

Species Management Corkscrew Regional Ecosystem Watershed (CREW): Florida Bonneted Bats

SFWMD and partners are restoring thousands of acres east of Fort Myers in Southwest Florida. SFWMD completed numerous federally required surveys under the auspices of protecting the Florida bonneted bat. As part of the ongoing restoration, SFWMD identified some new areas where the land needed to be cleared to ensure proper sheet flow. USFWS demanded SFWMD conduct more bonneted bat surveys, effectively shutting down the SFWMD effort on this piece of the project.

- **Quote from [July 20, 2016 USFWS email](#):** “Therefore, in order to avoid a change to the proposed action which would require reinitiation of (Endangered Species Act) Section 7 consultation with the Service, either the phased approach or an equivalent survey methodology needs to be implemented along the new alignments before the Service will approve additional clearing.”

July 15, 2016, Email

On Fri, Jul 15, 2016 at 4:07 PM, Colon, Luis <lcolon@sfwmd.gov> wrote:

Tim and Daryl,

As indicated on the phone. The District is in the process of making minor changes to the project actions as a result of alignments that no longer will be impacted and a few new areas that will be added. The type of work remain the same of scraping berms or trails and using the spoil to fill adjacent ditches.

To date the work has been located completely within FBB monitored areas as documented in the FBB monitoring reports. Also, several cavity features have been left standing on cleared alignments as habitat.

The main purpose of this email is that we have one location which falls just outside the monitoring exclusion zones of locations 19, 20, and 21. This area is part of what we are identifying as Alignment 7 on the attached map. The area that is just outside the monitoring exclusion zones is labeled as R-3 on the included Jpeg file. The R-3 Segment on the map is the Westernmost terminal end of Alignment 7. It is

approximately 150 feet wide by 1,000 feet long. It consists of grass areas with young slash pine trees with a dbh between 4 to 10 inches, very few larger than that. I walked and visually inspected this area on June 15th.

We feel that based on the multiple FBB acoustical surveys conducted nearby there is little possibility of FBB at this location. The District will continue to protect potential roost habitat by not removing any adequate cavity feature, if found. The nearby acoustical surveys done on this area expire on August 11, 2016. Therefore, we would like to know if the Service concurs with the District continuing with clearing actions within the entirety of Alignment 7 (completing the work before August 11, 2016)? We also welcome talks of any other recommendation(s) the Service may bring for consideration. Please contact us at your convenience if additional information is needed. Thank you for the guidance and consideration.

Sincerely,

Luis R. Colón, PWS
Principal Scientist
Permit Acquisition and Compliance Section
Office of Everglades Policy and Coordination
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Fax: (561) 682-5211
For Permitting and Enforcement Information go to e-Permitting

July 18, 2016, Reply

From: Breen, Timothy [mailto:timothy_breen@fws.gov]
Sent: Monday, July 18, 2016 2:01 PM
To: Colon, Luis <lcolon@sfwmd.gov>
Cc: daryl_thomas@fws.gov; Bogie, Michael <mbogie@sfwmd.gov>; Starnes, Janet <jstarne@sfwmd.gov>; Leslie, John <jleslie@sfwmd.gov>; Jeyakumar, Nirmala <njeyaku@sfwmd.gov>
Subject: Re: Southern CREW Alignment 7 (R-2 and R-3)

Luis:

I appreciate the call on Friday with the heads up and the additional information that you sent to us. Since it appears that none of the 12 new alignments (alignments 2, 5, 7, 8, 9, 10a, 10b, 11, 12, 13, 14, and 15) were included in the original cavity surveys, the 1500 foot zones do not apply to these alignments. In addition, the 1500 foot zones have no bearing on the locations where acoustical surveys are required. Those were based on potential roost tree locations.

The Service will need additional information from the District before we can approve construction within these new alignments. Please send Daryl an explanation about how your new

proposal is in line with the guidance and requirements found within the BO. Specifically, for any of the new alignments that you believe the previous acoustical surveys have "covered", we need to understand how you made that conclusion so we can determine if it is appropriate. For example, you may believe that alignment 8 is covered because the acoustical surveys conducted at sites 20 and 21 were close enough (150 foot buffer touches alignment 8)

For any of the alignments that need to be surveyed, please make a recommendation (number and location of acoustic surveys) for moving forward.

Thanks,
Tim

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July 19, 2016 Email

On Tue, Jul 19, 2016 at 5:03 PM, Colon, Luis <lcolon@sfwmd.gov> wrote:

Dear Mr. Breen (Tim),

Please find attached an updated revisited map which depicts the proposed revisions. We are proposing to avoid/not clearing 27.62 acres of the originally permitted footprint but instead add new areas for clearing totaling 27.61 acres. The District proposes new work on only 6 areas. The work consists of a minor addition of new area when compared to the overall project.

The Service's Biological Opinion (BO) documents the Service's opinion as to whether the project is likely to jeopardize the continued existence ("jeopardy") of the Florida Bonneted Bat (FBB). As documented in the BO, the primary goal of this restoration project continues to be the same, i.e., to restore the hydrology and ecology within

Southern CREW. The activities continue to be removal of spoil areas and filling of ditches to restore 4,150 acres of hydric pine flatwoods and cypress forests. The earthwork footprint is only approximately 10% (438 acres) of the overall project (even with the proposed revisions because no work will be conducted in the east half of alignments B, D and F). Therefore, the District is not proposing a substantive change to the project with the proposed revisions.

The attached map (FWS OK Map) depicts the 1,500 foot zones for the recently approved monitoring locations. As shown on the (FWS OK) map, the 6 areas of interest (7, 8, 10 a-b, 11, 12 and 13) have been monitored in the recent days. Active FBB acoustic monitoring was completed and approved by the Service, except for alignments 7 and 13, which have small sections/areas outside the original monitoring zones, however, the remaining proposed work areas have several overlapping approved monitoring zones from FWS.

The basis for concluding that continuation of construction activities within the 1,500 foot green zones should be acceptable is the result of guidance received from the Service on May 26, 2016, and June 1, 2016, (attached). On May 26, 2016, the Service indicated that no work can occur within 1,500 linear feet of monitoring locations (exclusion zones) with expired surveys. The Service justification for the “no work” is based on the premise that it is uncertain if Phase 2b level surveys would be needed for an area until the acoustical surveys are completed. On June 1, 2016, the District sought clarity on the interpretation of receiving approval for the acoustical monitoring to which the Service indicated that “construction can proceed within those areas that have up-to-date acoustical surveys (green areas on 6/1/16 map)”. The attached 12Jul16 FWS OK map is just an updated version of the same 6/1/16 map and the green circles depict the latest approved surveys zones.

As indicated in the BO, the District has conducted acoustical surveys for the last several months within the various construction alignments to minimize effects to FBB and avoid impacts to potential roost sites. The Phase 1 surveys were used to specifically target areas where there was a substantial cluster of cavity features and nearby open water (FBB preferred foraging habitat) to augment the detection effectiveness of the survey effort. To date, the District has collected and analyzed a total of 78,210 acoustical files. To date, not one positively identified acoustical file with FBB calls has been collected by the District as part of this survey effort. The District has conducted avoidance and minimization measures by preserving uprights as indicated in the BO and peeping every utility pole prior to felling or preserving it if occupied.

The BO concludes that the effects and cumulative effects of the project is not likely to jeopardize the continued existence of the FBB and no critical habitat has been designated onsite. Therefore, the District considers that the current survey effort would apply to the added areas especially when no Phase 2b Surveys have been triggered after 2 rounds (repeats) of acoustical monitoring (Due to the 90 day monitoring duration) at those same locations. The District also believes that there is sufficient reasonable assurances that the proposed revisions would not affect the principles upon which the

BO was completed and there would be no jeopardy to the continual existence of the FBB.

Timing is critical since the District has an opportunity to commence clearing actions within the new areas on Friday July 22, 2016, without adversely affecting the project schedule. In addition, the next monitoring expiry occurs on August 11, 2016, and it affects Alignments 7 and 8. The District does not propose additional FBB acoustical monitoring.

The District respectfully requests the Service acceptance of the above facts as support for concurrence with the continuation of the restoration actions onsite as revised. Please contact us at your convenience if questions remain.
Thank you for the Service attentiveness to this matter.

Sincerely,

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July 20, 2016 Reply

From: Thomas, Daryl [mailto:daryl_thomas@fws.gov]
Sent: Wednesday, July 20, 2016 4:20 PM
To: Colon, Luis <lcolon@sfwmd.gov>
Cc: Breen, Timothy <timothy_breen@fws.gov>; Bogie, Michael <mbogie@sfwmd.gov>; Starnes, Janet <jstarne@sfwmd.gov>; Leslie, John <jleslie@sfwmd.gov>; Jeyakumar, Nirmala <njeyaku@sfwmd.gov>; DeFrance, William D SAJ <William.D.DeFrance@usace.army.mil>; McElwain, Tunis W SAJ <Tunis.W.McElwain@usace.army.mil>
Subject: Re: Southern CREW Revisions

Luis,








The Service has reviewed your email and attached maps for Southern CREW revisions sent on July 19, 2016. The proposed action in the January 28, 2016 biological opinion includes the implementation of a phased approach to conducting acoustical surveys for FBB along

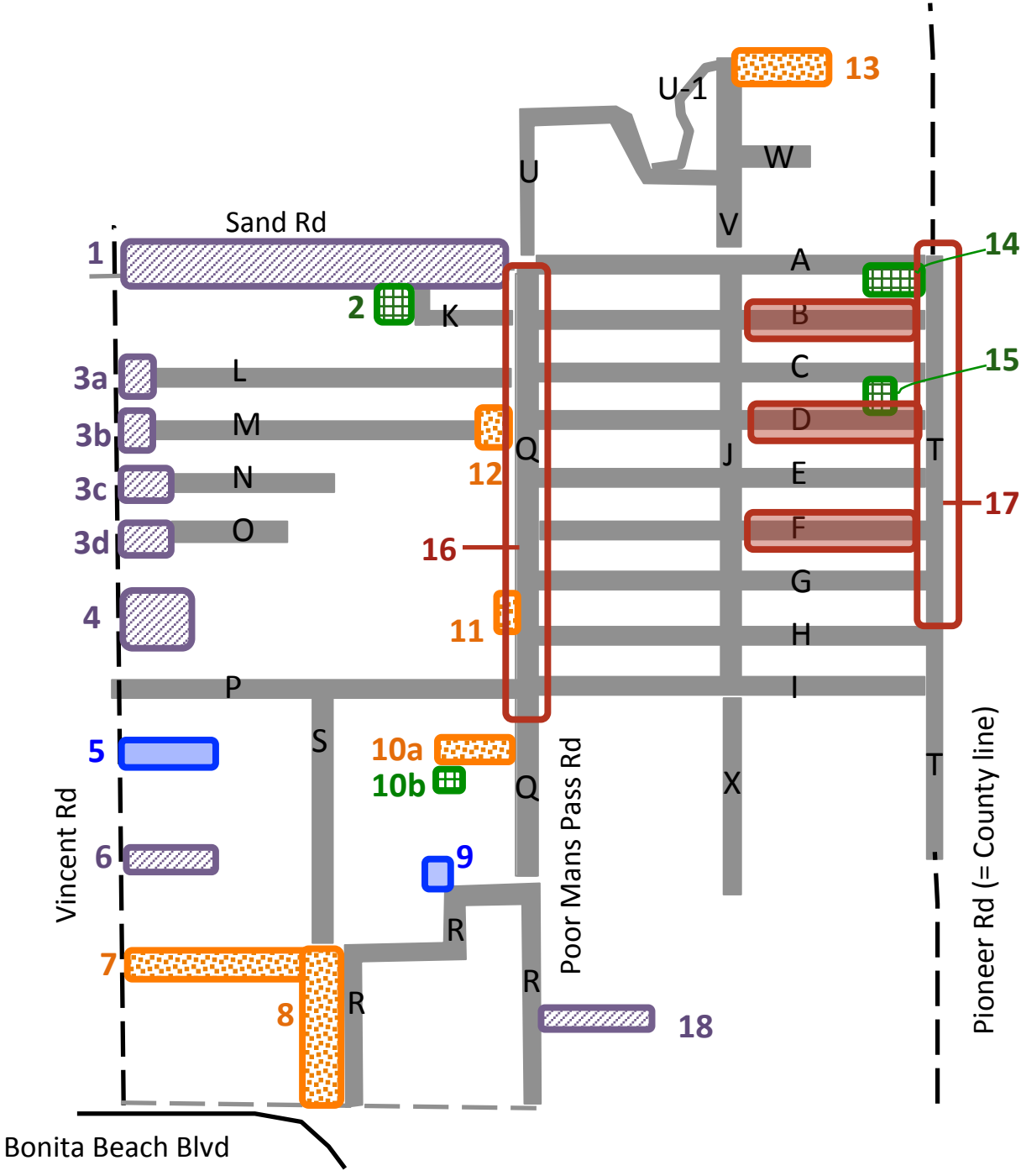
construction alignments (i.e, Phase 1 - identify large trees and snags; Phase 2a - acoustical surveys at high roost density sites; Phase 2b - focused FBB surveys, etc.). Therefore, in order to avoid a change to the proposed action which would require reinitiation of Section 7 consultation with the Service, either the phased approach or an equivalent survey methodology needs to be implemented along the new alignments before the Service will approve additional clearing. Please feel free to contact me with any questions.

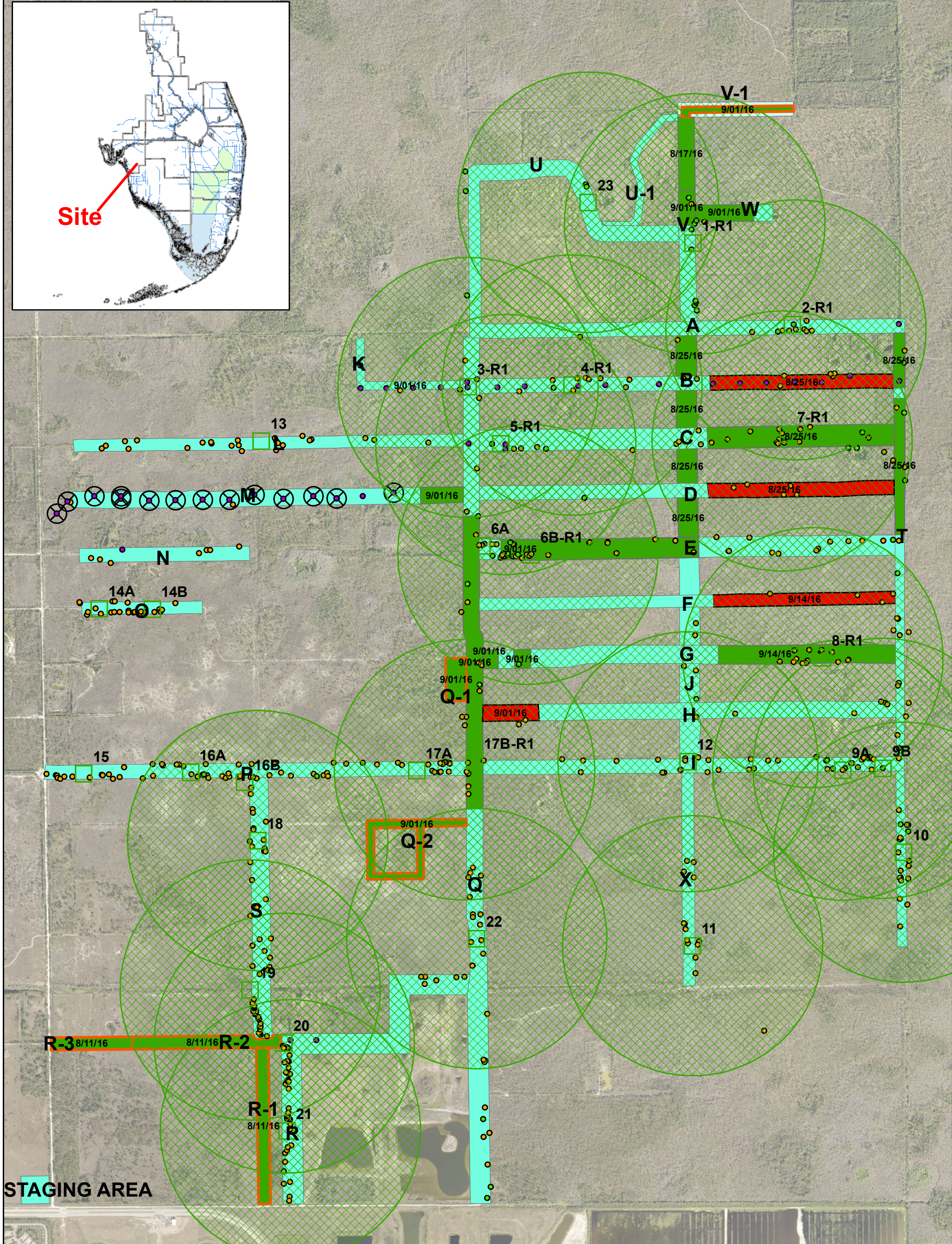
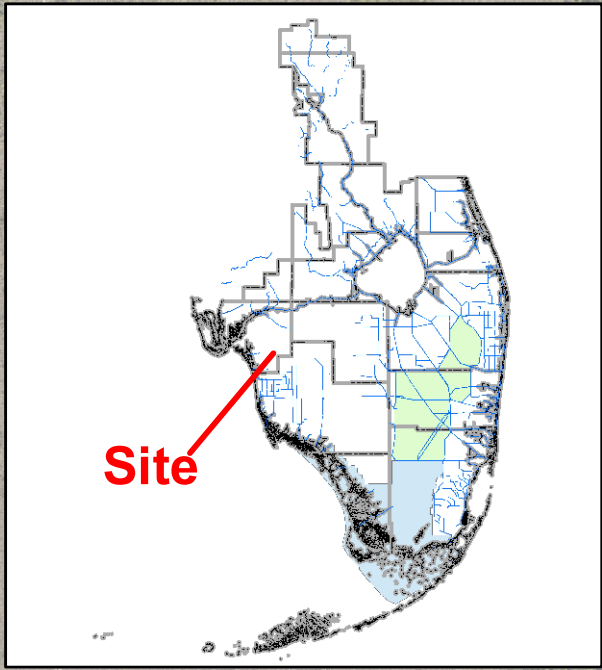
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SoCREW Revisited
 July 8, 2016

Legend

-  SoCrew current Alignment
-  Do not clear
-  Reduce footprint
-  Additional Alignment, high priority
-  Additional Alignment, medium priority
-  Additional Alignment, low priority
-  Target considered, but eliminated





Legend

- | | | | | |
|-----------|-----------|---------------------|--------------------|-----------------------|
| Yes | Completed | Yes | Telephone Pole | No Work |
| Live Tree | Snag | Construction Status | Vegetation Cleared | FWS Approved - Active |
| | | New Areas | | |