



United States Department of the Interior

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



November 9, 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: 41420-2006-FA-1582
Formal Consultation Re-Initiation Date: August 28, 2007
Project: Dune Reconstruction
Applicant: U.S. Army Corps of Engineers
County: Palm Beach

Dear Colonel Grosskruger:

The Fish and Wildlife Service (Service) has reviewed the August 28, 2007, request from the U.S. Army Corps of Engineers (Corps) to amend the May 25, 2007, Biological Opinion concerning the Jupiter Inlet Intracoastal Waterway (ICWW) maintenance dredging and sand placement project. 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 original project involves the removal of approximately 130,000 cubic yards (cy) of material from 16,000 feet of the ICWW between Cuts P-1 and P-9. The beach compatible material dredged from the ICWW will be placed along 5,500 feet of shoreline between Florida Department of Environmental Protection (DEP) monuments R-13 and R-19. The project is to be completed outside of peak sea turtle nesting season between February 15 and April 30, 2008.

The Service's May 25, 2007, 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 Kemp's ridley sea turtle (*Lepidochelys kempii*), and endangered hawksbill sea turtle (*Eretmochelys imbricata*). Because the Corps agreed to incorporate the *Standard Manatee Conditions for In-Water Work* (FWC 2005), *Draft Species Conservation Guidelines – South Florida – Wood Storks* (Service 2004), standard migratory bird protection measures, and pre-construction surveys for listed plants into their permit, the Service concurred that the endangered West Indian manatee (*Trichechus manatus*), endangered stork (*Mycteria americana*), threatened piping plover (*Charadrius melodus*), and endangered beach jacquemontia (*Jacquemontia reclinata*) would not be adversely affected by the proposed project.



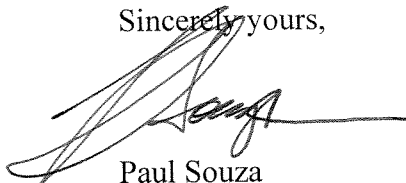
The Corps proposes to modify the project by placing approximately 25,000 cy of DEP approved fill material between DEP monuments R-13 and R-17 for dune reconstruction. The dunes within this action area sustained extensive damage due to Subtropical Storm Andrea in early May 2007.

In consideration of your request, the Service has reviewed our 2007 Biological Opinion, sea turtle nesting data for the project area, and considered the cumulative effects of reconstructing the dunes within the original project footprint. As a result, the Service believes the proposed modification will not significantly change the effects of the project or the amount of incidental take anticipated with regard to nesting sea turtles. Therefore, the Service amends the biological opinion as requested. With the exception of dune construction as referenced above, all parts of the May 25, 2007, 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,

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:

Corps, Jacksonville, Florida (Catherine Brooks)
DEP, Tallahassee, Florida (Stephanie Gudeman)
EPA, West Palm Beach, Florida
FWC, Bureau of Protected Species Management, Tallahassee, Florida (Robbin Trindell)
NOAA Fisheries, West Palm Beach, Florida (Jocelyn Karazsia)
Service, Ecological Services, Jacksonville, Florida (National Sea Turtle Coordinator)
Service, Atlanta, Georgia (Noreen Walsh) electronic copy
USGS, Florida Integrated Science Center, Gainesville, Florida (Susan Walls)

LITERATURE CITED

- Florida Fish and Wildlife Conservation Commission (FWC). 2005. Standard Manatee Conditions for In-water Work. Tallahassee, Florida.
<http://myfwc.com/manatee/permits/StandardCondIn-waterWork.pdf>.
- U.S. Fish and Wildlife Service. 2004. Draft Species Conservation Guidelines – South Florida – Wood Stork. U.S. Fish and Wildlife, South Florida Ecological Services, Office; Vero Beach, Florida 10pp.