

**FLORIDA BEACHES HCP
ISSUE ANALYSIS**

TITLE OF DOCUMENT: Sandy Beaches with No CCCL (s.161.052 Beaches)

DRAFT VERSION: Draft 1.3 (JS)

STEERING COMMITTEE MEETING DATE: 09/XX/2010

HCP OBJECTIVE: Allow the FDEP to fulfill its CCCL permitting responsibilities in compliance with the Federal Endangered Species Act and applicable state laws by implementing minimization and mitigation strategies. The FDEP’s Bureau of Beaches and Coastal Systems is developing a *statewide* Habitat Conservation Plan (HCP) to support the ITP application.

ISSUE UNDER CONSIDERATION: Inclusion of sandy beaches, outside of CCCL jurisdiction and regulated under 161.052, Florida Statute (“*.052 Beaches*”), in the HCP Plan Area. Activities permitted on *.052 Beaches* are similar to activities permitted under the CCCL program.

DESCRIPTION OF ISSUE: The HCP’s Plan Area will include beaches within jurisdiction of the CCCL program. However, not all counties have CCCLs. Some counties without CCCLs contain beaches that still fall under FDEP regulatory jurisdiction, pursuant to s.161.052. Activities on *.052 Beaches*, which are similar to CCCL-authorized activities, may affect species proposed to be covered under the HCP and therefore may be appropriate to include within the HCP Plan Area.

BACKGROUND INFORMATION:

- Jurisdictional Difference – Pursuant to s.161.053(2)(a), “Coastal construction control lines shall be established by the department only after it has been determined...that the establishment of such control line is necessary for the protection of upland properties and the control of beach erosion.” Counties along the *Big Bend* coast and Monroe County have mostly vegetated shorelines that do not meet the criteria for establishing a CCCL. However, s.161.052 provides regulatory jurisdiction to the FDEP for construction or excavation within 50-feet of the mean high water line at any riparian coastal location fronting the Gulf of Mexico or Atlantic coast shoreline regardless of the existence of a CCCL. The FDEP Bureau of Beaches & Coastal Systems (Bureau) has determined that only beaches designated as Critically Eroded in the non-CCCL counties will be regulated under s.161.052 – *.052 Beaches*.
- Extent of *.052 Beaches* – According to the Bureau’s “Critically Eroded Beaches in Florida” report, updated June 2009, the beaches qualifying as Critically Eroded within counties with no CCCL sum to 23 locations and 13.4 miles. Of the 23 beaches, 13 occur within Monroe County (the Florida Keys) accounting for 10.2 miles (76%) of the 13.4 mile total. The remaining beaches occur in the following counties:
 - Wakulla County (2 beaches, 1.3 miles);

- Taylor County (1 beach, 0.2 miles);
 - Dixie County (3 beaches, 0.6 miles);
 - Levy County (2 beaches, 0.7 miles);
 - Citrus County (1 beach, 0.2 miles); and
 - Pasco County (1 beach, 0.2 miles).
- Summary of Regulated Activities – A report was run of permits issued for *.052 Beaches* from 2005 through 2009. 54 permits were issued during this period authorizing 64 activities (e.g. one permit can authorize multiple activities). 47 of the 54 permits were Field Permits (i.e. issued via CCCL Field Representatives). 49 of the 54 permits were for activities in Monroe County. The four most frequently authorized activities are listed below, in rank order, as a percentage of the total activities permitted:
 - Beach Cleaning/Raking 44%
 - Fill/Dune Construction 31%
 - Excavation/Sand Removal 9%
 - New Structures 5%

Beach cleaning/raking generally involves the mechanical removal of debris from the sandy beach. The debris removed includes both natural “wrack” and man-made trash. The wrack removed provides food and shelter for shorebirds (see Attachment 1).

- Shorebird Critical Habitat – In the Florida Keys, designated Critical Habitat for the piping plover occurs at two beaches that are also designated as Critically Eroded. These beaches are at Bahia Honda State Park and Lower Matecumbe Key (along Sunset Drive).
- Roseate Tern – The roseate tern is federally listed as “threatened” in Florida and is known to occur only in Monroe County in Florida. While the roseate tern is not known to forage or nest on these beaches, they may use these beaches to roost (Personal Phone Conversation with Ricardo Zambrano – FFWCC, May 10, 2010).
- Hawksbill – The hawksbill sea turtle, a federally listed species, is known to nest on beaches in Monroe County. Most recently, Hawksbills nested on Bahia Honda Key in 2009 (FWRI) which also has a portion of its beaches designated as “critically eroded”.

OPTION 1: Continue investigating inclusion of sandy beaches in the HCP Plan Area that: a) have no CCCL; and b) are designated as Critically Eroded – *.052 Beaches*.

Rationale for Selecting Option 1: Including *.052 Beaches*, in the HCP Plan Area will provide FDEP with protection for incidental take to federally listed species that may be occurring as a result of activities permitted under s.161.052. Continued investigation into *.052 Beaches* at this point in the project only retains the option of including the *.052 Beaches* and does not entail a commitment for final inclusion. The *.052 Beaches* may be excluded from the Plan Area, in whole or in part, between now and when the Plan Area is finalized (i.e. at time of submittal of the ITP application). For example, if activities in Monroe County are found to be significant and activities in the *Big Bend* area are found to be insignificant, the Plan Area may only include Monroe County *.052 Beaches*.

Rationale against Selecting Option 1: Inclusion of *.052 Beaches* will add to the scope of the HCP, including an additional species (roseate tern), and associated data collection, threat analysis, and development of minimization and mitigation measures.

OPTION 2: Discontinue investigating inclusion of beaches outside of CCCL jurisdiction within the HCP Plan Area.

Rationale for Selecting Option 2: The Florida Beaches HCP Project, as approved by the Secretary Sole, included covering activities permitted by the CCCL program. *.052 Beaches* are not within CCCL jurisdiction. Inclusion of the *.052 Beaches* is outside of the approved project and will increase the scope of the HCP, including the addition of another species and associated data collection, threat analysis, and development of minimization and mitigation measures.

Rationale against Selecting Option 2: Exclusion of *.052 Beaches* from the Plan Area will not protect FDEP from take that may occur as a result of the activities permitted on these beaches.

ANALYSIS REVIEWED BY SCIENTIFIC COMMITTEE: NO

RECOMMENDATION: The Work Group, by unanimous consensus on April 28, 2010, recommends Option 1 above, based on the need for further analysis of these beaches and the impacts that may be occurring on them.

ATTACHMENTS:

1. “Raking the Wrack Wrecks Coastal Wildlife’s Home,” The Wildlife Forecast, Patricia Behnke, Florida Fish & Wildlife Conservation Commission.