

Re: [EXTERNAL] Adaptive Management

Dell, David <david_dell@fws.gov>

Thu 8/20/2020 2:03 PM

To: Christian Spilker <CSpilker@collierenterprises.com>

Cc: Tawes, Robert <robert_tawes@fws.gov>; Andrew Turner (aturner@hunton.com) <aturner@hunton.com>; Bruce K. Johnson (Bruce.Johnson@stantec.com) <Bruce.Johnson@stantec.com>

Thanks Christian!

From: Christian Spilker <CSpilker@collierenterprises.com>

Sent: Thursday, August 20, 2020 2:01 PM

To: Dell, David <david_dell@fws.gov>

Cc: Tawes, Robert <robert_tawes@fws.gov>; Andrew Turner (aturner@hunton.com) <aturner@hunton.com>; Bruce K. Johnson (Bruce.Johnson@stantec.com) <Bruce.Johnson@stantec.com>

Subject: [EXTERNAL] Adaptive Management

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David,

I have conferred with my fellow ECPO members who agree that acreage of covered activity impacts (SRA footprint) is the appropriate measure of “buildout” for check-in intervals under an adaptive management framework, not percentage of dwelling units completed. Acreage of covered activities as the measure for buildout is supported by the scope of ITP coverage requested and the structure of the HCP, as noted in the AMP framework document:

- **Scope of Incidental Take Coverage**

- The requested incidental take coverage is, for most species (including the panther), limited to unintentional “harassment” resulting from construction or mining (e.g., light or noise), and extends to unintentional harm for a few ground dwelling species (such as the indigo snake) that may be directly impacted by excavation or other earth disturbances caused by construction or mining.
- The extent of such impacts turns on the acreage of lands on which construction or mining disturbances occur, not the number of dwelling units that may be completed.
 - Whether a species is disturbed by construction or mining turns on where the activity is located in relation to the species, not on numbers of dwelling units.
 - Numbers of dwelling units have little (if any) relevance to extent of construction disturbance, and no relevance to extent of mining disturbance.

- **Structure of HCP**

- The HCP is structured to mitigate authorized incidental take through preservation of valuable habitat, including species dispersal corridors.
- The basic framework of the HCP is that both the extent of authorized incidental take and the extent of mitigation are measured in acres.

- **Relationship Between Adaptive Management and Scope of ITPs and HCP**

- The proper focus of adaptive management is on addressing take authorized by the ITPs and adapting the conservation provided by the HCP to new information.
- Adaptive management should be focused on information related to harassment of covered species (and potential harm to ground dwelling species) resulting from construction and mining disturbances, and adapting measures to preserve habitat under the HCP as appropriate to ensure the HCP offsets those effects.
- Use of acres of covered activity impacts to set AMP check-in intervals aligns with the scope of the requested ITPs and structure of the HCP
 - Percentage of dwelling units does not align with the scope of the requested ITPs or structure of the HCP
 - While third party vehicle collisions with listed species are not within the scope of ITP coverage requested by the applicants or designed to be offset by the HCP, the Marinelli Fund provides a multi-stakeholder framework for addressing such impacts – and for adapting use of the Fund as appropriate based on new information.

Establishing AMP check-in intervals based on acres of covered activity impacts specifically aligns with the scope of requested incidental take coverage and the structure of the HCP. We recognize that use of acres of covered activity impacts may result in reaching AMP check-in intervals earlier in the life of the HCP (because ground disturbance generally precedes completion of dwelling units). Percentage of dwelling units does not align with the scope of the requested ITPs or the structure of the HCP, however, and is not an appropriate basis for setting AMP check-in intervals.

Regards,

Christian Spilker

Christian Spilker
Senior Vice President of Land
Collier Enterprises
2550 Goodlette Frank Rd North, #100
Naples, FL 34103

(239)261-4455

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