhizomatum*), black-topped sedge (*Schoenus nigricans*), and cordgrass (*Spartina bakeri*); (3) contiguous open habitat containing few or sparse woody shrubs or trees; and (4) hydrologic regime such that the water depth, as measured from the water surface down to the soil surface, does not exceed 7.9 inches (20 centimeters) for more than 30 days during the period from March 15 to June 30 at a frequency of more than 2 out of every 10 years.

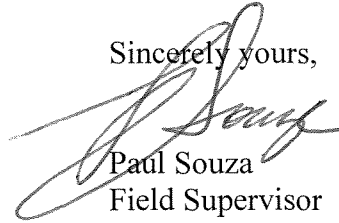
Prior to the revised designation of critical habitat in 2007 the C-111 Project was expected to impact approximately 480 ac of Cape Sable seaside sparrow critical habitat. This habitat was defined in the October 1, 2007, Biological Opinion as active and abandoned agricultural fields that have not been suitable sparrow habitat for decades. As a result of the changes to sparrow critical habitat in November 2007 the project footprint no longer lies within designated sparrow critical habitat. Our conclusion in the previous Biological Opinion stated that the removal of the 480 ac of critical habitat was not expected to result in the destruction or adverse modification of the sparrow's critical habitat. Because the action will now occur outside of designated critical habitat, we continue to conclude that the project will not destroy or adversely modify sparrow critical habitat.

Additional Project Modifications

Since the completion of the Biological Opinion on the C-111 Project, there have been some revisions to the June 2007 Engineering Design Report (EDR). The east-west levees in the Southern Detention Area were removed under Contract 7 (an earlier phase of the project), and have therefore been removed from the EDR. The C-110 and Aerojet plug features have also been removed from the EDR. These features are no longer part of the C-111 South Dade Project, but will be implemented as part of the C-111 Spreader Canal Western Project Implementation Report and have been analyzed in the C-111 Spreader Canal Project Biological Opinion dated August 25, 2009. The crown width of the levees L-315, L-316, and the tie to L-357W have been increased from a width of 12 to 14 feet. All other aspects of the June 2007 EDR remain current. These minor changes to the C-111 Project are not expected to result in modifications to the performance of the project or project impacts on listed species as assessed in the October 1, 2007, Biological Opinion.

Thank you for your cooperation and effort in protecting fish and wildlife resources. If you have any questions regarding this project, please contact Kevin Palmer at 772-562-3909, extension 280.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Paul Souza', is written over the typed name.

Paul Souza
Field Supervisor
South Florida Ecological Services Office

cc: electronic copy only
Corps, Jacksonville, Florida (Anya Savage)
Corps, Jacksonville, Florida (Stuart Appelbaum)
District, West Palm Beach, Florida (Carol Wehle)
FWC, Tallahassee, Florida (Mary Ann Poole)
FWC, Vero Beach, Florida (Timothy Towles)
ENP, Homestead, Florida (Dan Kimball)
Service, Atlanta, Georgia (Patrick Leonard)
Office of the Solicitor, Atlanta, Georgia (Michael Stevens)

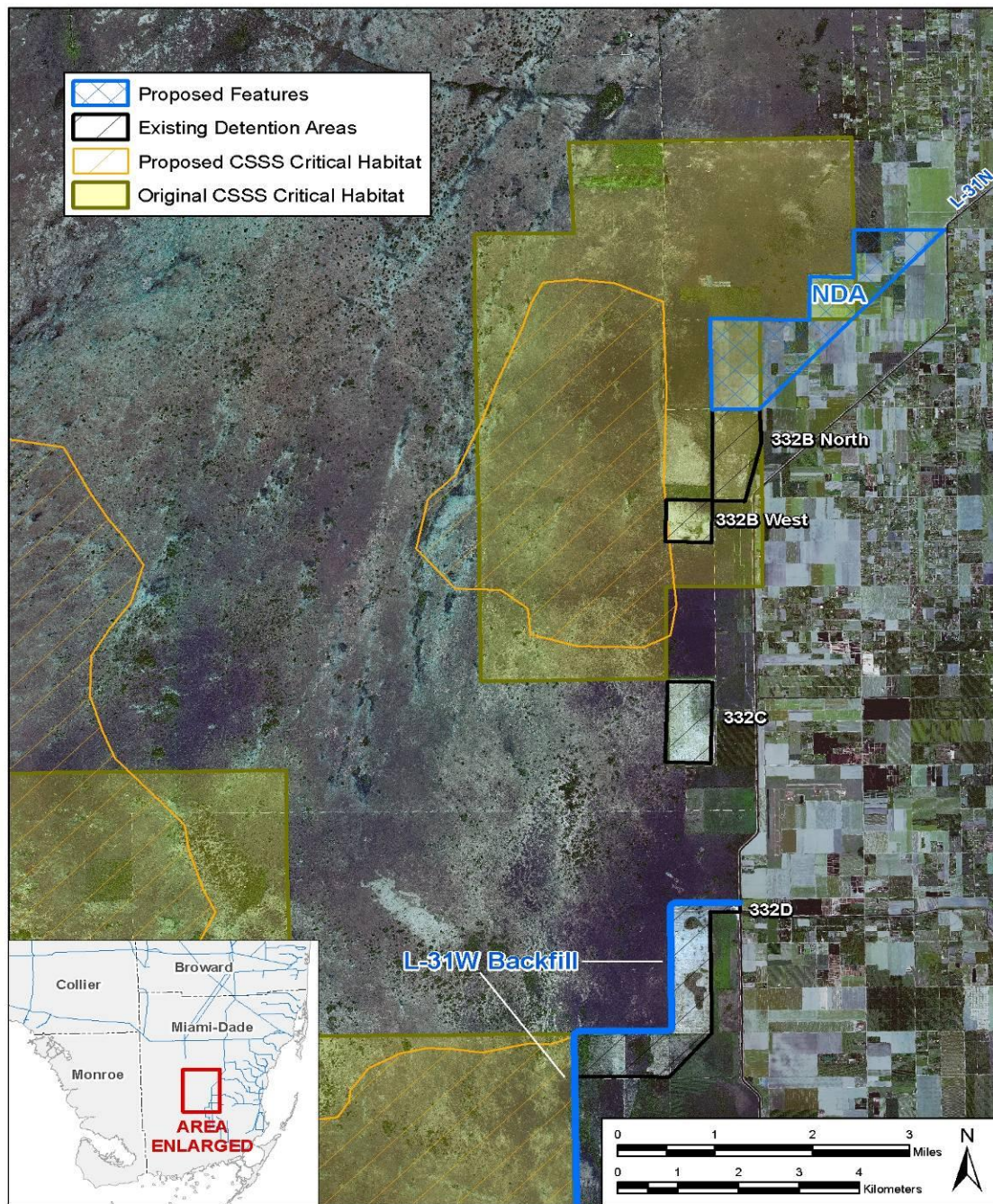


Figure 1. General map showing existing and major proposed features of the C-111 Project area. Also shown is the final (labeled as proposed) critical habitat designation for the Cape Sable seaside sparrow in the project area

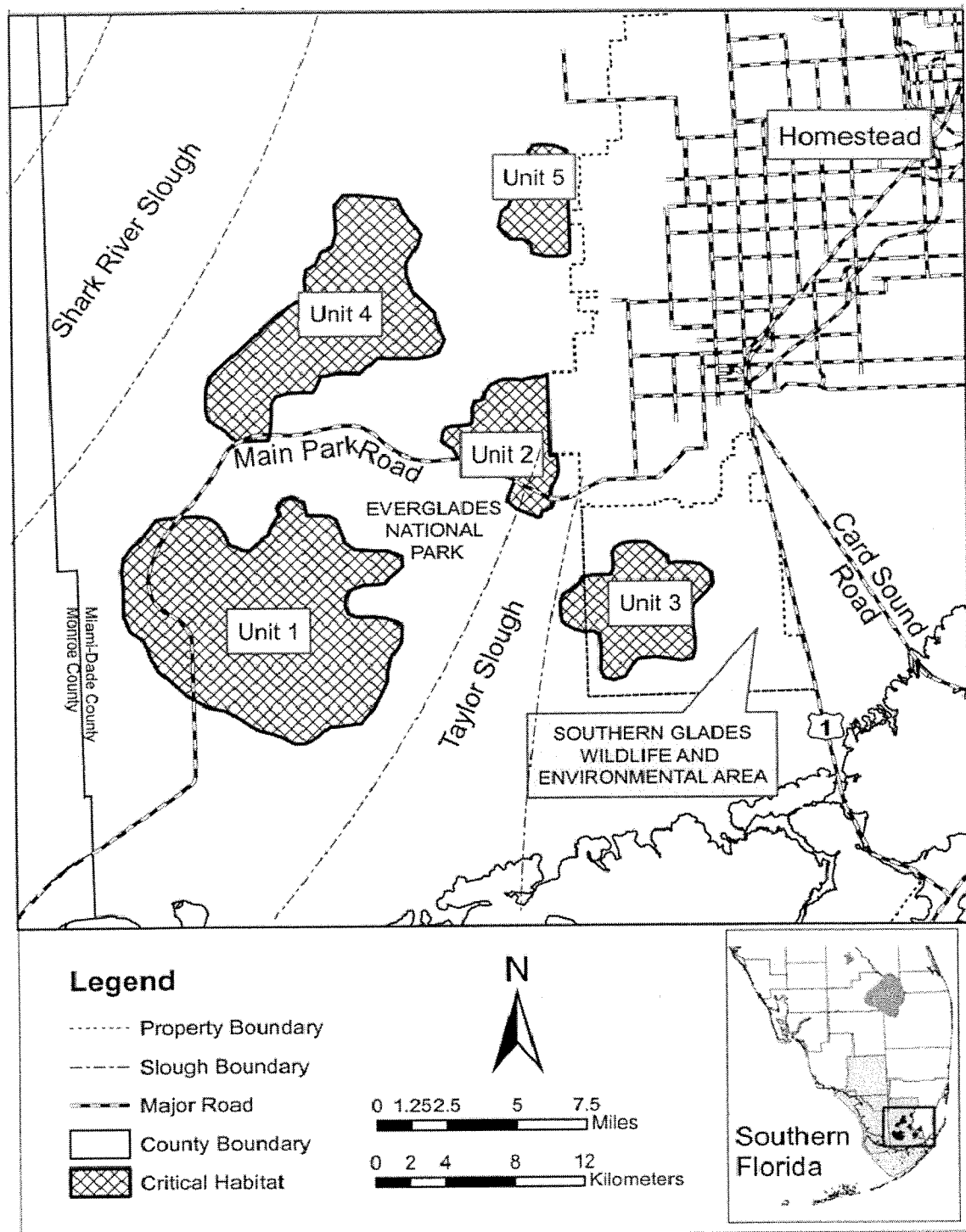


Figure 2. Final critical habitat revisions for the Cape Sable seaside sparrow. Unit 1 is referred to as subpopulation B, Unit 2 as C, Unit 3 as D, Unit 4 as E, and Unit 5 as F.