

Enclosure 24

Memorandum for Record  
Informal Consultation Telecon  
11 May 2005

## MEMORANDUM FOR RECORD

SUBJECT: Informal Section 7 Consultation Regarding ACF Water Management Operations and Gulf Sturgeon Spawning Activities

1. A teleconference was held with the U.S. Fish and Wildlife Service (USFWS) and Florida Fish and Wildlife Conservation Commission (FWCC) to discuss the progress of operations in support of fish spawn activities on the Apalachicola River, and concerns for minimizing impacts to ongoing Gulf sturgeon spawning on the upper river. The following representatives participated in the teleconference discussions:

Jerry Ziewitz, USFWS  
Ted Hoehn, FWCC  
Charlie Mesing, FWCC  
Memphis Vaughan, CESAM-EN-HW  
Gene Morisani, CESAM-EN-HW  
Cheryl Hrabovsky, CESAM-EN-HW  
Ken Day, CESAM-OP-TR  
Matt Lang, CESAM-PD-EI  
Joanne Brandt, CESAM-PD-EI

2. Initial concern was raised by FWCC that river stages were beginning to drop rapidly during the designated river spawning period (between 1 April and 1 June). Also, Gulf sturgeon spawning habitat could begin to be impacted by river flows less than 18,000 cfs, which equates to Blountstown gage stages between 8 and 9 feet. Because of current dry conditions in the basin, and projected continued dry conditions over the next couple of weeks, there was concern that river stages could drop as low as 7 feet in the next couple of weeks. The projected lower stages could result in impacts to spawning habitat availability immediately below Jim Woodruff Dam. (See attached email coordination that explains the projected conditions in the basin.) Therefore, informal consultation was initiated by means of this teleconference to assure that the Corps' operations would be conducted in a manner that would minimize or avoid impact to Gulf sturgeon spawning habitat or spawning activities.

3. Jerry Ziewitz noted that continued drops in the river stages would begin to impact accessibility or availability of spawning habitat to sturgeon during optimum spawning conditions. Jerry also reminded the Mobile District that since we have not completed formal Section 7 consultation on the existing water control operations, there was no determination at this time of an acceptable number of takings that could occur due to water management operations. Therefore, any takings due to discretionary actions by the Corps would be considered an unauthorized taking under the Endangered Species Act. However, if the Corps operations would result in releases to the river equal to or exceeding the basin inflows, as agreed to last year during extreme low flow conditions, any impacts on spawning habitat or sturgeon spawning activities would be considered the result of naturally declining river flows rather than a

discretionary action on the part of the Corps water management operations. Any augmentation above the basin inflows would be considered a benefit to the Gulf sturgeon critical habitat and to the success of Gulf sturgeon spawning activities. The spawning operations strategy that was established for low flow conditions during the 2004 spawning period provided for releases from Jim Woodruff Dam that equal or exceed the computed basin inflows, as computed from the 3-day average basin inflows.

4. The Mobile District agreed that they had already been implementing this operations strategy (releases equal or exceed inflows, similar to run-of-river operations) as inflows in the basin have begun to decline. However, we have reduced releases gradually so there would be no dramatic decline in river flows (less than ½ foot per day once flows are 20,000 cfs or less). Because of balancing releases with basin inflows, we do not expect Walter F. George Lake or West Point Lake to refill this spring, unless we receive additional rainfall in the basin. We planned to operate conservatively under this strategy as dry conditions continue through the remainder of the spawning period. River stage today is approximately 9.9 feet on Blountstown gage. Stages would likely be around 8 feet by middle of next week.

5. Jerry agreed to share monitoring information on the progress of Gulf sturgeon spawning activities. To date, only 2 of 15 tagged fish have been detected at the known spawning habitat area immediately below Jim Woodruff Dam. Because water temperatures are currently around 21° C, and the sturgeon are known to spawn in temperatures as high as 23.9° C, it is anticipated the sturgeon could continue to spawn for the next couple of weeks. An additional 4 sturgeon were detected in the lower river and apparently have not yet moved up river to spawn. Efforts are continuing to locate the remaining 9 tagged fish. USFWS will continue to share their monitoring data over the next few weeks. Mobile District agreed to get back to USFWS if there was any change from this agreed-to operations plan.

5. It was agreed that the memorandum of this teleconference discussion and the agreement to implement the low flow operations strategy (i.e., releases from JWD will equal or exceed basin inflows), will sufficiently document our informal consultation, with a determination that implementation of the low flow operations strategy would not constitute a discretionary action by the Corps with an impact to Gulf sturgeon spawning activities. Any impact to critical habitat or Gulf sturgeon spawning activities due to implementation of this strategy would be considered an impact of the naturally declining river stages. No takings of sturgeon by the Corps would occur from the implementation of this low flow operations strategy.

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