

RECOMMENDATIONS OF THE BEACH MANAGEMENT WORKING GROUP

OVERVIEW

COMMITTEE CHARGE AND LEGISLATIVE PROVISIO LANGUAGE

Proviso language in the Fiscal Year 2008-09 General Appropriations Act, Specific Appropriation 1748, called for the creation of a working group (Working Group) to review the effectiveness of Florida's beach management program, pursuant to Chapter 161, Florida Statutes (F.S.). Current funding challenges, increasing regulatory costs, and the need for greater program accountability to the Legislature and other coastal stakeholders, make it a good time to examine what is working and what is not, within the confines of the actual proviso language. That language, in its entirety, reads as follows:

“With oversight and organizational support from the Executive Office of the Secretary of the Department of Environmental Protection, a working group for the following purposes shall be formed to review the effectiveness of Florida’s statewide beach management program, pursuant to Chapter 161, Florida Statutes. Review shall include, but is not limited to, the following:

- *The responsiveness and timeliness of the permitting process associated with beach and dune nourishment projects;*
- *Beach management project selection and funding procedures, contract management, and expenditure accountability associated with all beach management projects pursuant to s. 161.101, F.S.;*
- *Current post-construction project monitoring requirements for beach projects in terms of consistent monitoring protocol, justification, required frequency, usefulness of data, and elimination of duplication; and*
- *The pursuit of regional mitigation plans with a pilot plan in southeast Florida, and a balanced mitigation strategy for projects declared to be in the public interest.*

Representation on this working group shall include: The Secretary of the Department of Environmental Protection or designee, representatives from city and county general government associations, a beach governmental-based association representative, a university coastal processes expert, a biological expert, a coastal-engineering professional, a local coastal government representative, a multi-program contract manager, and an environmental/coastal stakeholder.

This group shall submit a report to the President of the Senate, the Speaker of the House, and the Office of the Governor, by January 15, 2009, with recommendations regarding statewide and regional beach management planning improvements, possible changes to Chapter 161, F.S., and associated rules to enhance program efficiency, and a formalized project review mechanism with external review team.”

With the four expressed proviso topics as guidance, the Working Group focused primarily on the “process” associated with the state’s beach management program. The wording and emphasis of the proviso language weighted and directed the review toward program effectiveness and responsiveness, and recommendations to improve both. The Working Group concentrated on simple guidelines:

- How to ensure the most significant and worthwhile local government beach projects are offered for legislative funding consideration;
- How to maintain the integrity of approved project lists and subsequent funding; and
- How to facilitate the regulatory process, while maintaining environmental protection, maximizing the value of post-construction monitoring and promoting balanced mitigation strategies.

The recommendations contained in this report may be perceived as relatively minor adjustments to a long-established and successful intergovernmental program. That is largely correct, as this effort was designed as a process review. However, the recommendations identified herein address some of the most problematic aspects of the current process as identified by the program participants and should provide significant improvement regarding the effectiveness of the State’s beach management program.

During the Working Group meetings, a number of larger policy and research issues were also identified that are important to the future direction of Florida’s beach management program. The current review effort did not include adequate time, staffing or financial resources to adequately address these issues. Without attempting to reach consensus, some of these policy issues and research topics are presented in Part IV of the report for further consideration.

In conducting its review, the Working Group never lost sight of the fact that Florida is a state rich with and dependent upon its natural resources. The Working Group’s review of the beach management program had to be accomplished through a lens of inherent appreciation for the ecological and economic value of Florida’s coastal environment. And finally, there must be simultaneous recognition of multiple imperatives including environmental quality, science-based decision-making, fiscal accountability and transparency, as well as the legal rights of all stakeholders.

WORKING GROUP MEMBERS

Local Coastal Government Representative

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Lee County, Natural Resources Division
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Alternate, Virginia Barker, Watershed
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Alternate, Michael Barnett, P.E., Chief
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County General Government Association

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Alternate, Rosie Byrd, Legislative
Coordinator
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Biological Expert

Craig Kruempel, Senior Scientist
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Alternate, Cheryl Miller, President,
Principle Scientist
Coastal Eco-Group, Inc.

Beach Governmental Based Association

Debbie Flack, Director of Governmental
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Florida Shore & Beach Preservation
Association (FSBPA)

Alternate, Lisa Armbruster, Assistant
Director of Governmental Affairs
FSBPA

City General Government Association

Scott Dudley, Senior Legislative Advocate
Florida League of Cities, Inc.
Working Group, Vice-Chairman

Alternate, Rebecca O'Hara, Legislative
Director
Florida League of Cities, Inc.

University Based Coastal Expert

Robert Dean, Sc. D, P.E.
University of Florida

Alternate, Dr. Todd L. Walton, Director
Beaches and Shores Research Center

Multi-program Contract Manager

Don Donaldson, P.E., Public Service Director
Martin County

Alternate, Kathy FitzPatrick, P.E., Coastal
Engineer
Martin County

Environmental/Coastal Stakeholder

Gary Appelson, Policy Coordinator
Caribbean Conservation Corp.

Alternate, Julie Brashears Wraithmell
Wildlife Policy Coordinator
Audubon of Florida

Coastal-Engineering Professional

Albert E. Browder, Ph. D., P.E.
Senior Coastal Engineer
Olsen Associates, Inc.

Alternate, Christopher G. Creed, P. E.
Senior Coastal Engineer
Olsen Associates, Inc.

MEETINGS

Eight meetings of the Working Group were held. All were publically noticed and a telephone connection was provided for those not able to attend. Public comment was taken at each meeting and is provided in the Appendix. An outline of the meeting dates, locations, and presentations given to the Working Group is as follows:

September 18, 2008, Tallahassee

- Presentation on public records and open government: Ms. Betsy Hewitt, Assistant General Counsel, Department of Environmental Protection (DEP or Department)
- Presentation on the Florida Beach and Shore Preservation Association survey results of their members: Ms. Lisa Armbruster, Assistant Director of Governmental Affairs

October 1, 2008, Tallahassee

- Presentation on project ranking, list development and contracting: Mr. Paden Woodruff, Environmental Administrator, Bureau of Beaches and Coastal Systems, DEP
- Presentation on DEP contracts: Ms. Gwenn Godfrey, Chief, Bureau of General Services, DEP

October 15, 2008, Orlando

- Presentation of the St. Lucie River Issues Team: Ms. Kathryn LaMartina, Senior Water Resource Manager, South Florida Water Management District
- Presentation on Scope of Work Process: Mr. Paden Woodruff, Environmental Administrator, Bureau of Beaches and Coastal Systems, DEP

October 29 and 30, 2008, Tallahassee

- Presentation on physical monitoring: Mr. Robert Brantly, P.E., Environmental Administrator, Bureau of Beaches and Coastal Systems, DEP
- Presentation on environmental monitoring of submerged resources: Mr. Marty Seeling, Environmental Administrator, Bureau of Beaches and Coastal Systems, DEP
- Presentation of the Florida Fish and Wildlife Conservation Commission (FFWCC) monitoring program: Dr. Robbin Trindell, Biological Administrator, FFWCC
- Presentation on ecological functions of nearshore hardbottom habitats in east Florida: Mr. Don Deis, Senior Scientist, PBS&J
- Presentation on mitigation requirements and challenges of an applicant: Mr. Steve Higgins, Beach Erosion Administrator, Broward County
- Presentation on the effectiveness of permit required monitoring and mitigation: Ms. Cheryl Miller, President and Principal Scientist, Coastal Eco-Group Inc.
- Presentation on mitigating for ephemeral hardbottom and challenges of an applicant: Mr. Daniel Bates, Director of Environmental Enhancement and Restoration, Palm Beach County

November 13, 2008, Tallahassee

- Presentation on the permitting process for erosion control projects: Mr. Marty Seeling, Environmental Administrator, Bureau of Beaches and Coastal Systems, DEP and Dr. Robbin Trindell, Biological Administrator, FFWCC

December 11, 2008, Tallahassee

Discussion of recommendations

January 8 and 9, 2009, Tallahassee

Discussion of recommendations

January 12, 2009 Teleconference

Discussion of final report

Minutes are available for each meeting from the Department upon request.

REPORT ORGANIZATION

Following this introductory section, the report is presented in distinct parts. Parts I through III are organized as:

- (I) Recommendations for Legislative Consideration;
- (II) Recommendations for Consideration in Agency Administrative Rules; and
- (III) Recommendations for Agency Consideration.

Further, within these three parts, recommendations are presented by proviso language “topic”; specifically, (1) Department permitting process, (2) project management, (3) post-construction monitoring, and (4) mitigation and regional mitigation plans.

These parts containing final recommendations are followed by Part IV, “Establishing the Way Ahead”, which identifies policy considerations and research needs that may warrant further examination.

The Appendix includes public comments received during this review process, including a summary of verbal comments extracted from meeting minutes as well as written submissions.

PART I: RECOMMENDATIONS FOR LEGISLATIVE CONSIDERATION

1. DEPARTMENT PERMITTING (Joint Coastal Permitting) PROCESS

“The responsiveness and timeliness of the permitting process associated with beach and dune nourishment projects.” (Proviso language)

A Joint Coastal Permit (JCP) is a document authorizing an applicant to conduct an activity pursuant to both s. 161.041, F.S., (coastal construction) and Part IV of Chapter 373, F.S. (work in, on, or over waters or wetlands).

A JCP is required for activities that meet all of the following criteria:

- Located on Florida’s natural sandy beaches facing the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida or associated inlets;
- Activities that extend seaward of the mean high water line;
- Activities that extend into sovereign submerged lands; and
- Activities that are likely to affect the distribution of sand along the beach.

Activities that require a JCP include beach restoration or nourishment; construction of erosion control structures such as groins and breakwaters; public fishing piers; maintenance of inlets and inlet-related structures; and dredging of navigation channels that include disposal of dredged material onto the beach or in the nearshore area.

The following recommendations address the JCP process:

- Currently, permit applicants are left to coordinate some federal and state listed species considerations on their own. Integrating listed species considerations into the state permitting process will help streamline the process, improve permitting coordination, and provide improved protection to imperiled species. It is recommended that s. 379.2431, F.S., be amended to provide the Department of Environmental Protection (Department) the authority, as part of the JCP process, to consider impacts to listed species beyond only water-dependent nesting species (i.e. sea turtles). The list of species included in the Department’s authority for JCP’s should include those species likely to be adversely affected by beach and dune projects during the course of construction or over the project life. Such additional species would include shorebirds and beach mice.
- It is recommended that Chapter 161, F.S., be amended to allow the Department to establish minimum permit submittal requirements, by rule, for JCP’s. Applications lacking the minimum requirements would be returned without review and without prejudice.

- It is recommended that Chapter 161, F.S., be amended to recognize the Legislature’s intent to simplify the permitting of nourishment (maintenance) projects previously permitted and restored under the JCP process, or maintenance of dune restoration projects permitted under the Coastal Construction Control Line Program. Corresponding rule revisions should be implemented to identify those permit items in rule that could be waived for such projects, assuming all parameters to be waived remain consistent with the prior nourishment or dune restoration.
- It is recommended that Chapter 403, F.S., be amended to direct the Department to adopt, by rule, exemptions for certain exploratory tasks associated with beach restoration and nourishment from the need to obtain environmental resource permits. Exempted activities should include the collection of geotechnical data, the temporary installation on the seabed of coastal and oceanographic data collection equipment, and the installation on the seabed of other passive monitoring devices. The rules adopted should include such conditions as are required to ensure that the exempted activities have only minimal individual or cumulative impacts.
- To eliminate permitting delays associated with the issuance of federal Biological Opinions to allow for incidental take of federally designated endangered species, it is recommended that a statutory amendment be made to allow JCP’s to be issued and conditioned on the receipt and compliance with the required Biological Opinion. Upon receipt of a Biological Opinion, the permit should be formally modified to include any additional requirements of the Biological Opinion. All other required permitting criteria must still be met prior to issuance. Nothing in this recommendation is intended to reduce the existing opportunities for public input.

2. PROJECT MANAGEMENT

“Beach management project selection and funding procedures, contract management, and expenditure accountability associated with all beach management projects pursuant to s. 161.101, F.S.” (Proviso language)

a) **Project Ranking Criteria and Procedures**

With the legislative commitment of dedicated funding for statewide beach management a decade ago came a statutory list of criteria to rank individual local government projects for annual funding consideration. The following recommendations address such criteria as well as associated procedures and policies:

- It is strongly recommended that a readiness-to-proceed criterion be added to the statutory criteria used to rank annual project funding recommendations for legislative consideration to ensure limited state dollars are spent in a timely fashion on the most significant projects. The Department, through subsequent rule-making to address the

criterion, should include consideration of the critical steps in building a project, taking into account permitting status, easement acquisition, commitment of local funding, and availability of federal funds, if applicable. (Amend s.s. 161.101(14), F.S., adding a readiness-to-proceed determination. Delete existing sentence following (14)(j) which currently uses readiness-to-proceed as just a tie-breaker.)

- It is recommended that a cost-effectiveness criterion be added to the statutory criteria used to rank annual project funding recommendations for legislative consideration. Local governments should be afforded the opportunity in their Local Government Funding Request to formally document specific cost-saving measures not recognized or rewarded by other ranking criteria. (Amend s.s. 161.101(14), F.S., to add new cost-effectiveness criterion. Direct the Department to specify in subsequent rule-making.)
- It is recommended that the existing statutory criterion addressing regionalization and the separate regional funding incentive be modified to allow regionalization to be further defined as two or more distinct geo-political nourishment projects, or discrete geographic project segments as historically demonstrated or as supported by previously approved comprehensive or project plans. Cooperation between two or more local government sponsors should remain an acceptable measure of eligibility as well. (Amend s.s. 161.101(16) and 161.101(14)(i), F.S.)
- It is recommended that the existing state commitment criterion and its subsequent calculation be modified to favorably consider and give additional weight to project position on past annual project lists or a past Legislative appropriation that was not used at the direction of the local sponsor. In neither instance will such projects automatically be placed on the subsequent year's priority list regardless of prioritization, as current rule allows. (Amend s.s. 161.101(14)(d), F.S.)
- It is recommended that the criterion for project mitigation of adverse inlet impacts be deleted. It has been superseded by 2008 legislation (s.s 161.143(2), F.S.) exclusively dealing with inlet projects and providing separate criteria for their annual ranking. (Delete s.s. 161.101(14)(f), F.S.)

b) Project Funding Provisions

- Post-construction monitoring, as required by state and federal permits, is a necessary and valuable part of every beach restoration and nourishment project and should continue to be eligible for state cost-sharing. However, it is recommended that state funding for monitoring after Year 1 should be capped at no more than 10% of the total amount the Legislature appropriates in each fiscal year for statewide beach management, with funding awarded on a pro-rated basis across all eligible local government funding requests for that year.
- If permit required post-construction monitoring is not cost-shared by legislative appropriation, then it is recommended that the unrealized state share may be considered as a local government cost credit toward future beach management projects or activities.

- It is recommended that state cost-sharing for feasibility and design studies for new projects, including inlet management activities pursuant to s.s. 161.143 (5), F.S., should not exceed 10% of the total amount the Legislature appropriates in each fiscal year for statewide beach management.

c) **Accountability and Transparency**

- It is recommended that a statutory expression of legislative intent be added to Chapter 161, F.S., in order to protect the integrity of annual projects lists, as submitted by the Department and subsequently approved by the Legislature, by providing transparency regarding the projects receiving funding, and in what amounts. (Strike and rewrite s.s. 161.101(20), F.S., and follow with remaining accountability and transparency recommendations.)
- Notwithstanding existing statutory provision that maintains the availability of project funding for 18 months, it is recommended that a local sponsor may at anytime release, in whole or part, appropriated project dollars by formal, documented notification to the Department, which in turn will notify the Governor’s Office and Legislature. Resulting funds made available will be directed, in priority order, to other projects on legislatively approved project lists.
- It is recommended that for any significant changes made by the Department in funding levels for a given project, consistent with the approved priority list but outside of the formal appropriations process, notification shall be transmitted to the Legislature. Significant changes shall include those that exceed one million dollars or 50% of a project’s existing state appropriation, whichever is less.
- It is recommended that a summary of specific project activities for the current fiscal year, their funding status, and changes to annual project lists approved by the Legislature should be prepared by the Department and provided to the Legislature annually as part of the formal budget submission.

d) **External Review Team**

*“This group shall submit a report to the President of the Senate, the Speaker of the House, and the Office of the Governor, by January 15, 2009, with recommendations regarding statewide and regional beach management planning improvements, possible changes to Chapter 161, F.S., and associated rules to enhance program efficiency, **and a formalized project review mechanism with external review team.**” (Proviso language, with **emphasis added**).*

- In order to satisfy the intent of proviso language which directs the Working Group to include recommendations regarding “a formalized project review mechanism with external review team,” while minimizing unnecessary process and time delays, the following approach is recommended. The existing language in s.s. 161.101(14) and 161.143(2), F.S., which requires the Department to seek formal input during the annual process for determining project funding priorities from “local coastal governments,

beach and general government associations and other coastal interest groups and university experts”, should be revised to include additional entities. Review entities to be added to the statute should include representatives from statewide environmental groups with identifiable coastal agendas, coastal engineering experts, representatives of recreational and tourist based interests, coastal resource stakeholders and environmental scientists. The charge of the review entities should be to review the Department’s draft annual project rankings within the context of the statutory criteria and implementing rule, and provide comments within this framework. In implementing this provision, the Department should formally specify the representatives to be included in the review. Furthermore, in specifying the representatives, the Department should ensure adequate representation from each of the five predominately sandy beach regions in the state’s Strategic Beach Management Plan.

In developing the framework for this review process, and as guidance to the Department, the Working Group recommends that the number of individuals involved not exceed nine members to ensure a timely and representative exercise. Further, to promote continuity, the Working Group recommends three year staggered terms.

3. POST-CONSTRUCTION MONITORING

“Current post-construction project monitoring requirements for beach projects in terms of consistent monitoring protocol, justification, required frequency, usefulness of data, and elimination of duplication.” (Proviso language)

No changes are recommended for Legislative consideration; see Parts II and III of this report for Agency consideration.

4. MITIGATION AND REGIONAL MITIGATION PLANS

“The pursuit of regional mitigation plans with a pilot plan in southeast Florida, and a balanced mitigation strategy for projects declared to be in the public interest.” (Proviso language)

- Because of the site specific nature and variability of nearshore hardbottom communities, insufficient data presently exist to determine if regional mitigation plans could be used to effectively address nearshore hardbottom impacts. Pursuit of data needed to answer this question is addressed elsewhere in this document. As a complementary interim measure, it is recommended that the pilot project currently underway in Palm Beach County be evaluated by the Department to determine the potential for expansion to other counties in this region, and transferability to other regions of the state.

With the collaborative efforts of the Department and the U.S. Army Corps of Engineers, the Palm Beach County pilot program for southeast Florida seeks to create a mitigation approach for a sample of beach restoration projects using standardized design,

construction and monitoring strategies. This strategy can potentially be applied across a variety of project scenarios and habitat types. The pilot project will investigate whether a predefined protocol will allow for a predictable process and cost, and help to expedite design and permitting in order to ensure accurate budgeting, accelerated scheduling, and better environmental results. Construction contracts based on unit quantities and standard methodologies may allow for their use, without significant revision, on various projects throughout a region. Monitoring standards should be targeted to address specific concerns while providing statistically viable, regionally significant results.

- The ongoing study to assist applicants in the appropriate design and siting of hardbottom or reef mitigation, provided for in the 2006 General Appropriations Act, is strongly supported by the Working Group, and should be completed. The results of this study should be peer reviewed and used as a basis for evaluating hardbottom function, identifying acceptable mitigation strategies, and defining appropriate hardbottom mitigation ratios and monitoring requirements.

**PART II: RECOMMENDATIONS FOR CONSIDERATION IN AGENCY
ADMINISTRATIVE RULES**

1. DEPARTMENT PERMITTING (JCP) PROCESS

- It is recommended that Rule 62B-49.011(2), Florida Administrative Code (F.A.C.), be revised to allow the Department to issue JCP's for inlet maintenance dredging and beach disposal projects that allows for two maintenance dredging and disposal events or a permit life of up to ten years, whichever is greater.
- It is recommended that Rule 62B-49.004, F.A.C., be amended to improve and encourage the use of pre-application consultations. Rule 62B-49.004(3), F.A.C., should be amended to require that the written request for consultation be submitted at least two weeks in advance of the desired consultation date, and that a list of preferred attendees (agencies or individuals) be provided with the request. Further, Rule 62B-49.004, F.A.C., should be amended to include a provision that the applicant may, if desired, submit a written summary of the consultation to the Department. The Department will provide a written response to the summary, indicating concurrence or disagreement with the summary elements, within the framework of existing Rule 62B-49.004(4), F.A.C. The Department shall provide the response within two weeks of receipt of the applicant's summary.
- It is recommended that the Department pursue rulemaking to address the standard mixing zone criteria and the antidegradation rules for turbidity generation associated with beach restoration and nourishment projects permitted under the JCP program, for purposes of reducing or eliminating the need for variances. The objective of the rulemaking would be to streamline the process while maintaining appropriate environmental protection.

2. PROJECT MANAGEMENT

a) Project Ranking Criteria and Procedures

- It is recommended that the local government financial and administrative criterion be revised to provide additional weight to the timely submission of quarterly reports and billings by local government in order to improve communication between the Department and local sponsors. (Amend Rule 62B-36.006(1)(e), F.A.C.)
- It is recommended that the provision that automatically places a formerly ranked project that has slipped a year directly back on the project priority list for the following year be deleted. (Amend Rule 62B-36.003(11), F.A.C.)

- It is recommended that the project ranking criteria be weighted to appropriately value issues of overriding importance. It is further anticipated that reweighting of criteria will provide more variation in project scoring. (Amend Rule 62B-36.006(1), F.A.C.)
- It is recommended that funding requests for post-construction monitoring (after the first year) be presented as a consolidated category on each fiscal year's project priority list submitted as part of the Department's statewide beach management budget request. (Amend Rule 62B-36.003(10), F.A.C.)
- It is recommended that the Local Government Long Range Budget Plan submitted by eligible governmental entities as part of the annual funding request be reduced from ten years to five years, due to the challenge of reasonably estimating the budget in years six through ten. (Amend Rule 62B-36.005(1), F.A.C.)
- It is recommended that the Department formalize the current process with local governmental entities for transmitting questions and responses regarding clarification or additional information on annual funding request submittals. The process will clarify that the Department is to formally transmit the draft scores for the ranking criteria to the local governmental entities and allow them 14 days to respond to the Department with any further information or questions. (Amend Rule 62B-36.005, F.A.C.)

b) Project Funding Provisions

- It is recommended that the program's administrative rule include budgetary policy guidance that first year post-construction monitoring costs shall be included in a project's funding request for the construction phase. (Amend Rule 62B-36.003(10), F.A.C.)

3. MITIGATION AND REGIONAL MITIGATION PLANS

- The Department's Uniform Mitigation Assessment Methodology should be modified, by rule amendment, to include descriptors that are specific to coastal projects, such as "Proximity Support", "Persistence and Recruitment" and "Habitat Structure" rather than using terrestrial and freshwater based community parameters. (Amend Rule 62B-345, F.A.C.)

PART III: RECOMMENDATIONS FOR AGENCY CONSIDERATION

1. DEPARTMENT PERMITTING (JCP) PROCESS

- It is recommended that as part of any item listed in a Request for Additional Information, the Department cite the specific underlying statute or rule authority for which the information is requested.
- It is recommended that the Department require all entities commenting on JCP applications to submit their comments to the permit processor within 21 days of the entity receiving an electronic copy of the application.
- It is recommended that the Department conduct meetings with local sponsors, consultants, stakeholders, and Bureau of Beaches and Coastal Systems' regulatory and beach management staff in each coastal region to trouble shoot problems and review project progress. It is suggested these meetings be held annually. Other state and federal commenting agencies should be encouraged to participate.
- It is recommended that the Department develop closer coordination with the Florida Fish and Wildlife Conservation Commission (FFWCC), the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service to:
 1. Promote and facilitate consultations with the federal agencies as early in the permitting process as possible; and
 2. Develop or further develop a template of standard permit terms and conditions that may be reviewed by an applicant and addressed as early as possible in the permitting process.
- It is recommended that the Department develop and encourage best management guidelines for beaches on issues such as beach cleaning and tilling, controlling storm water runoff onto beaches, and dune construction and maintenance activities.

3. PROJECT MANAGEMENT

a) Project Funding Provision

- It is recommended that Department funding requests for studies, support services, or projects not subject to ranking by statutory criteria or matched by local sponsor funding should be included in the Bureau of Beaches and Coastal Systems' operating budget. However, if such activities directly benefit the statewide beach management program they may be included as part of the FCO request at the end of the project lists.
- It is recommended that a funding source be identified for Bureau of Beaches and Coastal Systems operations including contracted services and the Beaches and Shores

Resource Center that is separate and distinct from the grants in aid to local governments provided in the annual legislative appropriation for beach management.

b) Contracting/Scopes of Work

- To reduce the appearance of unspent funds in the Ecosystem Management and Restoration Trust Fund, it is recommended that the Department, in coordination with local government sponsors, review, and modify as appropriate, its practice of withholding retainage on local sponsor reimbursement requests. As an alternative, reimbursement could be approved upon the Department's receipt and acceptance of specifically defined deliverables.
- To further the goals of the Beach Management Funding Assistance Program, as expressed in Rule 62B-36.003(3), F.A.C., and to facilitate an outcome oriented program, it is recommended that the Department replace the use of the Project Work Plan with a Project Scope of Work (SOW) in the Beach Erosion Control grant contract document. The SOW should include a general description of work, desired goals and objectives, and description of major activities, with related cost estimates, timelines and deliverables that are required for a successful project. Further, the SOW should incorporate by reference all State regulations, permit requirements, and standardized performance measures and protocols developed by the Department. This change is intended to replace the current requirement for detailed task proposals from consultants and contractors which are narrowly focused on resource allocations, hourly rates and incidental costs.

Minor changes to the SOW such as changes to the timeline, specifications, methods, deliverables or funding allocations between contract items should be resolved through change orders.

Contract amendments should only be initiated for major contract changes such as; addition or reduction of the SOW and funding to support the change in scope, adding new terms and conditions to the agreement associated with a change in the SOW, extensions of the overall time period of the agreement, or funding reductions.

- It is recommended that the Department require a general SOW as part of each Local Government Funding Request. The SOW should fully describe major activities required to accomplish the proposed goals and objectives of the project, along with corresponding cost estimates, timelines and deliverables. The SOW should be supplemented with additional detail as appropriate when the contracting process is initiated.
- All approved funds should be encumbered by the initial contract, with the following exceptions:
 1. Non-federal projects must complete the feasibility phase prior to encumbering funds for subsequent project phases; and

2. Construction funds should be encumbered when the local government is prepared to advertise for bids. The Department should develop standard criteria to determine readiness to bid.

c) Accountability and Transparency

- It is recommended that the Department develop a method to identify and track the costs associated with state funded beach construction projects by expense category to include, at a minimum, the following: sand placement; physical monitoring; turbidity monitoring; sediment monitoring; biological monitoring by species or habitat type; and mitigation by species and habitat type.

3. POST-CONSTRUCTION MONITORING

- It is recommended that the Department develop or revise physical and biological monitoring guidelines to include standardized analytical components that allow for direct comparisons between projects. Additional standardized analyses should be considered that allow for not only performance assessments, but forecasting of project performance in order to better plan for subsequent events.
- Both physical and environmental monitoring and mitigation programs relating to beach restoration and nourishment projects have been in place for more than the past two to three decades, yet there appears to have been limited effort to synthesize the results of these monitoring efforts. Such a synthesis would provide a substantially improved basis for designing more targeted monitoring and mitigation programs. Therefore, it is recommended that syntheses of the published literature and both the physical and environmental monitoring results be completed and utilized to develop an understanding of the knowledge of potential effects (beneficial and negative) that have been well established and the areas of potential negative impact where additional understanding is needed. Upon the conclusion of these efforts, much more streamlined and targeted monitoring and mitigation programs will be possible. The outcome of the syntheses should be used to modify the guidelines recommended above. The modified guidelines should be peer reviewed.
- It is recommended that aerial photography only be required when necessary for specific goals of physical or environmental monitoring.
- Copies of all permit compliance documents including physical and biological monitoring reports should be submitted by permittees in PDF format and posted on the Department website.
- Monitoring and reporting for loggerhead sea turtles should be modified to a typical standard of one nesting season post-construction for reproductive success and two seasons for nesting success. Additional years of monitoring may be required if significant unanticipated impacts are recorded in the 1st or 2nd year data. In addition,

monitoring surveys for the purpose of nest marking must continue as long as tilling or scarp removal is required.

**RECOMMENDATIONS FOR FLORIDA FISH AND WILDLIFE CONSERVATION
COMMISSION (FFWCC) CONSIDERATION**

- It is recommended that during the initial completeness review period, the FFWCC should be required to provide comments based upon their review of the application. These comments should include a copy of the standard terms and conditions typically applied by FFWCC to beach restoration and nourishment projects (for any and all species that would warrant such considerations) and should also include any anticipated deviations from those standards terms and conditions. Where not already available, such standard terms and conditions should be developed.

PART IV: ESTABLISHING THE WAY AHEAD

During meetings, the Working Group identified policy issues and research needs that should be further explored and discussed by the Department and stakeholders to improve the beach management program. A discussion of these issues is provided below.

The rationale embodied in this discussion is that more effective and efficient monitoring and mitigation can only occur through improved understanding of the effects (positive and negative) of beach restoration and nourishment projects. These activities should evolve with the knowledge base and should not compromise on maintaining the form and function of the valuable nearshore resources and habitats. Rather, the science based monitoring and mitigation programs must evolve to target the potentially more impactful concerns as they arise and efficiently and effectively use the financial resources dedicated to them.

UTILIZE UNIVERSITY RESOURCES MORE EFFECTIVELY

The Department is encouraged to develop relationships with state universities to benefit from the resources and expertise they possess. Universities can provide highly specialized expertise for peer review of Department practices and guidelines, as well as implementation of needed research projects. Motivated and talented graduate students have the time and opportunities to study and develop the underlying knowledge and cause and effect interrelationships from the monitoring data and literature. Findings from masters and doctorate studies could be published in the peer reviewed literature, thus providing standing and broad recognition of the State's program.

ENVIRONMENTAL MONITORING APPROACHES

There are two approaches to environmental monitoring: (1) The case-by-case approach that is now being followed for each project in the beach management program, and (2) Evaluation of the broader "health" of the resource in which the possibility of linkages between longer term changes and beach restoration and nourishment are established to the degree possible. The Department is encouraged to explore development of the latter approach for use in combination with the project by project approach, as appropriate.

DOCUMENTATION OF MORE EXTREME LONG TERM IMPACTS

Some beach restoration and nourishment projects have been demonstrated to cause short-term negative effects on the nearshore environment. Beach projects also provide beneficial effects to this environment. If there have been long-term significant impacts, it is recommended that these be identified and documented scientifically so that efforts can be targeted to reduce or eliminate such impacts. Absent any irreversible impacts, efforts can be directed toward the more severe impacts of the longest duration.

NEARSHORE HARDBOTTOM CONSIDERATIONS

One of the most difficult issues to be addressed in the planning and regulation of beach projects is coverage of nearshore hardbottom habitats. Mitigation for these impacts is expensive, and technical issues persist regarding the effectiveness of current practices to offset the specific functions of the habitat lost.

Adding to the controversy surrounding this issue is the historic change in quantity and distribution of hardbottom due to both natural and manmade erosion processes, primarily in the vicinity of navigation inlets. Currently, mitigation requirements for coverage of hardbottom exposed by natural erosion processes and those exposed by constructed public works projects are the same. An emerging policy issue is whether or not these two categories of hardbottom impacts, where they can be scientifically differentiated, should be treated differently in the permitting process. If differentiation can be scientifically documented, policy makers may consider if differing mitigation requirements are appropriate.

RESEARCH NEEDS

The Department, in conjunction with stakeholders, is encouraged to develop and maintain a list of research questions that will advance the science of successful beach restoration and nourishment with full consideration of associated costs and benefits. It is anticipated that maintaining and posting such a list may incite interest by researchers and lend credence to research grant applications submitted to other agencies and non-profit organizations. The Working Group specifically recommends submitting such research priorities to the Florida Coastal and Oceans Resource Council and Florida Sea Grant for funding consideration. Examples of appropriate research topics include, but are not limited to, the following:

1. Better beach fill evolution models should be developed and calibrated to more accurately predict normal and storm-induced project response and performance.
2. Alternative designs of hardbottom mitigation and the documentation of the functions provided by each.
3. Alternatives for measuring sand compaction that poses a problem to nesting and hatching sea turtles. This should include review of testing equipment, methods, and depth of measurements.
4. Examination of the success of beach tilling with regard to reducing compaction, the significance of compaction on nesting behavior, and the relationship between compaction and percent carbonate composition.
5. Examination of appropriate buffer dimensions around borrow areas to protect surrounding resources.

APPENDIX: PUBLIC COMMENTS

All eight Working Group meetings included public participation by attendance at the meetings or by teleconference. All meetings included a “Public Comment” period and comments encompassing both technical and policy issues were received verbally and submitted in writing. These public comments were considered by the Working Group. The following paragraphs describe those comments that represented a common theme or were considered to be aligned closely with the charge of the Working Group. It is noted that some of these public comments are reflected in the recommendations in this report.

Many of the comments received expressed concern regarding the health of the nearshore environmental resources. Several of the comments emphasized the significance of sand quality and need to improve bypassing at the State’s inlets, thereby lessening the need for accessing offshore sand that may be of lesser quality than native sand moving naturally along the shoreline. It was recommended that special turbidity standards be required in coral reef areas. The buffer dimensions around borrow areas were questioned.

Problems associated with beach restoration and nourishment projects where nearshore hardbottom exists were noted, as was the need for development of more appropriate mitigation guidelines for ephemerally covered hardbottom.

Concerns were expressed over the potential weakening of the permitting requirements and the increased permitting workload of staff.

Concerns were also expressed over the need to increase public involvement in the beach management program and the ability to participate in this Working Group process.

A summary of verbal comments provided is given below, followed by the written comments received by the Working Group.

SUMMARY OF VERBAL PUBLIC COMMENTS

Public Comment

Date Received: October 1, 2008

Sandra Tate, Coastal Planning & Engineering

Ranking process – the Department’s critically eroded beaches designation is determined on thirty years of data. This process was likely sufficient before the severity of the 2004 hurricanes. As an example, Ms. Tate cited a shoreline in the Town of Palm Beach which was stable for long period of time, but unraveled after the storms. Ms. Tate asked if the Department could consider storm impacts in our evaluation.

The Working Group discussed the possibility that the critically eroded shoreline designations could be more transparent and that the Department should consider more recent information in designations.

Inlet Sand Transfer funding initiative – Ms. Tate discussed the importance of placing (beach quality) inlet maintenance material on the beach or in the nearshore area within the depth of closure. Ms. Tate recommended the Working Group consider this criterion as a priority for inlet maintenance.

Innovative technology – Ms. Tate said that although consideration of innovative technology is required by statute, she questioned whether or not the Department should spend project money to Beta Test someone’s innovation. Ms. Tate recommended a statutory change to remove this requirement.

Public Comment

Date Received: October 15, 2008

Dan Clark, Cry of the Water

Mr. Clark provided verbal comments at the meeting and written comments on October 24, 2008. Mr. Clark acknowledged that the Working Group should focus on good quality sand and bypassing sand around inlets. He was concerned that the Working Group should not try to standardize project design when we move to regionalization. The reefs in Dade, Broward and Palm Beach are different (from the reefs present in other areas of the state). He asked why the Maritime Industry and Coastal Construction Impacts (MICCI) team wasn’t invited. (Editor’s Note: Craig Kruempel and Kathy FitzPatrick are both members of the MICCI team and were present at the Working Group meetings). Mr. Clark requested that Keith Mille be brought into the discussion. Mr. Clark also recommended the consultants conduct thorough, upfront monitoring before the permitting process was initiated, and suggested that fewer problems and concerns would manifest. He noted it may cost more to do business this way, but would be worth it in the end. Mr. Clark asked why there are no “Best Management Practices” developed for beach nourishment and recommended that the Department consider a more holistic approach to protecting the beach-dune-reef system.

Public Comment

Date Received: October 29, 2008

Tom Pierro, Coastal Planning & Engineering

Mr. Pierro recommended that the Department use buffers around borrow areas wisely to conserve beach quality sand as well as natural resources.

Christopher Creed, Olsen Associates

Mr. Creed asked why the Department would consider using 600’ buffers around borrow areas given the data collected from the Broward County Project. Mr. Seeling, Environmental Administrator with the Department’s Bureau of Beaches and Coastal Systems, responded that we came to this conclusion from site inspections performed at two different project locations where sedimentation on adjacent resources was observed. The site inspections occurred during construction of the Phipps Beach Restoration Project and the Broward County Segment III Project—when the prevailing current was moving in a north/south direction. Mr. Seeling noted

the Department will establish buffers on a case by case basis and confirmed that there has been no policy determination made on the matter. Mr. Creed requested the Department use the monitoring data to move forward when writing permit conditions.

Dr. Nicole Elko, Pinellas County

Dr. Elko encouraged the Working Group to consider the university system for help with the statewide monitoring program and the synthesis of the monitoring data in order to reduce costs. Dr. Elko asked the Working Group to consider a recommendation for a cost/benefit analysis of the monitoring programs.

Mr. Dan Clark, Cry of the Water

Mr. Clark commented on Mr. Steve Higgins' post-construction beach monitoring report and asked the Working Group to read the complete reports. Mr. Clark asked the Working Group to use the Broward project and the lessons learned to adjust future project designs. He said that reefs are an economic engine, and he is worried when he hears about reducing monitoring requirements. Mr. Clark recommended that consideration be given to cumulative impacts and the development of "Best Management Practices."

Public Comment

Date Received: October 30, 2008

Dan Clark, Cry of the Water

Mr. Clark recommended that the Working Group promote "Best Management Practices" for the entire beach and dune system. He also expressed dissatisfaction in the way agencies define the wet and dry parts of the beach.

Steve Higgins, Broward County

Mr. Higgins suggested that if the state decides to manage the beach and dune system regionally, then a beach erosion control authority would be worth consideration.

Paul Johnson, Reef Relief

Mr. Johnson explained corals are built in geologic time frames, not beach nourishment cycles, and these features are an important economic engine. Mitigation to balance structure versus function for corals is more biologically accommodating. The Working Group may want to consider live bottom as a Minerals Management Service resource. Modeling project impacts will be very difficult and recommended the Working Group designate a technical committee. Finally, Florida's Ocean and Coastal Council should be consulted for support of the research initiatives.

Tom Pierro, Coastal Planning & Engineering

Mr. Pierro supported the Department's monitoring program and noted the aerials are a good component. He recommended reducing the pre and post construction surveys and replacing them with the contractor's pay surveys. Mr. Pierro's final comment was about the avoidance and minimization process that the projects undergo during the permitting process and how these measures can adversely affect the performance of the project design.

Public Comment

Date Received: November 13, 2008

Paul Johnson, Reef Relief

Mr. Johnson commented on the monitoring cost discussion. There is a higher public interest in the monitoring and an increased awareness of the existence of hardbottom. Is there a consideration of a cost/benefit analysis proposed on the corals and hardbottom? There should be a consideration of the cost/benefit before the Working Group makes an assumption that the cost of a mitigation reef is too expensive. Mr. Johnson requested a copy of the mitigation and monitoring recommendations so he can be prepared for the next meeting.

Public Comment

Date Received: December 11, 2008

Dan Clark, Cry of the Water

Mr. Clark expressed concern about the monitoring and mitigation issues discussed by the Working Group that would have statutory implications. He noted that regardless of any changes made to state requirements, the federal regulations are not going to change and complying with federal regulations will be required by the applicants. He said that the synthesis of the Department's existing data is a fine idea, but the appropriate individuals should be included in the review. Finally, Mr. Clark felt that the Working Group went beyond the initial intent of the group by proposing changes to policy.

Stacey Roberts, PBS&J

Ms. Roberts expressed disagreement with the state permit requiring the applicant to obtain federal Biological Opinion(s). She estimated that 85% of the delays in completing an application are from the FFWCC waiting on the federal Biological Opinion(s). Ms. Roberts noted the state agencies should be responsible for enforcing state laws only and leave the federal government to enforce federal laws.

Ms. Roberts commented that pre-application meeting guidelines should require the applicant to submit questions to the Department prior to the meeting that the applicant expects to be answered.

Ms. Roberts stated that permit conditions for a nourishment project will not ever be the same as the previous project because of the changes to conditions and regulations, as well as changes to the project design that may occur as a result of the performance monitoring.

Sandra Tate, Coastal Planning and Engineering

Ms. Tate offered support to Dr. Dean's position about ephemeral hardbottom adjacent to inlets. She believes there is sufficient historical data generated by the inlet management studies and sediment budgets to make decisions regarding hardbottom estimates adjacent to the inlets.

Ms. Tate also disagrees with the U.S. Army Corps of Engineers practices of maintaining inlets by placing dredged material offshore in 40'-50' of water—where reef may have been located.

The state only needs to fund the difference between offshore and onshore disposal, so why should the Working Group not recommend that the Department coordinate with the U.S. Army Corps of Engineers to find a solution to offshore disposal.

Ms. Tate also recommended that the Department require applicants to provide recommendations about the project's design and performance at the end of the final post construction monitoring report.

Public Comment

Date received: January 8, 2009

Dan Clark, Cry of the Water

Mr. Clark commented on the formal objection by the City of Ft. Lauderdale on Broward County's sand by-passing permit application. He commended the Working Group's appreciation of environmental considerations and asked that someone from the Department contact him on the Lantana dune restoration permit conditions.

WRITTEN PUBLIC COMMENTS

Public Comment from Dan Clark, Cry of the Water (**Attachment 1**)

Date Received: October 24, 2008

Public Comment from Senator Pruitt (**Attachment 2**)

Date Received: November 7, 2008

Public Comment from Gary McAlpin, Collier County (**Attachment 3**)

Date Received: December 1, 2008

Public Comment from Dan Clark, Cry of the Water (**Attachment 4**)

Date Received: December 15, 2008

Public Comment from Ericka D'Avanzo, Surfrider (**Attachment 5**)

Date Received: December 15, 2008

Public Comment from Terry Gibson (**Attachment 6**)

Date Received: December 15, 2008

We were glad to here the presentation by DEP talk about future project must use good quality sand. Past projects have used poor material that has destroyed nearshore reefs.

Just after this presentation we commented to Army Corps of Engineers on the Hillsboro Beach project. This project is proposing to use the same poor quality material from Borrow Site # 1 in Broward. This is the same material that was used in 2005 that smothered and destroyed reefs in the south part of the county. We hope that DEP meant what they said in the presentation and will deny this permit using this sand.

We were also glad to hear that more By-Pass will be put at Inlets. This has been in the works for Port Everglades since 1988 and we have been asking for it since 1998 and glad to see it moving forward in 2008.

BMP's for Beach Management pre and post construction need to be established and followed. Not just as conditions of permit but also for everyday management of the beaches. If this is implemented properly it may eliminate the need for many future beach projects.

BMP's must address land-based sources of erosion (drainage across beaches), dunes and vegetation, beach raking and leveling and small infusions of good quality beach sand to treat hot spots.

SEFCRI (Southeast Florida Coral Reef Initiative) area runs from Martin County to Key Biscayne.

This area contains sensitive coral reef habitat. Nearshore hardbottom and reefs in this area have special needs and does not fit into a one size fits all package.

The cumulative impact from years of poorly monitored projects has never been established. We have lost hundreds of acres of near shore reefs and EFH (Essential Fish Habitats). This makes the surviving nearshore EFH that much more important.

Monitoring from recent project also has not fully recorded the impacts of these projects. Areas that have been destroyed must be mitigated for. This will be very costly.

One of the panel members said that the near shore hard bottom is killing these projects; it's really quite the opposite. These near shore hard bottoms and reefs support a multibillion dollar fishing, diving and tourist industry.

They also help protect the coast and work as near shore buffers from wave energy. This is why it makes no sense to destroy the near shore reefs in the name of beaches.

We need sustainable beaches and fisheries and it is time we took a common sense approach to marine resource management in Southeast Florida.

I would caution the panel on any efforts to downgrade the importance of these nearshore Essential Fish Habitats of Particular Concern.

We ask that a meeting be held in Southeast Florida and we also ask that a couple of public comments times be put into the agenda each day much like what has been done at the Eco-system Restoration meetings.

This would allow people to ask questions and give comments on topics of interest instead of staying on the phone for the whole meeting.

Thank you
Dan Clark
Cry of the Water



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KEN PRUITT
28th District

November 7, 2008

Secretary Mike Sole
Florida Department of Environmental Protection
505 West Tennessee St. Bldg. B
Tallahassee, FL 32304

RECEIVED
NOV 13 2008
BUREAU OF BEACHES
AND COASTAL SYSTEMS

Dear Secretary Sole,

During the 2008 Legislative Session, the General Appropriations Act included proviso language to create a working group to review the effectiveness of Florida's statewide beach management program. I am fully confident that this review panel in its presentation to the Governor, Senate President, and Speaker of the House will present valuable recommendations to improve our beach management practices and chapter 161, Florida Statutes.

The composition of this working group includes an array of local government officials, coastal engineers, biologists and various other pertinent experts. While this is an excellent collection of specialists, it has recently been brought to my attention by the Surfrider Foundation that the group is not a complete representation of beach and coastal resource stakeholders. Individuals representing both recreational interests and independently certified geologists/ecologists were unintentionally omitted from inclusion in the work group.

With the January 15, 2009 work group report quickly approaching, I would ask that you do all that is statutorily possible to incorporate comments submitted by the Surfrider Foundation, as well as other stakeholders familiar with the resources and challenges of beach management, into the final recommendations. Additionally, we will attempt to more carefully apportion future committees and working groups to reflect a representation of all coastal and beach stakeholders.

Florida's beaches and coastal waterways are one of our most treasured resources and I commend the Department of Environmental Protection on their mission to improve beach management practices. As always, I look forward to assisting you in this mission.

Most sincerely,

Ken Pruitt
Florida Senator
28th District

CC: Senate President Jeff Atwater, Debbie Flack, Jackie Larson, Surfrider Foundation

REPLY TO:

- 1850 SW Fountainview Boulevard, Suite 200, Port St. Lucie, Florida 34986-3443 (772) 344-1140
- 222 S. U.S. Highway 1, Suite 211, Tequesta, Florida 33469 (561) 747-1166 FAX: (561) 624-6923
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

December 1, 2008

Steve Boutelle, Chair
Beach Management Working Group
Lee County, Natural Resources Division
1500 Monroe Street
Natural Resources 3rd Floor
Ft. Meyers, FL 3902

Dear Mr. Boutelle,

Re: PETITION TO THE BEACH MANAGEMENT WORKING GROUP

With reference to the Beach Management Working Group's recommendations to the legislature, we encourage the committee to take significant steps to reduce the quantity and cost of mitigation to the Beach Erosion Control Program.

Further, we endorse the following specific approaches:

- 1) **Inlet Effects** – Beaches downdrift of inlets, passes and or navigation projects should be considered differently during the permitting process than beaches not affected by inlets, passes and or navigation works. Rocky outcrops that are exposed as a result of erosion caused by inlets, passes and or navigation projects should be considered man made effects and not be subject to mitigation requirements. No rock placement should be required to compensate for covering these rocks with sand.
- 2) **Quantifying Mitigation** - All exposed sides of mitigation reef materials should be included in the calculation of total mitigation. Boulders provide 3 or more times the surface area of the typical nearshore flat-platform areas of impact and this consideration could cut mitigation costs significantly.
- 3) **Quantifying Hardbottom Impacts** - The ephemeral nature of exposed hardbottom warrants time averaging including all data available to take into consideration the fact that it is highly variable.

J. Gary McAlpin PE 12/4/08

Director of Coastal Zone Management
Collier County

c: Debbie Flack, Director of Governmental Affairs, FSBPA

Cry of the Water
Comments on Beach Working Group Recommendations
December 12, 2008

We were told this group was formed because the senators wanted better reporting on the status of beach projects in order to prioritize funding. We do not have a problem with recommendations on these matters. However after participating in some of the meeting of the Group, there seems to be an effort to dictate to the agencies how they will conduct there monitoring and reviews. For us, one of the most alarming recommendations is the shorting of review times for the agencies. DEP staff is already overworked and short staffed. Many of these projects contain thousands of pages of material to review. In this time of budget cuts we do not see the money available for additional staff to adequately review these projects in a shorter period of time. We fear this will lead to rubber stamping of permits.

There has also been talk of lessening monitoring requirements for these permits. This may be possible in other areas of the state but it must not be allowed to happen in areas with coral reef habitat. As we have learned from recent projects there are significant impacts to adjacent reefs, where monitoring needs to be improved.

We have asked NOAA staff to review the recommendations being put forth by the Group.

These are joint costal permits, reviewed by both state and federal agencies and there may be a potential conflict with the NEPA process. This may only work to further delay the projects.

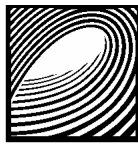
There are also recommendations for standardized mitigation. This is unacceptable in coral reef habitat. The areas of Miami-Dade, Broward, and Palm Beach Counties have many different types of habitat. What may be viable mitigation in one area may not be proper for another. One size does not fit all.

This Group should continue to focus on prioritizing, reporting and funding of projects and not rewriting statutes that pertain to monitoring and mitigation. This will only lead to a less efficient and overworked DEP.

We would like to see a full public review of the legislative package and what is being referred to in the meetings as recommendation to the agency. We must not allow these recommendations tie the hands of the regulatory staff by not allowing them to do their job properly.

We are requesting copies of the pubic comments that were sent in to the Group. Is that available on the FTP site? We are requesting copies of the legislative package and any recommendations sent to the agency.

Thank you
Dan Clark



**Surfrider
Foundation.**

ATTACHMENT 5

December 15, 2008

Ms. Jackie Larson
Florida Department of Environmental Protection
Bureau of Beaches and Coastal Systems
505 West Tennessee St. Bldg. B
Tallahassee, FL 32304

Re: BWG comments

Dear Ms. Larson;

The Surfrider Foundation, a non-profit grassroots organization dedicated to the protection and preservation of our world's oceans, waves and beaches, would like to submit the following comments to the Beach Working Group most recent recommendations:

Section 2.1

- 2.1.1 – The mixing zone standard should include a special NTU criterion for coral reef environments. This would go from the Keys to Martin County per SEFCRI definition of boundaries. The standards over all should not be weakened; rather they need to be strengthened. Implementation language is necessary for this section to ensure its quantitative versus qualitative.
- 2.1.4 – Make sure that this section does not negate FWC comments on habitat for listed species.
- 2.1.6 – We encourage and support pre-application meetings, but the applicant need to be well prepared for these meeting with DEP.
- 2.1.8 – We support this recommendation.
- 2.1.9 – The proposed minimum design standards needs to include an upfront filter on avoidance and minimization instead of at the tail end.
- 2.1.10 – Surfrider prefers the Alt. 2.
- 2.1.11 – If you are going to ensure that all list species are included then FWC should be involved starting at the pre-application meeting to see how involved they need to be in the permit. It would have been beneficial to have FWC on this Beach Working Group versus the abundance of engineers.
- 2.1.12 – The Applicants consultants need to do a better job at providing the necessary material to DEP to ensure the flow of the RAI process. If all material is not in by the 21 days then its not possible to provide those comments.
- 2.1.13 & 14 – If these terms are implemented there needs to be a better way to assess bad projects. For instance if there is a violation in a project or issues raised they cannot be considered for an automatic permit renewal. There needs to be in general a better understand and respect that the beach dune environment is dynamic and therefore conditions one year are not always the same in the next.
- 2.1.15 – Surfrider is completely opposed to the recommendation for exemptions for vibracore sampling.
- 2.1.18 – The Biological Opinion should be included as a requirement before draft Notice to Proceed.
- 2.1.20 – Per the Dec meeting the suggestion to include stakeholders with the meetings should be implemented into the language.

2.1.21 – Any future monitoring peer review team needs more than just engineers. It should include independent geologists and biologists.

Section 2.2

2.2.3 – Inlets should get higher rankings than general beach projects.

2.2.7 – Surfrider supports the removal of this section from recommendations.

Section 2.3

2.3.17 – Turbidity levels should set special criterion for coral reef habitat area to be less than 17 NTU.

Any recommendations made by Dr. Dean should be removed from this section. The majority of his comments are policy based versus the “process” focus of this working group. This is not the venue to be making such changes on hardbottom monitoring or mitigation.

All mitigation and monitoring plans need to be finalized by DEP prior to even the draft issuance of a permit.

We defer to the Caribbean Conservation Corporation’s recommendation in this section.

Section 2.4

2.4.2 – The Uniform Mitigation Assessment should be reviewed to see that it does not accurately assess the value and functionality of nearshore environment since it was created for wetlands.

2.4.8 – Surfrider is vehemently opposed to this recommendation.

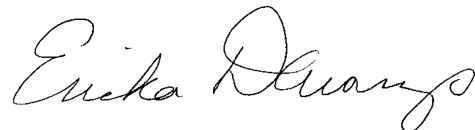
We defer to the Caribbean Conservation Corporation’s recommendation in this section.

Section 5

2.5.3 – An external review team should include: DEP, FWCC, independent biologist, geologist, engineer, environmentalist, if each of the 7 regions are included and they are members of FSBPA, then FSPBA does not get an additional seat, and a coastal recreational stakeholder.

Thank you for this opportunity to comment the “processes” of the Bureau.

Sincerely,



Ericka D'Avanzo
Surfrider Foundation
Florida Regional Manager

Beach Proviso Comments

If this letter seems terse or poorly edited, it is because I will not devote overmuch time to a self-appointed body of actor and actresses that is not to be trusted by those like me who depend upon clear water, healthy beaches and natural resources, directly or indirectly, for our quality of life and livelihoods. If you all had included knowledgeable watermen and women, and independent geologists and ecologists, the entire conversation would have been framed in a progressive context. Still it has been a surprisingly forward-thinking committee, despite the difficulties of calling in and the last-minute heads-up that you want comments now. I began this letter at 1900 hours, on that date. I wish I was enjoying the quail dinner I thawed, but I'm eating cold pizza. I guess I'll live.

As infuriating as this choice of actors is to long-time critics, I am encouraged by the discussions made available in the minutes of these proceedings, except for those offered by Bob Dean and echoed by others. Dean's comments are myopic, and that is unfortunate. I take no pleasure in calling out the Godfather of beach management. I know a number of his students who revere him as I revere many of my professor/mentors. Had the discussions about ways to manage Florida beaches been open to knowledgeable folks like me, maybe he would have known such respect from our camps. But now we are at a juncture where we have to decide what to say about such a man, who seems to be in it for money, in the history books, and many of those words may be unkind. Unfortunately, the constructs he continues to insist upon do not reflect the present challenges or recognize the plurality of stakeholders that is largely being penalized economically and in terms of public trust resources by the existing program. It's hard to believe he doesn't know any better.

While I understand that Ms. Flack and others fought valiantly against coastal armoring through the Graham administration, the alternatives, namely "beach nourishment" and of late breakwaters, have led us down the primrose path to unsustainability. I wish I'd known what I now know as a 22-year-old kid who came home from college to find the waves, beaches and reef I'd known as a child degraded or outright destroyed by a group of coastal engineering and development interests that seem to be a cabal. We'd understand each other by now, instead of fighting, and Florida's beaches perhaps wouldn't be the motley of gray sand, dirty water, seawalls and dead reefs that folks like me get to "enjoy" most mornings. We need to hit the "start-over" button, before we entirely lose Florida's most valuable resources—our beaches and reefs—and before we lose the tax base sitting on the dunes that may well be worthless shortly, no matter what the engineers "promise." Depending on the rate of sea-level rise, the number of storms and their intensity, life on the barrier islands looks doomed at best.

It's time to face the best available science and other facts. We're out of sand in Southeast Florida, the projects that are being promoted there are farcical in terms of sediment compatibility and reef impacts, and we don't have any money. What will we do?

Optimize sand-bypassing systems and move back. Just as we'd like to restore the River of Grass, we need to restore the River of Sand as optimally as possible. Like it or not, that will require allowing the barrier island dune systems to overtop themselves. No, we'll never get to replicate either historic systems perfectly. But we're smart folks and let's start on the Atlantic Coast, where the littoral system is pretty uniformly north-south. And let's ask Dr. Dean and other experts to guide us in that endeavor, as he's long championed bypassing programs, and give him diverse and strong support from the fishing, diving and possibly maritime interests. Florida's economy and the remaining integrity of its coastal ecologically are at stake.

As we do this, we must stop thinking about and discussing ecosystems individually, and thinking in linear constructs. Ecosystems respond to inputs, stressor or benefactors, in non-linear ways. Such is life. Fulfilling sand budgets does not constitute a healthy coastal ecosystem or satisfactory management.

--The overfill quotient is a dubious "principal"—if it won't stay on a beach don't pump it there. And get a handle on the durability issues of the carbonate components. Dr. Hal Wanless has been pointing this issue out for years, and the engineers are in spin/denial mode, despite the fact that geologists the world over scoff at money-grubbing intellectual lightweights like Charles Finkl, and those perpetuating a concept that is doing more harm than good. You folks are putting fine sand and carbonate mud on our beaches and that MUST STOP. The surfing community is most aware of what's going on, legitimate scientists have confirmed their concerns, and we are poised to sue the next time someone gets attacked by a shark on a calm day on a "nourished" beach when sharks shouldn't be an issue. Issues with turbidity and coral growth colonization and recruitment will do the same. The turbidity from these projects has displaced surf anglers including commercial hook-and-line pompano interests and ruined the day of many a dad on X pier who took his kid(s) fishing there, whether pops realizes why or not.

--Dr. Dean has suggested that we discern between the hardbottom exposed by the inlet impacts versus other causes. How? Sea-level rise, and intense storms and swell events are "cooperating" to hasten the retreat of barrier islands. This suggestion just opens all kinds of door to political "interpretation" and intimidation. Good luck on that front. If it's limestone and wet it's federally designated as Essential Fish Habitat and a Habitat Area of Particular Concern. The state can't get sideways to these laws, or I'll personally sue its rear end off, or force the federal government to do so.

In some cases, we're gaining fish habitat, snorkeling spots, a few surf breaks and possibly turtle forage. We need every bit of beach and NHB we can get, since we have lost the seagrass in much of the IRL/St. Lucie, for instance, for the snapper/grouper complex to settle in or for young turtles to eat. It is possible, and highly probable, that these organisms are shifting habitat usages to NHB in response to our coastal skullduggery. What will the turtles eat, and where will the snappers/groupers/grunts settle, without grass/oysters and algae-covered NHB? You can't talk about these interconnected estuarine/marine systems individually, especially since we've done so much to compromise each.

To properly appreciate the value of nearshore reefs, we need to reflect on what we know about the systems before we impacted them. First of all, what we call nearshore hardbottom must have existed and been much more essential to newly settled, early juvenile and juvenile reef fishes (and lots of other marine life) before we cut the inlets. (The dredge lobby has consistently called this stuff “rocks,” when by every legal and biological definition these habitats are reefs.) The Lake Worth Lagoon, for example, and much of the Indian River Lagoon, had only occasional exposure to larvae input by ocean currents before folks like my granddad cut the inlet. Herbert Gibson lost his hearing free-diving and shooting fish for local restaurants and tourists on shallow reefs to support that pioneer family in teens and twenties—long before the inlets were cut. All those little fish and lobsters spawned upstream in the Caribbean sure didn’t have much opportunity to settle in contained systems like the IRL or LWL. Herbert was catching largemouth bass in there. Now, we’re in a position where the “estuarine” systems we’ve created are losing oysters and seagrasses thank to canal discharges and water mismanagement. We can’t divide arbitrarily. Nothing is “pre-lapsarian,” to borrow a religious metaphor that means “before the fall.” Think holistically about cumulative consequences and benefits.

Surf and Surf Fishing

Short and sweet, most every time you all fill a beach it screws up the surf, sometimes briefly but usually for the long term. Since 2001, no one gets a good surf in at Cocoa Beach surrounding high tide. You’ve effectively reduced the number of surfing hours by 50 percent in a place that surfing put on the map. By smaller but more continuous/frequent fill deliveries by sandbypassing, we can minimize the shocks to the system, for surfers and wildlife.

The most robust data shows that the beach inverts disappear for at least a year. Well, that’s 15 to 20 percent of the time depending on the “re-nourishment cycle.” And what about the cumulative impacts of repeated projects and what about the meiofauna? All those baby carangids (jacks/pompano) in the swash sure aren’t big enough to eat mature donax and sandfleas. Focus on the inlets, with our minimal funding, and let some intellectual honesty into the process or we’ll all be facing off in court. If the latter trend continues, I have no doubt that that Florida’s beach management program will wind up in gridlock without funding.

Let’s spare each other a ton of wrangling and restore the rivers as optimally as possible.

Terry