November 22, 2016

Department of the Army
Jacksonville District Corps of Engineers
Colonel Jason A. Kirk, District Commander
701 San Marco Boulevard
Jacksonville, Florida 32207-8175

Dear Colonel Kirk,

We are writing to first thank the U.S. Army Corps (“Corps”) for working to avoid and minimize impacts of the Central and South Florida Project on threatened and endangered species, including the Cape Sable seaside sparrow, snail kite and wood stork, and second to encourage the Corps to move quickly to fully implement the Everglades Restoration Transition Plan (“ERTP”) as described in the biological opinion developed by the U.S. Fish and Wildlife Service (“Service”), and to expedite other Everglades restoration projects that the Service has stated will benefit species in the Everglades.

As you are aware, the Service found the Corps’ management of releases of water from Water Conservation Area 3A (“WCA 3A”) as dictated by the ERTP as it has been historically implemented jeopardizes the continued existence of the Cape Sable seaside sparrow. This jeopardy results from the fact that since 1992, the Corps has annually flooded extensive areas of western Everglades National Park during the sparrow's breeding season, resulting in loss of more than half of the sparrow's fragile population, population declines that continue to the present, and destruction of Park habitats utilized by many wildlife species.

The biological opinion, which evaluates the effectiveness of the ERTP to reduce impacts on the sparrow, seeks to reduce this flooding by among other things, maximizing flows in the eastern most structures draining WCA 3A into Everglades National Park, lengthening closures on these structures during the breeding season and diverting more water to northeast Shark River Slough through the L-29 Borrow Canal. By restoring the flow of water to its historic path further east, implementation of these actions is entirely consistent with the goals of Everglades restoration as envisioned in the Central Everglades Restoration Plan and other planning documents.

The biological opinion specifies the conditions needed by the sparrow to have some chance at survival and recovery, but leaves much of the specifics of how these conditions will be provided to the discretion of the Corps. To avoid jeopardy to the sparrow, the Corps must maintain a dry period during the breeding season of over 90 days in at least 24,000 acres of western Everglades National Park in the area occupied by "subpopulation A" of the sparrow, which is the population that has been most impacted by flooding, and at least 40 percent of critical habitat units occupied by the other four subpopulations. Notably, this 24,000 acres represents a fraction of the total area...
formerly occupied by subpopulation A and thus meeting this condition represents the absolute minimum necessary to ensure the survival of the sparrow. We therefore urge the Corps to do everything within their authority to meet this condition.

The Service also determined that maintaining marl prairie habitat for the sparrow, which is the natural vegetation found in that region of Everglades National Park, will require a range of 90-210 discontinuous wet days throughout the year and requires that this be met in the 24,000 acres for Subpopulation A and 40 percent of critical habitat units in a four year running average with no two consecutive years not meeting conditions. This is important not just for the sparrow, but for the many species dependent on marl prairie habitats and for maintaining natural conditions of Everglades National Park.

The Corps has also committed to work with the Service to provide an analysis of the potential effects of Western flows (i.e., the effect of infrastructure and operation of the L-28 canal, L-28 Tieback, the S-34A, S-34B, S-344, Tamiami Canal, Loop Road, and all associated bridges and culverts), including the S-344 and L-28 plugs, on Subpopulation A of the Cape Sable seaside sparrow, and if necessary, a seepage study analysis to include the southwest corner of WCA-3A will be conducted. These analyses will be considered in the Western Everglades Restoration Project which is currently under review.

As the Corps knows, the area around P34 in the western portion of Subpopulation A once supported 75 percent of the population, but has since been totally lost. The above analyses are critical to determining what can be done to alleviate this situation and we are accordingly very interested to see these analyses completed expeditiously.

Maintaining these conditions is vital to ensuring the survival and recovery of the sparrow. We will be closely monitoring the situation on the ground to ensure it is consistent with the Reasonable and Prudent Alternatives outlined in the 2016 Biological Opinion, and if not, will not hesitate to take further legal action on behalf of the sparrow and Everglades National Park. We further urge the Corps to move forward with all aspects of Everglades restoration called for in CERP and other plans, which will benefit the sparrow, other threatened and endangered species, south Florida ecosystems and the people of Florida and across the country who love the Everglades.

Please do not hesitate to contact me with any questions about this letter or any other matter related to restoration of the Everglades, at jlopez@biologicaldiversity.org or 727-490-9190. Thank you.

Sincerely,

Jaclyn Lopez
Florida Director
Center for Biological Diversity

Dr. Stuart Pimm
Dorris Duke Professor of Conservation Ecology
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National Park Service

Cc:

General David C. Turner, South Atlantic Division, U.S. Army Corps of Engineers, 60 Forsyth Street, Room 10M15, Atlanta, GA 30303

Mr. Larry Williams, State Supervisor, U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960

Ms. Shannon Estenoz, Director, U.S. Department of the Interior, Office of Everglades Restoration Initiatives, 3321 College Avenue, Davie, FL 33314

Mr. Peter Antonacci, Executive Director, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

Ms. Cynthia K. Dohner, Regional Director – Southeast Region, U.S. Fish and Wildlife Service, 1875 Century Boulevard Northeast, Suite 400, Atlanta, GA 30345