



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

REPLY TO
ATTENTION OF

April 15, 2008

Inland Environment Team
Planning and Environmental Division

Ms. Gail Carmody
Field Supervisor
U.S. Fish and Wildlife Service
1601 Balboa Avenue
Panama City, Florida 32405-3721

Dear Ms. Carmody:

This letter is to request the initiation of formal consultation pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), on the U.S. Army Corps of Engineers (Corps), Mobile District's proposed modifications to the current Interim Operations Plan (IOP) at Jim Woodruff Dam in support of federally-listed species and critical habitat on the Apalachicola River. Mobile District completed Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) on September 5, 2006 for the IOP.

The September 5, 2006 Biological Opinion (BO) issued on the IOP included a Reasonable and Prudent Measure Number 3 (RPM3) requiring the development of modifications to the IOP that would provide for higher desired minimum flows when hydrological and climatic conditions allowed and identification of a trigger that would determine when it would be reasonable and prudent to revert to the 5,000 cubic feet per second (cfs) minimum flow (as required in the current Apalachicola-Chattahoochee-Flint [ACF] water control plan). These higher minimum flow provisions were submitted by the Corps on February 16, 2007, and the modified IOP (current IOP) was approved by the USFWS on February 28, 2007. The prolonged exceptional drought conditions experienced in the ACF basin throughout the spring and summer of 2007 resulted in impacts to the basin and composite storage within the basin that were unanticipated by the previous IOP analyses. Therefore, in accordance with the adaptive management provisions of RPM1 of the BO, in November 2007, the Corps requested initiation of formal consultation for a temporary drought contingency modification to the IOP, termed the Exceptional Drought Operations (EDO). The EDO represented a temporary modification of the currently approved IOP intended to minimize adverse impacts to federally listed species in the Apalachicola River while providing continued support to other critical basin water uses during an exceptional basin-wide, multi-year drought. The EDO included incremental reductions in the minimum flow requirement at Jim Woodruff Dam based on composite storage and basin inflow triggers. On November 15, 2007, the USFWS approved the EDO by amending the September

2006 BO. The Incidental Take Statement (ITS) for the EDO expires on June 1, 2008, subject to further consultation.

The proposed action was developed based upon review of the current species information, basin stakeholder input, lessons learned from 2006-07, and continuing discussions between our staffs. The proposed modifications to the current IOP are intended to support listed species and their critical habitat in the Apalachicola River and avoid or minimize potential adverse impacts associated with discretionary operations at Jim Woodruff Dam. Throughout our previous consultations on the IOP and its implementation, we learned that two issues needed further consideration 1) incorporation of some form of drought plan, and 2) additional need for storage conservation when system storage is low. In fact, the RPM3 modifications incorporated into the current IOP were based, in part, on addressing these concerns. The proposed action further addresses these needs by 1) incorporating a drought contingency plan that allows for additional storage conservation and system recovery during periods of extreme drought, and 2) providing additional opportunities to conserve storage as we enter and exit drought conditions while still providing support for listed species and their critical habitat in the Apalachicola River. A detailed description of the proposed action is enclosed. Shortly, we will be providing the USFWS electronic versions of the modeling results for the period of record (1939-2007) and forecast analyses (12 month projection); preliminary effects analyses consistent with those used for the previous IOP consultations; and other supplemental information. As with the past consultations, we will continue our close coordination with your office to assist in concluding this consultation process and reaching consensus on any reasonable or prudent measures that may be appropriate.

We have determined, based on review of the modeling data and informal consultation with your office, that the proposed modifications of the current IOP are likely to adversely affect the threatened Gulf sturgeon (*Acipenser oxyrinchus desotoi*), endangered fat threeridge mussel (*Amblema neislerii*), threatened purple bankclimber mussel (*Elliptoideus sloatianus*) and threatened Chipola slabshell (*Eliptio chipolaensis*) and designated critical habitat for these listed species. It is understood that our consultation discussions over the coming weeks could identify additional modifications to the current IOP that could provide for additional minimization of harm to the species.

We request your review of the proposed action with respect to ESA compliance and that you provide a biological opinion. Operations under the proposed action will be implemented and continued until such time as additional formal consultation may again be initiated and completed, either in association with the update and revision of water control plans for the ACF system, or sooner if conditions change or additional information is developed to justify a possible revision to operations. It is anticipated that the proposed modifications will accommodate continuing and future drought conditions within the basin based on the modeling that we will provide to you soon. However, should severe drought conditions persist for additional years or more severe droughts than modeled occur, additional modifications or temporary drought contingencies may

need to be developed and consulted with your staff. Should you have any questions, comments, or recommendations, please contact Mr. Brian Zettle, (251) 690-2115, Email: brian.a.zettle@sam.usace.army.mil

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis M. Flakes". The signature is written in a cursive style with a large initial "C" and a long horizontal flourish extending to the right.

Curtis M. Flakes
Chief, Planning and Environmental
Division

Enclosure