

United States Department of the Interior

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



January 31, 2006

Colonel Robert M. Carpenter District Engineer U.S. Army Corps of Engineers 701 San Marco Boulevard, Room 372 Jacksonville, Florida 32207-8175

Service Log No.: 4-1-05-PL-10711

Corps Application No.: SAJ-2004-2985 (IP-RMT)

Formal Consultation Reinitiation: September 16, 2005

Applicant: Collier County

Board of County Commissioners

County: Collier

Attention: Robert Tewis

Dear Colonel Carpenter:

This letter serves to amend the May 25, 2005, Biological Opinion for the project listed above in Collier County, Florida. The Fish and Wildlife Service (Service) has received additional information regarding the above-listed project's consistency with the Collier County Manatee Protection Plan (MPP). In reviewing the additional information, we re-examined the baseline data regarding manatee abundance and distribution, manatee travel patterns, manatee mortality, water depths, aggregation areas, warmwater refugia, freshwater sources, seagrasses, the number of registered vessels, boating traffic patterns, existing watercraft access facilities, and manatee speed zones.

CONSULTATION HISTORY

By letter dated January 6, 2005, the Florida Fish and Wildlife Conservation Commission (FWC) commented on the above-listed project. The FWC recommended the applicant employ the *Standard Manatee Construction Conditions* (FWC 2005), construct an educational kiosk for ramp patrons, and place manatee exclusion grates on culverts greater than 8 inches in diameter. The FWC also requested the opportunity to reevaluate the proposal if native habitat resources would be impacted. The FWC did not comment on the proposal's consistency with the Collier County MPP.



By email dated May 18, 2005, Collier County stated that the proposed boat ramp was not in compliance with the Collier County MPP.

On May 25, 2005, the Service issued a biological opinion regarding permit application number SAJ-2004-2985 (IP-RMT). This biological opinion concluded that the take of manatees was likely to occur because the original proposal was inconsistent Collier County MPP.

On June 2, 2005, The Collier County Division of Natural Resources evaluated the proposed boat ramp expansions consistency with the Collier County MPP. This review stated the proposed expansion would not result in an increase in vessel traffic at the ramp and appeared consistent with the Collier County MPP.

On September 13, 2005, the Corps requested the Service reinitiate formal consultation for permit application number SAJ-2004-2985 (IP-RMT) based on the new information provided by Collier County. The Corps provided a determination of "may affect" for the endangered manatee.

PROJECT DESCRIPTION

The Corps has received a permit application to reconfigure an existing boat ramp. The project site is approximately 9.12 acres in which approximately 0.54 acre is mangrove wetlands, 0.13 acre is herbaceous tidal wetlands, and 1.31 acres are open tidal waters. The applicant proposes to create paved parking for 83 boat trailers currently parking in the State Road 951 right-of-way. The proposed work includes the placement of 6,880 cubic yards of fill over 0.62 acre of tidal wetlands and 0.27 acre of open water. As compensation for impacts to open waters, wetlands, and uplands, the applicant proposes to replant mangroves in the 1.04-acre tidal area between the shoreline and the uplands. The preserve area will be placed into a conservation easement granted to the City of Naples. The details of this compensation plan have not been finalized. The proposed boat ramp modification will provide no additional watercraft access boats using the existing facility. The Corps has assigned application number SAJ-2004-2985 (IP-RMT) to this project. The proposed project is located on the east side of County Road 951 adjacent to Big Marco Pass, Section 33, Township 51 South, Range 26 East, Collier County, Florida.

FISH AND WILDLIFE RESOURCES

The proposed boat ramp reconfiguration has the potential to impact wetlands (including mangroves) and submerged aquatic resources (including seagrasses). The Service believes fish and wildlife resources may be affected and recommends the Corps require the applicant to avoid, minimize, and mitigate for these resource impacts.

For projects where there is dredging or filling, methodology and turbidity containment should be employed such that any seagrasses or live hardbottom near the project footprint and de-watering area are not impacted by sedimentation during operations. If there are wetlands along the shoreline and/or seagrasses in the project areas, the Service recommends the applicants adhere to the *Dock Construction Guidelines for Florida* developed by the Corps and National Marine

Fisheries Service (NOAA Fisheries) (Corps and NOAA Fisheries 2001). Specifically, any docks should be configured to minimize impacts to mangroves, seagrasses, and other submerged aquatic resources. The Service also recommends in-kind mitigation be provided for any unavoidable impacts to mangroves, seagrasses, and other submerged aquatic resources.

AMENDMENT TO THE BIOLOGICAL OPINION

Concerned with an increased number of manatee mortalities and boating accidents, the Governor and Cabinet directed the Florida Department of Natural Resources (DNR) in June 1989 to make recommendations for specific actions to protect the manatee and its habitat and to make the State's waterways safer for the boating public. The DNR's final report, *Recommendations to Improve Boating Safety and Manatee Protection on Florida Waterways*, found that over 80 percent of all watercraft-related manatee mortality occurred in ten counties: Brevard, Broward, Citrus, Collier, Dade (now Miami-Dade), Duval, Lee, Martin, Palm Beach, and Volusia. Though watercraft-related mortality was not high for St. Lucie, Indian River, and Sarasota, these three counties were considered important as travel corridors as well as foraging and resting areas for manatees.

The Governor and Cabinet directed each of these 13 coastal (= key) counties to develop an MPP. The purpose of an MPP is to present a summary of existing information about manatee use and watercraft use within the county and to develop strategies to balance manatee protection, resource protection, waterway uses, boating facility siting, speed zones and signage, boating safety, and to educate the boating public. The final report recommended new or expanded boating facilities in these key counties should be limited to one powerboat slip per 100 linear feet of shoreline (the 1:100 ratio) until the county implements its State-approved MPP, which includes a boating facility siting component. Watercraft access projects consistent with a county's MPP provide a level of boater access and activity that is within the capacity of the manatee protection measures provided. Projects not consistent with an MPP may exceed the capacity of these protective measures and, therefore, may result in the incidental take of manatees. Countywide MPPs are identified in the *Florida Manatee Recovery Plan* (Service 2001) as a method for protecting manatees and manatee habitat.

As stated above, an MPP is one means of providing adequate planning to address effects of watercraft access projects on manatees and manatee habitat. Such plans provide a level of manatee protection commensurate with a certain level of boater access. Projects consistent with a State-approved MPP provide a level of boater access and activity that is within the capacity of the manatee protection measures provided in the plan. Projects not consistent with the approved MPP may exceed the capacity of the protective measures present and, therefore, may result in adverse effects to manatees.

Collier County developed a State-approved MPP in May 1995. The plan includes a boating facility siting component. On June 2, 2005, The Collier County Division of Natural Resources evaluated the proposed boat ramp expansions consistency with the Collier County MPP. This

review stated the proposed expansion would not result in an increase in vessel traffic at the ramp and appeared consistent with the Collier County MPP.

The watercraft, associated with existing boat ramp likely travel the waters of Caxambas Pass, Collier Bay, Tarpon Bay, Capri Pass, Big Marco Pass, Blue Hill Bay, Marco River, Addison Bay, and all connecting tributaries and residential canal systems in Collier County, Florida. Because of the development of manatee protection measures in Collier County's MPP, the proposed boat ramp reconfiguration represents a lesser risk to manatees in Collier County. This outcome is consistent with the biological information presented in the original biological opinion discussed previously. As a result of the new information provided by the Corps and Collier County, the Service's amendment to the biological opinion listed above is as follows: the Service believes an increase in watercraft associated with the proposed action listed above is not reasonably certain to result in the take of manatees in the form of additional deaths and injuries.

Since adverse affects from these projects are unlikely to occur, we recommend that you withdraw your request for formal consultation under the ESA and revise your finding to "may affect, not likely to adversely affect" manatees. This letter may be used as a concurrence of that finding.

This letter fulfills the requirements of section 7 of the ESA and no further action is required. If modifications are made to the projects, if additional information involving potential effects to listed species becomes available, or if a new species is listed, reinitiation of consultation may be necessary.

REINITIATION - CLOSING STATEMENT

As provided in 50 CFR 402.15, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained 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 listed species or critical habitat that was 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.

This concludes the amendment to the Biological Opinion dated May 25, 2005, regarding Corps Application Number SAJ-2004-2985 (IP-RMT) for the Collier County Board of County Commissioners. Thank you for your cooperation and effort in protecting threatened and endangered species. If you have any questions regarding this amended biological opinion, please contact Chuck Kelso at 772-562-3909, extension 241.

Sincerely yours,

for James J. Slack

Field Supervisor

South Florida Ecological Services Office

cc:

Corps, Ft. Myers, Florida (Skip Bergmann)

FWC, Punta Gorda, Florida

FWC (BPSM), Tallahassee, Florida (Mary Duncan)

NOAA Fisheries, St. Petersburg, Florida

Regional Solicitor, DOI, Atlanta, Georgia (Delores Young)

Service, ARD-ES, Atlanta, Georgia (Noreen Walsh) electronic copy only

Service, Jacksonville, Florida (Dave Hankla) electronic copy only

LITERATURE CITED

Florida Fish and Wildlife Conservation Commission. 2001. *Standard Manatee Construction Conditions* http://floridaconservation.org/psm/permit/construct.htm. Tallahassee, Florida.