



# United States Department of the Interior

## U. S. FISH AND WILDLIFE SERVICE

7915 BAYMEADOWS WAY, SUITE 200  
JACKSONVILLE, FLORIDA 32256-7517

IN REPLY REFER TO:

FWS Log No. 41910-2014-I-0005

November 1, 2013

Andrew Phillips  
Department of the Army  
U.S. Army Corps of Engineers, Cocoa Regulatory Office  
400 High Point Drive, Suite 600  
Cocoa, FL 32926

NOV 04 2013

Dear Mr. Phillips:

Our office has reviewed your correspondence and accompanying information, dated September 24, 2013, for the following project.

APPLICANT	CORPS APPLICATION NUMBER	FWS LOG NUMBER
The Federal Railroad Administration (FRA)	SAJ-2012-01564 (SP-AWP)	41910-2014-I-0005

The applicant is currently developing an Environmental Impact Statement (EIS) for the proposed project by All Aboard Florida to provide intercity passenger rail transportation between Orlando and Miami, Florida, by maximizing use of existing transportation corridors. The applicant completed a Biological Assessment (BA) to determine if the potential impacts the proposed project may affect the West Indian Florida manatee, Audubon's crested caracara, wood stork, blue-tail mole skink and Florida sand skink, Florida scrub-jay, and the eastern indigo snake. We submit the following comments in accordance with Section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq*).

The Corps reviewed this project for potential impacts to federally-listed species and determined that the proposed project occurs within the range of the West Indian manatee (*Trichechus manatus latirostris*), eastern indigo snake (*Drymarchon corais couperi*), and wood stork (*Mycteria Americana*). The Corps evaluated potential impacts to the West Indian manatee, eastern indigo snake and wood stork using the "2013 Manatee Key", "2010 Eastern Indigo Snake Key" and the "2008 Wood Stork Key". Use of the keys resulted in the conclusion that the proposed project is "not likely to adversely affect" these species. We concur with the determination for these species. In addition, you will include the "Standard Manatee Conditions" and the 2013 "Standard Protection Measures

for the Eastern Indigo Snake” as a special condition to the Corps permit. The applicant will also be mitigating within an approved mitigation bank for any impacts to the wood stork core foraging area within the proposed project.

Based upon review of the BA and surveys completed by the applicant and provided to the Service it has been determined that the proposed rail addition “*may affect, but is not likely to adversely affect*” the Florida scrub-jay (*Aphelocoma coerulescens*), the blue-tailed mole skink (*Eumeces egregius lividus*) and the Florida sand skink (*Neoseps reynoldsi*). The information provided has identified areas of suitable habitat, soil, and elevations for the Blue-tailed mole skink and the Florida sand skink. Additional surveys are being completed by the applicant and will be provided to the Service upon Completion.

The applicant has conducted several Audubon’s crested caracara surveys within the proposed project site and although no active crested caracara’s nest have been documented within the proposed project area, they have been observed perched on the ground within the proposed area. We ask that during the caracara’s nesting season (November 1 – April 30) any suitable habitat that is to be cleared be monitored for any active nests or nesting activity. If an active nest is observed within the proposed project area please contact our office. The Service concurs with the determination that the proposed project “*may affect, but is not likely to adversely affect*” the Audubon’s crested caracara.

Although this does not represent a biological opinion as described in Section 7 of the Act, it does fulfill the requirements of the Act and no further action is required. Reinitiating consultation is required if new information reveals effects of the action agency that may affect listed species or critical habitat in a manner or to an extent not considered in this consultation; the action agency is subsequently modified in a manner that causes an effect to a listed species or critical habitat not considered in this consultation; if unauthorized take of any listed species (West Indian manatee, Eastern indigo snake, wood stork, Florida scrub-jay, Blue-tail mole skink, Florida sand skink and Audubon’s crested caracara) occur during construction; or a new species is listed or critical habitat designated that may be affected by the action.

If you have any questions regarding this response, please contact Zakia Williams of my staff at the address on the letterhead, or by calling (904) 731-3326.

Sincerely,

  
for Jay B. Herrington  
Field Supervisor