

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

MIAMI WATERKEEPER, CENTER FOR
BIOLOGICAL DIVERSITY, FLORIDA
WILDLIFE FEDERATION, INC., and
DIVING EQUIPMENT AND
MARKETING ASSOCIATION,

Plaintiffs,

v.

Case No. 16-cv-61975

UNITED STATES ARMY CORPS OF
ENGINEERS, *et al.*,

Defendants.

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STATUS REPORT

Pursuant to this Court’s order dated January 23, 2017, the Defendants, the United States Army Corps of Engineers; Ricky Dale James, Assistant Secretary of the Army; Todd T. Semonite, Commanding General and Chief of Engineers; Andrew D. Kelly, Jr., District Commander of Jacksonville District Corps of Engineers; the National Marine Fisheries Service (“NMFS”); Wilbur Ross, Secretary of the Department of Commerce; Chris Oliver, Assistant Administrator for Fisheries; and Roy Crabtree, Southeast Regional Administrator for the National Marine Fisheries Service (“Defendants”), by their undersigned counsel, hereby submit their status report apprising the Court as to: (a) the status of their Endangered Species Act (“ESA”) consultation and National Environmental Policy Act (“NEPA”) supplementation progress; (b) the status of the pre-engineering and design phase (“PED”) for the Project, including when the PED phase is expected to be complete, and detailing the next phase for the Port Everglades project once the PED phase is complete; (c) updates on the estimated dates of completion for the documents associated with the agency’s new upcoming decisions under

NEPA and the ESA (*i.e.*, the Corps' supplemental NEPA documentation and NMFS' biological opinion ("New Decisions")), including draft supplemental NEPA document(s); and (d) the estimated dates that the Corps will enter into contracts and begin channel deepening and widening work for the project.

A. Status of ESA Consultation and NEPA Supplementation Progress

The Corps sent a letter to NMFS, formally requesting the reinitiation of ESA consultation, on September 27, 2016. Consultation is ongoing. The Corps prepared a biological assessment, which was submitted to NMFS on August 23, 2018. After receiving initial feedback from NMFS staff, the Corps withdrew the biological assessment on October 3, 2018 to allow itself the opportunity to provide additional information. The Corps currently expects to re-submit the biological assessment to NMFS in December 2020. The Corps has concluded its scoping phase of the NEPA process and has begun working on supplemental NEPA documentation.

B. Status of the Pre-Engineering and Design Phase for the Project

The Corps has completed approximately 65% of the design and engineering work on the deepening and widening features that the Corps currently plans to construct as part of the Project, with a current estimated completion in September 2021.

C. Estimated Dates of Completion for the Documents Associated with the New Decisions

While their estimates are subject to change depending on a number of factors, NMFS and the Corps presently estimate that they will issue draft supplemental NEPA document(s) in December 2020, complete the ESA consultation process in May 2021, and issue final supplemental NEPA document(s) and a final agency action(s) in May 2021.

D. Estimated Dates that the Corps will Award Contracts and Begin Construction on the Channel Deepening and Widening for the Project

The Corps presently anticipates that contract award for channel deepening and widening work will not occur before January 2022, and the channel deepening and widening work for the Project will not commence before August 2022, at the earliest.

The Defendants will submit a further status report on or before September 14, 2020.

DATED: June 16, 2020. Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF, which will send notification of such to the attorneys of record.

/s/ Mark Arthur Brown
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