

Meeting Minutes
FBHCP Steering Committee Webinar
Chapter 4: CCCL Program and Covered Activities
May 8, 2012

Steering Committee Attendees: Thomas Eason, Danielle Fondren, Stephen James, Ryan Mathews, Julie Wraithmell, Gary Appelson

Other Attendees: Kat Diersen, Jimmy Sellers, Bob Ernest, Rebecca Pfaller, Kim Colstad, Sally Davenport, Jackie Larson, Vicki Sharpe (FDOT)

Meeting Objective: To address at a more in depth level one particular component of the HCP—i.e. preliminary chapters—to give Steering Committee members opportunity to engage with this material on deeper level.

JS (presentation) I'm going to spend some time going over contents of Chapter 4, review outline, go over each section, and I'd like to save comments for when we dive into the chapter text. The original Chapter 4 was titled 'Covered Activities,' then we realized that we also needed to give an explanation of the CCCL program, so we decided this was the best place for it. The first section describes just that. Then we go into covered activities—that list of 9. Starting with the CCCL program, chapter 161.053 F.S. Overview: we stole from DEP's operations and procedure manual which breaks permitting activities down into 5 permits—administrative, general, field, after the fact, and emergency. Under policies, rules, and statutes, we frame up the CCCL program as one of three programs meant to manage Florida's beaches—Joint Coastal Permit Program and Beach Erosion Control Program are the other two. We also dive into the actual rules that govern the CCCL program under Rule 62B-26—describes each CCCL; 62B-33—meat of the CCCL program; 62B-34—describes what qualifies for a general permit; 62B-56—describes special processes for geotextile structures. Lastly, under the CCCL program, we talk about the jurisdictional line. We have an entire chapter devoted to the plan area which goes into depth about this, but here we just discuss the boundaries. The seaward limit of the CCCL is the seaward limit of the beach and dune system, which is essentially the mean high water line.

Moving into covered activities. We wanted to simplify as much as possible how we characterize activities to take an initial look at how DEP classifies them—they have 50 or 60 codes. Given the HCP has a biological purpose, it made sense to classify activities based on impacts they have. We came up with 8 categories—coastal development (major structures), beach and dune restoration, armoring, dune walkovers, mechanical beach cleaning, sand fencing, emergency response, and special events. Coastal development (major structures)—under rule, coastal development is classified as major or minor structures with adverse impacts to beach, not break away structures. We also broke this down into 3 sub-categories based on severity of impact in order to calculate take. We also go into some of the construction methodologies. Beach and dune restoration—

placement of sand on dune and upward of mean high water, which would also require a JCP and federal permit. This is talking about trucking sand into the beach, and we also talk about different types of authorization required for this based on the size of the project. Armoring—seawalls, revetments, geotextiles. We describe what these look like and how they're installed. Permitting requirements for these. Dune walkovers—we talk about the purpose of them, go into ADA compliant walkovers and how those differ from regular. We also talk about some design requirements. Beach cleaning—different counties that engage in this do it for different reasons. We talk about how the wrack is often removed, also talk about the most common method which is dragging a rake behind a tractor. Sand fencing—we talk about what it entails, what it is, it's mainly used for rebuilding sand dunes, and is considered a minor activity. There are standards that FWC and DEP have instituted as far as maximum length, relocating, etc. Emergency response—we refer to the technical definition. There are two different types of permits here—when the governor declares an emergency, that enables DEP to implement its own permitting procedures; there's also a section in chapter 62b-33 that authorizes local government certain authority in absence of a governor executed final order. Specifics—under 62b-33 when local government declares emergency, it authorizes these activities for up to 60 days, but after that, the property owners are required to go back to DEP. The last activity that we calculate take for is special events—weddings, volleyball tournaments, concerts. The ninth category, which is 'other'—these are minor to moderate impacts. So for the first eight activities, we'll make a conservative estimate of take to make sure we're making up for the ninth category—stormwater outfall, vegetation maintenance, utility and storage sheds, privacy walls, vehicular ramps, exemptions.

So that covers what's in chapter 4. I'd like to dive into the document now.

- BE I'd like to make a point—most of you are aware this is all part of a project to obtain an Incidental Take Permit (ITP), so DEP has to describe all activities it wants to be covered for. So that's the whole purpose of this.
- KD Questions or comments?
- TE Good job on the chapter. Couple of small suggestions—The intro that Bob just gave, it might be good to have that up front. Something short.
- GA That's a great idea.
- JW There's talk of emergency response. Is that the same as driving on beaches related to maintenance? Not sure where that's included.
- BE My first guess is no, it's not. The emergency section applies to true emergencies.
- JW Is that activity considered part of the CCCL program?

- JL I'm thinking about that. I don't know that we regulate the moving of items from a parking lot onto the beach or dumping of trash cans.
- GA It's my understanding that beach driving restrictions are generally in the purview of local government where it's already existing.
- JL If someone were going to access a beach across a dune, we'd regulate that.
- GA If you have to maintain a geotube and cart that sand a half mile down the beach, is the driving regulated?
- JW That's kind of where I was getting at.
- BE I doubt they have a permit from DEP for that.
- JW The only reason I ask is because when we get to minimization and mitigation options, there will be options for local government to alter their maintenance practices, like making trash cans wildlife proof, for example. Maybe this isn't for this chapter; I just want to make sure nothing is missed.
- BE I agree, some of those things might provide mitigation opportunities, but DEP will only be on the hook for activities that it manages and regulates.
- JW And I understand that.
- DF I think the short answer is no, it doesn't regulate beach driving, except when associated with construction activities.
- GA In the first paragraph, I think the purpose of the CCCL program is twofold, and I think the second purpose is to ensure reasonable use of private property adjacent to the beach. And when you get into the CCCL boundaries section, I wonder if that shouldn't be moved closer to the front so we have an idea right off the bat where we're talking about.
- TE I have a related comment—it would make sense to move boundaries, but also move policy, rules and statutes, under Bob's verbiage of the opening, that way we start broader. Just suggestions here.
- GA Under covered activities—the second paragraph, protection of turtles, you say the CCCL doesn't consider impacts with the exception of turtles. You may want to reference the Marine Turtle Protection Act. And right under that you have the 8 items. I'm wondering if you want to clarify beach/ dune restoration because it implies beach restoration is regulated under the CCCL program.
- JS We have discussed that before, and here we're referring to fill that would be above the mean high water line.

- SD And we define that in the document.
- BE My feeling is it definitely does help avoid that confusion. I think the document has sufficient language, but you're right, I think dune restoration should be the category.
- GA Under activity description, beach and dune restoration, second paragraph, you give a definition of beach quality sand. This is an interesting dilemma—this definition is under the geotube rule for a dune restoration. It is not under the CCCL rule or 161. That definition is quite different from the geotube rule. So you might want to look at that.
- JL I believe it's the same definition we use in 62b-41 that we use here.
- GA In 62b-33 it says beach quality sand is...
- JL Are you more comfortable with the use in 62b-33 or the one in 62b-56?
- GA This one's for a small subset of activities—those governed by 62b-56, which is geotubes for dune restoration. All other activities are regulated by 62b-33.
- BE Very good distinction there, Gary. I think the reason was to ensure there's narrower constraints for what's put on the beach, so that's a good point to make.
- JL We'll clarify with staff and follow up.
- GA Along these same lines, if you continue into this armoring section, construction process, under that on page 12, on top of page 13, geotextile structures...it starts to talk about geotubes used for core of dune restoration. I'm not sure you need that in there because the whole chapter is armoring, including geotubes, but the discussion you have in there is for geotubes for restoration which is a separate section.
- JL We concluded that it's more suitable to put geotubes in the armoring category rather than the restoration category.
- BE That was our assessment, but the point Gary is making is valid.
- GA That's fine, I just found it confusing. Also under armoring, it says in the second paragraph, under activity description, DEP will only process applications for armoring projects to protect structures...that's not entirely accurate because there is a variance procedure.
- JL Well, there's a variance procedure for rule criteria, not for statutory criteria. I think that's the eligibility assessment. So we can make that clearer.

- GA I'm not sure if it's worth going into this, but back on page 8, construction process, lighting, it makes it seem like lighting is part of the permit. Lighting plans are not actually part of the permit; they're a condition of getting the permit. So a lighting plan to reduce impacts to beach to turtles, is only a condition of the permit, and I just thought it might be worth noting that, given the fact that once the permit expires, the lighting plan expires. Not sure how you want to address that. And right above that, the last paragraph under the activity description, it says the sentence right before construction process, you can build seaward of the 30 year projection line, but there's also a situation where DEP tolls or gives a 30 year line credit and allows construction if there's going to be a nourishment project.
- BE Is there a statute?
- GA I can't cite it right now. My guess is it's in the rules.
- BE So it's something that's in rule as opposed to just a practice.
- GA Oh yeah. Credit for beach restoration projects, tolling the 30 year line is in rule. Which is significant because it allows construction in an area that's highly susceptible to wave action. The point of bringing that up is the line is not as absolute as it seems in some of the language here.
- TE I've got a couple of minor things—pg 6, listing of rules, I like the way you did it in the slides, it would help to have that here. Pg 10, there's a weird period halfway through the bullet points, before growth. We use a lot of acronyms in here, and I assume we use them in previous chapters, but I think the first usage in this chapter should spell those out. I also assume you'll have an acronym list the document, too.
- SD We will have an acronym list, and we haven't been spelling them out at the beginning of each chapter, but we can certainly do that if you think it'll be helpful.
- TE However you want to do it is fine. Two other things—under CCCL boundaries, are they ever recalculated?
- JL We do not reevaluate the control lines unless directed by legislature. I don't believe it's in statute that we couldn't initiate a control line reestablishment, but historically it was directed that it be directed by the governor.
- GA I think there's something in statute or rule that allows DEP to reevaluate the control line after major storm events.
- TE My last point, pg 7 under activity description, first paragraph, I would think about adding in there the specific location could be as important as the size of the project.

- GA Pg 2, under general permit, the last sentence, I believe that's only when there's no line of construction. I could be wrong on that, but someone would need to clarify that.
- DF We'll get that clarification. And I have one comment—pg 6, landward limit of the CCCL, at the end of that paragraph, we reference Section 7 consultation, that's Section 7 of the ESA, right? Should we clarify that?
- SD Probably should. Thanks.
- DF And then, in the guidelines for turtle monitoring, it talks about required surveys and special events. The fourth bullet from the bottom—what is the significance of 65 days?
- BE It's basically to allow sufficient time to allow for the turtle nest to hatch.
- DF That's very helpful, thank you.
- VS On the same bullet, is that really only required during the actual nesting season? May-Oct? It seems that outside of the nesting period, that probably doesn't need to be a requirement. I'm not sure if that's clear under that bullet. And also, you might want to clarify that that action needs to be coordinated with FWC.
- BE It is during nesting season, and it varies in different parts of the state. The construction permits have a condition that if the project is constructed in November, then you have to do a survey 65 days prior to that. And after November, that goes away. But we probably need to take a look at this.
- DF It's my understanding that all 6 or 7 bullets on pg 20 are all FWC conditions to DEP, not DEP conditions.
- VS Okay. And their take is different than Section 7 take, so that may be something to look into.
- KD Are we toward the end of comments, questions, clarifications?
- GA One more editing comment—activity description under armoring, pg 11, at the bottom, you have in the next to last paragraph, last sentence 62B-56. I think that should be 62B-33.
- BE Gary, on this geotube and dune restoration, are geotubes ever used in an application where they're not part of a dune restoration project?
- GA Maybe DEP can answer, but geotubes are used in many applications, as a substitute for a groin, for example. The main thing is when a geotube is used for armoring, there's different qualifications and parameters than when it's used for dune restoration.

- BE I see. We need to make clear that distinction. That's important. Thank you.
- JL Gary, I thought we revoked authorization for geotubes in 62B-33. I thought we put them in the prohibition. We'll follow up on that. It might be proposed still, so I don't know.
- BE I think we just need to revisit geotubes within the working group, and whether it should go under armoring or dune restoration.
- GA And I apologize because I didn't know it ever came out of 62B-33.
- KD Anything else? This has been really good feedback. Exactly what we're looking for.
- VS As part of the final document, will there be any mapping provided of CCCL locations?
- KD Yes. Maps of all kinds.
- VS And is there anything that would show what's been our most vulnerable areas in recent history? And lastly, species, will there be mapping of potential area of occurrence?
- KD To the last one, yes absolutely. To the vulnerable area maps, I don't know that those will be expressed explicitly, but tracking historic erosion to predict future erosion is part of the aim of the project.

Wrap Up

- KD We have not established a formalized review process, but we have also tried to strike a balance between good feedback and endless rounds of revision, so the tentative plan is we'll go through these suggestions and edits, rework, get back out to you before the next quarterly meeting, hopefully, but we plan to consider it pre-final at that point, so unless there's a major issue, we'll set this one aside and begin diving in on other ones.