Status Update on Three Regional Biological Opinions in South Atlantic Division

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Developing a Corporate Approach to ESA Consultation

- South Atlantic Coast Regional Biological Opinion (SARBO)
- Gulf of Mexico Regional Biological Opinion (GRBO)
- Statewide Programmatic BO for Beach Placement in Florida (SPBO)
Dredging Impacts to listed species

- Dredging (actual dredging activities)
  - Hopper dredge
  - Cutterhead dredge *
  - Clamshell dredge *

- Placement of fill material/disposal of O&M material
  - Placement of pipelines
  - Equipment on the shoreline
  - Indirect effects of sedimentation; turbidity

* NMFS previously found impacts to be so minimal as to be discountable
ESA Protected Resources Associated w/Dredging & Placement

- Sea Turtles [5 Species – Loggerhead (T); Kemps ridley (E); Green (E & T); Hawksbill (E); Leatherback (E)] – South Atlantic and Gulf of Mexico
- North Atlantic Right Whale - South Atlantic (CH)
- Sturgeon
  - Atlantic (PE), Gulf & Shortnose
- Sawfish
  - Smalltooth (CH) & Largetooth (PE)
- Acroporid Corals (CH) – Southeast Florida coast
- Johnson’s seagrass (CH)– Southeast Florida
- Beach Mice (5 species)
- Manatee
- Piping Plover & Red Knot
Hopper Dredging – Potential Impacts to Listed Species

Breaking/crushing due to contact with equipment

Entrainment/Crushing

Burial of critical/foraging habitats

Ship Strike
Hopper Dredging – Distribution Across South Atlantic & Gulf of Mexico Regions

North Atlantic
NAD
Individual BOs

South Atlantic
SAD
Atlantic RBO

Gulf of Mexico
SWD,MVD,SAD
GOM RBO
History of Consultation - SARBO

- **1991** – 1st regional Biological Opinion for hopper, clamshell, pipeline dredges
- **1995** – incorporate clamshell and pipeline determination, incidental take of sea turtles for hopper
- **1997** – 2 opinions – increase of loggerhead take due to high mortality year – covers hopper, keeps 1991 determination on clamshell and pipeline dredges
- **2003-2007** – NMFS determines reinitiation is required, USACE waits till GRBO is complete
ESA Reinitiation Triggers

- Action is modified in a manner causing effects to listed species or critical habitat not previously considered
- New species listed or new critical habitat designated
- Amount or extent of incidental take is exceeded
- New information reveals effects of the action that may affect listed species or critical habitat in a manner/to an extent not previously considered
Listed species/actions NOT covered by 1997 SARBO
Geographic areas NOT covered by 1997 SARBO
Reintiation of Consultation - SARBO

Timeline

- **Jan 2007** – Informal reinitiation via conference call between USACE and NMFS-SERO-PRD
- **April 30, 2007** – Formal reinitiation letter from SAD to NMFS
- **May 2007** – Scoping meeting in in St. Pete, FL – (NMFS staff and biologists from CW and RD programs of SAD, SAJ, SAW, SAC and SAS)
- **January 2008** – BOEM (MMS) coordination initiated (i.e. joint consultation).
- **September 12, 2008** – SARBA released to NMFS
- Current status – SAD coordinating with NMFS to complete draft Biop in Calendar Yr 2011.
Actions Covered by New SARBO

- Federal, Federally-permitted, or Federally sponsored
  - **Dredging** of the *coastal waters, navigation channels*, and *sand mining areas* along the South Atlantic Coast (including federal sand under BOEM jurisdiction).
  - **Sand placement** within previously approved templates (not including *Acropora* habitat (S. Florida – Palm Beach – Monroe Counties) - except for previously utilized, documented and permitted O&M disposal areas).
- **Dredge types** – hopper; cutterhead; clamshell; bed-leveling; side-casting
  - Add Canaveral Harbor dredging with hopper dredge
- **Transport activities** – Hopper; scow-barge; tugboats
**Actions NOT covered by new SARBO**

- **Sand placement within habitat of coral species** (Martin/Palm Beach County line south through Monroe county, Florida; USVI or PR) except for previously permitted O&M placement areas.
- **Port Expansion** (deepening, widening, etc.)
Gulf of Mexico Regional Biological Opinion for Hopper Dredges “GRBO”

- Issued in late 2003 to three divisions/four districts (New Orleans and Galveston had previous “regional” opinions).
  - GRBO protocol developed to work across division lines.

- Applied many of the “Guiding Principles” from previous SARBOs
  - Applies a common “pool” of take; divided between Civil Works and Regulatory; USACE subdivided between districts with operational limits.

- Similar to South Atlantic RBO, except:
  - Involves all dredging in Gulf of Mexico, incorporating previous clamshell and cutterhead determinations from SARBO
  - Applies to COE-conducted (Federal) hopper dredging and COE-permitted hopper dredging (regulatory for first time)
  - More stringent “take avoidance” measures (RPMs)
  - USACE had concerns with original set of T&C – some were not fiscally implementable (per counsel). Two revisions of GRBO in June 2005 and Jan 2007.
Statewide Programmatic Biological Opinion for Beach Placement in Florida

- USACE (SAJ & SAM) developed the Statewide Programmatic Biological Assessment (with support from SAW).
- Purpose: To streamline compliance with Endangered Species Act (ESA)
- Activities Covered (Regulatory & Corps Civil Works): Beach Nourishment, Navigation Dredging, other placement of sand on the beach, and other Shore Protection measures
- Authorities Covered: Shore Protection, Navigation, Regulatory, other
- Species Considered: Nesting Sea Turtles (5 species), Piping Plover (Critical Habitat), Snowy Plover, Red Knot, Beach Mouse (5 species), Manatee
- Geographic Scope: (Coast of Florida)
Statewide Programmatic Biological Opinion for Beach Placement in Florida

- Purposes – better nesting result for sea turtles, savings & efficiencies in the consultation process, improved consistency & predictability in Section 7 compliance
- Jacksonville and Mobile Districts plus Three USFWS Field Offices, Florida DEP & FWC
- COE Team Lead for developing the initial BA was a sea turtle expert from Wilmington District
- Results may offer benefits to neighboring states/districts
Collaboration

- Jacksonville Corps
  - Planning Division
    - Environmental Branch (Lead Organization)
    - Plan Formulation Branch
  - Regulatory Division
    - Construction and Operations Division (Field Offices)
- Mobile Corps (CW – Panhandle/Operations)
- Wilmington Corps (Brokered Work)
- US Fish and Wildlife Service (Vero Beach, Jacksonville, and Panama City) would issue a Biological Opinion
- Florida Fish and Wildlife Conservation Commission
- American Bird Conservancy (Data, GIS)
AUTHORIZED SHORE PROTECTION PROJECTS

Other Eroded or Critically Eroded Shoreline

Map of Eroding (Critically and Non-Critically) Shoreline and Inlets in Florida, 2009 Update
(Note: Some inlet and other items are not visible due to overlay.)

Legend
- Critical
- Noncritical
- Critical Inlet Shoreline
- Noncritical Inlet Shoreline

(for more detailed information go to http://www.dep.state.fl.us/beaches/programs/coasteng.htm)
REGULATORY PERMITS

- Entire Florida Coast
Areas for Discussion (Requirements and Recommendations)

- Restrictions on Certain Night-time Dredging
- Restrictions in “Important Manatee Areas”
- Leave Rack on Beach for Shore Bird Use
- Prescribe Beach Slope (turtle friendly)
- Survey Artificial Light Reaching the Beach
- Post-Construction Monitoring and Management
- Other
Schedule

- FWS Expresses Interest (December 2005)
- Various Meetings and Phone Calls
- Draft and Revised Biological Assessment
  - Concurrent development of SPBA and SPBO to allow for discussions and agreement for the development of a useful and implementable product.
- Several Draft and Revised “Terms and Conditions” for SPBO over a three year period
- Proposed SPBA under review by Corps (SAJ, SAM and SAD).
- Corps asking to review final SPBO prior to implementation
Knowledge Management and Sharing

Regional Biological Opinions (RBOs)

Challenges based on Our Experience

- District cultures/District “stovepipes”
- Fear of the unknown – the paradigm shift
- Giving up some control (tough for District Commanders/Senior staff)
- Potential conflicts with:
  - Interpretations of legal authority
  - Agency policy
  - Accepted practices
- Regional standards vs. site specific conditions
- Trade-offs (across projects ... across functions)
- Internal decision-making mechanisms
- Clear decision-making process
- Implementing effective risk management measures
- Trust and communication must be constantly cultivated
Regional/Programmatic Biological Opinions (RBOs) - Benefits based on SAD Experience

- Eliminates requirements for numerous project-by-project consultations
- More consistent process and results on a regional scale
- Flexible and adaptable (“big picture” versus “narrow focus”)
- More effective way to look at cumulative effects
- Strengthened communication/relationships with or among:
  - Consulting agencies (NMFS & FWS)
  - Dredging industry
  - ERDC
  - HQUSACE
  - Affected Districts/Divisions
  - Co-consulting agencies (BOEM)
  - Functional organizations within Districts
- More consistent collection and application of available scientific-technical data
- Centralized knowledge and data management
Characteristics of an Effective Regional or Corporate Approach to ESA Issues
“Key Take Away Points”

- Think “Win-Win” (consider cost, value, and sustainability factors)
- Form partnerships (avoid “we vs. they” thinking)
- Think “big picture” wherever possible … it creates opportunities for flexibility
- Trust is the foundation
- Open and honest communication (internal and external) provides the power
Questions?