



United States Department of the Interior

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



February 26, 2014

Allan M. Dodd
District Commander
U.S. Army Corps of Engineers
701 San Marco Boulevard, Room 372
Jacksonville, Florida 32207

Service CPA Code: 2011-CPA-0286
Service Consultation Code: 2011-F-0302-001
Date Received: August 24, 2011
Applicant: Omni Waste of Osceola
Application Number: SAJ-1999-05000 (IP-AWP)
Project: JED Solid Waste
Management Facility
County: Osceola

Dear Colonel Dodd:

The U.S. Army Corps of Engineers (Corps) has received an application to modify a Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service (Service) for the project referenced above. The applicant requests a revision of the existing monitoring plan for the endangered Florida grasshopper sparrow (FGS; *Ammodramus savannarum floridanus*). This letter represents the Service's review of the proposed modification 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.*).

BIOLOGICAL OPINION

Proposed Amendments

The applicant proposes to modify the existing FGS monitoring plan approved in the March 18, 2003, BO for the 2,179-acre Omni Waste Project. In accordance to this BO, the applicant placed 1,089 acres of the Omni Waste property in an on-site conservation easement to the Florida Department of Environmental Protection. As of 2013, the applicant has developed 363 acres and plans to continue expanding the landfill as needed.

The requested revision applies only to a 58-acre parcel projected for expansion in 10 to 15 years. The 2003 BO stipulated FGS surveys will be conducted every year after the issuance of the Corps Permit. To date, survey results of the subject 58-acre parcel have not documented evidence of the FGS.

Based on the absence of the FGS, the poor habitat quality of the unmanaged 58-acre parcel, and the 10 to 15-year projected timeline for project expansion, the applicant requests to reduce the survey frequency. The revised monitoring plan proposes surveying every 5 years, as well as surveying for sparrows during the prime FGS survey period immediately prior to any modification of the subject parcel.

The 58-acre parcel is classified as suboptimal to unsuitable FGS habitat. The pine tree density exceeds one tree per acre, lacks sufficient bare ground, and has overgrown vegetation that exceeds optimal density and height standards. The 58-acre parcel is located on the north side of the project's main entrance road. The project is located on the west side of US-441, about 6 miles south of Holopaw, in Osceola County, Florida (Latitude 28.057196° N and Longitude 81.098649° W).

Consultation History

On March 18, 2003, the Service issued a Biological Opinion (4-1-02-F-2027) for the Omni Waste of Osceola. The applicant submitted a FGS monitoring plan to the Service agreeing to survey for the sparrow on a yearly basis. The applicant conducted FGS monitoring surveys in early June, from 2004 to 2011. The reports and findings of these annual monitoring events were sent the Corps' Jacksonville District Office.

By letter dated November 15, 2011, the Service requested copies of the applicant's FGS monitoring reports. Surveys indicate the subject 58-acre parcel is not occupied by the FGS.

By letter dated April 13, 2012, the Service responded to the proposal to expand the existing 264-acre landfill by an additional 99 acres.

In June 2013, the environmental consultant for the applicant contacted the Service regarding the proposed amendment of the 2003 BO. In the subsequent weeks, the Service received enough information to re-initiate formal consultation on this project.

AMENDMENT TO THE BIOLOGICAL OPINION

In the March 18, 2003, Biological Opinion for the Omni Waste Project, the applicant agreed to monitor the FGS within the project site.

The 2003 BO stipulates the following:

- Monitoring will be designed to document the extent of the FGS population prior to the initial ground clearing or disturbance within areas slated for expansion, should suitable habitat continue to exist as the landfill is being constructed. A monitoring report that complies with the requirements of 50 CFR part 402.14(i)(3) will be submitted to the Corps and Service at the completion of construction.

The amended BO stipulates the following:

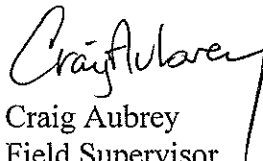
- The applicant will continue to monitor the effect of the project implementation activities on the FGS. Monitoring will consist of surveys conducted every 5 years, including a survey prior to breaking ground at the subject 58-acre parcel. This amendment only modifies the frequency at which FGS surveys will be conducted on the 58-acre parcel slated for development in 10 to 15 years. All other parts of the 2003 Biological Opinion remain the same.

REINITIATION - CLOSING STATEMENT

This concludes reinitiation of formal consultation on the action outlined in the request. As provided in 50 CFR Section 402.16, reinitiation of formal consultation is required when 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 biological 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 biological 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 consultation under section 7 of the Act with the Service for the subject project. Should you have any additional questions or require clarification, please contact Al Begazo at 772-469-4234.

Sincerely yours,



Craig Aubrey
Field Supervisor
South Florida Ecological Services Office

cc: electronic only

Corps, Cocoa, Florida (Andrew Phillips)

FWC, Tallahassee, Florida (FWC-CPS)

Service, Tallahassee, Florida (Jerry Zeiwitz)

Service, Vero Beach, Florida (Mary Peterson, Sandra Sneckenberger)