
MAY 2005

MAINTENANCE DREDGING

**PORT EVERGLADES
BROWARD COUNTY, FLORIDA**

**FINAL ENVIRONMENTAL ASSESSMENT
AND FINDING OF NO SIGNIFICANT IMPACT**

**U.S. Army Corps
of Engineers**
Jacksonville District
South Atlantic Division



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

**MAINTENANCE DREDGING
PORT EVERGLADES
BROWARD COUNTY, FLORIDA**


FINDING OF NO SIGNIFICANT IMPACT

The proposed project is the maintenance dredging of the Port Everglades Federal Navigation Project, Broward County, Florida and placement of the dredged material in the Entrance Channel, in the ODMDS or on John U. Lloyd State Park. I have reviewed the Environmental Assessment (EA) of the proposed action. This Finding incorporates by reference all discussions and conclusions contained in the enclosed EA hereto. Based on the information analyzed in the EA, reflecting pertinent information obtained from other agencies and special interest groups having jurisdiction by law and/or special expertise, I conclude that the proposed action will have no significant impact on the quality of the human environment. Reasons for this conclusion are, in summary:

1. The work will be conducted in accordance with the Biological Opinion issued by the U.S. Fish and Wildlife Service for impacts to manatees and nesting sea turtles, and the Regional Biological Opinion issued by the National Marine Fisheries Service for impacts to sea turtles in the water. The proposed action does not jeopardize the continued existence of any threatened or endangered species or adversely impacts any designated critical habitat.
2. In accordance with the Florida State Historic Preservation Officer, it was determined that the proposed dredging and beach placement will not impact any sites of cultural or historical significance.
3. The proposed work has been determined to be consistent with the Florida Coastal Zone Management Program.
4. Measures to eliminate, reduce, or avoid potential impacts to fish and wildlife resources will be implemented during project construction.
5. Benefits to the public will be the maintenance of the Federal Navigation Project, continued economic stimulus, increased recreational benefits and erosion protection from replacing lost beach area and increased nesting habitat for sea turtles.
6. State water quality standards will be met during construction.

In consideration of the information summarized, I find that the proposed maintenance dredging of the Port Everglades Federal Navigation Project will not significantly affect the human environment and does not require an Environmental Impact Statement. A notice of availability of the signed Finding of No Significant Impact will be sent to Federal, State and Local agencies and the interested public.

28 APR 05
Date


Robert M. Carpenter
Colonel, U.S. Army
District Engineer

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**ENVIRONMENTAL ASSESSMENT
ON
MAINTENANCE DREDGING
PORT EVERGLADES, BROWARD COUNTY, FLORIDA**

1.0 PROJECT PURPOSE AND NEED

1.1 INTRODUCTION

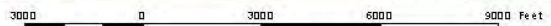
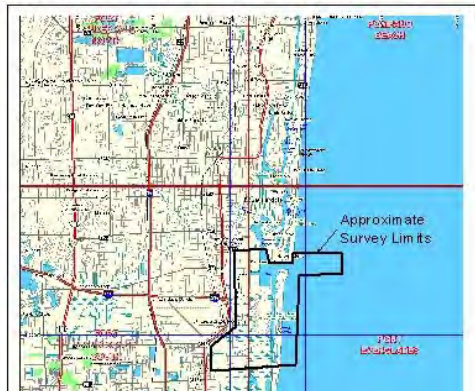
The U.S. Army Corps of Engineers (Corps), Jacksonville District, proposes to continue conducting routine maintenance dredging of the Port Everglades Federal Navigation Project, Broward County, Florida (see Figure 1, Plan View and Location Map). Approximately 100,000 cubic yards of sediment, resulting from shoaling, will be removed from the harbor on a three-year basis or as needed, to maintain the authorized depths of the Federal Navigation Project. Placement of dredged material for the ten-year life of this assessment (the length of time covered in the pending State Water Quality Certificate (WQC)) will be in portions of the entrance channel which are deeper than the required navigation depth, the Environmental Protection Agency (EPA) designated Ocean Dredged Material Disposal Site (ODMDS), and on John U. Lloyd State Park beaches. The project EA is proposed to be valid as long as conditions have not changed appreciably, for at least ten years, as the WQC for the Port Everglades O&M dredging is expected to cover a duration of ten years (R. Williams, FLDEP, pers.comm). The Marine Protection, Research and Sanctuaries Act (MPRSA) Ocean Disposal concurrences from EPA are issued for a three year period. If the WQC is issued for a longer period of time this EA may be considered “valid” for that length of time, or until conditions change so that another NEPA document is necessary to cover impacts associated with maintenance dredging. At a minimum this NEPA document should be re-evaluated after five years to determine whether conditions have changed and new NEPA documentation is needed.

Although the Corps is preparing this Environmental Assessment (EA) to evaluate the effects of maintenance dredging the entire Federal Navigation Project for the next ten-years, recent shoaling in the port has spurred in the need for a maintenance event. As part of its navigation mandate, the Corps conducts annual surveys of the Federal Navigation projects. During the 2004 survey, it was determined that shoals had formed in various locations within Port Everglades and that these shoals have the potential to adversely effect vessel safety and port operations. Shoals have developed in the Main Turning Basin (MTB), Entrance Channel (EC) and in the North Turning Basin (NTB) of the port. Shoaling of the Inner Entrance Channel was addressed in a separate NEPA document completed by the Corps in November 2003 and is addressed in Section 1.5 of this document.

1.2 PROJECT AUTHORITY

Maintenance dredging of Port Everglades Entrance Channel was initially authorized under House Document 357/71/2 (July 1930), as well as subsequent authorizations associated with Port Expansion activities in 1935, 1938, 1946, 1958, 1974 and 1990. A Comprehensive list of these authorizations can be found at the District’s Digital Project Notebook homepage (http://www.saj.usace.army.mil/digitalproject/dpn/sajn_020.htm).

Fig 1 – Location Map and Plan View



1.3 DECISION TO BE MADE

This Environmental Assessment (EA) will evaluate whether to maintain the Federal navigation project at Port Everglades and where to place dredged material during the maintenance activities.

1.4 RELEVANT ISSUES

The following issues were identified as relevant to the proposed action and appropriate for detailed evaluation: (1) water quality degradation, especially in regards to turbidity and sediment contaminants; (2) impacts to endangered and threatened species occurring within the project area (i.e. manatees and sea turtles); (3) alteration of other wildlife resources; (4) potential damage to Essential Fish Habitat which may cause a reduction in standing stocks of certain managed species; (5) impacts to cultural resources; (6) beneficial or adverse effects to recreation; (7) impacts to navigation; (8) socio-economic effects to individuals, families, and businesses harmed by or benefitting by the project, especially in regards to commercial, military and recreational navigation; and (9) impacts to aesthetics.

1.5 PREVIOUS NEPA DOCUMENTATION

Pursuant to the National Environmental Policy Act (NEPA), this EA was prepared by the Corps in order to address all of the current maintenance of the Federal Navigation Project at Port Everglades and placement alternatives. Maintenance dredging of the entrance channel was previously covered in three NEPA documents. Related environmental documents include the following:

Environmental Protection Agency. 2004. Final Environmental Impact Statement (EIS) for Designation of the Palm Beach Harbor Ocean Dredged Material Disposal Site and the Port Everglades Harbor Ocean Dredged Material Disposal Site. Palm Beach and Broward Counties. July 2004.

USACE, 2003. Maintenance Dredging - Port Everglades Entrance Channel, Broward County, Florida. Environmental Assessment. Nov 2003. FONSI signed January 5, 2004.

USACE, 1990. Navigation Study for Port Everglades Harbor, Florida, 10207 Feasibility Report and Environmental Assessment. EA for deepening and widening of 8,000 feet of the SAC and creation of a 750-foot by 900-foot TN; and Port Everglades.

USACE, 1987. Final Environmental Impact Statement, Proposed Expansion Port Everglades, Broward County, Florida. EIS for deepening and widening the SAC, bulkheading Port land, creation of the Turn Notch.

These documents are hereby incorporated by reference.

In addition to the previous NEPA documents, the Corps is currently preparing a Feasibility Study and Environmental Impact Statement for an expansion project at Port Everglades. That document is currently expected to be released in the late spring of 2005. The Corps and EPA recently completed the Final Environmental Impact Statement for the designation of the Port Everglades and Palm Beach Harbor ODMDS. The final rule designating the Port Everglades ODMDS was published in the Federal Register by EPA on January 18, 2005 (70 FR 2808), the Notice of Availability of the Final Environmental Impact Statement for the designation of the

Port Everglades and Palm Beach Harbor ODMDS was published in the Federal Register on August 27, 2004 (69 FR 52668) and amended on September 3, 2004 (69 FR 53916).

Other NEPA documents that cover additional activities taking place in Broward County outside of the Federal Navigation Project boundaries include:

FERC, 2004. Tractebel Calypso Pipeline Project. Final Environmental Impact Statement. Docket #CP01-409-000

FERC, 2003. Ocean Express Pipeline Project. Final Environmental Impact Statement. AES Ocean Express LLC. Docket #CP02-090-001

USACE, 2003. Broward County Shore Protection Project, Segments II and III. Final Environmental Impact Statement, Jacksonville District. June 2003.

USACE, 1996. Coast of Florida Erosion and Storm Effects Study, Region III: Feasibility Report with Draft Environmental Impact Statement.

Additionally, Broward County is in the process of completing a feasibility study of sand-bypassing at the Port Everglades Entrance Channel. This report will be available from the county for review upon completion.

1.6 PERMITS REQUIRED

If the Corps performs the maintenance dredging operations, in accordance with Section 401 of the Clean Water Act (33 USC §1251 et seq), as amended, a Water Quality Certification will be required from the Florida Department of Environmental Protection (FDEP) for the proposed dredging activity. An application for this activity was submitted by the Corps to FDEP on September 12, 2003. A copy of this application is included in Appendix E of this EA.

1.7 METHODOLOGY

This EA will compile information from a variety of sources – the Broward County Shore Protection Project Final Environmental Impact Statement (BCSPP FEIS); the Final EIS for the Designation of the Palm Beach Harbor ODMDS and the Port Everglades Harbor ODMDS; the Draft Feasibility Study and EIS currently in preparation by the Corps addressing the impacts of expansion activities at Port Everglades, as well as previous NEPA documents prepared for maintenance dredging of the Port referenced in section 1.5 of this document. All of these NEPA documents relied on an interdisciplinary team using a systematic approach to analyze the affected area, to estimate the probable environmental effects, and to prepare the documents. This included literature searches, coordination with Federal, State and local resource agencies having expertise in certain areas, and on-site field investigations.

2.0 ALTERNATIVES

2.1 INTRODUCTION

The Alternatives Section is perhaps the most important component of this EA. It describes the no-action alternative, the proposed dredging alternatives, as well as the dredged material placement alternatives. The beneficial and adverse environmental effects of the alternatives are presented in comparative form, providing a clear basis for choice to the decision maker and the

public. A preferred alternative was selected based on the information and analysis presented in the sections on the Affected Environment and Probable Impacts.

2.2 DESCRIPTION OF ALTERNATIVES - DREDGING ALTERNATIVES

2.2.1 NO-ACTION ALTERNATIVE

The Federal Navigation Project at Port Everglades would not be maintained by the Corps of Engineers.

2.2.2 DREDGING ALTERNATIVE

Approximately 100,000 cubic yards of dredged material would be removed from the Federal navigation project every three years, or as conditions warrant.

2.3 DESCRIPTION OF ALTERNATIVES - PLACEMENT ALTERNATIVES

Placement of dredged material would only occur if the Federal Navigation project is maintained.

2.3.1 ENTRANCE CHANNEL PLACEMENT

This alternative would place material in the southern half of the entrance channel between stations 29+00 and 46+00 (per the drawings in appendix D and Figure 5) that is deeper than the authorized depth of 45 feet, to return the material to the littoral system, while not restricting vessel navigation. The Corps reviewed the option of either utilizing the entire channel width or just a portion of the channel. After reviewing current surveys of the channel, it was determined that placement of material in the northern half of the channel would make that portion too shallow for safe navigation of vessels entering the Port, thus only the southern half of the channel was selected for use as a disposal location.

Dredged material being placed in the southern portion of the Entrance Channel between stations 29+00 and 46+00 would be limited to material that is sandy and suitable for beach renourishment, typically coming from the Entrance Channel shoals. Dredging of this material was covered in the Nov 2003 EA recently completed by the Corps and listed in Section 1.5. Silty, clay material would not be placed in the entrance channel.

In addition to the evaluation of effects of dredging this material from the Entrance Channel, this alternative has been previously permitted by the State of Florida Department of Environmental Protection (FDEP) (Permit #0112329-001 - dated August 21, 1998). The original permit issued by FDEP authorized placement between stations 10+00 and 30+00. A subsequent survey of this site identified seagrass and hardbottom resources within this footprint. As a result of these resources, the Corps has chosen to relocate the placement site. Placement of the material will be done with a bottom dump hopper dredge or bottom dump barge. A copy of the permit is included in this EA in Appendix E.

2.3.2 ODMDS PLACEMENT

Placement of the material in the designated ODMDS (Sheet 6 of 7 in Appendix D). Recently, the EPA released a FEIS for the designation of an ODMDS for the Port Everglades and Palm Beach Federal Navigation Projects. This FEIS is available from the Jacksonville District's website at: <http://planning.saj.usace.army.mil/envdocs/PalmBeachandBrowardco/index.html>. Before material can be placed in the ODMDS, it will undergo testing and must pass criteria set forth in the EPA Ocean Dumping Criteria (40 CFR parts 200 through 229). Placement of the material will be done with a bottom dump hopper dredge or bottom dump barge.

2.3.3 JOHN U LLOYD STATE PARK PLACEMENT

Placement of the beach quality material from on John U. Lloyd State Park (JUL) will be in concert with the Segment III of the Broward County Shore Protection Project (BCSPP) between DNR monument markers BRO-R-87 and BRO-T-89 if capacity is available and any environmental concerns specific to placement at the park can be addressed (see Sheet 7 of 7 in Appendix D). A Final EIS for this project was completed in June 2003. The EIS can be accessed from the Internet at

http://planning.saj.usace.army.mil/envdocs/Broward/BC_Shore_Protection_Proj/index.htm.

Material placement would be limited to JUL, unless the FDEP or the non-Federal sponsor requested that the material be placed elsewhere on beaches in the County and provided funding to cover any differences in cost. Placement of dredged material on the beach will normally be with a pumpout from a hopper dredge or a hydraulic dredge.

2.4 PREFERRED ALTERNATIVE

The preferred dredging alternative is to continue to maintain the Port Everglades Federal Navigation Project to the authorized depths and place the material at any of the placement sites based on site availability and dredged material suitability.

2.5 ALTERNATIVES REMOVED FROM DETAILED ANALYSIS

Upland placement was eliminated from detailed analysis as a viable placement alternative because, currently there is not an authorized upland placement site for dredged material in Broward County. However, should an upland alternative become available in the future, the Corps would review that possibility and address NEPA issues for that alternative at that time.

2.6 COMPARISON OF ALTERNATIVES

Table 1 lists alternatives considered and summarizes the major features and consequences of the proposed action and alternatives. See Section 4.0 - Environmental Effects, for a more detailed discussion of impacts of alternatives.

Table 1: Summary of Direct and Indirect Impacts

ALTERNATIVE ENVIRONMENTAL FACTOR	NO-ACTION ALTERNATIVE	DREDGING WITH PLACEMENT IN THE CHANNEL	DREDGING WITH PLACEMENT IN THE ODMDS	DREDGING WITH BEACH PLACEMENT AT JUL
WATER QUALITY	No impact.	Short-term localized increase in turbidity and concentrations of dissolved and particulate constituents within the placement site. Turbidity impacts are expected to be minimal since the source of the material is mostly the beachfront littoral system where the fines content is typically less than ten percent.	Short-term localized increase in turbidity and concentrations of dissolved and particulate constituents within the ODMDS site.	Short-term localized increase in turbidity at the dredge site and in the surf zone along the beach placement areas. Turbidity impacts are expected to be minimal since the source of the material is mostly the beachfront littoral system where the fines content is typically less than 2 percent.
MANATEES	No impact.	Dredging - No impact with implementation of standard protection conditions. Placement - no effect.	Dredging - No impact with implementation of standard protection conditions. Placement - no effect.	No impact with implementation of standard protection conditions. Placement - no effect.
SEA TURTLES	No impact.	Incidental take may occur if a hopper dredge is used. Minor impact to foraging habitat, if turtles are foraging in the entrance channel.	Incidental take may occur if a hopper dredge is used. No effect on nesting or foraging habitat as a result of placement.	Incidental take may occur if a hopper dredge is used. Minor short-term adverse impact on turtle nesting from placing the sand on the beach may occur if placement takes place between Sept - Nov. Long-term benefits due to increased overall available nesting habitat.
WHALES	No impact.	No adverse effects are anticipated	No adverse effects are anticipated	No adverse effects are anticipated.
WILDLIFE RESOURCES (OTHER THAN T&E SPECIES)	No impact.	Minor short-term disturbance.	Minor short-term disturbance.	Minor short-term disturbance.

ALTERNATIVE ENVIRONMENTAL FACTOR	NO-ACTION ALTERNATIVE	DREDGING WITH PLACEMENT IN THE CHANNEL	DREDGING WITH PLACEMENT IN THE ODMS	DREDGING WITH BEACH PLACEMENT AT JUL
ESSENTIAL FISH HABITAT	No impact.	Minor short-term disturbance.	Minor short-term disturbance.	Minor short-term disturbance.
CULTURAL RESOURCES	No impact.	Minor short-term disturbance.	Minor short-term disturbance.	No adverse effects are anticipated.
RECREATION	Moderate long-term impact to recreational boating from loss of navigable capacity of the port. Potential longterm effect if entrance channel continues to shoal at accelerated rate without sand-bypassing.	Moderate long-term benefit to recreational boating from maintaining the channel. Short-term impact to recreational boat traffic from construction vessel congestion.	Moderate long-term benefit to recreational boating from maintaining the channel. Short-term impact to recreational boat traffic from construction vessel congestion.	Moderate long-term benefit to recreational boating from maintaining the channel. Short-term impact to recreational boat traffic from construction vessel congestion. Increase in available beach for recreation.
NAVIGATION (COMMERCIAL & MILITARY)	Major long-term reduction in navigable capacity of the port. Eventual reduction in port efficiency.	Major long-term benefit from maintaining the port. Short-term impact caused by construction vessel congestion	Major long-term benefit from maintaining the port. Short-term impact caused by construction vessel congestion	Major long-term benefit from maintaining the channel. Short-term impact caused by construction vessel congestion.
ECONOMICS	Major long-term impact from loss of commercial port facilities and reduced recreational boating.	Major long-term benefit from maintaining commercial port facilities and recreational boating opportunities.	Major long-term benefit from maintaining commercial port facilities and recreational boating opportunities.	Major long-term benefit from maintaining commercial port facilities and recreational boating opportunities.
AESTHETICS	No impact.	No adverse impacts are anticipated.	No adverse impacts are anticipated.	No adverse impacts are anticipated.

3.0 AFFECTED ENVIRONMENT

3.1 INTRODUCTION

The Affected Environment Section succinctly describes the existing environmental resources of the areas that would be affected if any of the alternatives were implemented. This section describes only those environmental resources that would affect or that would be affected by the alternatives if they were implemented, not the entire existing environment. This section and the description of the "no-action" alternative provide the basic information for determining the environmental impacts of the proposed action and reasonable alternatives.

3.2 GENERAL ENVIRONMENTAL SETTING

3.2.1 AREAS TO BE DREDGED

The Port Everglades Harbor is a major seaport located on the southeast coast of Florida, in the southeastern portion of Broward County. It is located at the adjoining city limits of Hollywood, Dania Beach and Fort Lauderdale, with immediate access to the Atlantic Ocean. The entrance of the Port is approximately 27 nautical miles north of Miami Harbor, Florida and 301 nautical miles south of Jacksonville Harbor, Florida. The Federal deep draft navigation project at Port Everglades services northport, midport and southport facilities. Major cargo includes container, break bulk, dry bulk and liquid bulk. Table 2 provides data on the authorized project features. If changes are made to the Federal Navigation project through a Congressional authorization, those dimensions will override those listed below.

Table 2: Port Everglades Federal Navigation Project Features

Reach or Segment	Nominal Depth (feet MLLW)		Nominal Channel Width (ft)	
	As Authorized	As Maintained	As Authorized	As Maintained
Outer Entrance Channel (OEC)	45, 42	45, 42	500, 450	500, 450
Inner Entrance Channel (IEC)	42	42	450	450
Main Turning Basin (MTB)	42	42	Varies ¹	As Authorized
North Turning Basin (NTB)	31	31	Varies ²	As Authorized
South Turning Basin (STB)	31, 37, 36	34, 36, 37	Varies ³	As Authorized
Southport Access Channel (SAC)	42	42	400	400
Turning Notch (TN)	42	42	750 x 1,000	750 x 1,000

3.2.2 - HISTORICAL MAINTENANCE DREDGING AT PORT EVERGLADES

The Corps has records of maintenance events for Port Everglades dating to 1953. Dredged material was often disposed of offshore in “Interim Offshore Disposal Areas” marked on NOAA nautical charts of the waters offshore of the port. Some of the material during the 1961 and 1964 new work was side-cast to the north of the channel forming an “island” of material. This island has subsided due to wave exposure and has created a shoal of rock and rubble material, running parallel to the Entrance Channel. This “island” can also be seen in Figure 2. Maintenance events were also conducted in conjunction with new work in the port. Based on Table #3, the average amount of maintenance material removed during maintenance only events is 99,124 cy with an estimated maintenance interval of 3-5 years. The Corps has calculated an average annual shoaling rate at Port Everglades of 30,000 cu yd./yr. However, a more detailed analysis by Broward County as part of a sand-bypassing feasibility study, showed an average shoaling rate

¹Irregular shaped basin that varies in width along the east side, is 2,600 feet along the west side, 800 feet along the north side and 1,100 feet along the south side.

²A turning basin extension 1,200 feet to the north with a depth of 31 feet and east-west dimension tapering for 800 to 500 ft.

³A turning basin to the south with a depth of 31 feet and measuring about 1,100 feet south-north and 1,100 feet east-west with a channel inside along the westerly edge varying in depth from 37 to 36 feet and narrowing in width from 300 feet to 150 feet over a distance of about 1,000 feet.

on the north side of the Entrance Channel of up to 20,000 cu yds. per year as of 2001. More recent observation suggest that this rate may be increasing (Chris Creed - pers.comm 2004). If Broward County implements sand-bypassing at the Entrance Channel, the volume of material shoaling in the channel is expected to decrease, and the frequency of maintenance activities in the Entrance Channel is also expected to decrease. However, if sand-bypassing is not implemented by the County, and the rate of shoaling is in fact increasing, then maintenance activities at the Entrance Channel may become more frequent.

Table #3 - Maintenance Dredging Events at Port Everglades

Year	Quantity	Type	Placement	Contractor
1953	83,000	MD	Ocean	Government
1960	142,645	MD	Ocean	Norfolk
1960	26,345	MD	Ocean	Government
1961	3,013,124	NW	Ocean	Hendry
1964	1,539,569	NW	Ocean	Hendry
1978	144,509	MD	Ocean	Government
1979	2,221,000	NW	Ocean	Western
1981	2,015,434	NW	Upland	Bultem
1984	32,237	NW	Upland	GLDD

(MD = Maintenance only; NW = New Work (Construction and Maintenance))

3.2.3 - MITIGATION FOR MAINTENANCE EVENTS

The Corps does not conduct mitigation for maintenance activities on previously constructed Federal Projects, based on the sovereignty given to the Corps by the U.S. Congress to maintain navigation within Federal navigation projects. Projects constructed after the implementation of the NEPA have undergone coordination with Federal, State and Local environmental resource and permitting agencies. This coordination typically resulted in mitigation for any unavoidable impacts associated with construction of the Federal navigation project.

3.3 WATER QUALITY

3.3.1 WATER USE CLASSIFICATION

Waters within the proposed dredging area have been designated by the State of Florida as Class III Waters, suitable for recreation as well as propagation and maintenance of a healthy and well-balanced population of fish and wildlife. In addition to this classification, the waters within the JUL (specifically Whiskey Creek) have also been designated by the state as Outstanding Florida Waters. According to the FDEP, “the intent of an Outstanding Florida Water designation is to maintain ambient water quality, even if these designations are more protective than those required for the classification of the individual water body.”

3.3.2 WATER COLUMN ANALYSIS

Water which passes through the Port is conveyed via the New River System to the north, the Atlantic Intracoastal Waterway (AIWW) and the Dania Cutoff Canal, to the south. The New River and Dania Cutoff Canal are both used to move high levels of fresh water from the Everglades to the AIWW and out to the Atlantic Ocean east of Broward County. In addition, there are storm water collection systems both within the Port and in areas west and north of the Port which discharge into the Port. This water then flows out of the Entrance Channel on outgoing tides to the Atlantic Ocean.

Monitoring data indicate that water quality varies on a seasonal basis, and the physical parameters are influenced by freshwater run-off normally associated with the summer months.

No changes in salinity or flushing actions due to the removal of shoal material from within the Port or the entrance channel are expected to occur. Additionally, no changes in water quality of receiving waters, estuarine habitats and species located north or south of the Port are expected to occur.

3.3.3 SEDIMENT ANALYSIS

Types of sediments shoaling within Port Everglades vary by location. Sediments in inside the port are typically deemed “non-beach quality” in other words they may contain higher levels of clay and silt material (fines) than the State of Florida’s beach placement criteria⁴ (62B-41.005(15) FAC) allow. These materials would be analyzed to see if they meet the chemical requirements to be placed in the proposed ODMDS as required by EPA and MPRSA. The Port does not handle fertilizers or pesticides as a bulk cargo and it is felt that any minor presence of these compounds may be associated with the urban run-off surrounding the Port. Any material dredged from within the port over the ten-year life of this EA will be tested for heavy metals and toxins before dredging to determine where the material should be placed. If the material does not meet the criteria for ocean disposal set forth by EPA, then the material would be placed in an upland site. Since Port Everglades currently does not have a federally approved upland site, the material could not be dredged until such a site became available.

Historically, shoal material encountered in the entrance channel is mostly poorly graded carbonate sand with shell. It consistently meets the criteria for beach placement as it contains less than 10% fines. Core borings collected in 2003 for the Entrance Channel dredging analyzed in the “Maintenance Dredging of the Port Everglades Entrance Channel Environmental Assessment completed with a Finding of No Significant Impact in November 2003”, found beach quality sand that appears to be migrating around the north jetty and spilling into the entrance channel. The drill logs for the core borings collected for the November 2003 EA can be found in Appendix D of that document.

3.4 ENDANGERED, THREATENED AND PROTECTED SPECIES

3.4.1 MANATEES

The West Indian manatee (*Trichechus manatus*) has been listed as a protected mammal in Florida since 1893. The manatee is also federally protected under the Marine Mammal Protection Act of 1972 (MMPA) as a depleted species. The manatee was listed as an endangered species throughout its range in 1967 (32 FR 4061) and received federal protection with the passage of the Endangered Species Act of 1973 (ESA). Although critical habitat was designated in 1976 for the Florida subspecies (*Trichechus manatus latirostris*) (50 CFR 19.95(a)), there is no Federally designated critical habitat in the project area. Florida provided further protection in 1978 by passing the Florida Marine Sanctuary Act designating the state as a manatee sanctuary and providing signage and speed zones in Florida’s waterways.

Within Broward County there exists both permanent and transient populations of manatees. Surveys show that during the winter months when temperatures drop, manatees from north

⁴ These regulations can be found at:
<http://www.dep.state.fl.us/legal/legaldocuments/rules/beach/62b-41.pdf>

Florida and Miami-Dade County will migrate to the Florida Power and Light (FP&L) power plant at the Port (Deutsch 2000). During cold weather as many as 234 manatees have been recorded at the FP&L power plant at one time (Mezich 2001). During the summer months when the water warms, manatees return to the counties to the north and south to forage and reproduce, however, telemetry and aerial surveys confirm manatees are present within Broward County all year (Deutsch 2000 and Mezich 2001). Manatees reside and feed mainly in the estuarine areas and around inlets, and are only occasionally observed in the open ocean. No significant foraging habitat is known to exist in the areas around the project sites in Broward County (USACE, 2002), nor have West Indian manatees been known to congregate in the nearshore environments within Broward County (USACE, 1996).

3.4.2 SEA TURTLES

Broward County is within the normal nesting areas of three species of sea turtles: loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), and leatherback sea turtle (*Dermochelys coriacea*). Additionally, two of the seven hawksbill turtle (*Eretmochelys imbricata*) nests laid in the State of Florida between the years 1979 and 1998 were in Broward County: one nest in 1994, and one in 1997 (Florida Marine Research Institute, 1999). The loggerhead is listed as a threatened species, while all other sea turtles are listed as endangered under the ESA. The nesting season for all species of sea turtles, as defined by the Florida Fish and Wildlife Conservation Commission, is between March 1 and October 31 in Broward County.

3.4.2.1 NESTING HABITAT

Overall, 2,425 nests were recorded in 2003 over the 24-mile beach from the Palm Beach County/Broward Line south to the Broward County/Dade County Line. Total nests recorded for the previous eight nesting seasons (2002, 2001, 2000, 1999, 1998, 1997, 1996, 1995) were 2,073; 2,385; 2,942; 2,620; 2,857; 2,288; 2,810; and 2,634, respectively. The distribution of nests among species in 2003 was 2,335 loggerhead nests, 78 green sea turtle nests, and 12 leatherback nests. The distribution of nests among species in 2002 was 2,070 loggerhead nests, 216 green sea turtle nests, and 18 leatherback nests. (Lou Fisher, DPEP, pers.comm 2004).

The Florida statewide nesting database provides the nesting results of Florida's surveyed beaches for the years 1979 through 2002. A total of 1,216,471 loggerhead nests (an average of 50,686 per nesting season); 42,241 green sea turtle nests (an average of 1,760 per nesting season); 5,160 leatherback nests (an average of 215 per nesting season); and 7 hawksbill nests were documented on Florida beaches between 1979 and 2002.

Due to the heavily developed nature of the Broward County coastline, the relative location of Highway A-1-A to the beach, and extensive beach front lighting, all of which have the potential to negatively impact nesting sea turtles and their hatchlings, Broward County has relocated all discovered nests at Pompano Beach, Deerfield Beach, Hollywood-Hallandale, and Fort Lauderdale since the inception of its sea turtle conservation program in 1978 (Burney and Margolis, 1998). In 1998, hatching success was at its lowest level since the nest relocation program was initiated. However, loggerhead-hatching success was slightly higher in relocated nests than *in situ* nests, lending credence to the hypothesis those environmental factors, such as the unusually high early summer temperatures in 1998, negatively affected early loggerhead nests (Sterghos, 1998).

3.4.3 DOLPHINS AND WHALES

Rare, threatened, or endangered whale species that are infrequent visitors to the coastal waters off Broward County during their migration patterns include the finback whale (*Balaenoptera physalus*); humpback whale (*Megaptera novaeangliae*); northern right whale (*Eubalaena glacialis*); sei whale (*Balaenoptera borealis*); and the sperm whale (*Physeter macrocephalus catodon*) (USACE, 1996). A total of 21 stocks of marine mammals have been reported offshore of the project area (NMFS, 2002).

The bottlenose dolphin (*Tursiops truncatus*), is known to inhabit inshore and offshore waters in south Florida. The Corps expects to find bottlenose dolphins in the activity area as there are resident populations living in Biscayne Bay to the south and the Indian River Lagoon to the north, so it can be expected that dolphins could use the AIWW as a travel corridor between these two bay systems and enter the Port from offshore via the Port Everglades Inlet. A few dolphins have been documented in the Port boundaries over the last five years by researchers conducting a bottlenose dolphin photo-identification study in the port, as well as outside of the entrance channel (Ed Keith, Nova University, pers. comm., 2003.).

There is not currently a stock assessment available from NMFS concerning the status of bottlenose dolphins in the inshore and nearshore waters off of south Florida (Emily Menashes, NMFS, pers.comm 2002). Additionally, no status reviews or published reports of status of dolphins residing in or near Port Everglades have been published (Lance Garrison, pers.comm 2003). The stocks of bottlenose dolphins that reside closest to the project area, that have a completed stock assessment report available for review is the western North Atlantic coastal stock and offshore stock of bottlenose dolphins. The assessment for these groups was updated in Jan 2002 (NMFS, 2002). The western North Atlantic coastal stock of bottlenose dolphins is considered "depleted" under the MMPA and is listed as a strategic stock.

3.4.4 SEAGRASS

While Johnson's seagrass (*Halophila johnsonii*) and paddlegrass (*Halophila decipiens*) have been documented in Broward county and in the vicinity of the Port, they have not been documented in the Port Everglades Federal Navigation Project channels, or in any of the proposed disposal areas, with the exception of the paddlegrass bed in the OEC previously discussed in section 2.3.1 and denoted in Figures 4 and 5.

3.5 WILDLIFE RESOURCES OTHER THAN ENDANGERED, THREATENED AND PROTECTED SPECIES

3.5.1 BEACH AND DUNE HABITAT

Very few birds utilize the beach and dunes in the project area due to intense coastal development. Several species of protected birds have been observed at JUL, including the Southeastern American Kestrel (*Falco sparverius paulus*), Eastern brown pelican (*Pelecanus occidentalis*), least tern (*Sterna antillarum*), little blue heron (*Egretta caerulea*), snowy egret (*Egretta thula*), tri-colored heron (*Egretta tricolor*), Roseate spoonbill (*Ajaia ajaja*), and osprey (*Pandion haliaetus carolinensis*) (Coastal Technology Corporation, 1994; Florida Game and Fresh Water Fish Commission, 1991).

Based upon database reports of the Florida Fish and Wildlife Conservation Commission (FFWCC), there are over 80 species of birds listed in the Federal Migratory Bird Treaty Act that have been recorded as inhabiting the southeast Florida coastline (Palm Beach, Broward, and

Dade counties) between the surf zone and densely vegetated forest of the back dune for at least part of the year (USACE, 1996). However, very few species utilize the beach and dune areas in this area due to intense coastal development. Sanderlings (*Calidris alba*) and ruddy turnstones (*Arenaria interpres*) are generally the only wintering species that are commonly observed foraging and resting on the beaches along Broward County. Royal terns (*Sterna maxima*), ring-billed gulls (*Larus delawarensis*), laughing gulls (*Larus atricilla*) and herring gulls (*Larus argentatus*) also winter along the southeast Florida coastline and are generally observed foraging and resting near fishing piers and on beaches adjacent to piers (USACE, 1996).

The beaches of Broward County are typical of southeast Florida beaches that receive the full impact of wind and wave action. The diversity of species that can survive in this environment is low, but the population density of the few resident species that are specialized to survive in this high-energy environment is usually very high. The upper portion of the beach, or subterrestrial fringe, is dominated by talitrid amphipods and ghost crab (*Ocypode quadrata*). In the midlittoral zone (beach face of the foreshore), polychaetes, isopods, and haustoriid amphipods are the dominant organisms. In the surf zone, coquina clams (*Donax* spp.) and mole crabs (*Emerita talpoida*) typically dominate the beach fauna (Spring, 1981; Nelson, 1985; and USFWS, 1997).

3.5.2 INLET COMMUNITIES

The area of vegetated estuarine wetlands surrounding Port Everglades Inlet is also limited due to the extensive development of the Port and adjacent urban areas, absence of stable substrate, and excessive water depth

Corals (*Siderastrea* spp., *Porites* sp., *Montastrea* sp., *Oculina* sp., and *Leptogorgia setacea*) and sponges (*Cliona* sp. and *Spheciospongia vesparium*) are sparsely distributed in some inlets in southeast Florida. Species commonly observed in association with jetty structures include fireworm (*Hermodice carunculata*), Cuban stone crab (*Menippe nodifrons*), flat crab (*Plagusia depressa*); sponges (*Haliclona* sp.), colonial anemone (*Zoanthus sociatus* and *Palythoa variabilis*), hydroids, and the octocoral, *Telesto riisei*. (CPE, 1992).

The shallow unvegetated communities of the AIWW and basins associated with Port Everglades have been extensively surveyed in relation to monitoring of past maintenance dredging within the port area. This area consists of softbottom benthic communities interspersed with rubble left from previous dredging activities. Messing and Dodge (1997) and Rudolph (1986) have identified as many as 370 species of invertebrates within the shallow water benthic community. The most consistent fauna within these communities consist of several taxa of polychaete worms, oligochaetes, mollusks, sipunculans, peracarid crustaceans, platyhelminthes, and nemertina. All of these studies were conducted in shallower areas adjacent to the existing channel or turning basin, and reflect a more diverse and abundant benthic community than likely occurs in the deeper federal channel or waterways of the Port.

3.5.3 NEARSHORE HARDBOTTOM COMMUNITIES

The nearshore hardbottom communities typically occur in 0 to 10 feet of water and exist in a physically stressed environment. This hardbottom area is part of the Miami Oolite Formation of Broward and Dade Counties (Hoffmeister et al. 1967). Hardbottom areas in Broward County run inside the nearshore reef tract, and are exposed where wave action has exposed the oolite formations. These hardbottom areas are comprised of exposed rock with a fine covering of sand. These oolitic limestone formations are covered with communities dominated by algae and

sponges with interspersed gorgonians and hard corals. Nearshore hardbottom areas offshore of JUL were characterized using multi-spectral image analysis classification. The resulting classification is shown in Figure 3. Ground truthing of these nearshore hardbottom areas was performed on May 16-17, 2001 as part of the Port Everglades Feasibility Study.

Seaward of the nearshore hardbottom area there are three separate parallel reef tracts. The first reef occurs from approximately 100 to 2000 feet from shore; the second reef is located 3,000 to 6,000 feet offshore; and the third reef is approximately 8,000 feet or more offshore (USACE 1996). There is an extensive sand area located between the second and third reef lines (USACE 1996). The area between the first and second reef lines is characterized by small isolated hermatypic coral heads and interspersed coral rubble, with areas of open sand.

3.5.5 ENTRANCE CHANNEL HARDBOTTOM COMMUNITIES IN PROPOSED DISPOSAL AREA

The Coast of Florida Study (USACE 1996) maps show reef resources located within the entrance channel and adjacent areas. Transects swum by divers from Broward County DPEP Marine Resources Division indicate that no reef is located in the channel in this area, rather the area consists of scattered hardbottom consisting of rock outcroppings (Broward County Shore Protection Project Graphic Information Systems Database, 2001). A thorough mapping of the marine resources within the Entrance Channel and the surrounding area was conducted on May 16-17, 2001 as part of the Port Everglades Feasibility Study to clearly define the type and quality of habitat present and will be used to characterize the environment for the purposes of this EA (Figure 4).

Based on the integrated video mapping survey conducted in May 2001, marine resources in the study area were reclassified and a resource mosaic prepared. Resources within the entire length of the OEC included sand, low-relief reef, high relief reef, scattered rock/rubble, and patchy sparse paddlegrass (*Halophila decipiens*) (Figure 5). The area of low-relief hardbottom in water greater than 42 feet is a viable community with both gorgonians and hard corals present. This habitat is not of the same quality as areas of hardbottom outside of the channel due to the disturbed nature of the area. This area of low-relief hardbottom is rock exposed from prior dredging events and re-colonized after dredging. This community is comprised mostly of fast colonizing species such as sponges (e.g. *Ircinia* sp., *Niphates* sp., *Cliona* sp., and *Iotrochota* sp.) and gorgonians (e.g. *Eunicea* sp., *Plexaura* sp. and *Pseudopterogorgia* sp) and these communities can be expected to colonize these areas after any future dredging events.

The proposed disposal site between stations 29+00 and 46+00 is characterized by a scattered rock-rubble habitat (Sheet 1 of 7, Appendix D; Figure 5).

3.5.6 FISHES - NEARSHORE COMMUNITY

The inshore surf zone fish community consists mainly of small species or juveniles (Modde, 1980). A relatively few species typically dominate the surf zone area (Modde and Ross, 1981; Peters and Nelson, 1987). Common surf zone fish include Atlantic threadfin herring (*Opisthonema oglinum*); blue runner (*Caranx crysos*); spotfin mojarra (*Eucinostomus argenteus*); southern stingray (*Dasyatis americana*); greater barracuda (*Sphyraena barracuda*); yellow jack (*Caranx bartholomaei*) and the ocean triggerfish (*Canthidermis sufflamen*); none of which are of local commercial value (USACE, 1998).

Fig 3 - Nearshore Marine Resource Cover Map

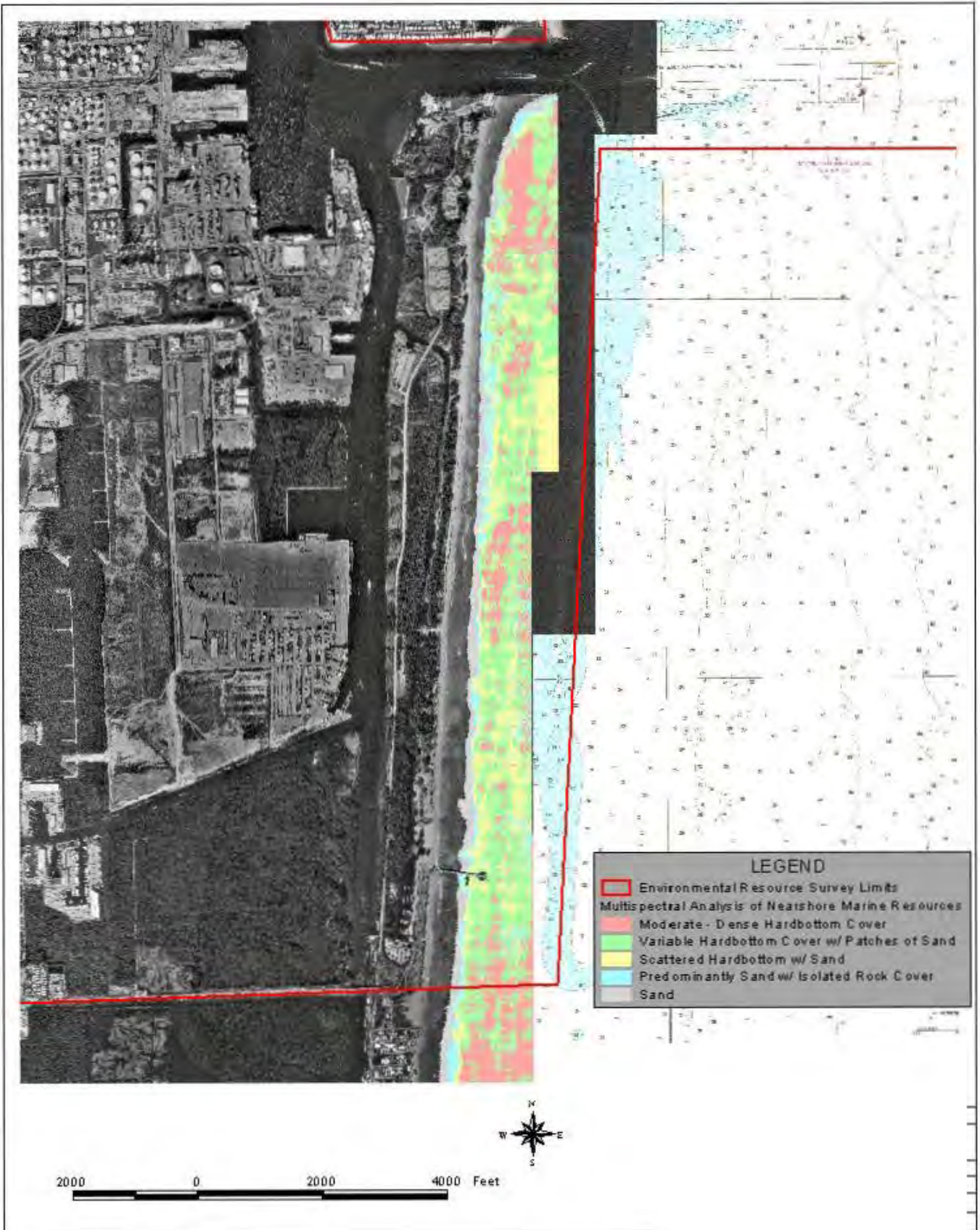
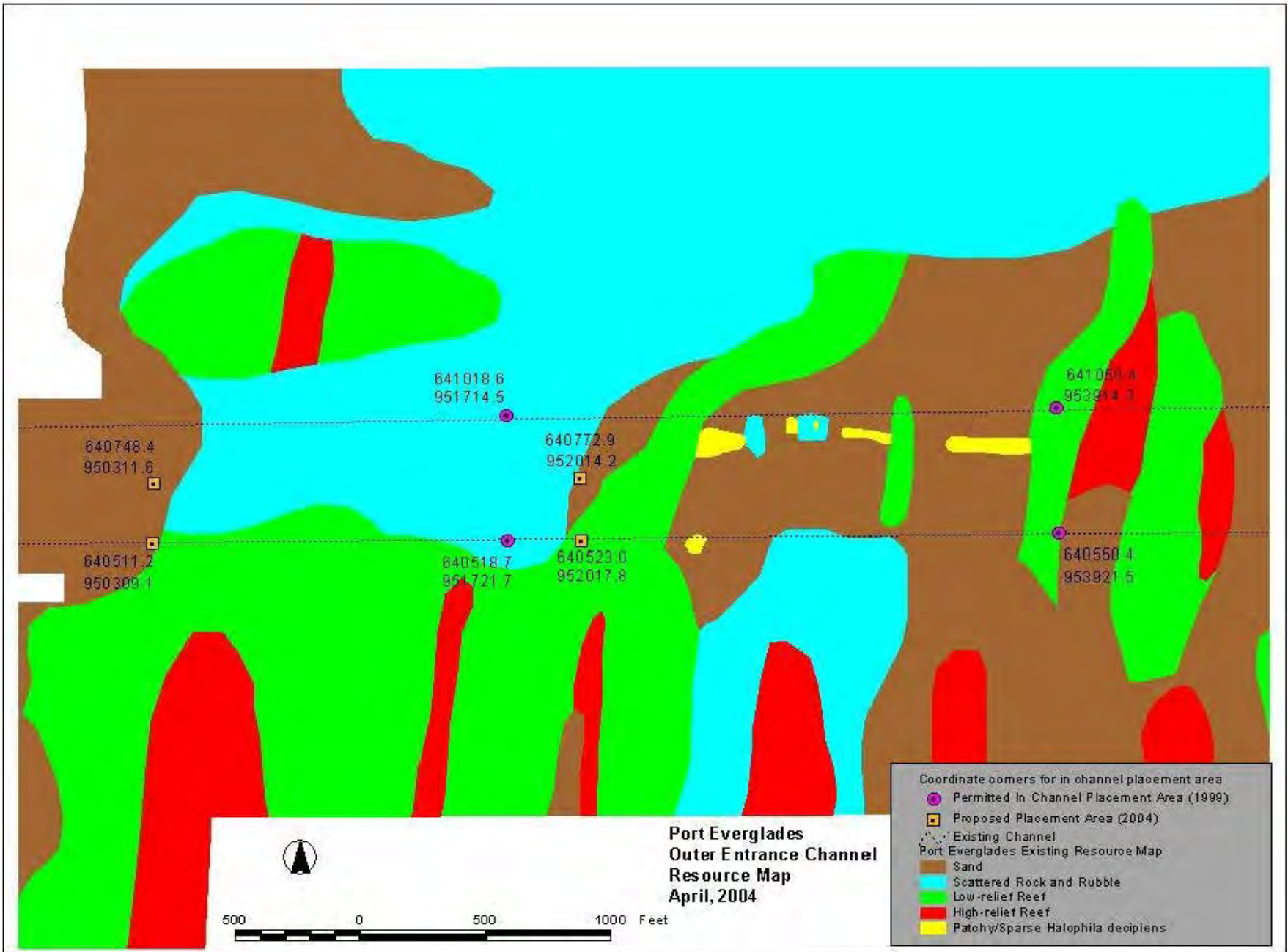


Fig 4 – Hardbottom and Reef Habitat Distribution



Figure 5 – Entrance Channel Disposal Site



A mixture of coastal pelagic, surf zone, and reef fishes are attracted to the shelter and food source provided by the nearshore hardbottom along southeast Florida (USACE, 1996). Coastal pelagic species observed are primarily migratory species that include Spanish mackerel, *Scomberomorus maculatus*; bluefish, *Pomatomus saltatrix*; mullets, *Mugil* spp.; and jacks, *Caranx* spp. Only Spanish mackerel and mullet are of commercial value (USACE, 1996). Typical surf zone fishes observed in association with the rock outcrops of southeast Florida include Atlantic croaker, *Micropogonias undulatus*; pompano, *Trachinotus carolinus*; jacks, *Caranx* spp.; snook, *Centropomus undecimalis*; anchovies, *Anchoa* spp.; and herrings, *Clupea* spp. (USACE, 1996). Common snook (*C. undecimalis*) is listed as a species of special concern by the State of Florida. These species are not confined to the nearshore hardbottom areas and can be found along the sandy periphery of the rocks in the nearshore zone (Herrema, 1974; Futch and Dwinnel, 1977; Gilmore, 1977; Gilmore et al., 1981). In contrast to surf zone fishes, reef fishes are always associated with some form of natural or artificial bottom structure. The offshore reefs support the largest populations of reef fish. Reef species often observed along the nearshore rock outcrops include grunts, snappers, groupers, wrasses, damselfish, blennies, gobies, angelfishes, and parrot fishes.

Detailed surveys of nearshore fish abundance and densities were conducted as part of the BCSSP and details of those surveys can be located in Section 3.5.5.1 and 3.5.5.2 of that FEIS.

3.6 ESSENTIAL FISH HABITAT DESCRIPTION

This section of the EA addresses the May 3, 1999 finding between NMFS and COE describing EFH in the project area that may be adversely affected by the proposed project.

3.6.1 NEARSHORE (BEACH AND IN CHANNEL DISPOSAL OPTIONS)

The South Atlantic Fisheries Management Council (SAFMC) has designated nearshore hardbottom areas within the study area as Essential Fish Habitat (EFH). The nearshore bottom of southeastern Florida has also been designated as EFH-Habitat Areas of Particular Concern (HAPC) (SAFMC 1998). Managed species that commonly inhabit the study area include pink shrimp (*Penaeus duorarum*), and spiny lobster (*Panularis argus*). These shellfish utilize both the inshore habitats within the study area. Members of the 73 species snapper-grouper complex that commonly use the inshore habitats for part of their life cycle include blue stripe grunts (*Haemulon sciurus*), French grunts (*Haemulon flavolineatum*), mahogany snapper (*Lutjanus mahogoni*), yellowtail snapper (*Ocyurus chysurus*), and red grouper (*Epinephelus morio*). These species utilize the inshore habitats as juveniles and sub-adults and as adults utilize the hardbottom and reef communities offshore. In the offshore habitats, the number of species within the snapper-grouper complex that may be encountered increases. Other species of the snapper-grouper complex commonly seen offshore in the study area include gray triggerfish (*Balistes capriscus*) and hogfish (*Lachnolaimus maximus*). Coastal migratory pelagic species also commonly utilize the offshore area adjacent to the study area. In particular, the king mackerel (*Scomberomorus cavalla*) and the Spanish mackerel (*Scomberomorus maculatus*) are the most common. As many as 60 species of corals can occur off the coast of Florida (SAFMC 1998) and all of these fall under the protection of management plans.

3.6.2 OFFSHORE (ODMDS DISPOSAL OPTION)

The SAFMC (1998) has designated the following as EFH near to the ODMDS location: water column; Artificial/Man-made reefs; Sargassum and Live/Hardbottoms. All of these habitats are

described in detail in section 3.6 and Appendix I of the FEIS for the Designation of the Port Everglades and Palm Beach ODMDS (EPA, 2004). Of the four designated EFH types, water column and live/hardbottoms habitats are found near the ODMDS. A list of managed species with designated EFH is located in table 1 of the EFH Assessment found in Appendix I of the FEIS for Designation of the ODMDS and is hereby incorporated by reference. Consultation with NMFS on impacts to EFH by designation of the ODMDS at Port Everglades was concluded on October 20, 2004 (Chris McArthur, EPA, pers.comm.).

3.6.2.1 WATER COLUMN

The marine water column is defined as the open water (ocean) environment. It extends vertically from the ocean bottom to the water surface. The water column provides habitat for phytoplankton to carry out the processes of primary productivity. Zooplankton also utilize the water column for habitat thus creating the foundation of the ocean food web and ecosystem. Some benthic invertebrates filter the water column to collect food particles that are suspended in the water. Higher vertebrates (fishes, marine mammals and sea turtles) use the water column for foraging, migration and breeding.

3.6.2.2 HARDBOTTOM/LIVE BOTTOM

Areas of hardbottom are scattered throughout the continental shelf of the southeastern United States. These areas have been termed “live bottoms” because they generally support a diversity of sessile invertebrates such as corals and sponges. Because of their biological and physical complexity, live bottom habitats attract both commercial and recreational fish species.

From West Palm Beach to the Florida Keys, there are generally three separate series of reefs or hard bottoms. Typically, there is a sand and rubble zone between the first and second hard bottom areas and more abundant sand pockets between the second and third hard bottom areas. The biological communities in and adjacent to hardbottom areas are relatively consistent, although exact species composition may vary from site to site based on physical parameters such as distance from shore and hardground profile. Section 3.6 and Appendix I (specifically Section 2.3.7) of the FEIS for ODMDS designation provides an in depth discussion of hardbottoms within and near the ODMDS site (Appendix I - EPA, 2004).

3.7 CULTURAL RESOURCES

In accordance with the recommendations of the State Historic Preservation Officer, the proposed dredging and disposal areas were surveyed for underwater historical properties using a magnetometer for the Broward County Shore protection project, the pending Port Everglades Feasibility Study, and the Port Everglades and Palm Beach ODMDS. All three studies were granted concurrence from Florida State Historic Preservation Officer. Copies of the concurrence documents are located in Appendix C of this EA. The surveys conducted for each of these consultations is available for review at the Jacksonville District offices.

3.8 RECREATION

The coastal waters of Broward county are used for a variety of recreational activities including swimming, fishing, water skiing, sailing, power boating, surfing, skin and SCUBA diving. Recreational boaters and divers use the Port Everglades primarily for accessing the offshore coral reefs and deep waters off of the county. In addition to the commercial port facilities, there are several large marinas to the north and south of the Port where pleasure craft of various types and sizes are moored. All of the beaches in the area support a wide variety of recreational activities such as surf fishing, swimming, and sun bathing.

3.9 NAVIGATION (COMMERCIAL & MILITARY)

Port Everglades is the second largest port facility on Florida's Atlantic coast. More than 5,400 ships call at Port Everglades in a year forming the basis of a diverse maritime operation that includes a thriving cruise industry, containerized cargo, a major petroleum storage and distribution hub and South Florida's primary bulk cargo depot (Broward County, 2003).

Port Everglades has long been a favorite liberty port of call for U.S. Naval vessels. The port is a site for official ceremonies and a location for operational exercises in conjunction with the port-located U.S. Navy's South Florida Testing Facility. The port's deep harbor -- the only commercial port south of Norfolk, VA, that can handle aircraft carriers at its docks make it an ideal stop for vessels operating in Atlantic and Caribbean waters.

3.10 ECONOMICS

Maintenance dredging of Port Everglades Navigation Project is necessary to allow deep-draft vessels continued safe access to and within the port. The port, in turn, provides employment and also produces income for the local community through the purchase of goods and materials. Maintenance dredging maintains safe navigation conditions for commercial fishermen, commercial dive boat operators and recreational boating enthusiasts as well. Boating opportunities and maintained beaches offer the local tourism industry attractions for generating revenue.

3.11 AESTHETICS

JUL is enjoyed by thousands of visitors every year, and commercial and recreational fisherman and divers that access the offshore coral reefs utilize the port channels to transit from local marinas.

4.0 ENVIRONMENTAL EFFECTS

4.1 INTRODUCTION

This section describes how the implementation of each alternative would affect the environmental resources listed in Section 3.0. A summary of these impacts can be found in Table 1 of Section 2.0. The following anticipated changes to the existing environment include direct, indirect, and cumulative effects.

4.2 WATER QUALITY

4.2.1 NO-ACTION ALTERNATIVE

There will be no impact to water quality if the Corps does not maintain the Federal Navigation project.

4.2.2 DREDGING ALTERNATIVE

The only anticipated change in water quality at the proposed dredge site will be a temporary increase in turbidity. According to the state of Florida's water quality standards, turbidity levels during dredging are not to exceed 29 nephelometric turbidity units (NTUs) above background levels within a 150-meter mixing zone. In order to comply with this standard, turbidity will be monitored during the proposed dredge work. If at any time the turbidity standard is exceeded, those activities causing the violation will cease.

4.2.3 ENTRANCE CHANNEL PLACEMENT

The only anticipated change in water quality at the proposed dredge site will be a temporary increase in turbidity. According to the state of Florida's water quality standards, turbidity levels during dredging are not to exceed 29 nephelometric turbidity units (NTUs) above background levels within a 150-meter mixing zone. In order to comply with this standard, turbidity will be monitored during the proposed disposal work. If at any time the turbidity standard is exceeded, those activities causing the violation will cease.

4.2.4 ODMDS PLACEMENT

The disposal of dredged material is not expected to significantly degrade water quality within disposal sites. The disposal will locally and temporarily increase water column turbidity and concentrations of dissolved and particulate constituents. A detailed discussion of the effects of disposal of material from Port Everglades are discussed in Section 4.0 of the FEIS for the Designation of the Palm Beach Harbor and Port Everglades Harbor ODMDS and are hereby incorporated by reference (EPA 2004).

4.2.5 JOHN U LLOYD STATE PARK PLACEMENT

The effects of disposal at JUL, including the effects on water quality, are expected to be minor and short term, and are detailed in two previous NEPA documents completed by the Jacksonville District and are hereby incorporated by reference: USACE, 2003, Broward County Shore Protection Project, Segments II and III. Final Environmental Impact Statement, Jacksonville District. June 2003; and USACE, 2003, Maintenance Dredging - Port Everglades Entrance Channel, Broward County, Florida. Environmental Assessment. Nov 2003. Both of these documents can be located on the Jacksonville District environmental documents website under "Broward County" (<http://planning.saj.usace.army.mil/envdocs/envdocsb.htm#Broward-County>).

4.3 THREATENED, ENDANGERED AND PROTECTED SPECIES

4.3.1 NO-ACTION ALTERNATIVE

There will be no impact to threatened and endangered species if the Corps does not maintain Port Everglades.

4.3.2 DREDGING ALTERNATIVE

4.3.2.1 MANATEES

Coordination with the U.S. Fish and Wildlife Service (USFWS) was initiated April 14, 2004 regarding possible impacts to the manatee caused by the proposed project (see Appendix C). The Corps determined that the project is not likely to adversely affect the manatee because the following standard protection measures will be implemented to minimize potential impacts to manatees:

- (1) The contractor will instruct all personnel associated with the construction of the project about the presence of manatees in the area and the need to avoid collisions with manatees. All construction personnel shall be responsible for observing water-related activities for the presence of manatees and shall implement appropriate precautions to ensure the protection of manatees.
- (2) All construction personnel shall be advised that there are civil and criminal penalties for harming, harassing or killing manatees, which are protected under the Marine Mammals Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Sanctuary Act. The contractor shall be held responsible for any manatee harmed, harassed, or killed as a result of the construction of the project.
- (3) Prior to the commencement of construction, the construction contractor shall construct and install at least two temporary signs concerning manatees. These signs shall read "Caution: Manatee Habitat. Idle Speed is required if operating a Vessel in the Construction Area" and "Caution: Manatee Habitat. Equipment must be Shutdown Immediately if a Manatee Comes Within 50 Feet of Operation".
- (4) All vessels associated with the project will be required to operate at "no wake" speeds at all times while in waters where the draft of the vessel provides less than four feet of clearance from the bottom. All vessels shall follow routes of deep water whenever possible.
- (5) If a manatee is sighted within a hundred yards of the construction area, appropriate safeguards will be taken, including suspension of construction activities, if necessary, to avoid injury to manatees. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee.
- (6) The contractor shall maintain a log detailing sightings, collisions, or injuries to manatees should they occur during the contract. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol at 1-800-DIAL-FMP (1-800-342-5367) and USFWS in Vero Beach.

The USFWS Concurred with the Corps determination that proposed maintenance dredging at Port Everglades "may affect, but is not likely to adversely affect" the endangered Florida manatee on November 29, 2004 (Appendix C).

4.3.2.2 SEA TURTLES

Coordination with the National Marine Fisheries Service (NMFS) has been completed regarding possible impacts to sea turtles below mean high water caused by the proposed dredging (see Appendix C). The Corps determined that the project may adversely effect sea turtles below mean high water if a hopper dredge is used, and NMFS concurred with the Corps' determination on 22 April 2004 (Consultation # I/SER/2004/00418 - Appendix C).

If a hopper dredge is utilized to clear the shoals within Port Everglades, compliance with all recommendations and requirements of the 1997 NMFS Biological Opinion regarding hopper dredging will be required to assure that incidental take of sea turtles are minimized during hopper dredging operations (Appendix C). The sea turtle deflecting draghead is required for all hopper-dredging projects during the months that turtles may be present, unless a waiver is granted by the Corps in consultation with NMFS. The 1997 amended Biological Opinion

mandates that year round, one-hundred percent observer coverage is necessary for beach nourishment project in southeast Florida. One hundred percent inflow screening is required, and one-hundred percent overflow screening is recommended when observers are required on hopper dredges. If conditions prevent one hundred percent inflow screening, inflow screening can be reduced, but one hundred percent outflow screening is required, and an explanation must be included in the preliminary dredging report. Preliminary dredging reports which summarize the results of the dredging and any sea turtle take must be submitted within 30 working days of completion of any given dredging project. Logs of any sea turtle injuries or deaths due to hopper dredging activities will be maintained, with immediate notification to the Corps, Jacksonville District, USFWS and NMFS.

The Corps is currently in ongoing consultation with the USFWS for the beach placement disposal alternative, and any potential effects to sea turtles, if the beach is chosen as a disposal location during a future maintenance event. This consultation, when concluded, will be added to this EA as an addendum.

4.2.3.3 DOLPHINS AND WHALES

The proposed dredging is not expected to have any negative effect on dolphins that inhabit the waters in the port. No whales have been documented in the boundaries of the port. The dolphins that transit through the port are acclimated to large vessels and a large amount of vessel traffic.

4.3.3 ENTRANCE CHANNEL PLACEMENT

4.3.3.1 MANATEES

Coordination with the USFWS has been initiated regarding possible impacts to the manatee caused by the proposed project (see Appendix C). The Corps determined that the project is not likely to adversely affect the manatee because the standard protection measures previously cited in Section 4.3.2.1 will be implemented to minimize potential impacts to manatees. The USFWS Concurred with the Corps determination that proposed maintenance dredging at Port Everglades “may affect, but is not likely to adversely affect” the endangered Florida manatee on November 29, 2004 (Appendix C).

4.3.3.2 SEA TURTLES

The Corps determined that the project may adversely effect sea turtles below mean high water if a hopper dredge is used. Coordination with the NMFS under the ESA has been completed initiated regarding possible impacts to sea turtles below mean high water caused by the proposed project (see Appendix C). The Corps has determined that placement of sandy dredged material in the Entrance channel may effect sea turtles in the area of the Port, and is currently in an ongoing consultation with the USFWS, should the beach disposal location be used in a future maintenance dredging event. This consultation, when completed, will be added to this EA as an addendum.

4.3.3.3 DOLPHINS AND WHALES

No whales have been documented in the boundaries of the entrance channel near the jetties inside of the reef lines found offshore of Broward county. And as result of this, the project will have no effect on the whale species found offshore of Broward county.

The proposed placement is not expected to have an effect on dolphins that inhabit the waters in the entrance channel. The dolphins that transit through this area are acclimated to large vessels and a large amount of vessel traffic, thus no adverse effect to dolphins in the area is anticipated..

4.3.4 ODMDS PLACEMENT

The EPA completed consultation with NMFS under the ESA as part of the FEIS for designation of the ODMDS for Port Everglades and Palm Beach, previously referenced in Section 1.5 of the EA and the Corps has completed consultation with NMFS under the ESA for placement of dredged material at the ODMDS (Appendix C).

In Appendix E of the FEIS for the ODMDS designation, EPA has determined that since the ODMDS site is located offshore, manatees will not be found within the boundaries of the site, and thus will not be effected by dredged material placement. They also determined that the whales, dolphins and sea turtles found in south Florida (previously identified in Section 3.4 of this EA) are transient in nature and therefore, their presence in the ODMDS would be brief. All of the species are highly motile and could easily avoid any dredged material placement activities that would occur at the designated ODMDS. The EPA made a determination that designation of the ODMDS will have no effect on listed species, the Corps has made the determination that the placement of material in the ODMDS may effect, but is not likely to effect listed species. Potential effects include vessel/whale interactions. Precautions will be implemented for observers to watch for any whales in the area of the ODMDS to prevent such interactions.

4.3.5 JOHN U LLOYD STATE PARK PLACEMENT

4.3.5.1 MANATEES

Coordination with the USFWS has been initiated regarding possible impacts to the manatee caused by the proposed project (see Appendix C). The Corps determined that the project is not likely to adversely affect the manatee because the standard protection measures previously cited in Section 4.3.2.1 will be implemented to minimize potential impacts to manatees. The USFWS Concurred with the Corps determination that proposed maintenance dredging at Port Everglades “may affect, but is not likely to adversely affect” the endangered Florida manatee on November 29, 2004 (Appendix C).

4.3.5.2 SEA TURTLES

Placement of sand at JUL may increase sea turtle nesting habitat provided that the sand is highly compatible with naturally occurring beach sediments and that compaction and escarpment remediation measures are incorporated into the project.

Potential negative effects to sea turtles include possible destruction of nests deposited within the boundaries of the proposed project and behavior modification of nesting females due to escarpment formation within the project area during a nesting season, resulting in false crawls or situations where they choose marginal or unsuitable nesting areas to deposit eggs. The quality and color of the sand could affect the ability of female turtles to nest, the suitability of the nest incubation environment, and the ability of hatchlings to emerge from the nest. Protective measures can alleviate the potential for some of these negative impacts (i.e. compaction monitoring and tilling activities to reduce sand compaction, and leveling escarpments prior to nesting season).

The Corps is currently consulting with the USFWS for the beach placement disposal alternative, and any potential effects to sea turtles, if the beach is chosen as a disposal location during a future maintenance event. This consultation will be included with this EA as an addendum before any beach placement activities are initiated.

4.3.5.3 DOLPHINS AND WHALES

The proposed placement of dredged material at JUL is not expected to have any effect on dolphins and whales that inhabit the waters offshore of Broward county.

4.4 WILDLIFE RESOURCES OTHER THAN THREATENED, ENDANGERED AND PROTECTED SPECIES

4.4.1 NO-ACTION ALTERNATIVE

There will be no impact to wildlife resources other than threatened, endangered and protected species if the Corps does not maintain the Port Everglades Federal Navigation Project.

4.4.2 DREDGING ALTERNATIVE

4.4.2.1 BEACH AND DUNE HABITAT

Dredging of material from the Port Everglades Federal Navigation Project will have no effect on beach and dune habitat.

4.4.2.2 INLET COMMUNITIES

The benthic community in the port will be removed during the dredging activities, however it is expected to recover as has been demonstrated by previous maintenance events conducted during historic port dredging operations.

4.4.2.3 NEARSHORE HARDBOTTOM COMMUNITIES

There will be no impact to the nearshore hardbottom communities outside of the entrance channel during the maintenance dredging activities.

4.4.2.4 FISHES - NEARSHORE COMMUNITY

Maintenance dredging of the Port Everglades Federal Navigation Project may have temporary effects on fishes inhabiting the boundaries of the navigation project. Most fishes are motile and can move out of the dredge area, however some benthic or slower moving fishes may not be able to avoid the dredge. Eggs and larval fishes also may not be able to avoid the dredge and may be adversely impacted by the dredging. These impacts should be temporary in nature.

4.4.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

4.4.3.1 BEACH AND DUNE HABITAT

Placement of dredged sandy material in the Entrance Channel will be in the bottom of a channel more than 40 feet in depth. This is sandy, beach quality material and will either stay in the bottom of the channel or return to the littoral drift of sandy between the reeflines offshore of JUL. This sand could then be brought to the beach by wave action.

4.4.3.2 INLET COMMUNITIES

Placement of dredged sandy material in the Entrance Channel will be outside of the inlet and will not effect the inlet communities.

4.4.3.3 NEARSHORE HARDBOTTOM COMMUNITIES

Placement of dredged sandy material in the Entrance Channel will be in the bottom of a channel more than 40 feet in depth. This is sandy, beach quality material and will either stay in the bottom of the channel or return to the littoral drift of sand between the reeflines offshore of JUL.

4.4.3.4 FISHES NEARSHORE COMMUNITY

Placement of dredged sandy material in the Entrance Channel may bury scattered rock rubble in the entrance channel that have algae on them that certain fish species may feed on.

4.4.4 ODMDS PLACEMENT ALTERNATIVE

4.4.4.1 BEACH AND DUNE HABITAT

Disposal of dredged material into the designated ODMDS will have no effect on beach and dune habitat since the ODMDS is in open ocean at more than four miles from shore.

4.4.4.2 INLET COMMUNITIES

Disposal of dredged material into the designated ODMDS will have no effect on the inlet communities since the ODMDS is in open ocean at more than four miles from shore.

4.4.4.3 NEARSHORE HARDBOTTOM COMMUNITIES

Placement of dredged material into the designated ODMDS will have no effect on the nearshore hardbottoms since the ODMDS is in open ocean at more than four miles from shore.

4.4.4.4 FISHES NEARSHORE COMMUNITY

Placement of dredged material into the designated ODMDS will have no effect on the nearshore fish community since the ODMDS is in open ocean at more than four miles from shore.

4.4.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

4.4.5.1 BEACH AND DUNE HABITAT

The placement of sand on the beach will result in the burial and subsequent loss of most of the beach infauna. Sandy beaches are generally populated by small, shortlived organisms with great reproductive potential. Common beach and surf zone invertebrate inhabitants include ghost crabs, coquina clams and other bivalves, amphipods, polychaetes, and gastropods. Several studies have investigated the recolonization of beach infauna following nourishment and found that beach and surf zone populations recover to prenourishment levels within one year after completion of nourishment (Reilly and Bellis, 1983; Gorzelany and Nelson, 1987; Hurme and Pullen, 1988; and Dodge et al, 1991; 1995). The results of a beach invertebrate study following renourishment on the beaches of Bogue Banks, NC indicate that invertebrate populations decreased by 86-99% five to ten weeks following sand placement. The extreme decrease in the population of beach infauna was attributed to the poor match in grain size of the added sand to the natural beach. The sand source utilized in the Bogue Bank project provided sand with a very high shell content that was not comparable to the natural beach (Peterson et al, 2000). The sand source for the proposed project is compatible with the existing beach sediments and contains a relatively low silt/clay content (average of 2.6%), which should promote rapid recovery of beach infauna within one year after sand placement. Impacts to beach infauna are therefore expected to be short-term.

No direct impacts to shorebirds are expected from project construction as birds are motile and can avoid construction activities. The placement of sand on the beach may temporarily interrupt foraging and resting activities of shorebirds that utilize the project area beach. This impact would be limited to the immediate area of placement and the duration of construction. The prey base for many shorebirds, which includes the organisms listed above, would be temporarily reduced in the areas of project fill. This impact would be short-term as recovery of beach infauna is expected within one year after sand placement.

4.4.5.2 INLET COMMUNITIES

Placement of dredged material onto JUL beaches will have no effect on the inlet communities as the placement area is located south of the south jetty that defines the boundary of the inlet and littoral coastal currents run from north to south and any sand material pulled off the beach will

have a net movement toward the south, not north back into the inlet.

4.4.5.3 NEARSHORE HARDBOTTOM COMMUNITIES

A detailed evaluation of the effects of placement of sandy material on the beaches of JUL on nearshore hardbottom communities are found in Section 4.4.1.1 of the Final EIS for the BCSPP. In summary - the FEIS found that nearshore hardbottoms directly adjacent to the park are ephemeral in nature, being alternatively covered and uncovered by shifting beach sand. Nearshore hardbottom burial events have been documented by Broward county both seasonally and over an extended period of time. JUL beaches have been nourished with dredged materials numerous times in the last 20 years as detailed in Section 1.3 of the FEIS for the shore protection project. The effects of placing sandy, beach quality dredged material from the Federal navigation project will be the same as those identified in the FEIS and are hereby incorporated by reference.

4.4.5.4 FISHES NEARSHORE COMMUNITY

The effect of placing sandy beach quality material on the beaches of JUL may effect nearshore fishes in the nearshore. The motility of most reef fish species should allow these species to leave the disturbed area during dredging and placement and return when conditions approximate previous levels. However, mortality of demersal and burrowing fish species inhabiting open sand, such as jawfish, garden eels, and hovering gobies, is likely during placement activities, as these species are limited in their mobility and may not be able to flee the area prior to disturbance.

4.5 ESSENTIAL FISH HABITAT ASSESSMENT

This section of the EA discusses potential effects to designated EFH by the various components of the proposed project. This section also addresses the May 3, 1999 Finding between NMFS and the Corps.

4.5.1 NO-ACTION ALTERNATIVE

There will be no impact to EFH if the Corps does not maintain the Port Everglades Federal Navigation project.

4.5.2 DREDGING ALTERNATIVE

All coastal inlets, such as the Port Everglades entrance channel, are considered by the South Atlantic Fishery Management Council to be habitat areas of particular concern for some commercially important species. Removal of shoal material from the port will temporarily affect EFH within the coastal inlet. The most obvious direct effect of this alternative on managed species is the potential for mortality and/or injury of individuals through the dredging process. Species in the project area's habitats are susceptible. Fishes and invertebrates are at risk at any life-history stage; eggs, larvae, juveniles, and even adults may be inadvertently killed, disabled, or undergo physiological stress, which may adversely affect behavior or health. Forms that are less motile, such as juvenile shrimp, are particularly vulnerable. However, historic dredging episodes have shown that these species recolonize fairly quickly; so much of the impact would be temporary.

Impacts to the water column can have widespread effects on marine and estuarine species. Hence, it is recognized as EFH. The water column is a habitat used for foraging, spawning, and migration by both managed species and organisms consumed by managed species. Water quality concerns are of particular importance in the maintenance of this important habitat. Effects of the

project on water quality are previously discussed in Section 4.2 of this EA and will not be repeated here.

Temporary impacts to populations of managed species would occur due to dredging softbottom habitats found within the port. Dredging would remove benthic organisms used as prey by managed species and temporarily lower the carrying capacity of the project area for certain species, such as red drum, that largely forage on such taxa.

4.5.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

Placement of sandy material in the entrance channel placement site will bury rock-rubble habitat that is potentially classified as live rock because it is covered in algae and/or encrusting organisms, which is designated EFH (SAFMC, 1998). It will also temporarily increase turbidity in the area, however since this is sandy, beach quality material, there will be less than 10% fines and water quality impacts will be minimal and temporary in nature.

4.5.4 ODMDS PLACEMENT ALTERNATIVE

A detailed evaluation of the effects of disposing of dredged material from Port Everglades into the ODMDS was prepared for the EPA ODMDS FEIS (EPA, 2004). This evaluation, found in section 4.9 of the FEIS and in the EFH Assessment in Appendix I, includes findings concerning potential effects to water column; Artificial/Man-made reefs; Sargassum and hardbottom. All of the effects cited by EPA in Section 3.0 of their EFH Assessment are hereby incorporated by reference. This EFH assessment includes an evaluation of water column impacts, benthic impacts, an overview of cumulative impacts as well as a species by species evaluation of EFH.

4.5.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

A detailed analysis of the effects to Essential Fish Habitat as a result of placing sediment on the beach at JUL has been analyzed in the BCSPP FEIS (Section 4.6) and is incorporated by reference. It is unlikely that highly motile fishes in the surf zone will be directly impacted (through injury or death) by placement of sandy material and they will likely leave the area until placement of material is complete. They may be indirectly impacted by the burial of feeding habitat or prey species. Sessile species and life stages unable to relocate will likely be buried by sandy beach quality material. Based on previous placement activities throughout the southeast US, it is expected that they will recolonize within one calendar year. For more details, please refer to the BCSPP FEIS.

4.6 CULTURAL RESOURCES

4.6.1 NO-ACTION ALTERNATIVE

There will be no impact to cultural resources if the Corps does not maintain the Port Everglades Federal Navigation Project.

4.6.2 DREDGING ALTERNATIVE

Underwater cultural resource surveys have been conducted for the dredging portion of project area, within the Federal navigation project. No historic properties were located during the surveys. Based on the surveys a determination of no historic properties was made. The Florida State Historic Preservation Officer concurred with this determination (Division of Historic Resources #2002-09147, Appendix C).

4.6.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

This is considered an open water placement, and since it will not contain rocky material, only beach quality sand, the Corps determines that there is no potential to effect Cultural Resources.

4.6.4 ODMDS PLACEMENT ALTERNATIVE

A consultation with the Florida Department of State - Division of Historical Resources found no significant archeological or historical sites recorded to be or likely to be within the ODMDS (Division of Historic Resources Project File No 951538, Appendix C). As such the Corps determines that there is no potential to effect Cultural Resources.

4.6.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

An underwater cultural resource survey has been conducted for the proposed placement area. No historic properties were located as a part of this study. Based on this study a determination of no historic properties was made. The Florida State Historic Preservation Officer concurred with this determination (Division of Historic Resources #2003-3635, Appendix C).

4.7 RECREATION

4.7.1 NO-ACTION ALTERNATIVE

Recreational boating, and access to offshore fishing and SCUBA diving would be impacted if the Port Everglades Entrance Channel were not dredged by Broward County because of increased shoaling and decreased navigable capacity of the project channel. This increased shoaling will restrict recreational vessel access when larger commercial or military vessels are in the channel, since the larger vessels will have even more limited maneuverability and channel width to use while entering and exiting the port.

4.7.2 DREDGING ALTERNATIVE

Recreational boat traffic would experience temporary delays due to construction traffic and congestion. However, recreational boat traffic would benefit from the increased navigable capacity of the channel.

4.7.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

Recreational boat traffic would experience temporary delays due to placement traffic and congestion. However, recreational boat traffic would benefit from the increased navigable capacity of the channel.

4.7.4 ODMDS PLACEMENT ALTERNATIVE

Of the many recreational activities that take place offshore of Broward county, few of these activities occur in, and none is restricted to, the ODMDS. Placement of dredged material in the ODMDS is not expected to have any significant impacts to recreation.

4.7.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

Minor temporary impacts would occur to recreational beach activities because of sand placement construction activities. Section 4.10 of the Broward County SPP FEIS presents a detailed analysis of placing sandy beach quality sediment on the JUL beaches and is hereby incorporated by reference. Recreational beach activities would benefit from the increased beach area resulting from the dredging and beach placement.

4.8 NAVIGATION (COMMERCIAL AND MILITARY)

4.8.1 NO ACTION ALTERNATIVE

If maintenance operations are not conducted within the Port Everglades federal navigation project, sediment will continue to accumulate in the Federal navigation project and will continue to hamper vessel navigation through the entrance channel and within the port, continuing to effect vessel safety and port efficiency. Port Everglades supplies 13 Florida counties and two International Airports (Fort.Lauderdale and Miami) with petroleum. The vessels that bring in the petroleum are deep draft vessels. If insufficient clearance exists between the hull and the bottom of the channel, the vessels will be required to “light load” meaning less petroleum loaded on each vessel, thus reducing the petroleum supplies and increasing local costs. Additionally, increasing queuing of vessels at anchorage and more potential for problems such as breaking loose of anchors and impacting reefs, possible collisions, etc.

Port Everglades also services deep draft container vessels. If these vessels do not have enough clearance between the hull and channel bottom, the owners and operators of the vessels may opt to relocate their operations to other deep draft ports (as demonstrated at the Port of Palm Beach several years ago). Light loaded vessels are also more expensive to operate.

Insufficient water depths in the port will also limit US Naval operations from utilizing Port Everglades. Currently Port Everglades is a popular port for liberty or naval vessels, including aircraft carriers like the *USS Ronald Reagan* (CVN 76) which visited the port in November 2003 and the *USS Enterprise* (CVN 65) in April 2004. Without sufficient clearance, these deep draft military vessels would be unable to enter the Port.

4.8.2 DREDGING ALTERNATIVE

Dredging will maintain the full two-way navigable capacity of the project channel for deep-draft vessels and the required depth to berth deep draft vessels utilizing the port. Dredging activities will be coordinated with the Port, the Port Everglades pilots and the US Coast Guard to minimize the delays and any resulting effects.

4.8.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

Placement of sandy material in the entrance channel placement site may cause short term delays due to dredge equipment movements. It is expected that these delays will be temporary. Placement activities will be coordinated with the Port, the Port Everglades pilots and the US Coast Guard to minimize the delays and any resulting effects. Placement of sandy material in the entrance channel site will not effect the ability of vessels to navigate in the channel as the channel bottom in the proposed placement site is more than 50 feet in depth.

4.8.4 ODMDS PLACEMENT ALTERNATIVE

The Port Everglades ODMDS is located northeast and 4.0 miles seaward of the entrance channel to Port Everglades. While there are no designated shipping lanes beyond the entrance channel, the general area experiences heavy commercial shipping traffic. Vessel delays due to dredge transit to the ODMDS or placement operations in the ODMDS are not expected to effect either commercial or military navigation.

4.8.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

Placement of sandy beach quality material on JUL beaches is not expected to have an adverse effect on commercial or military navigation in Port Everglades.

4.9 ECONOMICS

4.9.1 NO-ACTION ALTERNATIVE

Sediment accumulation in the Federal navigation project hampers vessel navigation and increases transportation costs in two ways: first, vessel groundings would become more likely and frequent, resulting in additional costs for not only the grounded vessels, but also those vessels delayed by the obstruction, as well as the costs associated with restoration and mitigation of any damage that may have occurred as a result of the grounding; and second, deeply-laden vessels would incur delay costs awaiting tide for the necessary additional channel depth to enter/depart Port Everglades. The increased transportation costs are factored into businesses' decisions to locate or expand operations, reducing the competitive advantage offered by Port Everglades.

As previously detailed in Section 4.8.1, increases in delays of light loading has the potential of resulting in increased prices for petroleum, since less petroleum enters the marketplace. This also has the potential to impact tourists and residents in south Florida due to potential shortages of gasoline, higher consumer prices as higher fuel prices are passed down to consumers, as well as the potential for limited fuel for planes.

4.9.2 DREDGING ALTERNATIVE

Continued maintenance of the Federal navigation project will allow full access to and within Port Everglades. Transportation of commodities through the port creates a stimulus for attracting new business to the area. Recreational boaters as well as commercial fishing and diving enterprises also rely on the navigable capacity of the project channel for access purposes. Additionally, the port provides jobs and generates revenue for the surrounding community through the purchase of goods and materials.

4.9.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

As previously stated in Section 4.8.3 that placement of material in the entrance channel may cause temporary delays of vessels entering or exiting the port. Placement activities will be coordinated with the Port, the Port Everglades pilots and the US Coast Guard to minimize the delays and any resulting effects.

4.9.4 ODMDS PLACEMENT ALTERNATIVE

Placement of material in the ODMDS is not expected to have an effect on the economics of Port Everglades or South Florida.

4.9.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

Placement of material on the beaches of JUL will continue to maintain the beaches of this State park. Maintained beaches provide attractions that generate revenue for the local tourist industry.

4.10 AESTHETICS

4.10.1 NO-ACTION ALTERNATIVE

There will be no impact to aesthetics if Broward County does not dredge the Entrance Channel.

4.10.2 DREDGING ALTERNATIVE

Construction activities within the project channel would temporarily impact the aesthetic appeal of the area. Permanent impacts to the aesthetics of the area caused by the construction are not anticipated.

4.10.3 ENTRANCE CHANNEL PLACEMENT ALTERNATIVE

Construction activities within the entrance channel placement site would temporarily impact the aesthetic appeal of the area. Permanent impacts to the aesthetics of the area caused by the construction are not anticipated.

4.10.4 ODMDS PLACEMENT ALTERNATIVE

Placement activities within the ODMDS will cause no significant impact to aesthetic resources.

4.10.5 JOHN U. LLOYD STATE PARK PLACEMENT ALTERNATIVE

Construction activities of placing sandy beach quality material on the beaches of JUL State park would temporarily impact the aesthetic appeal of the area. Permanent impacts to the aesthetics of the area caused by the construction are not anticipated.

4.11 CUMULATIVE IMPACTS

Cumulative impact are defined in 40 CFR 1508.7 as “impacts on the environment, which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such actions.” NEPA guidance requires that such connected, similar impacts be examined. This section also serves as a cumulative impact assessment for EFH under the May 3, 1999 finding between NMFS and the Corps.

Section 3.2 of the EPA’s EFH Assessment for the Designation of the Port Everglades ODMDS (found in Appendix I) provides an additional review of cumulative impacts of projects taking place near Port Everglades and offshore of Broward County including the Ocean Express Pipeline Project and the Tractebel Calypso Pipeline Project and is hereby incorporated by reference. Details about these two pipelines, and the impacts associated with them can be found in the EIS’s prepared by for FERC and referenced in Section 1.6 of this EA.

Past Actions in the area of Port Everglades. Port Everglades was authorized as a Federal Navigation Project in 1930. The Port has experienced modest growth over the past 20 years. Table 2 lists permitted expansion activities during the past two decades. Most of the individual expansion projects have been minor and have involved deepening pier and berth facilities, or expanding waterways/berths into Port property. Except for the 1987 TN project, past impacts have been limited to minor wetland impacts, dredging existing channels, or creating additional channel, piers, and berths from uplands. The port has undergone numerous maintenance events and various navigation improvements. The Corps fully expects the port to remain viable for many years and to continue undergoing maintenance and navigation improvements. An EIS addressing proposed navigation improvements is underway. The Notice of Intent to prepare the Draft EIS appeared in the Federal Register on March 23, 2001.

Table 4 - Construction Projects at Port Everglades Since 1983

Year	Project	Permit Number	Type of Action	Impact	Mitigation
1983	Berth 29 Bulkhead and Channel	USACE 81L-0624 FDER 060419139	Berth deepening and bulkhead construction	Dredge 311,000 cy material from unvegetated bottom	0.4 acres mangrove creation

Year	Project	Permit Number	Type of Action	Impact	Mitigation
1984	Pier 7 Channel Dredging	USACE 83D-2441 FDER 060257779	Channel deepening	Dredge 242,222 cy material from unvegetated bottom	None
1984	East Channel Dredging	USACE 84D-0385 FDER 060748269	Channel improvements	Dredge 46 acres unvegetated bottom, fill 4.73 acres of unvegetated bottom	None
1987	Construct Turning Notch	USACE 84R-4146 FDER 060924019	Port expansion	Removal of 18.27 acres of mangrove wetlands	Creation of 45 acres of mangroves, preservation of 48 acres of mangroves, creation of manatee refuge
1989	Construct Berth 33	USACE 84Y-4246 FDER 061407349	Port expansion	Removal of 2.0 acres of mangrove wetlands	Creation of 4.5 acres of mangroves

Past Actions in the nearshore from Beach Nourishment Activities. Projects in areas adjacent to the proposed project include a beach fill project in 1977 (1,980,000 cubic yards) and a beach renourishment project in 1991 (1,110,000 cubic yards), both south of the Port between FDEP Monuments R-86 and R-93 (JUL). These actions were authorized as the Broward County, Florida, Shore Protection Project (Broward County SPP) by Section 301 of Public Law 89-298, passed on 27 October 1965. A Cumulative impacts review relative to placing sand on the Broward County shoreline has been conducted and can be found in Section 4.25 of the BCSP and is hereby incorporated by reference.

Information on these and other NEPA documents can be viewed on the Internet at <http://www.saj.usace.army.mil/pd/envdocs/envdocsb.htm>.

Maintenance dredging is an ordinary and reoccurring event for the port. The proposed maintenance dredging is not expected to represent a substantial increment of cumulative impact to the area.

4.12 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

4.12.1 IRREVERSIBLE

An irreversible commitment of resources is one in which the ability to use and/or enjoy the resource is lost forever. The only irreversible commitment of resources associated with the proposed project would be the expenditure of federal funds to complete the work.

4.12.2 IRRETRIEVABLE

An irretreivable commitment of resources is one in which, due to decisions to manage the resource, for another purpose, opportunities to use or enjoy the resource as they presently exist are lost for a period of time. Placement of dredged material at any of the placement sites would temporarily disrupt the normal use of these areas.

4.13 UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS

There may be short-term degradation of water quality due to turbidity caused by dredging and

dredged material placement operations. The potential exists for the incidental taking of sea turtles during dredging operations. However, the implementation of standard protective measures should minimize and mitigate for this potential.

4.14 ENVIRONMENTAL COMMITMENTS

The U.S. Army Corps of Engineers is committed to avoiding, minimizing or mitigating for adverse effects during construction and placement activities by including the following commitments in the contract specifications.

The Corps will comply with all requirements of the 1997 NMFS Regional Biological Opinion for the Continued Hopper Dredging of Channels and Borrow Areas in the Southeastern United States dated September 25, 1997.

The Corps will implement the Standard Manatee Construction Protection Specifications to ensure manatee protection. Currently, there are no requirements imposed by USFWS for beach placement.

The Corps will implement the Terms and Conditions of the latest State of Florida Water Quality Certification for this project.

4.15 COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS

4.15.1 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Environmental information on the project has been compiled and this Environmental Assessment has been prepared. It is available to any interested parties. Via this EA, the project is in compliance with the National Environmental Policy Act.

4.15.2 ENDANGERED SPECIES ACT OF 1973

Consultation was initiated with the USFWS on April 14, 2004 (see Appendix C) for potential project effects to endangered Florida manatee. The Corps determined that the proposed O&M dredging at Port Everglades, “may affect, but is not likely to adversely affect” the Florida manatee. USFWS concurred with this determination on November 29, 2004. Consultation was initiated with NMFS for potential project effects to endangered and threatened sea turtles by letter dated March 29, 2004. NMFS responded by letter dated April 22, 2004 agreeing that the Corps should utilize the Regional Biological Opinion for hopper dredging within the southeastern United States (September 29, 1997). All special conditions pertaining to the use of a hopper dredge will be implemented should one be used. The Corps is currently completing consultation with the USFWS for placement of dredged material on the beach. When this consultation is completed, it will be added to this EA as an addendum. The consultation will be completed before any material is placed on the beach. This project was fully coordinated under the Endangered Species Act and is therefore, in full compliance with the Act.

4.15.3 FISH AND WILDLIFE COORDINATION ACT OF 1958

This project has been coordinated with the U.S. Fish and Wildlife Service (USFWS). A Coordination Act Report was not required for this project.

4.15.4 NATIONAL HISTORIC PRESERVATION ACT OF 1966 (INTER ALIA)(PL 89-665, THE ARCHEOLOGY AND HISTORIC PRESERVATION ACT (PL 93-291), AND EXECUTIVE ORDER 11593)

Archival research, channel surveys, and consultation with the Florida State Historic Preservation Officer (SHPO), have been conducted for the shore protection project, the ongoing Port Everglades Feasibility Study and the ODMDS designation in accordance with the National Historic Preservation Act, as amended; the Archeological and Historic Preservation Act, as amended and Executive Order 11593. Copies of these surveys are available for review at the Jacksonville District offices in Jacksonville, Florida. The project is in full compliance with the Act.

4.15.5 CLEAN WATER ACT OF 1972

A Section 401 water quality certification will be required from the FDEP. All state water quality standards would be met. A Section 404(b) evaluation is included in this report as Appendix A. Public notices (Department of the Army and FDEP) either have been or will issued in a manner, which satisfies the requirements of Section 404 of the Clean Water Act and will be available for review at the Jacksonville District upon request.

4.15.6 CLEAN AIR ACT OF 1972

No air quality permits would be required for this project.

4.15.7 COASTAL ZONE MANAGEMENT ACT OF 1972

A federal consistency determination in accordance with 15 CFR 930 Subpart C is included in this report as Appendix B. The Corps has determined that the project would have no unacceptable impacts and would be consistent with the Florida Coastal Management Plan. In accordance with the Memorandum of Understanding (1979) and the Addendum to the Memorandum (1983) concerning acquisition of Water Quality Certifications and other state authorizations, the preliminary Environmental Assessment and Section 404 (b)(1) Evaluation have been submitted to the state in lieu of a summary of environmental impacts to show consistency with the Florida Coastal Zone Management Plan. In a letter date July 8, 2004, the State Department of Environmental Protection found the proposed project to be consistent with the Florida Coastal Management Plan (Appendix B).

4.15.8 FARMLAND PROTECTION POLICY ACT OF 1981

No prime or unique farmland would be impacted by implementation of this project. This Act is not applicable.

4.15.9 WILD AND SCENIC RIVER ACT OF 1968

No designated Wild and Scenic River reaches would be affected by project related activities. This Act is not applicable.

4.15.10 MARINE MAMMAL PROTECTION ACT OF 1972

In consultation with NMFS and FWS, the Corps does determined that maintenance activities will not take any marine mammals during any activities associated with the project. However, should a marine mammal be identified within the project boundaries, they will be provided protections equal the ESA species that have had consultations completed, and as a result of this, the Corps believes that they are in compliance with the MMPA.

4.15.11 ESTUARY PROTECTION ACT OF 1968

No designated estuary would be affected by project activities. This Act is not applicable.

4.15.12 FEDERAL WATER PROJECT RECREATION ACT

There is no recreational development proposed for maintenance dredging or placement. Therefore, this Act does not apply.

4.15.13 FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Coordination with the National Marine Fisheries Service (NMFS) has been accomplished via this environmental assessment, as well as review of the Broward County SPP FEIS and Port Everglades ODMDS FEIS. The project will be in compliance with this Act.

4.15.14 SUBMERGED LANDS ACT OF 1953

The project will occur on submerged lands of the State of Florida. The project has been coordinated with the State and will be in compliance with the act.

4.15.15 COASTAL BARRIER RESOURCES ACT AND COASTAL BARRIER IMPROVEMENT ACT OF 1990

John U Lloyd State Park is listed as undeveloped coastal barriers as defined by the Coastal Barriers Resources Act. These parcels require coordination with the U.S. Fish and Wildlife Service prior to nourishment activities. The Corps completed this coordination on April 30, 2003 as part of the EIS process for the BCSP. A copy of this coordination is found in Appendix C. Generally, maintenance dredging is exempt from the requirements of this legislation.

4.15.16 RIVERS AND HARBORS ACT OF 1899

The proposed work would not obstruct navigable waters of the United States. The proposed action has been subject to the public notice, public hearing, and other evaluations normally conducted for activities subject to the act. The project is in full compliance.

4.15.17 ANADROMOUS FISH CONSERVATION ACT

Anadromous fish species would not be affected. Coordination with the National Marine Fisheries Service (NMFS) has been accomplished during review of the this EA, the Port Everglades ODMDS FEIS and the Broward County SPP FEIS. The project will be in compliance with this Act

4.15.18 MIGRATORY BIRD TREATY ACT AND MIGRATORY BIRD CONSERVATION ACT

No migratory birds would be affected by project activities. The project is in compliance with these Acts.

4.15.19 MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT

The Marine Protection, Research and Sanctuaries Act (MPRSA) (33 U.S.C. 1402)(f) regulates the transport and subsequent dumping of materials, including dredged material, into ocean waters. Section 102 of the MPRSA requires that EPA designate ODMDS's where needed. Section 103 regulates what material can be placed in the ODMDS. The term "dumping" as defined in MPRSA does not apply to the placement of material for beach nourishment or to the placement of material for a purpose other than placement (i.e. placement of rock material as an artificial reef or the construction of artificial reefs as mitigation). Therefore, the MPRSA does not apply to the placement of sandy material on the beach at JUL. Placement of material from the Port in the ODMDS has been evaluated and the report of the testing results sent to EPA for approval. When EPA approves the placement of material in the ODMDS, the 103 Sediment

Characterization report will be posted on the Jacksonville District's Environmental Documents website: <http://planning.saj.usace.army.mil/envdocs/envdocsb.htm>. The material will continue to be evaluated on a three year cycle as required by MPRSA. The placement activities addressed in this BCSP FEIS and Port Everglades ODMDS FEIS have been evaluated under Section 404 of the Clean Water Act.

4.15.20 MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

This act requires preparation of an Essential Fish Habitat (EFH) Assessment and coordination with the National Marine Fisheries Service (NMFS). Pursuant to the Magnuson-Stevens Act, Essential Fish Habitat (EFH) consultation with the National Marine Fisheries Service for the proposed placement of the sediment on the beach was initiated by coordination of the Broward County SPP FEIS, placement of material in the ODMDS is coordinated as part of the Port Everglades ODMDS and placement of material in the Entrance Channel placement site via this EA. The continued O&M of Port Everglades also underwent a separate EFH Consultation. Details of this consultation can be found in Appendix C. The project is in full compliance with this act.

4.15.21 E.O. 11990, PROTECTION OF WETLANDS

No wetlands would be affected by project activities. This project is in compliance with the goals of this Executive Order.

4.15.22 E.O. 11988, FLOOD PLAIN MANAGEMENT

The project is in the base flood plain (100-year flood) and is being evaluated in accordance with this Executive Order. Project will be in compliance with this Act.

4.15.23 E.O. 12898, ENVIRONMENTAL JUSTICE

The proposed action would not result in adverse health or environmental effects. Any impacts of this action would not be disproportionate toward any minority. The activity does not (a) exclude persons from participation in, (b) deny persons the benefits of, or (c) subject persons to discrimination because of their race, color, or national origin. The activity would not impact "subsistence consumption of fish and wildlife."

4.15.24 E.O. 13089, CORAL REEF PROTECTION

This EO refers to "those species, habitats, and other natural resources associated with coral reefs." The reef distribution pattern for southeast Florida north of Key Biscayne consists of three separate parallel reef flats. The nearshore hardbottom epibenthic communities landward of the equilibrium toe of fill do not represent irreplaceable resources; and with proper placement of mitigative artificial reefs, suitable replacement habitat can be created for nearshore epibenthic species. The proposed project will be in compliance with this Executive Order.

5.0 LIST OF PREPARERS

5.1 PREPARERS

Preparer	Discipline	Role
Terri Jordan	Biologist	Principal Author
Brian Brodehl	Engineer	Engineering
Grady Caulk	Archaeologist	Historic Properties

5.2 REVIEWERS

Reviewer	Discipline	Role
Steven Ross	Engineer	Corps of Engineers – Project Manager – Port Everglades
Allan Sosnow	Marine Biologist	Environmental Manager – Port Everglades
Jim McAdams	Environmental Engineer	Supervisor - Atlantic Coast Section, Environmental Branch - Jacksonville District, COE

6.0 PUBLIC INVOLVEMENT

6.1 SCOPING

Scoping for the maintenance dredging and placement of material from Port Everglades has been addressed in previous and current NEPA documents as well as this EA. A draft of this EA was made available to Federal, State, and local resource agencies as well as environmental groups and interested parties in May 2004 for review and comment. A list of these individuals is located in Appendix C. Comments were received from the NMFS, South Florida Regional Planning Council, Broward County - Department of Port Everglades. Copies of these comments are located in Appendix C.

6.1.1 PLACEMENT OF SANDY MATERIAL ON JUL BEACHES

A public notice for a Department of the Army Permit (199905545) dated April 26, 2000 was issued for the BCSPP and the FDEP issued a joint coastal permit on May 12, 2003 (File No. 0163435-001-JC). Additional scoping for the BCSPP EIS was initiated via a notice of intent to prepare an EIS for protect in the Federal Register (FR) on Oct 29, 1999 (64 FR 58351) and notices were mailed to appropriate local, state and Federal agencies as well as environmental groups. When the DEIS was complete, a notice of availability (NOA) was published in the FR on April 5, 2002 (67 FR 16376) and comments were accepted for 60-days. After review and incorporation of the comments, the FEIS was prepared and an additional NOA was published in the FR (69 FR 69). A Record of Decision for the FEIS was signed on May 11, 2004. Additionally, the State of Florida issued a permit to the Port Everglades Department of Broward County on November 4, 2004 for the removal of the entrance channel shoal and placement of the material on John U. Lloyd State Park (Appendix E).

6.1.2 PLACEMENT OF DREDGED MATERIAL IN THE ODMDS

A history of the scoping and coordination of the FEIS for the ODMDS is located in Section 5.0 of the ODMDS FEIS.

6.2 COMMENTS RECEIVED AND RESPONSES

Comments received on the Draft EA released in May 2004 have been incorporated into this Final EA.

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APPENDIX A

SECTION 404(B) EVALUATION

SECTION 404(b) EVALUATION

MAINTENANCE DREDGING PORT EVERGLADES ENTRANCE CHANNEL BROWARD COUNTY, FLORIDA

1. Project Description
 - a. Location. The proposed work will be performed at Port Everglades, Broward County, Florida.
 - b. General Description. The proposed plan calls for the maintenance dredging of the Port Everglades Federal Navigation Project (FNP). Dredged material will be taken to the John U. Lloyd Beach State Park to the south of the port for use as beach sediments for the Broward County Shore Protection Project; to the Port Everglades Ocean Dredged Material Disposal Site or be placed within the Entrance Channel of the port.
 - c. Authority and Purpose. Maintenance dredging of Port Everglades Entrance Channel was initially authorized under House Document 357/71/2 (July 1930), as well as subsequent authorization associated with Port Expansion activities in 1935, 1938, 1946, 1958, 1974 and 1990. A Comprehensive list of these authorizations can be found at the District's Digital Project Notebook homepage (http://www.saj.usace.army.mil/digitalproject/dpn/sajn_020.htm). The purpose of the project is to maintain safe navigation conditions.
 - d. General Description of Dredged or Fill Material.
 - i. General Characteristics of Material. The physical structure of the sediments from the FNP can be divided into two categories - from inside the port and from the Entrance Channel (EC). Sediment cores collected inside the port indicate the material is 25-65% clays and silts (fines) with some sand. Sediment cores from the EC indicates that the composition is primarily beach quality sand. Examination of the sediments from the EC indicates that the composition is comprised primarily of fine carbonate based sand; therefore it meets the criteria for beach placement because it contains less than 10% silt and clay materials.
 - ii. Quantity of Material. Approximately 100,000 cubic yards of sediment will be removed from the FNP channels every three years or as needed.
 - iii. Source of Material. The source of the material is throughout the Port Everglades FNP boundaries. The Corps expects to dredge approximately 100,000 cu yards every three years, or as needed. Source of the material includes run off from the Port, the New River and Dania Cutoff canal as well as sandy sediments being carried around the north jetty by littoral drift.
 - e. Description of the proposed Discharge Site.
 - i. Location. There are three proposed discharge sites:
 - (1) Within the Entrance Channel of the FNP (please refer to sheet 3 of 7 in Appendix D of the EA).
 - (2) John U Lloyd Beach State Park is located immediately south of the

Port Everglades Entrance Channel's south Jetty (please refer to sheet 7 of 7 in Appendix D of the EA).

- (3) Ocean Dredged Material Disposal Site currently undergoing authorization by the Environmental Protection Agency located east northeast of Port Everglades, approximately 4.5 nmi offshore.

ii. Size.

- (1) The Entrance Channel disposal site is approximately 10 acres in size.
- (2) John U. Lloyd Beach State Park is 251 acres of barrier island between the Atlantic Ocean and the Intracoastal Waterway, from Port Everglades on the north to Dania on the south.
- (3) The ODMDS is approximately one square mile.

iii. Type of Site.

- (1) The Entrance Channel Disposal site is a deep portion of the entrance channel, located outside of the jetties, on the southern side of the channel (please refer to Figure 5 of the EA). The bottom is characterized by a rock-rubble habitat.
- (2) The John U. Lloyd Beach State Park is a State Park barrier island beach. It has nearshore hard-bottoms and offshore hardbottoms associated with the beach. The beach disposal area is open, sandy beach.
- (3) The ODMDS is an open water site located approximately 4 nautical miles from the port.

iv. Type of Habitat. Please see Section 3 of the Environmental Assessment for a detailed discussion of each disposal area habitat.

v. Timing and Duration of Discharge. The dredging is currently scheduled to be started in September/October of 2005 and is expected to take from 10-14 days.

f. Description of Disposal Method. Disposal could be either from a pipeline or hopper dredge. Sand placed on the beach will be graded out with front-end loaders and bulldozers.

2. Factual Determinations

a. Physical Substrate Determinations.

- i. Substrate Elevation and Slope. The material is sediment that has accumulated in the port above the authorized depths of the port channels and turning basins.
- ii. Sediment Type. The sediment from the project area can be broken into two characteristic types based on source location. Inside the port, the sediments are primarily clays and silts (25-65%) with some sand, while sediments from the entrance channel consist of 66% carbonate sand with less than 10% silt and clay materials.
- iii. Dredge/Fill Material Movement. Material placed at the John U. Lloyd State Park beach placement area is subject to erosion by waves with net movement of fill material to the south. Similarly placement of material in the Entrance Channel site will also have a net movement to the south in the littoral zone to a minor extent. Based on the finding of the Port

- Everglades ODMDS EIS and dredged material dispersion studies conducted for the EIS show that material placed in the ODMDS is not expected to move and effect nearshore reefs in the area of the ODMDS.
- iv. Physical Effects on Benthos. The placement of sand on the beach will result in the burial and subsequent loss of most of the beach infauna. Small, short-lived organisms with high reproductive potential generally populate sandy beaches. Beach and surf zone infaunal populations should recover to pre-nourishment levels within one year after completion of nourishment. Placement of dredged material in the ODMDS may have short-term impacts on benthos in the site that, dependant upon the location of the Florida Current (AKA Gulf Stream) is oceanic or coastal in nature.
- b. Water Circulation, Fluctuation and Salinity Determination.
- i. Water Column Effects. Placement of fill material at the JUL beach placement site or the entrance channel site will cause a temporary increase in turbidity. Because the immediate nearshore area is subject to naturally occurring elevated turbidity levels caused by the surf, increases due to the project will not be significant. Fill placement will not have long-term or significant impacts, if any, on salinity, water chemistry, clarity, color, odor, taste, dissolved gas levels, nutrients or eutrophication. Placement of material at the ODMDS is expected to cause a temporary increase in turbidity levels in the general vicinity of the ODMDS. Detailed predications of the effects disposal in the ODMDS will be calculated periodically (every 3-5 years) as a requirement of Section 103 of MPRSA.
 - ii. Current Patterns and Circulation. Currents in the project area are both tidal and longshore. Net movement of water due to the longshore current is from the north to the south. Dredging of the Port and placement in the channel, on the beach or in the ODMDS will not affect the current patterns and circulation.
 - iii. Normal Water Level Fluctuations and Salinity Gradients. Tides in the project area are semi-diurnal. Elevations of mean high water and mean low water tidal datum in Broward County were reported to be +1.64 feet (NGVD) and -0.89 feet (NGVD) (USACE, 1994). Dredging and disposal operations will not affect normal tide fluctuations or salinity.
- c. Suspended Particulate/Turbidity Determinations.
- i. Expected Changes in Suspended Particulates and Turbidity Levels in the Vicinity of the Disposal Site. There will be a temporary increase in turbidity levels in the project area during dredging and placement. Turbidity will be short-term and localized and no significant adverse impacts are expected. State standards for turbidity should not be exceeded.
 - ii. Effects on the Chemical and Physical Properties of the Water Column.
 - (1) Light Penetration. The placement of fill on the beach or in the Entrance Channel will increase turbidity in the nearshore area during construction. Because the immediate nearshore area is a high wave energy system and subject to naturally occurring elevated turbidity and sediment, increases due to project

construction should not be significant. A nearshore turbidity-monitoring program with a plume-mixing zone of 150 meters from the discharge site will be implemented during construction.

Turbidity and sedimentation at the sand borrow site in the Entrance Channel is likely due to the filling/washing of the material on the hopper dredge. Turbidity will be monitored during construction, and State standards for turbidity should not be exceeded. Light penetration will decrease during discharge in the immediate area where sand is being deposited on the beach. This effect will be short-term and have limited adverse impacts on the nearshore environment during construction activities.

- (2) Dissolved Oxygen. Dissolved oxygen levels will not be altered by this project.
- (3) Toxic Metals, Organics, and Pathogens. No toxic metals, organics, or pathogens will be disturbed or released at levels that exceed state water quality standards. The material will be tested as required of MPRSA and the EPA to determine suitability of disposal.
- (4) Aesthetics. Aesthetic quality will be reduced during that period when work is occurring. There will be a long-term increase in aesthetic quality of the beach once the work is completed.

iii. Effects on Biota.

- (1) Primary Productivity and Photosynthesis. A temporary increased level of suspended particles will occur during construction and disposal. If material is placed at JUL, primary productivity is not a recognized significant phenomenon in the surf zone, there will be limited effects on nearshore productivity as a result of the proposed beach placement.
- (2) Suspension/Filter Feeders. There will be no long-term adverse impact to suspension/filter feeders.
- (3) Sight Feeders. There will be no long-term adverse impact to sight feeders.

iv. Contaminant Determinations. Constituents have been found in the Port Turning Basin sediments which could be considered above natural background, and from anthropogenic sources. Deposited fill material will not introduce, relocate, or increase contaminants above State water quality standards.

v. Aquatic Ecosystem and Organism Determinations. The grain size characteristics and composition exhibited by the proposed sandy fill material are similar to those of the existing beach sediments. Therefore, no sediment related impacts are expected. The proposed fill material at the beach and entrance channel sites meets the exclusion criteria; therefore, no additional chemical-biological testing will be required. Material to be dredged from within the Port boundaries (within the turning basins) will be tested for compliance with Section 103 of MPRSA.

- (1) Effects on Plankton. No adverse long-term impacts to planktonic

- organisms are anticipated.
- (2) Effects on Benthos. No adverse long-term impacts to non-motile or motile Benthic invertebrates or invertebrates.
 - (3) Effects on Nekton. No adverse long-term impacts to nektonic species are anticipated.
 - (4) Effects on the Aquatic Food Web. No adverse long-term impacts to any trophic group in the food web are anticipated.
 - (5) Effects on Special Aquatic Sites.
 - (a) Hardground and Coral Reef Communities. For placement of material at JUL and in the entrance channel - Nearshore hardbottoms directly adjacent to the park are ephemeral in nature, being alternatively covered and uncovered by shifting beach sand. Nearshore hardbottom burial events have been documented by Broward county both seasonally and over an extended period of time. JUL beaches have been nourished with dredged materials numerous times in the last 20 years as detailed in Section 1.3 of the FEIS for the shore protection project. The effects of placing sandy, beach quality dredged material from the Federal navigation project will be the same as those identified in the FEIS and are hereby incorporated by reference. No adverse long-term impacts to hardground and coral reef communities if material is disposed at the ODMDS.
 - (b) Sanctuaries and Refuges. There are no sanctuaries or wildlife refuges located within the proposed dredge or beach placement areas.
 - (c) Wetlands. There are no wetlands located within the proposed dredge or beach placement areas.
 - (d) Mud Flats. There are no mud flats located within the proposed dredge or beach placement areas.
 - (e) Vegetated Shallows. There are no known vegetated shallows (seagrasses) located within the proposed dredge or beach placement areas.
 - (f) Riffle and Pool Complexes. There are no riffle and pool complexes within the proposed dredge or beach placement areas.
 - (6) Endangered and Threatened Species. There will be no significant impacts on any threatened or endangered species or on designated Critical Habitat of any threatened or endangered species. Sea turtle nesting may occur in the project area during the time that dredging, entrance channel and beach disposal takes place. If construction occurs during the nesting season, a nest relocation program will be implemented as recommended by the USFWS. Manatee protection measures as specified by the USFWS will be followed to minimize the potential for harm. See Sections 3 and 4 of the Environmental Assessment.

- (7) Other Wildlife. No adverse impacts to small foraging mammals, reptiles, wading birds, or wildlife in general are expected.
 - (8) Actions to Minimize Impacts. All practical safeguards will be taken during construction to preserve and enhance environmental, aesthetic, recreational, and economic values in the project area. Specific precautions that will be implemented in conjunction with the proposed project are discussed elsewhere in this 404(b) evaluation and in the Draft Environmental Impact Statement for the ODMDS. See Section 4 of the Environmental Assessment.
- d. Proposed Disposal Site Determinations.
- i. Mixing Zone Determination. During the placement operations, there will be temporary elevated levels of turbidity in the surrounding waters.
 - ii. Determination of Compliance with Applicable Water Quality Standards. The work will be conducted in accordance with the state of Florida Joint Coastal permit which provides State water quality certification.
 - iii. Potential Effects on Human Use Characteristics.
 - (1) Municipal and Private Water Supplies. No effects are anticipated.
 - (2) Recreational and Commercial Fisheries. Impacts caused by dredging and placement activities will be minor and short-term.
 - (3) Water Related Recreation. Construction activities will temporarily disrupt recreational opportunities. Dredging will maintain the navigational capacity of the project channel for recreational boaters. Placement of dredged material on the beach will preserve and enhance recreational beach activities.
 - (4) Aesthetics. Construction will temporarily adversely impact the aesthetics of the area. Placement of dredged sand on the beach will compensate for losses caused by erosion and improve the aesthetics of the beach environment.
 - (5) Parks, National and Historic Monuments, National Seashores, Wilderness Areas, Research Sites, and Similar Preserves. The 1.5-mile section of beach between R-86 and R-94 at John U. Lloyd Beach State Park has already been restored through nourishment with a periodic renourishment interval of 6 years. Biological monitoring of the JUL Beach Renourishment of 1989 revealed that although major faunal shifts occurred in the softbottom communities within the toe of fill site of the beach nourishment area, no pattern of hardground organism abundance relative to dredge or fill activities was observed (Dodge et al., 1991). Coordination with the Ranger of the JUL Beach State Park revealed that beach nourishment was needed to combat erosion near the parking areas (Leve, 1995).
 - (6) Determination of Secondary Effects on the Aquatic Ecosystem. There will be no significant cumulative impacts that result in a major impairment of water quality of the existing aquatic ecosystem as a result of placement of fill at the project site.
3. Findings of Compliance or Non-compliance with the Restrictions on Discharge.

- a. No significant adaptations of the guidelines were made relative to this evaluation.
- b. No practicable alternative exists which meets the study objectives that does not involve discharge of fill into waters of the United States.
- c. After consideration of disposal site dilution and dispersion, the discharge of fill materials will not cause or contribute to, violations of any applicable state water quality standards for Class III waters. The discharge operation will not violate the Toxic Effluent Standards of Section 307 of the Clean Water Act.
- d. The maintenance dredging of the port Everglades entrance channel will not jeopardize the continued existence of any species listed as threatened or endangered or result in the likelihood of destruction or adverse modification of any critical habitat as specified by the Endangered Species Act of 1973, as amended.
- e. The placement of fill material will not result in significant adverse effects on human health and welfare, including municipal and private water supplies, recreational and commercial fishing, plankton, fish, shellfish, wildlife, and special aquatic sites. The life stages of aquatic species and other wildlife will not be adversely affected. Significant adverse effects on aquatic ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values will not occur.
- f. On the basis of the guidelines, the proposed disposal site for the discharge of dredged material is specified as complying with the requirements of these guidelines.

APPENDIX B

COASTAL ZONE MANAGEMENT CONSISTENCY



Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

July 9, 2004

Mr. James C. Duck, Chief
Planning Division, Jacksonville District
U. S. Army Corps of Engineers
Post Office Box 4970
Jacksonville, FL 32232-0019

RE: Department of the Army, Jacksonville District Corps of Engineers – Draft Environmental Assessment and FONSI – Maintenance Dredging, Port Everglades Federal Navigation Project – Fort Lauderdale, Broward County, Florida.
SAI # FL200406016351C

Dear Mr. Duck:

The Florida State Clearinghouse, pursuant to Presidential Executive Order 12372, Gubernatorial Executive Order 95-359, the Coastal Zone Management Act, 16 U.S.C. §§ 1451-1464, as amended, and the National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331-4335, 4341-4347, as amended, has coordinated a review of the above-referenced Draft Environmental Assessment (EA).

The Department's (DEP) Bureau of Beaches and Coastal Systems notes that staff is currently processing a Joint Coastal Permit application for maintenance dredging the Outer Channel. As the sediments have been determined to be beach quality, the Corps of Engineers proposes to place the material on the beach at John U. Lloyd Beach State Park. DEP staff has previously permitted placement in the deeper portion of the Channel and indicates that the Draft EA is consistent with the provisions of Chapter 161, *Florida Statutes*. Continued coordination with the Bureau of Beaches and Coastal Systems is recommended to facilitate resolution of any outstanding permitting issues.

The South Florida Regional Planning Council (SFRPC) believes the dredging project is a first step towards a necessary systematic and comprehensive approach towards resolving issues of beach erosion and renourishment and inlet and jetty maintenance in Broward County. The relevant goals and policies of the Strategic Regional Policy Plan should be observed when making decisions regarding this project. Please refer to the enclosed SFRPC letter for further information and specific recommendations.

"More Protection, Less Process"

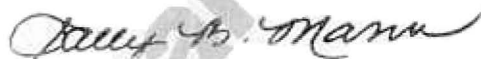
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Mr. James C. Duck
July 9, 2004
Page 2 of 2

Based on the information contained in the Draft EA and enclosed comments, the state has determined that, at this stage, the allocation of federal funds for the subject project is consistent with the Florida Coastal Management Program (FCMP). The applicant must, however, address the concerns of agency reviewers as described herein and detailed in the attached comments. All subsequent environmental documents must be reviewed to determine the project's continued consistency with the FCMP. The state's continued concurrence with the project will be based, in part, on the adequate resolution of issues identified during this and subsequent permitting reviews.

Thank you for the opportunity to review this project. If you have any questions regarding this letter, please contact Ms. Lauren P. Milligan at (850) 245-2163.

Sincerely,



Sally B. Mann, Director
Office of Intergovernmental Programs

SBM/lm

Enclosures

cc: Roxane Dow, DEP, BBSC
Christina Miskis, SFRPC

Florida State Clearinghouse

**FLORIDA COASTAL ZONE MANAGEMENT PROGRAM
FEDERAL CONSISTENCY EVALUATION PROCEDURES**

**MAINTENANCE DREDGING
PORT EVERGLADES FEDERAL NAVIGATION PROJECT
BROWARD COUNTY, FLORIDA**

1. Chapters 161, Beach and Shore Preservation. The intent of the coastal construction permit program established by this chapter is to regulate construction projects located seaward of the line of mean high water and which might have an effect on natural shoreline processes.

Response: The proposed plans and information will be submitted to the State in compliance with this chapter.

2. Chapters 163(part II), 186, and 187, County, Municipal, State and Regional Planning. These chapters establish the Local Comprehensive Plans, the Strategic Regional Policy Plans, and the State Comprehensive Plan (SCP). The SCP sets goals that articulate a strategic vision of the state's future. It's purpose is to define in a broad sense, goals, and policies that provide decision-makers directions for the future and provide long-range guidance for an orderly social, economic and physical growth.

Response: The proposed project has been coordinated with various federal, state and local agencies during the planning and NEPA coordination processes. The project meets the primary goal of the State Comprehensive Plan through preservation and protection of the shorefront development and infrastructure.

3. Chapters 252, Disaster Preparation, Response and Mitigation. This chapter creates a state emergency management agency, with the authority to provide for the common defense; to protect the public peace, health and safety; and to preserve the lives and property of the people of Florida.

Response: The proposed project involves the dredging of the Port Everglades Federal Navigation Project (FNP) in order to maintain safe navigation conditions. It also involves the placing of beach compatible material onto an eroding beach as a protective means for residents, development and infrastructure located along the Atlantic shoreline within Broward County. Therefore, this project would be consistent with the efforts of Division of Emergency Management.

4. Chapter 253, State Lands. This chapter governs the management of submerged state lands and resources within state lands. This includes archeological and historical resources; water resources; fish and wildlife resources; beaches and dunes; submerged grass beds and other benthic communities; swamps, marshes and other wetlands; mineral resources; unique natural features; submerged lands; spoil islands; and artificial reefs.

Response: Maintenance dredging of the Port Everglades FNP has been performed on multiple

occasions in the past. Project activities have complied with state regulations pertaining to the above resources. The proposed project would comply with the intent of this chapter.

5. Chapters 253, 259, 260, and 375, Land Acquisition. This chapter authorizes the state to acquire land to protect environmentally sensitive areas.

Response: Since the affected property already is in public ownership, this chapter does not apply.

6. Chapter 258, State Parks and Aquatic Preserves. This chapter authorizes the state to manage state parks and preserves. Consistency with this statute would include consideration of projects that would directly or indirectly adversely impact park property, natural resources, park programs, management or operations.

Response: The proposed project will affect the John U. Lloyd Beach State Park. Project related activities have been fully coordinated with the state. The project is consistent with this chapter.

7. Chapter 267, Historic Preservation. This chapter establishes the procedures for implementing the Florida Historic Resources Act responsibilities.

Response: This project has been coordinated with the State Historic Preservation Officer (SHPO). Survey results indicated no historical properties in the project area. The project will be consistent with the goals of this chapter.

8. Chapters 288, Economic Development and Tourism. This chapter directs the State to provide guidance and promotion of beneficial development through encouraging economic diversification and promoting tourism.

Response: The maintenance dredging of the Port Everglades FNP encourages economic growth of the area. Also, the proposed beach nourishment would provide more space for recreation and the protection of recreational facilities along the receiving beach. This would be compatible with tourism for this area and therefore, is consistent with the goals of this chapter.

9. Chapters 334 and 339, Transportation. This chapter authorizes the planning and development of a safe balanced and efficient transportation system.

Response: The maintenance dredging of the Port Everglades FNP promotes navigation within the harbor and the Intracoastal Waterway.

10. Chapter 370, Saltwater Living Resources. This chapter directs the state to preserve, manage and protect the marine, crustacean, shell and anadromous fishery resources in state waters; to protect and enhance the marine and estuarine environment; to regulate fishermen and vessels of the state engaged in the taking of such resources within or without state waters; to issue licenses for the taking and processing products of fisheries; to secure and maintain statistical records of the catch of each such species; and, to conduct scientific, economic, and other studies and research.

Response: Dredging activities should not adversely impact saltwater living resources. The placement of sand on the beach will create a larger more suitable area for nesting sea turtles. The proposed disposal at any of the three sites may represent a temporary short-term impact to invertebrates by burying these organisms. However, these organisms are typically highly adapted to periodic burial by sand. These organisms are highly fecund and are expected to return to pre-construction levels within 6 months to one year after construction. Based on the overall impacts of the project, the project is consistent with the goals of this chapter.

11. Chapter 372, Living Land and Freshwater Resources. This chapter establishes the Game and Freshwater Fish Commission and directs it to manage freshwater aquatic life and wild animal life and their habitat to perpetuate a diversity of species with densities and distributions, which provide sustained ecological, recreational, scientific, educational, aesthetic, and economic benefits.

Response: The project will have no effect on freshwater aquatic life or wild animal life. Therefore, the work would comply with the goals of this chapter.

12. Chapter 373, Water Resources. This chapter provides the authority to regulate the withdrawal, diversion, storage, and consumption of water.

Response: This project does not involve water resources as described by this chapter.

13. Chapters 376, Pollutant Spill Prevention and Control. This chapter regulates the transfer, storage, and transportation of pollutants and the cleanup of pollutant discharges.

Response: The contract specifications will prohibit the contractor from dumping oil, fuel, or hazardous wastes in the work area and will require that the contractor adopt safe and sanitary measures for the disposal of solid wastes. A spill prevention plan will be required.

14. Chapters 377, Oil and Gas Exploration and Production. This chapter authorizes the regulation of all phases of exploration, drilling, and production of oil, gas, and other petroleum products.

Response: This project does not involve the exploration; drilling or production of gas, oil or petroleum product and therefore, this chapter does not apply.

15. Chapters 380, Environmental Land and Water Management. This chapter establishes criteria and procedures to assure that local land development decisions consider the regional impact nature of proposed large-scale development. This chapter also deals with the Area of Critical State Concern program and the Coastal Infrastructure Policy.

Response: The proposed dredging of the Port Everglades FNP has been coordinated with the local regional planning commission. Therefore, the project is consistent with the goals of this chapter.

16. Chapters 381 (selected subsections on on-site sewage treatment and disposal systems) and 388 (Mosquito/Arthropod Control). Chapter 388 provides for a comprehensive approach for abatement or suppression of mosquitoes and other pest arthropods within the State.

Response: The project will not increase the potential propagation of mosquitoes or other pest arthropods.

17. Chapter 403, Environmental Control. This chapter authorizes the regulation of pollution of the air and waters of the state by the Florida Department of Environmental Regulation (now a part of the Florida Department of Environmental Protection).

Response: Environmental protection measures will be implemented to ensure that no lasting adverse effects on water quality, air quality, or other environmental resources will occur. The project complies with the intent of this chapter.

18. Chapters 582, Soil and Water Conservation. This chapter establishes policy for the conservation of the state soil and water through the Department of Agriculture. Land use policies will be evaluated in terms of their tendency to cause or contribute to soil erosion or to conserve, develop, and utilize soil and water resources both onsite or in adjoining properties affected by the project. Particular attention will be given to projects on or near agricultural lands.

Response: The proposed project is not located near or on agricultural lands; therefore, this chapter does not apply.

APPENDIX C

PERTINENT CORRESPONDENCE

Mailing List – Port Everglades O&M Environmental Assessment

Dr. Mark Kraus
Audubon of Florida
444 Brickell Ave
Miami, FL 33131

Leslie Bertolotti
Broward County DPEP
Wetlands Resource Division
Ft. Lauderdale, FL 33301-

Steve Higgins
Broward County DPEP
Biological Resources Division
Ft. Lauderdale, FL 33301

Reference Librarian Broward County
Main Library
100 S. Andrews Ave
Ft. Lauderdale, FL 33301

Director Broward County Planning
Council
115 S. Andrews Ave
Ft. Lauderdale, FL 33301

Cry of the Water
PO Box 8143
Coral Springs, FL 33075

Dr. Ken Lindeman
Environmental Defense Fund
14630 SW 144th Terr
Miami, FL 33186

Richard Harvey
EPA - South Florida Office
400 N. Congressional Ave
West Palm Beach, FL 33401

Heinz Mueller
EPA Region IV
Environmental Policy Section
Atlanta, GA 303033104

Regional Director FEMA Insurance &
Mitigation Division
3003 Chamblee-Tucker Rd
Atlanta, GA 30341

Michael Barnett
Director FLDEP - Beaches & Coastal
Systems
3900 Commonwealth Blvd
Tallahassee, FL 323993000

FLDEP - Div of State Lands
3900 Commonwealth Blvd
Tallahassee, FL 323993000

Lauren Milligan
FLDEP - State Clearinghouse
3900 Commonwealth Blvd
Tallahassee, FL 323993000

Brian Barnett
Director Florida Fish & Wildlife
Conservation Commission
620 S. Meridian St
Tallahassee, FL 323991600

David Roach
Florida Inland Navigation District
1314 Marcinski Rd
Jupiter, FL 33477

Florida Wildlife Federation
PO Box 6870
Tallahassee, FL 323146870

Mr. William Baxley
Lead Engineer NAVSEA South Florida
Testing Facility
91 North Beach Road
Dania Beach, FL 33004-

Kay Davy
NMFS-HCD Miami Area Office
11420 North Kendall Dr
Miami, FL 33176

Miles Croom
Asst. Regional Administrator
NMFS-SERO-HCD
9721 Executive Center Dr N
St. Petersburg, FL 33702

David Bernhart
Acting Asst. Regional Administrator
NMFS-SERO-PRB
9721 Executive Center Drive N
St. Petersburg, FL 33702

Dr. Richard Dodge
Nova Southeastern University
Institute of Marine & Coastal Studies
Dania Beach, FL 330043078

Allan Sosnow
Environmental Director Port
1850 Eller Drive
Port Everglades, FL 33316-

Margaret Kempel
Port Everglades Assoc
1850 Eller Drive
Port Everglades, FL 33316

Mike Cunningham
Port Everglades Pilots Assoc
PO Box 13017
Ft. Lauderdale, FL 33316

Save the Manatee Club
500 N. Maitland Ave
Maitland, FL 32751

Director Sierra Club - Florida Regional
Office
2700 SW 3rd Ave
Miami, FL 33129

South Florida Regional Planning Council
3440 Hollywood Blvd
Hollywood, FL 33021

Tom Cook
Surfrider Foundation - South FL Chapter
69 NW 99th St
Miami Shores, FL 33150

The Nature Conservancy - FL Chapter
222 S. Westmonte Dr
Altamonte Springs, FL 32714

David White
The Ocean Conservancy
449 Central Ave
St. Petersburg, FL 33701

Mailing List – Port Everglades O&M Environmental Assessment

Cynthia Guerra
Director Tropical Audubon Society
5530 Sunset Drive
Miami, FL 33143

Captain - Ft. Lauderdale Station US
Coast Guard
7000 N. Ocean Dr
Dania Beach, FL 33004

Regional Director US Fish & Wildlife
Service
1875 Century Blvd
Atlanta, GA 303453301

Jay Slack
Field Supervisor US Fish & Wildlife
Service
1339 20th St
Vero Beach, FL 329603559

Ken Huntington
USACE - South Permits Branch
4400 PGA Blvd
Palm Beach Gardens, FL 33410-6557



Florida

Department of Environmental Protection

"More Protection. Less Process"



Categories

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Project Information	
Project:	FL200406016351C
Comments Due:	June 27, 2004
Letter Due:	July 12, 2004
Description:	DEPARTMENT OF THE ARMY, JACKSONVILLE DISTRICT CORPS OF ENGINEERS - DRAFT ENVIRONMENTAL ASSESSMENT AND FONSI - MAINTENANCE DREDGING, PORT EVERGLADES FEDERAL NAVIGATION PROJECT - FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.
Keywords:	ACOE - EA, MAINTENANCE DREDGING, PORT EVERGLADES - BROWARD CO.
CFDA #:	12.107
Agency Comments:	
COMMUNITY AFFAIRS - FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS	
Released Without Comment	
ENVIRONMENTAL PROTECTION - FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION	
The DEP Bureau of Beaches and Coastal Systems notes that staff is currently processing a Joint Coastal Permit application for maintenance dredging the Outer Channel. As the sediments have been determined to be beach quality, the Corps of Engineers proposes to place the material on the beach at John U. Lloyd Beach State Park. DEP staff has previously permitted placement in the deeper portion of the Channel and indicates that the Draft EA is consistent with the provisions of Chapter 161, Florida Statutes. Continued coordination with the Bureau of Beaches and Coastal Systems is recommended to facilitate resolution of any outstanding permitting issues.	
FISH and WILDLIFE COMMISSION - FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION	
No Comment	
STATE - FLORIDA DEPARTMENT OF STATE	
No Comment	
TRANSPORTATION - FLORIDA DEPARTMENT OF TRANSPORTATION	
No Comments	
SOUTH FLORIDA WMD - SOUTH FLORIDA WATER MANAGEMENT DISTRICT	
Released Without Comment	
ENVIRONMENTAL POLICY UNIT - OFFICE OF POLICY AND BUDGET, ENVIRONMENTAL POLICY UNIT	
No Comment	
SOUTH FL RPC - SOUTH FLORIDA REGIONAL PLANNING COUNCIL	
Council staff believes the dredging project is a first step towards a necessary systematic and comprehensive approach towards resolving issues of beach erosion and renourishment and Inlet and jetty maintenance in Broward County. The relevant goals and policies of the Strategic Regional Policy Plan should be observed when making decisions regarding this project (see letter).	
BROWARD - BROWARD COUNTY	

For more information please contact the Clearinghouse Office at:

3900 COMMONWEALTH BOULEVARD MS-47
 TALLAHASSEE, FLORIDA 32399-3000
 TELEPHONE: (850) 245-2161
 FAX: (850) 245-2190



June 25, 20044

Ms. Lauren Milligan
Florida Coastal Management Program
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 47
Tallahassee, FL 32319-3000

RF ED

JUN 30 2004

OIP/OLGA

RE: SFRPC #04-0608, SAI #FL200406016351, Request for comments on an Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) of utilizing dredge materials from the Port Everglades Channel as a borrow area for beach renourishment at John U. Lloyd State Park, U.S. Army Corps of Engineers, Hollywood, Broward County.

Dear Ms. Milligan:

We have reviewed the above-referenced EA and FONSI and have the following comments:

- Council staff believes the dredging project is a first step towards a necessary systematic and comprehensive approach towards resolving issues of beach erosion and renourishment and inlet and jetty maintenance in Broward County. Such an approach should include commitments by all user groups to a dedicated funding source for periodic channel maintenance and mechanical assistance of sand movement past existing jetties to prevent extreme accretion/erosion and maintain beach profiles without resorting to offshore dredging or sand importation.

The project is located within the near shore waters of the Atlantic Ocean, a natural resource of regional significance designated in the *Strategic Regional Policy Plan for South Florida* (SRPP). The goals and policies of the SRPP should be considered when making decisions regarding this project, particularly the following:

Strategic Regional Goal

- 3.8 Enhance and preserve natural system values of South Florida's shorelines, estuaries, benthic communities, fisheries, and associated habitats, including but not limited to, Florida Bay, Biscayne Bay and the coral reef tract.

Regional Policies

- 3.8.1 Enhance and preserve natural shoreline characteristics through requirements resulting from the review of proposed projects and in the implementation of ICE, including but not limited to, mangroves, beaches and dunes through prohibition of structural shoreline stabilization methods except to protect existing navigation channels, maintain reasonable riparian access, or allow an activity in the public interest as determined by applicable state and federal permitting criteria.

- 3.8.2 Enhance and preserve benthic communities, including but not limited to seagrass and shellfish beds, and coral habitats, by allowing only that dredge and fill activity, artificial shading of habitat areas, or destruction from boats that is the least amount practicable, and by encouraging permanent mooring facilities. Dredge and fill activities may occur on submerged lands in the Florida Keys only as permitted by the Monroe County Land Development Regulations. It must be demonstrated pursuant to the review of the proposed project features that the activities included in the proposed project do not cause permanent, adverse natural system impacts.

As a result of proposed project reviews, include conditions that result in a project that enhances and preserves marine and estuarine water quality by:

- a) improving the timing and quality of freshwater inflows;
- b) reducing turbidity, nutrient loading and bacterial loading from wastewater facilities, and vessels;
- c) reducing the number of improperly maintained stormwater systems; and
- d) requiring port facilities and marinas to implement hazardous materials spill plans.

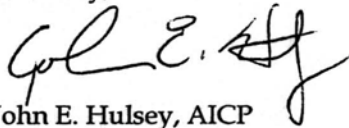
Enhance and preserve commercial and sports fisheries through monitoring, research, best management practices for fish harvesting and protection of nursery habitat and include the resulting information in educational programs throughout the region. Identified nursery habitat shall be protected through the inclusion of suitable habitat protective features including, but not limited to:

- a) avoidance of project impacts within habitat area;
- b) replacement of habitat area impacted by proposed project; or
- c) improvement of remaining habitat area within remainder of proposed project area.

Enhance and preserve habitat for endangered and threatened marine species by the preservation of identified endangered species habitat and populations. For threatened species or species of critical concern, on-site preservation will be required unless it is demonstrated that off-site mitigation will not adversely impact the viability or number of individuals of the species.

Thank you for the opportunity to comment. If you require further information, please contact me.

Sincerely,




John E. Hulsey, AICP
Senior Planner

JEH/kal

cc: Jaye Epstein, City of Hollywood Community Planning
Elliot Auerhahn, Broward County DPEP



Florida Department of Transportation

 JEB BUSH
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

JOSÉ ABREU
SECRETARY

June 17, 2004

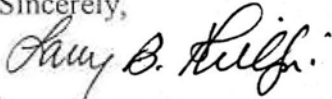
Lauren Milligan
Clearinghouse Coordinator
Florida State Clearinghouse
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 47
Tallahassee, Florida, 32399-3000

Re: Department of the Army – Jacksonville District Corps of Engineers
Draft Environmental Assessment and FONSI – Maintenance Dredging
Port Everglades Federal Navigation Project
Fort Lauderdale, Broward County, Florida
SAI #: FL200406016351C

Dear Ms. Milligan:

The Department has reviewed the subject proposal and has no comments.

Sincerely,



Larry B. Phillips
Seaport Office/FDOT

RECEIVED
JUN 19 2004
OIP/OLGA

C: Nancy Bonomo
Charlotte M. Hand
File

LP/



DEPARTMENT OF PORT EVERGLADES - Construction Management & Planning Division
1850 Eller Drive • Fort Lauderdale, Florida, USA 33316 • 954-523-3404 • FAX 954-765-5389

June 14, 2004

Ms. Terri Jordan
U.S. Army Corps of Engineers
Environmental Branch
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232-0019

Re: Comments on the Draft Environmental Assessment and Draft Finding of No Significant Impact for the Maintenance Dredging of the Port Everglades Federal Navigation Project Broward County, Florida.

Dear Ms. Jordan:

The Port Everglades Department has reviewed the referenced document and agrees with the contents therein. We also believe that this project is of the utmost importance in maintaining a safe and navigable harbor. We realize that maintenance activity has not been conducted since 1979 at our Port; however, it is apparent that there is a pressing need to remove the shoal area within the entrance channel at this time.

As a further benefit of the project, we are encouraged that the COE will be using beach quality material on the beaches of the nearby John U. Lloyd State Recreational Area. It is hoped that adding the material within the channel to the beach will reduce the amount of sand needed to be mined within the surrounding reef system, thus reducing the potential for any mishaps.

The Port supports this effort with regard to maintaining our channel and also the fact that this material will help grow the beach instead of depositing this material in the open ocean site with little or no benefit to anyone.

If there is anything else I can help you with regarding this project, please do not hesitate to contact me at (954) 523-3404, Extension 3883.

Sincerely,

A handwritten signature in cursive script that reads "Allan".

Allan D. Sosnow
Environmental Projects Manager
Construction Management & Planning Division

ADS:lsa

FILE: G:\ARCHIVE\ALLANDRAFT ENVIRONMENTAL ASSESSMENT COMMENTS_TJORDAN.DOC



United States Department of the Interior

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



April 30, 2003

James Duck
U.S. Army Corps of Engineers
Planning Division
701 San Marco Boulevard, Room 372
Jacksonville, Florida 32207-8175

Service Log No.: 4-1-99-I-506

Project: Broward County Shore Protection Project,
Coastal Barrier Resources Act
Determination

Applicant: Broward County Department of Planning
and Environmental Protection

County: Broward

Dear Mr. Duck:

The following describes the history and the applicability of the Coastal Barrier Resources Act (CBRA) of 1982 and the Coastal Barrier Resources Improvement Act (CBRIA) of 1990 to the Broward County Shore Protection Project located in Broward County, Florida. The proposed project will over-lap the boundaries of two "otherwise protected areas" (OPAs) (Birch Park, FL-19P and Lloyd Beach, FL-20P) and one CBRA unit (North Beach, P-14A).

Historically, some Federal expenditures (e.g., Federal flood insurance and other Federal financial assistance) had the effect of encouraging development in fragile, high-risk coastal barrier systems (e.g., barrier islands, sand spits, and mangrove forests). The CBRA and CBRIA limit federally-subsidized development within a defined Coastal Barrier Resources Unit. Three important goals of these acts are to: (1) minimize loss of human life by discouraging development in high-risk areas; (2) reduce wasteful expenditure of Federal resources; and (3) protect the natural resources associated with coastal barriers. In addition, CBRIA also provided development goals for undeveloped coastal property held in public ownership, such as wildlife refuges, parks, or other lands set aside for conservation, which are identified as OPAs. The only restriction applied to an OPA prohibits the expenditure of Federal Flood Insurance to new construction of structures (buildings) in an OPA, as stated in Section 9, Prohibitions of Flood Insurance Coverage In Certain Coastal Barriers. There are no other restrictions placed on Federal expenditures in an OPA.

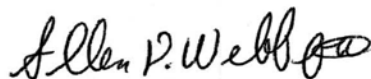
James Duck
April 30, 2003
Page 2

Federal monies can be spent within the Coastal Barrier Resource System for certain activities, which are exempted under Section 6, Exceptions To Limitations On Expenditures. These activities include: (1) projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats; (2) establishment of navigation aids; (3) projects funded under the Land and Water Conservation Fund Act of 1965; (4) scientific research; (5) assistance for emergency actions essential to saving lives and the protection of property and the public health and safety, if preferred pursuant to the Disaster Relief, Emergency Assistance Act, and National Flood Insurance Act and are necessary to alleviate the emergency; (6) maintenance, repair, reconstruction, or repair, but not expansion of publically owned or publically operated roads, structures, or facilities; (7) nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system; (8) any use or facility necessary for the exploration, extraction, or transportation of energy resources; (9) maintenance or construction of improvements of existing Federal navigation channels, including the disposal of dredge materials related to such projects; and (10) military activities essential to national security.

Since the proposed Broward County Shore Protection Project does not include the construction of structures that would require Federal Flood Insurance, then Federal expenditures for the proposed project are not restricted in the FL-19P, Birch Park and FI-20P, Lloyd Beach OPAs. The Service has determined that the construction activities proposed within CBRA Unit, P-14A, North Beach are consistent with the intent of the Act and are exempt pursuant to section 6(a)(G) which authorizes "nonstructural projects for shoreline stabilization that is designed to mimic, enhance, or restore a natural stabilization system."

Thank you for your cooperation and effort in protecting fish and wildlife resources. If you have any questions regarding this determination, please contact Allen Webb at 772-562-3909, extension 246.

Sincerely yours,



Linda S. Ferrell
Assistant Field Supervisor
South Florida Ecological Services Office

cc:

Broward County Department of Planning and Environmental Protection, Ft. Lauderdale, Florida
(Stephene Higgins)

ERP No. F-NRC-F06023-IL Dresden Nuclear Power Station, Unit 2 and 3, Supplement 17, NUREG 1437, Renewal of a Nuclear Power Plant Operating License, Grundy County, IL.

Summary: EPA continues to express environmental concerns related to cooling water system impacts, and on-site waste storage.

ERP No. F-NRS-E36181-TN Cane Creek Watershed Remedial Plan, Widening and Degradation of the Cane Creek Channel, Lauderdale County, TN.

Summary: EPA is supportive of the efforts to improve environmental amenities within the project effect's area and, therefore, has no objection to the action as proposed.

ERP No. F-USN-E11051-MS Purchase of Land in Hancock County, Mississippi, for a Naval Special Operations Forces Training Range, To Improve Riverine and Jungle Training Availabilities, John C. Stennis Space Center, Hancock County, MS.

Summary: EPA has no objections to the proposed land purchase.

ERP No. F1-AFS-E65031-KY Gray Mountain Coal Lease Land Use Analysis, Application for Leasing Tracts 3094Bb, 3049Be and 3049Az, Daniel Boone National Forest, Leslie County, KY.

Summary: EPA has no objections to the project, provided mitigation measures and monitoring are implemented as described in the Final EIS.

Dated: August 24, 2004.

Robert W. Hargrove,
Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04-19617 Filed 8-26-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6655-1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements Filed August 16, 2004 Through August 20, 2004 Pursuant to 40 CFR 1506.9.

EIS No. 040394, Draft EIS, AFS, ID, Red Pines Project, Proposes to Implement Fuel Reduction Activities and Improve the Range of Watershed Activities, Nez Perce National Forest, Red River Ranger District, Idaho County, ID, Comment Period Ends:

October 12, 2004, Contact: Ester Hutchison (209) 983-1950.

EIS No. 040395, Draft Supplement, TPT, CA, Presidio Trust Public Health Service Hospital (PUSH or Building 1801) at the Presidio of San Francisco (Area B) of Presidio Trust Management Plan, To Rehabilitate and Reuse Buildings, Gold Gate National Recreation Area, San Francisco Bay, Marin County, CA, Comment Period Ends: October 12, 2004, Contact: John Pelka (415) 561-5300. This document is available on the Internet at: <http://www.presidio.gov>.

EIS No. 040396, Draft EIS, FRA, CA, Los Angeles—To—San Diego (LOSSAN) Rail Corridor, Proposed Rail Corridor Improvement Studies to Increase Intercity Travel for Faster, Safer and Reliable Passenger Rail System, Los Angeles, Orange and San Diego Counties, CA, Comment Period Ends: October 27, 2004, Contact: David Valenstein (202) 493-6368.

EIS No. 040397, DRAFT EIS, SFW, CA, Bair Island Restoration and Management Plan, Restore Tidal Action to 1,400 Acres of Former Salt Ponds, Don Edwards San Francisco Bay National Wildlife Refuge, Bair Island State Ecological Reserve, South San Francisco Bay, San Mateo County, CA, Comment Period Ends: October 12, 2004, Contact: Clyde Morris (510) 792-0222.

EIS No. 040398, Final Supplement, EPA, MS, FL, AL, Eastern Gulf of Mexico Offshore Oil and Gas Extraction, Updated Information on Issuance of New National Pollutant Discharge Elimination System General Permit and the Ocean Discharge Criteria Evaluation, MS, AL and FL, Wait Period Ends: September 7, 2004, Contact: Lena Scott (404) 562-9607.

EIS No. 040399, Draft EIS, AFS, OR, ID, WA, CA, Pacific Northwest Region Invasive Plant Program, Preventing and Managing Invasive Plants, Implementation, OR, WA, Including Portions of Del Norte and Siskiyou Counties, CA and Portions of Nez Perce, Salmon, Idaho and Adam Counties, ID, Comment Period Ends: November 24, 2004, Contact: Eugene Skrine (503) 808-2685.

EIS No. 040400, Final EIS, DOE, WA, BP Cherry Point Cogeneration Project, To Build a 720-megawatt Gas-Fired Combined Cycle Cogeneration Facility, Energy Facility Site Evaluation Council (EFSEC), Whatcom County, WA, Wait Period Ends: September 7, 2004, Contact: Thomas E. McKinney (503) 230-4749. This document is available on the Internet at: <http://www.efsec.wa.gov>.

EIS No. 040401, Final EIS, EPA, FL, Palm Beach Harbor Ocean Dredged Material Disposal Site and the Port Everglades Harbor Ocean Dredged Material Disposal Site, Designation, FL, Wait Period Ends: September 7, 2004, Contact: Christopher McArthur (404) 562-9391. This document is available on the Internet at: http://www.epa.gov/region4/water/oceans/proposed_sites.htm.

EIS No. 040402, Revised Draft EIS, IBR, CA, NV, Truckee River Operating Agreement (TROA) Modify Operations of Five Federal and Two Non-Federal Reservoirs to Facilitate Distribution of Water, Truckee River Basin, EL Dorado, Nevada, Placer and Sierra Counties, CA and Douglas, Lyon, Storey and Washoe Counties, NV, Comment Period Ends: October 29, 2004, Contact: Kenneth Parr (775) 882-3436.

EIS No. 040403, Final Supplemental, NOA, FL, MS, TX, AL, LA, Reef Fish Fishery Management Plan Amendment 22, To Set Red Snapper Sustainable Fisheries Act Targets and Thresholds, Set a Rebuilding Plan, and Establish Bycatch Reporting Methodologies for the Reef Fish Fishery, Gulf of Mexico, Wait Period Ends: September 7, 2004, Contact: Roy E. Crabtree (727) 570-5305. This document is available on the Internet at: <http://www.gulfcouncil.org>.

EIS No. 040404, Draft EIS, NOA, WA, CA, OR, 2005-2006 Pacific Coast Groundfish Fishery, Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures, WA, OR and CA, Comment Period Ends: October 12, 2004, Contact: D. Robert Lohn (206) 526-6150. This document is available on the Internet at: <http://www.pcouncil.org>.

EIS No. 040405, Draft EIS, NOA, HI, Seabird Interaction Mitigation Methods, To Reduce Interaction with Seabird in Hawaii-Based Longline Fishery and Pelagic Squid Fishery Management, To Establish an Effective Management Framework for Pelagic Squid Fisheries, Fishery Management Plan, Pelagic Fisheries of the Western Pacific Region, Exclusive Economic Zone of the U.S. and High Sea, Comment Period Ends: October 12, 2004, Contact: Tom Graham (808) 973-2937.

Amended Notices

EIS No. 040276, Final EIS, FAA, MN, Flying Cloud Airport Expansion, Extensions of the Runway 10R/28L and 10L/28R, Long-Term Comprehensive Development, In the City of Eden Prairie, MN, Wait Period

Ends: September 1, 2004, Contact: Glen Orcutt (612) 713-4354. Revision of FR Notice Published on 6/18/04: CEQ Comment Period Ending 8/17/2004 has been Extended to 9/1/2004.

Dated: August 27, 2004.

Robert W. Hargrove,

*Division Director, NEPA Compliance
Division, Office of Federal Activities.*

[FR Doc. 04-19618 Filed 8-26-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7807-4]

Board of Scientific Counselors, Executive Committee Meeting—Fall 04

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of an Executive Committee meeting of the Board of Scientific Counselors (BOSC).

DATES: The meeting will be held on Wednesday, September 22, 2004 from 9:30 a.m. to 5:30 p.m. Time has been allotted from 8:30 a.m. to 9:30 a.m. for BOSC members of four subcommittees (Endocrine Disrupting Chemicals (EDCs), Computational Toxicology, Global Change, and Mercury) to meet prior to the Executive Committee meeting. The meeting will continue on Thursday, September 23, 2004 from 8:30 a.m. to 3:15 p.m. All times noted are eastern time. The meeting may adjourn early on Thursday if all business is finished.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Document Availability

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Ms. Lorelei Kowalski, Designated Federal Officer, via telephone/voice mail at (202) 564-3408, via e-mail at kowalski.lorelei@epa.gov, or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104-R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

In general, each individual making an oral presentation will be limited to a total of three minutes. Requests for the draft agenda or for making oral presentations at the meeting will be

accepted up to 1 business day before the meeting date. The draft agenda can also be viewed through EDOCKET, as provided in Unit I.A. of the **SUPPLEMENTARY INFORMATION** section.

Submitting Comments

Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B. of the **SUPPLEMENTARY INFORMATION** section. Written comments will be accepted up to 1 business day before the meeting date.

FOR FURTHER INFORMATION CONTACT: Ms. Lorelei Kowalski, Designated Federal Officer, via telephone/voice mail at (202) 564-3408, via e-mail at kowalski.lorelei@epa.gov, or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104-R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. General Information

Proposed agenda items for the meeting include, but are not limited to: Briefings on ORD's nanotechnology program and EMAP; discussion of BOSC review of ORD research programs; update on review committees for mercury, computational toxicology, endocrine disruptors, and global change; discussion of a proposal to hold a risk assessment workshop in 2005, ORD's Biotechnology Research Strategy and Coastal Health report, and interagency relationships; update on EPA's Science Advisory Board activities; discussion of the BOSC's FY05 work agenda; and future issues and plans (including the Communications and Nomination Subcommittees). The meeting is open to the public.

Information on Services for the Handicapped: Individuals requiring special accommodations at this meeting should contact Lorelei Kowalski, Designated Federal Officer, at (202) 564-3408, at least five business days prior to the meeting so that appropriate arrangements can be made to facilitate their participation.

A. How Can I Get Copies of Related Information?

1. Docket

EPA has established an official public docket for this action under Docket ID No. ORD-2004-0014. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Documents in the official public docket

are listed in the index in EPA's electronic public docket and comment system, EDOCKET. Documents may be available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copy of the draft agenda may be viewed at the Board of Scientific Counselors, Executive Committee Meeting-Fall-04 Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the Federal Register listings at <http://www.epa.gov/fedrgrstr/>.

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket.

minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This regulation establishes a security zone. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard temporarily amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–210 to read as follows:

§ 165.T05–210 Security Zone; Potomac and Anacostia Rivers, Washington, DC and Arlington and Fairfax Counties, Virginia.

(a) *Definitions.* For the purposes of this section, *Captain of the Port Baltimore* means the Commander, U.S. Coast Guard Activities Baltimore, Maryland and any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, U.S. Coast Guard Activities Baltimore, Maryland to act as a designated representative on his or her behalf.

(b) *Location.* The following area is a security zone: All waters of the Potomac River, from shoreline to shoreline, bounded by the Woodrow Wilson Memorial Bridge upstream to the Key Bridge, and all waters of the Anacostia River, from shoreline to shoreline, downstream from the Highway 50 Bridge to the confluence with the Potomac River, including the waters of the Georgetown Channel Tidal Basin.

(c) *Regulations.* (1) The general regulations governing security zones found in § 165.33 of this part apply to the security zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Except for Public vessels and vessels at berth, mooring or at anchor, all vessels in this zone are to depart the security zone. However, the Captain of the Port may, in his discretion grant waivers or exemptions to this rule, either on a case-by-case basis or categorically to a particular class of vessel that otherwise is subject to adequate control measures.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the Captain of the Port Baltimore. To seek permission to transit the area, the Captain of the Port Baltimore can be contacted at telephone number (410) 576–2693. The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, VHF channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) *Effective period.* This section will be effective from 4 a.m. local time on January 14, 2005, through 10 p.m. local time on January 25, 2005.

Dated: January 7, 2005.

Jonathan C. Burton,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. 05–961 Filed 1–12–05; 4:06 pm]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7861–7]

Ocean Dumping; Designation of Sites Offshore Palm Beach Harbor, FL and Offshore Port Everglades Harbor, FL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates two Ocean Dredged Material Disposal Sites (ODMDSs) in the Atlantic Ocean offshore Southeast Florida, as EPA-approved ocean dumping sites for the disposal of suitable dredged material. One site is located offshore Palm Beach Harbor, Florida and the other offshore Port Everglades Harbor, Florida. This action is necessary to provide acceptable ocean disposal sites for consideration as an option for dredged material disposal projects in the vicinity of Palm Beach Harbor and Port Everglades Harbor. These site designations are for an indefinite period of time, but the sites will be subject to continued monitoring to insure that unacceptable adverse environmental impacts do not occur. The interim designated ocean disposal sites located offshore Palm Beach Harbor and Port Everglades Harbor are de-designated by this rule.

DATES: This rule is effective on February 17, 2005.

ADDRESSES: The administrative record for this action is available for public inspection at the following location: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Christopher J. McArthur, Ocean Dumping Program Coordinator, U.S. Environmental Protection Agency, Region 4, Coastal Section, 61 Forsyth Street, SW., Atlanta, GA 30303, telephone: (404)562-9391, e-mail: mcArthur.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean disposal sites to the Regional Administrator of the Region in which the sites are located. These designations are being made pursuant to that authority.

A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*). That list established the Palm Beach Harbor West, Palm Beach Harbor East and Port Everglades Harbor, FL ODMDSs on an interim basis. Due to the proximity of the interim sites to shore, the potential for adverse impacts to

nearby coral reefs and the documented impacts at the Port Everglades Harbor interim ODMDS, these interim sites are no longer being used, were not considered for final designation and are being de-designated by this rule. The Palm Beach Harbor and Port Everglades Harbor ODMDS designations are being published as final rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material.

B. Regulated Entities

Entities potentially affected by this action are persons, organizations, or government bodies seeking to dispose of dredged material into ocean waters offshore Port Everglades Harbor and Palm Beach Harbor, Florida, under the MPRSA and its implementing regulations. This final rule is expected to be primarily of relevance to (a) parties seeking permits from the COE to transport dredged material for the purpose of disposal into ocean waters and (b) to the COE itself for its own dredged material disposal projects. Potentially regulated categories and entities that may seek to use the proposed dredged material disposal sites may include:

Category	Examples of potentially regulated entities
Federal Government	U.S. Army Corps of Engineers Civil Works Projects, U.S. Navy, and Other Federal Agencies.
Industry and General Public	Port Authorities, Marinas and Harbors, Shipyards, and Marine Repair Facilities, Berth Owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your organization is affected by this action, you should carefully consider whether your organization is subject to the requirement to obtain an MPRSA permit in accordance with Section 103 of the MPRSA and the applicable regulations at 40 CFR Parts 220 and 225, and whether you wish to use the sites subject to today's action. EPA notes that nothing in this final rule alters the jurisdiction or authority of EPA or the types of entities regulated under the MPRSA. Questions regarding the applicability of this final rule to a particular entity should be directed to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. EIS Development

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321 *et seq.*, requires that federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare NEPA documents in connection with ocean disposal site designations. (See 63 FR 58045 [October 29, 1998], "Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents.").

EPA, in cooperation with the COE, has prepared a Final EIS (FEIS) entitled "Final Environmental Impact Statement for Designation of the Palm Beach Harbor Ocean Dredged Material Disposal Site and the Port Everglades Harbor Ocean Dredged Material Disposal Site." On August 27, 2004, the Notice of Availability (NOA) of the FEIS was published in the **Federal Register** (69 FR 52668 [August 27, 2004]). Anyone desiring a copy of the FEIS may obtain one from the addresses given above. The wait period on the FEIS closed on September 27, 2004.

EPA received eight comment letters on the FEIS. Six letters were supportive of the Port Everglades Harbor ODMDS designation based on need for the disposal site. The remaining two letters were from the State of Florida (the State) and the National Marine Fisheries Service (NMFS). The State's comments are discussed in the following paragraph

and the NMFS letter noted that the Essential Fish Habitat (EFH) consultation process was ongoing. No letters were critical of the FEIS.

Pursuant to an Office of Water policy memorandum dated October 23, 1989, EPA has evaluated the proposed site designations for consistency with the State's approved coastal management program. EPA has determined that the designation of the proposed sites is consistent to the maximum extent practicable with the State coastal management program, and submitted this determination to the State for review in accordance with EPA policy. In a letter dated October 22, 2004, the State concurred with this determination. In addition, as part of the NEPA process, EPA has consulted with the State regarding the effects of the dumping at the proposed sites on the State's coastal zone. EPA has taken the State's comments into account in preparing the FEIS for the sites, in determining whether the proposed sites should be designated, and in determining whether restrictions or limitations should be placed on the use of the sites. There were six main concerns raised by the State during consultation: (1) Placement of beach quality sand in the ODMDS; (2) the volume of material to be disposed and number of projects to use the sites; (3) the adequacy and recency of the data on the benthic habitat within and near the ODMDSs; (4) cumulative impacts of activities in the area; (5) potential adverse impacts to essential fish habitat and in particular the habitat of the blue-line tilefish; and (6) the potential of Florida Current spin-off eddies to transport disposed dredged material to important marine habitats. Concerns raised regarding use of suitable material for beach nourishment and other beneficial uses, were addressed in the FEIS. EPA concurs with the State regarding the use of suitable material for beach nourishment and other beneficial uses, in circumstances where this use is practical. The dredging projects currently proposed as well as potential future projects were discussed in more detail in the FEIS including a detailed discussion of anticipated project disposal volumes. Projects in excess of 500,000 cubic yards are not permitted at either ODMDS until additional capacity studies have been completed. The State was provided additional information on the benthic habitats within and adjacent to the ODMDSs including a copy of the video taken at the Port Everglades Harbor ODMDS and quantification of the habitat types within each ODMDS. A pre-disposal high resolution bathymetry requirement was added to

the Site Management and Monitoring Plan (SMMP) to address the State's concerns regarding recency of data. The discussion of cumulative impacts was expanded in the FEIS including discussions of additional activities in the area as requested by the State. EFH concerns were addressed by EPA through the development of an EFH Assessment for each ODMDS. The EFH Assessments were coordinated with the NMFS and the State and were included as part of the FEIS. EPA concluded that the designations will not have a substantial individual or cumulative adverse impact on the EFH of managed species including tilefish. The State's concerns regarding the potential of Florida Current spin-off eddies to transport disposed dredged material to important marine habitats have been addressed through modeling of the disposal plumes by the COE. The State was involved in selecting input parameters for the model and in reviewing the draft results. In addition, EPA has an ongoing effort at the nearby Miami ODMDS to address concerns regarding the potential of Florida Current spin-off eddies to transport disposed dredged material to important near-shore marine habitats.

In a letter dated June 7, 2004, the Florida Department of State agreed that it is unlikely that the proposed designations will affect any archaeological or historic resources listed, or eligible for listing, in the *National Register of Historic Places*, or otherwise of significance in accordance with the National Preservation Act of 1966 (Pub. L. 89-6654), as amended.

The action discussed in the FEIS is the permanent designation for continuing use of ocean disposal sites offshore Palm Beach Harbor and Port Everglades Harbor, Florida. The purpose of the action is to provide an environmentally acceptable option for the ocean disposal of dredged material. The need for the permanent designation of the ODMDSs is based on a demonstrated COE need for ocean disposal of maintenance dredged material from the Federal navigation projects in the Palm Beach Harbor and Port Everglades Harbor areas. The need for ocean disposal for these and other projects, and the suitability of the material for ocean disposal, will be determined on a case-by-case basis as part of the COE's process of issuing permits for ocean disposal and a public review process for its own actions. This will include an evaluation of disposal alternatives.

For the ODMDSs, the COE and EPA would evaluate all federal dredged material disposal projects pursuant to

the EPA criteria set forth in the Ocean Dumping Regulations (40 CFR 220-229) and the COE regulations (33 CFR 209.120 and 335-338). The COE issues MPRSA permits to applicants for the transport of dredged material intended for disposal after compliance with regulations is determined. EPA has the right to disapprove any ocean disposal project if, in its judgment, all provisions of MPRSA and the associated implementing regulations have not been met.

The FEIS discusses the need for these site designations and examines ocean disposal site alternatives to the proposed actions. Non-ocean disposal options have also been examined in the Disposal Area Studies for Palm Beach Harbor and Port Everglades Harbor, prepared by the COE and included as appendices to the FEIS. Alternatives to ocean disposal may include upland disposal within the port areas, or utilization of dredged material for beneficial use such as beach nourishment. The studies concluded that upland disposal in the intensively developed port areas is not feasible. Undeveloped areas within cost-effective haul distances are environmentally valuable in their own right. Beach placement is limited to predominately sandy material.

The following ocean disposal alternatives were evaluated in the FEIS:

1. Alternative Sites on the Continental Shelf

The continental shelf is narrow in the project area with a width of about 0.63 nautical mile (nmi). In the Palm Beach Harbor and Port Everglades Harbor nearshore area, hardgrounds supporting coral and algal communities are concentrated on the continental shelf. Disposal operations on the shelf could adversely impact this reef habitat. Therefore, following discussions with the State, a zone of siting feasibility for alternative ODMDSs was established eliminating from consideration any areas within 3 nmi of shore to avoid impact to natural reefs in the area. Consequently, no alternatives on the continental shelf were considered in the FEIS.

2. Designated Interim Sites

Two interim sites were designated for Palm Beach Harbor, one of which is located nearshore at the port entrance and the other is located approximately 2.9 nmi (4.5 km) offshore. Following discussions with the State of Florida, a zone of siting feasibility was established, eliminating from consideration any areas within 3 nautical miles of shore to avoid direct

impact to natural reefs in the area. As a result, both Palm Beach Harbor interim sites were not considered further.

The interim site for Port Everglades is located 1.7 nmi (3.2 km) offshore. A 1984 survey conducted by the EPA indicated that some damage to nearby inshore, hard bottom areas may have occurred due to the movement of fine grained material associated with disposed dredged material. In light of the survey findings, disposal at the Port Everglades interim site was discontinued and the site was eliminated from further consideration.

3. Alternative Sites Beyond the Continental Shelf

Alternative sites beyond the continental shelf considered for Palm Beach Harbor include the 3 mile site, the 4.5 mile site and the 9 mile site. The 4.5 mile site is approximately one square mile in size and is located within the eastern portion of the 3 mile site. The 3 mile site is four square miles in size. The 3 mile site was dropped from further consideration in favor of the 4.5 mile site as it was determined that a site four square miles in size was not necessary at the depths at this location. The 9 mile site is 4 square miles in size. The deeper depths at the 9 mile site result in a larger disposal footprint, due to greater dispersion, necessitating a larger 4 square mile disposal site. Both the 4.5 mile site and the 9 mile site were considered in the FEIS.

Alternative sites beyond the continental shelf considered for the Port Everglades Harbor include the 4 mile site and the 7 mile site. The 4 mile site is approximately one square mile in size whereas the 7 mile site is two square miles in size. The deeper depths at the 7 mile site result in a larger disposal footprint necessitating a larger 4 square mile disposal site. Both the 4 mile site and the 7 mile site were considered in the FEIS.

4. No Action

The No-Action Alternative would not provide acceptable EPA-designated ocean disposal sites for use by the COE or other entities for the disposal of dredged material. Without final-designated disposal sites, the maintenance of the existing Federal Navigation Projects at Palm Beach Harbor and Port Everglades Harbor would be adversely impacted with subsequent effects upon the local and regional economies. Interim designated ODMDSs are not available. Alternative dredged material disposal methods would be required or the dredging and dredged material disposal discontinued.

In the absence of an EPA designated ocean dredged material disposal site, the COE could select an alternative pursuant to section 103 of MPRSA. In such cases, the ocean site selected for disposal would be evaluated according to the criteria specified in section 102(a) of MPRSA and EPA's Ocean Dumping Regulation and Criteria 40 CFR part 228, and EPA concurrence is required. A site so selected can be used for five years without EPA designation, and can continue to be used for another five years under limited conditions. Accordingly, the No-Action alternative would not provide a long-term management option for dredged material disposal.

5. Preferred Alternative

The site near Palm Beach Harbor selected for ODMDS designation is an area approximately 1 square nautical mile (nmi²) located east northeast of the Lake Worth Inlet and approximately 4.5 nmi offshore. The site at Port Everglades Harbor selected for ODMDS designation is an area approximately 1 nmi² located east northeast of Port Everglades and approximately 4 nmi offshore. These sites were found to comply with the criteria for evaluation of ocean disposal sites established in 40 CFR Sections 228.5 and 228.6 of EPA's Ocean Dumping Regulations. No significant impacts to critical resource areas are expected to result from designation of either of these sites. Similar types of impacts are expected from use of these sites as impacts from use of the alternative sites located further offshore. However, use of these sites is expected to result in less area being impacted as a result of their shallower depth. The selected sites would require significantly less consumption of resources and would result in significantly less air emissions than the offshore sites. In addition, monitoring of the selected sites would be less costly to the federal government and less difficult than the offshore sites. Therefore, these sites were selected as the preferred alternatives.

The FEIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation use and is based on a series of disposal site environmental studies. The environmental studies and final designation are being conducted in accordance with the requirements of MPRSA, the Ocean Dumping Regulations, and other applicable Federal statutory provisions.

This final rulemaking notice fills the same role as the Record of Decision required under regulations promulgated

by the Council on Environmental Quality for agencies subject to NEPA.

D. Site Designations

On July 30, 2004, EPA proposed designation of two sites for continuing disposal of dredged materials from Palm Beach Harbor and Port Everglades Harbor, Florida. The public comment period on this proposed action closed on September 13, 2004. Six letters of comment were received. All six letters were supportive of the Port Everglades Harbor ODMDS designation based on the need for alternatives to upland disposal for maintenance and construction dredged material from the port. No comment letters were received for the Palm Beach Harbor ODMDS.

The ODMDS for Palm Beach Harbor is located east of Palm Beach, Florida, the western boundary being 4.3 nmi offshore. The ODMDS occupies an area of about 1 nmi², in the configuration of an approximate 1 nmi by 1 nmi square. Water depths within the area range from 525 to 625 feet. The coordinates of the Palm Beach Harbor ODMDS are as follows:

26°47'30" N	79°57'09" W;
26°47'30" N	79°56'02" W;
26°46'30" N	79°57'09" W;
26°46'30" N	79°56'02" W;

Center coordinates are 26°47'00" N and 79°56'35" W.

The ODMDS for Port Everglades Harbor is located east of Fort Lauderdale, Florida, the western boundary being 3.8 nmi offshore. The ODMDS occupies an area of about 1 nmi², in the configuration of an approximate 1 nmi by 1 nmi square. Water depths within the area range from 640 to 705 feet. The coordinates of the Port Everglades Harbor ODMDS designation are as follows:

26°07'30" N	80°02'00" W;
26°07'30" N	80°01'00" W;
26°06'30" N	80°01'00" W;
26°06'30" N	80°01'00" W;

Center coordinates are 26°07'00" N and 80°01'30" W. All coordinates utilize the North American Datum of 1983 (NAD83).

E. Analysis of Criteria Pursuant to the Ocean Dumping Act Regulatory Requirements

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to prevent any temporary perturbations associated with the disposal from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where

feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If, at any time, disposal operations at a site cause unacceptable adverse impacts, further use of the site can be restricted or terminated by EPA. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven specific factors used in evaluating a disposal site to assure that the general criteria are met. The sites, as discussed below under the eleven specific factors, are acceptable under the five general criteria.

The characteristics of the sites are reviewed below in terms of these eleven criteria (the FEIS may be consulted for additional information).

1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast (40 CFR 228.6(a)(1))

The ODMDS for Palm Beach Harbor is located east of Palm Beach, Florida, the western boundary being 4.3 nmi offshore. Water depths within the area range from 525 to 625 feet with depth contours parallel to the coastline. The coordinates of the Palm Beach Harbor ODMDS are as follows:

26°47'30" N 79°57'09" W;
26°47'30" N 79°56'02" W;
26°46'30" N 79°57'09" W; and
26°46'30" N 79°56'02" W;

Center coordinates are 26°47'00" N and 79°56'35" W.

The ODMDS for Port Everglades Harbor is located east of Fort Lauderdale, Florida, the western boundary being 3.8 nmi offshore. Water depths within the area range from 640 to 705 feet with depth contours parallel to the coastline. The coordinates of the Port Everglades Harbor ODMDS designation are as follows:

26°07'30" N 80°02'00" W;
26°06'30" N 80°01'00" W;
26°06'30" N 80°02'00" W; and
26°06'30" N 80°01'00" W;

Center coordinates are 26°07'00" N and 80°01'30" W. All coordinates utilize the North American Datum of 1983 (NAD83).

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2))

The most active breeding and nursery areas are located in inshore waters, along adjacent beaches, or in nearshore reef areas. While breeding, spawning, and feeding activities may take place near the ODMDSs, these activities are not believed to be confined to, or concentrated in, these areas. While

many marine species may pass through the ODMDSs, passage is not geographically restricted to these areas.

EPA initially coordinated with the National Marine Fisheries Service (NMFS) regarding the Endangered Species Act (ESA) on March 24, 2004. At that time, EPA sent NMFS a copy of the Draft EIS, which included two Appendices, each entitled Biological Assessment. Those Assessments evaluated the potential impacts from the site designations to Federally listed threatened and endangered species. In its letter, EPA referenced the Assessments, which concluded that the site designations "will not adversely affect" any listed species or critical habitat. While the letter stated that EPA concluded the action "will not affect" any listed species, EPA informally consulted with NMFS and sought comments from the NMFS on the proposed site designations with the March 2004 letter. In a May 24, 2004 letter of response, NMFS concluded that adverse effects on whales are unlikely to occur from this project and no effects to the shortnose sturgeon or smalltooth sawfish are likely to occur from this project.

On March 24, 2004, EPA also consulted with NMFS pursuant to Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) 16 U.S.C. 1855, and the applicable implementing regulations. At that time, EPA sent NMFS a copy of the Draft EIS which included an Essential Fish Habitat (EFH) Assessment within the body of the document. In a May 6, 2004 letter of response, NMFS requested a stand alone EFH Assessment that specifically addressed potential impacts to deepwater habitats, such as black corals and *Oculina*, and potential impacts to deepwater managed species including tilefish. The EFH Assessments were provided to NMFS on July 15, 2004 and included as appendices to the FEIS. Based on comments received from NMFS, EPA revised the EFH Assessments. Revised EFH Assessments for designation of the Palm Beach Harbor ODMDS and the Port Everglades Harbor ODMDS were provided to NMFS on September 22, 2004 and October 12, 2004, respectively. The Assessments set forth EPA's determination that the site designation of the Palm Beach Harbor ODMDS and Port Everglades Harbor ODMDS will not have a substantial individual or cumulative adverse impact on the EFH of managed species. In letters dated October 19, 2004 and October 20, 2004, NMFS concluded that the fishery conservation requirements of the MSFCMA were completed for the Palm Beach Harbor ODMDS and the

Port Everglades Harbor ODMDS, respectively.

3. Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3))

The disposal sites for Palm Beach Harbor and Port Everglades Harbor are located approximately 4.5 nmi and 4.0 nmi offshore, respectively. The nearest beaches are located on the shorelines west of the sites. Because of the distance of the sites from the shoreline, the predominate northerly directed current, and the expected localized effects at the disposal sites, it is unlikely that dredged material disposal at either of the sites would adversely affect coastal beaches. Amenity areas in the vicinity of the sites include artificial and natural reefs. Both sites are located at least 2.3 nmi from the nearest artificial reef. From West Palm Beach to the Florida Keys, there are generally three separate series of reefs or hard bottoms. The disposal sites for Palm Beach Harbor and Port Everglades Harbor are located approximately 2.6 nmi and 3.0 nmi from the outer of these reef series, respectively. In addition, colonies of the deepwater coral *Oculina varicosa* extend north from Palm Beach Harbor and parallel the break between the edge of the continental shelf and the Florida-Hatteras slope. The Palm Beach Harbor ODMDS is located approximately 1.7 nmi east of the nearest observed deepwater corals. Currents in the vicinity trend alongshore in a general north-south orientation. Modeling performed by the COE indicates that disposed material will not impact these natural areas.

4. Types and Quantities of Wastes Proposed To Be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if Any (40 CFR 228(a)(4))

The only material to be placed at the ODMDSs will be dredged material that meets the EPA Ocean Dumping Criteria in 40 CFR Parts 220 through 229. The sites are expected to be used for routine maintenance of the respective harbor projects. Annual average disposal volumes of 30,000 cubic yards of material are expected at each site with disposal occurring every three years. Dredged material from Port Everglades Harbor is expected to have a solids content of 60 to 70 percent solids by weight with a grain size of 38 to 5 percent of the grains finer than sand by weight. Dredged material from Palm Beach Harbor is expected to have solids content of 80 to 85 percent solids by weight with a grain size of 6 percent finer than sand. It has been

demonstrated by the COE that the most cost effective method of dredging is clamshell/barge dredging for Palm Beach Harbor and hopper dredging for Port Everglades Harbor. Additional foreseen use of the Port Everglades Harbor site could be the Federal Port Everglades Deepening Project or use by the U.S. Navy in Port Everglades. The Deepening Project has not yet been authorized and there are no currently planned Navy projects. The disposal of dredge material at the proposed sites will be conducted using a near instantaneous dumping type barge or scow.

5. Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5))

Surveillance and monitoring of the proposed sites is feasible. Survey vessels, aircraft overflights, or automated Geographic Positioning Systems (GPS) surveillance systems are feasible surveillance methods. The depths at these sites make conventional ODMDS monitoring techniques difficult to utilize. A draft Site Management and Monitoring Plan (SMMP) for each ODMDS was developed and included in an appendix in the FEIS. The SMMPs were finalized by EPA and the COE in November, 2004. The SMMPs establish a sequence of monitoring surveys to be undertaken to determine any impacts resulting from disposal activities. The SMMPs may be reviewed and revised by EPA.

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area Including Prevailing Current Direction and Velocity, if Any (40 CFR 228.6(a)(6))

Prevailing currents parallel the coast and are generally oriented along a north-south axis. Northerly flow predominates. Mean surface currents range from 10 to 100 cm/sec depending on direction with maximum velocities up to 530 cm/sec. Current speeds are lower and current reversals more common in near-bottom waters. Mean velocities of 20 cm/sec and maximum velocities of 130 cm/sec have been measured for near-bottom waters in the area. Dredged material dispersion studies conducted by the COE for both short (hours) and long-term (months) transport of material disposed at the Palm Beach Harbor and Port Everglades Harbor sites indicate little possibility of disposed material affecting near-shore reefs or other amenities in the areas of the disposal sites.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) (40 CFR 228.6(a)(7))

There are no current or previous discharges within the ODMDSs. There are two interim-designated ODMDSs near Palm Beach Harbor. The disposal of 5.2 million cubic yards of dredged material from Palm Beach Harbor occurred between 1950 and 1983 in the interim sites. The characteristics of the dredged material were poorly graded sand with traces of shell fragments.

An interim-designated ODMDS at Port Everglades Harbor is located approximately 2.5 nmi west-southwest of the Port Everglades Harbor ODMDS. The disposal of 220,000 cubic yards of dredged material occurred in this interim ODMDS between 1952 and 1982. The characteristics of the disposed dredged material were organic silt with some clay. A 1984 survey conducted by EPA indicated that some damage to nearby inshore, hard bottom areas may have occurred because of the movement of fine material associated with the disposal of dredged material at the site. In light of the survey findings, disposal at the Port Everglades interim site was discontinued after 1984.

There are two wastewater ocean outfall discharges in the vicinity of each proposed ODMDS. The nearest outfall to either of the proposed sites is 11 miles. The effluent from wastewater outfalls has undergone secondary treatment and chlorination. Significant adverse impacts to the marine environment have not been documented in association with either of these offshore wastewater outfalls. Any effects from these discharges would be local and predominately in a north-south direction due to prevailing currents. Therefore, these discharges should not have any effect within the sites.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8))

The infrequent use of the proposed sites should not significantly disrupt either commercial shipping or recreational boating. Commercial and recreational fishing activities are concentrated in inshore and nearshore waters. No mineral extraction, desalination, or mariculture activities occur in the immediate area. Scientific resources present near the Port Everglades Harbor site include the South Florida Ocean Measurement Center (SFOMC, formerly the South

Florida Testing Facility). The SFOMC is located 1.5 nmi south of the ODMDS. Interference with activities at the SFOMC is not expected.

9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys (40 CFR 228.6(a)(9))

Baseline surveys conducted for the Palm Beach Harbor and the Port Everglades Harbor ODMDSs show the water quality and other environmental characteristics of the proposed ODMDSs to be typical of the Atlantic Ocean. Salinity, dissolved oxygen, and transmissivity (water clarity) data indicated water masses over the sites were similar to water masses in open ocean waters and deviated little between sites. Macrofaunal samples were dominated in numbers by annelids and arthropods. Water quality at the proposed ODMDSs is variable and is influenced by frequent Florida Current intrusions of offshore oceanic waters, and periodic up welling of deep ocean waters. The proposed disposal sites lie on the continental slope in an area traversed by the western edge of the Florida Current. The location of the western edge of the current determines to a large extent whether waters at the site are predominantly coastal or oceanic. Frequent intrusions or eddies of the Florida Current transport oceanic waters over the continental shelf in the vicinity of the ODMDSs. Periodic up welling/down welling events associated with wind stress also influence waters in the area.

No critical habitat or unique ecological communities have been identified within or adjacent to the ODMDSs.

10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10))

The disposal of dredged materials should not attract or promote the development of nuisance species. No nuisance species have been reported to occur at previously utilized disposal sites in the vicinity of either ODMDSs.

11. Existence at or in Close Proximity to the Site of Any Significant Natural or Cultural Features of Historical Importance (40 CFR 228.6(a)(11))

Due to the proximity of ODMDSs to entrance channels, the cultural resource that has the greatest potential for impact would be shipwrecks. Sidescan sonar surveys of the sites were conducted which should have identified any potential shipwrecks. No such features were noted within the disposal sites in the sidescan sonar surveys of the

disposal sites. No natural or cultural features of historical importance have been identified at either site. The Florida Department of State Division of Historical Resources was consulted and they determined that it is unlikely that designation of the ODMDSs would affect archaeological or historical resources eligible for listing in the *National Register of Historic Places*, or otherwise of significance.

F. Site Management

Site management of the ODMDSs is the responsibility of EPA in cooperation with the COE. The COE issues permits to private applicants for ocean disposal; however, EPA Region 4 assumes overall responsibility for site management. Development of Site Management Plans is required by the MPRSA prior to final designation. A Site Management and Monitoring Plan (SMMP) for each ODMDS was developed as a part of the process of completing the FEIS. The SMMPs were finalized by EPA and the COE in November, 2004. The plans provide procedures for both site management and for the monitoring of effects of disposal activities. The SMMPs are intended to be flexible and may be reviewed and revised by the EPA.

G. Action

The FEIS concludes that the sites may appropriately be designated for use. The sites are also consistent with the five general criteria and eleven specific factors in the Ocean Dumping Regulations used for site evaluation.

The designation of the Palm Beach Harbor and Port Everglades Harbor sites as EPA-approved ODMDSs is being published as final rulemaking. Overall management of these sites is the responsibility of the Regional Administrator of EPA Region 4.

It should be emphasized that, if an ODMDS is designated, such a site designation does not constitute EPA's approval of actual disposal of material at sea. Before ocean disposal of dredged material at the site may commence, the COE must evaluate a permit application according to EPA's Ocean Dumping Criteria (40 CFR part 227) and authorize disposal. EPA has the right to disapprove the actual disposal if it determines that environmental concerns under MPRSA have not been met.

H. Statutory and Executive Order Reviews

1. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency

must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(A) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(B) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this action does not meet the definition of a "significant regulatory action" under E.O. 12866 as described above and is therefore not subject to OMB review.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OPM. Since this rule does not establish or modify any information or record-keeping requirements, it is not subject to the provisions of the Paperwork Reduction Act.

3. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA), 5 U.S.C. 601 *et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business based on the Small Business Administration's (SBA) size standards; (2) a small governmental jurisdiction that is a government of a city, county,

town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant economic impact on small entities. The ocean disposal site designations will only have the effect of providing a long term, environmentally acceptable disposal option for dredged material. This action will help to facilitate the maintenance of safe navigation on a continuing basis. After considering the economic impacts of today's final action on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

4. The Unfunded Mandates Reform Act and Executive Order 12875

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal Mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising

small governments on compliance with the regulatory requirements.

EPA has determined that this action contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Thus, the requirements of section 202 and section 205 of the UMRA do not apply to this final rule. Similarly, EPA has also determined that this action contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this final rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule addresses the designation and de-designation of ocean disposal sites for the potential disposal of dredged materials. This action neither creates new obligations nor alters existing authorizations of any State, local or other governmental entities. Thus, Executive Order 13132 does not apply to this rule. However, EPA did consult with State and local government representatives in the development of the FEIS and through solicitation of comments on the Draft and Final EIS. In addition, in the spirit of Executive Order 13132, and EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes."

This action does not have Tribal implications. This action will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. This final rule designates ocean dredged material disposal sites and does not establish any regulatory policy with tribal implications. Thus, Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe might have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not an economically significant rule as defined under Executive Order 12866 and does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. Therefore, it is not subject to Executive Order 13045.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

9. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

Although EPA stated that the proposed action did not directly involve technical standards, the proposed action and today's final action include environmental monitoring and measurement as described in EPA's SMMPs. EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated sites. Rather, the Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the SMMP.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons

(including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

Because this action addresses ocean disposal site designations (away from inhabited land areas), no significant adverse human health or environmental effects are anticipated. Therefore, no action from this final rule would have a disproportionately high and adverse human health and environmental effect on any particular segment of the population. In addition, this rule does not impose substantial direct compliance costs on those communities. Accordingly, the requirements of Executive Order 12898 do not apply.

11. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule as defined in 5 U.S.C. 804(2) cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective February 17, 2005.

12. The Endangered Species Act

Under section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. 1536(a)(2), federal agencies are required to "insure that any action authorized, funded, or carried on by such agency * * * is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species * * *." Under regulations implementing the ESA, a Federal agency is required to consult with either the FWS or the NMFS (depending on the species involved) if the agency's action "may affect" endangered or threatened species or their critical habitat. *See*, 50 CFR 402.14(a).

EPA initially coordinated with the National Marine Fisheries Service (NMFS) regarding the Endangered

Species Act (ESA) on March 24, 2004. At that time, EPA sent NMFS a copy of the Draft EIS, which included two Appendices, each entitled Biological Assessment. Those Assessments evaluated the potential impacts from the site designations to federally listed threatened and endangered species. In its letter, EPA referenced the Assessments, which concluded that the site designations "will not adversely affect" any listed species or critical habitat. While the letter stated that EPA concluded the action "will not affect" any listed species, EPA informally consulted with NMFS and sought comments from the NMFS on the proposed site designations with the March 2004 letter. In a May 24, 2004 letter of response, NMFS concluded that adverse effects on whales are unlikely to occur from this project and no effects to the shortnose sturgeon or smalltooth sawfish are likely to occur from this project.

13. Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)

The 1996 Sustainable Fisheries Act amendments to the MSFCMA require the designation of EFH for Federally managed species of fish and shellfish. Pursuant to section 305(b)(2) of the MSFCMA, Federal agencies are required to consult with the NMFS regarding any action they authorize, fund, or undertake that may adversely affect EFH. An adverse effect has been defined by the Act as follows: "Any impact which reduces the quality and/or quantity of EFH. Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions."

On March 24, 2004, EPA consulted with NMFS pursuant to Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) 16 U.S.C. 1855, and the applicable implementing regulations. At that time, EPA sent NMFS a copy of the Draft EIS which included an EFH Assessment within the body of the document. In a May 6, 2004 letter of response, NMFS requested a stand alone EFH Assessment that specifically addressed potential impacts to deepwater habitats, such as black corals and Oculina, and potential impacts to deepwater managed species including tilefish. The EFH Assessments were provided to NMFS on July 15, 2004 and included as appendices to the FEIS. Based on comments received from NMFS, EPA revised the EFH

Assessments. Revised EFH Assessments for designation of the Palm Beach Harbor ODMDS and the Port Everglades Harbor ODMDS were provided to NMFS on September 22, 2004 and October 12, 2004, respectively. The Assessments set forth EPA's determination that the site designation of the Palm Beach Harbor ODMDS and Port Everglades Harbor ODMDS will not have a substantial individual or cumulative adverse impact on the EFH of managed species. In letters dated October 19, 2004 and October 20, 2004, NMFS concluded that the fishery conservation requirements of the MSFCMA were completed for the Palm Beach Harbor ODMDS and the Port Everglades Harbor ODMDS, respectively.

14. Executive Order 13089: Coral Reef Protection

Executive Order 13089 (63 FR 32701, June 16, 1998) on Coral Reef Protection recognizes the significant ecological, social, and economic values provided by the Nation's coral reefs and the critical need to ensure that Federal agencies are implementing their authorities to protect these valuable ecosystems. Executive Order 13089 directs Federal agencies, including EPA and the COE whose actions may affect U.S. coral reef ecosystems, to take the following steps: 1. Identify their actions that may affect U.S. coral reef ecosystems; 2. Utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and 3. To the extent permitted by law, ensure that any actions they authorize, fund, or carry out will not degrade the conditions of such ecosystems. It is the policy of EPA and the COE to apply their authorities under the MPRSA to avoid adverse impacts on coral reefs. Protection of coral reefs has been carefully addressed through the application of the site designation criteria which require consideration of the potential site's location in relation to breeding, spawning, nursery, feeding, and passage areas of living marine resources and amenity areas, interference with recreation and areas of special scientific importance, and existence of any significant natural or cultural features at or in close proximity to the site (*see* E. Analysis of Criteria Pursuant to the Ocean Dumping Act Regulatory Requirements). Based on application of these criteria, the proposed disposal sites should not have adverse effects on coral reefs.

15. Executive Order 13158: Marine Protected Areas

Executive Order 13158 (65 FR 34909, May 31, 2000) requires that each Federal

agency whose actions affect the natural or cultural resources that are protected by an Marine Protected Area (MPA) shall identify such actions and shall avoid harm to the natural and cultural resources that are protected by an MPA. The purpose of the Executive Order is to protect the significant natural and cultural resources within the marine environment, which means "those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law."

EPA has reviewed the Marine Managed Areas Inventory maintained by the National Oceanic and Atmospheric Administration and the U.S. Department of Commerce. The nearest MPA to either ODMDS is Biscayne National Park which is located greater than 20 nmi from the Port Everglades Harbor ODMDS and greater than 40 nmi from the Palm Beach Harbor ODMDS. Therefore, EPA has determined that no MPAs will be affected by this action.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: January 4, 2005.

J.I. Palmer, Jr.,

Regional Administrator for Region 4.

■ In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below:

PART 228—[AMENDED]

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

§ 228.14 [Amended]

■ 2. Section 228.14 is amended by removing and reserving paragraphs (h)(3), (h)(4), and (h)(5).

■ 3. Section 228.15 is amended by adding paragraphs (h)(21) and (h)(22) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(21) Palm Beach Harbor, FL Ocean Dredged Material Disposal Site.

(i) Location (NAD83): 26°47'30" N., 79°57'09" W.; 26°47'30" N., 79°56'02" W.; 26°46'30" N., 79°57'09" W.; 26°46'30" N., 79°56'02" W. Center coordinates are 26°47'00" N and 79°56'35" W.

(ii) Size: Approximately 1 square nautical mile.

(iii) Depth: Ranges from 525 to 625 feet.

(iv) Primary use: Dredged material.

(v) Period of use: Continuing use.

(vi) Restriction: Disposal shall be limited to suitable dredged material. Disposal shall comply with conditions set forth in the most recent approved Site Management and Monitoring Plan.

(22) Port Everglades Harbor, FL Ocean Dredged Material Disposal Site.

(i) Location (NAD83): 26°07'30" N., 80°02'00" W.; 26°07'30" N., 80°01'00" W.; 26°06'30" N., 80°02'00" W.; 26°06'30" N., 80°01'00" W. Center coordinates are 26°07'00" N and 80°01'30" W.

(ii) Size: Approximately 1 square nautical mile.

(iii) Depth: Ranges from 640 to 705 feet.

(iv) Primary use: Dredged material.

(v) Period of use: Continuing use.

(vi) Restriction: Disposal shall be limited to suitable dredged material. Disposal shall comply with conditions set forth in the most recent approved Site Management and Monitoring Plan.

* * * * *

[FR Doc. 05-932 Filed 1-14-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA-7861]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled

suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646-2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the

EFH Consultation –
National Marine
Fisheries Service

Jordan, Terri L SAJ

From: Jordan, Terri L SAJ
Sent: Wednesday, March 02, 2005 4:18 PM
To: 'Jocelyn Karazsia'
Subject: RE: did you get your reponses for the Port Everglades O&M?

Jocelyn - after reviewing your email - I realized that our EFH letter dated November 30, 2004 may not have addressed the second half of your EFH Conservation Recommendation:

"The final EA also should provide a summary of the decision sequencing for site selection of the DEP entrance channel disposal sites."

To address this comment - please see section 2.3.1 of the FInal EA (below) that addresses how the entrance channel disposal site was selected.

2.3.1 Entrance Channel Placement

This alternative would place material in the southern half of the entrance channel between stations 29+00 and 46+00 (per the drawings in appendix D and Figure 5) that is deeper than the authorized depth of 45 feet, to return the material to the littoral system, while not restricting vessel navigation. The Corps reviewed the option of either utilizing the entire channel width or just a portion of the channel. After reviewing current surveys of the channel, it was determined that placement of material in the northern half of the channel would make that portion too shallow for safe navigation of vessels entering the Port, thus only the southern half of the channel was selected for use as a disposal location.

Dredged material being placed in the southern portion of the Entrance Channel between stations 29+00 and 46+00 would be limited to material that is sandy and suitable for beach renourishment, typically coming from the Entrance Channel shoals. Dredging of this material was covered in the Nov 2003 EA recently completed by the Corps and listed in Section 1.5. Silty, clay material would not be placed in the entrance channel.

In addition to the evaluation of effects of dredging this material from the Entrance Channel, this alternative has been previously permitted by the State of Florida Department of Environmental Protection (FDEP) (Permit #0112329-001 - dated August 21, 1998). The original permit issued by FDEP authorized placement between stations 10+00 and 30+00. A subsequent survey of this site identified seagrass and hardbottom resources within this footprint. As a result of these resources, the Corps has chosen to relocate the placement site. Placement of the material will be done with a bottom dump hopper dredge or bottom dump barge. A copy of the permit is included in this EA in Appendix E.

I hope this answers your EFH CR and between this response and the November 30, 2004 letter, we can conclude EFH consultation. I expect the Final EA and FONSI to be complete within the next two weeks.

Let me know if you have any more questions.

-----Original Message-----

From: Jocelyn Karazsia [mailto:Jocelyn.Karazsia@noaa.gov]
Sent: Wednesday, March 02, 2005 3:24 PM
To: Jordan, Terri L SAJ
Subject: Re: did you get your reponses for the Port Everglades O&M?

Terri,

I am a little confused with the COE's letter. We provided one EFH Conservation Recommendation (CR; see below). Your letter responds to our specific comments on the DEA, but does not directly address the EFH CR. Although I greatly appreciate the detailed response to each individual specific comment, it is not clear to me why your letter does not directly address the EFH CR and if the necessary information is contained in the final EA.

EFH Conservation Recommendation

Authorization to conduct the proposed dredging should be withheld pending receipt of an EFH assessment that meets the agreed upon requirements as set forth in our 1999 findings concerning the Jacksonville District's planning and operations activities. The final EA also should provide a summary of the decision sequencing for site selection of the DEP entrance channel disposal sites. Based on the information provided, NOAA Fisheries will either advise that EFH consultation is complete or provide additional recommendations as may be needed to avoid and minimize impacts to EFH.

A few questions/comments in response to your letter:

1) Should the cover page read "and are NOT economically justifiable to implement" ?

2) In consideration of the above, the COE's letter does include information that partially addresses our EFH CR, i.e., the EFH assessment requirements. However, please advise if the final EA provides a summary of the decision sequencing for site selection of the DEP entrance channel disposal sites? (I do not have a copy of the final EA with me.) Your letter states "the Corps has reviewed the proposed disposal area suggested by NOAA Fisheries . . ." I do not recall proposing a specific disposal area.

I know that the COE is eager to move forward with this project. Can you e-mail me the page(s) in the final EA that provide the requested information?

Thanks,

Jocelyn L. Karazsia, Ecologist
National Marine Fisheries Service
Habitat Conservation Division

----- Original Message -----

From: "Jordan, Terri L SAJ" <Terri.L.Jordan@saj02.usace.army.mil>
Date: Wednesday, March 2, 2005 1:46 pm
Subject: did you get your reponses for the Port Everglades O&M?

> I haven't seen anything yet.
>
> Terri Jordan
> Biologist
> Environmental Branch - Planning Division
> Jacksonville District - SAD
> US Army Corps of Engineers
>

Planning Division
Environmental Branch

Mr. Miles Croom
Assistant Regional Administrator
Habitat Conservation Division
National Marine Fisheries Service
9721 Executive Center Drive North
St. Petersburg, Florida 33702

Dear Mr. Croom:

Thank you for the Essential Fish Habitat Conservation Recommendations included in your July 27, 2004 letter for the Operations and Maintenance of Port Everglades in Broward County, Florida. A detailed reply to the five EFH recommendations is enclosed. We intend to comply with most of the EFH recommendations. The remaining recommendations either are not practicable or are economically justifiable to implement.

If you have any questions, please contact Terri Jordan at 904 232-1817.

Sincerely,

James C. Duck
Chief, Planning Division

Enclosure

Copy Furnished:
Mr. Allan Sosnow

Recommendation #1 - *Essential Fish Habitat*. Relevant to the abovementioned 1999 findings, the evaluation of project impacts to EFH should be addressed in the draft National Environmental Policy Act documents in a section or chapter titled “EFH Assessment” or by reference to companion documents. The EFH assessment may also be presented as a separate request for consultation. The information should include both an identification of affected EFH and an assessment of impacts. The EFH discussion may reference pertinent information on the affected environment and environmental consequences when they are provided in other sections, chapters, or companion documents. As stated above, NOAA Fisheries is concerned that the information provided is insufficient to demonstrate that avoidance and minimization of adverse impacts to EFH have been adequately addressed. Although the DEA provides information (Sections 3.6 and 4.5) on “EFH”, the assessment of impacts to EFH is presented in several other sections of the DEA (e.g., impacts to hardbottoms are discussed 4.4.2.3, 4.4.3.3, 4.4.4.3, etc.). In addition, there is no assessment of cumulative impacts, specific to EFH, in the DEA. To address this, an EFH assessment should be prepared and provided for NOAA Fisheries review or the DEA EFH Section should be revised to meet the agreed upon requirements as set forth in the 1999 findings. As per the July 19, 2004 conference call, the COE agreed to revise the EFH section of the DEA to meet the agreed upon requirements, which would address NOAA Fisheries concerns.

Response – The Corps has revised the EA language and titles to meet the requirements of the 1999 finding between NOAA Fisheries and the Corps. Per the May 3, 1999 EFH Finding between NOAA-Fisheries and the Jacksonville District – the following items must be identified in a NEPA document: Project Description, Identification of EFH, Impacts to EFH, Federal Agency Views, and Proposed Mitigation.

- **Project Description** - Section 1.1 of the EA provides an overview of the proposed maintenance dredging, and sections 2.2 and 2.3 provide detailed information about dredging and disposal alternatives. These sections serve as a description of the proposed action in compliance with the May 1999 EFH Finding.
- **Identification of EFH** - Section 3.6 of the EA provides an identification of EFH in the project area under the title “Essential Fish Habitat Description”. In addition, a discussion of all fish and wildlife resources and vegetative communities in the project area is located in Sections 3.4 and 3.5 of the EA. These sections serve as a description of the fish and wildlife resources and vegetative communities and specifically identify Federally managed fisheries and designated EFH in the project area in compliance with the May 1999 EFH Finding.
- **Impacts to EFH** - Section 4.5 of the EA is now labeled “Essential Fish Habitat Assessment” and provides a discussion of the effects of the project on designated EFH. Additionally, Sections 4.4 provides a discussion of impacts to resources classified as EFH, and managed not just by NMFS, but other federal and state resource agencies. Due to this overlapping jurisdiction, these resources were reviewed in separate sections. Section 4.11 provides a discussion of cumulative effects or previous activities in the action area, including an assessment of these effects on EFH.

Additionally, EPA prepared a cumulative impact assessment for the Port Everglades ODMDS FEIS. This cumulative impact assessment is located in 3.2 of Appendix I and since the FEIS for the designation of the ODMDS is incorporated by reference into the EA for Port Everglades O&M dredging, this assessment is likewise, incorporated by reference. These sections serve as a description of the cumulative impacts to EFH in compliance with the May 1999 EFH Finding.

- Federal Agency views – The Corps determinations about effects to designated EFH are found in Table #1 under the Row labeled “Essential Fish Habitat” and in detail in Section 4.5 of the EA. These sections serve as a description of the agency views on EFH in compliance with the May 1999 EFH Finding.
- Proposed mitigation – no mitigation is proposed for maintenance dredging. Section 3.2.3 provides a discussion of the Corps policy on mitigation for maintenance dredging events.

Based on these revisions, the Corps believes it has provided a complete EFH Assessment in compliance with the May 3, 1999 EFH Finding with NOAA-Fisheries.

Recommendation #2 – *Section 3.4.4 Impacts to submerged aquatic vegetation (SAV).* According to the DEA/FONSI, “while Johnson's seagrass is found in Broward County, it has not been found in the Port Everglades Federal Navigation Project channels, or in any of the proposed disposal areas.” However, NOAA Fisheries notes that based on surveys conducted by the DEP and the COE in June 2004, paddle grass (*Halophila decipiens*) and Johnson’s seagrass (*H. johnsonii*) were observed in the vicinity of the Port (i.e., immediately south of the entrance channel).

Response – The Corps continues to refer NOAA-Fisheries to the statement that “while Johnson's seagrass is found in Broward County, it has not been found in the Port Everglades Federal Navigation Project channels, or in any of the proposed disposal areas” found in Section 3.4.4. It is correct that Johnson’s seagrass has been located to the south and east of the maintenance dredging and disposal areas, directly adjacent to Nova Southeast University and the U.S. Navy South Florida Testing Facility dock, however as previously stated by the Corps, Johnson’s seagrass is neither in the Port Everglades Federal Navigation Project Channels nor in the disposal areas. The Corps has added paddle grass to the list of SAV species found in the vicinity of the Port.

Recommendation #3 – *Minimization of dredged induced turbidity and sedimentation impacts to marine habitats located within and/or adjacent to the entrance channel disposal areas.* The DEA/FONSI should provide detailed information concerning proposed measures that will be taken to prevent sediments from being released into surrounding waters during dredging and disposal, especially areas containing notable biological communities. This is of particular concern at the DEP designated entrance channel disposal sites. Although we acknowledge that the COE proposed disposal areas are preferred over the previously designated DEP sites within the entrance channel (given the previously designated sites proximity to reef habitat), NOAA Fisheries remains concerned that the proposed entrance channel disposal areas are also in areas that support

low-relief hardbottom and, in some areas, are within 200 feet of high relief reef (see Figure 5). Based on the information provided (i.e., Figure 5), it appears that alternative sites within the entrance channel, including sites over sand bottom or lower relief rock/rubble habitat would be more appropriate for disposal site designation. As discussed with the COE in the abovementioned conference call, it would be useful to have a summary in the DEA of the decision sequencing that led to the designation of the new sites.

In addition to the need to better identify impacts to EFH, a greater level of habitat protection may be warranted and practicable. More specifically, we recommend that the final EA be expanded to address the use of aquatic filter screens (e.g., Gunderboom products) in the vicinity of hardbottoms and reefs. These products have successfully been used in locations of high wave energy where elevated levels of turbidity and sedimentation threatened sensitive habitats and life stages of fish and invertebrates.

Response – The Corps has reviewed the proposed disposal area suggested by NOAA Fisheries and due to water depth, and the requirement to maintain a specific depth of water in the boundaries of the Port Everglades Federal Navigation Project, we have determined that placement of dredged material in the southern portion of the Entrance Channel as requested by NOAA Fisheries would make this portion of the channel too shallow for safe navigation of vessels entering the Port. Section 2.3 of the EA provides additional information concerning this decision. We are unable to adopt this recommendation. The Corps will comply with water quality requirements put forth in the State of Florida Water Quality Certificate. The Corps has also investigated sedimentation curtains like the Gunderboom products and due to concerns about potential entrapment of endangered and protected marine mammals and sea turtles, as well as strong tidal currents; we are unable to adopt this recommendation.

Recommendation #4 – *Impacts to EFH and the EPA's pending ODMDS.* NOAA Fisheries does not fully concur with information provided in the DEA regarding impacts to EFH at the EPA's pending ODMDS. According to the EPA's DEIS, side scan sonar surveys revealed a ridge-like feature in the Port Everglades 4-mile site. By letter dated May 6, 2004, NOAA Fisheries asked the EPA re-evaluate this feature and determine if it represents a hardbottom community. We also expressed concerns to EPA regarding potential impacts the existing tilefish fishery if use of the ODMDS is authorized.

Response – It is the understanding of the Corps that EFH Consultation with the Environmental Protection Agency was concluded on Oct 20, 2004 and any remaining issues with that consultation referenced in your previous letters have been resolved. As such, no additional comments will be provided here.

Recommendation #5 – *Cumulative Impacts.* Although NOAA Fisheries agrees that the proposed maintenance dredging may represent only a minor to modest part of the overall suite of ongoing activities in coastal waters of Broward County, the proposed work is cumulatively significant. Combined with other activities such as the Broward SPP and the proposed Tractebel Calypso Pipeline and Ocean Express Pipeline projects, substantial individual, cumulative, and synergistic impacts to aquatic resources and habitats are

possible. Accordingly, and in accordance with our 1999 findings and the Regulations for Implementation of the National Environmental Policy Act [40 C.F.R. 1508.25(a)(2)], all direct, indirect, and cumulative impacts, in addition to all other past, present, and proposed (federal and non-federal) actions should be considered collectively. Please note that cumulative impacts, specific to EFH, should also be provided within the EFH assessment for our review.

Response –The Corps has addressed Cumulative impacts to EFH in the Cumulative impacts section of the EA (Section 4.11). Additionally, the EPA prepared a Cumulative Impact Statement as part of their EFH Assessment in Section 3.2 of Appendix I of the FEIS for designation of the Port Everglades ODMDS. The Corps hereby incorporates this assessment by reference.

Jordan, Terri L SAJ

From: McAdams, James J SAJ
Sent: Wednesday, September 08, 2004 12:40 PM
To: Jordan, Terri L SAJ
Subject: FW: Request for extension

Fyi

-----Original Message-----

From: Kay Davy [mailto:Kay.Davy@noaa.gov]
Sent: Wednesday, September 08, 2004 12:39 PM
To: Mcadams, James J; Mason, Loren M
Subject: Request for extension

We have received your letter requesting an extension for time to respond to our letter dated July 27, 2004 concerning EFH conservation recommendations on the Port Everglades Federal Navigation Project. Considering the unusual circumstances due to Hurricanes Charley and Frances, your request is respectfully granted. I hope that you will also consider potential time extensions on our part for projects affected by the two hurricanes. Good luck with the cleanup operations.

Sincerely,
Kay Davy
NOAA Fisheries, (National Marine Fisheries Service)
Habitat Conservation Division
Miami



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

Planning Division
Environmental Branch

AUG 27 2004

Mr. Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division
National Marine Fisheries Service
9721 Executive Center Drive North
St. Petersburg, Florida 33702-2432

Dear Mr. Croom:

This letter acknowledges the U. S. Army Corps of Engineers' (Corps) receipt of your July 27, 2004, letter stating that you have reviewed the preliminary Environmental Assessment (EA) for the proposed Maintenance Dredging of the Port Everglades Federal Navigation Project in Broward County. The EA discussed the following alternatives: no action, ocean disposal, and beach placement. Your office provided a number of project related Essential Fish Habitat (EFH) conservation recommendations in response to the April 2004 EA.

Currently Corps staff assigned to complete coordination on this item have been deployed to work Hurricane Charley cleanup activities in southwest Florida. We will be unable to comply with a substantive response to your letter within the standard 30-day timeframe and request an extension of at least 60 days. We understand that the Corps response is to be provided at least 10 days prior to final approval of the action.

This letter represents the Corps' interim response to the National Marine Fisheries Service EFH conservation recommendations concerning the proposed maintenance dredging of the Port Everglades Federal Navigation Project. Further questions regarding this project should be directed to Mr. James Mc Adams at the letterhead address or by telephoning 904-232-2117.

Sincerely,

James C. Duck
Chief, Planning Division

Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, Florida 33702

July 27, 2004

Mr. James C. Duck, Chief
Planning Division, Environmental Branch
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Dear Mr. Duck:

This supplements NOAA Fisheries' letter dated July 8, 2004, concerning the April 2004, Draft Environmental Assessment and Finding of No Significant Impact (DEA/FONSI) to continue routine Maintenance Dredging at the Port Everglades Federal Navigation Project in Broward County, Florida. Approximately 100,000 cubic yards of sediment would be removed from the harbor on a three-year basis, or as needed to maintain the authorized depths of the Federal Navigation Project. The dredged material would be placed in areas of the entrance channel that are deeper than the required depth, the Environmental Protection Agency (EPA) approved Ocean Dredged Material Disposal Site (ODMDS), and/or on John U. Lloyd State Park (JULSP) beaches, as beach renourishment.

By conference call dated July 16, 2004, between Ms. Terri Jordan of your staff and Ms. Jocelyn Karazsia of our Charleston Office, the requirements set forth in our 1999 essential fish habitat (EFH) findings with the Jacksonville District concerning planning and operation activities were discussed. Other relevant issues including the presence of seagrasses in the Port, the DEP previously authorized and COE proposed disposal sites within the entrance channel and proximity to hardbottom and coral resources, outstanding issues with the EPA's ODMDS, and cumulative impacts were also discussed. Please accept the following revised comments specific to the abovementioned DEA.

By letter dated May 6, 2004, NOAA Fisheries provided comments to the EPA on the February 2004 Draft Environmental Impact Statement (DEIS) for Designation of the Palm Beach Harbor ODMDS and the Port Everglades Harbor ODMDS. In that letter, NOAA Fisheries expressed concerns regarding the adequacy of the assessment of potential impacts to deepwater habitats. We noted that, in the absence of an adequate EFH assessment, it would not be possible to determine whether the fishery conservation requirements of the Magnuson-Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act) would be met and NOAA Fisheries would have no recourse but to recommend withholding ODMDS approval. As an EFH conservation recommendation, we recommended that approval of ODMDS designation be withheld pending receipt of an EFH assessment and other information needs as identified by NOAA Fisheries. We have not received a response to those comments and recommendations. NOAA Fisheries believes that coordination between the Army Corps of Engineers (COE), EPA, Florida Department of Environmental Protection (DEP), NOAA Fisheries, and other relevant agencies, is needed regarding the status of the ODMDS designation. We suggest that the COE may wish to pursue resolution of this matter through contact with the EPA.

NOAA Fisheries has commented on the effects of beach renourishment on living marine resources at JULSP [note this is work associated the Broward County Shore Protection Project (SPP) Segments II and III, associated with permit application number 199905545 (IP-SLN)], by letters dated June 26, 2000, April 23, 2002, and May 28, 2003, in addition to various electronic correspondences and participation in interagency meetings. JUL is located within Segment III of the Broward SPP, which has been nourished previously, as opposed to Segment II, which has never been nourished and supports high quality habitat in the nearshore and offshore areas.

General Comments:

NOAA Fisheries is concerned the proposed work could adversely impact resources for which we have management and stewardship responsibilities pursuant to provisions of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Act. The proposed project is located in areas identified as EFH by the South Atlantic Fishery Management Council (SAFMC). Categories of EFH that occur within the project vicinity include the marine water column, coral, hardbottoms, sargassum, sand habitats, seagrasses, and coastal inlets. Hardbottom areas are designated as EFH by the SAFMC for juvenile and adult red and gag grouper, gray and mutton snapper, white grunt, penaeid shrimp, and spiny lobster. Coral reef habitat has been designated as EFH for juvenile and adult red and gag grouper, gray and mutton snapper, white grunt, and spiny lobster. The marine water column has been designated as EFH due to its importance as the medium of transport for nutrients and migrating organisms between estuarine systems and the open ocean. Sargassum has been designated EFH for sea bass, jack, and marbled grouper. In addition, sand bottom has been designated EFH for juvenile lane snapper and adult and subadult brown shrimp, juvenile and adult gag grouper. Federally managed species associated with seagrasses include postlarval and juvenile brown and pink shrimp; adult gray, lane, and schoolmaster snappers; juvenile Goliath grouper and mutton snapper; and adult white grunt. In addition, coastal inlets are designated as EFH for penaeid shrimp. NOAA Fisheries has also identified EFH for highly migratory species that utilize the water column in this area including nurse, bonnethead, lemon, black tip, and bull sharks.

Detailed information on shrimp, the snapper/grouper complex (containing ten families and 73 species), spiny lobster, and other federally managed fisheries and their EFH is provided in the 1998 comprehensive amendment of the Fishery Management Plans for the South Atlantic Region prepared by the SAFMC¹. The comprehensive amendment was prepared as required by the Magnuson-Stevens Act. In addition, sargassum, seagrasses, coral and coral reef (including deepwater *Lophelia* and *Enallopsammia* corals), and hardbottom habitats (including deepwater hardbottom habitats), which are located within the vicinity of the proposed ODMDSSs, have been designated as habitat areas of particular concern (HAPC) by the SAFMC. HAPCs are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area.

In view of the presence of EFH in the project area and the likelihood of impacts to those resources, preparation of an EFH assessment or revision of the EFH information contained in the DEA (to meet the agreed upon "EFH assessment" requirements as set forth in the 1999 findings) appears to be warranted. As per the aforementioned July 16, 2004, conference call, the COE agreed to the latter, which would address our concern regarding the lack of an EFH assessment that meets the requirements set forth in the 1999 findings. This EFH assessment should include a description of the proposed action; an analysis of the effects (including indirect and cumulative effects) of the action on EFH, managed species, and associated species by life history stage; COE views regarding the effects of the action on EFH; and proposed mitigation, if applicable. The EFH assessment should also include the results of site-specific studies, the views of recognized experts on impacts to habitats and species, a literature review, and any other relevant information.

Specific Comments:

Pages 24-25. Essential Fish Habitat. Relevant to the abovementioned 1999 findings, the evaluation of project impacts to EFH should be addressed in the draft National Environmental Policy Act documents in a section or chapter titled "EFH Assessment" or by reference to companion documents. The EFH assessment may also be presented as a separate request for consultation. The information should include both an identification of affected EFH and an assessment of impacts. The EFH discussion may reference pertinent information on the affected environment and environmental consequences when they are provided in other sections, chapters, or companion documents. As stated above, NOAA Fisheries is concerned that the information provided is insufficient to demonstrate that avoidance and minimization of adverse impacts to EFH have been adequately addressed. Although the DEA provides information (Sections 3.6 and 4.5) on "EFH," the assessment of impacts to EFH is presented in several other sections of the DEA (e.g., impacts to hardbottoms are discussed 4.4.2.3, 4.4.3.3, 4.4.4.3, etc.). In addition, there is no assessment of

¹South Atlantic Fishery Management Council (SAFMC). 1998a. Final habitat plan for the south Atlantic region: essential fish habitat requirements for fishery management plans of the South Atlantic Fishery Management Council. Charleston, South Carolina. 639 p.

cumulative impacts, specific to EFH, in the DEA. To address this, an EFH assessment should be prepared and provided for NOAA Fisheries review or the DEA EFH Section should be revised to meet the agreed upon requirements as set forth in the 1999 findings. As per the July 19, 2004 conference call, the COE agreed to revise the EFH section of the DEA to meet the agreed upon requirements, which would address NOAA Fisheries concerns.

Page 13. *Section 3.4.4 Impacts to submerged aquatic vegetation (SAV).* According to the DEA/FONSI, “while Johnson's seagrass is found in Broward County, it has not been found in the Port Everglades Federal Navigation Project channels, or in any of the proposed disposal areas.” However, NOAA Fisheries notes that based on surveys conducted by the DEP and the COE in June 2004, paddle grass (*Halophila decipiens*) and Johnson's seagrass (*H. johnsonii*) were observed in the vicinity of the Port (i.e., immediately south of the entrance channel).

Page 19 and Figure 5. *Minimization of dredged induced turbidity and sedimentation impacts to marine habitats located within and/or adjacent to the entrance channel disposal areas.* The DEA/FONSI should provide detailed information concerning proposed measures that will be taken to prevent sediments from being released into surrounding waters during dredging and disposal, especially areas containing notable biological communities. This is of particular concern at the DEP designated entrance channel disposal sites. Although we acknowledge that the COE proposed disposal areas are preferred over the previously designated DEP sites within the entrance channel (given the previously designated sites proximity to reef habitat), NOAA Fisheries remains concerned that the proposed entrance channel disposal areas are also in areas that support low-relief hardbottom and, in some areas, are within 200 feet of high relief reef (see Figure 5). Based on the information provided (i.e., Figure 5), it appears that alternative sites within the entrance channel, including sites over sand bottom or lower relief rock/rubble habitat would be more appropriate for disposal site designation. As discussed with the COE in the abovementioned conference call, it would be useful to have a summary in the DEA of the decision sequencing that led to the designation of the new sites.

In addition to the need to better identify impacts to EFH, a greater level of habitat protection may be warranted and practicable. More specifically, we recommend that the final EA be expanded to address the use of aquatic filter screens (e.g., Gunderboom products) in the vicinity of hardbottoms and reefs. These products have successfully been used in locations of high wave energy where elevated levels of turbidity and sedimentation threatened sensitive habitats and life stages of fish and invertebrates.

Page 23. *Impacts to EFH and the EPA's pending ODMDS.* NOAA Fisheries does not fully concur with information provided in the DEA regarding impacts to EFH at the EPA's pending ODMDS. According to the EPA's DEIS, side scan sonar surveys revealed a ridge-like feature in the Port Everglades 4-mile site. By letter dated May 6, 2004, NOAA Fisheries asked the EPA re-evaluate this feature and determine if it represents a

hardbottom community. We also expressed concerns to EPA regarding potential impacts the existing tilefish fishery if use of the ODMDS is authorized.

Page 29. Cumulative Impacts. Although NOAA Fisheries agrees that the proposed maintenance dredging may represent only a minor to modest part of the overall suite of ongoing activities in coastal waters of Broward County, the proposed work is cumulatively significant. Combined with other activities such as the Broward SPP and the proposed Tractebel Calypso Pipeline and Ocean Express Pipeline projects, substantial individual, cumulative, and synergistic impacts to aquatic resources and habitats are possible. Accordingly, and in accordance with our 1999 findings and the Regulations for Implementation of the National Environmental Policy Act [40 C.F.R. 1508.25(a)(2)], all direct, indirect, and cumulative impacts, in addition to all other past, present, and proposed (federal and non-federal) actions should be considered collectively. Please note that cumulative impacts, specific to EFH, should also be provided within the EFH assessment for our review.

Summary of Information Needs

1. The COE should prepare an EFH assessment for NOAA Fisheries review, or the DEA EFH Section should be revised to meet the agreed upon requirements as set forth in the 1999 findings. The assessment should contain:
 - A. A description of the proposed action.
 - B. An analysis of the effects of the action on EFH, managed species, and associated species by life history stage. This analysis should include, but not be limited to the following components: Direct, indirect, and cumulative effects; Effects of the proposed action on important marine habitats; Effects on managed species; Effects on infauna and epifauna prey species for managed fisheries.
 - C. COE views regarding the effects of the action on EFH;
 - D. Proposed mitigation, if applicable; and
5. The results of site-specific studies (i.e., the interagency seagrass survey) the views of recognized experts on the habitat or species effects, a literature review, and any other relevant information.
2. The COE should provide a summary of the decision sequencing for site selection of the DEP entrance channel disposal sites in the final EA.

EFH Conservation Recommendation

Authorization to conduct the proposed dredging should be withheld pending receipt of an EFH assessment that meets the agreed upon requirements as set forth in our 1999 findings concerning the Jacksonville District's planning and operations activities. The final EA also should provide a summary of the decision sequencing for site selection of the DEP entrance channel disposal sites. Based on the information provided, NOAA Fisheries will either advise that EFH consultation is complete or provide additional recommendations as may be needed to avoid and minimize impacts to EFH.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and NOAA Fisheries' implementing

regulation at 50 CFR Section 600.920(k) require your office to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30 days, an interim response should be provided to NOAA Fisheries. A detailed response then must be provided at least ten days prior to final approval of the action. Your detailed response must include a description of measures proposed by your agency to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendation, you must provide a substantive discussion justifying the reasons for not following the recommendation.

Our comments and recommendations concerning protection of Johnson's seagrass are provided in accordance with provisions of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Act. Pursuant to the ESA, separate comments regarding Johnson's seagrass may be provided by NOAA Fisheries' Protected Resources Division (PRD). If PRD comments and

recommendations are not in concert with those provided herein, additional coordination may be necessary. As a general rule, if two sets of recommendations are provided, the recommendations that provide a greater level of protection should be adopted over those that are less protective.

We appreciate the opportunity to provide these comments. Related correspondence should be addressed to the attention of Ms. Jocelyn Karazsia or Ms. Kay Davy at our Miami Office. Ms. Karazsia may be reached at 219 Fort Johnson Road, Charleston, South Carolina, 29401, or by telephone at (843) 762-8559. Ms. Davy may be reached at 11420 North Kendall Drive, Suite #103, Miami, Florida 33176, or by telephone at (786) 263-0028.

Sincerely,

Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

cc:
EPA, West Palm Beach
DEP, Tallahassee
FFWCC, Tallahassee
FWS, Vero Beach
F/SER4
F/SER45-Davy



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, Florida 33702

July 8, 2004

James C. Duck, Chief
Planning Division, Environmental Branch
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Dear Mr. Duck:

The National Marine Fisheries Service (NOAA Fisheries) has reviewed the April 2004, Draft Environmental Assessment and Finding of No Significant Impact (DEA/FONSI) to Continue Routine Maintenance Dredging at the Port Everglades Federal Navigation Project in Broward County, Florida. Associated work includes deepening of an approximate three acre berthing area from about 11 feet to 31 feet plus 2 feet overdepth. The dredged materials would be placed in an offshore Ocean Dredged Material Disposal Site (ODMDS) for which approval is pending and on John U. Lloyd (JUL) State Park beaches, as beach renourishment.

By letter dated May 6, 2004, NOAA Fisheries provided comments to the U.S. Environmental Protection Agency (EPA) on the February 2004 Draft Environmental Impact Statement (DEIS) for Designation of the Palm Beach Harbor Ocean Dredged Material Disposal Site (ODMDS) and the Port Everglades Harbor ODMDS. In that letter NOAA Fisheries expressed concerns regarding the adequacy of the assessment of potential impacts to deepwater habitats. We noted that, in the absence of an adequate essential fish habitat (EFH) assessment for these habitats, it would not be possible to determine whether the fishery conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) would be met and NOAA Fisheries would have no recourse but to recommend withholding ODMDS approval. As an EFH conservation recommendation, we recommended that approval of ODMDS designation be withheld pending receipt of an EFH assessment and other information needs as identified by NOAA Fisheries. To date, NOAA Fisheries has not received a response to our comments and recommendations. NOAA Fisheries believes that coordination between the Corps of Engineers (COE), EPA, Florida Department of Environmental Protection (DEP), NOAA Fisheries, and other relevant agencies, is needed regarding the status of the ODMDS designation. We suggest that the COE may wish to pursue resolution of this matter through contact with the EPA.

NOAA Fisheries has commented on the effects of beach renourishment on living marine resources at JUL [note this is work associated the Broward County Shore Protection Project



(SPP) Segments II and III, associated with permit application number 199905545 (IP-SLN)], by letters dated June 26, 2000, April 23, 2002, and May 28, 2003, in addition to various electronic correspondences and participation in interagency meetings. JUL is located within Segment III of the Broward SPP, which has been nourished previously, as opposed to Segment II which has never been nourished and supports higher quality habitat in the nearshore and offshore areas.

General Comments:

NOAA Fisheries is concerned the proposed work could adversely impact resources for which we have management and stewardship responsibilities pursuant to provisions of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Act. The proposed project is located in areas identified as EFH by the South Atlantic Fishery Management Council (SAFMC).

Categories of EFH that occur within the project vicinity include the marine water column, coral, hardbottoms, sargassum, sand habitats, and seagrasses. Hardbottom areas are designated as EFH by the SAFMC for juvenile and adult red and gag grouper, gray and mutton snapper, white grunt, penaeid shrimp, and spiny lobster. Coral reef habitat has been designated as EFH for juvenile and adult red and gag grouper, gray and mutton snapper, white grunt, and spiny lobster. The marine water column has been designated as EFH due to its importance as the medium of transport for nutrients and migrating organisms between estuarine systems and the open ocean. Sargassum has been designated EFH for sea bass, jack, and marbled grouper. In addition, sand bottom has been designated EFH for juvenile lane snapper and adult and subadult brown shrimp, juvenile and adult gag grouper. Federally managed species associated with seagrasses include postlarval and juvenile brown and pink shrimp; adult gray, lane, and schoolmaster snappers; juvenile Goliath grouper and mutton snapper; and adult white grunt. NOAA Fisheries has also identified EFH for highly migratory species that utilize the water column in this area including nurse, bonnethead, lemon, black tip, and bull sharks.

Detailed information on shrimp, the snapper/grouper complex (containing ten families and 73 species), spiny lobster, and other federally managed fisheries and their EFH is provided in the 1998 comprehensive amendment of the Fishery Management Plans for the South Atlantic Region prepared by the SAFMC¹. The comprehensive amendment was prepared as required by the Magnuson-Stevens Act. In addition, sargassum, seagrasses, coral and coral reef (including deepwater *Lophelia* and *Enallopsammia* corals), and hardbottom habitats (including deepwater hardbottom habitats), which are located within the vicinity of the proposed ODMDs, have been designated as habitat areas of particular concern (HAPC) by the SAFMC. HAPCs are subsets of EFH that are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area.

¹South Atlantic Fishery Management Council (SAFMC). 1998a. Final habitat plan for the south Atlantic region: essential fish habitat requirements for fishery management plans of the South Atlantic Fishery Management Council. Charleston, South Carolina. 639 p.

In view of the presence of EFH in the project area and the likelihood of impacts to those resources, preparation of an EFH assessment appears warranted. The EFH assessment should include a description of the proposed action; an analysis of the effects (including indirect and cumulative effects) of the action on EFH, managed species, and associated species by life history stage; COE views regarding the effects of the action on EFH; and proposed mitigation. The EFH assessment should also include the results of site-specific studies, the views of recognized experts on impacts to habitats and species, a literature review, and any other relevant information.

Specific Comments:

Pages 24-25. Essential Fish Habitat. As stated above, NOAA Fisheries is concerned that the information provided is insufficient to demonstrate that avoidance and minimization of adverse impacts to EFH have been adequately addressed. To address this, an EFH assessment should be prepared and provided for NOAA Fisheries review. See the Summary of Information Needs Section (below) for further direction regarding this important matter.

Page 13. Section 3.4.4 Impacts to submerged aquatic vegetation (SAV). According to the DEA/FONSI, "while Johnson's seagrass is found in Broward County, it has not been found in the Port Everglades Federal Navigation Project channels, or in any of the proposed disposal areas." However, according to the DEP's June 30, 2004, letter, Johnson's seagrass (*Halophila johnsonii*), was observed directly south of the project area (approximately 50 meters from the dredge template and 25 meters from the proposed toe of slope) during surveys conducted in June 2004. In addition, an 81 square foot area of *H. decipiens* and approximately 0.8-acre of macroalgae were observed in the western shoal area. We concur with the DEP, in that it would be of value to have a resource map of the dredge site showing seagrass beds for each species and the macro-algae beds. The drawing should also indicate the shoreline, the bottom of slope and the predicted top of slope. Existing bathymetric contour lines would also be useful. This information should be included in the EFH assessment. In addition, we note that we concur with the DEP, in that the proposed slope of the channel and impact to nearby resources should be evaluated. Furthermore, alternatives that minimize these impacts should be evaluated in the EA.

Page 19. Minimization of dredged induced turbidity and sedimentation impacts to marine habitats. The DEA/FONSI should provide detailed information concerning proposed measures that will be taken to prevent sediments from being released into surrounding waters during dredging and disposal, especially areas containing notable biological communities. We concur with the DEP in that this information should be provided for agency review. In addition, the need to better identify impacts to EFH, a greater level of habitat protection may be warranted and practicable. More specifically, we recommend that the final EA be expanded to address the use of aquatic filter screens (e.g., Gunderboom products) in the vicinity of hardbottoms and reefs. These products have successfully been used in locations of high wave energy where elevated levels of turbidity and sedimentation threatened sensitive habitats and life stages of fish and invertebrates.

Page 25. Impacts to the reef ecosystem. According to the DEA/FONSI, impacts to areas that would be dredged and filled include temporary displacement of highly motile species and burial of sessile organisms and life stages that are unable to relocate. Although, the COE anticipates that these species will re-colonize within one calendar year, this determination may not apply to more stable locations such as areas that support hardbottoms, corals, and/or seagrasses. This should be addressed in the EFH assessment.

Page 29. Cumulative Impacts. Although NOAA Fisheries agrees that the proposed maintenance dredging may represent only a minor to modest part of the overall suite of ongoing activities in coastal waters of Broward County, the proposed work is cumulatively significant. Combined with other activities such as the Broward SPP and the proposed Tractebel Calypso Pipeline and Ocean Express Pipeline projects, substantial individual, cumulative, and synergistic impacts to aquatic resources and habitats are possible. Accordingly, and in accordance with Regulations for Implementation of the National Environmental Policy Act [40 C.F.R. 1508.25(a)(2)], all direct, indirect, and cumulative impacts, in addition to all other past, present, and proposed (federal and non-federal) actions should be considered collectively. Furthermore, we note that it is not clear from the information provided, if blasting would be needed to conduct the proposed work. Please provide this information for our review in the EFH assessment.

Summary of Information Needs

The COE should prepare an EFH assessment for NOAA Fisheries review. The assessment should contain:

- A. A description of the proposed action, including any blasting activities, if proposed.
- B. An analysis of the effects of the action on EFH, managed species, and associated species by life history stage. This analysis should include, but not be limited to the following components: Direct, indirect, and cumulative effects; Effects of the proposed action on important marine habitats including *H. johnsonii* and other forms of SAV; Effects on managed species; Effects on infauna and epifauna prey species for managed fisheries.
- C. COE views regarding the effects of the action on EFH;
- D. Proposed mitigation; and
- E. The results of site-specific studies (i.e., the interagency seagrass survey) the views of recognized experts on the habitat or species effects, a literature review, and any other relevant information.

EFH Conservation Recommendation

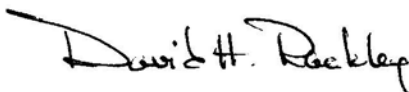
Authorization to conduct the proposed dredging should be withheld pending receipt of an EFH assessment and other information needs as identified by NOAA Fisheries. Based on our review of the pending information, NOAA Fisheries may provide additional EFH conservation recommendations.

Section 305(b)(4)(B) of the Magnuson-Stevens Act and NOAA Fisheries' implementing regulation at 50 CFR Section 600.920(k) require your office to provide a written response to this letter within 30 days of its receipt. If it is not possible to provide a substantive response within 30 days, an interim response should be provided to NOAA Fisheries. A detailed response then must be provided at least ten days prior to final approval of the action. Your detailed response must include a description of measures proposed by your agency to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendation, you must provide a substantive discussion justifying the reasons for not following the recommendation.

Our comments and recommendations concerning protection of Johnson's seagrass are provided in accordance with provisions of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Act. Pursuant to the ESA, separate comments regarding Johnson's seagrass may be provided by NOAA Fisheries' Protected Resources Division (PRD). If PRD comments and recommendations are not in concert with those provided herein, additional coordination may be necessary. As a general rule, if two sets of recommendations are provided, the recommendations that provide a greater level of protection should be adopted over those that are less protective.

We appreciate the opportunity to provide these comments. Related correspondence should be addressed to the attention of Ms. Kay Davy at our Miami Office. She may be reached at 11420 North Kendall Drive, Suite #103, Miami, Florida 33176, or by telephone at (786) 263-0028.

Sincerely,


foz Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

cc:
EPA, West Palm Beach
DEP, West Palm Beach
FFWCC, Tallahassee
FWS, Vero Beach
F/SER4
F/SER45-Davy



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, Florida 33702

June 30, 2004

Mr. James C. Duck, Chief
Planning Division, Environmental Branch
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Dear Mr. Duck:

The National Marine Fisheries Service (NOAA Fisheries) is currently reviewing the April 2004, Draft Environmental Assessment and Finding of No Significant Impact (DEA/FONSI) to Continue Routine Maintenance Dredging at the Port Everglades Federal Navigation Project in Broward County, Florida. In addition to dredging, work would entail placement of dredged material in portions of the entrance channel where depths exceed authorized dimensions, and in the designated Ocean Dredged Material Disposal Site and on John U. Lloyd State Park beaches.

As you are aware, the environmental impacts associated with this project will be influenced by several other ongoing and proposed projects in Broward County. In connection with the subject project and others, NOAA Fisheries is working closely with your office, the Jacksonville District's Regulatory Division, and state agencies to ensure that all relevant factors related to each project are carefully and appropriately considered. In connection with this effort, we have not completed our review of related studies and further coordination and additional time is needed. We are making every effort to expedite our review of documents and to conduct needed coordination and we will provide detailed comments to you at the earliest possible date. To this end, I anticipate that NOAA Fisheries' comments on the subject DEA/FONSI will be provided on or before July 9, 2004. Upon completion, they will be immediately faxed to you.

I regret any inconvenience that our delayed response may cause. Related correspondence should be addressed to the attention of Mr. David Rackley at our Charleston, South Carolina office. He may be reached at 219 Fort Johnson Road, Charleston, South Carolina 29412, or by telephone at (843) 762-8574.

Sincerely,

Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division



ESA Consultation –
National Marine
Fisheries Service &
US Fish and Wildlife
Service



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, FL 33702
(727) 570-5312, FAX 570-5517
<http://caldera.sero.nmfs.gov>

APR 22 2004

F/SER3:JCL

Mr. James C. Duck
Chief, Planning Division
Jacksonville District
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, FL 32232-0019

Dear Mr. Duck:

The National Marine Fisheries Service (NOAA Fisheries) received on April 1, 2004, your March 29, 2004, letter regarding routine maintenance dredging. The proposed activity is to conduct routine maintenance dredging of the Port Everglades Federal Navigational Project, Broward County, Florida. The following project-related comments are submitted pursuant to the interagency consultation requirements of section 7 of the Endangered Species Act (ESA). The project's effects have been reviewed by NOAA Fisheries' Protected Resources Division.

The proposed project includes the following activities:

- Removal of approximately 100,000 cubic yards of sediment resulting from shoaling, on a three-year basis or as needed to maintain authorized depths.
- Placement of dredged material for the ten-year life of this assessment will be in the deeper portions of the entrance channel to return the beach quality material to the littoral system if the dredged material meets the beach placement criteria and additional environmental and economic constraints are met.
- Maintenance dredging may be completed by cutter-suction, clamshell or hopper dredge.

NOAA Fisheries believes the proposed activity falls within the scope of the general type of hopper dredging activities proposed, described, and analyzed in the September 25, 1997, Regional Biological Opinion (RBO) to the Corp of Engineers' South Atlantic Division (SAD). The RBO amended the regional opinion conducted in 1995, and superseded the interim biological opinion issued on April 9, 1997.

NOAA Fisheries believes the effects of the proposed activity are entirely comparable to the effects of similar activities which have been previously analyzed by the RBO and no new effects of the proposed activity beyond those effects previously analyzed by the RBO are expected. Thus, takes in association with the use of hopper dredges from the proposed activity have been previously anticipated in the RBO and shall be charged to the annual incidental take statement (ITS) established in the RBO. All terms and conditions of the reasonable and prudent measures of the ITS of the RBO must be adhered to by the applicant during the implementation of the



proposed activity. Only incidental takes which occur while these measures are in full implementation are authorized.

Incidental takes of marine mammals are not authorized through the ESA section 7 process. If you believe that bottlenose dolphins may be present in the area of any significant sources of noise or other actions that may result in injury or harassment, an incidental take authorization under Marine Mammal Protection Act (MMPA) Section 101 (a)(5) may be necessary. Please contact Kenneth Hollingshead of our Headquarters Protected Resources staff at (301) 713-2055 for additional information regarding an MMPA take authorization.

You are also reminded that, in addition to its protected species/critical habitat consultation requirements with NOAA Fisheries pursuant to section 7 of the ESA, prior to proceeding with the proposed action the action agency must also consult with NOAA Fisheries' Habitat Conservation Division (HCD) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act's requirements for essential fish habitat (EFH) consultation (16 U.S.C. 1855 (b)(2) and 50 CFR 600.905-.930, subpart K). Consultation is not complete until EFH and ESA concerns have been addressed. If you have any questions about EFH consultation for this project, please contact Mr. Richard Hartman at (225) 389-0508.

We look forward to our agencies' continuing cooperation to conserve our protected resources. If you have any questions regarding this letter or section 7 consultation, please contact Juan Levesque, fishery biologist, at the number above or via e-mail at Juan.Levesque@noaa.gov.

Sincerely,



David Bernhart
Acting Regional Administrator
for Protected Resources

cc: F/SER43 - J. Karazsia
COE SAD, Atlanta - D. Barnett

I/SER/2004/00418

File: 1514.22.f.1 FL

Planning Division
Environmental Branch

Mr. David Bernhart
National Marine Fisheries Service
Southeast Regional Office
Protected Species Resources Division
9721 Executive Center Drive North
St. Petersburg, Florida 33702

Dear Mr. Bernhart:

The U.S. Army Corps of Engineers (Corps), Jacksonville District proposes to continue conducting routine maintenance dredging of the Port Everglades Federal Navigation Project, Broward County, Florida (see Figure 1, Plan View and Location Map). Approximately 100,000 cubic yards of sediment, resulting from shoaling, will be removed from the harbor on a three-year basis or as needed, to maintain the authorized depths of the Federal Navigation Project. Placement of dredged material for the ten-year life of this assessment will be in the deeper portions of the entrance channel to return the beach quality material to the littoral system, the Environmental Protection Agency approved Offshore Dredged Material Disposal Site for Port Everglades, and on John U. Lloyd State park beaches if the material meets beach placement criteria and additional environmental and economic constraints are met. Maintenance dredging may be completed by cutter-suction, clamshell or hopper dredge.

Listed species which may occur in the vicinity of the proposed work and are under the jurisdiction of the NMFS are: loggerhead sea turtle (*Caretta caretta*, T), green sea turtle (*Chelonia mydas*, E), leatherback sea turtle (*Dermochelys coriacea*, E), hawksbill sea turtle (*Eretmochelys imbricata*, E), Kemp's' ridley sea turtle (*Lepidochelys kempii*, E), Olive ridley sea turtle (*Lepidochelys oliveacea*, T), Johnson's seagrass (*Halophila johnsonii*, T), finback whale (*Balaenoptera physalus*, E), humpback whale (*Megaptera novaeangliae*, E), north Atlantic right whale (*Eubalaena glacialis*, E), sei whale (*Balaenopera borealis*, E), and the sperm whale (*Physeter macrocephalus*, E).

The Corps has determined that the proposed maintenance dredging will have no effect on whale species in the area. Additionally, the Corps has determined that there is no Johnson's seagrass inhabiting the Federal navigation project channels. However, the proposed project may affect sea turtles, if a hopper dredge is used. Based on the 25 September 1997 biological opinion issued by NMFS to the South Atlantic Division of the Corps (of which Jacksonville is a member), the Corps will incorporate all terms and conditions from that opinion for any maintenance dredging activities within the Port Everglades Federal navigation project. The Corps has determined that with the implementation of the terms and conditions from the Sept 1997 opinion, we may affect, but are not likely to adversely affect listed species under NMFS jurisdiction within the project area. We request your concurrence with our determination.

If you have any questions, please contact Ms. Terri Jordan at 904-232-1817 or terri.l.jordan@saj02.usace.army.mil.

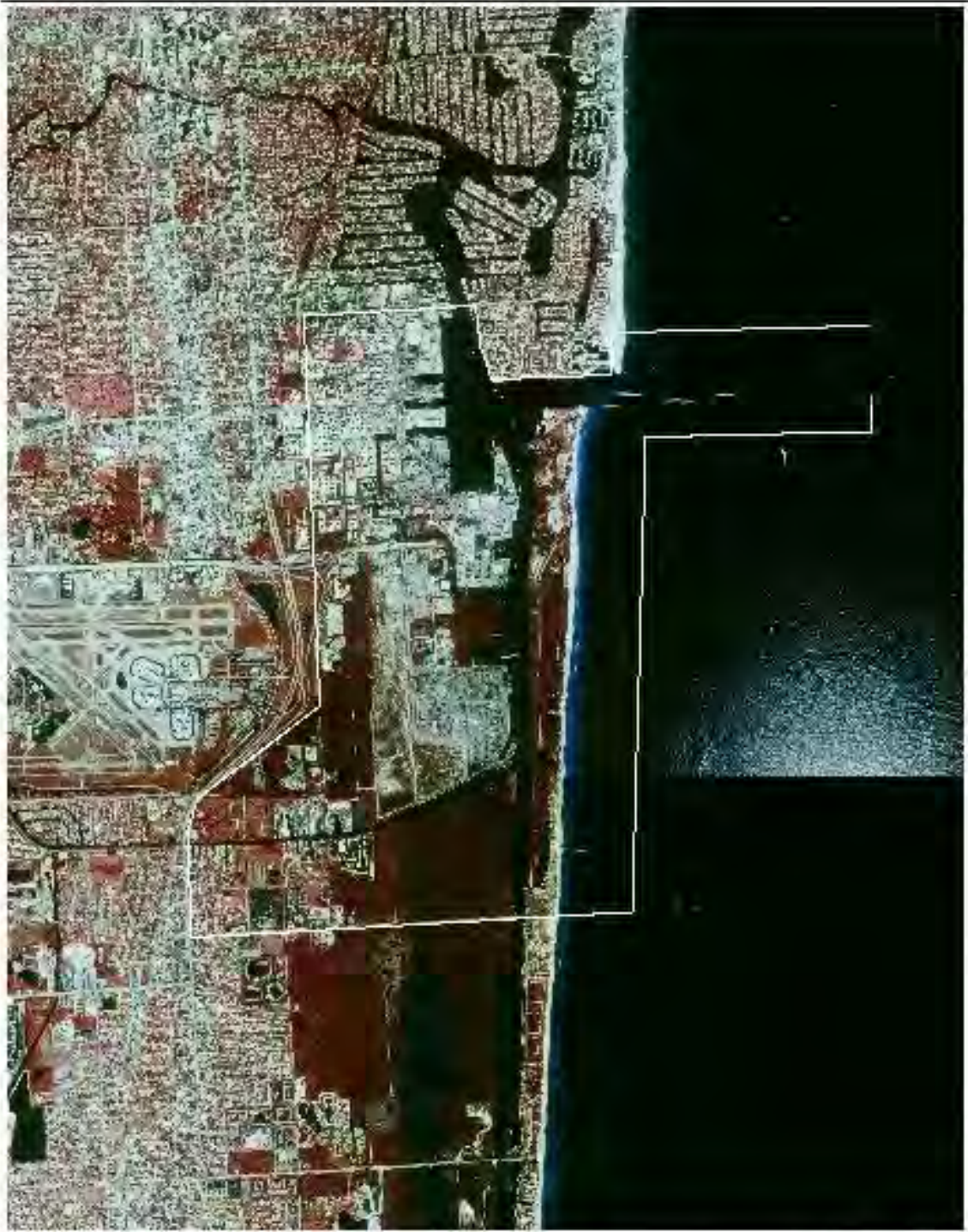
Sincerely,

James C. Duck
Chief, Planning Division

Enclosure

Jordan/CESAJ-PD-EA/1817/
McAdams/CESAJ-PD-EA
Mason/CESAJ-PD-E
Ross/CESAJ-DP-C
Strain/CESAJ-PD-P
Duck/CESAJ-PD

L: group/pde/jordan/Port Everglades O&M Sect 7 cover
letter NMFS



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DEPARTMENT OF THE ARMY

SOUTH ATLANTIC DIVISION, CORPS OF ENGINEERS

ROOM 313, 77 FORSYTH ST., S.W.

ATLANTA, GEORGIA 30335-6801

REPLY TO
ATTENTION OF:

CESAD-ET-PR (1105-2-10b)

129 OCT 1997

MEMORANDUM FOR

COMMANDER, CHARLESTON DISTRICT
COMMANDER, JACKSONVILLE DISTRICT
COMMANDER, SAVANNAH DISTRICT
COMMANDER, WILMINGTON DISTRICT

Subject: National Marine Fisheries Service, Regional Biological Opinion on Hopper Dredging along the South Atlantic Coast

1. Reference the Endangered Species Act Section 7 Consultation, Biological Opinion for The Continued Hopper Dredging of Channels and Borrow Areas in the Southeastern United States, National Marine Fisheries Service (NMFS) 25 September 1997 (Encl 1).
2. The referenced document was sent to your District Sea Turtle Coordinator by electronic mail on 29 September 1997, without the signed NMFS transmittal letter. The purpose of this memorandum is to transmit copies of the complete document to you, and to provide some guidance on its implementation.
3. During the spring of 1997 we experienced an unanticipated high level of sea turtle entrainments in our hopper dredges along the Atlantic coast. Within a month of starting work, we were approaching our incidental take limit for loggerheads, despite having taken all sea turtle protection measures we had available to us. Our commitment to protect sea turtles while maintaining safe navigation channels for defense and commerce, forced us to make some very hard choices. The result was that from March until the new Regional Biological Opinion (RBO) went into effect on 1 October 1997, we had taken 29 loggerhead sea turtles, completed work at six projects and terminated the remaining six projects with less than about half of the work being completed. Fortunately we did not take any of the endangered species of sea turtles and we were able to complete most of the critical work, or critical project reaches, during that period.
4. The Corps of Engineers has a commitment to protect sea turtles, as was exemplified by our willingness to terminate Corps projects and the NMFS reciprocated by being very cooperative during the Section 7 Consultation process.

CESAD-ET-PR

29 OCT 1997

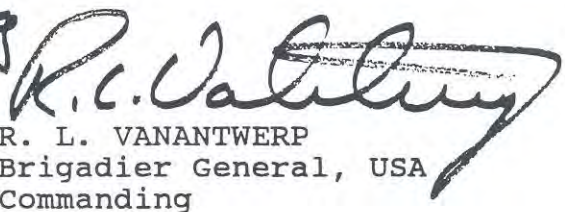
Subject: National Marine Fisheries Service, Regional Biological
Opinion on Hopper Dredging along the South Atlantic Coast

We received an Interim Biological Opinion which extended our incidental take of loggerhead sea turtles from 20 to 35, enabling us to resume our necessary hopper dredging after just a brief delay. We must continue to do everything we can to maintain this excellent working relationship with the NMFS.

5. In implementing the new 1997 RBO, we again renew our commitment to maintaining a balance between reducing sea turtle entrainments to the lowest levels we can achieve while performing necessary dredging for navigation. The Hopper Dredging Protocol for Atlantic Coast (Encl 2) is our guidance for helping achieve this objective. The Protocol is a living document and will be revised by CESAD as appropriate. Your input into improving the Protocol is welcomed at any time, as are any suggestions you may have on how we can further reduce sea turtle takes. I also encourage you to share your views and ideas on this through our Internet newsgroup, usace.sad.turtles.

6. Should you have any questions or would like additional information, you may contact John DeVeaux, CESAD-ET-CO, at (404) 331-6742 or Rudy Nyc, CESAD-ET-PR, at (404) 331-4619 or by e-mail which is preferred.

*I know you all are working
this hard... your thoughts/
suggestions are welcome -*



R. L. VANANTWERP
Brigadier General, USA
Commanding

2 Encl
as

CF (w/encls):
COMMANDER, MOBILE DISTRICT



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

SEP 25 1997

R. L. VanAntwerp
Brigadier General, U.S. Army
Division Engineer
South Atlantic Division, Corps of Engineers
Room 313, 77 Forshyth St., S.W.
Atlanta, Georgia 30355-6801

Dear Brigadier General VanAntwerp;

Enclosed is the regional biological opinion concerning the use of hopper dredges in channels and borrow areas along the Southeast U.S. Atlantic coast. This biological opinion amends the regional opinion conducted in 1995, and supersedes the interim biological opinion issued on April 9, 1997. The opinion recognizes the efforts of the Corps of Engineer's (COE) South Atlantic Division (SAD) to minimize sea turtle takes through application of new technology such as draghead deflectors, seasonal dredging windows, termination of projects in which high rates of turtle takes are observed, and elevated staff effort to identify and resolve site-specific problems. Despite these major efforts and continuing plans by the COE to improve the effectiveness of the rigid draghead deflector and to resolve dredging schedules to reduce the likelihood of sea turtle interactions, NMFS believes that further sea turtle takes are likely in future years. However, we believe that these takes are not likely to jeopardize the continued existence of any species. An annual incidental take, by injury or mortality of 35 loggerheads 7 Kemp's ridleys, 7 green turtles, 2 hawksbills, and 5 shortnose sturgeon is listed in the incidental take statement appended to the enclosed opinion. This annual take level can be monitored over fiscal years to be consistent with project contracts.

I appreciate your continued commitment to reduce sea turtle takes associated with dredging in your Division. COE Division and District staff have facilitated the excellent working relationship that exists between our offices within the SAD. We look forward to continuing these cooperative efforts in sea turtle conservation.

Sincerely,

Hilda Diaz-Soltero
Office Director
Office of Protected Resources



Endangered Species Act - Section 7 Consultation

Biological Opinion

Agency: U.S. Army Corps of Engineers, South Atlantic Division

Activity: The continued hopper dredging of channels and borrow areas in the southeastern United States

Consultation Conducted By: National Marine Fisheries Service, Southeast Regional Office

Date Issued:

September 25, 1997

Background

Hopper dredging in channels and borrow areas along the southeastern coast of the United States during the spring of 1997 resulted in an unanticipated high rate of loggerhead turtle take. The number of takes quickly approached the incidental take level established in the regional biological opinion (BO) issued to the Army Corps of Engineers (COE) on August 25, 1995. A formal consultation considering the take rates as well as the dredging locations and conditions was conducted and an interim biological opinion (IBO) was issued on April 9, 1997 and is incorporated herein by reference. The IBO concluded that continued hopper dredging during the 1997 fiscal year was likely to take additional sea turtles but was not likely to jeopardize the continued existence of any species. The incidental take, by injury or mortality, of seven (7) documented Kemp's ridleys, seven (7) green turtles, two (2) hawksbills, sixteen (16) loggerhead turtles, and five (5) shortnose sturgeon was set pursuant in the IBO. This modification added 15 loggerheads to the annual incidental take level, bringing the 1997 fiscal year total incidental take level to 35 loggerheads.

The history of Endangered Species Act (ESA) Section 7 consultations on the deployment of hopper dredges to maintain the depths of southeastern channels is discussed in the August 25, 1995 BO and is incorporated herein by reference. Although no endangered sea turtles have been taken in any channel dredging projects during the 1997 fiscal year, 28 loggerheads have been taken, including 9 loggerheads taken subsequent to the issuance of the IBO (Table 1).

During 1997, the COE responded to high rates of sea turtle takes by assessing each dredging project, modifying draghead deflectors when apparently necessary, conducting relative abundance surveys and relocation trawling, and ultimately ending a number of projects prior to completion (Kings Bay, Brunswick Harbor, Savannah Harbor, Morehead City).

1991 Biological Opinion

Two hundred twenty-five sea turtle takes, including 22 live turtles, were documented between 1980 and 1990 in the Southeast channels despite limited observer coverage in most channels throughout most of that decade (Table 2a.). Seventy-one of these turtles were taken in four months of dredging in the Canaveral ship channel in 1980, the first year in which observers were required. Twenty-one were observed in over two years of dredging in the Kings Bay Channel in 1987-1989, after observers were first deployed on dredges in that channel. Observers were required on most hopper dredges after 1989. Documented takes of turtles on dredges in Brunswick and other Southeast U.S. channels indicated that sea turtles were vulnerable to hopper dredges in all southeastern channels during warmer months. These observations resulted in the Section 7 consultation that concluded with a BO issued on November 25, 1991.

The November 1991 BO was the first cumulative area consultation between NMFS and COE's South Atlantic Division (SAD) regarding hopper dredging. The BO considered hopper dredging in channels from the Canaveral in Florida through Oregon Inlet, North Carolina. The 1991 BO concluded that continued unrestricted hopper dredging in Southeast U.S. channels could jeopardize the continued existence of listed sea turtles. The Opinion established a reasonable and prudent alternative to unrestricted hopper dredging which prohibited the use of a hopper dredge in the Canaveral ship channel, and from April 1 through November 30 in other southeastern channels north of Canaveral. An incidental take level was established based on assumptions that takes would be significantly reduced due to limited dredging windows, but that water temperatures in some years would result in turtle presence in channels during December and March. Observers were required on dredges equipped with outflow and/or inflow screening in March and December. The presence or absence of turtles in December would determine the further need for observer coverage into January. The documented incidental take of a total of five (5) Kemp's ridley, green, hawksbill or leatherback turtle mortalities in any combination of which no more than two (2) are Kemp's ridley, or fifty (50) loggerhead turtle mortalities was set. The Opinion anticipated that seasonal restrictions on hopper dredging would be adjusted on a channel-by-channel basis as better information on turtle occurrence was collected.

Additionally, the development and testing of a draghead deflector was promoted.

1995 Biological Opinion

Between 1992 and 1995, only 16 sea turtle takes were documented (Table 2b.), including three that were alive when collected during dredging operations in the SAD under the dredging windows established in the November 1991 BO (see above). During that period COE developed a rigid draghead deflector that appeared to be effective during videotaped dredging trials using mock turtles, as well as during experimental dredging associated with trawling in the Canaveral Channel. COE also completed a study of six Southeast channels to determine seasonal abundance and spatial distribution of these turtles. A discussion of the findings can be found in the COE report entitled "Assessment of Sea Turtle Abundance in Six South Atlantic U.S. Channels" (Dickerson et al. 1994), summarized in the 1995 BO. Based on the new information, COE requested expanded dredging windows and observer requirements. NMFS considered their request and developed alternative dredging windows and observer requirements and added requirements for the use of hopper dredges in borrow areas along the east coast.

After 1995, COE districts within the SAD generally required observers in some channels, such as Kings Bay, throughout the winter, beyond the new monitoring windows. SAD hopper dredge projects were initially conducted in the middle of the dredging windows, when nearshore waters were cool. During 1996, only nine sea turtle takes, including one green turtle and eight loggerheads, were documented (Table 2c.). No more than three takes occurred in any project. The new dredging windows and draghead deflector requirements appeared to provide good protection to sea turtles.

Hopper dredging operations contracted for the 1997 fiscal year were planned for early in the calendar year, however a number of operations were not begun until late winter. Beginning on March 2, 1997, loggerhead takes occurred in Kings Bay at rates higher than previously observed. Six turtles were taken in four days of dredging. While consulting with NMFS regarding this unprecedented rate of loggerhead takes, a COE specialist from the Waterways Experiment Station proposed some modifications to the draghead with the potential to reduce sea turtle takes. Relocation trawling was also initiated, beginning March 9, 1997; however, as can be seen on Table 2, these efforts did not preclude further sea turtle takes in Kings Bay. Dredging was terminated on March 12, 1997, with only 53 percent of the project completed.

Table 1 lists the sea turtle takes observed in hopper dredges throughout the SAD during 1997, as well as the steps taken by COE to reduce the likelihood of takes. Deflector dragheads were re-engineered to fit specific dredges wherever possible and relocation trawling was initiated. Dredging was terminated prior to completion of projects in Kings Bay, Brunswick Harbor, Savannah Harbor and Charleston Harbor. Consultation was reinitiated to consider the effects of the remaining hopper dredging projects anticipated for the 1997 fiscal year. In addition to those specific projects listed in the resulting April 1997 IBO, dredging at Reach II of the Myrtle Beach dredge disposal area is likely to begin before the fiscal year ends. Despite ongoing dredging at the Oregon Inlet, no sea turtle takes have been documented since May 15.

Proposed Activity

This consultation addresses the use of hopper dredges in channels and borrow areas along the Atlantic portion of COE's SAD within the existing dredging windows (Table 3). Channels dredged by hopper dredges include: Oregon Inlet, Morehead and Wilmington Harbors, Charleston, Port Royal and Savannah harbors, Brunswick, Kings Bay, Jacksonville, St. Augustine and Ponce de Leon inlets, West Palm Beach, Miami and Key west channels. Borrow areas that may be dredged by hopper dredges include areas off of Dade County Florida and Myrtle Beach South Carolina.

Draghead deflectors will be used on all projects and observers will be required at least during those periods identified in Table 3. Year-round observer coverage will likely be required by the COE for most channels, particularly those with histories of high sea turtle catch rates such as Kings Bay. Within the South Atlantic Division, the COE will try to schedule dredging of the highest risk areas (Canaveral, Brunswick, Savannah, and Kings Bay) during periods when nearshore waters are coolest -- after December 15 but well before March. Priority for winter dredging will also be given to areas that have substrates that reduce the efficiency of the deflector (Wilmington Harbor channel, Reach 1 of Myrtle Beach). Completion of all projects during the cold-water months will be attempted when possible.

Listed Species and Critical Habitat

Listed species under the jurisdiction of the NMFS that may occur in channels along the southeastern United States and which may be affected by dredging include:

THREATENED:

(1) the threatened loggerhead turtle - Caretta caretta

ENDANGERED:

- (1) the endangered right whale - Eubalaena glacialis
- (2) the humpback whale - Megaptera novaeangliae
- (3) the endangered/threatened green turtle - Chelonia mydas
- (4) the endangered Kemp's ridley turtle - Lepidochelys kempii
- (5) the endangered hawksbill turtle - Eretmochelys imbricata
- (6) the endangered shortnose sturgeon - Acipenser brevirostrum

Green turtles in U.S. waters are listed as threatened, except for the Florida breeding population which is listed as endangered.

Additional endangered species which are known to occur along the Atlantic coast include the finback (Balaenoptera physalus), the sei (Balaenoptera borealis), and sperm (Physeter macrocephalus) whales and the leatherback sea turtle (Dermochelys coriacea). NMFS has determined that these species are unlikely to be adversely affected by hopper dredging activities.

Information on the biology and distribution of sea turtles can be found in the 1991 and 1995 BOs, which are incorporated by reference. Channel specific information has been collected by COE for channels at Morehead City, Charleston, Savannah, Brunswick, Fernandina and Canaveral, and is presented in detail in COE summary report entitled "Assessment of Sea Turtle Abundance in Six South Atlantic US Channels" (Dickerson et al., 1994) and in the COE Biological Assessment.

There is no significant new information regarding the status of these species that has not been discussed in the BOs that have been incorporated by reference (March 12, 1997 and August 25, 1995).

Assessment of Impacts

The Biological Opinion issued in 1991 contained strict dredging windows that appeared to be very effective at limiting the number of sea turtles taken by hopper dredges during channel maintenance dredging in the Southeast U.S. along the Atlantic coast. Between 1991 and 1995, no more than 8 turtles were taken in any year, and many of those taken were released alive. Studies conducted by the COE (Dickerson et al., 1994) documented turtle distribution and abundance in six channels that suggesting the existing windows were accurate. However, the COE requested expansion of existing windows to lessen the burden of maintenance dredging while testing and further developing a rigid draghead deflector design. The deflector was effective at pushing aside mock turtles when tested during 1994, and preliminary field trials in the Canaveral shipping channel had encouraging results. NMFS considered this new information, presented by the COE in a biological assessment forwarded to NMFS in November 1994. The resulting BO, issued August 25 1995 expanded dredging windows and modified observer requirements.

Only 9 sea turtle takes were documented in 1996, suggesting that the expanded dredging windows and the deflector requirements provided protection to sea turtles that was similar to the previously more-restrictive windows. However, the COE's internal policy resulted in conduct of most of the hopper dredging projects during months when coastal waters were still cold, consistent with the previous dredging. The increased rate of take observed during 1997 and discussed below suggests that the restriction of hopper dredging to months when nearshore waters are cold remains the best method for minimizing sea turtle takes.

Unfortunately, a number of dredging projects contracted for early 1997 in the SAD but not restricted to mid-winter months, were delayed into the Spring. This delay coincided with a unseasonably warm winter, when the waters of Kings Bay reached 60°F in early March. The incidental take of nine loggerheads in Kings Bay over only 11 days of dredging indicated that the nearshore abundance of loggerheads was high, apparently higher than during the late 1980's when observers were first deployed on hopper dredges in Kings Bay.

There were other indicators of high nearshore sea turtle abundance along the Southeast U.S. Atlantic coast during 1997. Commercial shrimp trawling conducted without the use of turtle excluder devices (TEDs) offshore of South Carolina and Georgia between May 15 and July 15 resulted in sea turtle catch rates higher than previously documented. Sixty nine sea turtles were taken in 29 days of shrimping off of South Carolina, including 65 loggerheads, 3 ridleys and 1 leatherback. Forty-six sea turtles were taken in 17 days of towing off of Georgia. The sea turtle catch per unit effort (CPUE) for this operation is about 0.35 turtles per hour of trawling, standardized to 100 feet (30.5 m) of total headrope length fished. The CPUE (same units) for commercial shrimp trawling in the 1970s and 1980s reported by Henwood and Stuntz (1987a) was only 0.0487. Loggerhead turtles were the predominant species reported by Henwood and Stuntz and have also been predominantly observed in this study. They account for most of the increase in overall CPUE. The CPUE for loggerheads alone has been greater than 0.30 turtles per hour, while the value reported in Henwood and Stuntz was 0.0456 turtles per hour. The rates of taking for leatherback and Kemp's ridley turtles in the Atlantic study area have also been higher than anticipated.

The high relative density of sea turtles during 1997 may be due to an unseasonably warm winter or other factors contributing to annual variations in abundance, due to an actual increase in the abundance of benthic immature sea turtles in the loggerhead population, or due to a combination of these factors. Trends in the status of loggerheads are generally identified at the nesting beach, when the most accessible life stage, adult nesting

females, can be counted. Because they mature at 20 to 30 years of age, increases or decreases in the abundance of benthic immature loggerheads as determined by incidental captures in nearshore waters would not be observed for decades. While nesting beach surveys suggest that the South Florida population of loggerheads increased and now appears to be stable, increases have not been apparent on nesting beaches of Georgia and South Carolina. Further work on the development of multi-year in-water sampling sites is needed to identify trends in multiple age-classes of the loggerhead population.

The COE noted that 14 of the 28 takes that occurred during 1997 were on the same dredge, the Eagle. The high rate of takes, particularly on this dredge, suggested that the deflecting draghead was not installed properly or was not being operated properly. Takes occurred in a number of the 1997 dredge projects during clean-up. Ridges left behind after the initial dredging are leveled during clean-up, but the draghead passes over troughs. Takes occurring during clean-up may be difficult to avoid since the draghead deflector must remain hard on the bottom to be effective.

The COE has been conducting meetings between districts within the SAD to discuss the results of assessments of channel conditions and dredge inspections. They have determined that the draghead deflector has not been working properly due to poor education of the dredge operators on its proper use, and due to poor tailoring of the deflector to specific dragheads. Increased efforts to educate dredge operators are planned. Additionally, since fewer than 10 private hopper dredges operate within SAD, engineers that have designed the conceptual deflector will be sent to the dredges to insure that the deflectors are adapted to each draghead and that the operators understand how to use the deflector effectively.

CUMULATIVE EFFECTS

"Cumulative effects" are those effects of future state or private activities, not involving Federal actions, that are reasonably certain to occur within the action area of the Federal action subject to consultation. These are discussed in detail in the biological opinions incorporated by reference.

Conclusion:

NMFS believes that the elevated rate of observed sea turtle takes by dredges in the southeastern United States during March of 1997 was likely due to increased abundance of loggerheads in nearshore waters due to an unseasonably warm winter. There is no way to predict whether similar conditions will be encountered in upcoming seasons. Over the past six years, the COE's SAD has

continuously expressed a commitment to minimize sea turtle takes, and has conducted research and taken repeated steps to further this goal. Repeated termination of dredging operations due to high sea turtle takes during 1997 confirms their commitment to avoid sea turtle takes. Further efforts to educate the dredging industry and recruit their interest and involvement in avoiding sea turtle takes are necessary and are planned by the COE. Additionally, the COE has committed to additional efforts to improve the effectiveness of the deflecting draghead. The sea turtle deflector should be tailored to each hopper dredge draghead and the dredge operators should be fully trained in the operation of the draghead to ensure proper use and improve effectiveness. Improvements in operator and deflector performance are necessary prior to reliance on the draghead as a mechanism for reducing sea turtle takes.

NMFS anticipates that the COE's interest in improving the performance of the deflector, their commitment to limit the use of hopper dredges in channels of high sea turtle abundance during periods when nearshore waters are likely to be cold, and their overall goal of further reducing sea turtle takes during hopper dredge activities will minimize the interactions of hopper dredges with sea turtles. However, annual variation in the abundance of sea turtles in some channels and borrow areas make it likely that sea turtle takes will still occur. Additionally, overall increases in loggerhead and Kemp's ridley populations are anticipated due to TED requirements that have reduced the mortality rates of benthic lifestages of these species. Lastly, in some years high levels of hopper dredging activity may be necessary. For example, termination of projects prior to completion during FY 1997 may result in an increase in the number and length of hopper dredging projects necessary for channel maintenance during FY 1998. Therefore, NMFS believes that up to 35 loggerheads may be taken by injury or mortality, as well as 7 Kemp's ridleys, 7 green turtles, 2 hawksbills, and 5 shortnose sturgeon. These takes are not likely to jeopardize the continued existence of these species and the ongoing commitment by the COE to further minimize takes may reduce the likelihood of sea turtle takes in the future even if nearshore sea turtle abundances increase.

Conservation Recommendations

Pursuant to section 7(a)(1) of the ESA, conservation recommendations are made to assist COE in reducing or eliminating adverse impacts to loggerhead, green, and Kemp's ridley turtles that result from hopper dredging in the southeastern United States. The recommendations made in the 1995 BO are pertinent to this consultation as well, and therefore remain valid. Further recommendations are given below.

- Because of the possibility of annual variation in water temperatures, sea turtle abundance, and hopper dredging demand, NMFS has retained the dredging windows established in the 1995 BO. However, the COE has expressed a commitment to deploy hopper dredges during cold-water periods in channels with high sea turtle abundance or with substrates that render the deflector ineffective. NMFS appreciates the COE's commitment to do this, and recommends that the SAD priority list be finalized and distributed to the Districts and NMFS prior to the initiation of dredging during FY 1998.

- The COE should work with the dredging industry to insure their understanding of the importance of sea turtle conservation and to increase the industry's interest in minimizing sea turtle takes.

- Greater than 50% of the loggerheads taken in North Carolina may be from the northern nesting assemblage of loggerheads. While recent loggerhead nesting beach surveys did not identify a decline in the number of nesting females on beaches north of Cape Canaveral, increases observed in the south Florida nesting assemblage have not been noted. High sea turtle catch rates during only the early weeks of the wood debris clean-up conducted by COE off Cape Fear during 1997, as well as preliminary work conducted in North Carolina, suggest that turtles may be abundant in North Carolina channels primarily during migration into and emigration out of North Carolina inshore waters. The COE should work with the NMFS Beaufort Laboratory and the North Carolina Division of Marine Fisheries to document the movements of sea turtles off North Carolina during spring and fall months. Results from these studies may provide insights into further safe dredging windows to minimize the likelihood of takes of loggerheads from the more vulnerable northern nesting assemblage. Summer windows would reduce the pressure to complete all SAD hopper dredging during cold-water periods.

- The COE should investigate further modifications of the draghead to minimize the need for clean-up. Some method to level the peaks and valleys created by dredging would reduce the amount of time dragheads are removed from the bottom sediments.

Incidental Take Statement

Section 7(b)(4) of the Endangered Species Act (ESA) requires that when a proposed agency action is found to be consistent with section 7(a)(2) of the ESA, and the proposed action may incidentally take individuals of listed species, NMFS will issue a statement that specifies the impact of any incidental taking of endangered or threatened species. It also states that reasonable and prudent measures, and terms and conditions to implement the measures, be provided that are necessary to minimize such impacts. Only incidental taking resulting from the agency action, including incidental takings caused by activities approved by the agency, that are identified in this statement and that comply with the specified reasonable and prudent alternatives, and terms and conditions, are exempt from the takings prohibition of section 9(a), pursuant to section 7 of the ESA.

Based on the high rate of sea turtle takes observed during of 1997, increases in the Kemp's ridley population, possible increases in the benthic lifestages of loggerhead populations, annual variation in nearshore abundance of sea turtles and hopper dredge demands, the NMFS anticipates that hopper dredging in the Southeast U.S. Atlantic area of the SAD may result in the injury or mortality of sea turtles and shortnose sturgeon. Therefore, a low level of incidental take, and terms and conditions necessary to minimize and monitor takes, are established. The annual (by fiscal year) documented incidental take, by injury or mortality, of seven (7) Kemp's ridleys, seven (7) green turtles, two (2) hawksbills, thirty-five (35) loggerhead turtles, and five (5) shortnose sturgeon is set pursuant to section 7(b)(4) of the ESA.

To ensure that the specified levels of take are not exceeded early in any project, COE should reinitiate consultation for any project in which more than one turtle is taken within 24 hours, or once five or more turtles are taken. The Southeast Region, NMFS, will cooperate with COE in the review of such incidents to determine the need for developing further mitigation measures or to terminate the remaining dredging activity.

Section 7(b)(4)(c) of the ESA specifies that in order to provide an incidental take statement for an endangered or threatened species of marine mammal, the taking must be authorized under section 101(a)(5) of the Marine Mammal Protection Act of 1972 (MMPA). Since no incidental take in the Atlantic Region has been authorized under section 101(a)(5) of the MMPA, no statement on incidental take of endangered right whales is provided.

The reasonable and prudent measures that the NMFS believes are necessary to minimize the impact of hopper dredging in channels and borrow areas in the southeastern United States have been

discussed with COE. The following terms and conditions are established, in addition to those identified in the 1995 BO, to implement these measures and to document the incidental take should such take occur.

1. The COE's draghead deflector engineer that assistant in this design design should inspect the rigid draghead deflector annually to ensure that the deflector has been tailored appropriately to each draghead. Additionally, the inspector should assess whether the dredge operator appears to be familiar with the operation of the draghead deflector and provide necessary training where appropriate.

2. If the rigid draghead deflector appears to be ineffective in Wilmington Harbor and slows the dredging project such that the amount of time the hopper dredge will be deployed is increased, the deflector should be removed from the draghead for that channel.

3. The COE should develop an educational/training program for dredge operators to increase their understanding of how the draghead deflector works and why it is necessary.

SOUTH ATLANTIC COAST HOPPER
DREDGING (Calendar Year 97)

Project	Dredge Period	Approximate Amount of Work Completed	Turtle Takes	Mitigative Measures Taken	Remarks
Kings Bay	3/1/97 to 3/12/97	Removed 437,000 out of 821,000 CY Approximately 53% completed.	L 3/2/97 L 3/4/97 L 3/5/97 L 3/6/97 L 3/6/97 L 3/6/97 L 3/8/97 L 3/8/97 L 3/12/97	Sea turtle deflecting draghead used. Jacksonville Dist. specialist inspected deflector on 3/6/97. Relocation trawling started 3/9/97. Extensive, ongoing consultation with NMFS as takes occurred. All work terminated 3/12/97 due to high take levels even though relocation trawling had become operational.	Water temp. 57 to 58 F. Dredge Eagle 1. Two takes in on batch on 3/6/97 and 3/8/97. Contract required removal of relatively small veneer of material. Most takes occurred through starboard dragarm. Rapidity of takes was a surprise to all concerned.
Brunswick Harbor	2/6/97 to 3/19/97	Removed 975,400 CY. Work stopped at 50% completion.	L 3/9/97	Sea turtle deflecting draghead used. Sea turtle abundance, based on visual observations, prompted termination of work because of potential for unacceptable levels of entrainment.	Water temp 63 F. Dredge RN Weeks. Historic abundance sea turtles and high levels of entrainment in 1991 was part the reason for termination of work.
Savannah Harbor	3/4/97 to 3/22/97	Removed about 545,500 CY, or about 52% of what could have been dredged.	L 3/14/97 L 3/22/97 L 3/22/97	Sea turtle deflecting draghead used. Dredging terminated so as not to take any more sea turtles.	Water temp. 63 F. Numerous sea turtles sighted. Dredge Ouachita was 'skimming' high areas to bring depth to acceptable levels quickly before leaving for urgent work in Mississippi River.
Charleston Harbor	3/14/97 to 3/26/97	Bid qty 900,000 CY Req. qty 408,000 CY Removed qty 350,000 CY. About 39% completed.	L 3/19/97 L 3/20/97 L 3/21/97 L 3/25/97 L 3/26/97	WES expert / developer of sea turtle deflecting draghead system, conducted onboard inspection and made recommendations. Some changes to draghead and dredging operation made. Relocation trawling performed.	Water temp. 61 F. Dredge Eagle 1.
Myrtle Beach borrow area (Phase 1)	9/15/96 to 5/13/97	Bid qty 2.5 million CY. Work completed.	L 4/15/97 L 5/04/97 L 5/09/97	Sea turtle deflecting draghead used. Relative abundance trawling on 3/28-29/97, with 12 hours of "nets in water", yielded one loggerhead. Trawling on 5/8 thru 5/13/97 yielded no sea turtles.	This is one of 3 phases / reaches of total project. Part of work in all phases is by pipeline dredge. Total quantity of material to be dredged is about 6 million CY
Morehead City Harbor	4/25/97 to 5/16/97	About 120,000 CY removed out of about 1,720,000 CY. About 7% of work completed.	L 4/27/97 L 4/30/97 L 5/01/97 L 5/02/97 L 5/15/97 L 5/15/97	Sea turtle deflecting draghead. Relocation trawling began 5/8/97 and continued until termination of dredging. One loggerhead captured on 5/9/97. Nighttime trawling performed 5/10 & 5/11 with no turtles captured. Because of concern over extensive takes, dredging terminated with only 7% of work done.	Dredge Manhattan Island
Wilmington Harbor (Interior Channels)	2/14/97 to 3/13/97	About 217,300 CY removed. Work completed.	No takes		Dredge McFarland
MOTSU	3/14/97 to 4/3/97	About 60,000 CY. removed. Work completed.	No takes		Dredge McFarland
Wilmington Harbor (Ocean Bar)	4/3/97 to 4/30/97	About 300,000 CY Work completed.	L 4/07/97	Sea turtle deflecting draghead.	Dredge RN Weeks
Dade County Beach (Miami Reach)	3/30/97 7/20/97 (estimate)	About 380,00 of 475,000 CY completed as of 6/6/97.	No takes	Based on past dredging and anecdotal information about sea turtles in area, takes are not anticipated.	

L = Loggerhead

CY = Cubic Yards

Table 2a. Sea turtle takes (includes live, injured and killed) observed on hopper dredges prior to the regional consultation. Observers were not required on all projects until 1989, after which extensive monitoring was required.

Year	Project	Turtle Takes
1980 Total = 71	Canaveral	50 Cc, 3 Cm, 18 Unidentified
1981 Total = 6	Canaveral	3 Cc, 1 Cm, 2 Unidentified
1984/1985 Total = 12	Canaveral	1 Cc, 11 Unidentified
1986 Total = 9	Canaveral	5 Cc
	Kings Bay	1 Cc, 3 Cm
1987 Total = 5	Kings Bay	3 Cc, 1 Cm, 1 Unidentified
1988 Total = 46	Brunswick	1 Cc
	Canaveral	13 Cc, 3 Cm, 18 Unidentified
	Kings Bay	6 Cc, 3 Lk, 2 Cm
1989 Total = 21	Canaveral	9 Cm, 2 Unidentified
	Kings Bay	8 Cc, 1 Cm
	Savannah	1 Cc
1990 Total = 12	Canaveral	3 Cc, 5 Cm
	Kings Bay	4 Cc
1991 Total = 43	Brunswick	20 Cc, 1 Lk, 1 Unidentified
	Charleston	3 Cc
	Kings Bay	1 Cc
	Savannah	17 Cc

Cc = *Caretta caretta*, Loggerhead ; Cm = *Chelonia mydas*, Green turtle; Lk = *Lepidochelys kempi*, Kemp's ridley turtle

Table 2b. Sea turtle takes (includes live, injured and killed) observed on hopper dredges between the November 1991 and the August 1995 Regional Biological Opinion

Year	Project	Turtle Takes
1992 Total = 2	Port Royal, SC	2 Cc
1994 Total = 8	Canaveral	1 Cm
	Morehead City	1 Cc
	Kings Bay	2 Cc
	Savannah	3 Cc, 1 Lk
1995 Total = 6	Canaveral	1 Cc
	Palm Beach	3 Cc, 2 Cm

Cc = *Caretta caretta*, Loggerhead ; Cm = *Chelonia mydas*, Green turtle; Lk = *Lepidochelys kempii*, Kemp's ridley turtle

Table 2c. Sea turtle takes (includes live, injured and killed) observed on hopper dredges after the August 25, 1995 Biological Opinion

Year	Project	Turtle Takes
1996 Total = 9	Morehead City Harbor	1 Cc
	Myrtle Beach (Borrow Area Reach I)	2 Cc
	Kings Bay	1 Cc
	Palm Beach	1 Cc, 1 Cm
	Wilmington Harbor	3 Cc
1997 Total = 28	Brunswick Harbor	1 Cc
	Charleston Harbor	5 Cc
	Kings Bay	9 Cc
	Morehead City Harbor	6 Cc
	Myrtle Beach (Borrow Area Reach 1)	3 Cc
	Savannah Harbor	3 Cc
	Wilmington Harbor (Ocean Bar)	1 Cc

TABLE 3: Current requirements for dredging windows, observer requirements and use of hopper dredges in borrow areas along the east coast established in the August 1995 BO.

AREA	WHALE MONITORING	SEA TURTLE MONITORING: NAVIGATION CHANNELS		SEA TURTLE MONITORING: BORROW AREAS	
		WINDOWS	MONITORING	WINDOWS	MONITORING
North Carolina to Pawleys Island, SC (includes channels at Oregon Inlet, Morehead City and Wilmington)	One observer (daytime coverage) between 1 Dec and 31 Mar. Monitoring by dredge operator and sea turtle observer between 1 Apr and 30 Nov.	Year Round	Two observers (100% monitoring) 1 Apr - 30 Nov	Year Round	One observer (50% monitoring) 1 Apr - 30 Nov
Pawleys Island, SC to Tybee Island, GA (includes channels at Charleston, Port Royal and Savannah)	One observer (daytime coverage) between 1 Dec and 31 Mar. Monitoring by dredge operator and sea turtle observer between 1 Apr and 30 Nov.	1 Nov - 31 May	Two observers (100% monitoring) 1 Nov - 30 Nov and 1 Apr - 31 May	Year Round	One observer (50% monitoring) 1 Apr - 30 Nov
Tybee Island, GA to Titusville, FL (includes channels at Brunswick, Kings Bay, Jacksonville, St. Augustine, and Ponce de Leon Inlet)	Aerial surveys in right whale critical habitat, 1 Dec thru 31 Mar. One observer (daytime coverage) between 1 Dec and 31 Mar.	1 Dec - 15 Apr	Two observers (100% monitoring) 1 Apr - 15 Apr	Year Round	One observer (50% monitoring) 1 Apr - 15 Dec
Titusville, FL to Key West, FL (includes channels at West Palm Beach, Miami and Key West)	Whale observations are not necessary beyond those conducted between monitoring of dredge spoil.	Year Round	Two observers (100% monitoring) year round	Year Round	One observer (50% monitoring) year round

Jordan, Terri L SAJ

From: Trish_Adams@fws.gov
Sent: Monday, November 29, 2004 3:05 PM
To: Jordan, Terri L SAJ
Subject: RE: Comments on Draft EA for maintenance dredging of port Everglades

Hi Terri,

In the April 14, 2004, Biological Assessment for the Port Everglades Maintenance Dredging project, the Corps determined that the project "may affect, but is not likely to adversely affect" the West Indian Manatee. Since the Corps has agreed to include the Standard Manatee Construction Conditions in the project design, the Service concurs with this determination for the manatee.

I hope this will suffice for now. I will be sure to include our concurrence for manatees in our pending biological opinion for sea turtles.

If you need anything else, please feel free to call.
I hope you had a nice Thanksgiving,
Trish

Trish Adams
US Fish and Wildlife Service
1339 20th Street
Vero Beach, Florida 32960
Phone: (772) 562-3909, extension 232
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11/29/2004 12:52
PM

"Trish_Adams@fws.gov"
<Trish_Adams@fws.gov>

To

cc

Subject

RE: Comments on Draft EA for
maintenance dredging of port
Everglades?

Do I have a concurrence for manatees??? I need documentation of that aspect of the Section 7 ASAP - I know we are waiting for the Biop for sea turtles, but the project can not begin AT ALL without concurrence for Manatees - and I can not find one....

-----Original Message-----

From: Trish_Adams@fws.gov [mailto:Trish_Adams@fws.gov]
Sent: Tuesday, July 13, 2004 3:30 PM
To: Jordan, Terri L SAJ
Subject: Re: Comments on Draft EA for maintenance dredging of port Everglades?

Hi Terri,

I'm not totally finished with my review with the EA, but I have a few comments, which I will provide by the end of the week- or earlier if possible. I apologize for the delay.

I've also reviewed the Corps' section 7 letter dated April 15, 2004. The letter provides a "may affect, not likely to adversely affect" determination for nesting sea turtles related to the disposal of beach compatible material on John U. Lloyd. The determination was based on the Corps' commitment not to place the material on the beach during the main portion of the nesting season (March-September). But, the Service considers the sea turtle nesting season to extend from March 1 and November

30 to account for early and late nesting sea turtles (e.g.; leatherbacks). Since sand disposal activities may occur in the early or late portion of the nesting season and the placed material will affect the nesting beach (increase the potential for scarps and compaction), we can't concur with the Corps' determination and recommend that you request formal consultation.

Thanks a bunch! Trish

Trish Adams
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1339 20th Street
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Phone: (772) 562-3909, extension 232
Fax: (772) 562-4288

"Jordan, Terri L SAJ"

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<Miedema.Ron@epamail.epa.gov>, "Trish Adams (E-mail)" <Trish_adams@fws.gov>

cc:

07/13/2004 11:59 AM Subject: Comments
on Draft EA for maintenance dredging of port everglades?

Hi guys - have not heard anything from any of you about comments on the
subject draft ea - any coming? I expect to get all the comments by the end
of the week and work to finalize the document.

The EA was sent to you 29 May 2004.

Terri Jordan
Biologist
Environmental Branch - Planning Division
Jacksonville District - SAD
US Army Corps of Engineers

Phone: 904-232-1817
Fax: 904-232-3442

Planning Division
Environmental Branch

Mr. James J. Slack
U.S. Fish and Wildlife Service
1339 20th Street
Vero Beach, Florida 32960-3559

Dear Mr. Slack:

The U.S. Army Corps of Engineers (Corps), Jacksonville District proposes to continue conducting routine maintenance dredging of the Port Everglades Federal Navigation Project, Broward County, Florida (see Figure 1, Plan View and Location Map). Approximately 100,000 cubic yards of sediment, resulting from shoaling, will be removed from the harbor on a three-year basis or as needed, to maintain the authorized depths of the Federal Navigation Project. Placement of dredged material for the ten-year life of this assessment will be in the deeper portions of the entrance channel to return the beach quality material to the littoral system, the Environmental Protection Agency approved Offshore Dredged Material Disposal Site (ODMDS) for Port Everglades, and on John U. Lloyd State park beaches if the material meets beach placement criteria and additional environmental and economic constraints are met. Maintenance dredging may be completed by cutter-suction, clamshell or hopper dredge.

Listed species which may occur in the vicinity of the proposed work and are under the jurisdiction of the FWS are: nesting loggerhead sea turtle (*Caretta caretta*, T), nesting green sea turtle (*Chelonia mydas*, E), nesting leatherback sea turtle (*Dermochelys coriacea*, E), nesting hawksbill sea turtle (*Eretmochelys imbricata*, E), nesting Kemp's ridley sea turtle (*Lepidochelys kempii*, E), nesting Olive ridley sea turtle (*Lepidochelys oliveacea*, T), and Florida manatee (*Trichechus manatus*, E).

The Corps has determined that because the plans and specifications for all dredging operations include the standard manatee protection protocols developed between the Corps and the Service, the dredging may effect, but is not likely to adversely effect the Florida manatee.

If dredged material is placed in the ODMDS, or in the Entrance channel, it will have no effect on nesting sea turtles under FWS jurisdiction. The Corps is currently consulting with NMFS regarding any effects to sea turtles below mean high water. If dredged material is placed at John U. Lloyd State Park, the material will meet the State of Florida's beach placement criteria and will be placed outside of the sea turtle nesting season (March - September). Since the material will be placed outside of nesting season, the Corps has determined that placement of sandy dredged material at John U. Lloyd may effect, but is not likely to adversely effect nesting sea turtles under FWS jurisdiction. We request your concurrence with our determinations.

If you have any questions, please contact Ms. Terri Jordan at 904-232-1817 or terri.l.jordan@saj02.usace.army.mil.

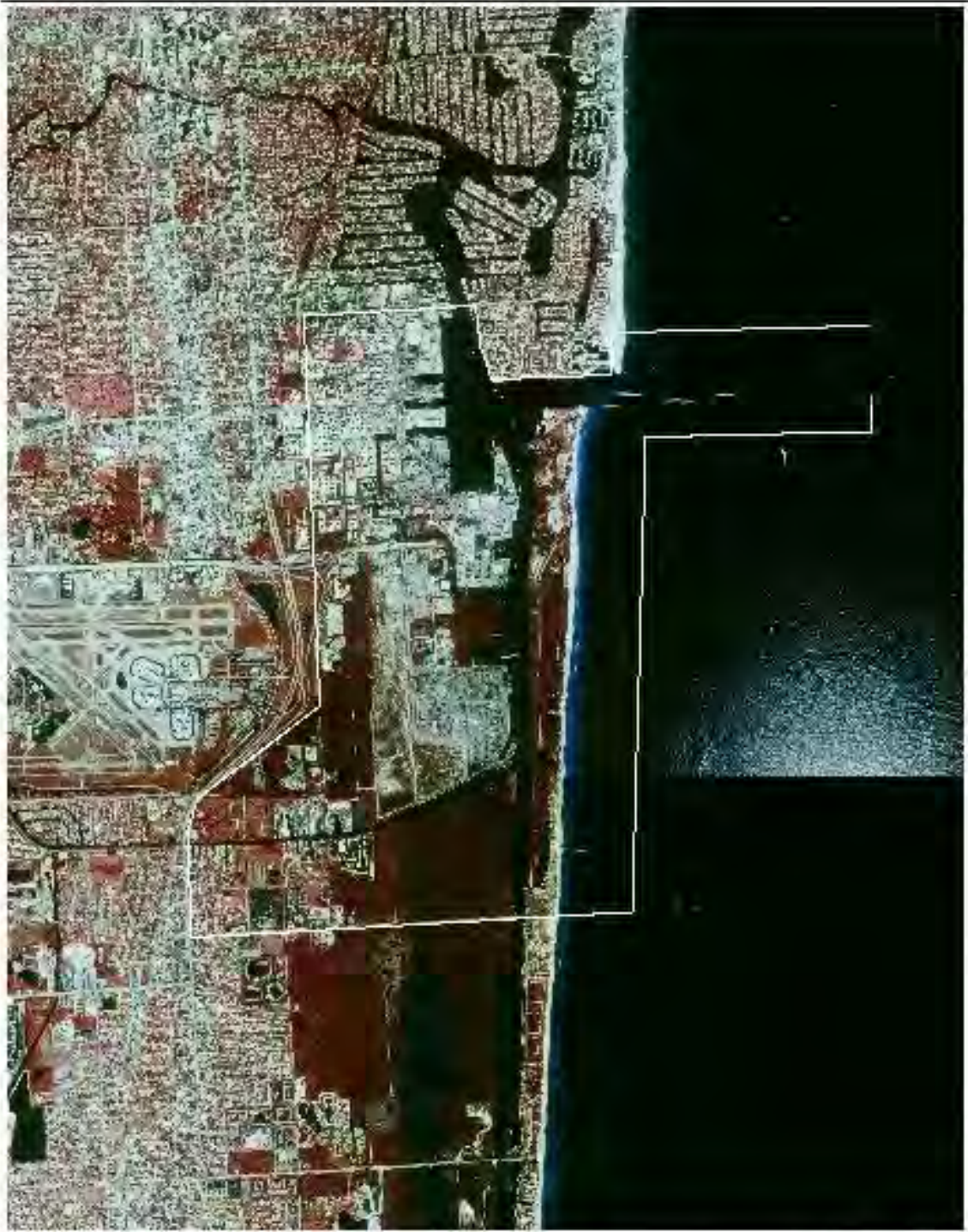
Sincerely,

James C. Duck
Chief, Planning Division

Enclosure

Jordan/CESAJ-PD-EA/1817/
McAdams/CESAJ-PD-EA
Mason/CESAJ-PD-E
Ross/CESAJ-DP-C
Strain/CESAJ-PD-P
Duck/CESAJ-PD

L: group/pde/jordan/Port Everglades O&M Sect 7 FWS



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SHPO Consultation



FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
 Secretary of State
 DIVISION OF HISTORICAL RESOURCES

Mr. James C. Duck, Chief
 Jacksonville District Corps of Engineers
 Planning Division, Environmental Branch
 P.O. Box 4970
 Jacksonville, Florida 32232-0019

May 21, 2003

RE: DHR No. 2003-3635
 Received by DHR: April 28, 2003
 Project Name: Broward County Shoreline Protection Project
 Broward County, Florida

Dear Mr. Duck:

Our office received and reviewed the above referenced project in accordance with *National Environmental Policy Act of 1969*, and Section 106 of the *National Historic Preservation Act of 1966*, as amended. The State Historic Preservation Officer is to advise and assist federal agencies when identifying historic properties listed or eligible for listing, in the National Register of Historic Places, assessing the project's effects, and considering alternatives to avoid or reduce the project's effect on such properties.

We concur with the determination that no historic properties will be affected by the project and note that the shipwreck remains of the bow section of the *SS Copenhagen* shall be avoided.

If you have any questions concerning our comments, please contact Samantha Earnest, Hist Sites Specialist, at searnest@dos.state.fl.us or (850) 245-6333. Your interest in protecting Florida's historic properties is appreciated.

Sincerely,

Fredrick P. Gaske, Deputy SHPO
 Janet Snyder Matthews, Ph.D., Director, and
 State Historic Preservation Officer

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

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Department of Veterans' Affairs

FLORIDA DEPARTMENT OF STATE
Jim Smith
Secretary of State
DIVISION OF HISTORICAL RESOURCES

Mr. James C. Duck
Jacksonville District US Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

October 23, 2002

Re: DHR No. 2002-09147 / Date Received by DHR: October 7, 2002
Historic Assessment and Remote Sensing Survey at Port Everglades, Broward County, Florida
(Mid-Atlantic Technology and Environmental Research, Inc. 2002) - Final Report

Dear Mr. Duck:

Our office has received and reviewed the above referenced project in accordance with Section 106 of the *National Historic Preservation Act of 1966* (Public Law 89-665), as amended in 1992, and *36 C.F.R., Part 800: Protection of Historic Properties*. The State Historic Preservation Officer is to advise and assist federal agencies when identifying historic properties listed or eligible for listing in the *National Register of Historic Places*, assessing effects upon them, and considering alternatives to avoid or minimize adverse effects.


The draft version of the referenced report was reviewed by this office on April 25, 2002 (DHR No. 2002-03860). Results of the survey indicated that four targets not associated with visible debris or structures (PortE-1 – PortE-4) were identified. None of these targets produced signatures characteristic of submerged cultural resources. We maintain our concurrence with the determination of Mid-Atlantic Technology and Environmental Research, Inc. that the proposed project will have no effect on any historic properties listed, or eligible for listing, in the *National Register of Historic Places*. However, please note that at the time of our initial review, this office did not consider the draft report sufficient in accordance with Chapter 1A-46, *Florida Administrative Code*, due to the absence of the following information:

- Pertinent environmental and paleoenvironmental data
- Procedures to deal with unexpected discoveries

This information is also absent from the final report. In the future, this office will not concur with the findings of draft reports that are not complete and sufficient. The complete language of Chapter 1A-46 is available online at <http://dhr.dos.state.fl.us/bhp/compliance>.

If you have any questions concerning our comments, please contact Mary Beth Fitts, Historic Sites Specialist, at mbfitts@mail.dos.state.fl.us or (850) 245-6333. Your interest in protecting Florida's historic properties is appreciated.

Sincerely,


Janet Snyder Matthews, Ph.D., Director, and
State Historic Preservation Officer

Xc: Mr. Wes Hall, Mid-Atlantic Technology and Environmental Research, Inc.

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

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FLORIDA DEPARTMENT OF STATE

Sandra B. Mortham
Secretary of State

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MAY 14 1995

Florida Coastal
Management Program

May 11, 1995

Ms. Suzanne Traub-Metlay
State Clearinghouse
Executive Office of the Governor
Room 1603, The Capitol
Tallahassee, Florida 32399-0001

In Reply Refer To:
Frank J. Keel
Historic Sites Specialist
(904) 487-2333
Project File No. 951538

RE: Cultural Resource Assessment Request
SAI# FL9504190258C
Proposed Offshore Dredged Material Disposal Area
Port Everglades, Broward County, Florida

Dear Ms. Traub-Metlay:

In accordance with the provisions of Florida's Coastal Zone Management Act and Chapter 267, *Florida Statutes*, as well as the procedures contained in 36 C.F.R., Part 800 ("Protection of Historic Properties"), we have reviewed the referenced project(s) for possible impact to historic properties listed, or eligible for listing, in the *National Register of Historic Places*, or otherwise of historical or architectural value.

A review of the Florida Site File indicates that no significant archaeological or historical sites are recorded for or likely to be present within the project area. Furthermore, because of the project location and/or nature it is unlikely that any such sites will be affected. Therefore, it is the opinion of this office that the proposed project will have no effect on historic properties listed, or eligible for listing, in the *National Register of Historic Places*, or otherwise of historical or architectural value. The project is also consistent with the historic preservation laws of Florida's Coastal Management Program.

Ms. Traub-Metlay
May 11, 1995
Page 2

If you have any questions concerning our comments, please do not hesitate to contact us.
Your interest in protecting Florida's historic properties is appreciated.

Sincerely,

Laura A. Kammerer

for

George W. Percy, Director
Division of Historical Resources
and
State Historic Preservation Officer

GWP/Kfk
xc: Jasmin Raffington, FCMP-DCA

