



United States Department of the Interior



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

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Donnie Kinard
Chief, Regulatory Division
Jacksonville District Corps of Engineers
Post Office Box 4970
Jacksonville, Florida 32232-0019

Service CPA Code: 2011-CPA-0219
Service Consultation Code: 2011-I-0211-R001
Subject: Florida Keys Programmatic
Concurrence
Species: American Crocodile

Dear Mr. Kinard:

The U. S. Fish and Wildlife Service's (Service) South Florida Ecological Services Office provided a Biological Opinion to the Federal Emergency Management Agency (FEMA) on the implementation of the National Flood Insurance Program in the Florida Keys (Keys) on April 30, 2010. In that Biological Opinion, we made a determination that development projects in the Keys "may affect, but are not likely to adversely affect" the threatened American crocodile (*Crocodylus acutus*; crocodile) and its critical habitat. This letter provides updated criteria and supersedes the guidance provided to you on August 23, 2012. That Biological Opinion and this document are provided in accordance with section 7 of the Endangered Species Act of 1973, as amended in 1998 (Act) (87 Stat. 884; 16 U.S.C. 1531 *et seq.*).

Information gained from site visits and other sources indicates the crocodile occurs primarily on lands under public ownership that are managed for conservation, such as the Service's Crocodile Lake National Wildlife Refuge. A similar situation exists for designated crocodile critical habitat. About 3.6 percent of crocodile critical habitat is within the Keys. Of this, about 1.6 percent is on North Key Largo, where the large majority is protected. About 2 percent occurs from South Key Largo down to Long Key; much of this is within canal subdivisions, which lack constituent habitat elements. Consequently, it was the Service's determination that development impacts on the crocodile in the Keys were discountable and insignificant.

Available information indicates the majority of crocodile nesting currently occurs within the core of the species range, which is in coastal south Florida near Biscayne Bay and Florida Bay, and in northern Key Largo. Crocodile nesting within the Keys south of Key Largo is very uncommon. Based on this data, the Service finds that development projects in the Keys within Key Largo's Ocean Reef Development and south of the intersection of U.S. Highway 1 and State Road 905 in Key Largo are unlikely to adversely affect nests of the crocodile provided they meet one or more of the following criteria:

- 1) The project site is not immediately adjacent or contiguous to waters accessible to the crocodile.
- 2) The project site is adjacent or contiguous to waters accessible to the crocodile but the project site does not contain suitable habitat for nesting accessible to the crocodile. Suitable nesting habitat is defined as patches of soils at least 100 square feet (9.29 square meters) that are either (1) completely bare of vegetation, (2) mostly bare soils with sparse woody vegetation such as scattered mangroves or less than 50 percent herbaceous vegetation cover, less than 50 centimeters high, or (3) open clearing with less than 50 centimeters high herbaceous vegetation cover (can be up to 100 percent vegetative cover). Soils of suitable crocodile nesting habitat consist of marl, sand, peat, or rocky spoil (with particles not greater than 3 to 5 centimeters in diameter).
- 3) The project site contains suitable nesting habitat for the crocodile, as described above, but the proposed project will not impact the area of suitable nesting habitat.
- 4) The project site contains suitable nesting habitat, as described above, but the site contains sea walls or other types of structures that preclude crocodiles from accessing the suitable nesting habitat.

In order to streamline the consultation process, for projects that meet one or more of the specifications listed above, this letter: (1) provides concurrence for a Corps' determination that the project "may affect, and is not likely to adversely affect" the American crocodile and (2) fulfills the requirements of section 7 of the Act and further action by the Corps is not required. If modifications are made to the project, if additional information involving potential effects to other listed species becomes available, or if a new species is listed, reinitiation of consultation may be necessary.

The Service will continue to review and consult on all projects on public lands in the Keys and all projects on private lands in the Keys north of the intersection of U.S. Highway 1 and State Road 905 in Key Largo, with the exception of Ocean Reef Development. We will also continue to monitor the geographic and nesting range of the crocodile to determine if changes in our consultation approach in the Keys south of Key Largo are warranted.

The Corps, in consultation with the Service, issues permits for proposed projects that may directly impact the crocodile and its critical habitat. For the Service to monitor trends and effects, it is important for the Corps to provide the Service with information regarding the number of permits issued annually where the crocodile effect determination was "may affect, not likely to adversely affect" and this letter was used as concurrence. Therefore, we request the Corps send us an annual spreadsheet or database summary consisting of project dates, Corps identification numbers, project acreages, project wetland acreages, and project locations in latitude and longitude (decimal degrees).

Thank you for your cooperation in the effort to conserve fish and wildlife resources. If you have any questions, please contact John Wrublik at 772-469-4282.

Sincerely yours,



Donald (Bob) Progulske
Everglades Program Supervisor
South Florida Ecological Services Office

cc: electronic only
Corps, Jacksonville, Florida (Stu Santos)
Corps, Miami, Florida (Ingrid Sotelo)
EPA, West Palm Beach, Florida (Richard Harvey)
FWC, Tallahassee, Florida (FWC-CPS)
Service, Big Pine Key, Florida (Nancy Finley)