

**THE CORPS OF ENGINEERS, JACKSONVILLE DISTRICT, AND THE
DEPARTMENT OF ENVIRONMENTAL PROTECTION EFFECT DETERMINATION
KEY FOR THE MANATEE IN FLORIDA
January 2, 2001**

Purpose and background of the key

The purpose of this document is to provide guidance to improve the review of permit applications by Corps of Engineers' Project Managers in the Regulatory Division regarding the potential effects of proposed projects on the endangered West Indian manatee (*Trichechus manatus*) in Florida, and by the Department of Environmental Protection for the State Programmatic General Permit (SPGP) consultation. Such guidance is contained in the following semi-dichotomous key.

The key applies to permit applications for activities involving (1) dredging, filling, and construction of other in-water activities/structures as well as (2) construction of docks, marinas, boat ramps, boat slips, dry storage or any other watercraft access structures. At a certain step in the key, the user is referred to maps (dated 11 December 2000) depicting manatee areas of heightened scrutiny; these areas are shaded for identification on the maps. Shading depicted on land areas is simply a product of the graphics; only the waterways within the shaded areas are considered "manatee areas of heightened scrutiny" relevant to the application of the Key for the purposes of evaluating permit applications for activities mentioned in (1) and (2) above.

Where appropriate, the Corps will use procedures for considering indirect effects and conducting section 7 interagency consultation as outlined in the Consultation Handbook. A glossary of terms used in the key is included.

Scope of the key

This key is not used for the following types of projects:

- blasting for channel deepening and/or widening, bridge removal, movies;
- structures which could restrict or act as a barrier to manatees;
- changes in warm water discharges from industrial sites, power plants, or natural springs or artesian wells; and
- installation of new culverts and/or maintenance or modification of existing culverts (where the culverts are in waters accessible, or potentially accessible, to manatees);
- slips for repeat use vessels, i.e., water taxis, tour boats, gambling boats, rental boats, etc;
- dredging and seawall repair at power plants frequented by manatees during winter.

The key is not designed to be used by the Corps' Planning Division in making their effect determinations.

The key should be used to make a "first cut" in the review of permit applications for manatees only and not for other listed species or for other resources. A permit application that keys to a "may affect" determination should not be processed under a General Permit and Corps Project Managers should initiate consultation with the Fish and Wildlife Service. If a Project Manager determines that the proposed permit application "may affect, but is not likely to adversely affect" manatees, manatee habitat, or manatee critical habitat and receives concurrence from the Service, consultation ends. The Corps effect determination will be based on the project location and description; the potential effects to manatees, manatee habitat, and/or manatee critical habitat; and any measures (such as project components, standard construction precautions, or special conditions included in the permit) to avoid or minimize effects to manatees or manatee critical habitat.

MANATEE KEY

- A. Project is **not** located in waters accessible to manatees and does **not** have indirect effects.....*No effect*
- Project is located in waters accessible to manatees **or** directly or indirectly affects (see Glossary) manatees..... B
- B. Project will have beneficial, insignificant, discountable, (see Glossary, “is not likely to adversely affect”) or no affect to submerged aquatic vegetation and/or mangrove vegetation and **does** provide watercraft access (*e.g.*, docks or piers, marinas, boat ramps, boat lifts, pilings, floats, boat slips, dry storage, or other watercraft access structures)..... C
- Project will have beneficial, insignificant, discountable, (see Glossary) or no affects to submerged aquatic vegetation and/or mangrove vegetation and does **not** provide additional watercraft access (*e.g.*, bulkheads, seawalls, riprap, groins, boardwalks and/or the repair or reconstruction of existing docks or piers as long as the total amount of docking space is not increased) E
- Project will adversely affect submerged aquatic vegetation and/or mangrove vegetation.....
.....*May affect*
- C. Project is located in a manatee area of heightened scrutiny (see Glossary and Attached Maps) in one of the following counties:
- | | | | |
|------------|--------------|---------------------|---------------------|
| Brevard | Broward | Charlotte | Citrus ¹ |
| Clay | Collier | DeSoto | Dixie |
| Duval | Flagler | Glades | Hendry |
| Hernando | Hillsborough | Indian River | Lake |
| Lee | Levy | Manatee | Marion |
| Martin | Miami-Dade | Monroe ² | Nassau ³ |
| Okeechobee | Palm Beach | Pasco | Pinellas |
| Putnam | St. Johns | St. Lucie | Sarasota |
| Seminole | Taylor | Volusia | Wakulla |
-*May affect*
- Project is located in one of the counties above, but **not** in a manatee area of heightened scrutiny (see Glossary and Map) D
- Project is **not** located in the above counties E

- D. Project involves construction of a new watercraft access facility (including single family docks, single-family boat ramps, and multi-family docks with 3 or fewer slips) or expansion of an existing facility⁴ by **3 or fewer** slips (including dry storage) E

Project involves construction of a new watercraft access facility (including public access boat ramps, multi-family boat ramps, and commercial boat ramps) or expansion of an existing facility by **more than** 3 slips (including dry storage)

.....*May affect*

- E. Applicant agrees to follow standard manatee construction precautions and any Special Conditions including any “no in-water construction” windows identified on the maps*May affect, not likely to adversely affect*

Applicant does **not** agree to follow standard manatee construction precautions and any Special Conditions included in the permit..... *May affect*

¹ Refer to the Citrus County Manatee Key to make effect determinations.

² The area in lower Monroe County to the south and west of the Seven Mile Bridge is not considered a manatee area of heightened scrutiny; thus it is not depicted on the Monroe County map.

³ On the St. Mary’s River, this key is only applicable to those areas that are within the geographical limits of the State of Florida.

⁴ Take into consideration the effects of multiple independent permit applications, *i.e.*, how many docks have been requested or permitted in nearby waters.

GLOSSARY

Critical habitat - for listed species consists of: (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the ESA, on which are found those physical or biological features (constituent elements) (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the ESA, upon a determination by the Secretary that such areas are essential for the conservation of the species. Designated critical habitats are described in 50 CFR 17 and 50 CFR 226.

Direct effects - Direct effects include effects from projects in waters accessible to manatees.

Indirect effects - those effects that are caused by or will result from the proposed action and are later in time, but are still reasonably certain to occur. Examples of indirect effects include, but are not limited to, changes in water flow, water temperature, water quality (*e.g.*, salinity, pH, turbidity, nutrients, chemistry), prop dredging of seagrasses, and manatee watercraft injury and mortality. Indirect effects also include watercraft access developments in waters not currently accessible to manatees, but watercraft access can, is, or may be planned to waters accessible to manatees by the addition a boat lift, or the removal of a dike or plug.

In-Water-Construction – Any type of activity used to construct/repair/replace any type of in-water structure; the act of dredging .

In-water-construction window – The period of time in certain manatee areas of heightened scrutiny to which in-water construction is restricted (April 1 through November 14) Conversely, in-water construction outside of this window is prohibited.

In-water structures - watercraft access structures – docks or piers, marinas, boat ramps, boat slips, boat lifts, floats, pilings, boat davits, dry storage, etc.

In-water structures - other than watercraft access structures - bulkheads, seawalls, riprap, groins, boardwalks, pilings.

Is not likely to adversely affect - the appropriate conclusion when effects on listed species are expected to be discountable, insignificant, or completely beneficial. **Discountable effects** are those extremely unlikely to occur. Based on best judgment, a person would not (1) be able to meaningfully measure, detect, or evaluate insignificant effects or (2) expect discountable effects to occur. **Insignificant effects** relate to the size of the impact and should never reach the scale where take occurs. **Beneficial effects** are contemporaneous positive effects without any adverse effects to the species.

Manatee areas of heightened scrutiny - designated critical habitat, manatee concentrations, manatee attractants (warm water refugia, freshwater sources), migratory corridors, calving areas, cavorting areas, feeding areas, resting areas, documented mortality, posted speed zones.

May affect - the appropriate conclusion when a proposed action may pose any effects on listed species or designated critical habitat. When the Federal agency proposing the action determines that a “may affect” situation exists, then they must initiate consultation.

No effect - the appropriate conclusion when the action agency determines its proposed action will not affect a listed species or designated critical habitat.

Public access - Any boat dock, boat ramp, or related facility available to the public that is consistent with applicable state and local trespass laws.

Submerged aquatic vegetation (SAV) - Rooted, submerged, aquatic plants such as, but not limited to, shoal grass (*Halodule wrightii*), paddle grass (*Halophila decipiens*), star grass (*Halophila engelmanni*), Johnson’s seagrass (*Halophila johnsonii*), sago pondweed (*Potamogeton pectinatus*), clasping-leaved pondweed (*Potamogeton perfoliatus*), widgeon grass (*Ruppia maritima*), manatee grass (*Syringodium filiforme*), turtle grass (*Thalassia testudinum*), tapegrass (*Vallisneria americana*), horned pondweed (*Zannichellia palustris*), and eel grass (*Zostera marina*).

Watercraft access structures – docks or piers, marinas, boat ramps, boat slips, boat lifts, floats, pilings, boat davits, dry storage, etc.

Waters accessible to manatees - Although all waters of the State of Florida are designated as a manatee sanctuary, there are some areas that are not accessible to manatees such as landlocked lakes. There are also some weirs, salinity control structures and locks that may preclude manatees from accessing water bodies. If there is any question to accessibility, contact the U.S. Fish and Wildlife Service or the Florida Fish and Wildlife Conservation Commission.